

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Joseph Sastre,

Complainant

against

Docket #FIC 2018-0471

Jonathan Fontneau, Chief,  
Police Department, City of  
Stamford; Police Department,  
City of Stamford; and  
City of Stamford,

Respondents

February 13, 2019

The above-captioned matter was heard as a contested case on October 22, 2018, at which time the complainant and the respondents appeared, stipulated to certain facts 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 facsimile dated August 6, 2018, the complainant requested that the respondents provide him with an electronic copy of the following records:
  - a. Any document, such as a defective equipment ticket, in the possession of the Stamford Police Department indicating the fact that the surveillance camera, which can be seen from the sidewalk in front of the public entrance to the police department, has stopped working;
  - b. The section of the Stamford Police Department's Standard Operating Procedures which deals with the consequences for police officers who make or file false reports of criminal conduct against citizens;
  - c. Any written material, in the police department's Standard Operating Procedures or otherwise governing how bail is set at the Stamford Police Department; and

- d. The disciplinary file of Chief Fontneau, that of police officers Robert Bossone and Sean McGowen, that of Chief Matheny, and of Captain Bretthauer and of any and all other Stamford police officers who participated in the . . . April 26, 2018 arrest [of a particular individual], or who reported [a particular individual] as having acted in violation of CGS §53A-181 on April 26, 2018.

3. By letter dated and filed August 27, 2018, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act (“FOI Act”) by failing to provide him with a copy of the records referenced in paragraph 2, above. In addition, the complainant requested that the Commission impose a civil penalty against the respondents.

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 found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that complainant’s client was arrested in connection with an incident that occurred on April 26, 2018. It is found that following the arrest, but prior to the issuance of the FOI request at issue in the instant matter, the complainant

corresponded with the respondents concerning a civilian complaint. It is found that such correspondence prompted the respondents' attorneys ("Office of the Corporation Counsel") to open a file concerning the impending civilian complaint. It is found that such file was assigned to a particular attorney within the Office of the Corporation Counsel.

9. Approximately one month later, on or around August 26, 2018, it is found that the complainant filed a civilian complaint against certain members of the respondent department. It is further found that the civilian complaint was four pages long. It is also found that the fourth page of the civilian complaint contained the FOI request at issue in the instant matter.

10. It is found that the respondent chief of police received the civilian complaint containing the FOI request and had his assistant forward the same to the Office of the Corporation Counsel.

11. It is found that, upon receipt, the Office of the Corporation Counsel staff forwarded the civilian complaint containing the FOI request to the attorney referenced in paragraph 8, above. It is found that said attorney, inexperienced in FOI matters, dealt with the civilian complaint alone and did not forward the FOI request to the attorney in the Office of the Corporation Counsel's Office who regularly handles FOI matters.

12. Thereafter, it is found that the complainant filed his complaint with the Commission.

13. It is found that, within four or five days of the appropriate attorney within the Office of the Corporation Counsel's Office becoming aware that the civilian complaint contained an FOI request that had not processed, the request for records set forth in paragraph 2, above, was fulfilled. It is further found that it was fulfilled in the manner requested—that is, all responsive records were emailed to the complainant. Specifically, it is found that, on or around October 12, 2018, all responsive records had been disclosed to the complainant in this case.

14. The complainant contends that the respondents violated the promptness provisions of the FOI Act.

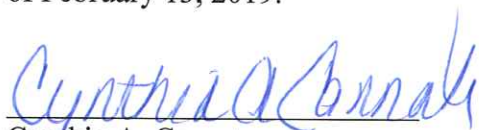
15. The Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of statements requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the statements; 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.

16. Counsel for the respondents (who was the attorney who fulfilled the FOI request at issue in this case) candidly represented on the record that the FOI request was inadvertently overlooked. Counsel further represented that, in the future, he will ensure that any FOI requests made by the complainant are handled with the utmost promptness.

17. It is concluded that the respondents unintentionally violated the promptness provisions of the FOI Act. It is further concluded that a civil penalty would not be appropriate based on these facts.

Based on the facts and circumstances of this case, no order by the Commission is hereby recommended.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 13, 2019.



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:

**JOSEPH SASTRE**, The Law Office of Joseph R. Sastre, LLC, 67 Chestnut Street, Bristol, CT 06010

**JONATHAN FONTNEAU, CHIEF, POLICE DEPARTMENT, CITY OF STAMFORD; POLICE DEPARTMENT, CITY OF STAMFORD; AND CITY OF STAMFORD**, c/o Attorney Burt Rosenberg, City of Stamford, Office of Corporation Counsel, 888 Washington Boulevard, 9th Floor, Stamford, CT 06901



Cynthia A. Cannata  
Acting Clerk of the Commission