

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Michael Ward,

Complainant

against

Docket #FIC 2023-0586

Chief, Police Department, City of Stamford; Police Department, City of Stamford; City of Stamford; Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection,

Respondents

October 23, 2024

The above-captioned matter was heard as a contested case on May 29, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint. The complainant, who was not incarcerated at the time he made the request at issue in this matter, was incarcerated at the time of the contested case hearing. Accordingly, the complainant appeared at the hearing 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.).

By motion dated May 1, 2024, the respondents contended that the Commissioner of the Department of Emergency Services and Public Protection and the Department of Emergency Services and Public Protection (the "Commissioner" or, collectively, "DESPP") were necessary parties to the instant matter and moved that they be added to the case as party respondents. By order dated May 6, 2024, the respondents' motion was granted. The case caption in this matter has been amended to reflect the addition of the DESPP respondents.

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 October 17, 2023, the complainant sent the Stamford respondents the following request for records:

Subject: Police Records Request for Alleged Open Cases SVU¹

In court, an attorney stated there were five separate, “open cases” that were still being investigated. One being a SVU case for Sexual Crimes. One for allegedly violating probation by contacting a protected person. One for sending harassing emails to a protected person. One for identity theft of the protected person. One for some other crime the protected person falsely claimed I committed.

I cannot find any such reports in Westport, Greenwich or Bridgeport police reports. I have acquired all other reports....

3. It is found that, by email dated November 14, 2023, the Stamford respondents acknowledged the request referenced in paragraph 2, above. It is further found that, the Stamford respondents informed the complainant that:

Please be advised that the City of Stamford is requesting of the Commissioner of the Connecticut Department of Emergency Services and Public Protection [that she] render a determination that you are not entitled to be provided with responsive records on the grounds that such documents are exempt pursuant to Connecticut General Statute section 1-210(b)(19).

4. It is found that, shortly after receiving the request referenced in paragraph 2, above, the Stamford respondents requested a safety risk determination from the DESPP Commissioner pursuant to §§1-210(b)(19) and 1-210(d), G.S., concerning the disclosure of the requested police reports. It is further found that, in their letter, the Stamford respondents explained to DESPP that they believed disclosure of the police reports could cause a safety risk to two protected individuals, one of whom is a minor child.

5. It is found that the DESPP Commissioner reviewed the Stamford respondents’ request for a safety risk determination, as described in paragraph 4, above, consulted with the Stamford respondents and considered whether reasonable grounds existed to exempt the requested records. It is further found that, by letter dated November 15, 2023, the Commissioner informed the Stamford respondents, in relevant part, as follows:

While I agree that the police reports involving [the protected person] and the minor child should be exempt from disclosure, the police reports concerning only Mr. Ward can be released. These would include the redacted version of the

¹ The Commission notes that SVU is the acronym for the “Special Victim’s Unit.”

December 19, 2018 report (see attached), and the September 12, 2019 complaint from the Stamford Board of Education (including the Supplement Dates of 11/26/19 and 12/3/19).

Under Connecticut General Statute §1-210(b)(19), G.S., records are exempt from a FOI request when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person. In this case, Mr. Ward has proven multiple times that he does not respect or recognize the law enforcement or judicial orders when it concerns [the protected person] and the minor child. He continued to harass [the protected person] even after being convicted of violating the protective orders.... It is my belief that releasing these records would be a safety risk to [the protected person] and the minor child....

6. By email dated and filed November 21, 2023, the complainant appealed to this Commission, alleging that the Stamford respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with a copy of the requested records.

7. 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.

8. 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.

9. 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.”

10. It is concluded that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

11. At the hearing, the complainant conceded that he received some of the requested police reports. The complainant contended, however, that the Stamford respondents and DESPP improperly withheld other police reports from him. The Stamford respondents and DESPP contended that the additional police reports, or portions thereof, were exempt from disclosure pursuant to §1-210(b)(19), G.S. In addition, the Stamford respondents requested that the Commission sanction the complainant for filing the appeal in this case because the records he requested in the instant matter are the same as those requested in Michael Ward v. Chief, Police Department, City of Stamford, et al., Docket #FIC 2023-0346 (June 12, 2024) ("Ward 1"), which matter the Commission recently adjudicated. The Commission takes administrative notice of the administrative record and the final decision in Ward 1.

12. Section 1-210(b)(19), G.S., permits a public agency to disclose the following:

Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. Such reasonable grounds shall be determined (A)... (ii) by the Commissioner of Emergency Services and Public Protection, after consultation with the chief executive officer of a municipal, district or regional agency, with respect to records concerning such agency.... Such records include, but are not limited to:

- (i) Security manuals or reports;
- (ii) Engineering and architectural drawings of government-owned or leased institutions or facilities;
- (iii) Operational specifications of security systems utilized at any government-owned or leased institution or facility, except that a general description of any such security system and the cost and quality of such system may be disclosed;
- (iv) Training manuals prepared for government-owned or leased institutions or facilities that describe, in any manner, security procedures, emergency plans or security equipment;
- (v) Internal security audits of government-owned or leased institutions or facilities;
- (vi) Minutes or records of meetings, or portions of such minutes or records, that contain or reveal information relating to

security or other records otherwise exempt from disclosure under this subdivision;

(vii) Logs or other documents that contain information on the movement or assignment of security personnel; and

(viii) Emergency plans and emergency preparedness, response, recovery and mitigation plans, including plans provided by a person to a state agency or a local emergency management agency or official.

13. In addition, §1-210(d), G.S., provides:

Whenever a public agency...receives a request from any person for disclosure of any records described in subdivision (19) of subsection (b) of this section under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Administrative Services or the Commissioner of Emergency Services and Public Protection, as applicable, of such request, in the manner by such commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner, after consultation with the chief executive officer of the applicable agency, believes the requested record is exempt from disclosure pursuant to subdivision (19) of subsection (b) of this section, the commissioner may direct the agency to withhold such record from the person....

14. It is found that DESPP provided the complainant with three police reports and two supplemental reports prior to the hearing in this matter. It is further found that one of the police reports contained redactions pursuant to DESPP's §1-210(b)(19), G.S., determination. Thereafter, and with the assistance of the Commission's ombudsman, it is found that the Stamford respondents again provided the complainant with the same three police reports and two supplemental reports. It is further found that the Stamford respondents disclosed all of the reports to the complainant without redactions.

15. At the hearing, all respondents maintained that the disclosure of the remaining police reports may create a safety risk to the protected person and the minor child. In this regard, DESPP offered the testimony of Attorney Kimberly Zigich. Attorney Zigich highlighted the basis for the DESPP Commissioner's determination, including the fact that a protective order issued pursuant to §54-86d, G.S.², to safeguard the protected person and the minor child from the complainant.

² Section 54-86d, G.S., provides, in relevant part, that “[a]ny person who has been the victim of a sexual assault under section 53a-70b of the general statutes ... or section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73a, voyeurism under section 53a-189a, or injury or risk of injury, or impairing of morals under section 53-21, or of an attempt thereof, or family violence, as defined in section 46b-38a,

16. It is found that the DESPP Commissioner's determination that the disclosure of the remaining police reports may create a safety risk was not frivolous or patently unfounded and was arrived at in good faith.

17. It is further found that the DESPP Commissioner had reasonable grounds to believe that disclosure of the remaining police reports may result in a safety risk, within the meaning of §1-210(b)(19), G.S.

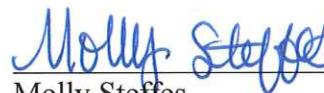
18. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

19. Finally, the Stamford respondents' request that the Commission sanction the complainant for filing the instant appeal is denied. Upon review of the administrative record in Ward 1, it is found that the records requested in such matter are distinct from the police reports requested in the instant matter.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 23, 2024.



Molly Steffes
Acting Clerk of the Commission

shall not be required to divulge his or her address or telephone number during any trial or pretrial evidentiary hearing arising from the sexual assault, voyeurism or injury or risk of injury to, or impairing of morals of, a child, or family violence; provided the judge presiding over such legal proceeding finds: (1) Such information is not material to the proceeding, (2) the identity of the victim has been satisfactorily established, and (3) the current address of the victim will be made available to the defense in the same manner and time as such information is made available to the defense for other criminal offenses.”

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:

MICHAEL WARD, #433227, Robinson Correctional Institution, 285 Shaker Road, PO Box 1400, Enfield, CT 06082

CHIEF, POLICE DEPARTMENT, CITY OF STAMFORD; POLICE DEPARTMENT, CITY OF STAMFORD, AND CITY OF STAMFORD, c/o Attorney Burt Rosenberg, Office of Corporation Counsel, 888 Washington Blvd., PO Box 10152, Stamford, CT 06904; **AND COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION; STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION**, c/o Attorney Kimberly Zigich, Dept. of Emergency Services and Public Protection, 1111 Country Club Road, Middletown, CT 06457

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Acting Clerk of the Commission