

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Amy Caron Perkins,

Complainant

against

Docket #FIC 2019-0285

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

Respondents

August 28, 2019

The above-captioned matter was heard as a contested case on July 2, 2019, at which time the complainant 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 26, 2018, the complainant requested from the respondents copies of records relating to a July 15, 2018, incident at her home. Such request was acknowledged shortly thereafter by the respondent Chief of Police.
3. By email dated January 11, 2019, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by denying her records request, described in paragraph 2, above.
4. 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.
5. 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.

6. 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.”

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

8. The respondents contend that the requested records contain “uncorroborated allegations” and are therefore exempt from disclosure. Immediately following the hearing in this matter, they submitted unredacted copies of such records to the Commission for in camera inspection, along with an in camera Index. On the Index, the respondents contend that the requested records are exempt from disclosure pursuant to §§1-210(b)(3)(H) and 1-216, G.S.

9. Section 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. 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.

12. At the hearing, the respondents’ witness, Chief Daly, testified that the Norwich Police Department responded to a larceny complaint and criminal trespass complaint at the complainant’s residence. He testified that a police officer arrived at the complainant’s residence and conducted an investigation. He testified that the suspect was quickly developed from input provided by the complainant. The respondents then interviewed the suspect who admitted to going to the complainant’s residence and removing items. Chief Daly testified that the complainant informed the respondents that she did not want to pursue criminal charges. The respondents then documented the incident should matters change and departed. Chief Daly testified that the requested records document the reasons given to the officer who performed the investigation as to the complainant’s reason not to proceed with the charges. He also testified that had the complainant wished to have an arrest made, the respondents were prepared to prepare an arrest warrant, go to the prosecutor and then to a judge. Chief Daly felt that at the time there was probable cause for the trespass charge.

13. At the hearing, the complainant testified that the suspect had previously resided in her home and that the missing items belonged to such individual. She also testified that the suspect had been told not to be on her property, and that she had posted no trespassing signs.

14. After careful inspection of the in camera records, it is found that such records are law enforcement records created in connection with the detection or investigation of crime, and that they contain allegations of criminal activity. It is also found that nothing in the records themselves demonstrates that the allegations therein are “uncorroborated,” as that term has been interpreted by the Commission.

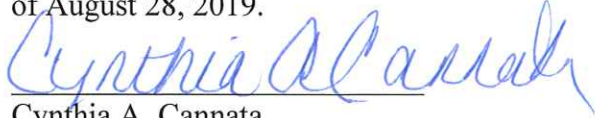
15. Based on the record in this case, it is found that the respondents failed to prove that the in camera records contain “uncorroborated allegations.”

16. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by withholding the in camera records from the complainant.

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 the in camera records to the complainant, 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 August 28, 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:

AMY CARON PERKINS, 327 Salem Turnpike, Norwich, CT 06360

CHIEF, POLICE DEPARTMENT, CITY OF NORWICH; AND POLICE DEPARTMENT, CITY OF NORWICH, c/o Attorney Michael E. Driscoll, Brown Jacobson, P.C., 22 Courthouse Square, PO Box 391, Norwich, CT 06360



Cynthia A. Cannata
Acting Clerk of the Commission