

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Cordaryl Silva,

Complainant,

against

Docket # FIC 2018-0247

Kevin Hale, Chief, Police Department, City
of Ansonia; Police Department, City of
Ansonia; and City of Ansonia,

Respondents

December 19, 2018

The above-captioned matter was heard as a contested case on September 18, 2018, 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)(A), G.S.
2. It is found that, on May 11, 2018, the complainant made a four-part request for records concerning the homicide of Javon Zimmerman.
3. By letter filed May 15, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with the requested records. The complainant requested the imposition of civil penalties.

4. Section 1-200(5), G.S., defines "public records" as follows:

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, ... 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:

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

5. Section 1-212(a), G.S., provides in relevant part: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

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

7. After listening to the testimony of the respondents' witnesses at the hearing in this matter, the complainant indicated that he was satisfied with the respondents' response to three of the four sub-parts of his request.

8. It is found that the remaining outstanding sub-part of the complainant's request was for "all police reports written for the Javon Zimmerman homicide." It is found that the respondents provided the reports written by Detectives Hunt and Macero. At the hearing, the complainant testified that he believed other reports existed. The respondents' witness was uncertain whether other reports existed, and agreed to search again for additional records, particularly any reports filed by Sergeant Orlando, Sergeant Flynn, or Detective Hunt.

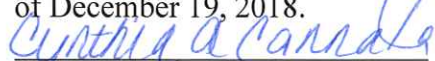
9. It is found, therefore, that the respondents did not prove that they provided all responsive records to the complainant; and it is concluded that the respondents violated §§1-210(a), and 1-212(a), G.S.

10. After consideration of the entire record in this case, the Commission declines to consider the imposition of civil penalties against the respondents.

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

1. Forthwith the respondents shall search for additional reports as described in paragraph 8, above. The respondents forthwith, shall provide any additional records to the complainant, free of charge. If no additional records are discovered, the respondents forthwith shall describe their search and its results in a letter to the complainant.

Approved by Order of the Freedom of Information Commission at its special meeting of December 19, 2018.



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:

CORDARYL SILVA, #332230, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

KEVIN HALE, CHIEF, POLICE DEPARTMENT, CITY OF ANSONIA; POLICE DEPARTMENT, CITY OF ANSONIA; AND CITY OF ANSONIA, c/o Attorney John P. Marini, Cohen and Wolf, P.C., 1115 Broad Street, Bridgeport, CT 06604



Cynthia A. Cannata
Acting Clerk of the Commission