

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Luis Diaz,

Complainant

against

Docket # FIC 2020-0660

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

Respondents

March 27, 2024

The above-captioned matter was heard as a contested case on March 6, 2023, and August 14, 2023, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC, 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, by letter dated December 13, 2020, the complainant requested that the respondents provide him with a copy of the following records:
  - (a) Any and all information pertaining to any ballistics of any match of same weapon used in State of Connecticut v. Luis Diaz case #06D-044/File# 060111-303 and same weapon used on November 11, 2005 incident #051106.
  - (b) Any information regarding the use [or] recovery of that weapon after January 11, 2006. According to ballistics expert Marshall Robinson same weapon used in both crimes.

3. It is found that by letter dated December 17, 2020, the respondents acknowledged the complainant's request.

4. By complaint filed with the Commission on December 28, 2020, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for the records identified in paragraph 2, above.<sup>1</sup>

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

"[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.<sup>2</sup>

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

9. It is found that on December 7, 2021, December 9, 2021, and April 14, 2022, the respondents provided the complainant with copies of records responsive to the request described in paragraph 2, above.

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<sup>1</sup> On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of §1-206(b)(1) G.S., which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. This provision of 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. In addition, although §1-206(b), G.S. requires that an appeal be filed with the Commission within 30 days of an alleged violation, Executive Order 7M §2(1) suspended such requirement for appeals filed between March 25, 2020 and April 19, 2021. Consequently, the Commission retains jurisdiction.

<sup>2</sup> The Commission notes that §1-200(5), G.S., was subsequently amended to include the term "videotaped." See June Sp. Sess. Public Act 21-2, §147.

10. At the March 6, 2023 hearing, the complainant contended that, although the respondents provided some records responsive to the request described in paragraph 2, above, the respondents did not provide him with copies of all of the records he sought. Specifically, the complainant contended that he did not receive records pertaining to the ballistics, use, and recovery of the weapon referenced in paragraph 2, above, *after* January 11, 2006. After hearing testimony from the complainant regarding the records he believed should have been provided, the respondents requested that the hearing be continued to allow them to conduct an additional search for records responsive to the request described in paragraph 2, above. Absent objection from the complainant, such request was granted.

11. It is found that, by letter dated August 10, 2023, the respondents notified the complainant that an additional search for records responsive to the request described in paragraph 2, above, had been conducted, and that no additional responsive records were located.

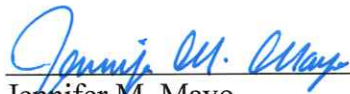
12. At the hearing on August 14, 2023, the respondents appeared with a witness who examines ballistics evidence in shooting cases for the respondents and who is familiar with the cases referenced in paragraph 2, above. Based on the credible testimony of the respondents' witness, it is found that the respondents were unable to locate any records pertaining to the ballistics, use, and recovery of the weapon described in paragraph 2, above, after January 11, 2006. It is, therefore, found that the respondents do not maintain any additional records responsive to the complainant's request.

13. Because of the foregoing, it is concluded that the respondents did not violate §§-210(a) and 1-212(a), G.S., as alleged in the complaint.

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 March 27, 2024.

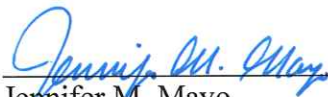
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

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 Institution, 986 Norwich New London Tpke, 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



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Jennifer M. Mayo  
Acting Clerk of the Commission