

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by:

Randall Meredith,

Complainant

Final Decision

against

Docket #FIC78-223

Town of New Canaan; Police
Commission of the Town of
New Canaan; and Chief of
Police of the Town of New
Canaan,

February 14, 1979

Respondents

The above captioned matter was heard as a contested case on January 8, 1979, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

Upon motion duly made, Council 15 of the Police Unions American Federation of State, County and Municipal Employees, AFL-CIO was granted the status of an intervenor and also Sergeant William Ferri, both being permitted to present and examine witnesses, and to make oral and written argument.

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

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.
2. By letter to the respondent chief of police and the respondent police commission dated October 25, 1978 the complainant's attorney requested on his behalf the following:
 - a) records of actions taken by the city or the police department against Sergeant William Ferri regarding his treatment of a person whether Sergeant Ferri has been either disciplined or exonerated;
 - b) records of written or oral complaints of civilians against Sergeant Ferri and records showing investigations and dispositions of those complaints.
3. The complainant was informed by the respondent chief that his request would not be complied with.
4. On November 1, 1978 the complainant's attorney filed a complaint with the Commission asserting the complainant's right to obtain copies of the requested documents.

5. The respondent chief maintains a personal data file on all police officers.

6. The personal data file has the following separate components:

a) general personal data consisting of education and employment data and commendations;

b) performance evaluations consisting of performance ratings; and

c) internal investigations which include among other things records of civilian complaints whether written or oral and their dispositions and medical and psychological reports.

7. The civilian complaints in the internal investigation files may be attached to an arrest report if the complaint was filed in connection with an alleged impropriety on the part of a police officer in the course of an arrest.

8. The respondents alleged by way of defense that the records sought were exempt from disclosure under §1-19(b)(2) and (3), G.S. and the erasure statute §54-142a, G.S., formerly §54-90, G.S.

9. The complainant seeks only records relating to civilian complaints and their disposition and actions taken by the respondent department, not the medical and psychological records which are also maintained in the internal affairs portion of Sergeant Ferri's file.

10. It is found that the records pertaining to civilian complaints and the disciplinary records which are sought by the complainant serve a function which is distinct from the recording of data for personnel or similar purposes. In this regard they constitute records of non-criminal, police internal affairs investigations and the administrative disposition thereof that relate directly to the conduct of the public's business.

11. It is found that the police officers who are the subject of the aforesaid records have waived substantial privacy rights with respect to the subject matter of internal disciplinary proceedings on civilian complaints because these proceedings relate to the conduct of the public's business.

12. It is found that neither the respondents nor the intervenor police union nor Sergeant Ferri proved that any privacy rights of the police officer would be improperly invaded by disclosure of the requested records.

13. It is therefore concluded that the records in question are not exempt from disclosure under §1-19(b)(2), G.S.

14. It is found that copies of arrest reports which are attached to civilian complaints in the internal affairs file are subject to erasure under §54-142a, G.S. and that such copies of arrest reports which have been erased under §54-142a, G.S. are exempt from disclosure under §1-19(a), G.S.

15. However, since the remainder of the requested records relate to non-criminal police internal affairs investigation in the alleged misconduct of police officers, it is found that §1-19(a), G.S. and §54-142a, G.S. do not provide exemption for any of the requested records except those which are copies of arrest reports and which have been erased.

16. It is further found that some of the arrest reports which are attached to the civilian complaints may contain material which is exempt from disclosure under §1-19(b)(3)(A) through (D) in that disclosure would not be in the public interest because it would result in the disclosure of:

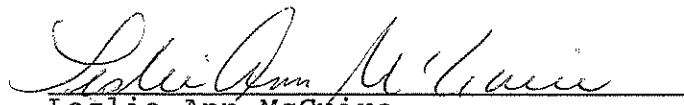
- a) the identity of informants not otherwise known,
- b) information to be used in a prospective law enforcement action if prejudicial to such action,
- c) investigatory techniques not otherwise known to the general public, or
- d) arrest records of a juvenile, including any investigatory files concerning the arrest of such juvenile, compiled for law enforcement purposes.

17. It is concluded that except for the arrest reports which have been erased under §54-142a, G.S. and for those portions of arrest reports which contain material exempted from disclosure under §1-19(b)(3)(A) through (D), that the records sought by the complainant are subject to disclosure under §1-15 and §1-19(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 respondents shall forthwith provide the complainant with the records requested in the letter of October 25, 1978; however, the respondents may detach from the investigatory records of civilian complaints the copies of arrest reports which are subject to erasure under §54-142a, G.S. and may mask those parts of the arrest reports which are exempt from disclosure under §1-19(b)(3)(A) through (D).

Approved by order of the Freedom
of Information Commission on
February 14, 1979.


Leslie Ann McGuire
Acting Clerk of the Commission

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May 20, 1983

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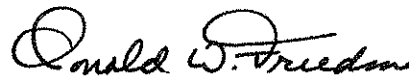
The above-captioned matter was heard as a contested case on January 8, 1979, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

On February 14, 1979 this Commission adopted the finding and order which are attached hereto. The order was appealed by the respondent to the Superior Court for the Judicial District of Bridgeport (DN 17 62 12). By Memorandum of Decision dated December 1, 1982 Judge Frederick Freedman sustained the decision in part and remanded the case for further proceedings in order that it could determine "if the disclosure ordered will result in the invasion of privacy of any person other than Officer Ferri and if so, to take such action as may be necessary to prevent such invasion of privacy."

Thereafter the parties reached an agreement that the respondent might detach or delete from the investigatory records concerning any civilian complaint any material which will result in the invasion of privacy of any person other than Officer Ferri including but not limited to the names of individual complainants and any other information concerning complaints which will make the complainants readily identifiable.

Based upon the agreement of the parties recited herein the Commission further orders:

2. The respondents may detach or delete from the requested records material which will result in the invasion of the privacy of any person other than Officer Ferri pursuant to the agreement of the parties.



Commissioner Donald W. Friedman
as Hearing Officer