

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Kevin H. Janicke,

FINAL DECISION

Complainant

Docket #FIC83-15

against

The Town of Cromwell; Resident
Trooper of the Cromwell Police
Department; Division of State Police
of the Department of Public Safety of
the State of Connecticut

July 22, 1983

Respondents

The above captioned matter was heard as a contested case on April 25, 1983, at which time the complainant and the respondents appeared and presented testimony, exhibits 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. The complainant on or about August 8, 1982, applied for employment with the respondent town as a police officer. As part of the application process the complainant, on August 8, 1982, signed a document purporting to authorize the respondent police department to conduct a background investigation of the complainant.

3. The complainant was not hired by the respondent town as a police officer and is not otherwise an employee of the respondent town.

4. On November 8, 1982 the complainant made requests of the respondent trooper and of the first selectman of the respondent town for copies of his applicant file.

5. The respondents offered to produce a portion of the complainant's applicant file, but have withheld written evaluations of the complainant which were solicited as a part of the investigation process.

6. By letter of complaint filed with the Commission on December 7, 1982, the complainant appealed the denial of his request for full access to his application file.

7. The respondents claim that §1-19b(a)(2) does not require the disclosure of the records in question, because the complainant is not an employee, and therefore his applicant file is not a personnel file.

8. It is found that the complainant's applicant file contains information such as educational and employment history, financial information and personal evaluations, gathered by the respondents to determine the complainant's suitability for employment by the respondent town.

9. It is therefore found that the complainant's applicant file is a personnel or similar file within the meaning of §1-19b(a)(2), G.S.

10. §1-19b(a)(2), G.S. provides that:

"Sections 1-15, 1-18a, 1-19 to 1-19b, inclusive, and 1-21 to 1-21k, inclusive, shall be...construed as requiring each public agency to disclose information in its personnel files...to the individual who is the subject of such information."

11. The respondents further claim that §1-19(b)(2) exempts the requested records from disclosure because disclosing statements taken as part of a background investigation would invade the privacy of the person making the statement. The respondents also claim that nondisclosure is necessary to insure frank responses to background inquiries.

12. It is found, however, that the respondent failed to prove that disclosure of truthful personal evaluations solicited by the respondents as part of their hiring procedures would invade the privacy of the evaluators.

13. It is also found that disclosure of the evaluations will not inhibit frankness; it will, rather, protect applicants against false statements.

14. It is therefore concluded that §1-19(b)(2) does not exempt the subject records from disclosure to the complaint.

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 access to inspect or copy the records referred to in paragraph 5, above.

Approved by order of the Freedom of Information Commission at its regular meeting of July 13, 1983.



Mary Jo Jolicœur
Clerk of the Commission