



# FREEDOM OF INFORMATION



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

GerJuan Tyus  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2016-0841

Margaret Ackley, Chief, Police Department, City of New London; Police Department, City of New London; Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Respondent(s)

September 20, 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, 1st floor, Hartford, Connecticut, at **2:00 p.m. on Wednesday, October 11, 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 September 29, 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 September 29, 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 September 29, 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: GerJuan Tyus  
Attorney Brian K. Estep  
Commissioner, State of Connecticut, Department of Correction c/o Craig Washington

FIC# 2016-0841/ITRA/TCB//VDH/WRBP/2017-09-20

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

GerJuan Tyus,

Complainant

against

Docket #FIC 2016-0841

Margaret Ackley, Chief, Police  
Department, City of New London;  
Police Department, City of New  
London; Commissioner, State of  
Connecticut, Department of Correction;  
and State of Connecticut, Department  
of Correction,

Respondents

August 2, 2017

The above-captioned matter was heard as a contested case on July 27, 2017, 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, 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.).

By letter dated July 14, 2017, the complainant stated that he wished to withdraw his complaint against the Commissioner, State of Connecticut, Department of Correction, and the State of Connecticut, Department of Correction. The Commission takes administrative notice of the complainant's July 14, 2017 letter.

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. By letter dated December 1, 2016, the complainant appealed to this Commission alleging that the respondents, Margaret Ackley, Chief, Police Department, City of New London and Police Department, City of New London (hereinafter "the respondents") had violated the

disclosure provisions of §§1-210(a) and 1-212(a) of the Freedom of Information (“FOI”) Act by failing to comply with his request for records. The complainant requested the imposition of civil penalties in this matter.

3. 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.

4. 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.

5. 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.”

6. 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.

7. It is found that by letter dated September 12, 2016, the complainant made a request to the respondents for “any and all documents and reports that are associated with the investigation of a 911 or anonymous call pertaining to the murder of Todd Thomas . . . [specifically the call that was] placed on December 27, 2006” including an audio copy of the actual phone call.

8. It is found that by letter dated September 20, 2016, the respondents informed the complainant, in part, that they had received his request and that he would be advised of the copying fee for any disclosable records they locate. It is found, however, that by letter dated December 27, 2016, the respondents informed the complainant that after searching in several places in which the records would reasonably be located, including an electronic search of their records management system, no records responsive to his requests were located.

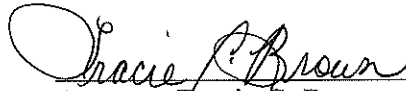
9. At the hearing on this matter, the respondents' witness, the secretary for the respondent police department and the employee who personally conducted the search for any responsive records, testified credibly that, after searching through the case file, searching the evidence log, building a query to conduct an electronic search of the respondents' records management system, listening to the audio recordings related to the case, and enlisting the assistance of the lead Detective for the case who also searched for responsive records, she found no records, including no audio recording, related to any investigation of a 911 or anonymous call that was placed on December 27, 2006 pertaining to the murder of Todd Thomas.

10. It is found that the respondents do not maintain any records responsive to the complainant's September 12, 2016 request.

11. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S. Accordingly, there is no basis upon which to impose a civil penalty.

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.

  
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Attorney Tracie C. Brown  
as Hearing Officer