

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Miguel Pittman,

Complainant

against

Docket #FIC 2016-0201

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

Respondents

October 26, 2016

The above-captioned matter was heard as a contested case on June 13, 2016, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. After the hearing, and at the request of the hearing officer, the complainant submitted an exhibit and, pursuant to §1-21j-38, of the Regulations of Connecticut State Agencies, such exhibit has been marked as Complainants' Exhibit D (after-filed).

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 2013, the complainant unsuccessfully applied to the respondent police department to be a police officer. It is found that, by letter dated November 18, 2015, the complainant requested from the respondents a copy of his entire application file (the "requested records"). It is found that, by letter dated December 15, 2015, the respondents denied the November 18th request, without explanation. It is found that, on March 9, 2016, the complainant renewed his request, this time hand-delivering such request to the respondents' corporation counsel's office. It is found that the complainant spoke to a paralegal in the office that day who informed the complainant that the respondents had denied the request.
3. By email dated and filed March 11, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the request, described in paragraph 2, above.
4. Section 1-200(5), G.S., provides:

“[p]ublic 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.

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

[e]xcept 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 or . . . (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by the subsection shall be void. (Emphasis added).

6. 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.”

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

8. It is found that, in response to the complainant’s records request, the respondents provided the complainant an opportunity to inspect the requested records, and that the complainant, in fact, inspected such records on more than one occasion. However, it is found that the respondents denied his request for a copy of the requested records based upon a department policy to permit an unsuccessful applicant the opportunity only to inspect his or her application file. At the hearing in this matter, the respondents conceded that their denial of the request for a copy of the requested records was not based upon any applicable exemption to the disclosure requirements in the FOI Act.

9. It is found that, on June 9, 2016, approximately six months after he first requested a copy of the records, described in paragraph 2, above, and three days before the hearing in this matter, the respondents provided the complainant with a copy of such records, via email.

10. At the hearing in this matter, the complainant claimed that the respondents failed to provide him with a complete copy of the requested records.

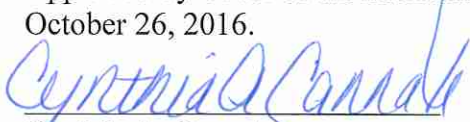
11. Based upon the credible testimony of the respondents' witness, it is found that the respondents provided a complete copy of the requested records to the complainant three days before the hearing in this matter.

12. It is further found, however, that the respondents failed to provide a copy of the requested records to the complainant "promptly," as required by §§1-210(a) and 1-212(a), G.S., and it is therefore concluded that the respondents violated those provisions.

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 promptness requirements in §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 26, 2016.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

Miguel Pittman
82 Orchard Street
New Haven, CT 06519

Chief, Police Department, City of New Haven; Police Department,
City of New Haven; and City of New Haven
c/o Kathleen Foster, Esq.
City of New Haven
165 Church Street
New Haven, CT 06510



Cynthia A. Cannata
Acting Clerk of the Commission