

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Joao Campos,

Complainant

against

Docket # FIC 2023-0245

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.

On April 5, 2024, pursuant to an order of the hearing officer, the respondents submitted an affidavit, which has been marked as Respondents' Exhibit 2 (after-filed).

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 December 19, 2022, the complainant requested that the respondents provide him with copies of the following records:
 - a. All body [worn] camera [{"BWC"}] footage from all Town of Monroe Police Department employees involved with case involving Antonio Campos on 11/28/2022 and 11/29/2022;
 - b. All reports, notes, phone calls, transcripts, DCF contact conversations and any other electronic/audio/phone/written record/written notes from all Town of Monroe Police Department employees involved with case involving Antonio Campos and Joao Campos on 11/28/2022 and 11/29/2022;
 - c. Surveillance video footage of safe drop off zone from 8:30 PM on 12/16/2022 to 9:00 PM on 12/16/2022;

- d. Surveillance video footage of customer dispatch area from 8:30 PM on 12/16/2022 to 9:00 PM on 12/16/2022;
- e. All reports, notes, phone calls, transcripts, DCF contact call information, all [BWC] footage, all phone log records, all audio records, all contact notes to parties involved in investigation of reported missing child Antonio Campos and any other electronic/audio/phone/written record/written notes from all Town of Monroe Police Department employees involved with investigation [of] case involving Antonio Campos and Joao Campos from 11/28/2022 at 5:00 PM to 12/19/2022.

3. It is found that on or around May 10, 2023, the respondents provided the complainant with copies of certain videos responsive to his request.

4. By letter of complaint filed May 18, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to fully comply with his request.

5. 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.

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, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. 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 3, above, consisted of 7 videos dated between November 28, 2022 through December 16, 2022.¹ However, the complainant claimed that there should be additional responsive records.

10. 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.

11. 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.

12. 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.

13. 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 and complexity of requests they have received from the complainant.

14. 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

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.

other duties. And as long as it appears to that person that the agency is not trying to unduly delay compliance, or 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.

15. 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.

16. 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.²

17. With respect to the search described in paragraph 11, 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.

18. 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 11, above.

² Based on the agreement of the parties, the Commission takes administrative notice of the testimony presented by the respondents in Docket #FIC 2023-0244, *Joao Campos v. Keith White, Chief, Police Department, Town of Monroe, et al.*, regarding the respondents' record retention policies and their practices in responding to public records requests.

19. However, it is found that the respondents did not conduct the search and supplemental production of records described in paragraph 11, above, until almost 14 months after the complainant submitted his request.

20. In addition, it is found that after the respondents provided the complainant with the initial production of records on or around May 10, 2023, described in paragraph 3, above, the complainant notified the respondents that he believed there were additional responsive records that were not provided, but the respondents did not address the complainant's concerns.

21. With respect to the surveillance footage of the safe drop off zone requested by the complainant, described in paragraph 2.c, above, it is found that the initial May 10, 2023 production of records included footage of the safe drop off zone from the wrong time period. It is found that by the time of the search described in paragraph 11, above, any footage of the safe drop off zone from the time period requested by the complainant no longer existed due to hard drive space limitations in the recording system connected to the surveillance camera.³

22. It is further found that on December 20, 2022, the respondents located and copied certain BWC footage from Monroe Police Department case number 22-18481 that was responsive to the complainant's request, but delayed providing such footage to the complainant due to unstated concerns regarding the rights of one of the parties to the incident in question. However, the respondents did not claim that any such records were subject to any statutory exemption and did not otherwise present evidence that would justify the delay in disclosing such records.⁴

23. Based on the foregoing and considering the promptness factors set forth in *Advisory Opinion #51*, it is found that the respondents failed to search for and provide the complainant with copies of all records responsive to the request described in paragraph 2, above, promptly. It is therefore concluded that the respondents violated §§1-210(a) and 1-212(a), G.S.

24. Notwithstanding such conclusion, the Commission commends the recent efforts by the respondents, and particularly the Chief, to ensure prompt compliance with the complainant's requests.

25. After consideration of the entire record in this matter, the Commission in its discretion declines to consider the imposition of a civil penalty in this case.

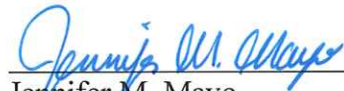
³ The respondents testified that the safe drop off zone is an area near the police station, monitored by a security camera that records automatically when it detects motion in the area, designed to provide a safe location where residents can meet to conduct private transactions. The respondents further testified that footage from the security camera is recorded to a hard drive, and that the system automatically records over previous footage as necessary based on the availability of hard drive space.

⁴ The respondents testified at the hearing that a copy of the footage from case number 22-18481 was included in the February 6, 2024 production, described in paragraph 11, above. However, the complainant testified that he had no record of receiving the footage in question. The respondents represented on the record that they would provide the complainant with another copy of such footage.

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 provisions of §§1-210(a) and 1-212(a), G.S.

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



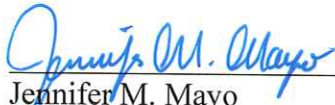
Jennifer M. Mayo
Acting Clerk of the Commission

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 Walk, Milford, CT 06468

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