

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Louis D'Onofrio

Docket #FIC 84-55

Complainant(s)

September 26, 1984

vs.

Board of Police Commissioners
of the City and Town of
West Haven

Respondent(s)

The above captioned matter was scheduled for hearing on June 28, 1984 at which time both 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 postmarked April 5, 1984 the complainant alleged that the respondent violated §1-21g, G.S., when it permitted the police chief and the assistant chief of detectives to be present during an entire executive session on March 6, 1984. The complainant alleged that the presence of the police chief and the assistant chief was not necessary to provide testimony during a discussion of medical reports pertaining to the personnel matter.

3. Section 1-21g, G.S., provides in relevant part:

At an executive session of a public agency, attendance shall be limited to members of said body and persons invited by said body to present testimony or opinion pertinent to matters before said body provided that such persons' attendance shall be limited to the period for which their presence is necessary to present such testimony or opinion....

4. It is found that the respondent held an executive session on March 6, 1984 which lasted for twenty minutes and consisted of a discussion of a personnel matter concerning a retirement.

5. It is found that medical reports were not discussed at the executive session.

6. It is found that the respondent requested that the police chief attend the executive session to present testimony or opinion concerning the issue of whether an individual would be permitted to retire at a rank different from that which he held at the time of the request.

7. It is found that the respondent requested that the assistant chief attend the executive session to present background information on the individual who had requested retirement.

8. It is found that both the police chief and the assistant chief remained in attendance for the entire executive session.

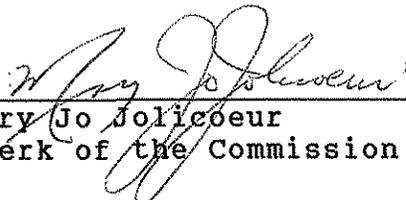
9. It is concluded that the presence of the police chief at the executive session did not constitute a violation of §1-21g, G.S., to the extent that his testimony or opinion included his evaluation of how the issue of retiring at a different rank applied to the particular personnel matter discussed in executive session. To the extent that the police chief presented only general policy information, his presentation may not have been a permissible topic for an executive session, pursuant to §§1-18a(e) and 1-21(a), G.S.

10. It is found that the presence of the assistant chief at the executive session did not constitute a violation of §1-21g, G.S., because he was invited by the respondent to present testimony or opinion pertinent to a matter before the respondent and his attendance was limited to the period for which his presence was necessary to present such information. That period constituted the entire meeting.

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

1. Henceforth the respondent shall comply with §1-21g, G.S.
2. The Commission notes that general policy discussion of personnel matters may not be a permissible subject for executive sessions, pursuant to §§1-18a(e) and 1-21(a), G.S.
3. The Commission notes and commends the respondent for its good faith effort to comply with the Act in the circumstances of the meeting in question.

Approved by order of the Freedom of Information Commission at its regular meeting of September 26, 1984.



Mary Jo Jolicœur
Clerk of the Commission