

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Charles Marshall,

Complainant

Docket # FIC 2018-0562

against

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

Respondents

February 13, 2019

The above-captioned matter was heard as a contested case on December 5, 2018, at which time the complainant and 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. It is found that, by letter dated September 28, 2018, the complainant requested that the respondents provide him with copies of four separate categories of records related to the arrest of James Battista, for the years 2004 through 2008.
3. It is found that, by letter dated October 3, 2018, the respondents acknowledged the complainant's request, described in paragraph 2, above.
4. By letter dated October 5, 2018, and filed on October 9, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the records he had requested, as described in paragraph 2, above.
5. Section 1-200(5), G.S., defines "public records or files" as:

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.

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 section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that "any 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 October 15, 2018, the respondents informed the complainant that they did not maintain records responsive to the request described in paragraph 2, above, and suggested that he revise his request to be more specific and also to include calendar year 2009. It is also found that the complainant did not reply to such letter.

9. It is found that the respondents do not maintain any records responsive to the request described in paragraph 2, above.

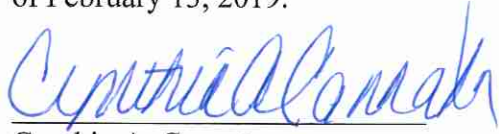
10. It is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

11. At the hearing on this matter, the respondents stated that should the complainant make a new request for the 2009 arrest record of James Battista, they would comply with such request. The complainant indicated his intent to do so.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 13, 2019.



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:

CHARLES MARSHALL, #119969, MacDougall-Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

CHIEF, POLICE DEPARTMENT, CITY OF WATERBURY; POLICE DEPARTMENT, CITY OF WATERBURY; AND CITY OF WATERBURY, c/o Attorney Richard J. Scappini, City of Waterbury, Office of Corporation Counsel, 235 Grand Street, 3rd Floor, Waterbury, CT 06702



Cynthia A. Cannata
Acting Clerk of the Commission