

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Patrick Gaynor,

Complainant

against

Docket # FIC 2019-0088

Law Department, City of Meriden;  
and City of Meriden,

Respondents

July 10, 2019

The above-captioned matter was heard as a contested case on May 29, 2019, at which time the complainant and the respondents appeared, 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 email dated January 11, 2019, the complainant made a request to Deborah Moore, the respondents' City Attorney, for the following:
  - a. Copies of all emails to include any attachments or files sent/received between Christopher Fry and Chief (Ret.) Charles Reynolds, a city vendor, for the period September 1, 2016 to date;
  - b. Copies of all emails to include any attachments or files sent/received between any city employee and Chief (Ret.) Charles Reynolds, a city vendor, for the period September 1, 2016 to date;
  - c. Copies of all emails to include any attachments or files sent/received between Christopher Fry and Mark Walerysiak for the period September 1, 2016 to July 31, 2017;
  - d. Copies of all emails to include any attachments or files sent/received between Christopher Fry and Timothy

Topulos for the period September 1, 2016 to July 31, 2017;

- e. Copies of all emails to include any attachments or files sent/received between Christopher Fry and Jeffry Cossette for the period September 1, 2016 to July 31, 2017;
- f. Copies of all emails to include any attachments or files sent/received between Christopher Fry and Guy Scaife for the period September 1, 2016 to July 31, 2017;
- g. Copies of all emails to include any attachments or files sent/received by Guy Scaife for the period August 1, 2016 to July 31, 2017;
- h. Copies of all emails to include any attachments or files sent/received by Jeffry Cossette for the periods:
  - i. December 1, 2014 to February 28, 2015,
  - ii. August 1, 2016 to December 31, 2016,
  - iii. June 1, 2017 to July 31, 2017;
- i. Copies of all emails to include any attachments or files sent/received by Kevin Scarpati for the periods:
  - i. December 1, 2014 to February 28, 2015,
  - ii. August 1, 2016 to December 31, 2016;
- j. Copies of training requests, purchase orders, tuition/registration documents, and receipts for attendance to any training, seminars, and/or conferences regarding DARE, GREAT, School Resource Officer for the period January 1, 2010 to August 8, 2014;
- k. Copies of all certificates, diplomas, POSTC training credit forms, and any electronic training record for the period January 1, 2010 to August 8, 2014 regarding DARE, GREAT, School Resource Officer training, seminars, and/or conferences for the following officers:
  - i. Allen Ganter,
  - ii. Esteven Lespier,
  - iii. Salvatore Nesci,
  - iv. Robert Nesci,
  - v. John Wagner,
  - vi. Shane Phillips,
  - vii. William Rogers,

viii. Martin Eisner;

- l. Copies of all expenditures from the police training budget to include payroll records and overtime slips regarding replacement overtime for officers/supervisors attending any DARE, GREAT, and School Resource Officer training, seminars, and/or conferences for the period January 1, 2010 to August 8, 2014; and
- m. Copies of all billing statements with call logs for department-issued cell phones that are available in printed form from the city's vendor (Verizon) for the period January 1, 2014 to January 30, 2015.

3. It is found that by letter dated January 14, 2019, the respondents acknowledged receipt of the January 11, 2019 FOI request.

4. By email filed February 13, 2019, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with records responsive to the request described in paragraph 2, above.

5. Section 1-200(1)(A) provides that a “[p]ublic agency” or “agency” means “[a]ny . . . department, . . . authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any committee of, or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official . . .”

6. Section 1-200(5), G.S., defines “public records or files” as follows:

Any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, . . . whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

7. 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. (Emphasis added).

8. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

9. It is found that, to the extent the requested records exist, they are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. It is found that the Law Department does not maintain the records described in paragraph 2, above; rather, it is found that such records are maintained and kept on file by other public agencies in Meriden, such as the Police Department and the Purchasing Department.

11. It is found that, under the FOI Act, the respondent Law Department does not have a duty to retrieve records of other city departments in response to a public records request. See James A. Lash, First Selectman of the Town of Greenwich, et al. v. Freedom of Information Commission, et al., 116 Conn. App. 171, 187 (2009) (as distinct agencies, the first selectman had no duty to maintain or make available the records of the town’s law department, and the law department had no duty to maintain or make available the records of the first selectman), and Chikara v. Governor, State of Connecticut, Docket #FIC 1996-556 (August 27, 1997) (the responsibility to provide copies of records rests with the individual agency which maintains and has custody of the requested records.)

12. Nonetheless, with respect to the complainant’s request as described in paragraph 2, above, it is found that the respondents inquired of other city departments, officials or employees as to whether they are in possession of records responsive to the complainant’s request, and are in the process of compiling, reviewing, and providing the complainant with records responsive to his FOI request. It is further found that thus far the respondents have provided 800 pages of records responsive to the complainant’s request for e-mails, and records maintained by the Police Department and the Purchasing Department.

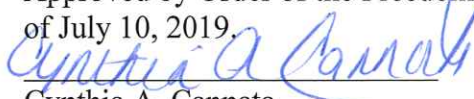
13. Based on the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

14. The Commission advises the complainant to make any future FOI requests to the agency which maintains and has custody of the records he seeks.

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 July 10, 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:

**PATRICK GAYNOR**, 27 Elaine Court, Prospect, CT 06712

**LAW DEPARTMENT, CITY OF MERIDEN; AND CITY OF MERIDEN**, c/o Attorney Deborah Moore, City of Meriden, Office of the Corporation Counsel, 142 East Main Street, Suite 240, Meriden, CT 06450 and Attorney Stephanie Dellolio, City of Meriden, Office of the Corporation Counsel, 142 East Main Street, Suite 240, Meriden, CT 06450



Cynthia A. Cannata  
Acting Clerk of the Commission