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Ioannis Kaloidis,
Complainant(s)
against

Vernon Reddick, Chief, Police Department, City of Waterbury; Police Department, City of Waterbury; and City of Waterbury,
Respondent(s)

Notice of Meeting

Docket #FIC 2014-487

May 6, 2015

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, lst floor, Hartford, Connecticut, at **2 p.m. on Wednesday, May 27, 2015.** At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission ***ON OR BEFORE May 15, 2015***. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed ***ON OR BEFORE May 15, 2015***. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed ***ON OR BEFORE May 15, 2015***, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Ioannis Kaloidis
Gary S. Roosa, Esq.

2015-05-06/FIC# 2014-487/Trans/wrbp/TCB//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Ioannis Kaloidis,

Complainant

against

Docket #FIC 2014-487

Vernon Riddick, Chief, Police Department, City Waterbury; Police Department, City of Waterbury; and City of Waterbury,

Respondents

May 6, 2015

The above-captioned matter was heard as a contested case on February 17, 2015 and April 21, 2015, at which times the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC 2014-486; Ioannis Kaloidis v. Vernon Riddick, Chief, Police Department, City of Waterbury; Police Department, City of Waterbury; and City of Waterbury.

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 letter dated July 1, 2014, the complainant made a request to the respondents for copies of "all police reports authored by or involving Officer Ryan Cubells, Badge Number 780, for a period of time from January 1, 2010 to the present."

3. It is found that, by letter of the same date, the complainant made the same request, but for records pertaining to an Officer Martin Scanlon, Badge Number 748, who frequently worked with Officer Scanlon.

4. It is found that by letter dated July 2, 2014, the respondents informed the complainant that his requests had been received and were under review.

5. By letter dated July 22, 2014 and filed on July 24, 2014, the complainant appealed to this Commission alleging that he was "denied access to records, prompt or otherwise" in violation of the FOI Act with respect to his request for records involving Officer Cubells. The complainant also requested the imposition of a civil penalty against the respondent Chief.

6. Section 1-200(5), G.S., provides:

> "Public 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, printed, photostated, photographed or recorded by any other method.

7. Section 1-210(a), G.S., provides in relevant part that:

> Except 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 (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (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 found that the requested records described in paragraphs 2 and 3, above, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. It is found that the respondents determined to compile and provide records responsive to both of the complainant's requests simultaneously.

11. It is found that by letter dated July 23, 2014, the respondents informed the complainant that there were 2000 reports responsive to his requests and requested that the complainant pre-pay for copies of the reports. The respondents also informed the complainant that, given the "current manpower of the department" it would take a minimum of 2 years to comply with his requests.

12. It is found that by letter dated August 1, 2014, the complainant informed the respondents that, due to the volume of responsive records, he would prefer to inspect the records and scan those for which he would like a copy.

13. It is found that by letter dated September 24, 2014, the respondents informed the complainant that he would be able to inspect the requested records only after each report had been reviewed for information that might disclose the identity of minors or victims of sexual assault, or disclose witness statements, and appropriate redactions had been made.

14. It is found that by letter dated September 29, 2014, the complainant expressed his frustration with what he described as the respondents' continued denial of access to the requested records and asked that the records that did not require redactions be made available immediately.

15. It is found that, at the February 17, 2015 hearing, the complainant and respondents agreed to narrow the scope of his requests in an effort to expedite the respondents' compliance. It is found that instead of seeking all police reports authored or involving the officers, the complainant sought only police reports related to motor vehicle stops that resulted in searches and/or arrests, drug arrests, and/or gun related arrests.

16. It is found that, as of the date of the April 21, 2015 hearing in this matter, the respondents have provided the complainant reports from the months between January and August of 2013. It is found that the reports were provided in two separate batches on two different dates. It is found that the first batch was provided prior to the complainant narrowing the scope of his requests and included 89 reports. It is found that the second batch was provided pursuant to the complainant's narrowed requests and included 27 reports.

17. It is found that the respondents have not provided the complainant with any responsive records for the years between 2010 and 2012, for the months from September through December of 2013 or for the months between January and July of 2014.[1]

18. At the April 21, 2015 hearing, the respondents contended that after narrowing the scope of his requests and after having over two more months to comply, the respondents have only provided a small fraction of the responsive records. The complainant contended at the April 21, 2015 hearing that compliance with his requests was unnecessarily delayed and that a civil penalty should be imposed against the respondents.

19. In response to the complainant's contention that their compliance was unnecessarily delayed, the respondents contended that every effort was being made to comply with the complainant's requests and that they had a goal of providing him with

[1] The month of July represents the complainant's request for records "to the present".

50 reports a week until all responsive records had been provided, but circumstances arose that prevented them from meeting that goal including:

a. Losing the experienced records officer who originally was handling the requests; and

b. The new records officer simply not being familiar enough with the position in order comply with the complainant's voluminous requests any faster.

20. The Commission has previously opined that the word "promptly" in §1-210, G.S., means "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 requester needs the information contained in the record; 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 loss of the personnel time involved in complying with the request." See FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

21. It is found that the respondents work to compile records responsive to the complainant's requests every business day and that they have to spend approximately 15 to 20 minutes reviewing each report for applicable exemptions and exceptions to disclosure which often required calling the court to ensure that certain records are not subject to erasure.

22. It is found that the complainant's request, even after it was narrowed is voluminous; as stated in paragraph 21, above, each report takes considerable time to review and redact; and there is no evidence in the record that the complainant informed the respondents that he needed the records by a certain date. It is also found that while the complainant made it clear at the hearing the importance of the records to his ongoing work on an police related issue, it is also found that the respondents receive at least three new records requests a day and must complete other agency business which is also important.

23. Weighing all the factors related to the requests, it is found that the respondents have not unduly delayed compliance with the complainant's requests.

24. It is further found that the respondents have not violated the FOI Act as alleged by the complainants.

25. Consequently, the complainant's request for the imposition of a civil penalty will not be considered herein.

26. The respondents indicated at the April 21, 2015 hearing on this matter that they will continue to provide the complainant with copies of the requested records, pursuant to the narrowed scoped, on a rolling basis until all responsive records have been provided.

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

1. The complaint is hereby dismissed.

Tracie C. Brown

Attorney Tracie C. Brown
as Hearing Officer

FIC2014-486/hor/tcb/20150430