

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Lynnelle Jones,

Complainant

Docket #FIC 2018-0249

against

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

Respondents

January 9, 2019

The above-captioned matter was heard as a contested case on July 9, 2018, 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 by email sent on April 26, 2018, the complainant made a request to the respondents “to see (or pay for a copy of) the video from body camera 1567, which Officer Prada wore when she responded to the call from 2 Hilltop Road, case #18-16978, on the morning of April 13, 2018.” (“April 26th request”).
3. It is found that the respondent Police Chief initially agreed to provide the complainant with the opportunity to view the requested body-worn camera footage, described in paragraph 2, above. However, by email sent on May 7, 2018, the respondents denied the April 26th request, and informed the complainant that, after speaking with corporation counsel regarding her request, “[t]he conclusion stands that general body camera video is a public document, but statements are in fact exempt from FOIA requests and will not be released whether they are in written, video or audio form.” Subsequently, prior to the filing of the complaint in this matter, the complainant requested that the respondents reconsider their denial.
4. By email received on May 15, 2018, the complainant appealed to this Commission,

alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the complainant with a copy of the record, described in paragraph 2, above.

5. Section 1-200(5), G.S., defines “public records or files” as:

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. Sections 1-210(a) and 1-211(a), G.S., provide in relevant part that:

Except 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 (1) inspect such records promptly during regular office or business hours . . . (3) receive a copy of such records in accordance with section 1-212....

Any public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the [FOI] Act, a copy of any nonexempt data contained in such records, properly identified, on paper, disk, tape or any other electronic storage device or medium requested by the person, if the agency can reasonably make such copy or have such copy made.

7. Section 1-212(a), G.S., provides in relevant part that “any 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 record requested by the complainant is a public record and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S., unless it is exempt from disclosure.

9. The respondents claim that the requested body-camera footage, described in paragraph 2, above, is exempt from disclosure pursuant to §§1-210(b)(3)(C) and 1-210(b)(3)(H), G.S.

10. Section 1-210(b)(3), G.S., exempts in relevant part:

Records 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... (C) signed statements of witnesses... or (H) uncorroborated allegations subject to destruction pursuant to section 1-216....

11. In turn, §1-216, G.S., provides:

Except 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.

12. It is found that, as part of an investigation into “an alleged threats complaint” filed against the complainant, Officer Kimberly Prada of the Norwalk Police Department interviewed the individual who filed such complaint. The basis of the complaint was an email sent by the complainant to the individual, among others. It is found that after reviewing such email and conducting the interview, Officer Prada determined that there was no direct or implied threat in the email. It is found that no arrest was made relating to the incident.

13. It is found that the complainant was provided a copy of the incident report relating to the investigation into the alleged threats.

14. At the hearing, the complainant and respondents stipulated that the alleged threats were “uncorroborated.” The respondents also testified that the requested body-worn camera footage had not been publicly disclosed.

15. It is found that the requested body-worn camera footage is a record of a law enforcement agency not otherwise available to the public and that such record was compiled in connection with the detection or investigation of crime, within the meaning of §1-210(b)(3), G.S. It is also found that the requested record consists of uncorroborated allegations that an individual has engaged in criminal activity, within the meaning of §1-216, G.S.

16. It is therefore concluded that the requested body-worn camera footage is permissibly exempt from disclosure under §§1-210(b)(3)(H) and 1-216, G.S.¹

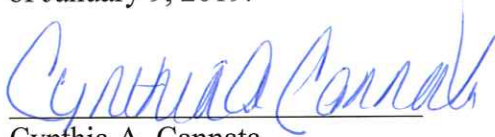
17. It is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by denying the complainant's April 26th request.

¹ In view of the conclusion reached in paragraph 16, above, the Commission need not address the respondents' claim of exemption under §1-210(b)(3)(C), G.S.

The following order by the Commission 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 January 9, 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:

LYNNELLE JONES, 10 Point Road, South Norwalk, CT 06854

CHIEF, POLICE DEPARTMENT, CITY OF NORWALK; POLICE DEPARTMENT, CITY OF NORWALK; AND CITY OF NORWALK, c/o Attorney M. Jeffry Spahr, City of Norwalk, Office of Corporation Counsel, 125 East Avenue, Norwalk, CT 06856-5125



Cynthia A. Cannata
Acting Clerk of the Commission