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Brigitte Ruthman and the Waterbury Republican American
Complainant(s)
against

Sergeant Jeff Norkus, State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police; and State of Connecticut, Department of Emergency Services and Public Protection
Respondent(s)

Notice of Meeting

Docket #FIC 2016-0887

July 19, 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, lst floor, Hartford, Connecticut, at **2 p.m. on Wednesday, August 9, 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 July 28, 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 July 28, 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 July 28, 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

Wendy R.B. Paradis
Acting Clerk of the Commission

Notice to: Attorney Thomas G. Parisot
Assistant Attorney General Stephen R. Sarnoski

FIC# 2016-0887/ITRA/MS/KKR/TAH/WRBP/2017-07-19

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Brigitte Ruthman and the
Waterbury Republican American,

Complainants

against

Docket #FIC 2016-0887

Sergeant Jeff Norkus, State of Connecticut,
Department of Emergency Services and
Public Protection, Division of State Police;
and State of Connecticut, Department of
Emergency Services and Public Protection,

Respondents

June 28, 2017

The above-captioned matter was heard as a contested case on May 3, 2017, 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, on December 28, 2016, while reviewing the dockets at the superior court in Bantam, the complainant Ruthman ("Ruthman") learned of the arrests, on December 27, 2016, of two individuals. It is found that these arrests were made without a warrant. Seeking further information concerning the circumstances of these arrests, Ruthman contacted Trooper Kelly Grant, of the respondent department's public information office, who suggested that she go to Troop L and request the information there. It is found that Ruthman arrived at Troop L on December 28, 2016, and spoke with Sgt. Norkus. According to Ruthman, she verbally requested from Sgt. Norkus a copy of the official arrest report or similar report concerning these arrests, and Sgt. Norkus provided her with "two basic press releases."

3. By email dated and filed December 29, 2016, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide a copy of "the official arrest, incident or similar report," concerning the arrests, described in paragraph 2, above.

4. 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.

5. 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.

6. 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."

7. It is concluded that the official arrest, incident or similar reports requested by the complainants are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

8. Section 1-215, G.S., provides, in relevant part:

> (a) For the purposes of this section, "record of the arrest" means (1) the name, race and address of the person arrested, the date, time and place of the arrest and the offense for which the person was arrested, and (2) in addition, in a case in which (A) the arrest has been by warrant, the arrest warrant application, including any affidavit in support of such warrant, or (B) the arrest has been made without a warrant, the official arrest, incident or similar report, provided if a judicial authority has ordered any such affidavit or report sealed from public inspection or disclosure, in whole or in part, the portion of the affidavit or report that has not been sealed, if applicable, as well as a report setting forth a summary of the circumstances that led to the arrest of the person in a manner that does not violate such order.
>
> (b) Notwithstanding any provision of the general statutes, and except as otherwise provided in this section, any record of the arrest of any person shall be a public record from the

> time of such arrest and shall be disclosed in accordance with the provisions of section 1-212 and subsection (a) of section 1-210…. (Emphasis added).

9. It is found that the records provided to the complainants, which Ruthman described as "basic press releases," consisted of two separate documents each entitled "Criminal Information Summary ("summary" or "CIS")." The respondents' witness testified that, typically, the CIS contains both basic blotter information, and, in the case of a warrantless arrest, additional information concerning the circumstances of the arrest.

10. However, in the instant case, the respondents conceded, and it is found, that the summaries provided to the complainants contained the basic blotter information required by §1-215(a)(1), G.S., but did not contain the additional information concerning the circumstances of the arrest.

11. Accordingly, it is found that the summaries provided to the complainants in this case were not "the official arrest, incident, or similar report," required by §1-215(a)(2)(b), G.S.[1]

12. Based upon the specific facts of this case, it is concluded that the respondents violated the disclosure requirements contained in §§1-215(b), §§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. Henceforth, the respondents shall strictly comply with §§1-215(b), §§1-210(a) and 1-212(a), G.S.

Commissioner Matthew Streeter
as Hearing Officer

FIC 2016-0887/hor/kkr/06 -- 2017

[1] Although the respondents subsequently, by letter dated February 27, 2017, offered to provide to the complainants a copy of the official incident reports, upon payment of the $16.00 search/copy fee, the complainants declined this offer.