

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Luis Diaz,

Complainant

against

Docket #FIC 2023-0385

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

Respondents

July 10, 2024

The above-captioned matter was heard as a contested case on December 27, 2023, at which time the complainant and respondents appeared, stipulated to certain facts, and presented exhibits and arguments on the complaint. The complainant also presented testimony at the December 27, 2023 hearing; however, the hearing was continued, in part, to afford the respondents an opportunity to provide witness testimony. A continued hearing was held on March 19, 2024, at which time the respondents presented witness testimony.

The complainant, who is incarcerated, appeared via teleconference at both hearings in this matter, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Corrections. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC et al, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.)

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 via letter dated February 8, 2023¹, the complainant submitted a Freedom of Information (“FOI”) request to the respondents seeking:

[Part 1]

¹ Hereinafter, the “February 8th request.”

any and all information regarding File #059/ UAR # 1688687/ SPBI Ct. 60484575 conducted by the BPT Detective Bureau²; and

[Part 2]

any and all information regarding any and all individuals regarding File #059/ UAR #1688687/ SPBI Ct. 60484575 conducted by the BPT. Detective Bureau.

3. It is found that by letter dated February 13, 2023, the respondent Chief of Police acknowledged the complainant's February 8th request and informed him that his request was being forwarded to the Office of the City Attorney for Bridgeport for response.

4. It is found that by letter dated February 15, 2023, the City Attorney informed the complainant that his February 8th request was received, but that additional information was needed to identify records responsive to his request. Specifically, the City Attorney asked the complainant to provide an incident/case report number, the date of the incident, the type of incident, and the name and date of birth of the individual arrested.

5. It is found that on February 22, 2023, the complainant provided the additional information requested by the respondents. Specifically, the complainant provided the following information:

Incident Number: 051106
Case Report Number: 06D-044
Date of Incident: January 11, 2006
Type of Incident: Murder 1st
Individual Arrested: Luis Diaz (DOB 04-28-1970)

6. It is found that on February 27, 2023, the respondents acknowledged receipt of the additional information provided by the complainant in paragraph 5, above.

7. It is found that based on the information provided by the complainant in paragraph 5, above, the respondents identified a request by the complainant made almost two years prior for what the respondents represented were the same records (hereinafter, the "2020 Request").³

² The complainant testified that as he already had his case file, Part 1 of his February 8th request was not at issue in this hearing. Accordingly, the Commission will only consider Part 1 of the complainant's request in so far as it is relevant to the respondents' understanding of the records sought by the complainant in his request.

³ It is found that the 2020 Request was the subject of the complainant's complaint with the Commission in Docket #FIC 2020-0493, Luis Diaz v. Chief, Police Department, City of Bridgeport et al. By motion made December 26, 2023, the respondents requested that: (i) the Commission take administrative notice of the entire administrative record for Docket #FIC 2020-0493; and (ii) admit all documentary and testimonial evidence admitted in Docket #FIC 2020-0493. The Commission denies both portions of the respondents' motion. The Commission notes that Docket #FIC 2020-0493 was ultimately withdrawn, and there are no findings or conclusions of which to take administrative notice.

8. It is found that on July 18, 2023, the complainant sent a follow-up letter to the respondents indicating that he had not received any records or additional correspondence from the respondents.

9. By letter of complaint filed on July 28, 2023, the complainant appealed to this Commission alleging that the respondents failed to provide him with any responsive records pertaining to his February 8th request.

10. 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.

11. 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 (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

12. 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.”

13. It is concluded that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

14. It is found that Part 1 of the complainant’s February 8th request sought his entire case file that was previously disclosed to him in connection with his 2020 Request. It is further found that the complainant reviewed such records when they were initially disclosed to him as part of that request.

15. The complainant testified that in reviewing the records in the 2020 Request disclosure, he came across documents suggesting that a warrant was issued against an individual by the name of either Eugene Brown or Eugene Jackson. It is found that based on a review of

those documents, the complainant also believed that warrants were issued against other individuals in connection with the incident referenced in paragraph 5, above.

16. The complainant testified that in making his February 8th request he was specifically looking for records relating to warrants issued against other individuals in connection with the incident referenced in paragraph 5, above, including, but not limited to, Eugene Brown or Eugene Jackson. It is found, however, that the complainant did not articulate such details to the respondents until he testified at the December 27, 2023 hearing, in this matter.

17. The Commission recognizes that a basic tenet in ensuring the public's access to records under the FOI Act is the premise that requesters should not be denied access to public records "simply because of arguable imperfections in the form in which a request for public records is couched." Perkins v. FOI Commission, 228 Conn. 158, 167 (1993).

18. It is found, however, apart from an ambiguous reference to "any and all information regarding any and all individuals regarding [the complainant's case file]," the complainant's February 8th request lacked any indication that he was seeking records besides his case file that was previously disclosed. In fact, utilizing the additional information provided by the complainant described in paragraph 5, above, the respondents identified the same records disclosed as part of the 2020 Request as responsive to the complainant's current request.

19. Accordingly, it is found that at the time of the December 27, 2023 hearing, in this matter, the respondents held a good faith belief that the records responsive to the complainant's February 8th request were the same as those previously disclosed in connection with the complainant's 2020 Request.

20. It is found that once the complainant fully explained which records he sought in response to his February 8th request, the Hearing Officer ordered the respondents to conduct an additional search of their records. It is found that pursuant to this order the respondents' search was thorough – reviewing their prior 2020 Request disclosure, the unredacted copy of the complainant's case file, and the arrest history for an individual named Eugene Jackson.

21. It is found that the respondents' search produced a copy of an incomplete search warrant pertaining to Eugene Jackson and a judicial sheet pertaining to an unknown person – both of which were included in the respondents' 2020 Request disclosure. It is further found that the respondents also located a previously undisclosed investigation report referring to the Eugene Jackson search warrant.

22. It is found that on April 15, 2024, the respondents forwarded the previously undisclosed investigation report described in paragraph 23, above, to the Corrigan-Radgowski Correctional Center pursuant to §1-210(c), G.S.⁴

23. Accordingly, it is found that the respondents provided the complainant with all responsive records they maintained in connection with his February 8th request.

24. Despite the respondents disclosing all responsive records during the proceedings in this matter, the administrative record lacks any evidence explaining the approximate five-month gap between the respondents' acknowledgment of the complainant's clarifications and the complainant's July 18th letter to the respondents indicating that he had yet to receive records or additional correspondence from the respondents described in paragraph 5, above.

25. The Commission notes that the FOI Act requires the prompt disclosure of public records. See §§ 1-210(a) and 1-212(a), G.S.

26. 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."

27. 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.

28. It is found that even considering the respondents' good faith belief that the records responsive to the complainant's February 8th request were the same as those previously disclosed, as described in paragraph 21, above, the period of inaction by the respondents prior to

⁴ Section 1-210(c), G.S. provides: "Whenever a public agency receives a request from any person confined in a correctional institution or facility or a Whiting Forensic Hospital facility, for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction or the Commissioner of Mental Health and Addiction Services in the case of a person confined in a Whiting Forensic Hospital facility of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution or facility or Whiting Forensic Hospital facility."

the complainant filing his appeal with this Commission led to an unnecessary delay in the complainant receiving records responsive to his request.

29. It is further found that the respondents could have taken reasonable steps to mitigate the delay in disclosing responsive records such as: (i) confirming their understanding that the records responsive to the complainant's February 8th request were previously disclosed in connection with his 2020 Request; (ii) informing the complainant that such records were previously disclosed as part of his 2020 Request; or (iii) re-sending such records as responsive to the complainant's February 8th request.

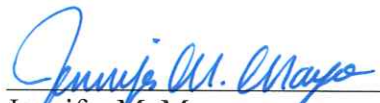
30. The Commission recognizes that, as found in paragraphs 20 – 22, above, pursuant to an order of the Hearing Officer, the respondents conducted a thorough search of their records and provided the complainant with records responsive to his February 8th request. Nevertheless, it is found that by taking no action on the complainant's request until after he filed his appeal with this Commission, the respondents did not act promptly.

31. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S.

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

1. Henceforth, the respondents shall strictly comply with the 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 July 10, 2024.



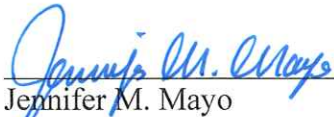
Jennifer M. Mayo
Acting Clerk of the Commission

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:

LUIS DIAZ, #153121, Corrigan-Radgowski Correctional Center, 986 Norwich-New London Turnpike, Uncasville, CT 06382

CHIEF, POLICE DEPARTMENT, CITY OF BRIDGEPORT; POLICE DEPARTMENT, CITY OF BRIDGEPORT; AND CITY OF BRIDGEPORT, c/o Attorney Dina A. Scalo, Office of the City Attorney, 999 Broad Street, 2nd Floor, Bridgeport, CT 06604



Jennifer M. Mayo
Acting Clerk of the Commission