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# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
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Harold McClintock,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2013-104

Internal Affairs Division, Police Department,  
Town of New Haven; and Police Department,  
Town of New Haven,  
Respondent(s)

December 3, 2013

### 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 p.m. on Wednesday, January 8, 2014**. 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 December 13, 2013**. 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 December 13, 2013**. **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 **fourteen (14) copies** be filed **ON OR BEFORE December 13, 2013**, 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

W. Paradis

Acting Clerk of the Commission

Notice to: Harold McClintock  
Kathleen Foster, Esq.

2013-12-03/FIC# 2013-104/Trans/wrbp/PSP/LFS

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

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In the Matter of a Complaint by

Report of Hearing Officer

Harold McClintock,

Complainant

Docket # FIC 2013-104

against

Internal Affairs Division, Police Department,  
City of New Haven; and Police Department,  
City of New Haven,

Respondents

November 19, 2013

The above-captioned matter was heard as a contested case on July 23, 2013, and September 12, 2013, at which times the complainant and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After the September 12, 2013 hearing on this matter, pursuant to the request of the hearing officer, the respondents filed one after-filed exhibit that is marked as follows: Respondents' Exhibit 2, Affidavit of Anthony Duff, dated October 9, 2013.

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 February 11, 2013, the complainant made a written request to the respondents for "a copy of the closure letter, case summary, fact findings and the recorded interviews between the officers and Sgt. Wolcheski" in civilian complaint CN 089-12-C.
3. By emails dated February 20, 2013, and February 23, 2013, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with all records responsive to his February 11, 2013 request.
4. Section 1-200(5), G.S., defines "public records or files" as:

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 . . . (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 "any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

7. It is found that the records requested by the complainant, to the extent that 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 on or about the last week of February 2013, the respondents provided the complainant with a multi-page packet of documents consisting of records responsive to his records request, described in paragraph 2, above. It is also found that on or about March 2, 2013, the respondents provided the complainant with a one-page case closure letter that was prepared for the complainant subsequent to his February 2013 request. It is further found that immediately prior to the July 23, 2013 hearing in this matter, the respondents provided the complainant with copies of the same records previously provided to him in February and March 2013.

9. The complainant contends that the respondents did not provide all records responsive to his request; in particular, text messages, medical records and a 9-1-1 transcript.

10. It is found that the text messages, medical records and 9-1-1 transcript, described in paragraph 9, above, were not contained within the scope of the complainant's February 11<sup>th</sup> request, described in paragraph 2, above, which is the subject of this appeal. The text messages, medical records and 9-1-1 transcript, therefore, shall not be considered further herein.

11. It is found that the respondents provided the complainant with all records responsive to his February 11<sup>th</sup> request. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a) of the FOI Act.

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

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1. The complaint is hereby dismissed.



Paula Sobral Pearlman  
as Hearing Officer