

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

American Civil Liberties Union
of Connecticut,

Complainant

Docket # FIC 2018-0033

against

Chief, Police Department, City of
Hartford; Police Department, City
of Hartford; and City of Hartford,

Respondents

October 10, 2018

The above-captioned matter was heard as a contested case on April 3, 2018, at which time the complainant and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. At the request of the complainant, and without objection from the respondents, the case caption has been amended to reflect the removal of Dan Barrett as a co-complainant.

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 December 21, 2017, the complainant made a request to the respondents for copies of: all records showing the vendor, make, and model of cameras being purchased through a “quality of life” state grant; all records showing the vendor, make, and model of the analytical software being purchased using the grant funds; all drones being purchased by the grant funds; and any other items being purchased by the respondents using the “quality of life” grant funds (hereinafter “the requested records”). The complainant requested a waiver of copying fees.
3. It is found that, by letter to the complainant dated December 27, 2017, the respondents acknowledged the request described in paragraph 2, above, and informed the complainant that its request was 42nd in the line of pending requests, but that they would notify it when the requested records were located.
4. By letter dated January 19, 2018, and filed January 22, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information

("FOI") Act by failing to provide it with copies of the requested records, described in paragraph 2, above.

5. Section 1-200(5), G.S., defines "public records or files" as:

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.

6. 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 . . . (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that "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, to the extent that the respondents maintain the requested records, such records are "public records" within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. At the hearing, the complainant contended that it sought the Commission's finding that the respondents were not prompt in providing the requested records.

10. At the hearing, the respondents did not contend that exemptions would apply to the requested records, which would consist of purchasing and fiscal records. Rather, the respondents contended that, due to a large number of pending requests, and staffing and budgetary constraints, that they were backlogged on fulfilling requests for public records.

11. It is found that the respondents did not begin to search for the requested records until April 3, 2018, the morning of the hearing in this matter.

12. The Commission acknowledges that the respondents, like many other public agencies in Connecticut, face current budgetary limitations. It is found that the respondents generally maintain a staff of one officer who handles FOI Act compliance. However, as the Commission

opined in Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982) regarding public agency obligations under the FOI Act:

The Commission believes that timely access to public records by persons seeking them is a fundamental right conferred by the Freedom of Information Act. Providing such access is therefore as much a part of their mission as their other major functions. Although each agency must determine its own set of priorities in dealing with its responsibilities within its limited resources, providing access to public records should be considered as one such priority. Thus, it should take precedence over routine work that has no immediate or pressing deadline.

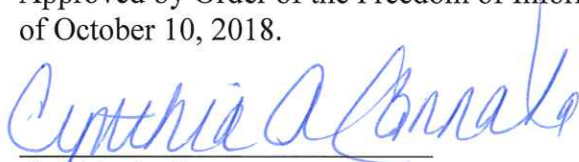
13. Based on the particular facts and circumstances of this case, it is found that the respondents were not prompt in the provision of the requested records to the complainant. Accordingly, it is concluded that the respondents violated §§1-210(a), and 1-212(a), G.S., as alleged in the complaint.

14. It is found that, at the time of the hearing in this matter, the complainant's request was 5th in line of the respondents' pending FOI requests.

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

1. If they have not already done so, the respondents shall forthwith provide the complainant with copies of the requested records, free of charge.
2. Henceforth, the respondents shall strictly comply with the promptness provisions of §§1-210(a), and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 10, 2018.



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:

AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, c/o Attorney Dan Barrett, American Civil Liberties Union of Connecticut, 765 Asylum Avenue, Hartford, CT 06105

CHIEF, POLICE DEPARTMENT, CITY OF HARTFORD; POLICE DEPARTMENT, CITY OF HARTFORD; AND CITY OF HARTFORD, c/o Attorney Cynthia Lauture, Office of Corporation Counsel, 550 Main Street, Room 212, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission