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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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LaTonya Whitley,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-060

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

September 24, 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, October 23, 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 October 11, 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, an **original and fourteen (14) copies** must be filed **ON OR BEFORE October 11, 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 October 11, 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: LaTonya Whitley
Kathleen Foster, Esq.

9/24/13/FIC# 2013-060/Trans/wrbp/PSP//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

LaTonya Whitley,

Complainant

Docket # FIC 2013-060

against

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

Respondents

September 23, 2013

The above-captioned matter was heard as a contested case on July 9, 2013, and August 5, 2013, at which times the complainant and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

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 prior to January 2013, the complainant filed four civilian complaints with the respondents which are identified in the record as CN 030-12-C, CN 063-12-C, CN 065-12-C and CN 109-12-C. It is also found that prior to January 25, 2013, the complainant contacted the respondents' internal affairs division and requested a meeting to discuss her complaints and to review the files pertaining to such complaints. Subsequently, on January 25, 2013, the complainant met with Lieutenant Anthony Duff, head of the respondents' internal affairs division, to discuss her cases and review the case files. At that time, the complainant informed the respondents that the files were incomplete and records, including, but not limited to, closure letters and case findings, were missing from the files.
3. It is found that on January 25, 2013, the complainant made a written request to the respondents for copies of the internal affairs reports concerning the four civilian complaints described in paragraph 2, above.
4. By email dated February 6, 2013, the complainant appealed to this Commission,

alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide her with all records responsive to her January 25, 2013 request.

5. Section 1-200(5), G.S., defines “public records or files” as:

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 . . . (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 “any 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 records requested by the complainant, to the extent that they exist, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

9. The complainant alleges that the respondents failed to provide her with all records responsive to her January 25th request described in paragraph 3, above. The complainant testified that Lieutenant Duff was aware that the four case files described in paragraph 2, above, were incomplete and informed her that the respondents would complete the files and provide her with any missing records on January 28, 2013.

10. The respondents acknowledge that the four case files were missing certain records. However, the respondents maintain that they have provided the complainant with all responsive records that were created and exist in the files.

11. It is found that, on or about February 11, 2013, the respondents provided the complainant with a set of records that were responsive to her request. In addition, it is found that, prior to the July 9, 2013 hearing in this matter, the respondents located an additional seven pages of records that were provided to the complainant at the July 9th hearing.

12. It is found that on July 19, 2013, pursuant to a request by the hearing officer, the respondents provided the complainant with another opportunity to review the case files described in paragraph 2, above, and to request copies of any records that had yet to be provided by the respondents to the complainant. It is also found that on July 19th the respondents provided the complainant with 23 pages of additional records.

13. In addition, it is found that prior to the August 5, 2013 hearing in this matter, the respondents created closure letters for all four cases identified in paragraph 2, above, copies of which were provided to the complainant at the August 5th hearing.

14. It is found that the respondents have provided the complainant with all records responsive to her January 25th request. It is further found, however, that the respondents' provision of such records to the complainant was not timely, and that the respondents were not prompt in complying with the complainant's request.

15. It is concluded that the respondents violated the FOI Act by failing to provide responsive records in a prompt manner to the complainant.

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 promptly comply with the FOI Act.


Paula Sobral Pearlman
as Hearing Officer