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Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov

Bobby Nealy,
Complainant(s)

against

Jeffry W. Cossette, Chief, Police Department, City of Meriden; Police Department, City of Meriden; and City of Meriden,
Respondent(s)

Notice of Rescheduled Commission Meeting

Docket #FIC 2016-0693

August 10, 2017

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, August 9, 2017 at 2:00 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, lst floor, Hartford, Connecticut, at **2:00 p.m.** on **Wednesday, August 23, 2017.**

Any brief, memorandum of law or request for additional time, as referenced in the July 21, 2017 Transmittal of Proposed Final Decision, should be received by the Commission on or before August 18, 2017.

By Order of the
Freedom of Information Commission

Wendy R.B. Paradis,
Acting Clerk of the Commission

Notice to: Bobby Nealy
Attorney John H. Gorman
cc: Craig Washington

2016-0693/RTRA/VRP//VDH/WRBP/08/10/17

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Bobby Nealy
Complainant(s)
against

Jeffry W. Cossette, Chief, Police Department, City of Meriden; Police Department, City of Meriden; and City of Meriden
Respondent(s)

Notice of Meeting

Docket #FIC 2016-0693

July 21, 2017

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, lst floor, Hartford, Connecticut, at **2 p.m. on Wednesday, August 9, 2017.** 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 28, 2017.*** 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 28, 2017.*** **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 28, 2017*** 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

Wendy R.B. Paradis
Acting Clerk of the Commission

Notice to: Bobby Nealy
Attorney John H. Gorman
cc: Craig Washington

FIC# 2016-0693/ITRA/VRP//VDH/WRBP/2017-07-21

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by | Report of Hearing Officer

Bobby Nealy,

Complainant

against | Docket #FIC 2016-0693

Jeffry W. Cossette, Chief, Police Department, City of Meriden; Police Department, City of Meriden; and City of Meriden,

Respondents | July 21, 2017

The above-captioned matter was heard as a contested case on May 30, 2017, 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 September 28, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for public records.

3. It is found that the complainant made written requests on August 29 and September 15, 2016 to the respondents for records pertaining to his arrest in July 2014 in case number 14-002705.

4. It is found that the complainant's arrest arose out of a home invasion on April 5, 2014 of the apartment, apparently occupied by the complainant's girlfriend, where the complainant had been sleeping. In the course of the home invasion, the complainant was shot and his girlfriend was injured.

5. It is found that, when the respondents investigated the home invasion, they found large amounts of heroin in the apartment invaded. As a result of the heroin they found, together with information obtained by ongoing surveillance by the Meriden Police Crime Suppression Unit of the apartment that was invaded, together with information obtained from the Waterbury Police Department concerning the complainant, the respondents arrested the complainant in July 2014 for drug possession.

6. It is found that the respondents, after telephone conversations with the complainant about the records he wanted, the records he already had, and the cost of copying records, provided all of the records they had found as a result of their search.

7. The complainant contends, based upon information in the records that were provided to him, that there should be additional records. Specifically, the complainant contends that there should be records pertaining to surveillance of him by the respondents in January through March 2014, and records of investigation of him by the respondents in April 2014, including records of meetings between Meriden detectives and Waterbury detectives in April of 2014. That surveillance, investigation and meetings are referenced in the records provided to the complainant.

8. 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.

9. 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.

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

11. It is found that the additional records sought by the complainant, as described in paragraph 7, above, if they exist, are not contained in the case file searched by the respondents, which contains records in Case No. 14-002705 as identified by the complainant, that pertain to the complainant's arrest. It is found that the respondents were not unreasonable in limiting their search to the case file, particularly in light of the conversations they had with the complainant.

12. It is therefore concluded that the respondents did not violate the FOI Act as alleged.

13. Nonetheless, at the hearing in this matter, the respondents agreed to conduct an additional search directed to the Meriden Police Crime Suppression Unit for the records described in paragraph 7, above, and to provide any non-exempt records found to the complainant. The respondents also agreed that, if no records were found, that they would provide the complainant with an affidavit attesting to their search.

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

FIC2016-0693/HOR/VRP/07202017