



July 22, 2016

Mayor Toni N. Harp
New Haven City Hall
200 Orange Street
New Haven, CT 06510-2067

Dear Mayor Harp:

This letter reports on my review of two Public Records Complaints filed by Cherlyn Poindexter on August 3, 2015 and November 13, 2015 alleging improper destruction of records held by the City's Commission on Equal Opportunities.

I met with staff in New Haven on September 18, 2015, accompanied by Public Records Archivist Sara Cheeseman. We met with Lilia Snyder, Interim Director of the Commission on Equal Opportunities; Kathleen Foster, Senior Assistant Corporation Counsel; and Cherlyn Poindexter, President, New Haven Management and Professional Union, Local 3144.

I reviewed our records and we have no disposal authorizations (Form RC-075) that can be clearly associated with the Commission on Equal Opportunities records named in Ms. Poindexter's complaints. As required by state law, records may only be disposed after receiving authorization from the Public Records Administrator using Form RC-075.

I have documentation stating that Certified Payroll Records dating from 2008 and 2009 were destroyed without proper authorization. With this letter, I am requiring the City to provide formal documentation regarding the status of the additional records named in the complaint, as further described below.

Statutory Violations

The City of New Haven is hereby cited for violations of the following sections of the *Connecticut General Statutes*:

- **CGS Section 7-109. Destruction of documents.**
- **CGS Section 11-8a. Retention, destruction and transfer of records.**
- **CGS Section 11-8b. Transfer or disposal of public records.**

City officials should also be aware that *Connecticut General Statutes* Section 1-240 and Section 53-153 state that unauthorized removal or destruction of records may be a misdemeanor or felony offense punishable by fine or imprisonment. The Office of the Public Records Administrator is not authorized to investigate alleged violations of criminal law.

To address the three violations cited above, this office requires the City of New Haven to complete the following remedial steps.

Remediation

1. Documentation of Records Status

In order to document the status of the records named in the complaints, the City must prepare and submit a report as follows:

- Identify all Commission records named in the complaints that are being properly maintained by the City, listing each record type, date range and storage location. Note that if official copies of the records cannot be found, every effort should be made to determine whether duplicates are still available in another location and these should be identified and listed if so. For example, certain records may be stored electronically on a computer or duplicates may have been filed with another City office.
- Identify all Commission records named in the complaint that are no longer available and presumably have been improperly destroyed or otherwise removed from the City's custody, listing each record type, date range, the approximate date of loss of custody and if applicable and known, the method of destruction.

For records past their retention requirements, this report will serve to document the loss of the records. Under normal circumstances, the *Records Disposition Authorization* (Form RC-075) would serve as the City's legal documentation of records disposal, protecting the City's interests when responding to Freedom of Information, litigation or other requests, by showing that records were properly disposed in accordance with legal requirements and established procedures. While this report will not serve as proof of approved disposition, it will at least document the records involved and their approximate date of loss from the City's custody.

For records that were not eligible for disposition, including perhaps those that are mandated for permanent retention such as meeting minutes, this report will serve as documentation to assist in responding to requests for information contained in records that are no longer available.

2. Policy Distribution

I have enclosed a copy of *Public Records Policy 05: Disposition of Public Records* and the associated sample *Acknowledgment of Receipt* for your reference. When this policy was originally announced in December 2011, Municipal CEOs were notified of the requirement to distribute the policy to all employees. This requirement is specified under Section II of the policy.

The City must distribute this policy to all staff and officials; obtain and file an *Acknowledgment of Receipt* from each individual; and establish a procedure to ensure that all new hires and newly elected officials receive this policy and return the *Acknowledgment of Receipt*. We generally recommend that the Human Resources Office be charged with managing this procedure and maintaining the files, but it may be implemented in another manner if preferred.

3. Records Management Training

I am concerned that some City staff and officials may be unaware of the statutory requirements regarding records retention, maintenance and disposal. While the distribution of *Public Records Policy 05* will ensure that staff have been properly notified of these requirements, it is also necessary to have a number of key staff attend training.

Our records show that two individuals have already attended training, Lilia Snyder and Cherlyn Poindexter. We require that the City select at least five additional key staff members, for example, City officials and department heads, to attend this training. In addition, the City should require attendance by any staff members that may have had a role in making managerial decisions concerning these Commission records.

The *Municipal Records Management* training session is offered periodically by this office through the Connecticut Conference of Municipalities [CCM] and is free of charge. We expect the next session to be offered in the fall. Once the date is set, information and registration will be available on the CCM website.

Please respond within 60 days of the date of this letter outlining your corrective plan of action for the violations identified in this letter, including the submission of the records status report; confirmation regarding the distribution of *Public Records Policy 05*; and plan for the selection of key staff to attend an upcoming records management training session.

It is essential that the City of New Haven take steps to improve its records management practices, allowing the City to function more effectively and to better protect the rights and interests of its citizens.

If I can be of further assistance as you review these issues, please do not hesitate to call.

Sincerely,



LeAnn R. Power, CRM
Public Records Administrator

Enc: Public Records Policy 05
Acknowledgment of Receipt Form

CC: Kathleen Foster, Corporate Counsel, City of New Haven
Lilia Snyder, Interim Director of the Commission on Equal Opportunities
Cherlyn Poindexter, President, New Haven Management and Professional Union, Local 3144