

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Joao Campos,

Complainant

against

Docket #FIC 2023-0497

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

Respondents

September 25, 2024

The above-captioned matter was heard as a contested case on April 1, 2024, at which time the complainant and respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint.

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 on September 20, 2023, the complainant requested the following records from the respondents: (i) the department's policy and any procedures for subpoena payments and process; and (ii) the department's policy and any procedures for court ordered escorts that require an officer to be present for escort.¹
3. It is found that upon receiving the complainant's request on September 20, the respondent Chief of Police located responsive records and forwarded such records to counsel for eventual disclosure to the complainant.
4. It is found that the respondents did not reply to the complainant acknowledging his September 20 request.
5. By letter of complaint filed on October 2, 2023, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to respond to his September 20 request described in paragraph 2, above.

¹ Hereinafter, the September 20 request.

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. During the contested case hearing in this matter, the complainant testified that on March 28, 2024, he had received from the respondents records responsive to his September 20 request, and that those records satisfied the substance of such request. Accordingly, the only issue remaining for the Commission to consider is the promptness of the respondents’ disclosure.

11. 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.”

12. 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.

13. The respondents assert that the records responsive to the complainant's request were provided to him on October 30, 2023, as part of disclosures pertaining to separate FOI requests made by the complainant.

14. It is found that on October 26, 2023, the respondents, via email, informed the complainant that several records were ready for him to pick up at the police station. It is further found that the respondents informed the complainant that the total cost for the records was \$31.50.

15. It is found that on that same day, the complainant replied to the respondents asking for clarification as to which request the records referenced in paragraph 14, above, pertained.

16. It is found that on October 27, 2023, the respondents replied to the complainant informing him that the available records described in paragraph 13, above, covered his requests made on August 14, 2023, October 3, 2023, and October 16, 2023.

17. It is found that on October 30, 2023, the complainant picked up the available records at the Monroe Police Department and paid the \$31.50 for such records.

18. The complainant testified that the responsive records he received from the respondents on March 28, 2024, to his September 20 request were not included or contained within the October 30, 2023, disclosure.

19. When questioned by the undersigned Hearing Officer as to what records were included in the respondents' October 30 disclosure, the respondent Chief of Police testified that he did not know and that he could not accurately provide dates for the disclosure of specific records.

20. It is found, therefore, that the respondents failed to prove that the records responsive to the complainant's September 20 request were provided to the complainant on October 30, 2023. Accordingly, it is found that the complainant did not receive records responsive to such request until March 28, 2024, four days before the hearing in this matter.

21. It is found that 190 days elapsed between the complainant's submission of his September 20 request and the respondents' March 28 provision of records, which consisted of two records amounting to a total of 5 pages.

22. It is found that the respondent Chief of Police was able to quickly identify and locate records responsive to the September 20 request, as evidenced by the fact that he forwarded such responsive records to counsel the same day he received the complainant's request.²

23. Accordingly, it is found that such records were readily accessible to the respondents and did not require an onerous or otherwise burdensome search to locate such records.

² The respondent Chief of Police indicated that such records were publicly available online via an internet search. The Commission notes that the fact that documents are accessible online does not absolve the respondents of their obligations to provide responsive records under the FOI Act.

24. The respondent Chief of Police testified as to the number of hours spent and staff assigned to processing all of the complainant's records requests.³ However, such testimony has little, if any, relevance in the case currently before the Commission, as the respondent Chief of Police was able to easily identify and retrieve such records as indicated in paragraph 23, above.

25. It is found, therefore, that 190 days to disclose two easily accessible records is not prompt.⁴

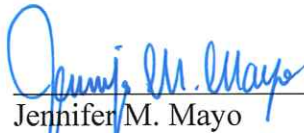
26. It is concluded, therefore, that the respondents violated the promptness provisions of §§1-210(a) and 1-212(a), G.S.

27. The Commission declines the complainant's request to impose civil penalties upon the respondents.

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 September 25, 2024.



Jennifer M. Mayo
Acting Clerk of the Commission

³ Although it appears that the complainant had several requests pending with the respondents at the time of his September 20 request, the respondents failed to identify which requests were pending at the time of the September 20 request. Rather, the respondents simply indicate that the complainant has made 20 requests since July 2022 and that staff has worked approximately 100 hours on all of the complainant's requests. It is unclear, however, the extent of the backlog of FOI requests, if any, the respondents faced at the time of the September 20 request.

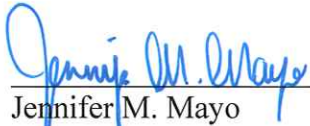
⁴ Even if the responsive records were disclosed as part of the October 30, 2023 disclosure, it is unlikely that such disclosure would be considered prompt based on the facts and circumstances set forth herein.

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

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