

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Robert Hagar,

Complainant

against

Docket # FIC 2022-0027

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

Respondents

October 26, 2022

The above-captioned matter was heard as a contested case on May 31, 2022, at which time the complainant and the respondents appeared, stipulated to certain facts, 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 through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session), as amended by §1 of Public Act 22-3.

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 email dated November 1, 2021, the complainant requested that the respondents provide him with a copy of "all body worn camera videos related to incident reports 21-14563 and 21-14743" and "any statements given by Mr. Ian Ratchford or Michael Kobylanski."
3. It is found that, by email dated November 1, 2021, the respondents acknowledged the complainant's request.
4. It is found that, by emails dated January 2 and January 19, 2022, the complainant contacted the respondents inquiring about the status of his request. It is further found that, by email dated January 19, 2022, the respondents notified the complainant that his request remained under review.
5. By email of complaint filed January 19, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for public records identified in paragraph 2, above.
6. Section 1-200(5), G.S., provides:

“[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, videotaped, printed, photostated, photographed or recorded by any other method.

7. 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.

8. 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.”

9. It is found that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. At the hearing, the respondents contended that all video recordings responsive to the complainant’s request were provided to the complainant, and that, although they identified one responsive signed witness statement, such statement was withheld pursuant to §1-210(b)(3)(C), G.S. The complainant disputed the respondents’ contention.

11. With respect to the requested video recordings, it is found that the respondents conducted a reasonable and diligent search and identified two videos responsive to the complainant’s request. It is found that on April 1, 2022, the respondents provided the complainant with a copy of the first video.

12. It is found that the respondents subsequently notified the complainant that he would receive an email from “evidence.com” with a link to the second video. It is further found that the respondents requested that the complainant notify them if he did not receive such email and link.

13. However, at the hearing, the complainant testified that he never received the email and link, and that he emailed the respondents to notify them that he had not received it. It is further found that, at the time of the hearing, the respondents learned that the complainant did not receive the email and link to the second video. The complainant provided no evidence regarding any additional attempts to obtain the requested video recording.

14. Based on the facts and circumstances of this case, it is found that the respondents did not deny the complainant's request for the video recordings and therefore did not violate the disclosure provisions of the §§ 1-210(a) and 1-212(a), G.S., when they provided a copy of the first video and made the second video available to the complainant.

15. With respect to the respondents' claim that the signed witness statement is exempt from disclosure pursuant to §1-210(b)(3)(C), G.S., the respondents submitted a copy of such record, along with an index to records submitted for in camera inspection, to the hearing officer. Such record is hereinafter identified as IC-2022-0027-001.

16. Section 1-210(b)(3)(C), G.S., provides, in relevant part, that nothing under the FOI Act requires the disclosure of:

[r]ecords of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of such records would not be in the public interest because it would result in the disclosure of ... signed statements of witnesses....

17. After a careful in camera inspection, it is found that IC-2022-0027-001 is a record of a law enforcement agency that is not otherwise available to the public and that such record was compiled in connection with the detection or investigation of a crime. It is further found that such record is a signed statement of a witness. It is therefore concluded that IC-2022-0027-001 is exempt from disclosure pursuant to §1-210(b)(3)(C), G.S.

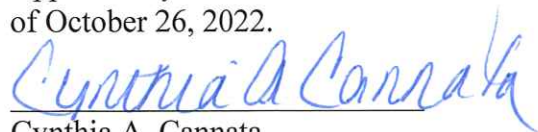
18. The complainant contended that he should be provided with a copy of IC-2022-0027-001 because he believes he knows the identity of the witness and therefore the record is not exempt. However, whether or not the complainant knows the identity of the witness has no bearing on the applicability of the exemption.

19. Accordingly, it is 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.
2. The respondents are encouraged to work with the complainant to ensure that the complainant receives a copy of the second video, referenced in paragraphs 13-15, above.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 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:

ROBERT HAGAR, 263 Montauk Avenue, New London, CT 06320

CHIEF, POLICE DEPARTMENT, CITY OF GROTON; POLICE DEPARTMENT, CITY OF GROTON; AND CITY OF GROTON, c/o Attorney Bryan L. LeClerc, Berchem Moses P.C., 75 Broad Street, Milford, CT 06460



Cynthia A. Cannata
Acting Clerk of the Commission