

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Joao Campos,

Complainant

against

Docket # FIC 2023-0244

Keith White, Chief, Police Department,
Town of Monroe; Police Department, Town
of Monroe; and Town of Monroe,

Respondents

May 8, 2024

The above-captioned matter was heard as a contested case on October 6, 2023, at which time the complainant appeared and presented testimony, exhibits, and argument on the complaint. The respondents failed to appear for such hearing. Pursuant to the order of the hearing officer, a continued hearing was held on March 6, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint.

Following the March 6, 2024 continued hearing, pursuant to the order of the hearing officer, the respondents submitted the following documents which have been marked as after-filed exhibits:

Respondents' Exhibit 1 (after-filed): Affidavit of Chief Keith White dated April 5, 2024 (3 pages)

Respondents' Exhibit 2 (after-filed): Log of responses to records requests submitted by the complainant (6 pages)

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 email dated March 9, 2023, the complainant requested that the respondents provide him with copies of the following records:
 - a. All body [worn] cam[era] [{"BWC"}] footage, all audio/video recordings of police locations which Joao Campos is present, all phone transcripts or audio recordings of police calls, all police reports/notes of incidents involving Joao Campos from December 15, 2022 to March 9, 2023;

- b. All [BWC] footage, all video/audio recordings of police locations that [complainant's] son was present, all phone transcripts or audio recordings, all police reports/notes of incidents involving minor son Antonio Campos which I have full custody of from December 20, 2022 to March 9, 2023;
3. It is found that by email dated March 16, 2023, the respondents acknowledged the complainant's request.
4. It is found that on or around May 10, 2023, the respondents provided the complainant with copies of certain videos responsive to his request.
5. By letter of complaint filed May 22, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his request for certain public records.
6. 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.
7. 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.
8. 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."
9. 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.
10. At the October 6, 2023 hearing, at which the respondents did not appear, the complainant testified that the records he received on or around May 10, 2023, described in

paragraph 4, above, consisted of 8 videos dated between December 16, 2022 through February 11, 2023.¹ However, the complainant claimed that there should be additional responsive records.

11. Following the October 6, 2023 hearing, pursuant to the order of the hearing officer, the respondents were ordered to appear for a continued hearing with a witness to testify about the respondents' search for and production of records responsive to the request at issue.

12. It is found that between January 25, 2024 and February 6, 2024, the respondents conducted additional searches for records responsive to the complainant's request. It is further found that on or around February 6, 2024, the respondents provided the complainant with the records they located as a result of such searches. It is found that such records included reports and additional videos that had not previously been provided to the complainant.

13. At the March 6, 2024 hearing, the complainant claimed that the respondents failed to search for and provide all responsive records promptly. The complainant contended that the respondents' delay may have prevented him from receiving all of the records he requested because, due to the respondents' retention policies, some of the videos responsive to his request may have been deleted by the time the respondents completed their search.

14. The respondents claimed that they conducted a thorough search in all locations where responsive records reasonably might be located, and that they provided all responsive records to the complainant. The respondents further claimed that any delay in complying with the complainant's request was attributable to the volume of requests they have received from the complainant.

15. The Commission has defined the word "promptly," as used in §§1-210(a) and 1-212(a), G.S., to mean "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 requestor 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 the loss of the personnel time involved in complying with the request." See *FOI Commission Advisory Opinion #51* (Jan. 11, 1982). The Commission further explained:

In weighing these and other factors, common sense and good will ought to be the guiding principles. The Commission believes that if an agency politely explains to a person seeking access to records why immediate compliance is not possible, that person will most likely understand and appreciate the agency's obligation to balance its duties as custodian of public records with its other duties. And as long as it appears to that person that the agency is not trying to unduly delay compliance, or

¹ The complainant further testified that the May 10, 2023 production also included other videos that were responsive to certain other requests that are not at issue in this matter.

impose unnecessary restrictions, he or she will most likely try to accommodate the agency. Indeed, it has been the Commission's experience that when an agency is sensitive to the needs of the requester, in most cases the agency is able to meet such person's essential requirements in a manner that also permits it to satisfactorily perform its other functions. In the final analysis, it is the Commission's opinion that this rule of reason and courtesy, if implemented, should eliminate the vast majority of potential conflicts between a citizen's right to timely access to public records, and an agency's duty to comply while processing other important business.

16. It is found that since July 2022, the complainant has submitted approximately 20 records requests to the respondents. In addition, the Commission takes administrative notice that the complainant has filed 12 appeals with the Commission during that time, 11 of which were against the respondents.

17. It is found that in or around October 2023, because of the number of records requests that the complainant had submitted to the respondents, the First Selectman of the Town of Monroe asked the respondent Chief of Police ("Chief") to personally oversee the respondents' efforts to respond to the complainant's records requests. It is found that while the respondents' usual practice is to assign the Records Unit to respond to records requests and to maintain such requests as part of the relevant case file, the respondents created and maintain a separate file for the complainant's requests in order to track and organize their responses to such requests in a more efficient manner.

18. With respect to the search described in paragraph 12, above, it is found that the Chief oversaw and coordinated the respondents' search efforts. It is further found that a records officer, two lieutenants, the captain of the department, and the Chief's administrative assistant were involved in such efforts. It is found that in addition to coordinating the search efforts, the Chief personally reviewed the responsive records located by the other individuals to verify the accuracy and thoroughness of the response.

19. With respect to the BWC footage requested by the complainant, it is found that the respondents maintain such footage on a server organized by date and officer name, rather than by case number. It is found that to locate BWC footage when a request does not include the name of the officers involved or the specific date of the incident, the respondents are required first to search their database of incident reports by case number or name of the involved party, then review any reports from the incident in question to determine which officers were involved and the date on which the incident occurred, and then search the BWC database for video footage from the relevant officer(s) on the relevant date(s). It is found that, once such footage is located, the respondents then must review the footage to determine whether it is related to the incident in question and, if so, whether all or part of the footage is exempt from disclosure.

20. It is found that the complainant's request described in paragraph 2, above, did not include the names, case numbers, or dates of specific incidents. Rather, it is found that the

complainant requested all records, including BWC footage, from a time period that spanned approximately three months. It is further found that there were at least 9 separate case numbers from the relevant time period that were responsive to the complainant's request.

21. It is found that the respondents searched all of the relevant case files for records responsive to the complainant's request. It is further found that the respondents conducted a thorough search for all BWC footage responsive to the complainant's request. It is found that the respondents provided the complainant with copies of all responsive records that they maintained as of the time of the search described in paragraph 12, above.

22. It is found that at the time of the complainant's request, the respondents' policy was to retain BWC footage for 90 days unless it was marked "critical." It is found that while the respondents' policy when they receive a public records request for BWC footage is to mark such footage "critical," the respondents could not testify with certainty whether all of the BWC footage requested by the complainant was marked "critical" within the 90-day retention period.

23. Based on the process described in paragraph 19, above, it is found that the respondents were required to spend a substantial amount of time searching for responsive BWC footage from the time period identified in the complainant's request.² It is further found that in the months following the request at issue, the respondents also were working on complying with several other requests submitted by the complainant, some of which also involved requests for BWC footage.

24. Based on the foregoing and considering the promptness factors set forth in *Advisory Opinion #51*, described in paragraph 15, above, it is found that the respondents did not unduly delay compliance with the complainant's request. It is therefore concluded that the respondents did not violate the promptness provisions in §§1-210(a) and 1-212(a), G.S.

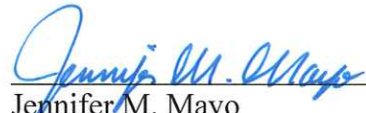
25. Because it is concluded that the respondents did not violate the FOI Act as alleged by the complainant, there is no occasion for the Commission to consider the imposition of civil penalties in this case.

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

1. The complaint is dismissed.

² The hearing officer notes that during the March 6, 2024 hearing, the complainant acknowledged that searching for responsive BWC footage would be a "very time-consuming" process, which the complainant described as "like finding a needle in a haystack."

Approved by Order of the Freedom of Information Commission at its regular meeting of May 8, 2024.



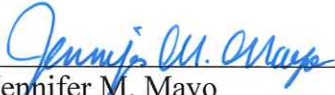
Jennifer M. Mayo
Acting Clerk of the Commission

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:

JOAO CAMPOS, 404 Mariners Walks, Milford, CT 06468

KEITH WHITE, CHIEF, POLICE DEPARTMENT, TOWN OF MONROE; POLICE DEPARTMENT, TOWN OF MONROE; AND TOWN OF MONROE, c/o Attorney David A. Ryan, Jr., Ryan & Ryan, LLC, 900 Chapel Street, Suite 621, New Haven, CT 06510



Jennifer M. Mayo
Acting Clerk of the Commission