

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Tyrone Rosa,

Complainant

against

Docket #FIC 2016-0630

Chief, Police Department, City of  
Hartford; Police Department, City  
of Hartford; City of Hartford; Commissioner,  
State of Connecticut, Department of  
Correction; and State of Connecticut,  
Department of Correction,

Respondents

July 26, 2017

The above-captioned matter was scheduled to be heard as a contested case on April 6, 2017, at which time the complainant and the Department of Correction respondents appeared but the City of Hartford respondents did not appear. The hearing was continued and was heard as a contested case on June 26, 2017, at which time the complainant and all 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 et al, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

At the June 26, 2017 contested case hearing, the Hearing Officer continued the hearing again in order to have Detective Safia Rahman appear and testify regarding her search for and compilation of the records at issue in this appeal. However, on July 5, 2017, the respondent Chief of the Hartford Police Department submitted an after-filed exhibit which has been marked as Respondents' Exhibit 1: Affidavit of Detective Safia Rahman. Consequently, the continued hearing was not scheduled.

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 26, 2016, the complainant requested the following from the respondent police department:

All documents, reports, warrants, police reports in connection with the criminal investigation of TYRONE ROSA, charged in connection with a homicide in early 2015.

The complainant requested the waiver of the copying fees.

3. By letter dated August 25, 2016 and filed on September 1, 2016, the complainant appealed to this Commission alleging that the respondent police department had violated the Freedom of Information ("FOI") Act by failing to comply with his records request.

4. 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.

5. 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.

6. 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."

7. It is concluded that the requested records, to the extent they exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that the respondents informed the complainant by letter that his request for a fee waiver was denied and that he was required to pay the copying fee for the 166 pages of records responsive to his request. It is found that the complainant received that letter on about April 4, 2017.

9. It is found that the complainant remitted payment for the copies and that the respondents provided the complainant with the records responsive to his request that are maintained by the respondent police department.

10. Notwithstanding the complainant's contention that certain statements should have been maintained by the respondent police department and provided to him, it is found that the respondent police department has provided the complainant with all responsive records that are maintained by the respondent police department and that no other records exist.<sup>1</sup>

11. At the hearings on this matter, the complainant contended that the respondent police department failed to comply promptly with his request within the meaning of §1-210(a), G.S., because it took 9 months to respond to his request and a total of 11 months to comply with his request. The complainant also complained that many of the records provided to him were duplicative and stated that he should not have had to pay for duplicates.

12. In this regard, 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.

13. It is found that the complainant needed the requested records for a February 2017 court date.

14. It is found that neither the respondent chief, nor the respondent police department, offered an explanation for the time that it took to initially respond to the complainant's request which contributed significantly to the 11 month delay in providing him with the records.

15. Weighing all the factors related to the request, it is found that the respondent police department unduly delayed compliance with the complainant's request in this case

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<sup>1</sup> See Respondent's Exhibit 1: Affidavit of Detective Safia Rahman.

and it is concluded that it violated the promptness provisions of §§1-210(a) and 1-212(a), G.S., as alleged by the complainant.

16. In addition, it is found that the involvement of the respondent Commissioner, State of Connecticut, Department of Correction and the respondent State of Connecticut, Department of Correction in this case was limited to reviewing the records submitted by the respondent police department pursuant to §1-210(b)(18), G.S., and then the provision of those records to the complainant.<sup>2</sup> It is found that the respondent Commissioner, State of Connecticut, Department of Correction and the respondent State of Connecticut, Department of Correction did not withhold any of the requested records from the complainant. It is concluded that the Department of Correction respondents did not violate the FOI Act in this matter.

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

1. Henceforth, the respondent chief and the respondent police department shall strictly comply with the promptness requirements in §1-210(a), G.S.
2. The respondent police department shall forthwith conduct a review of the records provided to the complainant to calculate the number of duplicate pages that were provided to him and reimburse the complainant the cost of those copies.
3. The complaint is hereby dismissed against the respondent Commissioner, State of Connecticut, Department of Correction and the respondent State of Connecticut, Department of Correction.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 26, 2017.



Cynthia C. Cannata  
Acting Clerk of the Commission

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<sup>2</sup> Section 1-210(18)(c), G.S., provides that “Whenever a public agency receives a request from any person confined in a correctional institution or facility ... for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction ... of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution . . .

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:

**TYRONE ROSA, #246849**, MacDougall Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

**CHIEF, POLICE DEPARTMENT, CITY OF HARTFORD; POLICE DEPARTMENT, CITY OF HARTFORD**, c/o Attorney Cynthia Lauture, Office of the Corporation Counsel, 550 Main Street, Suite 210, Hartford, CT 06103;  
**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorneys James Neil and Nancy Kase O'Brasky, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia C. Cannata  
Acting Clerk of the Commission