FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Miguel Gonzalez,

Complainant

against Docket #FIC 2024-0438

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

Respondents June 25, 2025

The above-captioned matter was heard as a contested case on January 30, 2025, 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 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 form dated July 1, 2024, the complainant requested copies of all records related to "file #071018-205", "arrest #200708864 (53a-212 Theft of Firearm)", and "case #07D-1626" of Mokeema Garcia "dated October 18, 2007".[1]

3. It is found that, by letter dated July 14, 2024, the respondents acknowledged the complainant's request and informed the complainant that "the Bridgeport Police Department Record Room has a retention period of ten (10) years for records not deemed serious offenses (murder, homicide etc) [sic]."

4. By letter of complaint, received and filed July 31, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the records, described in paragraph 2, above. The complainant also requested the imposition of a civil penalty against the respondents.

[1] The Commission notes that case #07D-1626 refers to the arrest and conviction of the complainant and not to Mokeema Garcia.

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 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:

> [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: "[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 requested records, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. At the hearing on this matter, the complainant stated that he wanted all records, but particularly the police report, related to the arrest of Mokeema Garcia on October 18, 2007. The complainant also testified that he had previously received certain responsive records from a public records request submitted eight to ten years prior to the request at issue here. Specifically, the complainant testified that he had received a booking sheet, daily log, mug shot, and arrest card related to Mr. Garcia's arrest.

10. The respondents argued that, subsequent to Mr. Garcia's arrest, the applicable charges against him had been nolled and that any responsive records related to such arrest were therefore erased pursuant to §54-142a, G.S.

11. Section 54-142a, G.S., known as the "erasure statute", generally requires nondisclosure of all police, court and prosecutorial records "pertaining to a criminal charge" whenever the person charged is acquitted or pardoned, or the charge is dismissed or nolled.

12. The respondents could not testify as to when the charges against Mr. Garcia were nolled; however, based upon the date of the applicable arrest and the testimony of the

respondents, the charges must have been nolled sometime between 2007 and 2018. As it existed in 2018, the erasure statute provided, in relevant part:

> (a) [w]henever in any criminal case, on or after October 1, 1969, the accused, by a final judgment, is found not guilty of the charge or the charge is dismissed, all police and court records and records of any state's attorney pertaining to such charge shall be erased upon the expiration of the time to file a writ of error or take an appeal, if an appeal is not taken, or upon final determination of the appeal sustaining a finding of not guilty or a dismissal, if an appeal is taken. Nothing in this subsection shall require the erasure of any record pertaining to a charge for which the defendant was found not guilty by reason of mental disease or defect or guilty but not criminally responsible by reason of mental disease or defect....
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> (c)(1) Whenever any charge in a criminal case has been nolled in the Superior Court, or in the Court of Common Pleas, if at least thirteen months have elapsed since such nolle, all police and court records and records of the state's or prosecuting attorney or the prosecuting grand juror pertaining to such charge shall be erased, except that in cases of nolles entered in the Superior Court, Court of Common Pleas, Circuit Court, municipal court or by a justice of the peace prior to April 1, 1972, such records shall be deemed erased by operation of law and the clerk or the person charged with the retention and control of such records shall not disclose to anyone their existence or any information pertaining to any charge so erased, provided nothing in this subsection shall prohibit the arrested person or any one of his heirs from filing a petition to the court or to the records center of the Judicial Department, as the case may be, to have such records erased, in which case such records shall be erased.
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> (2) Whenever any charge in a criminal case has been continued at the request of the prosecuting attorney, and a period of thirteen months has elapsed since the granting of such continuance during which period there has been no prosecution or other disposition of the matter, the charge shall be nolled upon motion of the arrested person and such erasure may thereafter be effected or a petition filed therefor, as the case may be, as provided in this subsection for nolled cases....
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> (e) (1) The clerk of the court or any person charged with retention and control of such records in the records center of the Judicial Department or any law enforcement agency having information contained in such erased records shall not disclose to anyone, except the subject of the record, upon submission pursuant to

guidelines prescribed by the Office of the Chief Court Administrator of satisfactory proof of the subject's identity, information pertaining to any charge erased under any provision of this section and such clerk or person charged with the retention and control of such records shall forward a notice of such erasure to any law enforcement agency to which he knows information concerning the arrest has been disseminated and such disseminated information shall be erased from the records of such law enforcement agency. Such clerk or such person, as the case may be, shall provide adequate security measures to safeguard against unauthorized access to or dissemination of such records or upon the request of the accused cause the actual physical destruction of such records, except that such clerk or such person shall not cause the actual physical destruction of such records until three years have elapsed from the date of the final disposition of the criminal case to which such records pertain.....

(3) Any person who shall have been the subject of such an erasure shall be deemed to have never been arrested within the meaning of the general statutes with respect to the proceedings so erased and may so swear under oath....

(g) The provisions of this section shall not apply to any police or court records or the records of any state's attorney or prosecuting attorney with respect to any information or indictment containing more than one count (1) while the criminal case is pending, or (2) when the criminal case is disposed of unless and until all counts are entitled to erasure in accordance with the provisions of this section, except that when the criminal case is disposed of, electronic records or portions of electronic records released to the public that reference a charge that would otherwise be entitled to erasure under this section shall be erased in accordance with the provisions of this section. Nothing in this section shall require the erasure of any information contained in the registry of protective orders established pursuant to section 51-5c. For the purposes of this subsection, "electronic record" means any police or court record or the record of any state's attorney or prosecuting attorney that is an electronic record, as defined in section 1-267, or a computer printout.[2] [3] (Emphasis added.)

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[2] The Commission takes Administrative Notice of its final decision in Docket #FIC 2018-0752, Christopher Shuckra v. Eric Osanitsch, Chief, Police Department, Town of Windsor Locks, et al., (November 13, 2019), as well as, the legislative history of §54-142a, G.S., found on the Connecticut General Assembly's website: https://cga.ct.gov/current/pub/chap_961a.htm#sec_54-142a.

[3] The Commission notes that although the current version of §54-142a, G.S., differs substantially from the 2018 version of such statute, "statutes should not be construed to apply retroactively where the statutes affect substantial changes in the law, unless the legislative intent clearly and unequivocally appears otherwise." Comm'r v. Freedom

13. Section 54-142c, G.S., provides, in relevant part, as follows:

> (a) [t]he clerk of the court or any person charged with retention and control of erased records by the Chief Court Administrator or any criminal justice agency having information contained in such erased records shall not disclose to anyone the existence of such erased records or information pertaining to any charge erased under any provision of this part, except as otherwise provided in this chapter.

14. For purposes of §54-142c, G.S., a "criminal justice agency" is defined as including "any…government agency created by statute which is authorized by law and engages, in fact, as its principal function in activities constituting the administration of criminal justice, including but not limited to, organized municipal police departments…"

15. It is found that the respondent police department is a criminal justice agency, within the meaning of §54-142c, G.S.

16. The respondents' witness testified, and it is found, that he conducted a diligent and thorough search and that he did not locate any responsive records by reference to the file number or the arrest number identified in paragraph 2, above. The respondents' witness also testified that, during the course of such search, he located an "arrest card" that had been completely redacted, which led him to investigate and confirm that the charges against Mr. Garcia had been nolled and were therefore erased pursuant to §54-142a, G.S.

17. The respondents' witness testified that, in preparation for the hearing on this matter, he conducted a supplemental search for responsive records by reference to the case number identified in paragraph 2, above, and located four responsive records.[4] The respondents' witness also testified, and it is found, that no responsive police report was located in case #07D-1626 and that, based upon the complainant's testimony described in paragraph 9, above, the four responsive records the witness did locate were already in the complainant's possession. The respondents' witness further testified that although he located responsive records, such records were "erased by operation of law" and would not be disclosed to the complainant pursuant to §54-142a, G.S. See Comm'r v. Freedom of Info. Comm'n, No. HHBCV146027085, 2019 WL 4201551, at *11 (Conn. Super. Ct. August 20, 2019).

18. Based upon the findings in paragraphs 11 through 17, above, it is found that the requested records described in paragraph 2, above, were erased within the meaning of §54-142a,

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of Info. Comm'n, No. HHBCV146027085, 2019 WL 4201551, at *11 (Conn. Super. Ct. August 20, 2019). The Commission cites to the 2018 version of the erasure statute here because that was the operable version of the statute at the time that the requested records were erased.

[4] The respondents' witness testified that he did not initially search for responsive records by reference to the case number identified in paragraph 2, above, because it did not refer to Mr. Garcia's arrest, but rather, to the complainant's criminal case.

G.S., and that all such records, including the four responsive records described in paragraph 17, above, are exempt from disclosure pursuant to §54-142a, G.S.

19. Accordingly, it is concluded that the respondents did not violate the FOI Act, as alleged by the complainant.

20. Based upon the foregoing conclusion, the complainant's request for the imposition of a civil penalty need not be addressed.

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 June 25, 2025.

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:

MIGUEL GONZALEZ, #249491, MacDougall Correctional Institution, 1153 East Street, South, Suffield, CT 06080

RODERICK PORTER, 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, Bridgeport, CT 06604

Jennifer M. Mayo
Acting Clerk of the Commission

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