

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jenny Colucci and OPIN, Inc.,

Complainants

against

Docket #FIC 2019-0149

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

Respondents

July 10, 2019

The above-captioned matter was heard as a contested case on May 20, 2019, at which time the complainants 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 dated December 3, 2018, the complainants requested from the respondents a copy of a particular search warrant (“warrant”), which was signed by a judge and executed in September 2014.
3. It is found that, after further email exchanges between the complainants and the respondents concerning the request, the respondents denied the request by email dated February 25, 2019, on the ground that the warrant contains “uncorroborated allegations,” pursuant to §1-210(b)(3)(H), G.S.
4. By email dated March 13, 2019, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by denying their request for a copy of the warrant.
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 section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. 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 inspect such records promptly during regular office or business hours...or...receive a copy of such records in accordance with section 1-212.

7. 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.”

8. It is found that the warrant is a public record within the meaning of §§1-200(5) and 1-210(a), G.S.

9. With regard to the respondents’ claim that the warrant contains “uncorroborated allegations,” §1-210(b)(3)(H), G.S., provides, in relevant part, that disclosure is not required 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 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.

10. 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.

11. It is found that, despite their position that the warrant contains “uncorroborated allegations subject to destruction pursuant to [§]1-210(b)(3)(H), [G.S.],” the respondents did not destroy the warrant in accordance with §1-216, G.S.

12. The Commission has interpreted the term “corroborate” as “to strengthen, to add weight or credibility to a thing by additional and confirming facts or evidence;” “to state facts tending to produce confidence in the truth of a statement made by another;” “to give increased support to; make more sure or evident.” See e.g., Rachel Gottlieb and the Hartford Courant v. State of Connecticut, Department of Public Safety, Docket #FIC 94-291 (May 24, 1995). In Gottlieb, the Commission found that the reports at issue “contain similar accounts relayed to the respondent [agency] by different interviewees concerning the allegations under investigation.” The Commission went on to find, therefore, that the reports contained allegations that were corroborated.

13. At the hearing in this matter, the hearing officer ordered the respondents to submit the warrant to the Commission for in camera inspection, and the respondents submitted such record immediately following the hearing (“in camera record”). It is found that the in camera record is an “Affidavit and Application, Search and Seizure Warrant,” consisting of six pages. However, on the index to the in camera records, the respondents claimed that only page two is exempt from disclosure pursuant to §1-210(b)(3)(H), G.S.

14. The respondents’ witness, Sgt. Weed, testified that, upon receipt of the complainants’ request, he located the file containing the warrant and reviewed the warrant. Sgt. Weed further testified that he determined that the warrant contained uncorroborated allegations solely on the ground that there had been no arrest. It is found that Sgt. Weed was not involved in the underlying investigation, and that he did not speak to either of the officers who were so involved to determine why there had been no arrest. Sgt. Weed testified that he did not know why there had been no arrest, and confirmed that there are many reasons why an individual is not arrested after an investigation. It is found that the respondents offered no evidence that the investigating officers found no “confirming facts or evidence,” or that they found nothing to “give increased support to” the allegation of criminal activity.

15. After careful inspection of pages 1 through 6 of the in camera record, in particular page two, it is found that such record is a law enforcement record created in connection with the detection or investigation of crime, and that it contains an allegation of criminal activity. However, it is also found that nothing in the record itself demonstrates that the allegation therein is “uncorroborated,” as that term has been interpreted by the Commission.

16. Based on the record in this case, it is found that the respondents failed to prove that page two of the in camera record contains “uncorroborated allegations.”

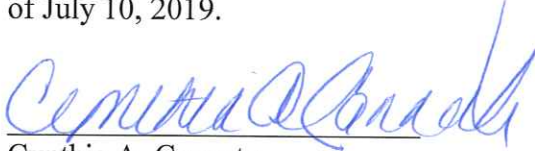
17. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by withholding page two of the in camera record from the complainants. It is further concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by withholding pages 1, and 3 through 6, from the complainants, as they did not claim an exemption from disclosure for such pages.

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

1. Forthwith, the respondents shall provide an unredacted copy of pages 1 through 6 of the in camera record to the complainants, free of charge.

2. Henceforth, the respondents shall strictly comply with §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 10, 2019.



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:

JENNY COLUCCI AND OPIN, INC., 25 Cantwell Avenue, Stamford, CT 06905

CHIEF, POLICE DEPARTMENT, CITY OF STAMFORD; POLICE DEPARTMENT, CITY OF STAMFORD; AND CITY OF STAMFORD, c/o Attorney Burt Rosenberg, PO Box 10152, Stamford, CT 06901



Cynthia A. Cannata
Acting Clerk of the Commission