

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Michael Iezzi,

Complainant

against

Docket #FIC 2022-0069

John Sullivan, Chief, Police Department,
Town of Hamden; Police Department, Town
of Hamden; and Town of Hamden,

Respondents

January 13, 2023

The above-captioned matter was heard as a contested case on September 13, 2022, at which time the complainant and the respondents appeared 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 email to the respondents dated January 12, 2022, the complainant requested the following records: “[a]ny and all reports, statements, notes, audio records, body cams, photos and emails regarding case #21-51189.”
3. It is found that, by letter dated February 8, 2022, the respondents denied the complainant’s request, claiming that the responsive records were exempt from disclosure.
4. By email dated February 10, 2022, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records, described in paragraph 2, above. The complainant also requested the imposition of civil penalties.
5. 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 1-218, whether such data or information be handwritten, typed, tape-recorded,

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

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

[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.

7. Section 1-212(a), G.S., provides, in relevant part: “[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 are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. At the hearing, the respondents contended that the requested records were exempt from disclosure pursuant to §§1-210(b)(3)(H) and 1-216, G.S.

10. At the conclusion of the hearing in this matter, the respondents submitted the requested records for in camera inspection, along with an in camera index. On the in camera index, the respondents contended that all of the in camera records are exempt from disclosure pursuant to §1-210(b)(3)(H), G.S.

11. Section 1-210(b)(3)(H), G.S., provides, in relevant part:

[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 said records would not be in the public interest because it would result in the disclosure of... uncorroborated allegations subject to destruction pursuant to section 1-216.

12. Section 1-216, G.S., provides that:

...records of law enforcement agencies consisting of uncorroborated allegations that an individual has engaged in criminal activity shall be reviewed by the law enforcement agency one year after the creation of such records. If the existence of the alleged criminal activity cannot be corroborated within ninety days of the commencement of

such review, the law enforcement agency shall destroy such records.

13. It is found that the complainant was the subject of a criminal investigation, based upon a complaint made against him by a third party. It is also found that the complainant was later notified by the respondent police department that he was no longer the subject of the investigation. It is found that the complainant submitted his FOI request after he received such notification.

14. At the hearing in this matter, the complainant conceded that the requested records contain uncorroborated allegations. The complainant argued, however, that as the subject of such uncorroborated allegations, he should have a special right of access to these records. The complainant also argued that, to the extent such records contain personal information or the names of other individuals, such information could be redacted prior to disclosure.

15. After a careful inspection of the in camera records, and after consideration of the testimony and other evidence provided at the hearing, it is found that such records are records of a law enforcement agency “not otherwise available to the public which records were compiled in connection with the detection or investigation of a crime” and that such records contain uncorroborated allegations that an individual has engaged in criminal activity and are subject to destruction under §1-216, G.S., pursuant to §1-210(b)(3)(H), G.S.

16. Additionally, our appellate court has determined that the entirety of a record containing uncorroborated allegations of criminal activity is exempt from disclosure and that portions of such records cannot be disclosed. See Bona v. Freedom of Info. Comm’n, 22 Conn. App. 622 (1997).

17. Based on the foregoing, it is concluded that all of the in camera records are exempt from disclosure pursuant to §§1-210(b)(3)(H) and 1-216, G.S.

18. It is found that, in this case, the complainant is asking the Commission to enforce a private right to view the records in his capacity as the subject of the allegations.

19. However, the FOI Act vindicates the public’s right to access public records, rather than a particular person’s specific rights. See Chief of Police v. FOI Comm’n, 252 Conn. 337, 387 (2000) (“[W]hether records are disclosable under the [FOI Act] does not depend in any way on the status or motive of the applicant for disclosure, because the act vindicates the public’s right to know, rather than the rights of any individual.”).

20. It is concluded, therefore, that this Commission lacks jurisdiction to enforce a private right of access to the requested records, should one exist.

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

22. Because the respondents did not violate the FOI Act under the facts of this case, consideration of the complainant's request for the imposition of civil penalties is not warranted.

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 special meeting of January 13, 2023.



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:

MICHAEL IEZZI, c/o Attorney Benjamin S. Proto, Jr., Attorney at Law, 2885 Main Street, Stratford, CT 06614

**JOHN SULLIVAN, CHIEF, POLICE DEPARTMENT, TOWN OF HAMDEN;
POLICE DEPARTMENT, TOWN OF HAMDEN; AND TOWN OF HAMDEN**, c/o
Attorney Susan Gruen, Office of the Town Attorney, 2750 Dixwell Avenue, Hamden, CT
06518 and Attorney Bryan L. LeClerc, Berchem Moses P.C., 75 Broad Street, Milford, CT
06460



Cynthia A. Cannata
Acting Clerk of the Commission