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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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Sally Roberts,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-437

Jeffry W. Cossette, Chief, Police Department,
City of Meriden; and Police Department, City of
Meriden,

Respondent(s)

May 1, 2012

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 23, 2012**. 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 May 11, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE May 11, 2012**. **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 May 11, 2012**, 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: Sally Roberts
Deborah L. Moore, Esq.
John H. Gorman, Esq.

5/1/12/FIC# 2011-437/Trans/wrbp/SDL/KKR/TCB

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Sally Roberts,

Complainant

against

Docket #FIC 2011-437

Jeffry W. Cossette, Chief,
Police Department, City of
Meriden; and Police
Department, City of Meriden,

Respondents

January 25, 2012

The above-captioned matter was heard as a contested case on January 18, 2012, at which times the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

1. The respondents are public agencies within the meaning of §1-200(1), G.S.

2. It is found that, by letter dated July 21, 2011, the complainant requested from the respondents “copies of the following documents...related to email account “Teddy” – patsfan2277@gmail.com, including:

- (a) any logs maintained by the Department listing who was using the account and when;
- (b) tracking compliance regarding use of the Teddy email account;
- (c) policy within the department regarding use of police property for non-business related purposes (such as harassment of members of the community);
- (d) policy of the Department of securing equipment from which Teddy emails were sent;
- (e) the identity of the Department computer the emails were sent from;
- (f) which Department member was signed onto that computer;
- (g) who had access to the computer; and
- (h) all of the emails associated with that account.

3. It is found that, by emails dated July 26 and 27, 2011, the respondents informed the complainant that no documents existed that were responsive to her requests

numbered 2(a), (c), (d), (e), (f), and (g), above. With regard to the request described in paragraph 2(b), above, the respondents requested clarification of such request from the complainant, to which the complainant replied, via email: "It's not hard...How did the Department monitor the use of the computer to ensure its use complied with Department policy?" It is also found that the respondents informed the complainant, in a June 26 email, that the city maintains the following policies: a Motor Vehicle Use Policy, a Computer Use Policy, and an Electronic Communications Policy. It is further found that, although the respondents believed such policies were not specifically responsive to the request described in paragraph 2(c), above, they provided copies of such policies to the complainant nevertheless. Finally, it is found that, in an email dated July 27, 2011, the complainant withdrew the request, described in paragraph 2(h), above. Such request shall not be further considered herein.

4. It is found that, by letter dated August 3, 2011, the complainant requested from the respondents "copies of...documents related to the IP address 98.191.61.137."

5. It is found that, by email dated August 5, 2011, the respondents informed the complainant that there was one document—an email from the company that helped set up the website associated with that IP address—responsive to the request, described in paragraph 4, above, and provided such document to her.

6. By letter of complaint, dated and filed August 18, 2011, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (FOI) Act by failing to comply with the requests for records described in paragraphs 2 and 4, above.

7. 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.

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

9. 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.”

10. It is found that, to the extent that the respondents maintain the records described in paragraphs 2 and 4, above, they are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a).

11. With regard to the requests, described in paragraphs 2 and 4, above, it is found that the email account patsfan2277@gmail.com was set up by the respondents for use in undercover investigations of online sexual predators and prostitution. It is found that such account was deleted on May 16, 2011. It is further found that the IP address 98.191.61.137 is the address for the Meriden Police Department’s website, and is not associated with the patsfan2277@gmail.com account.

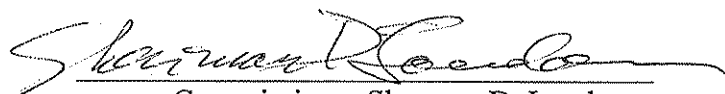
12. At the hearing in this matter, the complainant initially testified that she received no response to the requests, described in paragraphs 2 and 4, above. Upon cross examination, however, she admitted that the respondents had, in fact, responded to her requests, as described in paragraphs 3 and 5, above. According to the complainant, however, such responses “were not responses” because it was “inconceivable” to her that the respondents did not have records responsive to her requests. Although the complainant repeatedly stated her belief that the respondents were purposely being evasive and that they had gone “to great lengths to circumnavigate every mulberry bush in an attempt at obfuscation,” she offered no proof to support her claim.

13. At the hearing in this matter, the lieutenant responsible for overseeing the technology and information unit of the respondent police department testified, and it is found, that both he and counsel for the respondents spent a considerable amount of time researching the requests, described in paragraphs 2 and 4, above, and searching for responsive records. Based upon the credible evidence presented by the respondents, it is found that no records exist that are responsive to the requests described in paragraphs 2 and 4 above, other than those that have already been provided to the complainant.

14. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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.

A handwritten signature in black ink, appearing to read "Sherman D. London", written over a horizontal line.

Commissioner Sherman D. London
as Hearing Officer

FIC 2011-437/hor/SDL/kkr/01252012