

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

NOTICE OF FINAL DECISION

Benjamin Blauvelt-Cruz,

Complainant

against

Docket #FIC 2015-763

Scott Semple, Commissioner, State of  
Connecticut, Department of Correction;  
and State of Connecticut, Department of  
Correction; and James Wardwell, Chief,  
Police Department, City of New Britain;  
and Police Department, City of New  
Britain,

Respondents

August 26, 2016

TO: Benjamin Blauvelt-Cruz; Attorney James Neil, for the State of Connecticut, Department of  
Correction respondents; and Attorney Joseph E. Skelly, Jr, for James Wardwell, Chief, Police  
Department, City of New Britain; and the Police Department, City of New Britain, respondents.

This will serve as notice of the Final Decision of the Freedom of Information  
Commission in the above matter as provided by §4-183(c), G.S. The Commission adopted the  
Final Decision in the above-captioned case at its regular meeting of August 24, 2016.

By Order of the Freedom of  
Information Commission



Cynthia A. Cannata

Acting Clerk of the Commission

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Respondents

August 24, 2016

The above-captioned matter was heard as a contested case on June 21, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The complainant, who is incarcerated, was notified and appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC et al, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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)(A), G.S.
2. It is found that in early September, 2015, the complainant requested a copy of records contained in New Britain Police Department case file number 02-21245. It is found that the records pertain to the complainant's arrest and conviction.
3. It is found that on September 24, 2015, the New Britain respondents delivered most of the requested records to the Department of Correction ("DOC") respondents. It is found that the New Britain respondents withheld signed statements of witnesses and autopsy reports. Such redactions are not at issue in this matter.
4. It is found that the New Britain respondents requested payment of \$140.00 from the complainant, and also requested that the DOC respondents hold the records until the complainant paid for the records.

5. It is found that on October 12, 2015, the complainant wrote to the New Britain respondents, claiming that he was indigent.

6. It is found that on October 16, 2015, the New Britain respondents waived their right to charge for a copy of the records and directed DOC to give the complainant the records he requested.

7. By letter filed November 9, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to give him a copy of the records he requested. The complainant requested the imposition of civil penalties.

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

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, ...whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

9. 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 ... inspect such records promptly during regular office or business hours.

10. 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.”

11. It is concluded that the records requested by the complainant are public records within the meaning of §§ 1-200(5), 1-210(a), and 1-212(a), G.S.

12. It is found that after DOC learned that the New Britain respondents no longer sought payment for the records, they undertook their own independent review of the records to determine whether there was any information contained therein that they believed would not be appropriate to release into the complainant’s correctional facility.

13. It is found that the New Britain respondents provided 412 pages of records to DOC. It is found that DOC’s FOI administrator reviewed the records and sent the first half of the records to the complainant on January 4, 2016, which the complainant received on January 13, 2016. It is found that the FOI administrator sent the second half of the records shortly thereafter, and the complainant received them on January 26, 2016.

14. It is found that DOC withheld 10 pages of photo arrays and redacted the victim's name and address from the records provided. The FOI administrator offered to provide the withheld pages and redacted information to the complainant's attorney.

15. The complainant claims that the respondents were not prompt in providing the records he requested, because his challenge to his conviction was pending in the form of a habeas petition before the Connecticut Appellate Court at the time and was scheduled to be heard at the end of September 2015. The complainant contended that he needed the requested records in order to write a meaningful brief in the case.

16. It is found, however, that the New Britain respondents responded in a timely manner to the complainant's request.

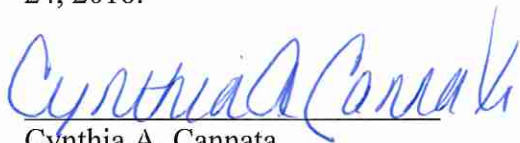
17. It is also found that the DOC respondents responded promptly to the complainant, in light of the volume of records and the FOI administrator's workload.

18. It is concluded that the respondents did not violate the FOI Act as alleged.

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 August 24, 2016.



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:

Benjamin Blauvelt-Cruz #212542  
Enfield Correctional Institution  
289 Shaker Road  
Enfield, CT 06082

Scott Semple, Commissioner, State of Connecticut,  
Department of Correction; and State of Connecticut,  
Department of Correction;  
c/o James Neil, Esq.  
24 Wolcott Hill Road  
Wethersfield, CT 06019

and James Wardwell, Chief,  
Police Department, City of  
New Britain; and Police  
Department, City of New Britain  
c/o Joseph E. Skelly, Jr., Esq.  
27 West Main Street  
New Britain, CT 06051

  
Cynthia A. Cannata  
Acting Clerk of the Commission