

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Guy Gilmore,

Complainant

against

Docket #FIC 2016-0656

Michael B. Smart, City Clerk, City of  
New Haven; Police Department, City of  
New Haven; and City of New Haven;

Respondents

July 12, 2017

The above-captioned matter was heard as a contested case on April 19 and June 1, 2017, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. The caption of the case has been modified to reflect the addition of the New Haven Police Department as a respondent, and the omission of the State of Connecticut Department of Correction as a respondent. This case was consolidated for hearing with Docket #FIC 2016-0655, Guy Gilmore v. Dean Esserman et al. 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 et al., 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. By letter of complaint filed September 12, 2016, the complainant appealed to the Commission, alleging that the New Haven City Clerk denied his August 11, 2016 request for certain public records.
3. It is found that the complainant made an August 11, 2016 request to the New Haven City Clerk for copies of "street camera" video recordings made on September 13, September 16 and October 25, 2014, pertaining to the investigation, prosecution, and conviction of the complainant.

4. It is found that the respondent City Clerk promptly referred the request to the New Haven Police Department.

5. It is found that the New Haven Police Department only retains street camera video for fourteen days, and that the video recordings from 2014 no longer exist.

6. It is found that the New Haven respondents also located surveillance video recordings made by the New Haven Police Department Narcotics Unit of controlled narcotics purchases on the dates identified by the complainant.

7. It is found that the New Haven Police Department, for the reasons noted below, did not provide copies of the surveillance videos to the complainant, and consequently, no records in this case were received or reviewed by the Department of Correction.

8. Section 1-200(5), G.S., defines “public records” as follows:

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.

9. 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, (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.

10. 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.”

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

12. The New Haven Police Department contended that the surveillance videos would disclose the identity of a confidential informant.

13. Section 1-210(b)(3)(A), G.S., provides that disclosure is not required of law enforcement records if disclosure of those records would result in the disclosure of “the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known ....”

14. It is found that the three surveillance videos are video and audio recordings of controlled drug purchases by a confidential informant.

15. It is found that the disclosure of the surveillance videos would result in the disclosure of the identity of an informant not otherwise known.

16. It is found that disclosure of the identity of the confidential informant, who cooperated in the controlled purchase of narcotics from individuals being investigated by the New Haven respondents, would endanger the informant or subject him or her to threat or intimidation.

17. It is therefore concluded that the surveillance videos are permissibly exempt from disclosure pursuant to §1-210(b)(3)(A), G.S., and that the New Haven Police Department did not violate the FOI Act by withholding them.

18. At the hearing, the Department of Correction requested that the caption of the case be amended to omit it as a respondent. That request is granted, since the requested records were not transmitted to the Department and the Department had no other role in the case.

19. At the hearing, the New Haven City Clerk requested that the case be dismissed as to the City Clerk, since the City Clerk is not the custodian of the records, and simply transmitted the request to the holder of the records, the New Haven Police Department. That request is granted.

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 July 12, 2017.



Cynthia C. 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:

**GUY GILMORE, #192329**, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

**DEAN ESSERMAN, CHIEF, POLICE DEPARTMENT, CITY OF NEW HAVEN; POLICE DEPARTMENT, CITY OF NEW HAVEN; AND CITY OF NEW HAVEN**, c/o Attorney Kathleen Foster, City of New Haven, 165 Church Street, New Haven, CT 06450; **COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney James Neil, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia C. Cannata  
Acting Clerk of the Commission