

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Wilbur F. Barrett,
Police Chief

Docket #FIC83-3

Complainant(s)

June 10, 1983

against

Police Commission of the
Town of North Branford

Respondent(s)

The above captioned matter was scheduled for hearing March 31 at 2:00 p.m. at which time the parties appeared and presented evidence and argument on the complaint.

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

1. The respondent is a public agency within the meaning of §1-18a(a), G.S.

2. By letter filed on February 2, 1983 the complainant, a police chief, alleged that the respondent violated his rights by failing to provide him with a copy of a statement read by one of its members at a meeting January 26, 1983.

3. By letter filed February 15, 1983 the complainant alleged that the respondent violated his rights when it refused to allow him to tape record its regular meeting on February 14, 1983.

4. The respondent claimed that the document requested by the complainant was not a public record and therefore not subject to mandatory disclosure under §1-15 and §1-19(a), G.S., and the individual police commissioner who had written the document in question claimed it could not be found.

5. §1-18a(d), G.S. provides that

(d) "Public 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, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. §1-19a, G.S. provides that "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. . ."

7. The document of which the complainant seeks copies was a statement prepared by one police commissioner and read aloud prior to the adoption of the budget at the meeting on January 26, 1983.

8. The commissioner gave a copy of the statement to a reporter who was present at the meeting.

9. The statement which was read is described in the minutes:

At this time commissioner Baldo read a prepared statement expressing a priority for a small but well-trained Department, and that although manpower was not increased, money for equipment, training and overtime had been. Comm. Baldo stated he felt each Commission member would be ready to meet with Council members on a one to one basis to discuss the budget if necessary to avoid any other cuts.

10. It is found that the statement read by the commissioner expressed his own personal view and not that of the respondent commission.

11. It is found under the facts herein that the statement was not filed with, or retained by, or used by the respondent herein.

12. It is concluded that the statement was not a public record of the respondent within the meaning of §1-18a(d), or §1-19(a), G.S.

13. The complainant's request to tape record a public meeting of the respondent was denied at the regular meeting of the respondent on February 14, 1983.

14. The respondent claimed that its denial was proper on the basis of by-laws which made the tape recording contingent upon the consent of a majority of the members of the police commission.

15. §1-21a, G.S. provides in relevant part that:

At any meeting of a public agency which is open to the public, pursuant to the provisions of section 1-21, proceedings of such public agency may be recorded, photographed, broadcast or recorded for broadcast, subject to such rules as such public agency may have prescribed prior to such meeting, by any person or by any newspaper, radio broadcasting company or television broadcasting company.

16. It is found that the right of the complainant to tape record the meeting is the same as that of any person, and it is not diminished by the fact that the complainant is employed as chief of the police department.

17. It is further found that under §1-21a the right of the complainant to tape record cannot be denied by majority vote of the respondent board.

18. It is therefore concluded that despite the ambiguity of the employer, employee relationship, the respondent violated §1-21a when it denied him the opportunity to tape record the meeting of the respondent on February 14.

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

1. The respondent shall henceforth comply with §1-21a.

Approved by order of the Freedom of Information Commission at its regular meeting of May 25, 1983.



Mary Jo Jolicoeur
Clerk of the Commission