

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Joao Campos,

Complainant

against

Docket #FIC 2023-0581

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

Respondents

October 23, 2024

The above-captioned matter was heard as a contested case on May 28, 2024 at which time the complainant and 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 on October 3, 2023¹ the complainant submitted a request to the respondents seeking to inspect and/or obtain copies of:
 - a. records for “incidents/complaints reported to any Monroe police department employee by anyone in regards to Joao Campos, by anyone in regards to my child Elissa Campos, by anyone in regards to my child Antonio Campos, and by anyone in regards to Suzanne Campos for the following dates:

Between the dates of January 1st, 2020, through August 14th, 2022.

Between October 1st, 2022, and [November 27, 2022].

Between August 17th, 2023, through October 3rd, 2023.”

¹ Hereinafter, the “October 3 request.”

- b. “All reports, notes, phone [call] transcripts, all body camera video footage, all phone log records, all audio records, all contact notes to parties involved in investigation of reported missing child Antonio Campos, any other electronic/audio, any other electronic/audio/phone/written record/written notes, other documents or electronic data not mentioned here, etc. from all Town of Monroe Police Department employees involved with investigations.”

3. It is found that on October 6, 2023, the respondents, via counsel’s office, acknowledged the complainant’s October 3 request.

4. It is found that on October 26, 2023, the respondents informed the complainant, via email, that records responsive to a number of the complainant’s records requests were available for pick up at the Monroe Police Department. It is further found that the respondents subsequently clarified that such records included the records responsive to the complainant’s October 3 request.

5. It is found that the complainant was able to retrieve and review the records referenced in paragraph 4, above, shortly after the respondents informed him of their availability.²

6. By letter of complaint filed on November 17, 2023, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by not providing all records in response to his October 3 request.

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

² The complainant did not provide the specific date on which he retrieved such records from the respondents; however, it is not disputed that by the time of the complainant’s November 17, 2023 complaint to the Commission, the complainant had retrieved such records.

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

11. During the contested case hearing in this matter, the complainant indicated that, in response to his October 3 request, he received several police reports and a flash drive containing body camera footage. However, the plaintiff maintained that based on the contents of such police reports, additional records responsive to his October 3 request must exist but were not provided to him.³

12. Specifically, the complainant identified the following records as missing from the records the respondents provided in response to his October 3 request:

- a. Body camera footage corresponding to some of the interactions between police officers and individuals referenced in the police reports identified in paragraph 11, above;
- b. A picture of a text message conversation that was shown to a police officer, as referenced in Complainant’s Exhibit D;
- c. The record corresponding to “Reference Case # 2000003526” referenced in Complainant’s Exhibit F; and
- d. The Family Violence Offense Report referenced in Complainant’s Exhibit F.

Body Camera Footage

13. The complainant maintains that the respondents failed to provide body camera footage depicting some of the interactions described in Complainant’s Exhibits C, D, E, and F respectively.⁴

³ The police reports referenced by the complainant are titled “Case/Incident Reports” on the face of the records. Four such reports were provided to the complainant in response to his October 3 request – CFS# 2200004488, CFS# 2100017065, CFS# 2000017631, and CFS# 2000006268. These reports are in evidence as Complainant’s Exhibit C, D, E, and F respectively. For ease of reference, the Commission will refer to such reports as “police reports.”

⁴The complainant testified that he had received some body camera footage responsive to his October 3 request, but that some footage appeared incomplete, showing only portions of an interaction. Furthermore, the complainant testified that some interactions described in Complainant’s Exhibits C, D, E, and F had no corresponding body camera footage.

14. The complainant further maintains that such footage should exist because the respondents operate under a policy that requires: (i) police officers to activate their body camera when interacting with members of the public; and (ii) retain footage therefrom for up to four years.⁵

15. The respondents assert that all relevant body camera footage they maintained at the time of the complainant's October 3 request was provided to him.

16. It is found that the respondents maintain a searchable electronic database of all body camera footage maintained by the respondent police department. Such database was identified as "Watch Guard" by the respondent Chief.

17. The respondent Chief testified, and it is found, that the respondents searched the Watch Guard database for responsive body camera footage using the timeframes provided by the complainant in his October 3 request. The respondent Chief further testified, and it is found, that the respondents provided the complainant with all requested body camera footage that was (i) maintained by the respondents; and (ii) identified as a result of the search of their Watch Guard database.

18. Based on the facts and circumstances of this case, it is found the respondents conducted a thorough and diligent search for the requested body camera footage and provided the complainant with all requested body camera footage, which the respondents maintained, in response to his October 3 request.

19. With respect to the complainant's contention that additional footage should exist, it is well settled that this Commission does not have jurisdiction over matters relating to the retention and destruction of public records. Rather, authority over such matters rests with the Public Records Administrator, pursuant to §§1-18 and 11-8 through 11-8b, G.S., and with the Office of the State's Attorney, pursuant to §1-240, G.S. See Jon Schoenhorn v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection et al., Docket #FIC 2022-0598 (October 11, 2023).

20. Moreover, as the respondents' disclosure obligations under the FOI Act extend only to those records which they maintain at the time of the request, the Commission lacks jurisdiction to consider whether the respondents acted properly, pursuant to their policies and procedures, with respect to the creation of a public record – in this case body camera footage. See Id. ("[N]othing in the FOI Act . . . suggests that the respondents' failure to comply with such policy constitutes a violation of the FOI Act."); see also §1-210(a), G.S. ("[A]ll records ***maintained or***

⁵The Commission takes administrative notice of the Town of Monroe Police Department's General Order 5-419, which covers, among other things, the procedures for the use of body worn cameras and the retention of body camera footage. Specifically, the Commission takes administrative notice that such order, in part, provides "[b]ody worn cameras shall be activated at the inception of the interaction with the public in a law enforcement capacity." See General Order 5-419, Section V A. 2. b.

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.”) (Emphasis added.)

21. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to the body camera footage requested by the complainant in his October 3 request.

Other Records the Complainant Alleges Should Have Been Provided

22. The complainant maintains that the respondents failed to provide him with other records, which he believes should exist based on the information contained in the police reports provided to him (i.e., those records identified in subparagraphs (b), (c), and (d) of paragraph 12, above.)

23. With respect to the picture of the text message shown to the police officer as referred to in Complainant's Exhibit D, it is found that such police report states, in relevant part:

Suzanne showed me⁶ a picture of a text conversation (dated 4/17/21) between Joao and his brother, Avelino Campos. The picture was given to Suzanne by her son . . . who took a picture of his dad's (Joao's) phone when he saw the conversation sometime in May of 2021.

24. It is found that Complainant's Exhibit D only indicates that the officer was *shown* a picture of the text message at issue, and nothing therein suggests that the officer was given or retained a copy of such a picture.

25. The respondent Chief testified, and it is found, that if the respondents maintained a copy of the picture referenced in Complainant's Exhibit D, it is the respondents' practice to maintain such copy in the case file corresponding with the police report.

26. Moreover, the respondent Chief testified, and it is found, that it is the respondents' practice to keep a log of any digitally stored pictures in the paper case file.

27. It is found that the respondents searched the relevant case file and did not locate either the picture described in Complainant's Exhibit D or a log indicating the picture was maintained digitally by the respondents.

28. Based on the foregoing it is found that the respondents did not maintain a copy of the picture described in Complainant's Exhibit D at the time of the complainant's October 3 request.

⁶ This report was authored by a patrol officer employed with the respondents and is written from his perspective.

29. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by not providing the complainant with a copy of the picture referenced in Complainant's Exhibit D.

30. The complainant next maintains that the record corresponding to "Reference Case # 2000003526" as identified in Complainant's Exhibit F was not provided to him by the respondents.

31. The respondents testified and, it is found, that "Reference Case # 2000003526" corresponds to a general message the respondents received via the National Criminal Information Center ("NCIC") and the Connecticut On-Line Law Enforcement Communications Teleprocessing ("COLLECT") System⁷ indicating that a criminal protective order had been issued.

32. The respondents maintained that pursuant to federal law, they are not authorized to disclose NCIC records.

33. 28 U.S.C §534 is a federal statute that governs the exchange of federal records, including records contained in national crime information databases, between federal and state authorities. The Connecticut Legislature has recognized the agreement (or compact) between the federal government and the state government concerning the exchange of criminal information in §29-164f, G.S.

34. Section 29-164f, G.S., provides in relevant part, as follows:

The National Crime Prevention and Privacy Compact is hereby entered into and enacted into law with any and all of the states and the federal government legally joining therein. . . .

35. In Commissioner of Public Safety v. FOIC, et al., 144 Conn. App. 821, 827 (2013), the Appellate Court clarified that "the compact provides that the NCIC database is to be used for limited purposes authorized by law, such as background checks, and that NCIC records may only be used for official purposes." The Court concluded that §29-164f, G.S., provides a statutory exemption to the disclosure provisions of §1-210(a), G.S. Id. at 832.

36. Based on the foregoing, it is found that as a record received via the NCIC system, the respondents are prohibited from disclosing the record corresponding to "Reference Case # 2000003526," pursuant to both federal law and state statute.

⁷ The respondents testified that COLLECT is the Connecticut version of the NCIC, the Commission takes administrative notice of the fact that COLLECT is an acronym standing for the Connecticut On-Line Law Enforcement Communications Teleprocessing System.

37. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by not providing the record corresponding to “Reference Case # 2000003526” to the complainant.

38. The complainant next maintains that the respondents did not provide him with a copy of the Family Violence Offense Report referenced in Complainant’s Exhibit F.

39. It is found that Complainant’s Exhibit F states, in relevant part, that “[a] Family Violence Offense Report was completed (attached).”

40. It is found that the respondents did not provide testimony specifically addressing whether: (i) such a report existed at the time of the complainant’s October 3 request; (ii) they searched for such report; or (iii) such report was disclosed to the complainant in response to his October 3 request.

41. It is found that the only evidence in the administrative record concerning the Family Violence Offense Report indicates that such report was attached to the police report contained in Complainant’s Exhibit F.

42. However, it is found that Complainant’s Exhibit F does not include any record which, on its face, is identifiable as a Family Violence Offense Report.⁸

43. It is found, therefore, that the respondents failed to prove that they provided all responsive records to the complainant in response to his October 3 request.

44. Accordingly, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to the requested Family Violence Offense Report.

45. In his complaint, the complainant requested that the Commission “fine and apply all penalties and or fines allowed to the full extent of the law for the appeal in this matter.”

46. It is found that although the respondents failed to prove that they provided the complainant with all records responsive to his October 3 request, specifically the Family Violence Offense Report, there is no indication that the respondents acted in bad faith or engaged in a pattern of conduct resulting in repeated violations of the public’s rights under the FOI Act.

47. Accordingly, based on the facts and circumstances of this case, the Commission declines to consider the imposition of a civil penalty on the respondents.

⁸ The Commission takes administrative notice of form DPS-230-C, “Family Violence Offense Report” published by the Department of Emergency Services and Public Protection which is available at <https://portal.ct.gov/-/media/despp/csp/crimes-analysis/dps-230-c-family-violence-offense-report.pdf>. The Commission takes administrative notice of form DPS-230-C solely for the purpose of identifying the Family Violence Offense Report as a distinct record separate from the police report contained in Complainant’s Exhibit F. The Commission does not draw any conclusions as to whether DPS-230-C is the only form that may constitute a Family Violence Offense Report as referred to by the officer in Complainant’s Exhibit F.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:


1. Within fourteen (14) days of the date of the Notice of Final Decision in this matter, the respondents shall: (i) perform a thorough and diligent search for the "Family Violence Offense Report" referenced in paragraph 38 of the findings, above; and (ii) provide an affidavit to the complainant and the Commission prepared by someone with knowledge of the respondents' records and the search performed detailing the nature and scope of the search. If, after a thorough and diligent search, the respondents are unable to locate the "Family Violence Offense Report" referenced in paragraph 38 of the findings, above, the respondents shall so state in the affidavit. If the respondents are able to locate the "Family Violence Offense Report" referenced in paragraph 38 of the findings, above, the respondents shall so state in the affidavit and provide a copy of such report to the complainant, free of charge.

2. If the respondents claim that the Family Violence Offense Report referenced in paragraph 38 of the findings, above, or any portion thereof, is exempt from disclosure, they shall provide a privilege log identifying each portion of the Family Violence Offense Report claimed to be exempt and the legal basis for such claimed exemption within fourteen (14) days of the Notice of Final Decision in this matter. Notwithstanding the foregoing, the Respondents shall disclose to the complainant any portion of the Family Violence Offense Report for which no exemption is claimed, consistent with paragraph 1 of this order.

3. If the respondents fail to comply with any order contained herein, or the complainant takes issue with an exemption claimed, the complainant may file an appeal with the Commission and such appeal will be afforded expedited treatment.

4. Any affidavit or privilege log ordered herein shall be submitted to the Commission, with copy to the other party, via email at foi@ct.gov, by no later than the close of business on the dates identified in paragraphs 1 and 2 of this order respectively.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 23, 2024.


Molly Steffes
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:

JOAO CAMPOS, 404 Mariners Walk, Milford, CT 06488

CHIEF, POLICE DEPARTMENT, TOWN OF MONROE; POLICE DEPARTMENT, TOWN OF MONROE; AND TOWN OF MONROE, c/o Attorney David A. Ryan, Jr., Ryan & Ryan, LLC, 900 Chapel Street, Suite 621, New Haven, CT 06510



Molly Steffes
Acting Clerk of the Commission