

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Kent Johnson,

Complainant

against

Docket # FIC 2020-0389

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

Respondents

January 26, 2022

The above-captioned matter was heard as a contested case on December 21, 2021, at which times the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted remotely pursuant to §149 of Public Act 21-2 (June Sp. Sess.). For hearing purposes, this matter was consolidated with Docket #FIC 2020-0390, Kent Johnson v. Board of Public Safety, City of Torrington; and City of Torrington.

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 July 29, 2020, the complainant requested from the respondents a copy of the following records:
 - (a) dash camera recordings relating to the incidents that occurred on East Main Street in Torrington on December 17, 2019 (the "incidents");
 - (b) all radio dispatch recordings and other radio communications relating to the incidents;
 - (c) reports and "all records" relating to the incidents;
 - (d) disciplinary, investigatory, administrative actions taken by the police chief relating to a citizen complaint filed on July 13, 2020;
 - (e) all citizen complaints filed against Officers Quarles and Officer Deloy for the past 10 years;

- (f) the complete file and transcripts of hearings relating to citizen complaints filed against Officers Quarles and Officer Deloy; and
- (g) the policy and procedure manual in effect at the time of the incidents.

In the July 29th letter, the complainant also asked that the respondents provide him with an explanation of how the respondent department tracks citizen complaints.

3. It is found that, by letter dated August 12, 2021, the complainant renewed his request for some of the records he requested in his July 29th letter, and in addition, requested “the investigations conducted about the citizen complainants for the use of excessive force and violation of civil rights.”

4. By email dated and filed August 17, 2020,¹ the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act G.S., by denying his requests.

5. At the time of the request, §1-200(5), G.S., provided:

“[p]ublic 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.²

6. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept 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 . . . (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with

¹ On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. S1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, through June 30, 2021. Consequently, the Commission retains jurisdiction over this matter.

² Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of “public records or files” to also include data or information that is “videotaped”.

the provisions of this subsection or diminishes or curtails in any way the rights granted by the subsection shall be void.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny 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 requested records, to the extent they are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that, by letter dated September 29, 2020, the respondents informed the complainant that they do not maintain records responsive to the request described in paragraph 2(a), above. It is found that the respondents provided the complainant with copies of all requested radio dispatch recordings responsive to the request described in paragraph 2(b), above. The complainant testified at the hearing in this matter that he did not wish to pursue his complaint as it relates to these requests.

10. With regard to the request, described in paragraph 2(c), above, it is found that the respondents provided to the complainant a copy of the CAD (computer aided dispatch) sheet related to the incidents, and that such record is the only record the respondents maintain that is responsive to this request.

11. With regard to the request, described in paragraph 2(d), above, it is found that the respondents provided to the complainant a copy of a “use of force” report. It is found that the respondents do not maintain any other records responsive to this request.

12. With regard to the request, described in paragraph 2(e), above, it is found that the respondents do not maintain any records of citizen complaints filed against Officer Deloy. It is found that Officer Quarles retired, and that therefore, personnel records, including any records of citizen complaints filed against him, are not maintained by the respondent department, but rather, are maintained by the city’s personnel department.

13. With regard to the request, described in paragraph 2(f), above, it is found that no responsive records exist relating to Officer Deloy. It is found that, to the extent any transcripts of hearings relating to any complaints filed against Officer Quarles exist, such transcripts are not maintained by the police department, but rather, would be maintained by the city’s personnel department.

14. With regard to the request, described in paragraph 2(g), above, it is found that the respondents do not maintain a policy and procedure manual.

15. With regard to the complainant’s question about the respondent department’s tracking system, it is well settled that a public agency is not required under the FOI Act to answer questions.

16. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act as alleged, with regard to the July 29th request, described in paragraph 2, above.

17. With regard to the August 12th request, described in paragraph 3, above, it is found that the respondents misunderstood the request and believed they had previously responded to it. At the hearing in this matter, the respondents' witness Lieutenant Wityak testified that it would be difficult to search for records responsive to this request because it is very broad, and does not identify a specific investigation or specific date or time frame. In addition, Lt. Wityak testified that a determination as to which investigations involved complaints of excessive use of force and violation of civil rights would require the respondents to conduct research.

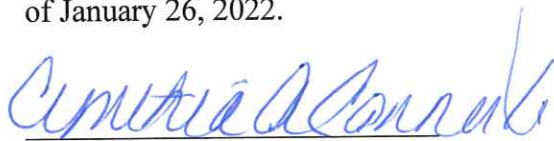
18. At the hearing in this matter, the complainant acknowledged that the request for "investigations" was unclear and stated that he would make a new request for the specific records he was seeking.

19. Based on the facts and circumstances of this case, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged by the complainant with respect to the August 12th request.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 26, 2022.



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:

KENT JOHNSON, 233 East Main Street, Torrington, CT 06790

CHIEF, POLICE DEPARTMENT, CITY OF TORRINGTON; POLICE DEPARTMENT, CITY OF TORRINGTON; AND CITY OF TORRINGTON, c/o Attorney Victor M. Muschell, Office of the Corporation Counsel, City of Torrington, 140 Main Street, Torrington, CT 06790



Cynthia A. Cannata
Acting Clerk of the Commission