

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Kent Johnson,

Complainant

against

Docket # FIC 2020-0390

Board of Public Safety, 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 2020-0389, Kent Johnson v. Chief, Police Department, City of Torrington; Police Department, 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 30, 2020, the complainant requested from the respondents the answers to several questions relating to citizen complaints of police misconduct. In addition, the complainant requested a copy of the following records:
 - (a) documentation and investigation files "from whoever was handling my complaint from June 7, 2020 forwarded by [the] state police...";
 - (b) all citizen complaints alleging excessive force and violation of "search and seizure rights";
 - (c) "the entire file from internal affairs of investigations of excessive force";
 - (d) "written and/or audio recording of the reaction from each of those concerned with the police oversight after viewing the video...";

(e) “the appeal process for the mishandling of complaints against the Torrington Police Department.”

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 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 exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

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, for the duration of the current public health and civil preparedness emergency. 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”.

9. It is found that the respondent Board, made up of publicly elected volunteers, is part of the city's executive branch. The Board approves the budgets and expenditures of the city's police and fire departments, and is responsible for hiring the police and fire chiefs. It is found that the Board has no oversight over internal affairs investigations or complaints of police misconduct.

10. With regard to the request, described in paragraph 2, above, it is well established that a public agency is not required under the FOI Act to answer questions. With regard to the request for records, it is found that the respondents do not maintain any records responsive to such request.

11. Based upon the foregoing, it is concluded that the respondents did not violate the §§1-210(a) and 1-212(a), G.S., as alleged.

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

BOARD OF PUBLIC SAFETY, CITY OF TORRINGTON; AND CITY OF TORRINGTON, c/o Attorney Victor M. Muschell, Corporation Counsel, 140 Main Street, Torrington, CT 06790



Cynthia A. Cannata
Acting Clerk of the Commission