

Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18 20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Julio Burgos Torres,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-307

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

January 26, 2016

### 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, February 24, 2016**. 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 February 11, 2016**. 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, an **original and fourteen (14) copies** must be filed **ON OR BEFORE February 11, 2016**. 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 **fifteen (15) copies** be filed **ON OR BEFORE February 11, 2016**, 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: Julio Burgos Torres  
Attorney Gary S. Roosa

2016-01-26/FIC# 2015-307/Trans/wrbp/CAL/VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Julio Burgos Torres,

Complainant

against

Docket #FIC 2015-307

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

Respondents

January 12, 2016

The above-captioned matter was heard as contested case on December 29, 2015, 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)(A), G.S.
2. It is found that, by application dated April 13, 2015, the complainant made a request to the respondents for copies of all records concerning Luis Gonzales and Michael Munoz being active members of the Latin Kings, and specifically including when they were active and when they were not active (the "requested records").
3. It is found that, by letter dated April 22, 2015, the respondents responded, stating that they had investigated the complainant's request and that they did not have records responsive to the request.
4. It is found that, by letter dated April 29, 2015 and filed with the Commission on May 1, 2015, the complainant appealed to the Commission, alleging that the failure of the respondents to provide access to the requested records violated the Freedom of Information Act.

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 section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

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.

...

Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.

7. Based on the testimony of Sgt. Francis Monahan, the officer in charge of records at the respondent Department, it is found that the respondents do not maintain any records concerning Luis Gonzales and Michael Munoz being active members of the Latin Kings, and specifically including when they were active and when they were not active. Sgt. Monahan testified that he checked the routine records maintained by the Department and also spoke with Lt. Michael Ponzillo, the chief of the Vice and Intelligence unit within the respondent Department. Records previously maintained by the Gang Task Force at the respondent Department are now maintained by the Vice and Intelligence unit.

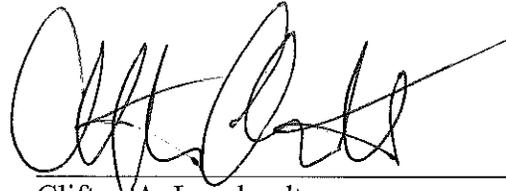
8. The complainant testified in considerable detail concerning admissions of gang activity by both Luis Gonzales and Michael Munoz in testimony during various court appearances. But Luis Gonzales and Michael Munoz telling prosecutors that they engaged in gang activity does not mean that the respondent Department maintained records concerning Luis Gonzales and Michael Munoz being active members of the Latin Kings. Counsel for the respondents emphasized that certain prosecutors handled their own cases, based on years of experience prosecuting gang related crime.

9. It is found that the respondents do not maintain the requested records.

10. It is therefore concluded that the respondents did not violate §§1-210(a) 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 dismissed.

A handwritten signature in black ink, appearing to read 'Clifton A. Leonhardt', written over a horizontal line.

Clifton A. Leonhardt  
as Hearing Officer