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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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Allison Fennelly,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-633

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

Respondent(s)

April 19, 2016

### 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, May 11, 2016**. 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 April 29, 2016**. 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 April 29, 2016**. **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 April 29, 2016**, 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: Attorney John R. Williams  
Attorney Michael C. Harrington

2016-04-19/FIC# 2015-633/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Allison Fennelly,

Complainant

against

Docket #FIC 2015-633

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

Respondents

April 12, 2016

The above-captioned matter was heard as a contested case on March 17, 2016, at which time the complainant 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 in September 2015, the respondents provided records in response to the complainant's request.
3. By letter filed September 23, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide: [a] a copy of a certain arrest file from 2007; [b] a complete copy of the recording of the 911 call the complainant placed on January 7, 2014; and [c] the Computer Aided Dispatch ("CAD") report from such 911 call.
4. 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.
5. 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.

6. 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.”

7. It is found 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.

8. With respect to the arrest file requested by the complainant, as described in paragraph 2.a, above, §54-142a, G.S., provides in relevant part:

(a) Whenever in any criminal case...the accused, by a final judgment, is found not guilty of the charge or the charge is dismissed, all police and court records and records of any state’s attorney pertaining to such charge shall be erased....

(c)(1) Whenever any charge in a criminal case has been nolle in the Superior Court, ... if at least thirteen months have elapsed since such nolle, all police and court records and records of the state's or prosecuting attorney or the prosecuting grand juror pertaining to such charge shall be erased[.]

9. It is found that the arrest file requested by the complainant was erased pursuant to §54-142a, G.S., and the respondents no longer maintain such records.

10. With respect to the 911 call, described in paragraph 2.b, above, it is found that the respondents provided a copy of such recording to the complainant, and also submitted a copy as an exhibit in this matter. The complainant contends that the respondents failed to provide a complete copy of the 911 call.

11. Upon review of the recording of the 911 call and based on the respondents’ witness’s testimony, it is found that the respondents provided the complete recording to the complainant.


12. With respect to the CAD call, described in paragraph 2.c, above, it is found that the respondents provided the only CAD report created and maintained pertaining to the incident described in the 911 call by the complainant to the respondents on January 7, 2014.

13. It is found that the respondents provided copies of all records they maintain that were responsive to the complainant’s request.

14. It is concluded, therefore, that the respondents did not violate §§1-210(a) and 1-212(a), 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 dismissed.

  
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Lisa Fein Siegel  
as Hearing Officer