

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Robert Raffalo,

Complainant

against

Docket #FIC 2018-0698

Michael Spera, Chief of Police,
Police Department, Town of
Old Saybrook; Old Saybrook
Police Department, Town of Old
Saybrook; and Town of Old
Saybrook,

Respondents

June 26, 2019

The above-captioned matter was heard as a contested case on April 16, 2019, 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. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.

2. By letter of complaint filed December 7, 2018, the complainant appealed to the Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide documents responsive to his request of November 30, 2018. In addition, the complainant requested the imposition of civil penalties against the respondents.

3. It is found that on November 30, 2018, the complainant requested the following records from the respondent:

I am requesting the complete written investigation report (Case # 2017000004003) for the second time with the names of all those interviewed along with the four person(s) who said they wanted to remain anonymous.

4. It is found that the complainant and the respondents exchanged correspondence subsequent to the date of the complainant's request. However, at hearing, neither party provided documentation of the specific dates of such subsequent correspondence.

5. It is found that the complainant received the report requested on more than one occasion prior to the hearing date. However, the complainant argued at hearing that the report he received did not contain the specific information he was seeking.

6. 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.

7. 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.

8. 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."

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

10. It is found that the report requested by the complainant, police case 2017000004003, is a police report that documents the background investigation pertaining to the complainant's application to obtain a permit to carry a pistol. Further, it is found that the report lists the names of eight individuals who were interviewed by police as part of the investigation.

11. It is found that the police report refers to four additional neighbors of the complainant that were interviewed by the respondents, but who asked that their names

not be included in the police report out of fear of retaliation by the complainant.

12. It is found that although the referenced report summarizes the comments of four anonymous persons, their names were not recorded in the requested report. Further, it is found that such names are not recorded on any document under the control of the respondents.

13. Based on the foregoing, it is concluded that the respondents did not violate the disclosure provisions of §1-210(a), G.S. Further, the imposition of civil penalties is not warranted.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 26, 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:

ROBERT RAFFALO, 2 Neptune Drive, Old Saybrook, CT 06475-2918

MICHAEL SPERA, CHIEF, POLICE DEPARTMENT, TOWN OF OLD SAYBROOK; POLICE DEPARTMENT, TOWN OF OLD SAYBROOK, 36 Lynde Street, Old Saybrook, CT 06475; **AND TOWN OF OLD SAYBROOK**, 302 Main Street, Old Saybrook, CT 06475



Cynthia A. Cannata
Acting Clerk of the Commission