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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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Lauren Sievert, Mike Savino and the  
Meriden Record Journal,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2016-0632

Chief, Police Department, City of Meriden;  
Police Department, City of Meriden; and  
City of Meriden,  
Respondent(s)

January 10, 2017

### 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 8, 2017**. 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 27, 2017**. 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 27, 2017**. **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 January 27, 2017**, 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: Lauren Sievert, Mike Savino and the Meriden Record Journal  
Attorney John H. Gorman

FIC# 2016-0632/Trans/wrbp/KKR/TCB/2017-01-10

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FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Lauren Sievert, Mike Savino, and the  
Meriden Record Journal,

Complainants

against

Docket #FIC 2016-0632

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

Respondents

December 27, 2016

The above-captioned matter was heard as a contested case on November 3, 2016, at which time the complainants 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 letter dated August 23, 2016, the complainants requested from the respondents a copy of “any and all recordings, 911 calls, dispatch records, and dash cam video from responding vehicles from any incident on or about Friday, August 19, on or near Maple Avenue in Meriden, CT, regarding a complaint of two men checking cars in a residential neighborhood, then the fatal crash that followed....” (the “requested records”).
4. It is found that the respondents maintain the requested records; however, by email dated August 23, 2016, the respondents denied the complainant’s request due to “the sensitivity and active status of this investigation,” citing “§1-210(b)(3)(E)k,” of the general statutes.
5. By email dated and filed September 1, 2016, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying the request, described in paragraph 2, above.
6. 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.

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

8. 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.”

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

10. At the hearing in this matter, the respondents claimed that the requested records are exempt from disclosure pursuant to §§1-210(b)(3)(F), and 46b-124, G.S., and represented that the reference in their August 23 email to “§1-210(b)(3)(E)k” was in error.

11. Section 1-210(b)(3), 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... (F) arrest records of a juvenile, which shall also include any investigatory files, concerning the arrest of such juvenile, compiled for law enforcement purposes....

12. The respondents’ witness, Lt. Cossette, who was the lead investigator into the incident described in paragraph 2, above, testified, and it is found, that the car crash resulted in the death of the car’s 17 year old passenger, and that the driver of the car fled the scene. It is found that, after an investigation, the respondents identified the driver, who also was 17 years old at the time of the crash. It is found that the driver was arrested in connection with the fatal

crash on September 14, 2016, approximately three weeks after the complainant's August 23<sup>rd</sup> request.

13. At the hearing in this matter, the respondents acknowledged that, at the time of the request, no arrest had been made, but argued that the requested records are exempt from disclosure because a juvenile subsequently was arrested.

14. However, it is concluded that, because there had been no arrest at the time the records were requested, such records were not "arrest records of a juvenile" at that time. It is therefore concluded that the requested records were not exempt from disclosure pursuant to §1-210(b)(3)(F), G.S., at the time they were requested.

15. Moreover, even after the arrest of the juvenile, it is concluded that the requested records, i.e., radio transmissions, 911 calls and dash cam video, are not "arrest records," within the meaning of §1-210(b)(3)(F), G.S. Accordingly, it is concluded that the requested records are not exempt from disclosure pursuant to §1-210(b)(3)(F), G.S.

16. Additionally, the respondents claimed the requested records are exempt from disclosure pursuant to §46b-124, G.S. The respondents represented, at the hearing in this matter, and it is found, that the criminal case against the driver is now a "delinquency proceeding."

17. Section 46b-124, G.S., contained within Chapter 815, entitled "Court Proceedings in Family Relations Matters," provides, in relevant part:

(a) For the purposes of this section, "records of cases of juvenile matters" includes, but is not limited to, court records, records regarding juveniles maintained by the Court Support Services Division, records regarding juveniles maintained by an organization or agency that has contracted with the Judicial Branch to provide services to juveniles, records of law enforcement agencies including fingerprints, photographs and physical descriptions, and medical, psychological, psychiatric and social welfare studies and reports by juvenile probation officers, public or private institutions, social agencies and clinics.

...

(c) All records of cases of juvenile matters involving delinquency proceedings, or any part thereof, shall be confidential and for the use of the court in juvenile matters and shall not be disclosed except as provided in this section.

(d) Records of cases of juvenile matters involving delinquency proceedings shall be available to (1) Judicial Branch employees who, in the performance of their duties,

require access to such records, (2) judges and employees of the Probate Court who, in the performance of their duties, require access to such records, and (3) employees and authorized agents of state or federal agencies involved in (A) the delinquency proceedings, (B) the provision of services directly to the child, (C) the design and delivery of treatment programs pursuant to section 46b-121j, or (D) the delivery of court diversionary programs. Such employees and authorized agents include, but are not limited to, law enforcement officials, community-based youth service bureau officials, state and federal prosecutorial officials, school officials in accordance with section 10-233h, court officials including officials of both the regular criminal docket and the docket for juvenile matters and officials of the Division of Criminal Justice, the Division of Public Defender Services, the Department of Children and Families, the Court Support Services Division and agencies under contract with the Judicial Branch. Such records shall also be available to (i) the attorney representing the child, including the Division of Public Defender Services, in any proceeding in which such records are relevant, (ii) the parents or guardian of the child, until such time as the subject of the record reaches the age of majority, (iii) the subject of the record, upon submission of satisfactory proof of the subject's identity, pursuant to guidelines prescribed by the Office of the Chief Court Administrator, provided the subject has reached the age of majority, (iv) law enforcement officials and prosecutorial officials conducting legitimate criminal investigations, (v) a state or federal agency providing services related to the collection of moneys due or funding to support the service needs of eligible juveniles, provided such disclosure shall be limited to that information necessary for the collection of and application for such moneys, and (vi) members and employees of the Board of Pardons and Paroles and employees of the Department of Correction who, in the performance of their duties, require access to such records, provided the subject of the record has been convicted of a crime in the regular criminal docket of the Superior Court and such records are relevant to the performance of a risk and needs assessment of such person while such person is incarcerated, the determination of such person's suitability for release from incarceration or for a pardon, or the determination of the supervision and treatment needs of such person while on parole or other supervised release. Records disclosed pursuant to this subsection shall not be further disclosed, except that

information contained in such records may be disclosed in connection with bail or sentencing reports in open court during criminal proceedings involving the subject of such information, or as otherwise provided by law.

(e) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, may be disclosed upon order of the court to any person who has a legitimate interest in the information and is identified in such order. Records disclosed pursuant to this subsection shall not be further disclosed, except as specifically authorized by a subsequent order of the court.

(f) Records of cases of juvenile matters involving delinquency proceedings, or any part thereof, shall be available to the victim of the crime committed by such child to the same extent as the record of the case of a defendant in a criminal proceeding in the regular criminal docket of the Superior Court is available to a victim of the crime committed by such defendant. The court shall designate an official from whom such shall not be further disclosed, except as specifically authorized by a subsequent order of the court.

18. It is concluded that the confidentiality requirements in §46b-124, G.S., pertain to records maintained by the judicial branch only. It is further concluded that the radio transmission, 911 calls and dash cam video maintained by the respondent police department are not “records of cases of juvenile matters,” as that term is defined in §46b-124, G.S.

19. Accordingly, it is concluded that the requested records are not exempt from disclosure pursuant to §46b-124, G.S.

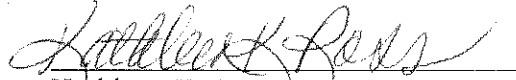
20. At the conclusion of the hearing in this matter, the respondents submitted records for in camera inspection. According to the index submitted with the records, such records consist of “investigatory files and arrest records for juvenile arrest” (53 pages), an audio CD of “radio and phone records for investigation on juvenile arrest,” and a CD containing dash cam video. The respondents claimed each such record is exempt from disclosure in its entirety.

21. The Commission declines to review the 53 pages of “investigatory files and arrest records” in camera, as such records are not responsive to the request, described in paragraph 2, above. After careful inspection of the two CDs, described in paragraph 20, above, it is found that such records are responsive to the request, and that nothing contained in such records affects the legal conclusions set forth in paragraphs 14, 15, 18, and 19, above.

22. Based upon the foregoing, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by withholding the requested records from the complainants.

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 a copy of the requested records to the complainants, free of charge.
2. Henceforth, the respondents shall strictly comply with the disclosure requirements in §§1-210(a) and 1-212(a), G.S.



Kathleen K. Ross  
as Hearing Officer