

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Patricia Cofrancesco,

Complainant

against

Docket #FIC 2019-0128

Chief, Police Department, City of
West Haven; Police Department,
City of West Haven; and City of
West Haven,

Respondents

August 28, 2019

The above-captioned matter was heard as a contested case on July 16, 2019, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

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 February 4, 2019, the complainant requested from the respondents:
 - (a) Any and all documentation reflective of overtime, compensation time, vacation time, sick time, holidays, and personal days taken, including but not necessarily limited to time slips for the same, for the period from September 2011- May 2013;
 - (b) Any and all documentation reflective of overtime, compensation time, vacation time, sick time, holidays, and personal days taken, including but not necessarily limited to time slips for the same, for the period from May 2013- August 2017;
 - (c) A memo dated December 16, 2015, from Captain Christopher Juliano to Deputy Chief Perno, relative to the manner in which David Tammaro was completing all of the above referenced time slips;
 - (d) A memo dated September 9, 2011, order number PO11-161, 'Reassignment';
 - (e) A letter addressed to Mayor Nancy Rossi, sent to her home, alleging that David Tammaro was fraudulent in the manner in which his time slips were being completed;

- (f) A letter from West Haven Police Captain Proto to Chief Karajanis detailing his initial complaint relative to the manner in which David Tamaro completed his time slips;
- (g) Any and all overtime slips for September 11, 2017 for West Haven Police Officers Doug Bauman and Kimberly Simone for a 9/11 Ceremony.

3. By letter dated February 20, 2019, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by denying the request, described in paragraph 2, above.

4. Section 1-200(5), G.S., provides:

“[p]ublic 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:

[e]xcept 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 inspect such records promptly during regular office or business hours...or...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 found that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

8. At the hearing in this matter, the complainant stated that no responsive records were provided, other than the memo described in paragraph 2(c), above.

9. It is found, however that the respondents provided the complainant with copies of at least some of the records responsive to the request described in paragraph 2(b), above, in addition to the memo.

10. Counsel for the respondents represented at the hearing in this matter that the city hired a private attorney to conduct an internal affairs investigation related to Mr. Tammaro's use of overtime, and that thereafter, the matter was referred to the state police for investigation, which state police investigation resulted in Mr. Tammaro's arrest. In connection with that investigation, the respondents turned over all records they maintained concerning the matter, including the records described in paragraphs 2(a) through 2(f), to the state police,¹ before they received the request at issue in this matter. Counsel for the respondents further represented that, as of the date of the hearing in this matter, the criminal matter appeared to be concluded; he had contacted the state police in an effort to have the records returned to the respondents; and that the respondents would provide copies of such records to the complainant if and when they were returned.

11. Based upon the foregoing, it is concluded that the respondents did not violate §§1-210(a) or 1-212(a), G.S., with respect to the records described in paragraphs 2(a) through 2(f).

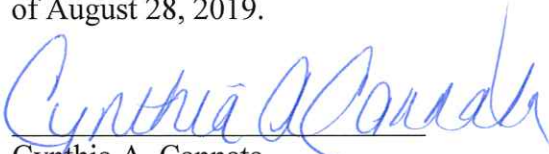
12. However, it is found that the respondents did not provide a copy of the records described in paragraph 2(g), above, to the complainant, did not claim an exemption, or prove that they do not maintain such records.

13. It is therefore concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., with respect to such records.

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

1. Forthwith, the respondents shall provide a copy of the records described in paragraph 2(g), above, to the complainant, free of charge.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 28, 2019.


Cynthia A. Cannata
Acting Clerk of the Commission

¹ Although all records were turned over to the state police, counsel for the respondents was able to obtain copies of some of them from the private attorney who assisted with the internal affairs investigation. Such records were provided to the complainant. See paragraph 9 of the findings, above.

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:

PATRICIA COFRANCESCO, c/o Attorney David Tammaro, 193 Connecticut Avenue, West Haven, CT 06516

CHIEF, POLICE DEPARTMENT, CITY OF WEST HAVEN ; POLICE DEPARTMENT, CITY OF WEST HAVEN; AND CITY OF WEST HAVEN, c/o Attorney Lee Kennedy Tiernan, Office of the Corporation Counsel, 355 Main Street, 3rd Floor, West Haven, CT 06516



Cynthia A. Cannata
Acting Clerk of the Commission