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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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Ted Baptiste,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2011-719

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

August 30, 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, September 12, 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 September 6, 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 September 6, 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 September 6, 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: Ted Baptiste  
Gregory M. Conte, Esq.

2012-08-30/FIC# 2011-719/Trans/wrbp/TCB//GFD

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Ted Baptiste,

Complainant

against

Docket #FIC 2011-719

Chief, Police Department, City of Bridgeport;  
and Police Department, City of Bridgeport,

Respondents

August 30, 2012

The above-captioned matter was heard as a contested case on June 26, 2012, 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.).

At the request of the complainant dated July 9, 2012, the hearing officer re-opened the matter and scheduled a hearing for August 17, 2012 to receive evidence that the records at issue no longer existed. However, the respondents submitted a written objection along with an after-filed exhibit marked as Respondents' Exhibit 3. Upon review of the exhibit, the matter was closed by the hearing officer.

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 September 25, 2011, the complainant made a request to the respondents for a copy of all records in case #990828-062 which records pertained to his arrest and the investigation that led to his arrest.
3. It is found that by letter dated October 7, 2011, the Office of the City Attorney for the city of Bridgeport responded to the complainant's request and informed him that

he needed to provide the names of the parties involved, the location of the arrest, and the incident and case numbers.

4. It is found that the complainant provided the requested information but received no further response from the respondents.

5. By letter dated October 13, 2011, and filed on October 19, 2011, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his September 25, 2011 request.

6. 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.

7. 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, (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.

8. 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."

9. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. It is found that by letter dated May 21, 2012 the respondents provided the complainant with a copy of an incident report #990828-062 in case #99-D-965, but withheld the witness statements related to that report claiming that such records were exempt from disclosure pursuant to §1-210(b)(3), G.S.

11. At the hearing on this matter the respondents' counsel represented that the incident report described in paragraph 10, above, was the only record found after two separate searches were conducted – one by the respondents' staff and one by himself. Counsel represented that because the respondents' retention requirement for investigation records of non-fatal incidents is only ten years, the complainant's records, which are 14 years old, most likely have been expunged from the respondents' files.

12. It is found that, following the hearing, the respondents submitted an after-filed exhibit that was marked as Respondents' Exhibit 3. It is found that Respondents' Exhibit 3 is the affidavit of a Sergeant James Kirkland of the respondent police department's records room in which he attests that he conducted a thorough and diligent search of the respondents' records and was not able to locate file #99D-965.

13. It is found that, except for the witness statements, the respondents have provided the complainant with a copy of all the records that they maintain that are responsive to his request, and that no other records exist within the respondent department.

14. With respect to the witness statements, §1-210(b)(3), G.S., provides in relevant part that nothing in the FOI Act shall require the disclosure 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 ... (B) signed statements of witnesses....

15. It is found that the witness statements withheld by the respondents are exempt from mandatory disclosure pursuant to §1-210(b)(3)(B), G.S., and therefore, the respondents were not required to disclose those records to the complainant.

16. Based on the findings in paragraphs 13 and 15, above, it is concluded that the respondents did not violate the disclosure provisions of §§1-210 and 1-212(a), G.S.

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

1. The complaint is hereby dismissed.

  
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Attorney Tracie C. Brown  
as Hearing Officer