

TO: Freedom of Information Commission  
FROM: Danielle L. McGee  
RE: Minutes of the Commission's regular meeting of November 13, 2019  
DATE: November 14, 2019

A regular meeting of the Freedom of Information Commission was held on November 13, 2019 in the Freedom of Information Hearing Room, 18-20 Trinity Street, Hartford, Connecticut. The meeting convened at 2:21 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding  
Commissioner Jay Shaw (participated by phone)  
Commissioner Matthew Streeter  
Commissioner Ryan P. Barry  
Commissioner Stephen Fuzesi, Jr.

Also present were staff members, Colleen M. Murphy, Mary E. Schwind, Victor R. Perpetua, Kathleen K. Ross, Valicia D. Harmon, Matthew D. Reed, Danielle L. McGee, and Cindy Cannata.

Commissioner Stephen Fuzesi, Jr. was introduced and sworn in as a Commissioner by Executive Director Colleen M. Murphy.

The Commissioners voted, 3-0, to approve the Commission's regular meeting minutes of October 23, 2019. Commissioner Fuzesi abstained. Commissioner Shaw did not participate.

Those in attendance were informed that the Commission does not ordinarily record the remarks made at its meetings, but will do so on request.

[Docket #FIC 2018-0744](#)

Jay Quigley v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Jay Quigley participated via speakerphone. Attorney Tracie Brown appeared on behalf of the respondents. The Commissioners voted, 4-0, to adopt the Hearing Officer's Report. The proceedings were recorded digitally. Commissioner Shaw did not participate.

[Docket #FIC 2018-0671](#)

James Torlai v. Chief, Police Department, City of New Haven; Police Department, City of New Haven; and City of New Haven

The Commissioners voted, 4-0, to adopt the Hearing Officer's Report. Commissioner Shaw did not participate.

[Docket #FIC 2018-0689](#)

James Torlai v. Chief, Police Department, Town of West Hartford; Police Department, Town of West Hartford; and Town of West Hartford

Attorney Garmon Newsom, III appeared for the respondents. The complainant did not appear. The Commissioners voted unanimously to amend the Hearing Officer's Report. The Commissioners then again voted unanimously to amend the Hearing Officer's Report. The Commissioners voted unanimously to deny the complainant's motions to add an exhibit. The Commissioners voted unanimously to adopt the Hearing Officer's Report as amended.\*

[Docket #FIC 2018-0679](#)

Francis Barron v. Director of Human Resources, Greenwich Public Schools; and Greenwich Public Schools

The Commissioners voted, 3-0, to adopt the Hearing Officers Report. Commissioner Fuzesi recused himself. Commissioner Shaw did not participate.

[Docket #FIC 2018-0752](#)

Christopher Shuckra v. Eric Osanitsch, Chief, Police Department, Town of Windsor Locks; Police Department, Town of Windsor Locks; and Town of Windsor Locks

The Commissioners voted, 4-0, to amend the Hearing Officer's Report. The Commissioners voted, 4-0, to adopt the Hearing Officer's Report as amended.\* Commissioner Shaw did not participate.

[Docket #FIC 2019-0005](#)

Rob Serafinowicz v. Legal Services, Court Operations Division, State of Connecticut, Judicial Branch; and Court Operations Division, State of Connecticut, Judicial Branch

The Commissioners voted, 4-0, to amend the Hearing Officer's Report. Commissioner Shaw did not participate.

[Docket #FIC 2019-0042](#)

JP Hernandez and American Dream Clean v. Commissioner, State of Connecticut, Department of Administrative Services; and State of Connecticut, Department of Administrative Services

JP Hernandez appeared on his own behalf. Attorney Erin Chocquette appeared on behalf of the respondents. The Commissioners voted unanimously to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2019-0161](#)

Rachel de Leon v. Chief, Police Department, City of Bridgeport; Police Department, City of Bridgeport; and City of Bridgeport

The matter was removed from the agenda.

[Docket #FIC 2019-0343](#)

Gary Levine v. Chief, Police Department, City of Norwich;  
Police Department, City of Norwich; and City of Norwich

The Commissioners voted, 4-0, to adopt the Hearing Officer's Report. Commissioner Shaw did not participate.

[Docket #FIC 2019-0499](#)

Ethan Book v. Mayor, City of Bridgeport; and City of  
Bridgeport

The Commissioners voted, 4-0, to adopt the Hearing Officer's Report. Commissioner Shaw did not participate.

The Commissioners voted unanimously to Summarily Deny Leave to Schedule a Hearing Pursuant to Connecticut General Statutes §1-206(b)(2) in William McKinney v. Attorney General, State of Connecticut, Office of the Attorney General; and State of Connecticut, Office of the Attorney General, Docket # FIC 2018-0702.

The Commissioners voted unanimously to Summarily Deny Leave to Schedule a Hearing Pursuant to Connecticut General Statutes §1-206(b)(2) in James Torlai v. Chief, Police Department, City of Norwich; Police Department, City of Norwich; and City of Norwich, Docket # FIC 2019-0008.

The Commissioners voted, 4-0, to deny a request for a Declaratory Ruling from John Bachand, filed October 9, 2019. Commissioner Shaw did not participate.

Colleen M. Murphy and Commissioner Eagan, Commissioner Streeter, and Commissioner Barry recognized the service to the Commission of outgoing Commissioners Mike Daly and Sean McElligott.

Colleen M. Murphy reported that the vacant Paralegal position has been filled, and that interviews for the vacant Human Resources Specialist position have been scheduled.

The meeting was adjourned at 3:53 p.m.

---

Danielle L. McGee

MINREGmeeting 11132019/dlm/11142019

\* See attached for amendments.

**AMENDMENTS**

Docket #FIC 2018-0689

James Torlai v. Chief, Police Department, Town of West Hartford; Police Department, Town of West Hartford; and Town of West Hartford

The Hearing Officer's Report is amended by adding the following paragraph after the first full paragraph on page 2:

**SUBSEQUENT TO THE TRANSMITTAL OF PROPOSED FINAL DECISION, DATED OCTOBER 22, 2019, AND HEARING OFFICER REPORT, DATED OCTOBER 21, 2019, THE HEARING OFFICER RECEIVED A MOTION FOR AN ORDER TO PRESERVE RECORDS, FILED BY THE COMPLAINANT. BY NOTICE OF ORDER DATED OCTOBER 28, 2019, THE HEARING OFFICER DENIED THE MOTION.**

Paragraph 2 of the Order is deleted as follows:

[2. The Commission notes that better communication between the parties about the request, including utilization of the Commission's ombudsman program, might have avoided the necessity of a costly and time-consuming hearing in this matter. The Commission further advises that a complainant's refusal to participate in settlement conferences conducted by a Commission ombudsman is one factor the Commission may consider when deciding not to schedule an appeal for hearing.]

Docket #FIC 2018-0752

Christopher Shuckra v. Eric Osanitsch, Chief, Police Department, Town of Windsor Locks; Police Department, Town of Windsor Locks; and Town of Windsor Locks

The Hearing Officer's Report is amended as follows:

**22. SECTION 54-142c, G.S., FURTHER PROVIDES, IN RELEVANT PART, AS FOLLOWS:**

**(A) THE CLERK OF THE COURT OR ANY PERSON CHARGED WITH RETENTION AND CONTROL OF ERASED RECORDS BY THE CHIEF COURT ADMINISTRATOR OR ANY CRIMINAL JUSTICE AGENCY HAVING INFORMATION CONTAINED IN SUCH ERASED RECORDS SHALL NOT DISCLOSE TO ANYONE THE EXISTENCE OF SUCH ERASED RECORDS OR INFORMATION PERTAINING TO ANY CHARGE ERASED UNDER ANY PROVISION OF THIS PART, EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER.**

**23. FOR PURPOSES OF §54-142c, G.S., A “CRIMINAL JUSTICE AGENCY” IS DEFINED AS INCLUDING “ANY . . . GOVERNMENT AGENCY CREATED BY STATUTE WHICH IS AUTHORIZED BY LAW AND ENGAGES, IN FACT, AS IT PRINCIPAL FUNCTION IN ACTIVITIES CONSTITUTING THE ADMINISTRATION OF CRIMINAL JUSTICE.”**

**24. IT IS FOUND THAT THE RESPONDENT POLICE DEPARTMENT IS A CRIMINAL JUSTICE AGENCY, WITHIN THE MEANING OF §54-142c, G.S.**

[22] **25.** At the hearings, the respondents did not offer any evidence with respect to the applicability of §54-142a, et. seq., to in camera Record 3 (line 25) and Records 9 through 12. At the September 17<sup>th</sup> reopened hearing, the hearing officer ordered the respondents to submit an affidavit to the Commission, attesting as to whether such records are erased and how such determination was made. On September 27, 2019, the respondents filed an affidavit with the Commission.

[23] **26.** In his affidavit, Windsor Locks Police Chief Eric Osanitsch attested as follows:

3. I am familiar with the manner in which records are kept by the Department.
4. Upon the arrest of any person in Windsor Locks the matter is referred to the Office of the State’s Attorney for prosecution.
5. Once a matter is disposed of by the State’s Attorney, whether by conviction, diversionary program, Nolle or dismissal the judicial department notifies the Police Department of the disposition of the matter. That information is then entered into our records system.
6. The Department is able to view up to date offender information based upon information provided by the judicial department.
7. I have reviewed the information of several persons arrested by the Department as follows:
  - a. Incident Date 1/30/18  
Kurt M. All charges Nolled with erasure date of April 21, 2020 (referred to as item 9 in all previous correspondence).
  - b. Incident Date 6/18/16  
Christopher L. All charges Nolled with erasure date of November 5, 2017 (referred to as item 10 in all previous correspondence).
  - c. Incident date 10/23/17

Younging Z. All charges Nolled with erasure date of May 20, 2018 (referred to as item 11 in all previous correspondence).

d. Incident Date 9/5/17

Amelia F. All charges removed except Defendant convicted of Forgery 1<sup>st</sup> Degree on May 1, 2018 (referred to as item 12 in all previous correspondence).

8. This information was provided to the Department as is customary in all such cases.<sup>1</sup>

[24. It is found that the respondent police department is a criminal justice agency, within the meaning of §54-142c, G.S.]

[25] **27.** With respect to in camera Record 3 (line 25), it is found that the respondents failed to provide any evidence as to whether such record is erased within the meaning of §54-142a, G.S. Accordingly, it is concluded that the respondents violated the FOI Act when they withheld such information from the complainant.

[26] **28.** With respect to in camera Record 12, it is found that the respondents failed to prove that such record is erased within the meaning of §54-142a, G.S. Accordingly, it is concluded that the respondents violated the FOI Act when they withheld such information from the complainant.

[27] **29.** With respect to in camera Record 9, it is found, based upon the evidence contained in the respondents' affidavit, that such record has yet to be erased within the meaning of §54-142a, G.S. Accordingly, it is concluded that the respondents violated the FOI Act when they withheld such record from the complainant.

[28] **30.** With respect to in camera Records 10 and 11, it is found, based upon the evidence contained in the respondents' affidavit, that such records were erased within the meaning of §54-142a, G.S. Accordingly, it is concluded that in camera Records 10 and 11 are exempt from disclosure pursuant to §54-142a, G.S., and that the respondents did not violate the FOI Act when they withheld such records from the complainant.

---

<sup>7</sup> Chief Osanitsch's affidavit, dated September 27, 2019, has been marked as Respondents' Exhibit 6 (after-filed). In addition, the Commission notes that Items 9, 10, 11 and 12, which are referenced in the affidavit, correspond to in camera Records 9, 10, 11 and 12, respectively.