

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Philip Graham,

Complainant

against

Docket #FIC 2018-0721

Fernando C. Spagnolo, Chief, Police
Department, City of Waterbury;
Police Department, City of Waterbury;
and City of Waterbury,

Respondents

June 26, 2019

The above-captioned matter was heard as a contested case on March 21, 2019, 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, 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), G.S.
2. It is found that, by letter dated December 9, 2018, the complainant requested that the respondents provide him with a copy of the evidence/property tracking report pertaining to case number 13-53617 (hereinafter “the requested record”).
3. By letter of complaint dated December 12, 2018, and filed December 19, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying him a copy of the requested record. The complainant requested that the Commission consider the imposition of civil penalties against the respondents. Additionally, in his complaint to the Commission, the complainant requested additional records related to case number 13-53617 that were not a part of the initial request to the respondents.

4. Section 1-206(b)(1), G.S., states in relevant part: “Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission....”

5. It is found that the respondents received the request described in paragraph 2, above, on December 14, 2018, and that they acknowledged such request by letter dated the same day.

6. It is found that the complainant wrote his complaint to the Commission only three days after sending his initial request to the respondents. It is further found that, at such time, the respondents had not yet received such request, and accordingly, had not denied it.

7. Since there was no denial at the time of the complaint, it is concluded that the respondents did not violate the disclosure provisions of §§1-210 and 1-212, G.S., as alleged in the complaint. Accordingly, the Commission declines to impose civil penalties against the respondents.

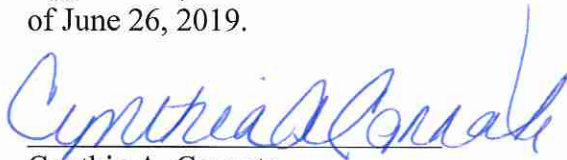
8. Finally, it is found that on January 10, 2019, the respondents mailed to the complainant a copy of the requested record. At the hearing, the complainant acknowledged receiving this record and acknowledged it was responsive to his request.

9. At the hearing, the complainant referenced the other records which he requested in his complaint to the Commission, as described in paragraph 3, above. However, there is no evidence that the complainant requested such records from the respondents in this matter. Therefore, such records are not at issue in this matter.

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.

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:

PHILIP GRAHAM, #400026, Corrigan Radgowski Correctional Center, 986 Norwich-New London Turnpike, Uncasville, CT 06382

FERNANDO C. SPAGNOLO, CHIEF, POLICE DEPARTMENT, CITY OF WATERBURY; POLICE DEPARTMENT, CITY OF WATERBURY; AND CITY OF WATERBURY, c/o Attorney Richard J. Scappini, City of Waterbury, Office of Corporation Counsel, 235 Grand Street, 3rd Floor, Waterbury, CT 06702



Cynthia A. Cannata
Acting Clerk of the Commission