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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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Andrew Matthews,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2012-474

Ronnell Higgins, Chief, Police Department,  
Yale University; and Police Department,  
Yale University,

Respondent(s)

March 22, 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 24, 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 April 12, 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 April 12, 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 April 12, 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: Andrew Matthews  
Aaron S. Bayer, Esq.

3/22/13/FIC# 2012-474/Trans/wrbp/VDH/TCB

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Andrew Matthews,

Complainant

against

Docket #FIC 2012-474

Ronnell Higgins, Chief, Police  
Department, Yale University;  
and Police Department,  
Yale University,

Respondents

March 20, 2013

The above-captioned matter was heard as a contested case on January 29, 2013 and on March 15, 2013, at which times the complainant and the respondents appeared, stipulated to certain facts and presented argument on the complaint. Because there were no witnesses presented at either hearing, testimony was not received in this case.

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 of request dated July 20, 2012, the complainant requested that the respondents provide them with access to and, if requested, copies of the following records:
  - a. Any records, evidence, or exhibits in the custody of the Yale University Police Department and the Yale University Office of Labor Relations regarding Grievance Union Code #12-01 and the underlying facts or issues in that grievance;
  - b. Any records regarding Marvin Tyson created or obtained on or after January 12, 2012;
  - c. Any records, including emails, related to the termination of Officer Marvin Tyson, including records of any Internal Affairs Investigation(s) that led to the termination of Officer Marvin Tyson;

- d. Any records regarding any other police officer within the Yale Police Department where it was alleged that the employee failed to comply with General Order 301 (Professional Standards) Rules of Conduct, Section 1, Principal 4, Rule 4.2, Principal 9, Section 2, Rules of Conduct 1, 7, 15, and 17;
- e. Any and all records and/or copies of any documents related to any verbal warnings reduced to writing, written warnings, evaluations related to discipline, suspensions, or terminations of any Yale Police officer (regardless of rank) for the last 10 years;
- f. Any record of an Internal Affairs Investigation relating to the discharge of a firearm in the Yale Police Department dispatch area, or on about May 20, 2010, in which Sergeant Daniel Rainville was interviewed as part of the investigation;
- g. Any department issued discipline and/or "last chance agreements" over the past 10 years for any Yale University Police officer (regardless of rank) was alleged to have violated department rules and regulations;
- h. Any records relating to the implementation of General Order 301 (Professional Standards) Rules of Conduct, Section 1, Principal 4, Rule 4.2, Principal 9, Section 2, Rules of Conduct 1, 7, 15, and 17, including any records that indicate management made (as required by the Collective Bargaining Agreement, Article V, Section 3) a "good faith effort to provide prior notice to the [YPBA] Union of new and changed policies, procedures, rules, regulations and other matters that the department believes should be communicated to the Union" as it relates to General Order 301 (Professional Standards) Rules of Conduct, Section 1, Principal 4, Rule 4.2, Principal 9, Section 2, Rules of Conduct 1, 7, 15, and 17;
- i. Any and all records that indicate the Department gave "consideration to the Union's comment, if offered, before implantation" of General Order 301 (Professional Standards) Rules of Conduct, Section 1, Principal 4, Rule 4.2, Principal 9, Section 2, Rules of Conduct 1, 7, 15, and 17;
- j. Any records that indicate the YPBA made verbal or written objections to the implementation of General Order 301 (Professional Standards) Rules of Conduct, Section 1, Principal 4, Rule 4.2, Principal 9, Section 2, Rules of Conduct 1, 7, 15, and 17; and
- k. Any records that indicate impact bargaining occurred between Yale and YPBA, prior to the implementation of any changes in working conditions related to General Order 301 (Professional Standards) Rules of Conduct, Section 1, Principal 4, Rule 4.2, Principal 9, Section 2, Rules of Conduct 1, 7, 15, and 17.

3. It is found that, by email dated August 1, 2012, the respondents acknowledged the complainant's request.

4. By letter dated August 24, 2012 and filed August 28, 2012, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of

Information Act ("FOI Act") by partially denying his request for access to and, if requested, copies of the records described in paragraph 2, above.

5. At the outset of the contested case hearing, the complainant indicated that the only matter before the Commission was the issue of whether the respondents failed to promptly comply with his FOI request.

6. It is found that, under cover of two separate emails both dated September 7, 2012, the respondents provided the complainant with additional records responsive to the request set forth in paragraph 2, above.

7. It is further found that, under cover of email dated September 18, 2012, the respondents provided the complainant with another set of records responsive to the request set forth in paragraph 2, above. It is further found that, at this time, although they were producing certain records to the complainant, the respondents raised legal argument with regard to whether the records being disclosed were actually available pursuant to the FOI Act. Because the complainant has limited the issue in this case to whether the respondents violated the promptness requirement of the FOI Act, see ¶ 5, above, and because the respondents have conceded that their disclosure was not prompt, see ¶ 9, below, the Commission will not evaluate the merits of a legal argument which was not raised at the contested case hearing.


8. It is found that, based on the limited evidence submitted at the hearing, and on the representations of counsel for all parties, there are no responsive records outstanding at this time.

9. At the outset of the contested case hearing, counsel for the respondents stipulated that the respondents' production of records to the complainant--that is, the two productions accomplished on September 7, 2012--was not prompt in relationship to when the request was sent to and received by the respondents.

10. It is concluded that the respondents violated the promptness requirements of §§1-210(a) and 1-212(a), G.S.

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

1. Henceforth, the respondents shall strictly comply with the promptness requirements of §§1-210(a) and 1-212(a), G.S.

  
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Valicia Dee Harmon  
as Hearing Officer