

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Anthony Collymore,

Complainant

against

Docket #FIC 2020-0624

Chief, Police Department,
City of Waterbury; Police Department,
City of Waterbury; and City of Waterbury,

Respondents

November 16, 2022

The above-captioned matter was heard as a contested case on August 11, 2022, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session), as amended by §1 of Public Act 22-3.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that by letter dated November 20, 2020, the complainant made a request to the respondents for copies of:

[a] any and all records/documentation of the crime scene pertaining to case #2010-003736, done by C.S.T. Maria Di Virgilio, C.S.T. Brian Juengst, and C.S.T. Elizabeth Williams, not limited but to include: crime scene photography, video, sketches and written notes, identifying and documenting evidence collection and preservation [sic] for case # 2010-003736...[and]...

[b] any and all police reports pertaining to case # 2010-003736 done by Sergeant Angon [and] Det[ective] Shea.... ["November 20th request"].

3. It is found that by letter dated December 1, 2020, the respondents acknowledged the November 20th request.

4. By letter received December 8, 2020,¹ the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to promptly provide him with copies of the records described in paragraph 2, above.

5. At the time of the request, §1-200(5), G.S., provided:

‘[p]ublic records or files’ means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.²

6. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to . . . (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides, in relevant part, that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that the requested records, to the extent that they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that by letter dated December 23, 2020, the respondents informed the complainant that they had located 32 pages of records responsive to his November 20th request and two other unrelated requests and requested prepayment of \$16.00.

¹ On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which required the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M, which was extended by Executive Order 12B, applied to any appeal pending with the Commission on the issuance date and to any appeal filed prior to July 1, 2021. Consequently, the Commission retains subject matter jurisdiction.

² Section 147 of Public Act 21-2 (June Special Session) amended the definition of “[p]ublic records or files” to also include data or information that is “videotaped”.

requisite payment, provided the complainant with copies of the records described in paragraph 9, above. The respondents also informed the complainant that there were no records responsive to certain identified portions of his November 20th request.

11. At the hearing, the complainant testified that the only records at issue were the requested police reports done by Sergeant Angon and Detective Shea, and certain crime scene sketches.

12. Sergeant Kenneth Keroack, the officer in charge of the Records Division, testified that he conducted a search for responsive records within various divisions of the police department, including the Records, Property and Evidence Divisions, Crime Scene Forensics Division, Vice Squad Division, and the Detective Bureau. Sergeant Keroack also testified that he questioned various police department supervisors and officers, including a former crime scene technician, regarding the November 20th request.

13. It is found that the respondents conducted a thorough and diligent search. It is also found that the respondents provided the complainant with all records responsive to the November 20th request that they maintain.

14. With respect to the complainant's claim that the respondents' response was not prompt, the Commission has previously opined that the meaning of the word "promptly" is a particularly fact-based question. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982), the Commission advised that the word "promptly," as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The advisory opinion goes on to describe some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request.

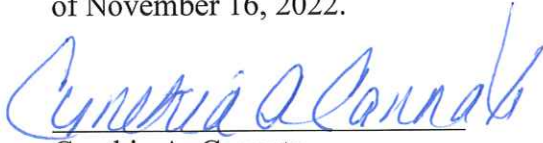
15. It is found that at the time of the November 20th request, the respondents had 98 pending records requests. In addition, it is found that they were experiencing staffing shortages. Accordingly, it is found that the respondents provided records responsive to such request to the complainant in a prompt manner.

16. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of November 16, 2022.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

ANTHONY COLLYMORE, #336848, MacDougall-Walker CI, 1153 East Street South, Suffield, CT. 06080

CHIEF, POLICE DEPARTMENT, CITY OF WATERBURY; POLICE DEPARTMENT, CITY OF WATERBURY; AND CITY OF WATERBURY, c/o Attorney Richard J. Scappini, City of Waterbury, Office of Corporation Counsel, 235 Grand Street, 3rd Floor, Waterbury, CT 06702



Cynthia A. Cannata
Acting Clerk of the Commission