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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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Bill Henderson,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-239

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

March 15, 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, April 10, 2013**. 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 March 29, 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE March 29, 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 March 29, 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: Bill Henderson
Alexandra Deeb, Esq.
Kristine Barone

3/15/13/FIC# 2012-239/Trans/wrbp/VRP/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Bill Henderson,

Complainant

against

Docket #FIC 2012-239

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

Respondents

March 15, 2013

The above-captioned matter was heard as a contested case on October 22, 2012, 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.).

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 of complaint filed May 3, 2012, the complainant appealed to the Commission, alleging that the respondents denied his April 2, 2012 request for public records relating to his arrest in 2001.
3. It is found that, by letter dated April 2, 2012, the complainant requested all records relating to his criminal arrest.
4. It is found that the complainant was arrested in 2001 for the crime of conspiracy to commit a murder that occurred in 1996.
5. It is found that, on receipt of the complainant's request, the respondents searched for his records on their computer system, which generated a "Detailed Arrest Inquiry" showing that the complainant was charged "MURDER (CSP)," "AIDING & ABETTING CRIMINAL," and "TAMPERING W/ WITNESS."

6. It is found that the individual who conducted the search for the requested records initially misinterpreted the abbreviation "CSP" to refer to the Connecticut State Police, and not to the charge of conspiracy.

7. It is found that the individual who conducted the search diligently looked for but did not locate any responsive records either in the respondents' general files or in the files of the major crimes unit archive.

8. It is found that, pursuant to the Connecticut Public Records Administrator, the respondents are required to retain case investigation records of homicides, fatal accidents, missing persons and unidentified bodies permanently; but only are required to retain records of felonies (which the respondents maintain includes conspiracy to commit murder) for ten years.

9. At the request of the hearing officer, the respondents submitted an after-filed exhibit, without objection from the complainant, designated as respondent's exhibit 3, which consists of a records disposal authorization from the Connecticut Public Records Administrator, and related intra-departmental memorandum, together showing that case investigation reports from incidents that occurred in 1996 other than homicides, fatal accidents, missing persons and unidentified bodies were authorized for destruction on June 28, 2007 and destroyed on September 17, 2007.

10. State v. Henderson, 83 Conn. App. 739, 741-42 (2004), an appeal from the complainant's criminal conviction, reports that the complainant was convicted of the crimes of both murder and conspiracy to commit murder.

The defendant, Bill-Roy Henderson, appeals from the judgment of conviction, rendered after a jury trial, of conspiracy to commit murder in violation of General Statutes §§ 53a-54a and 53a-48, murder in violation of General Statutes §§ 53a-54a and 53a-8, and tampering with a witness in violation of General Statutes §§ 53a-151 and 53a-8. On appeal, the defendant claims that the trial court improperly (1) denied his motion for a new trial and (2) admitted evidence of prior uncharged misconduct. We affirm the judgment of the trial court.

The jury reasonably could have found the following facts. On July 24, 1996, Michael Wright, the principal witness for the state, pistol-whipped and then shot and killed the victim, Hayfield Hemley. Wright testified that he and the defendant had developed a close relationship through their years of selling illegal drugs together. He testified that the defendant had ordered him to kill Hemley. Wright stated that he had agreed to do so out of loyalty and

friendship to the defendant. At trial, Wright explained that he had chosen to testify against the defendant because the defendant had ordered two witnesses, Oreville Lipscome and Franz Murray, to testify against him at his trial. That had angered Wright because he was serving what practically amounts to a life sentence for doing the defendant's bidding. [Footnotes omitted.]

11. 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.

12. 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 (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.

13. Section 1-212(a)(1), 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.

14. It is found that the requested records, to the extent they exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

15. Since the complainant was convicted of both murder and of conspiracy to commit murder, and since the underlying offense was clearly a homicide, it is not clear that any of the requested records were authorized to be destroyed in 2007.

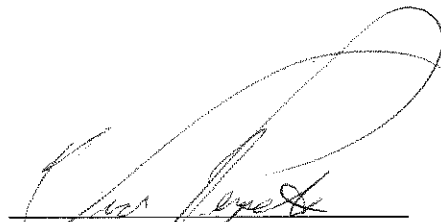
16. Moreover, it is found that even if some files concerning the complainant were disposed of, it is reasonable to assume that the respondents retain records of the

investigation of the homicide, as other individuals were investigated in connection with that homicide. Any such records would fall within the complainant's request for all records that pertain to the complainant's criminal arrest.

17. It is therefore concluded that the respondents violated the FOI Act as alleged.

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

1. The respondents shall forthwith search for, and provide to the complainant, any records pertaining to the investigation of the complainant for the homicide of Hayfield Hemley, including any records indexed under the names of other arrested or investigated persons, such as Michael Wright.



Victor R. Perpetua
as Hearing Officer