

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Valeka Clarke,

Complainant

against

Docket #FIC 2016-0507

Chief, Police Department, City of
Middletown; Police Department, City of
Middletown; and City of Middletown,

Respondents

February 8, 2017

The above-captioned matter was heard as a contested case on November 4, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The matter was consolidated for hearing with Docket #FIC 2016-0504, Valeka Clarke v. Chairman, Juvenile Review Board, City of Middletown; Juvenile Review Board, City of Middletown; and City of Middletown; and Docket #FIC 2016-0505, Valeka Clarke v. Superintendent of Schools, Middletown Public Schools; and Middletown Public Schools.

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 June 10, 2016, the complainant requested copies of all records concerning herself, and copies of policies and procedures for dispatch call logs, dispatch computer logs, arrest warrant applications, incident reports, supplemental reports, arrest warrant affidavits, civilian complaint statements, investigative reports, and final case disposition documentation.
3. It is found that the respondents acknowledged the request on June 13, 2016.
4. It is found that on Friday, July 8, 2016, the complainant emailed the respondents and asked when the records would be available.
5. It is found that on July 11, 2016, the respondents informed the complainant that they had some records ready for the complainant. It is found that the respondents told the complainant that there were 19 pages available for the complainant, and that the respondents' attorney was still reviewing other records responsive to the complainant's request.

6. By letter filed July 12, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records she requested.

7. 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, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

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

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, ... or (3) receive a copy of such records in accordance with section 1-212.

9. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

10. It is found that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

11. It is found that on August 10, 2016, the respondents informed the complainant that the second part of her request was now ready for her. It is found that the respondents told the complainant that there were a total of 65 pages.

12. The complainant alleged that the respondents were not prompt in providing the requested records.

13. With regard to the question of promptness, 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 (Notice of Final Decision dated 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 consideration all of the factors presented by a particular request.

14. 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 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.

15. It is found that the respondents' lieutenant who was responsible for compiling the records requested by the complainant, and who had communicated with the complainant while her request was pending, was not at work for about two weeks during that time period.

16. It is found, however, that the respondents failed to prove that they provided the records to the complainant in a prompt manner.

17. It is concluded that the respondents violated the FOI Act by failing to provide the records to the complainant promptly.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of February 8, 2017.



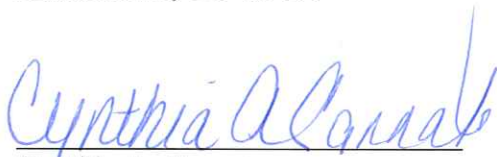
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Valeka Clarke
38 Santangelo Circle
Middletown, CT 06457

Chief, Police Department, City of Middletown;
Police Department, City of Middletown; and
City of Middletown
c/o Christopher Smedick, Esq.
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245 DeKoven Drive
Middletown, CT 06457



Cynthia A. Cannata
Acting Clerk of the Commission