

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Gary Chute and Sub Rosa Investigative
Group LLC,

Complainants

against

Docket #FIC 2018-0682

Commissioner, State of Connecticut,
Department of Emergency Services and
Public Protection; and State of
Connecticut, Department of Emergency
Services and Public Protection,

Respondents

June 26, 2019

The above-captioned matter was heard as a contested hearing on April 4, 2019, at which time the complainants and 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 on November 20, 2018 the complainant Chute in person requested a copy of the Computer Aided Dispatch (“CAD”) record for an incident/arrest identified as CFS#1800518167 at State Police Headquarters. It is found that the respondents did not immediately provide the complainants with the responsive record. It is further found that, by email dated November 20, 2018, the complainants renewed their request to the respondents for a copy of the CAD record.
3. It is found that by letter dated November 26, 2018, the respondents provided the responsive record to the complainants, which was received by the complainants on November 27, 2018.
4. By email filed on November 29, 2018, the complainants appealed to the Commission, writing that they “attempted to obtain dispatch information which led to an arrest by Troop K of the DESPP”, “it has been more than four (4) business days without a response” from the respondents, and that they “would like to proceed with a formal complaint” against the respondents.

5. Section 1-200(5), G.S., defines “public records or files” as follows:

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.

6. 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, (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: “Any 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 record requested by the complainant is a public record within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. At the hearing, the complainants contended that the respondents failed to provide them with the requested record when the respondents did not produce the record immediately upon request. The complainants further contended that the record was needed for an administrative hearing due to be heard in the days following the November 20 request. However, it is found that the complainants did not notify the respondents of the pending hearing at the time of the request, neither in person nor by email.

10. The respondents contended that they promptly produced the responsive record after review by the respondents’ Legal Affairs Unit.

11. The Commission has previously opined that the word “promptly” in §1-210, G.S, means “quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of statements requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the statements; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without loss of the personnel time involved in complying with the request.” See FOIC Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not

possible, the agency should explain the circumstances to the requester.

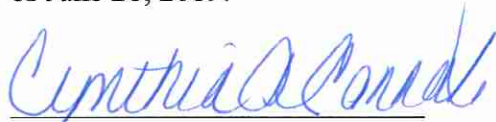
12. It is found that, on the day the respondents received the request, November 20, 2018, they forwarded it to the Legal Affairs Unit, where an electronic log of the request was created. It is also found that the respondents complied with the request within three business days. It is further found that the respondents conducted a timely search and review of the responsive record, and, under the facts and circumstances of this case, promptly provided it to the complainants within a reasonable timeframe.

13. Based on the foregoing, it is concluded 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 hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 26, 2019.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

GARY CHUTE AND SUB ROSA INVESTIGATIVE GROUP LLC, 425 Main Street, Middletown, CT 06457

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, c/o Assistant Attorney General Steven Barry, Office of the Attorney General, 110 Sherman Street, Hartford, CT 06105 and Attorney Colin Milne, DESPP, 1111 Country Club Road, Middletown, CT 06154



Cynthia A. Cannata
Acting Clerk of the Commission