

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Desiree Brown,

Complainant

against

Docket #FIC 2023-0638

Chief, Police Department, City
of New Haven; Police Department,
City of New Haven; and City of New
Haven,

Respondents

November 20, 2024

The above-captioned matter was heard as a contested case on May 20, 2024, at which time the complainant and respondents appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondents are public agencies within the meaning of § 1-200(1), G.S.
2. It is found that on July 25, 2023, the complainant submitted requests¹ for audio files of 9-1-1 calls, Computer Aided Dispatch (CAD) reports, and body-camera footage² for the following case numbers: 23-026888, 23-027037, and 23-028425.
3. It is found that the complainant and respondents did not correspond regarding the July 25 requests until September 11, 2023, when the following occurred:

¹ Hereinafter, the July 25 requests.

² The complainant's requests for body-camera footage for case numbers 23-026888 and 23-027037 were included in Complainant's Exhibit A. Pursuant to the Hearing Officer's Order for Additional Evidence dated June 6, 2024, and Second Order for Additional Evidence dated October 4, 2024, the complainant submitted the July 25, 2023 request for body-camera footage for case number 23-028425, which is marked as Complainant's Exhibit B (After-Filed). In addition to the request for body-camera footage for case number 23-028425, the complainant submitted several other documents as proposed exhibits, most of which were not responsive to either of the Hearing Officer's orders. All other proposed exhibits submitted by the complainant in response to such orders, except for what has been marked as Complainant's Exhibit B (After-Filed), are not admitted as exhibits and are not part of the administrative record herein.

- a. At 2:18pm the complainant emailed the respondents following up on her July 25 requests wherein she re-attached her requests for body-camera footage for the cases listed in paragraph 2, above, and indicated that she had not received an automatic acknowledgment when those requests were submitted.³
- b. At 2:29pm the complainant re-forwarded her July 25, 2023 email seeking 9-1-1 audio files and CAD reports for the cases listed in paragraph 2, above.
- c. At 2:35pm the complainant emailed the respondents indicating that she had spoken to a records clerk with the respondents who indicated that her “initial body cam request was received on 07/25/2023.”⁴ However, the complainant indicated that the records clerk did not know why the complainant did not receive an automatic reply when it was submitted.
- d. At 4:19pm the complainant again emailed the respondents asking for written confirmation that her July 25 requests had been received.

4. It is found that on September 12, 2023, a records clerk with the respondents replied to the complainant acknowledging her requests and indicating that the Records Department was “severely understaffed and over inundated with requests.”

5. It is found that as of November 15, 2023, the complainant had not received any records responsive to her July 25 requests, and again followed up with the respondents concerning such requests.

6. It is found that on November 27, 2023, the respondents produced the requested 9-1-1 audio files and the CAD reports to the complainant via email. It is found that the respondents made redactions to the 9-1-1 audio files and CAD reports concerning case number 23-026888.⁵ The respondents did not redact the 9-1-1 audio files and CAD reports for 23-027037 and 23-028425.

7. It is found that on the same day the complainant: (i) confirmed that she had received the CAD reports and 9-1-1 audio files for all three cases that were the subject of her July 25

³ At the contested case hearing, the respondents indicated that an automatic reply should have been sent to the complainant upon receiving her requests. In an order dated June 6, 2024, the Hearing Officer ordered the respondents to submit that automatic reply as an after-filed exhibit. The respondents failed to comply with that order.

⁴ Per the complainant’s September 11, 2023 email to the respondents at 2:35pm she indicated that a records clerk for the respondents confirmed they received the complainant’s “initial body cam request” on July 25, 2023. See Complainant’s Exhibit A. The complainant’s email did not address the 9-1-1 and CAD call portions of her July 25 requests, although the respondents do not dispute that they did receive those portions of the July 25 requests.

⁵ Although in email correspondence dated December 4, 2023, the complainant appeared to take issue with the redactions made to the 9-1-1 audio files and CAD reports for case number 23-026888, at the May 20, 2024 contested case hearing on this matter the complainant testified that she was satisfied with such records. The complainant further testified that her complaint with respect to the 9-1-1 audio files and the CAD reports were concerning whether the respondents acted promptly when processing her July 25 requests. Accordingly, the appropriateness of the redactions made to the 9-1-1 audio files and CAD report for case 23-026888 is not before this Commission.

requests; and (ii) indicated that all the body-camera footage requested for the cases listed in paragraph 2, above, remained outstanding.

8. It is found that on December 4, 2023, the complainant emailed the respondents expressing, among other items, her dissatisfaction with the delay in the respondents' disclosure of body-camera footage.

9. By letter of complaint received and filed on December 5, 2023, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to promptly provide records responsive to her July 25 requests.

10. It is found that on February 21, 2024, the complainant emailed the respondents inquiring when she could expect the respondents to disclose the requested body camera footage.

11. It is found that on May 1, 2024, the respondents replied to the complainant indicating that there were 21 body-camera footage requests, consisting of 211 videos, ahead of the complainant's requests.

12. It is found that on May 2, 2024, the complainant informed the respondents that she no longer needed the body-camera footage for case numbers 23-027037 and 23-028425. On the same day, the respondents confirmed that they would not process those portions of her requests and informed the complainant that her body-camera footage request for 23-026888 was number 20 in their queue.

13. At the May 20, 2024 contested case hearing in this matter, the complainant asserted that the respondents failed to act promptly with respect to any portion of her July 25 requests. Moreover, the complainant maintained that the respondents' delay in processing her requests obviated her need for the body-camera footage in case numbers 23-027037 and 23-028425.

14. The Commission has held 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 (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 account all factors presented by a particular request."

15. 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 requestor, if ascertainable; and the importance to the public of completing other agency business without the loss of personnel time involved in complying with the request. In addition, common sense and goodwill ought to be the guiding principles.

16. It is found that the respondents process requests (or portions of requests) seeking body-camera footage in a separate queue from those seeking other types of records (e.g., CAD reports and 9-1-1 audio files).

9-1-1 Audio Files and CAD Reports

17. It is found that the processing times for 9-1-1 phone call audio files and CAD reports largely depends on the complexity of the request (e.g., if there are multiple parts to the request or if the records pertain to a sensitive type of case, such as a homicide).

18. It is found that the respondents are able to process requests for CAD reports more expeditiously when the requestor provides specific case numbers in the request.

19. It is found that the complainant's July 25 requests identified the specific case numbers for which she was seeking 9-1-1 audio files and CAD reports

20. When questioned by the Hearing Officer regarding the portions of the complainant's July 25 requests seeking 9-1-1 audio files and CAD reports, the respondents were unable to provide a date when they began working on the non-body camera footage portions of the complainant's requests.

21. However, the respondents testified, and it is found, that the CAD reports contain a timestamp indicating when that report was generated (i.e., when the report would have been compiled to respond to the complainant's requests). The respondents further testified, and it is found, that all CAD reports responsive to the complainant's requests were timestamped as having been generated on November 16, 2023.

22. It is found, therefore, that the respondents began their search for CAD reports on November 16, 2023, 114 days after their receipt of the complainant's July 25 requests.⁶

23. The respondents testified that the reason for their delay in processing the complainant's requests for 9-1-1 phone call audio files and CAD reports was due to the number of requests ahead of the complainant's requests in their non-body-camera footage request queue.

24. It is found, however, that the respondents provided no additional evidence indicating the nature of the queue for non-body camera requests, such as the number of requests ahead of the complainant's requests and the complexity of those requests.⁷

25. On October 4, 2024, the respondents were ordered by the undersigned Hearing Officer as part of the Second Order for Additional Evidence to submit an affidavit, attested to by a person with the requisite knowledge detailing "[t]he respondents' search, retrieval, review and disclosure of all records disclosed to the complainant on November 27, 2023, including but not limited to: (i) when the respondents began their search for such records; (ii) how long it took for the respondents to locate such records; (iii) the scope of such search; and (iv) any other details the respondents deem relevant to explain the delay between the respondents' receipt of the complainant's request and the respondents' production of records to the complainant on

⁶ The respondents did not provide any specificity when they began processing the complainant's request for 9-1-1 audio files.

⁷ The respondents testified that they do not track their queue of non-body-camera requests to the same degree that they track their queue of requests for body-camera footage.

November 27, 2023.” The respondents did not submit such affidavit as ordered and, thus, failed to comply with the Hearing Officer’s Second Order for Additional Evidence.

26. Accordingly, it is found that the respondents failed to prove that they acted in a prompt manner when processing the complainant’s request for 9-1-1 audio files and CAD reports.

27. It is concluded, therefore, that the respondents violated the promptness provisions of §§1-210(a) and 1-212(a), G.S, with respect to the requested 9-1-1 call audio files and CAD reports.

Body-Camera Footage

28. As found in paragraph 2, above, the complainant’s July 25 requests sought body-camera footage for three case numbers: 23-026888, 23-027037, and 23-028425.

Body-Camera Footage for Case Number 23-026888

29. As found in paragraph 12, above, as of May 2, 2024, the complainant’s request for body-camera footage for case number 23-026888 was number 20 in the respondents’ queue of requests for body-camera footage.

30. The respondents provided general testimony with respect to the factors that make body-camera footage more onerous to process. Such factors included the number of requests in that queue, the type of incident involved, the duration of that incident, the number of officers involved in the incident, and the severity of the incident.

31. It is found, however, that the respondents did not provide sufficient evidence explaining how those factors actually impacted the processing time of the body-camera footage requests ahead of the complainant’s request.

32. Moreover, as part of the Hearing Officer’s Second Order for Additional Evidence, the respondents were ordered to provide an affidavit attested to by a person with the requisite knowledge detailing “[w]hether any body-camera footage concerning Case Number 23-02688[8]⁸ has been disclosed to the complainant and, if so, (i) when the complainant’s request was reached in the respondent’s queue of pending body-camera footage requests; and (ii) when such records were disclosed to the complainant. If body-camera footage concerning Case Number 23-02688[8] has yet to be disclosed, the respondents’ affidavit shall detail any factors contributing to the delay in the disclosure of such records including, but not limited to, the amount of body-camera footage at issue and the number of body-camera requests ahead of the complainant’s request in the respondents’ queue.” The respondents did not submit such affidavit

⁸ The case number referred to in the Hearing Officer’s Second Order for Additional Evidence was inadvertently referred to as 23-02688 instead of 23-026888. It is found that this scrivener’s error did not impact the respondents’ ability to submit the ordered affidavit, as the compliance date for such order was October 25, 2024 (three weeks after the date the order was issued) giving the respondents ample time to seek clarification on the order, if such clarification was actually necessary.

as ordered and, thus, failed again to comply with the Hearing Officer's Second Order for Additional Evidence.

33. Accordingly, it is found that the respondents failed to prove that they acted promptly in processing the complainant's request for body-camera footage for case number 23-026888.

34. Moreover, it is found that by the time of the May 20, 2024 contested case hearing in this matter, the respondents had not provided the complainant with any body-camera footage concerning case number 23-026888. As the respondents failed to comply with the Hearing Officer's Second Order for Additional Evidence, the administrative record is devoid of any evidence as to whether the respondents disclosed, or even processed, the complainant's request for body-camera footage.

35. It is found, therefore, that the respondents failed to prove that they provided the complainant with all responsive body camera footage concerning Case Number 23-026888.

36. Based on the facts and circumstances of this case, it is concluded that the respondents violated the promptness and disclosure provisions of §§1-210(a) and 1-212(a), G.S, with respect to the requested body-camera footage for Case Number 23-026888.

Body-Camera Footage for Case Numbers 23-027037 and 23-028425

37. At the May 20, 2024 contested case hearing in this matter, the complainant testified, and it is found, that she requested body-camera footage for case numbers 23-027037 and 23-028425 for a court proceeding scheduled for April 2024.

38. As found in paragraph 12, above, on May 12, 2024, the complainant informed the respondents that she no longer needed such footage.

39. It is found, however, that the complainant did not relay her need for the body-camera footage for case numbers 23-027037 and 23-028425 by April 2024 to the respondents.

40. Nevertheless, as with the body-camera footage for case number 23-026888, it is found that the respondents did not offer specific evidence concerning what factors contributed to the delay in processing the complainant's requests for body-camera footage for case numbers 23-027037 and 23-028425.

41. Accordingly, it is found that the respondents failed to prove that they acted promptly in processing the complainant's request for body-camera footage for case numbers 23-027037 and 23-028425.

42. It is concluded, therefore, that the respondents violated the promptness provisions of §§1-210(a) and 1-212(a), G.S, with respect to the complainant's requests for body-camera footage for case numbers 23-027037 and 23-028425.

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

1. Within seven (7) days of the Notice of Final Decision in this matter, the respondents shall disclose all body-camera footage concerning case number 23-026888 as requested in the complainant's July 25 request, free of charge.

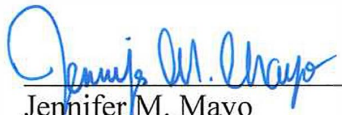
2. In complying with paragraph 1 of the order, above, the respondents may redact only those portions of such records that are mandatorily exempt from disclosure under the FOI Act. No redactions may be made to those portions of such records that are permissively exempt from disclosure.

3. Within fourteen (14) days of the date of the Notice of Final Decision in this matter, the respondents shall contact the Commission's public education officer to schedule training regarding the requirements of the FOI Act.

4. The respondents are admonished for failing to comply with multiple orders issued by the Hearing Officer in this matter.

5. Henceforth, the respondents shall strictly comply with the promptness and disclosure provisions in §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of November 20, 2024.



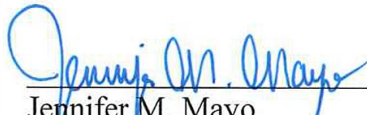
Jennifer M. Mayo
Acting Clerk of the Commission

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:

DESIREE BROWN, 625 Elm Street, Unit 1R, New Haven, CT 06511

CHIEF, POLICE DEPARTMENT, CITY OF NEW HAVEN; POLICE DEPARTMENT, CITY OF NEW HAVEN; AND CITY OF NEW HAVEN, c/o Attorney Catherine E. LaMarr, Office of the Corporation Counsel, City Hall, 165 Church Street, 4th Floor, New Haven, CT 06510



Jennifer M. Mayo
Acting Clerk of the Commission