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FREEDOM OF INFORMATION



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Laraine Weschler and the
Waterbury Republican-American,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-164

Chief, Police Department, Town of Watertown; Police
Department, Town of Watertown; and Town of
Watertown,
Respondent(s)

January 14, 2015

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, February 11, 2015**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE January 30, 2015**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE January 30, 2015**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fourteen (14) copies** be filed **ON OR BEFORE January 30, 2015**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Thomas G. Parisot, Esq.
Paul R. Jessell, Esq.

2015-01-14/FIC# 2014-164/Trans/wrbp/MS/TCB/LFS

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Laraine Weschler and the Waterbury
Republican-American,

Complainants

against

Docket #FIC 2014-164

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

Respondents

January 14, 2015

The above-captioned matter was heard as a contested case on September 17, 2014, at which time the complainants and the 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 letter dated March 13, 2014, the complainants requested access, to and a copy of, the police report, and any and all related documents, in the investigation of Ronald Russo.
3. It is found that by letter dated March 18, 2014, the respondents' attorney informed the complainants that "...on the basis of General Statutes Section 17a-101k and the Appellate Court Case of Groton Police Department v. Freedom of Information Commission, et al., 104 Conn. App. 150 (2007), I have recommended that the requested records not be released."
4. By letter dated and filed on March 19, 2014, the complainants appealed to this Commission alleging that the respondents violated §§1-210(a), and 1-212(a), G.S., of the Freedom of Information ("FOI") Act by denying their request.

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

"Public 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:

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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) 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 requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212, G.S.

9. With respect to §17a-101k, G.S., that section provides, in relevant part, that:

"The Commissioner of Children and Families shall maintain a registry of the commissioner's findings of abuse or neglect of children *The information contained in the registry and **any other information relative to child abuse, wherever located, shall be confidential, subject to such statutes and regulations governing their use and access as shall conform to the requirements of federal law or regulations.** Any violation of this section or the regulations adopted by the commissioner under this section shall be punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year.*" (Emphasis added.)

10. On October 1, 2014, the complainants submitted a brief in which they contend:

- a. that §17a-101(k), G.S., is not a blanket prohibition against the disclosure of any record touching upon child abuse, but rather requires that the records be kept confidential consistent with

federal law or regulations and that therefore, the federal law must be examined.

- b. that the threshold question is whether the records fall within the federal definition of “child abuse” which the complainants’ cite as “ ...physical or mental injury, sexual abuse or exploitation, negligent treatment or maltreatment of a child under the age of eighteen...by a person...responsible for the child’s welfare. 42 U.S.C. §5101 et seq....” and
- c. that “the federal statutory and regulatory scheme upon which C.G.S. §17a-101(k) depends for interpretation is constructed to protect the child/victim” and further argued that the only person to benefit from the non-disclosure of the investigation would be the alleged perpetrator and that “any youths harmed by Russo’s conduct are well into adulthood.”

Finally, the complainants stated in their brief that because the complainants have agreed to permit the redaction of any identifiable information of the alleged victim(s) and thereby protecting their identity(ies), the requested records should be disclosed.

11. The respondents submitted the requested records to the Commission for an in-camera inspection, which records have been identified as in-camera record #s 2014-164-001 through 2014-164-42. In-camera record #s 2014-164-001 through 2014-164-21 are the unredacted copy of the requested records and in-camera record #s 2014-164-22 through 2014-164-42 are a redacted copy of the requested records.

12. With respect to the complainants’ contentions described in paragraphs 10a and 10b, above, it is found that §17a-101k, G.S., provides a broad grant of confidentiality with respect to information pertaining to child abuse.

13. Based upon a very careful review of the records submitted for in-camera inspection, it is further found that such records constitute reports of abuse and information relative to abuse within the meaning of §17a-101k, G.S.

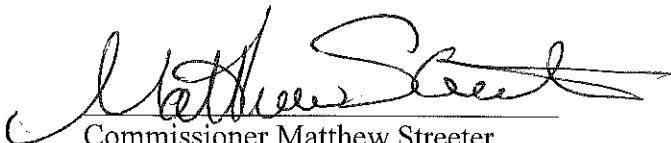
14. It is found that the complainants’ contention described in paragraph 10c, above, is without merit because, while the individual making the allegations against Mr. Russo may no longer be a child, that individual remains a victim and the statute does not contemplate eliminating the confidentiality provisions after a child reaches adulthood. There is nothing in the statute, or its implementing regulations, to suggest otherwise.

15. It is therefore concluded that such records are exempt from disclosure.

16. It is also concluded that the respondents did not violate the FOI Act as alleged by the complainants.

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.



Commissioner Matthew Streeter
as Hearing Officer

FIC2014-164/hor/ms/tcb/20140924