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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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Rodney Hankerson,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2011-634

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

August 17, 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, September 12, 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 31, 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 31, 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 31, 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: Rodney Hankerson  
Joseph E. Skelly, Esq. and Mary C. Pokorski, Esq.  
cc: Kristine Barone

08/17/2012/FIC# 2011-634/Trans/wrbp/LFS//VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Rodney Hankerson,

Complainant

against

Docket #FIC 2011-634

Chief, Police Department , City of New  
Britain; and Police Department, City of  
New Britain

Respondents

August 17, 2012

The above-captioned matter was heard as a contested case on July 17, 2012 and August 16, 2012, at which times the complainant and respondents appeared 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 in December 2010, the complainant requested copies of records pertaining to Docket #05-41132, a criminal incident for which he was convicted.
3. It is found that on June 10, 2011, the respondents informed the complainant that his request was under review.
4. It is found that on August 21, 2011, the complainant again requested the same records from the respondents, and it is found that the complainant renewed his request on September 7, 2011.
5. By letter of complaint filed September 29, 2011, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the records he requested.
6. Section 1-200(5), G.S., defines "public records" as follows:

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, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

7. Section 1-210(a), G.S., provides, in relevant part:

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 ... receive a copy of such records in accordance with the provisions of section 1-212.

8. Section 1-212(a), G.S., provides in relevant part: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

9. It is concluded that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. Section 1-210(c), G.S., provides, in relevant part:

Whenever a public agency receives a request from any person confined in a correctional institution ... for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction ... 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 ...

11. It is found that on July 17, 2012, the respondents notified the Commissioner of Correction in the manner prescribed by the Commissioner, and delivered several hundred pages of requested records to the Commissioner for review pursuant to §1-210 (c), G.S. It is found that the respondents claimed no exemption for such records.

12. The respondents claim that other records responsive to the complainant's request are exempt from disclosure pursuant to §1-210(b)(3)(A) and (B), G.S. It is found that the respondents did not deliver such records to the Commissioner of Correction for review pursuant to §1-210(c), G.S.

13. Section 1-210(b)(3), G.S., exempts, in relevant part:

Records of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of (A) the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known, (B) signed statements of witnesses

...

14. Following the hearing in this matter, the respondents submitted for in camera inspection the records for which they claim an exemption from disclosure. Such records shall hereby be identified as IC-2011-634-A through IC-2011-634-FFF.

15. Upon careful inspection of the in camera records, it is found that all of the records were compiled in connection with the investigation of crime.

16. It is found that the following records submitted for in camera inspection are exempt from mandatory disclosure because they contain the signed statements of witnesses:

IC-2011-634-B (pages 2 and 3); IC-2011-634-C; IC-2011-634-E; IC-2011-634-K (bold print only); IC-2011-634-L; IC-2011-634-N (italics print only); IC-2011-634-O; IC-2011-634-Q; IC-2011-634-R; IC-2011-634-T; IC-2011-634-U (except for photos); IC-2011-634-Y (italics print only); IC-2011-634-Z; IC-2011-634-EE (italics print only); IC-2011-634-HH (bold print only); IC-2011-634-I I; IC-2011-634-JJ; IC-2011-634-LL (bold print only); IC-2011-634-NN; IC-2011-634-PP (bold print only); IC-2011-634-RR (bold print to end of -RR); IC-2011-634-SS; IC-2011-634-TT (bold print to end of -TT); IC-2011-634-UU (bold print to end of -UU); IC-2011-634-VV (italics print to end of -VV); IC-2011-634-WW; IC-2011-634-XX; IC-2011-634-ZZ (bold print to end of -ZZ); IC-2011-634-AAA (italics print only); IC-2011-634-CCC (bold print only);

17. It is found that the following records submitted for in camera inspection are exempt from mandatory disclosure because they contain the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known:

- a. Exempt in entirety: IC-2011-634- IC-2011-634-M; IC-2011-634-N; IC-2011-634-P; IC-2011-634-HH; IC-2011-634-KK; IC-2011-634-OO; IC-2011-634-QQ; IC-2011-634-WW; IC-2011-634-XX; IC-2011-634-YY; IC-2011-634-AAA; IC-2011-

634-DDD (page 4, paragraph 5 only); IC-2011-634-EEE; IC-2011-634-FFF;

- b. Proper name, date of birth, address, phone number and other identifying information as specified: IC-2011-634-D (also motor vehicle information); IC-2011-634-G (also motor vehicle information, friends' and relatives' names and phone numbers); IC-2011-634-K (relative's address); IC-2011-634-Y; IC-2011-634-AA; IC-2011-634-BB; IC-2011-634-DD; IC-2011-634-FF; IC-2011-634-VV;
- c. Dates of birth, address, phone number: IC-2011-634-A; IC-2011-634-B; IC-2011-634-F; IC-2011-634-H; IC-2011-634-I; IC-2011-634-J; IC-2011-634-K IC-2011-634-P ; IC-2011-634-X; IC-2011-634-AA; IC-2011-634-BB; IC-2011-634-EE; IC-2011-634-FF; IC-2011-634-MM; IC-2011-634-PP; IC-2011-634-RR; IC-2011-634-TT; IC-2011-634-UU; IC-2011-634-VV; IC-2011-634-ZZ; IC-2011-634-BBB; IC-2011-634-CCC.

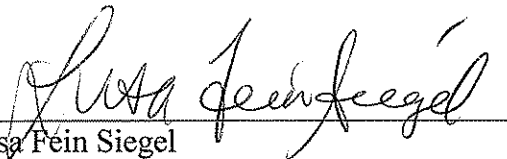
18. It is concluded that the respondents did not violate the FOI Act by withholding the records referenced in paragraphs 16 and 17, above.

19. At the conclusion of the second hearing date in this matter, the respondents promised to provide forthwith to the complainant copies of the records that were submitted for in camera inspection with the redactions as indicated in paragraphs 16 and 17, above.

20. It is concluded that the respondents violated the FOI Act by withholding from the complainant the records referenced in paragraph 14, above, except for the redactions described in paragraphs 17 and 18, above.

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

1. If they have not already done so, the respondents forthwith shall provide the complainants with a copy of the records referenced in paragraph 14 of the findings of fact, above, free of charge, except for the information that may be redacted, described in paragraphs 16 and 17 of the findings of fact, above.

  
Lisa Fein Siegel  
as Hearing Officer