FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by | FINAL DECISION

John Morgan,

Complainant

against | Docket # FIC 2025-0247

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

Respondents | April 8, 2026

The above-captioned matter was heard as a contested case on October 24, 2026, at which time the complainant and respondents appeared and presented testimony, exhibits, and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Anthony Sinchak v. Freedom of Information Commission, Docket No. CV 03-0826293, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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 June 2, 2023, the Superior Court at the Judicial District of Waterbury entered a guilty verdict against the complainant for manslaughter in the first degree, a class B felony pursuant to §53a-55(a)(1), G.S., for causing the death of another person with intent to cause serious physical injury on January 1, 2022 (see Docket # UWY-CR22-0498156-T). It is further found that the records at issue in this matter relate to such January 1, 2022, offense (hereinafter "January 1, 2022 offense").[1]

3. It is found that, by letter dated September 6, 2024, the complainant requested that the respondents provide him with copies of the following:

> I would like the Photo Copies of All Statements, Law Enforcement Reports And Affidavits within the possession of THE prosecuting Authority.

[1] The Commission takes administrative notice of the Connecticut Judicial Branch's Case Detail in Docket # UWY-CR22-0498156-T (last accessed online at www.jud2.ct.gov/crdockets on March 24, 2026).

> I will need the Body Cam Footage THE OFFICERS Took when they Entered my Home, That Night. & THEIR NAMES!
>
> Including STATE, and local law Enforcement Officers which statements, reports and affidavits were prepared concerning the offense charged.
>
> I want Everything that pertains to this case!
>
> CONN. PRACTICE BOOK 2024
> (Sec. 40-13A) LAW ENFORCEMENT REPORTS, AFFIDAVITS AND STATEMENTS [...]

(hereinafter "September 2024 request"). (Capitalization included; underscored emphasis added.)

4. It is found that, by letter dated September 24, 2024, the respondents acknowledged the complainant's September 2024 request.

5. It is found that, by undated letter received by the respondents on November 21, 2024, the complainant requested that the respondents provide him with copies of the following:

> This is my second time trying to get my Discovery From the WTBY police Records. It's Been over A couple weeks. (I Also want the video of Body Cam Footage!) Still waiting please Help.
>
> I AM Still waiting For All Photo copies of All statements law Enforcement Reports and Affidavits with in [sic] the possession of the prosecuting Authority. I will Need the Body Cam Footage the OFFICERS took when they entered my Home, THAT Night, And their NAMES! Including state, and local law enforcement OFFICERS which statements Reports and Affidavits were prepared concerning the offense CHaRgEd. I want Everything THAT pertains to this case [...]

(hereinafter "November 2024 request"). (Capitalization included; underscored emphasis added.)

6. It is found that, by letter dated November 21, 2024, the respondents acknowledged the complainant's November 2024 request and also reacknowledged the complainant's September 2024 request, which was still pending at that time.

7. It is found that, by letter dated March 5, 2025 and received by the respondents on March 17, 2025, the complainant requested that the respondents provide him with copies of the following records pertaining to docket number UWY-CR22-0498156-T:

> [A]ll records, reports, audio, video and digital recordings, body-cam videos, and photographs for the above-referenced matter, and all co-

> defendants in this matter, including but not limited to: all electronically stored reports, data and other material relating to the above-captioned incident; all incident reports and any attachments; accident reports; test results; all video recordings, audio recording and body-cam videos; all digital records of or in the barracks, garage, sally port, booking room and processing room; all MVR with audio, mobile video, audio and digital recordings, and dashboard audio, digital, body-cam video and video recordings, and related CD's; all video, digital, and audio recordings including all officer contacts with the dispatch; any and all recordings involving third party's contacts or attempts to contact the defendant; all audio, video, body-cam video, and digital records in the police station and over the phone; all statements of witnesses and defendants; all color and black and white photographs; all property seized; all documents, including all tapes, transcriptions or other recordings of all telephone calls to the Department from any party or witness reporting or informing of this incident, including all incident reports, dispatcher recordings, and dispatcher tapes; all records, recordings, or broadcasts concerning this incident by any law enforcement agency involved; all handwritten, typewritten, electronically stored or any other notes, including rough notes transcribed by any officer in connection with this case; and any and all other records and reports. This request is being made pursuant to Connecticut General Statutes Sections 1-200 et seq. of the Freedom of Information Act.
>
> [...] Records, Audio and Video Recordings, telephone logs and Recordings, Photographs and other Pertinent Evidence! Im [sic] in Need of this evidence and Information For my upcoming Writ of Habeas Corpus Trail [sic] under docket #CV-25-5001987-S [...]

(hereinafter "March 2025 request"). (Capitalization included; underscored emphasis added.)

8. It is found that, by letter dated March 19, 2025, the respondents acknowledged the complainant's March 2025 request and also reacknowledged his September 2024 request and November 2024 request, which were still pending at that time.

9. By letter of complaint, received by and filed with the Commission on April 11, 2025, 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 all records responsive to his requests.

10. Section 1-200(5), G.S., provides as follows:

> "[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.

11. Section 1-210(a), G.S., provides the following 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.

12. 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."

13. It is concluded that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

14. It is found that, by letter dated July 11, 2025, the complainant gave the respondents permission to release to his sister any records responsive to his requests.[2]

15. It is found that, on October 6, 2025, the respondents provided records to the complainant's sister that they purported were responsive to the complainant's September 2024, November 2024, and March 2025 requests, which related to Docket #UWY-CR22-0498156-T.

16. At the hearing on this matter, the complainant represented that he designated his sister to retrieve the records from the respondents because he was concerned that, if the respondents provided the records to him, the Department of Correction might withhold or further redact the records due to his status as an incarcerated individual.

17. It is found that, at the time of the hearing on this matter, the complainant had not viewed any body worn camera ("BWC") footage provided by the respondents to his sister and had relied exclusively on his sister's representations of its contents when he filed the complaint in this matter. It is further found that the respondents did not challenge the complainant's representations of, or testimony regarding, the contents of such footage.

18. It is also found that, during the hearing on this matter, the complainant narrowed the scope of his complaint, described in paragraph 9, above, to challenge only the respondents' redaction of the BWC footage that they had provided in response to his September 2024,

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[2] The Commission notes that, although the complainant did not explicitly reference his September 2024, November 2024, and March 2025 requests in such letter, this discrepancy was not at issue; the respondents appear to have understood such reference implicitly, as the subject matter of these three requests was substantially similar.

November 2024, and March 2025 requests. Specifically, the complainant represented that he sought unredacted BWC footage depicting "the body with me sitting in the kitchen on the floor." The complainant further represented that he had previously been shown such unredacted footage by his prior lawyer when incarcerated at Walker Correctional Institution; however, his sister informed him that such images were "totally cut out of the video -- gone" in the footage provided by the respondents.

19. It is found that the images specifically sought by the complainant, described in paragraph 18, above, were captured at the scene of the January 1, 2022 offense.

20. At the hearing on this matter, the respondents contended that the redacted BWC footage requested by the complainant, described in paragraphs 18 and 19, above, is exempt from disclosure pursuant to §1-210(b)(27), G.S., which provides the following in relevant part:

> Nothing in the Freedom of Information Act shall be construed to require disclosure of [...] [a]ny record created by a law enforcement agency or other federal, state, or municipal governmental agency consisting of a photograph, film, video or digital or other visual image depicting (A) [...] (ii) a victim of homicide [...] if disclosure could reasonably be expected to constitute an unwarranted invasion of the personal privacy of the victim or the victim's surviving family members [...].

21. Neither the Commission nor the Connecticut state courts have previously construed the language in §1-210(b)(27), G.S.

22. Regarding the first of the three elements in the respondents' claimed exemption, it is found that the redacted BWC footage at issue in this matter is a "record created by a law enforcement agency," specifically by the respondent Waterbury Police Department, which dispatched officers equipped with BWCs to the scene of the January 1, 2022 offense.

23. It is further found that the record at issue consisted of digital visual images captured by BWCs.

24. Therefore, it is concluded that the records at issue were "created by a law enforcement agency [...] consisting of a photograph, film, video or digital or other visual image," within the meaning of §1-210(b)(27), G.S., thus satisfying the first element of the exemption.

25. The second of the three elements in the respondents' claimed exemption pertains to the contents of the public record, specifically images depicting "a victim of homicide." The term "homicide" is not defined in the general statutes, nor is the term "homicide," itself, a crime under Connecticut law.

26. In seeking to determine the meaning of statutory language, §1-2z, G.S., requires that the text of the statute itself, and its relationship to other statutes, be considered first. If the

meaning of the text is "plain and unambiguous" and does not yield "unworkable" results, extratextual evidence of the meaning of the statute may not be considered. See Lieberman v. Aronow, 319 Conn. 748, 756-7 (2015). "The test to determine ambiguity is whether the statute, when read in context, is susceptible to more than one reasonable interpretation." (Internal quotation marks omitted.) Id.

27. In addition, §1-1(a), G.S., provides:

> [i]n the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language; and technical words and phrases, and such as have acquired a peculiar and appropriate meaning in the law, shall be construed and understood accordingly.

28. Webster's Third New International Dictionary Unabridged (Merriam-Webster Inc.: 1993), defines "homicide" to mean, in relevant part:

> 1: a person who kills another person: manslayer [...] 2a: a killing of one human being by another ([e.g.,] tabloid headlines about the latest homicide); *specif*: a killing of a human being through human agency ([e.g.,] charged with drunken driving and vehicle homicide) [...].

29. Black's Law Dictionary, Eighth Edition (Thomson West: 2004) defines "homicide" to mean, in relevant part: "[t]he killing of one person by another [...]."

30. Based on the principles of statutory construction, it is concluded that the term "homicide," on its face and by definition, is "plain and unambiguous" and includes the criminal killing of one person by another, such as "manslaughter in the first degree," as defined in §53a-55(a)(1), G.S.

31. It is further concluded that the manslaughter victim depicted in the redacted BWC footage at issue, under commonly approved usage of the English language, is the victim of a "homicide," within the meaning of §1-210(b)(27), G.S., thus satisfying the second element of the exemption.

32. Given that the redacted BWC footage at issue satisfies the first two elements of §1-210(b)(27), G.S., whether such footage is permissibly exempt from public disclosure depends on whether its release "could reasonably be expected to constitute an unwarranted invasion of the personal privacy of the victim or the victim's surviving family members." Such phrase has not previously been construed by either the Commission or the Connecticut state courts; however, it has been construed by the U.S. Supreme Court in the context of the federal FOI Act, 5 U.S.C. §552.

33. Specifically, 5 U.S.C. §552(b)(7)(C), known as "Exemption 7(C)," provides that federal law enforcement records are exempt from disclosure to the extent that such records "could reasonably be expected to constitute an unwarranted invasion of privacy."

34. The United States Supreme Court interpreted Exemption 7(C) in National Archives and Records Administration v. Favish, 541 U.S. 157 (2004) ("Favish").

35. In Favish, an interested citizen, Allan Favish, questioned the government's various investigations into the death of Vincent Foster, Jr., deputy counsel to President Clinton, each of which had concluded that Foster had committed suicide. Favish requested, under the federal Freedom of Information Act, the color photographs showing the condition of Foster's body at the scene. The government denied the request, claiming the photographs were exempt from disclosure under Exemption 7(C). Favish then sued in federal district court for an order requiring disclosure of the photographs. The district court held that the exemption applied; however, on appeal to the United States Court of Appeals for the Ninth Circuit, the district court's decision was reversed and the case remanded. On remand, the district court ordered five of the photographs released. On appeal again to the Ninth Circuit, the court upheld the release of four of the five photographs.

36. The U.S. Supreme Court reversed the decision of the Ninth Circuit. According to the Court, private citizens have a strong privacy interest in information about them that is contained in government records "as the result of mere happenstance," and the term "unwarranted" in Exemption 7(C) requires a balancing of "the family's privacy interest against the public interest in disclosure." Favish at 166, 171.

37. After concluding that Foster's family had a privacy interest in the photographs that was protected by Exemption 7(C), the Court in Favish addressed the showing necessary to demonstrate a public interest in disclosure in a case in which government misconduct is alleged.[3] Noting that there is a presumption that the government has acted properly, the Court ruled that a requester in such case must have more than a "bare suspicion," but rather "must produce evidence that would warrant a belief by a reasonable person that the alleged government impropriety might have occurred." Id. at 174. Only after a requester makes such a showing will there be "a counterweight on the FOIA scale to balance against the cognizable privacy interests in the requested records." Id. at 174-175. According to the Court, Favish did not produce any evidence that would warrant a belief by a reasonable person that the alleged government impropriety might have occurred, and therefore "the balance [did not come] into play." Id. at 175.

38. In interpreting §1-210(b)(27), G.S., the Commission is guided by the Favish Court's interpretation of Exemption 7(C), the language of which is identical to the language in §1-210(b)(27), G.S.

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[3] According to the Court, "government impropriety" or misconduct, occurs when "responsible officials act[] negligently or otherwise improperly in the performance of their duties." Favish at 173.

39. Applying the Favish analysis to the present case, first, with respect to whether privacy concerns are present regarding the redacted BWC footage at issue, it is found that the footage is a government record containing information about the victim as the result of "mere happenstance," depicting the state of the victim's body after his untimely death. Based upon the complainant's own graphic testimony, it is found that the redacted BWC footage at issue depicts the gruesome nature of such images, which testimony the respondents did not dispute.

40. Given the gruesome nature of the images the complainant seeks; and that the underlying homicide occurred within the last five years, in 2022; it is found that privacy concerns are present. Therefore, the Commission must next determine whether the victim himself or the victim's family's "personal privacy" is at issue.

41. In Favish, the U.S. Supreme Court briefly contemplated Congress' intended definition of "personal privacy" in federal FOIA Exemption 7(C) in the context of convicted felons requesting images of their victims:

> As a general rule, withholding information under FOIA cannot be predicated on the identify of the requester [...]. We are advised by the Government that child molesters, rapists, murderers, and other violent criminal often make FOIA requests for autopsies, photographs, and records of their deceased victims. Our holding ensures that the privacy interest of surviving family members would allow the Government to deny these gruesome requests in appropriate cases. We find it inconceivable that Congress could have intended a definition of "personal privacy" so narrow that it would allow convicted felons to obtain these materials without limitations at the expense of surviving family members' personal privacy.
>
> For these reasons, [...] we hold that FOIA recognizes surviving family members' right to personal privacy with respect to their close relative's death-scene images.

42. The Commission must also consider the Connecticut General Assembly's intent regarding the definition of "personal privacy" and its applicable claimants.

43. Our state legislature added the exemption in §1-210(b)(27), G.S., to the FOI Act in response to the massacre at Sandy Hook Elementary School, in which 26 students, teachers, and administrators were murdered in 2012. It is found, based upon both the plain language of the statutory exemption and session transcripts for Substitute Senate Bill 1149 (2013)[4] that the legislature intended to protect the privacy rights of both homicide victims and the victims' family members. Senate President Donald Williams introduced the bill on the Senate floor:

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[4] Public Act 13-311, §2, An Act Limiting the Disclosure of Certain Records of Law Enforcement Agencies and Establishing a Task Force Concerning Victim Privacy Under the Freedom of Information Act.

> Behind me, Madam President, are some of the parents and relatives of those who lost loved ones at Sandy Hook. The interests that we balance are critical to them. They are also critical to our democracy.
>
> Abraham Lincoln said, "Let the people know the facts and the country will be safe." Walter Lippmann said, "The theory of a free press is that the truth will emerge from free reporting and discussion not that it will be presented perfectly and instantly in any one account."
>
> At the same time, Madam President, Justice Louis Brandeis many years ago recognized an essential right to privacy in the United States. That right to privacy has evolved over decades, and most recently, just last year in the U.S. Court of Appeals in the Ninth Circuit, the case of Marsh v. County of San Diego was decided.
>
> [....] The court in Marsh held the Constitution protects a parent's right to control the physical remains, memory and images of a deceased child against unwarranted public exploitation.
>
> So, Madam President, that's what we have worked very hard to balance: the public's right to know with the constitutionally protected right to privacy.
>
> In Section 2, Madam President, we address the same issue that was addressed in the Ninth Circuit in Marsh: that is, images, photographs, film, video, digital or otherwise, depicting the victim of a homicide; we create a new exemption under our Freedom of Information statutes.
>
> This statute tracks closely language that is in the federal Freedom of Information exemption, and it protects it such that the image could be reasonably expected to constitute an unwarranted invasion of the personal privacy of the victim or the victim's surviving family members.

56 S. Proc., Pt 16, 2013 Sess., pp. 5146-5148.

44. However, the Commission notes that §1-210(b)(27), G.S., is silent regarding which party, if any, bears the burden of determining whether the victim of a homicide has surviving family members who retain a privacy interest in the nondisclosure of the victim's images.[5]

[5] Notably, in the years following the adoption of PA 13-311, the Connecticut General Assembly chose not to amend §1-210(b)(27), G.S., to adopt a 2014 recommendation of its own Task Force on Victim Privacy and the Public's Right to Know to include a requirement that a victim's next of kin or legal representative (a) receive written notice of any request for a copy of an image or a recording, (b) have an opportunity to object to the image's or recording's release, and (3) receive 24 hours' notice before any decision or order to disclose an image or recording takes effect.

45. Despite the uncertain nature of any surviving family members' privacy interest in the instant matter, the Commission cannot ignore the clear legislative intent to protect such interests through §1-210(b)(27), G.S., as described in paragraph 43, above.

46. It is therefore found that the victim of the January 1, 2022 offense, as well as his surviving family members, should he have any, have a privacy interest in the redacted BWC footage at issue.

47. Next, with respect to the public interest in the redacted BWC footage at issue, it is found that the complainant sought such images in order to secure an attorney who might help him overturn his conviction for the January 1, 2022 offense.

48. It is found that the complainant, in essence, is implying "governmental impropriety or misconduct" resulting in his allegedly wrongful conviction for manslaughter. However, it is found the complainant did not support such allegation with any "evidence that would warrant a belief by a reasonable person that the alleged government impropriety might have occurred" as found in Favish.

49. Based upon the foregoing, it is found that there is no evidence to establish a public interest in disclosure of the redacted BWC footage at issue. Therefore, it is concluded that disclosure of the footage could reasonably be expected to constitute an unwarranted invasion of the personal privacy of the homicide victim and any surviving family members he may have, within the meaning §1-210(b)(27), G.S.

50. Accordingly, it is concluded that the respondents did not violate §§1-210(a) or 1-212(a), G.S., when they redacted the images described in paragraphs 40 and 49, above, from the BWC footage before providing it to the complainant.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 8, 2026.

Jennifer M. Mayo
Acting Clerk of the Commission

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See State of Connecticut, Task Force on Victim Privacy and the Public's Right to Know, Final Report (January 27, 2014); page 9. The General Assembly established this task force under Public Act 13-3, §4, and charged it with making recommendations regarding the balance between victim privacy under the Freedom of Information Act and the public's right to know.

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:

**JOHN MORGAN, #198088**, Cheshire Correctional Institutional, 900 Highland Avenue, Cheshire, CT 06410

**CHIEF, POLICE DEPARTMENT, CITY OF WATERBURY**; **POLICE DEPARTMENT, CITY OF WATERBURY**; **AND CITY OF WATERBURY**, c/o Attorney Richard J. Scappini, City of Waterbury, Office of Corporation Counsel, 235 Grand Street, Waterbury, CT 06702

Jennifer M. Mayo
Acting Clerk of the Commission

FIC 2025-0247/FD/JMM/April 8, 2026