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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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Ira Alston,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-365

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

May 17, 2012

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, June 13, 2012**. 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 June 2, 2012**. 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 June 2, 2012**. 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 June 2, 2012**, 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: Ira Alston
Kathleen Foster, Esq.

5/17/12/FIC# 2011-365/Trans/wrbp/KKR/GFD

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Ira Alston,

Complainant

against

Docket #FIC 2011-365

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

Respondents

April 30, 2012

The above-captioned matter was scheduled to be heard as a contested case on March 22, 2012, at which time the complainant and the respondents appeared, and the complainant stated that he could not proceed with the hearing because he did not have his "property" with him. The hearing officer continued the hearing to April 19, 2012, at which time the complainant and the respondents again appeared 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, 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. It is found that, by letter dated June 13, 2011, the complainant made a request to the respondents for copies of "handwritten police/detective notes," related to a homicide investigation "with police case no. 99-76967."
3. It is found that the respondents acknowledged the request, described in paragraph 2, above, indicating on a postcard received by the complainant sometime prior to July 6, 2011, that they were looking into his request.
4. By letter of complaint dated July 8, 2011, and filed on July 12, 2011, 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.
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 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 1-212.

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, to the extent that the respondents maintain the records described in paragraph 2, above, such records are public records.

9. It is found that, by letter dated July 26, 2011, the respondents informed the complainant that they did not locate any records responsive to the request described in paragraph 2, above.

10. It is found that the complainant did not receive a copy of the July 26, 2011 letter, described in paragraph 9, above.

11. At the hearing in this matter, the complainant stated his belief that the respondents, in fact, have the records, described in paragraph 2, above, and speculated that they are located in the desk drawer of the detective assigned to investigate the homicide.

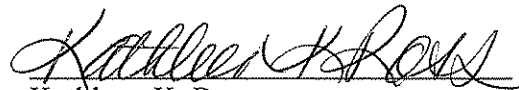
12. However, at the hearing in this matter, the police sergeant in charge of the records division testified that all of the detectives involved in the investigation of the homicide are now retired, and that she conducted a thorough search for the requested records in: the property room, by case number; the records room, by case number; and in the detective bureau, to see if there were any working files related to this case in which any notes might be stored. She further testified, and it is found, that her search did not turn up any of the records, described in paragraph 2, above.

13. Based upon such testimony, it is found that the records, described in paragraph 2, above, to the extent that they ever existed, no longer exist.

14. Accordingly, it is found that the respondents did not violate the FOI Act as alleged in the complaint.

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.



Kathleen K. Ross
as Hearing Officer