

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Bobby Nealy,

Complainant

against

Docket #FIC 2016-0693

Jeffrey W. Cossette, Chief, Police Department,
City of Meriden; Police Department, City of
Meriden; and City of Meriden,

Respondents

September 13, 2017

The above-captioned matter was heard as a contested case on May 30, 2017, at which time the complainant and 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.).

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 28, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his request for public records.
3. It is found that the complainant made written requests on August 29 and September 15, 2016 to the respondents for records pertaining to his arrest in July 2014 in case number 14-002705.
4. It is found that the complainant’s arrest arose out of a home invasion on April 5, 2014 of the apartment, apparently occupied by the complainant’s girlfriend, where the complainant had been sleeping. In the course of the home invasion, the complainant was shot and his girlfriend was injured.

5. It is found that, when the respondents investigated the home invasion, they found large amounts of heroin in the apartment invaded. As a result of the heroin they found, together with information obtained by ongoing surveillance by the Meriden Police Crime Suppression Unit of the apartment that was invaded, together with information obtained from the Waterbury Police Department concerning the complainant, the respondents arrested the complainant in July 2014 for drug possession.

6. It is found that the respondents, after telephone conversations with the complainant about the records he wanted, the records he already had, and the cost of copying records, provided all of the records they had found as a result of their search.

7. The complainant contended, based upon information in the records that were provided to him, that there should be additional records. Specifically, the complainant contended that there should be records pertaining to surveillance of him by the respondents in January through March 2014, and records of investigation of him by the respondents in April 2014, including records of meetings between Meriden detectives and Waterbury detectives in April of 2014. That surveillance, investigation and meetings are referenced in the records provided to the complainant.

8. 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.

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

11. It is found that the additional records sought by the complainant, as described in paragraph 7, above, if they exist, are not contained in the case file searched by the respondents, which contains records in Case No. 14-002705 as identified by the complainant, that pertain to the complainant's arrest. It is found that the respondents were unreasonable in limiting their search to the case file, particularly in light of the conversations they had with the complainant.

12. At the hearing in this matter, the respondents agreed to conduct an additional search directed to the Meriden Police Crime Suppression Unit for the records described in paragraph 7, above, and to provide any non-exempt records found to the complainant. The respondents also agreed that, if no records were found, that they would provide the complainant with an affidavit attesting to their search.

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

1. The Respondents shall, forthwith, conduct a department-wide search for the requested records and provide any such records to the complainant, and, if no records are found, the respondents will provide the complainant with an affidavit attesting to their search.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 13, 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:

BOBBY NEALY, #381971, Enfield Correctional Institution, 289 Shaker Road, Enfield, CT 06082

JEFFRY W. COSSETTE, CHIEF, POLICE DEPARTMENT, CITY OF MERIDEN; POLICE DEPARTMENT, CITY OF MERIDEN; AND CITY OF MERIDEN, c/o Attorney John H. Gorman, Office of the Corporation Counsel, 142 East Main Street, Suite 240, Meriden, CT 06450



Cynthia A. Cannata
Acting Clerk of the Commission