

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Robert Cushman,

FINAL DECISION

Complainant,

Docket # FIC 2019-0356

against

Chief, Southbury Police Department,
Town of Southbury; Southbury Police
Department, Town of Southbury; and
Town of Southbury,

Respondents

February 26, 2020

The above-captioned matter was heard as a contested case on November 26, 2019, at which time the complainant and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

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 May 31, 2019, the complainant made a multi-part request to the respondents for records relating to Gerard Callahan and a May 19, 2019 incident in Southbury, CT. Among the records requested were body camera video recordings and dashboard and mobile video recordings. (“May 31st request”).
3. It is found that, by letter dated June 5, 2019, the respondents acknowledged the May 31st request, described in paragraph 2, above.
4. By letter dated June 11, 2019, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to promptly provide him records responsive to his May 31st request. At the hearing, the complainant testified that the only records at issue were body camera video recordings and dashboard and mobile video recordings.
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 the records requested by the complainant are public records and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S.

9. It is found that the respondent Police Department purchased body cameras in 2014. At the hearing, Corporal Christopher Grillo, a Department police officer, credibly testified that the body cameras were used for a short period of time, and have not been used since January 2016.

10. It is found that the Police Department purchased a dash camera approximately ten years ago. It is found that the Department has not used such dash camera or other form of mobile video for approximately eight years.

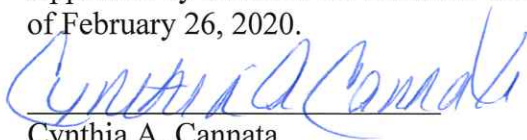
11. It is found that the respondents do not maintain any body camera video recordings and dashboard or other form of mobile video recordings responsive to the May 31st request.

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

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 26, 2020.



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:

ROBERT CUSHMAN, c/o Attorney Robert Cushman, Law Offices of Robert A. Cushman, LLC, 21 New Britain Avenue, Suite 218, Rocky Hill, CT 06067

**CHIEF, SOUTHBURY POLICE DEPARTMENT, TOWN OF SOUTHBURY;
SOUTHBURY POLICE DEPARTMENT, TOWN OF SOUTHBURY; AND TOWN OF
SOUTHBURY**, c/o Attorney Jeffrey J. Tinley, Tinley, Renehan & Dost, LLP, 255 Bank Street, Suite 2-A, Waterbury, CT 06702



Cynthia A. Cannata
Acting Clerk of the Commission