



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Michael Labarge,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-653

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

June 29, 2015

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, July 22, 2015**. 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 July 10, 2015**. 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 July 10, 2015**. **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 **fifteen (15) copies** be filed **ON OR BEFORE July 10, 2015**, 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: Michael Labarge
Joseph Skelly, Jr., Esq.
cc: Craig Washington

2015-06-29/FIC# 2014-653/Trans/wrbp/VRP/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Michael Labarge,

Complainant

against

Docket #FIC 2014-653

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

Respondents

May 11, 2015

The above-captioned matter was heard as a contested case on May 11, 2015, 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 October 6, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his September 24, 2014 request for all records related to his criminal conviction.
3. It is found that the respondents provided unredacted copies of all of the requested records to the Department of Correction, on October 14, 2014, except for (a) signed witness statements, and (b) crime scene photographs, which they withheld out of concerns for the victim's privacy and because of the graphic nature of some of the photographs.

4. It is found that the Department of Correction redacted some information from the records, such as the names and addresses of the victim and witnesses, before providing the records to the complainant. It is found that the Department of Correction had not completed its security review of the requested records at the time of the hearing, but will notify the complainant when that review is complete, including a description of any records withheld.

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 . . . (3) receive a copy of such records in accordance with section 1-212. (Emphasis added).

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) and 1-210(a), G.S.

9. Section 1-210(b)(3)(C), G.S., provides that disclosure is not required of:

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 . . .

signed statements of witnesses

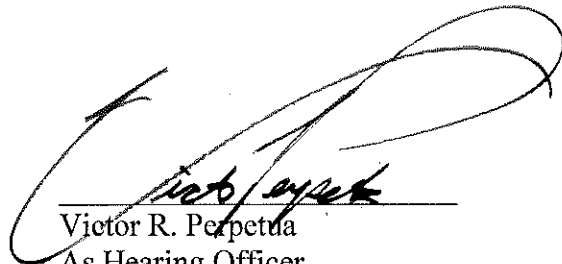
10. It is therefore concluded that the respondents did not violate the FOI Act by withholding signed statements of witnesses.

11. At the hearing, the complainant withdrew his request for photographs of the victim, and the respondents agreed to provide copies of the crime scene photographs that did not include images of the victim.

12. The complainant was advised by the hearing officer that if the complainant is dissatisfied with the records provided to him by the Department of Correction, he should file a complaint against the Department when it has notified him of the documents withheld from him.

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

1. The complaint is dismissed.



Victor R. Perpetua
As Hearing Officer