Since 1975
FREEDOM OF INFORMATION
It's Your Right to Know

Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov

Tyrone Rosa
Complainant(s)
against

Chief, Police Department, City of Hartford; Police Department, City of Hartford; Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction
Respondent(s)

Notice of Meeting

Docket #FIC 2016-0630

July 7, 2017

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, lst floor, Hartford, Connecticut, at **2 p.m. on Wednesday, July 26, 2017.** At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission ***ON OR BEFORE July 17, 2017.*** Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed ***ON OR BEFORE July 17, 2017.*** **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed ***ON OR BEFORE July 17, 2017*** and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of Information Commission

Wendy R.B. Paradis
Acting Clerk of the Commission

Notice to: Tyrone Rosa
Attorney Cynthia Lauture
Attorney James Neil and Attorney Nancy Kase O'Brasky
Cc: Craig Washington

FIC# 2016-0630/ITRA/TCB//VDH/WRBP/2017-07-7

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by — Report of Hearing Officer

Tyrone Rosa,

Complainant

against — Docket #FIC 2016-0630

Chief, Police Department, City of Hartford; Police Department, City of Hartford; City of Hartford; Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction,

Respondents — July 6, 2017

The above-captioned matter was scheduled to be heard as a contested case on April 6, 2017, at which time the complainant and the Department of Correction respondents appeared but the City of Hartford respondents did not appear. The hearing was continued and was heard as a contested case on June 26, 2017, at which time the complainant and all the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

The complainant, who is incarcerated, 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.).

At the June 26, 2017 contested case hearing, the Hearing Officer continued the hearing again in order to have Detective Safia Rahman appear and testify regarding her search for and compilation of the records at issue is this appeal. However, on July 5, 2017, the respondent Chief of the Hartford Police Department submitted an after-filed exhibit which has been marked as Respondents' Exhibit 1: Affidavit of Detective Safia Rahman. Consequently, the continued hearing will not be scheduled.

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 July 26, 2016, the complainant requested the following of the respondent police department:

> All documents, reports, warrants, police reports in connection with the criminal investigation of TYRONE ROSA, charged in connection with a homicide in early 2015.

The complainant requested the waiver of the copying fees.

3. By letter dated August 25, 2016 and filed on September 1, 2016, the complainant appealed to this Commission alleging that the respondent police department had violated the Freedom of Information ("FOI") Act by failing to comply with his records request.

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

8. It is found that the respondents informed the complainant by letter that his request for a fee waiver was denied and that he was required to pay the copying fee for the 166 pages of records responsive to his request. It is found that the complainant received that letter on about April 4, 2017.

9. It is found that the complainant remitted payment for the copies and that the respondents provided the complainant with the records responsive to his request that are maintained by the respondent police department.

10. Notwithstanding the complainant's contention that certain statements should have been maintained by the respondent police department and provided to him, it is found that the respondent police department has provided the complainant with all responsive records that are maintained by the respondent police department and that no other records exist.[1]

11. At the hearings on this matter, the complainant contended that the respondent police department failed to comply promptly with his request within the meaning of §1-210(a), G.S., because it took 9 months to respond to his request and a total of 11 months to comply with his request. The complainant also complained that many of the records provided to him were duplicative and stated that he should not have had to pay for duplicates.

12. In this regard, 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 records requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the record; 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.

13. It is found that the complainant needed the requested records for a February 2017 court date.

14. It is found that neither the respondent chief, nor the respondent police department, offered an explanation for the time that it took to initially respond to the complainant's request which contributed significantly to the 11 month delay in providing him with the records.

15. Weighing all the factors related to the request, it is found that the respondent police department unduly delayed compliance with the complainant's request in this case

[1] See Respondent's Exhibit 1: Affidavit of Detective Safia Rahman.

and it is concluded that it violated the promptness provisions of §§1-210(a) and 1-212(a), G.S., as alleged by the complainant.

16. In addition, it is found that the involvement of the respondent Commissioner, State of Connecticut, Department of Correction and the respondent State of Connecticut, Department of Correction in this case was limited to reviewing the records submitted by the respondent police department pursuant to §1-210(b)(18), G.S., and then the provision of those records to the complainant.[2] It is found that the respondent Commissioner, State of Connecticut, Department of Correction and the respondent State of Connecticut, Department of Correction did not withhold any of the requested records from the complainant. It is concluded that the Department of Correction respondents did not violate the FOI Act in this matter.

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

1. Henceforth, the respondent chief and the respondent police department shall strictly comply with the promptness requirements in §1-210(a), G.S.

2. The respondent police department shall forthwith conduct a review of the records provided to the complainant to calculate the number of duplicate pages that were provided to him and reimburse the complainant the cost of those copies.

3. The complaint is hereby dismissed against the respondent Commissioner, State of Connecticut, Department of Correction and the respondent State of Connecticut, Department of Correction.

Tracie C. Brown

Attorney Tracie C. Brown
as Hearing Officer

FIC2016-0630/hor/tcb/20170706

[2] Section 1-210(18)(c), G.S., provides that "Whenever a public agency receives a request from any person confined in a correctional institution or facility ... for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction ...of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution . . .