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# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
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Tracey Rupp,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-859

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

Respondent(s)

July 20, 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, August 12, 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 July 31, 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 July 31, 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 **fifteen (15) copies** be filed **ON OR BEFORE July 31, 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: Tracey Rupp  
Valerie Maze Keeney, Esq.  
Kevin M. Greco, Esq.

2015-07-20/FIC# 2014-859/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Tracey Rupp,

Complainant

against

Docket #FIC 2014-859

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

Respondents

June 19, 2015

The above-captioned matter was heard as a contested case on May 21, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The Silver Shield Association moved without objection to intervene and such motion was granted.

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 October 14, 2014, the complainant requested a copy of the following records from the respondents' First Selectman:

[a.] List of all approved long-term side jobs and a list of the officers who coordinate said jobs.

[b.] All coordinators lists of officers who are interested in working that particular job.

[c.] Each coordinators record book indicating the date, and total hours worked of each officer hired starting from 10/1/2009 thru 10/1/2014.

[d.] List of all Police Department Personnel/Special Police Officers showing their total earnings including overtime, blue payroll, and off-duty income from 1/1/2009-10/14/2014.

[e.] Total number of hours of off-duty work performed in the Town of Greenwich from 1/1/2009 thru 10/14/2014 broken down by each year.

[f.] Dates of injuries/illnesses (work and non-work related) of all Police Department Personnel from 1999 thru 10/2014 that resulted in 30 or more days of lost time (not seeking any medical information or HIPPA protected information). The exact date of injury/illness, re-injury/illness, new injury/illness, light duty dates-time periods for each injury/illness and all periods of "out of work" covered by workers' compensation. Injuries/illnesses requiring the use of sick accruals and the amounts used by each individual.

[g.] List of all officers sent termination letters for exceeding contractual guidelines relating to injuries/illnesses.

[h.] List of all disability (accidental/non-occupational) retired officers from 1999-2014.

[i.] List of all officers who retired, were terminated or resigned from 1999 thru 10/1/14 regardless of reason.

3. It is found that on October 22, 2014, the respondent Chief of Police sent a letter to the complainant, informing her that the First Selectman had referred her request to the Police Department. It is found that in the same letter, the Chief addressed the complainant's request, and provided some of the records the complainant requested.

4. By letter mailed November 19, 2014 and received November 24, 2014, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide her with the copies of all of the records she requested.

5. The intervenors claim that the records described in paragraph 2.b and 2.c, above, are not public records.

6. 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, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

7. With respect to whether the records described in paragraph 2.b and c, for various records maintained by "coordinators," are public records, it is found that "coordinators" in this

context are paid Police Department personnel who serve as liaison and gatekeeper between police officers available to work long term side jobs (i.e., jobs performed by police officers in their off-duty hours) and the third parties who have such long term side jobs available. It is found that at the time of the complainant's request, all payment for long term side jobs came directly from the third parties.

8. The intervenors claim that all records maintained by the coordinators concerning long term side jobs are personal records, not public records, because they concern off-duty activity and payment by private parties.

9. It is found, however, that Greenwich Police Department Policy No. 3005, issued May 1, 2011, requires coordinators "to maintain a list of officers interested in working [a] particular job." It is found that the complainant's request, described in paragraph 2.b, is for such lists.

10. It is found that if the records did not relate to the conduct of the public's business, as the intervenors contend, then the respondents' official policy would not require their maintenance. It is found, therefore, that the records requested by the complainant in paragraph 2.b and c, above, relate to the conduct of the public's business.

11. It is concluded that all the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S., to the extent that such records exist and are maintained by the respondents.

12. Section 1-210(a), G.S., provides, in relevant part:

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, ... or (3) receive a copy of such records in accordance with section 1-212.

13. Section 1-212(a), G.S., provides in relevant part: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

14. With respect to the complainant's request described in paragraph 2.a, h, and i, above, it is found that the respondents provided such records to the complainant on October 22, 2014.

15. With respect to the complainant's request described in paragraph 2.b and c, above, that is, for coordinators' lists and record books, respectively, it is found that the respondents have not searched for the lists described in paragraph 2.b., above. With respect to the record books described in paragraph 2.c, above, it is found that the coordinators are not required to maintain such records. It is found that the respondents have not determined whether any coordinators nevertheless maintain such records.

16. With respect to the complainant's request described in paragraph 2.d, above, for total earnings, "including overtime, blue payroll, and off-duty income," it is found that the respondents provided all records responsive to such request, except for records of off-duty income, on February 17, 2015, in an Excel spreadsheet.

17. It is found that the respondents do not maintain records of police officers and personnel off-duty income.

18. With respect to the complainant's request for total number of hours of off-duty work performed in the Town of Greenwich, described in paragraph 2.e, above, it is found that the respondents maintain such records containing such information. It is found that the respondents created an Excel spreadsheet with the information that the complainant requested. It is found that a paper print-out of such records would run to more than 700 pages. It is found that the respondents printed a sampling of such records for the complainant and provided those paper records, plus all the data requested on a CD, to the complainant at the hearing in this matter.

19. With respect to the complainant's request, described in paragraph 2.f, above, for records of dates of injuries and illnesses and other related information, it is found that the respondents provided records responsive to the complainant's request for records of "dates of injuries and illnesses...that resulted in 30 or more days of lost time." With respect to the remainder of the information described in paragraph 2.f, above, it is found that the respondents do not maintain records with the level of detail that the complainant requested.

20. With respect to the complainant's request for a "list of all officers sent termination letters for exceeding contractual guidelines relating to injuries/illnesses," described in paragraph 2.g, above, it is found that the respondents do not maintain such a list.

21. It is concluded that the respondents violated the FOI Act by failing to provide records responsive to the complainant's request for coordinators' records, described in paragraph 2.b and c, above.

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

1. The respondents shall forthwith conduct a diligent search for records responsive to the complainant's request, described in paragraph 2.b and c, in the findings of fact. If such records exist, the respondents shall provide them to the complainant, free of charge. If such records do not exist, the respondents shall inform the complainant in writing.



Lisa Fein Siegel  
as Hearing Officer