

Freedom of Information Commission  
of the State of Connecticut

In the Matter of a Complaint by )  
Clifford Templeton, Complainant ) Report of Hearing Officer  
against ) Docket #FIC 76-14  
City of New Haven and the ) April 7, 1976  
Police Commission of )  
the City of New Haven,  
Respondents )

The above captioned matter was scheduled to be heard as a contested case on March 1, 1976. By agreement of the parties, the hearing was postponed to March 12, 1976 and thence to March 25, 1976, when the complainant appeared and presented testimony, exhibits and argument on the complaint. The respondents did not appear nor did they offer evidence or argument at the hearing.

After consideration of the entire record, the following facts are found:

1. By letter dated January 20, 1976, the complainant requested access to the following records and documents:
  - (a) transcripts of the meetings of the respondent commission held on August 13, 1968 and September 10, 1968;
  - (b) files and related material concerning litigation between the complainant and the respondent commission terminated in 1973;
  - (c) a document in the respondent commission's file on the complainant consisting of a letter from a member of the staff of the Yale-New Haven Hospital to former New Haven Police Chief James Ahern;
  - (d) a copy of any written reply transmitted by the respondents in response to a letter on the complainant's behalf from state senator Joseph I. Lieberman, dated August 22, 1974.
2. The respondents failed to provide access to the above records and documents upon the request of the complainant.
3. Subsequent to January 29, 1976, the date of the complaint, but prior to the hearing hereof the respondents granted the complainant access to the document described in paragraph 1(c), above.

4. By way of an ex parte communication, the respondents suggested that the records and documents described in paragraph 1(a) and (d), above, do not exist. The respondents refused or neglected to appear at the hearing on this complaint. The record contains no evidence in support of their contention. The Commission cannot lawfully find any facts on the basis of ex parte representations by the respondents, as this would be a denial of due process under Sec. 4-181, Gen. Stat.

5. In the absence of any evidence to the contrary and on the basis of the testimony set forth in the record, it is found that the transcripts described in paragraph 1(a) are public records in the custody of the respondents.

6. It is concluded that the records and documents described in paragraph 1(b) and (d) may not be withheld from the complainant for the reasons set forth in Sec. 3(2) of P.A. 75-342.

The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint:

1. The respondents shall forthwith grant to the complainant access to the records and documents described in paragraph 1(a), (b) and (d), above, for any of the purposes, and at such times and places, as are prescribed by P.A. 75-342.

2. If any of the records and documents described in paragraph 1(a), (b) and (d), above, cannot be located or it is otherwise determined that any of such records and documents do not exist, the respondents shall forthwith transmit an affidavit to the complainant and to this Commission specifying the following facts:

- (a) the efforts that the respondents have made to locate any such records and documents, including the name and official title of each person who participated in such effort, the time each person expended in the search, and the records surveyed for this purpose;
- (b) the results of such efforts to locate any such records and documents;
- (c) the date and the reason for the destruction of any such records and documents; if such destruction had occurred;
- (d) the name, official title and address of each person who destroyed any such records and documents and the name, official title and address of each person who authorized the destruction of such records or documents.

  
Commissioner Helen Loy

as Hearing Officer