

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Maleek Jones,

Complainant

against

Docket #FIC 2016-0413

Commissioner, State of Connecticut,
Department of Emergency Services and
Public Protection; and State of
Connecticut, Department of Emergency
Services and Public Protection,

Respondents

February 22, 2017

The above-captioned matter was heard as a contested case on October 5, 2016, at which time the complainant and the 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 May 4, 2016, the complainant requested a copy of records of the latent and partial prints analysis referenced in the incident reports in the New Haven Police Department investigation of the criminal case against him in 1992.
3. It is found that the respondents acknowledged the complainant's request on May 16, 2016.
4. By letter filed June 2, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide copies of the records he requested.
5. 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.

6. 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.

7. 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."

8. It is found that by early June 2016, the respondents had begun to search for responsive records. It is found that, despite a diligent search using the information supplied by the complainant, the respondents' forensic laboratory was unable to locate any responsive records. It is found that the respondents, therefore, requested that the complainant provide either a laboratory case number and/or the submitting agency's case number. It is found that the complainant replied on June 10, 2016, and provided a police incident report from the City of New Haven Police Department, as well as a Shooting Reconstruction Report.

9. It is found that, on July 1, 2016, the respondents informed the complainant that they still were unable to find any responsive records.

10. Based on the evidence in this matter, it appears that any fingerprint analysis would have been performed by the New Haven Police Department identification laboratory. It appears that the respondents' forensic laboratory never received the fingerprints from the New Haven Police Department and never performed any analysis of such prints.

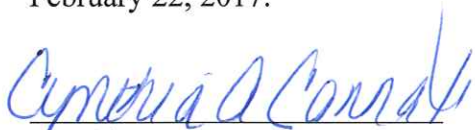
11. It is found that the respondents do not maintain, and most likely never did maintain, the requested records.

12. It is concluded, therefore, that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

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 February 22, 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:

Maleek Jones #179912
Garner Correctional Institution
50 Nunnawauk Road
Newtown, CT 06470

Commissioner, State of Connecticut, Department of Emergency
Services and Public Protection; and State of Connecticut,
Department of Emergency Services and Public Protection
c/o James W. Caley, Esq.
Assistant Attorney General
State of Connecticut,
Office of the Attorney General
110 Sherman Street
Hartford, CT 06105



Cynthia A. Cannata
Acting Clerk of the Commission