

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Lawanda Boddie-Slack,

Complainant

against

Docket # FIC 2023-0640

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 June 7, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, 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, by Public Records Request Form dated November 9, 2023 “November 9, 2023 Request,” the complainant requested that the respondents provide her with copies of the following:

[a.] Emergency call for services to 265 Norton Street, #1, New Haven, Ct 06511 between 6:00 pm and 8:00 pm.

[b.] EMS body cam for the treatment and transport for Mr. Maurice Grimes from 265 Norton Street, #1, New Haven, CT [.]

[c.] Name and Contact information for the Medical Transport Company.

[d.] Investigative Summary Report and details for Call for Service on 8/14/2023 to 265 Norton Street, #1 for the Assault and Battery on Maurice Grimes.

[e.] Name and Contact Information for the Investigating Officer handling the Assault and Battery turned Homicide on Mr. Maurice

Grimes dated 8/14/2023 [("August 14, 2023 Incident")]¹.

[f.] Investigative Schedule for the Homicide on Mr. Maurice Grimes.

3. It is found that, by email dated November 13, 2023, the respondents acknowledged the complainant's November 9, 2023 Request.

4. It is found that, by email dated November 18, 2023, the respondents provided the complainant with certain records and information responsive to the requests described in paragraphs 2.a., 2.b., 2.c., 2.e., and 2.f., above. With respect to the request described in paragraph 2.d., above, it is found that the respondents informed the complainant that the requested records were exempt from disclosure because an active investigation was ongoing.

5. It is found that, by email dated November 19, 2023, the complainant informed the respondents that, with respect to the November 9, 2023 Request, she was also seeking copies of the Computer Aided Dispatch ("CAD") reports as well as the recordings of the 911 calls related to the August 14, 2023 Incident, but she had not received such records. It is also found that, in such November 19, 2023 letter, the complainant acknowledged that she understood that certain records were not disclosable because an investigation into the August 14, 2023 Incident was pending.

6. It is found that, by Public Records Request Form dated November 19, 2023 "November 19, 2023 Request," the complainant requested that the respondents also provide her with copies of the following:

[a.] Emergency phone calls dated September 1, 2023 at 1330 hrs at the Chipolte [sic.] located by 910 Chapel Street [("September 1, 2023 Incident")] [.]²

[i.] Assault with deadly weapon call made by Jasmine Robinson[.]

[ii.] Assault with deadly weapon call made by Carla Boddie[.]

[b.] Emergency calls made by [iii.] Lawanda Boddie-Slack made at 2:25 pm from the location of 122 Howe Street.

[c.] Initial CAD Event Reports for [i.], [ii.], [iii.]

¹ The August 14, 2023 Incident involved the homicide of the complainant's sister's son, who was survived by a minor child ("the minor child").

² The September 1, 2023 Incident involved multiple calls to the Police Department, City of New Haven, related to an incident involving an individual the complainant described as a person of interest related to the August 14, 2023 Incident along with the complainant, her sister, and the minor child.

[d.]... The name and badge number of each and every officer involved in the entire debacle of the situation. Because we started at 1:30 pm and we didn't finish until well after 5:30 pm and ONLY after the grieving mother collapsed onto the sidewalk due to the heat.

[e.] ... Investigative summary notes from the entire situation (the investigation into the allegations from Jasmine Robinson; the investigation into the allegations from both Carla Boddie and [a minor witness])[.]

[f.] ... [T]he name, badge number, and investigative notes from the [officers] investigating this situation from all of the phone calls and officer interactions [.]

[g.] ... Any additional documents and/or notes that may be related to the events that occurred on September 5, 2023.³

7. It is found that, by email dated November 20, 2023, the respondents provided the complainant with copies of records responsive to the November 9, 2023 Request, which included CAD reports as well as recordings of 911 calls related to the August 18, 2023 Incident.

8. It is found that, by email dated November 28, 2023, the respondents acknowledged the complainant's November 19, 2023 Request.

9. It is found that, by email dated December 1, 2023, the respondents notified the complainant that the November 19, 2023 request was "being processed, [and] additional time [was] needed for research or processing."

10. It is found that, by email dated December 8, 2023, at 3:58 PM, the respondents again notified the complainant that certain records responsive to the November 9, 2023 Request could not be released because the investigation into the August 14, 2023 Incident was still pending.

11. It is found that, by letter dated December 8, 2023, the complainant renewed her November 19, 2023 Request and informed the respondents that she believed it was "unimaginable and unacceptable that with such a prolonged period of time that the department claims that it is not able to provide ANY of the requested information."

12. It is found that, by email dated December 8, 2023, at 6:45 PM, the complainant sent a copy of certain video footage she had taken with her cellphone of the September 1, 2023 Incident requesting that the respondents use the video to "help jump start identifying the responding officers."

13. It is found that, by email dated Saturday, December 9, 2023, at 8:10 AM, the

³ At the contested case hearing on this matter, the complainant testified, and it is found, that the correct date set forth in the request described in paragraph 6.g., above, should have been September 1, 2023.

respondents informed the complainant of the following:

The requested case is an ongoing investigation and any written reports, videos, photos and/or audio files are not releasable at this time. For any information regarding the EMS company, you would have to reach out to AMR for that information. The officers that responded to the case are:

M. Legatos
T. Brown
J. Faya-Sanchez
R. Kunz
T. Testa⁴

14. It is found that, by email dated December 9, 2023 at 3:26 PM, the complainant informed the respondents that she intended to file an appeal with the Commission due to the respondents' failure to provide her with copies of all of the records she requested.

15. By complaint filed December 12, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide her with all of the records described in the November 9, 2023 Request and the November 19, 2023 Request.

16. Section 1-200(5), G.S., provides:

"[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, videotaped, printed, photostated, photographed or recorded by any other method.

17. 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.

⁴ Based upon the testimony at the hearing, it is found that, in their December 9, 2023 email described in paragraph 13, above, the respondents mistakenly provided the complainant with a list of officers involved in the August 14, 2023 Incident; such response caused confusion for the complainant because her request for officer names and badge numbers referred to those officers involved in the September 1, 2023 Incident.

18. 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.”

19. It is concluded that the records described in paragraphs 2 and 6, above, to the extent that such records exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

20. It is found that, by email dated March 4, 2024, the respondents provided the complainant with copies of six pages of records responsive to the November 19, 2023 Request,⁵ including an email containing a list of officers and their badge numbers, with the CAD report concerning the September 1, 2023 Incident attached thereto. It is also found that, on March 4, 2024, the respondents provided the complainant with a download link, via Evidence.com (“Evidence.com link”), for the complainant to access the copies of the audio recordings of the 911 calls related to the September 1, 2023 Incident (“911 audio recordings”).

21. At the contested case hearing on this matter, the complainant withdrew her claims concerning the November 9, 2023 Request. However, the complainant contended that the respondents failed to provide all records responsive to the November 19, 2023 Request. Additionally, with respect to the records the respondents provided to her on March 4, 2024, such records had not been provided to her promptly. The respondents disputed these claims.

Compliance with the November 19, 2023 Request

22. At the hearing in this matter, the complainant testified, and it is found, that she received CAD reports with respect to the calls made by Jasmine Robinson and herself, responsive to the requests described in paragraphs 6.a.i. and 6.c., above. However, the complainant contended that she did not receive any CAD reports related to the calls placed by her sister, Carla Boddie, on September 1, 2023, responsive to the requests described in paragraphs 6.a.ii and 6.c., above.

23. The complainant also testified, and it is found, that she received a list of officers and badge numbers in the March 4, 2024 email described in paragraph 20, above; however, she did not know whether the list consisted of the officers who responded to the September 1, 2023 Incident, because the email did not specify and the respondents previously provided her with a list of officers without badge numbers, as described in paragraph 13, above.

24. In addition, the complainant testified, and it is found, that she did not receive any records responsive to the requests described in paragraphs 6.e., 6.f., and 6.g., above. In particular, the complainant testified, and it is found, that she did not receive any investigatory notes or police reports regarding the September 1, 2023 Incident.

25. At the hearing in this matter, a Lieutenant and the Officer in Charge of the Records

⁵ It is found that such records included minimal redactions of information relating to the identity of minor witnesses. At the hearing in this matter, the complainant stated that she was not contesting such redactions; therefore such redactions will not be further addressed herein.

Division (the “Lieutenant”) with the Police Department, City of New Haven (the “New Haven Police Department”), testified on behalf of the respondents.

26. With respect to the requests described in paragraphs 6.a.ii and 6.c., above, the Lieutenant testified, and it is found, that he conducted the search for any CAD reports and 911 audio recordings related to the September 1, 2023 Incident.

27. The Lieutenant testified, and it is found, that the New Haven Police Department only created one CAD report concerning the September 1, 2023 Incident, which included all of the calls relating to such incident. The Lieutenant further testified, and it is found, that the CAD report that was provided to the complainant included information related to the calls placed by Carla Boddie.

28. The Lieutenant also testified, and it is found, that the respondents provided to the complainant, via the Evidence.com link, a copy of the audio recording of the 911 call placed by Carla Boddie.

29. Based upon the evidence presented, it is found that the respondents provided the complainant with all of the responsive CAD reports and 911 audio recordings responsive to the requests described in paragraphs 6.a.ii and 6.c., above.

30. With respect to the request described in paragraph 6.d, above, seeking officers’ names and badge numbers, it is found that the FOI Act does not require public agencies to answer questions or create new records. Nonetheless, the respondents created a list of officers and badge numbers in the March 4, 2024 email described in paragraph 20, above, and that, based upon the testimony and the subject line of the March 4, 2024 email, it is found that such list consisted of the officers who responded to the September 1, 2023 Incident.

31. It is therefore found that the respondents provided the complainant with all records responsive to the requests described in paragraphs 6.a. through 6.d., above.

32. Therefore, with respect to the requests described in paragraphs 6.a. through 6.d., above, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S.

33. With respect to the requests described in paragraphs 6.e., 6.f., and 6.g., above, the Lieutenant contended that no “investigatory summary” or police officer notes existed with respect to the September 1, 2023 Incident.

34. However, the Lieutenant testified, and it is found, that a police incident report concerning the September 1, 2023 Incident exists, but that he believed that it was not responsive to any of the requests described in the November 19, 2023 Request.

35. It is found that, based upon the testimony at the hearing, the complainant was unfamiliar with precisely how the New Haven Police Department maintains and labels its records and files.

36. Our Supreme Court has made clear that: “[A]s a practical matter, the FOIA is used repeatedly by members of the public who are unschooled in technical, legalistic language distinctions. It would be unreasonable to deny a member of the public access to the FOI [Act] simply because of arguable imperfections in the form in which a request for public records is couched.” *Perkins v. Freedom of Information Commission*, 228 Conn. 158, 167 (1993) (“*Perkins*”). The Supreme Court, in disagreeing with the trial court in *Perkins*, also said: “[T]he trial court’s contrary conclusion relied on distinctions that are overly formal and legalistic in light of the public policy expressed by the FOI [Act]. The overarching legislative policy of the FOIA is one that favors the open conduct of government and free public access to government records. As we have repeatedly noted, our construction of the FOI [Act] must be guided by the policy favoring disclosure” *Perkins* at 166-67.

37. Based upon a fair reading of the November 19, 2023 Request, it is found that the police incident report relating to the September 1, 2023 Incident is responsive to the requests described in paragraphs 6.e., 6.f., and 6.g., above, as police incident reports necessarily include police “investigative notes.” Additionally, it is found that a police incident report constitutes “additional documents and/or notes that may be related to” the September 1, 2023 Incident.

38. It is therefore found that the respondents failed to prove that they provided the complainant with all records responsive to the requests described in paragraphs 6.e., 6.f., and 6.g., above.

39. Accordingly, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S. with respect to the requests described in paragraphs 6.e., 6.f., and 6.g., above.

Promptness

40. With regard to whether the respondents have acted promptly in responding to the November 19, 2023 request,⁶ this Commission has previously opined that the word “promptly” in §1-210, G.S., means “quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of records requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the records; 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 loss of the personnel time involved in complying with the request.” See FOI Commission Advisory Opinion #51, *In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk* (Jan. 11, 1982) (“Advisory Opinion #51”). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

41. In *Commissioner of Dept. of Emergency Servs. and Public Protection v. Freedom of*

⁶ As noted above, the complainant withdrew her claims related to the November 9, 2023 Request and stated at the hearing that she did not contest the timeliness of the responses to the November 9, 2023 Request.

Info. Comm'n, HHB-CV-18-6047741, 2020 WL 5540637, *6 (Conn. Super. Ct. July 2, 2020), the court recognized that a public agency should consider its obligations under the FOI Act as a “primary duty” of that agency, “on par with the [agency’s] other significant duties, or said another way, that the agency’s FOIA duty is not a second class duty.”

42. With respect to the November 19, 2023 Request, the complainant contended that the delay was unjustifiable and that the respondents were engaging in bureaucratic delay, since she received no responsive records until after the Commission “placed the case on the docket.”⁷

43. It is found that the complainant requested copies of fairly basic police records, including CAD reports, 911 audio recordings, and investigatory notes/police reports. It is noted that the complainant did not request police body worn camera footage.

44. It is found that, after December 9, 2023, the respondents did not communicate with the complainant regarding either of her requests, until March 4, 2024, when they provided the complainant with records responsive to the November 19, 2023 Request.

45. It is found that the respondents provided the complainant with copies of six pages of paper records as well as the 911 audio recordings 106 days, or three and a half months, after the November 19, 2023 Request.

46. The Lieutenant testified, and it is found, that the New Haven Police Department has five to six clerks who work full-time on responding to and fulfilling FOI Act Requests.

47. The Lieutenant testified, and it is found, that the New Haven Police Department processes general requests for police records separately from requests for body worn camera footage.

48. The Lieutenant testified, and it is found, that the respondents generally had a policy of satisfying FOI requests on a “first-in-first-out” basis, but that there were some exceptions to such policy such as when a complainant informs the respondents that the request is urgent because it is needed for a legal matter.

49. The Lieutenant testified, and it is found, that the New Haven Police Department generally has a backlog of requests and that the department receives numerous requests daily and a hundred or so weekly, including limited requests for police reports. However, it is found that the respondents failed to establish how many requests were pending at the time they received the November 19, 2023 Request; nor did they present evidence on the scope and breadth of such requests that were pending at the time.

50. With respect to the November 19, 2023 Request, the Lieutenant testified that he did not know when the actual search for responsive records began; nor how long the actual search process took.

⁷ The Commission takes administrative notice that the letter notifying the respondents of the complainant’s complaint described in paragraph 15, above, was mailed on February 26, 2024.

51. It is found that the complainant did not inform the respondents that her request was urgent or needed for a legal matter. However, the complainant testified that she needed to provide the records to a victim's advocate for reasons relating to the two incidents. She also contended that she believed that all requestors should receive responses to their requests quickly and that the respondents did not inform her that there was a backlog.

52. It is found that the complainant had submitted the November 9, 2023 Request not long before the November 19, 2023 Request and, thus, the respondents were processing two of her requests close in time. Nonetheless, it is found that the respondents were able to provide the complainant with records responsive to the November 9, 2023 Request within a couple of weeks and failed to present specific evidence demonstrating that the respondents were unable to do the same with respect to her November 19, 2023 Request.

53. It is found that the respondents failed to present evidence as to the number of 911 audio recordings responsive to the November 19, 2023 Request, nor their duration.

54. It is found that the Lieutenant searched a certain computer program for the 911 audio recordings. Thereafter, the 911 audio recordings were downloaded to a separate computer system where a New Haven Police Department records clerk reviewed and redacted the recordings, which were then reviewed by the Lieutenant. It is found that, after the Lieutenant completed his review, the recordings were ultimately saved to a separate program to be distributed to the complainant.

55. Although the Lieutenant generally testified that the process for retrieving, reviewing, redacting and downloading audio recordings of 911 calls can be time consuming, it is found that he failed to present specific evidence with respect to the November 19, 2023 Request, relating to how long such process took in this case. It is further found that the respondents chose not to provide the records on a rolling basis as they became available, despite the fact that months were passing.

56. Considering all of the factors, especially that: the complainant's request was not complicated or overbroad; it took the respondents over three months to provide the complainant with six pages of responsive records and the recordings of the 911 audio recordings, without any specific evidence regarding the duration of the search and review process in this case; and they failed to present any specific evidence to justify the three and half month delay in this case, it is found that the respondents failed to prove that they promptly complied with the November 19, 2023 Request.

57. Consequently, it is concluded that the respondents violated the promptness requirements of §§1-210(a) and 1-212(a), G.S., under the facts and circumstances of this case.

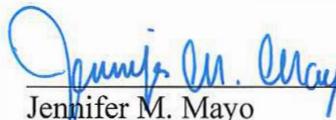
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within five business days of the date of the Notice of Final Decision in this matter,

the respondents shall provide to the complainant, free of charge, a copy of the police incident report(s) for the September 1, 2023 Incident, described in paragraphs 34 and 37 of the findings, above.

2. The respondents shall strictly comply with the disclosure and promptness requirements of §§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.



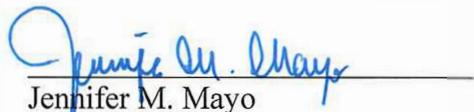
Jennifer M. Mayo
Acting Clerk of the Commission

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:

LAWANDA BODDIE-SLACK, JJ LBS Professional Administrative Services, 1444 Jeffreys Road, 209, Rocky Mount, NC 27804

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, 165 Church Street, 4th Floor, New Haven, CT 06510



Jennifer M. Mayo
Acting Clerk of the Commission