

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Joseph Rossetti,

Complainant

against

Docket #FIC 2023-0394

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

Respondents

July 10, 2024

The above-captioned matter was heard as a contested case on December 27, 2023, at which time the complainant and the 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 April 11, 2023, the complainant requested that the respondents provide him with copies of the following records pertaining to Caroline Anne Ashworth or Michael Mollow, and 30 W. Haycock Point Road, in Brandford, Connecticut:
 - a. [a]ny and all 911/emergency calls for any and all information originating from or regarding either of the above-referenced individuals and above-referenced property in the past ten (10) years;
 - b. [a]ny and all photographs, dash cam footage with audio for any and all incidents regarding the above-referenced individuals and above-referenced property in the past ten (10) years; and

- c. [a]ny and all incident reports and/or police reports for any and all incidents regarding the above-referenced individuals and above-referenced property for the past ten (10) years.

3. It is found that, by letter dated April 12, 2023, the respondents acknowledged the request.

4. It is found that, by email dated July 21, 2023, the complainant renewed the request set forth in paragraph 2, above, with the respondents.

5. It is found that, by email dated July 24, 2023, the respondents acknowledged the July 21, 2023 request.

6. By email dated and filed August 7, 2023, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with a copy of the requested records.

7. 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.

8. 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.

9. 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."

10. It is concluded that the records requested by the complainant are public records within the meaning of §§ 1-210(a) and 1-212(a), G.S.

11. It is found that on August 22 and August 23, 2023, the parties worked together to narrow the request set forth in paragraph 2, above, thereby excluding from the request all records related to false burglar alarms and matters concerning carbon dioxide detectors.

12. It is found that, on August 25, 2023, the respondents provided the complainant with multiple case incident reports and two computer aided dispatch reports and informed the complainant that they were withholding two case incident reports pertaining case number 22-15203¹ and case number 22-15696 (the “family dispute matters”). It is further found that, on September 25, 2023, the respondents provided the complainant with multiple 911/Audio files and informed the complainant that they were withholding similar records pertaining to the family dispute matters. It is further found that, on September 29, 2023, the respondents provided the complainant with all body-worn-camera (“BWC”) recordings and all dashboard-camera recordings that they maintained, other than those related to family dispute matters. Specifically, it is found that the respondents provided the complainant with 14 BWC recordings and 7 dashboard-camera recordings. Finally, it is found that, on October 6, 2023, the respondents provided the complainant with multiple photographs pertaining to the case incident reports that had been disclosed on August 25, 2023, and informed the complainant that they were withholding photographs pertaining to the family dispute matters.

13. At the contested case hearing, the complainant contended that, because the two individuals involved in the family dispute matters referenced in paragraph 12, above, are now deceased, he should have received all of the records pertaining to such matters.

14. The respondents contended that the records pertaining to the family dispute matters contain uncorroborated allegations and are therefore exempt from disclosure pursuant to §1-210(b)(3)(H), G.S.

15. The respondents submitted the records at issue to the Commission for in camera inspection (the “in camera records”). The in camera records are fairly described as follows: one 3-page Case/Incident Report; one 1-page Supplemental Case/Incident Report; three pages of Computer-Aided-Dispatch (“CAD”) Remarks; one 2-page Case/Incident Report; four pages of CAD Remarks; four 911 recordings; and a thumb drive containing seven BWC videos.

16. Section 1-210(b)(3)(H), G.S., provides, in relevant part, that nothing in the FOI Act shall require 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 a crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of . . . (H) uncorroborated allegations subject to destruction pursuant

¹ At the hearing, the respondents acknowledged that in some of the exhibits they refer to the first case incident report as case number “23-15203,” but the correct case number is 22-15203.

to section 1-216.

17. Section 1-216, G.S., which section is read in conjunction with §1-210(b)(3)(H), G.S., provides as follows:

[e]xcept for records the retention of which is otherwise controlled by law or regulation, 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.

18. Upon careful in camera inspection, it is found that the in camera 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 crime.

19. In Docket #FIC 94-291, Rachel Gottlieb and The Hartford Courant v. State of Connecticut, Department of Public Safety, Division of State Police (May 24, 1995), (hereinafter "Gottlieb"), the Commission determined that Black's Law Dictionary, Sixth Edition (1990), defines "corroborate" as "to strengthen, to add weight or credibility to a thing by additional and confirming facts or evidence." In addition, the Commission determined that Ballentines Law Dictionary, Third Edition (1969) defines corroborate as "to state facts tending to produce confidence in the truth of a statement made by another," and that Funk & Wagnall New Standard Dictionary of the English Language (1946) defines corroborate as "to give increased support to; make more sure or evident."

20. In Gottlieb, the Commission found that "the reports [at issue] contain similar accounts relayed to the interviewees concerning allegations under investigation." The Commission went on to find that "the requested reports contain allegations which were corroborated."

21. After careful in camera inspection, it is found that there are no similar accounts of the underlying events like those determined to exist in Gottlieb, nor is there any evidence in the case incident reports or other related records that tends to strengthen, add weight, or support the allegations contained in the in camera records. Moreover, the fact that certain individuals who may appear or be discussed in the in camera records are now deceased does not alter the analysis directed by the provisions contained in §§1-210(b)(3)(H) and 1-216, G.S.

22. It is concluded that the disclosure of the camera records would result in the disclosure of uncorroborated allegations subject to destruction within the meaning of §§1-210(b)(3)(H) and 1-216, G.S. It is further concluded that the in camera records are permissively exempt from disclosure pursuant to the provisions of §§1-210(b)(3)(H) and 1-

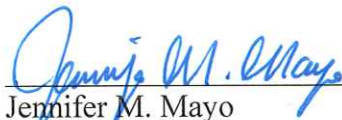
216, G.S.

23. It is therefore concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to disclose the in camera records referenced in paragraph 15, above, to the complainant.

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 July 10, 2024.



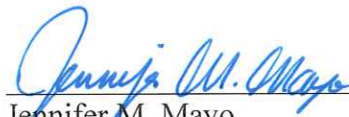
Jennifer M. Mayo
Acting Clerk of the Commission

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:

JOSEPH ROSSETTI, c/o Attorney Amita P. Rossetti, Renehan & Rossetti, LLP, 134 Highland Avenue, Waterbury, CT 06708

CHIEF, POLICE DEPARTMENT, TOWN OF BRANFORD; POLICE DEPARTMENT, TOWN OF BRANFORD; AND TOWN OF BRANFORD, c/o Attorney Ian E. Bjorkman, Ryan & Ryan, LLC, 900 Chapel Street, Suite 621, New Haven, CT 06510



Jennifer M. Mayo
Acting Clerk of the Commission