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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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Umar Shahid,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-485

Chief, Police Department, City of Norwich; and
Police Department, City of Norwich,
Respondent(s)

August 6, 2012

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, August 22, 2012**. 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 August 10, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE August 10, 2012**. 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 August 10, 2012**, 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: Umar Shahid
Michael E. Driscoll, Esq.

2012-08-06/FIC# 2011-485/Trans/wrbp/TCB/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Umar Shahid,

Complainant

against

Docket #FIC 2011-485

Chief, Police Department,
City of Norwich; and Police
Department, City of Norwich,

Respondents

August 6, 2012

The above-captioned matter was heard as a contested case on May 1 and August 2, 2012 at which times 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.).

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 August 19, 2011, the complainant made a request for:
 - a. "All property receipts for property returned from October 1, 2010 thru March 31, 2011;
 - b. All NPD Dispatch call logs, month to month from October 1, 2010 thru March 31, 2011;
 - c. All reports of larcenies and burglaries, month by month from October 1, 2010 thru March 31, 2011;
 - d. All arrests, month by month from October 1, 2010 thru March 31, 2011; and

- e. All crime reports, month by month from October 1, 2010 thru March 31, 2011.

The complainant claimed that he was indigent and requested the records free of charge.

3. It is found that in a letter dated September 1, 2011, responding to several other requests made by the complainant, the respondent informed the complainant that his request was too vague, onerous and overly broad.

4. By letter dated September 12, 2011 and filed on September 14, 2011, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his August 19, 2011 request. The complainant also requested the imposition of a civil penalty against the respondents.

5. 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.

6. 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.

7. 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."

8. 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.

9. At the May 1, 2012 hearing in this matter, the respondents not only contended that the request was vague and overly broad but also that their records division was so

under-staffed that complying with the complainant's request would cripple the division. The respondents also contended that they did not comply because the complainant had not had the indigence forms required for a fee waiver notarized.

10. Notwithstanding the respondents' contentions described in paragraph 9, above, the hearing officer ordered the respondents to outline in a timeline when they could provide the records by category.

11. It is found, however, that by letter dated May 17, 2012, the respondents informed the Commission that the records responsive to the complainant's request had been download to a CD-R and were forwarded to the complainant pursuant to the "Method of Compliance with the Notification Requirements of Conn. Gen. Stat. §1-210(c)" regarding requests from inmates made in the FOI Act.

12. It is found that the "Method of Compliance with the Notification Requirements of Conn. Gen. Stat. §1-210(c)"¹ provides as follows:

The purpose of this notice to all public agencies and municipalities is to clarify the policy to be followed, pursuant to Conn. Gen. Stat. § 1-210(c), regarding requests such public agencies and municipalities receive from incarcerated individuals for documents under the Freedom of Information Act.

1. The public agency should deliver the documents requested by the incarcerated individual to the Department of Correction's Freedom of Information Administrator at the following address:

Department of Correction
Freedom of Information Administrator
24 Wolcott Hill Road
Wethersfield, CT 06109

2. The public agency delivering the documents to the Department of Correction's Freedom of Information Administrator should first redact from such records any information the agency believes is exempt from disclosure under the Freedom of Information Act, other than exemptions pursuant to § 1-210(b)(18). Alternatively, the public agency may withhold in its

¹ The "Method of Compliance with the Notification Requirements of Conn. Gen. Stat. §1-210(c)" was adopted by the FOI Commission on December 15, 2010 pursuant to the stipulated judgment in Connecticut Department of Correction et al. v. Freedom of Information Commission et al., CV09-5014251-S, (Superior Court December 15, 2010.)

entirety any record that the agency believes is exempt in its entirety.

3. The Department of Correction's Freedom of Information Administrator will promptly deliver to the requesting inmate any records that the Commissioner of Correction does not reasonably believe will constitute a safety or security risk.
4. In the event the Department of Correction withholds records from an inmate, the Department of Correction's Freedom of Information Administrator or the Administrator's duly authorized designee will promptly notify the requesting inmate in writing that records have been withheld, the reason they were withheld, and a general description of those records.
5. Records that are withheld by the Department of Correction will be retained for the length of an appeal, if any.
6. If the Department of Correction is not notified of any appeal within 60 days of the notice set forth above in Paragraph 4, then the records will be returned to the sending agency.

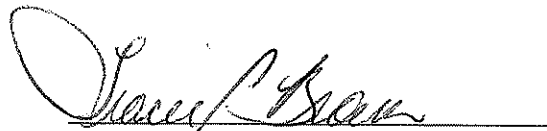
13. It is found that the records provided by the respondents totaled 2, 123 pages, however, the complainant was only offered approximately 100 records to inspect by the Department of Correction and, as of the date of this hearing, he had not received a written notice identifying which records have been withheld, the reason they were withheld, and a general description of those records could be provided and when.

14. Based on the evidence in this case, it is found that the respondents have complied with the complainant's request.

15. Therefore, it is concluded the respondents have not violated the disclosure provisions of the FOI Act as alleged by the complainant and his request for a civil penalty will not be considered.

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.

A handwritten signature in black ink, appearing to read "Tracie C. Brown", is written over a horizontal line.

Attorney Tracie C. Brown
as Hearing Officer

FIC2011-485/hor/tcb/20120802