

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

GerJuan Tyus,

Complainant

against

Docket #FIC 2016-0841

Margaret Ackley, Chief, Police
Department, City of New London;
and Police Department, City of New
London,

Respondents

October 11, 2017

The above-captioned matter was heard as a contested case on July 27, 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.).

By letter dated July 14, 2017, the complainant stated that he wished to withdraw his complaint against the Commissioner, State of Connecticut, Department of Correction, and the State of Connecticut, Department of Correction. The Commission takes administrative notice of the complainant's July 14, 2017 letter. The case caption has been amended accordingly.

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 dated December 1, 2016, the complainant appealed to this Commission alleging that the respondents, Margaret Ackley, Chief, Police Department, City of New London and Police Department, City of New London (hereinafter "the respondents") violated the disclosure provisions of §§1-210(a) and 1-212(a) of the Freedom of Information ("FOI") Act by failing to comply with his request for records. The complainant requested the imposition of civil penalties in this matter.

3. 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.

4. 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.

5. 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.”

6. 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.

7. It is found that, by letter dated September 12, 2016, the complainant made a request to the respondents for “any and all documents and reports that are associated with the investigation of a 911 or anonymous call pertaining to the murder of Todd Thomas . . . [specifically the call that was] placed on December 27, 2006” including an audio copy of the actual phone call.

8. It is found that, by letter dated September 20, 2016, the respondents informed the complainant, in part, that they had received his request and that he would be advised of the copying fee for any disclosable records they located. It is found, however, that by letter dated December 27, 2016, the respondents informed the complainant that after searching in several places in which the records would reasonably be located, including an electronic search of their records management system, no records responsive to his requests were located.

9. At the hearing on this matter, the respondents’ witness, the secretary for the respondent police department and the employee who personally conducted the search for any responsive records, testified, credibly that, after searching through the case file, searching the

evidence log, building a query to conduct an electronic search of the respondents' records management system, listening to the audio recordings related to the case, and enlisting the assistance of the lead Detective for the case, who also searched for responsive records, she found no records, including no audio recording, related to any investigation of a 911 or anonymous call that was placed on December 27, 2006 pertaining to the murder of Todd Thomas.

10. It is found that the respondents do not maintain any records responsive to the complainant's September 12, 2016 request.

11. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S. Accordingly, there is no basis upon which to impose a civil penalty.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 11, 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:

GERJUAN TYUS, #300985, Garner Correctional Institution, PO Box 5500, Newtown, CT 06470

MARGARET ACKLEY, CHIEF, POLICE DEPARTMENT, CITY OF NEW LONDON; AND POLICE DEPARTMENT, CITY OF NEW LONDON, c/o Attorney Brian K. Estep, Conway, Londregan, Sheehan and Monaco, PC, 38 Huntington Street, New London, CT 06320



Cynthia A. Cannata
Acting Clerk of the Commission