

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by           FINAL DECISION  
Trazan Whitecloud Jr.,

Complainant

Docket #FIC83-109

against

December 23, 1983

Chief of Police, City of  
Hartford; Corporation Counsel,  
City of Hartford,

Respondents

The above captioned matter was heard as a contested case on August 2, 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 respondents are public agencies within the meaning of §1-18a(a), G.S.

2. The complainant at various times between 1974 and 1982, applied to the Hartford Police Department for a position as a police officer.

3. By letter dated April 27, 1983 the complainant made a request of the respondents for all background investigation information compiled by the Hartford Police Department about him between 1974 and 1982 in connection with the complainant's job applications.

4. By letter of complaint filed with the Commission on May 26, 1983, the complainant appealed the denial of his April 27, 1983 request.

5. As part of its background investigation of potential police officers, the Hartford Police Department asks that job applicants fill out questionnaires, have fingerprints taken, and submit to polygraph tests.

6. Information regarding work and educational histories and other job-related areas is also compiled by the department, consisting in part of statements from former employers, teachers, physicians and others.

7. The respondents claim that statements taken from acquaintances and other persons associated with a job candidate are confidential.

8. The respondents claim that the results of polygraph tests are exempted from disclosure by §1-19(b)(6), G.S.

9. The respondents further claim that a waiver signed by the complainant prior to submitting to the polygraph test relieves the respondents of responsibility for releasing the results.

10. The respondents also claim that §1-19b(a)(2), G.S. does not require the release of the records in question to the complainant because the complainant was not hired by the city and therefore the records of the investigation do not constitute a "personnel file."

11. It is found that promises or expectations of confidentiality, without more, do not exempt written statements from disclosure.

12. It is further found that the claimed interest in confidentiality does not outweigh the public interest in protecting job applicants against false or erroneous statements.

13. It is therefore concluded that statements taken from third parties as a part of the respondents' investigation are not exempted from disclosure.

14. It is found that results of a polygraph test are not "test questions, scoring keys or other examination data used to administer" a licensing examination, examination for employment or academic examination.

15. It is therefore found that the results of the complainant's polygraph test are not exempted from disclosure by §1-19(b)(6), G.S.

16. Prior to submitting to the polygraph test the complainant executed a waiver discharging the polygraph administrator from "all harm, liability or damage whatsoever" and all suits, actions, or causes of action at law, claims, demands or liabilities whatsoever."

17. The execution of such a waiver, however, does not preclude the complainant from exercising his rights under the Freedom of Information Act with respect to the results of the polygraph test.

18. §1-19b(a)(2), G.S. requires public agencies "to disclose information in its personnel files, birth records or confidential tax records to the individual who is the subject of such information."

19. It is found that the process of investigating job applicants is the final step in the Hartford Police Department's hiring process. Based upon the results of the hiring process, including background investigations, the assistant personnel director makes a recommendation to the director of personnel regarding the applicants.

20. It is found that in spite of the complainant's lack of success in applying for a position with the Hartford Police Department, the records compiled by the police department in connection with the complainant's application constitute a personnel file within the meaning of §1-19b(a)(2), 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 access to inspect or copy the records referred to at paragraph 3 of the findings, above.

Approved by order of the Freedom of Information Commission at its regular meeting of December 14, 1983.

  
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Mary Jo Jolicœur  
Clerk of the Commission