

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
George Blesso,

FINAL DECISION

Complainant

Docket #FIC84-29

May 23, 1984

against

Police Chief of the City
and Town of Hartford; Director
of Personnel of the City and
Town of Hartford,

Respondent

The above captioned matter was heard as a contested case on March 7, 1984 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. At some time prior to January, 1983, the complainant applied to the respondent department for employment as a police officer. The complainant's application was rejected.

3. By letter dated February 10, 1984 the complainant made a request of the respondent police chief for access to the complainant's employment records.

4. By letter dated February 15, 1984 the respondent police chief referred the complainant to Mr. Lee Cogswell, the director of the city of Hartford's personnel department.

5. By letter dated February 24, 1984 the complainant made a request of the respondent personnel director for access to his own employment records.

6. By letter of complaint filed with the Commission on March 7, 1984 the complainant alleged that he had received no response to his February 24, 1984 request, and appealed the denial thereof.

7. Upon applying for employment with the Hartford police department, applicants who meet at least minimal qualifications submit to a written exam, an oral interview and a medical examination, followed by a background investigation.

8. The complainant seeks access to records relating to the background check performed as part of the complainant's application for employment. The respondents claim that the reasons for the complainant's disqualification were revealed to him, but that the sources of the information must remain confidential. The complainant maintains that the respondents did not tell him what the background investigation revealed.

9. As part of the background investigation of potential police officers, applicants submit to a polygraph test and fingerprinting and to an investigation by field investigators. The investigation procedures include interviews with former employers, physicians and teachers, and the compilation of medical, military history and police record information and an FBI check.

10. Upon completion of the required examinations and investigation the investigating detective prepares a report for the chief of police, who then makes his recommendation to the director of personnel. The director of personnel may either accept or reject the chief's recommendation. If a negative recommendation is rejected, the candidate remains eligible for selection.

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

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

13. The respondents also claim that the information requested is gathered during the examination process, is an essential part of the testing process and is therefore exempted from disclosure by §1-19(b)(6), G.S.

14. It is found that statements taken from persons acquainted with a job applicant 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 concluded that neither the statements in question nor the sources thereof are exempted from disclosure by §1-19(b)(6), G.S.

16. The respondents also claim that the report to the chief of police is a preliminary, pre-decisional document, that the respondents have decided that the public interest in withholding it and the statements therein outweighs the public interest in disclosure, and that the sources of the information in such report are exempted from disclosure by §1-19(b)(1), G.S.

17. It is found that the report to the chief is in the nature of an intra-agency memorandum, letter, advisory opinion, recommendation or report comprising part of the process by which governmental decisions and policies are formulated.

18. 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.

19. It is concluded that the report to the chief is not exempted from disclosure by §1-19(b)(1), G.S.

20. §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."

21. 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 respondent director of personnel, assisted by the respondent chief, makes his decisions regarding the hiring of personnel.

22. It is found that in spite of the complainant's lack of success in applying for a position with the respondent department, the records compiled in connection with the background investigation of the complainant 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 respondent shall forthwith provide the complainant with access to inspect or copy the records compiled as part of the background investigation of the complainant in connection with the complainant's application for employment.

Approved by order of the Freedom of Information Commission at its regular meeting of May 23, 1984.



Mary Jo Jolicœur
Clerk of the Commission