

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Tyronne Pierce,

Complainant

against

Docket #FIC 2017-0719

Office of the Corporation Counsel,
City of Hartford; and City of Hartford,

Respondents

June 27, 2018

The above-captioned matter was heard as a contested case on February 20, 2018, at which time the complainant and the respondents 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 two letters each dated November 8, 2017, the complainant requested from the respondents records pertaining to complaints of police misconduct he filed with the respondents on three different dates.¹ In particular, he requested the written report of an investigation into one of the complaints he filed. He also requested certain policies, directives and procedures.
3. It is found that, by letter dated November 15, 2017, the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that they would search for responsive records and advise him as to availability and cost.
4. By letter dated November 27, 2017, and filed with the Commission on December 1, 2017, the complainant appealed to this Commission, alleging that the respondents violated the

¹ The complainant acknowledged that he requested the identical records in the two letters. The requests therefore will be referenced herein as the request.

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:

“[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 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:

[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... (3) receive a copy of such records in accordance with section 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, by letter dated December 15, 2017, the respondents informed the complainant that their search revealed 31 pages of records responsive to the request, and that the cost of the copies would be \$15.50. The respondents requested that the complainant remit the fee via check, and informed the complainant that, upon receipt of the check, they would mail the copies to him. The respondents also informed the complainant that, alternatively, the complainant could designate an individual to come to the office and review the records free of charge, or pay the fee on his behalf.

9. It is found that the 31 pages of records consist of the report of the investigation, described in paragraph 2, above, as well as several pages the respondents received from the complainant pertaining to an appeal of the city’s decision not to investigate one of the complaints of police misconduct. It is found that the respondents do not maintain any other responsive records.

10. It is found that the complainant did not respond to the respondents’ December 15th letter, did not pay the fee for the copies, and did not designate an individual to go to the respondents’ offices to review the records or pay the fee on his behalf. It is found that, because the fee was not paid, the respondents did not provide the copies to the complainant.

11. At the hearing in this matter, the complainant argued that he did not pay the copying fee because (1) he is indigent and (2) he believed he was entitled to a copy of the report free of charge because his complaint to the city is what initiated the investigation that is the subject of the report.

12. Section 1-212(a), G.S., provides that “[t]he fee for any copy provided in accordance with the [FOI] Act:

(A) By an executive, administrative or legislative office of the state, a state agency or a department, institution, bureau, board, commission, authority or official of the state, including a committee of, or created by, such an office, agency, department, institution, bureau, board, commission, authority or official, and also including any judicial office, official or body or committee thereof but only in respect to its or their administrative functions, shall not exceed twenty-five cents per page and (B) By all other public agencies, as defined in section 1-200, shall not exceed fifty cents per page.

13. Section 1-212(d)(1), G.S., provides: “[t]he public agency shall waive any fee provided for in this section when... [t]he person requesting the records is an indigent individual...”

14. It is found that the complainant never informed the respondents that he could not pay the fee because he was indigent, never obtained a copy of, or inquired as to, the respondent city’s standard for determining indigence, and offered no evidence at the hearing to prove that he is indigent under that standard.

15. Accordingly, it is concluded that the complainant failed to prove he is indigent under the respondent city’s standard of indigence.

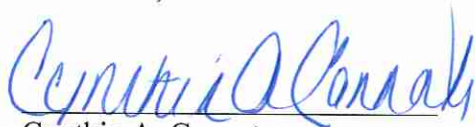
16. With regard to the complainant’s contention that he is entitled to a copy of the investigation report free of charge because his complaint to the city initiated the investigation, it is found that even if such contention were true, the complainant has failed to allege a violation of the FOI Act.

17. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act, as alleged by the complainant.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 27, 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:

TYRONNE PIERCE, #176388, Osborn Correctional Institution, 335 Bilton Road, Somers, CT 06071

OFFICE OF THE CORPORATION COUNSEL, CITY OF HARTFORD; AND CITY OF HARTFORD, c/o Attorney Cynthia Lauture, City of Hartford, 550 Main Street, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission