

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

AMENDED FINAL DECISION

Louis D'Onofrio,

Docket #FIC 84-76

Complainant(s)

October 24, 1984

vs.

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

Respondent(s)

The above captioned matter was heard June 28, 1984 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. The complainant alleged in a letter postmarked May 1, 1984 that the respondent met in executive session on April 3, 1984 and committed the following violations of the Freedom of Information Act: the respondent improperly allowed the police chief and the assistant chief of police to be present during the entire executive session, in violation of §1-21g, G.S.; job applicants were not informed that they would be discussed in the executive session, in violation of §1-18a(e), G.S.; and votes in the executive session concerning job applicants were not recorded in the minutes.

3. It is found that the respondent met in executive session on April 3, 1984 and that the discussion included a request for retirement and the qualifications of applicants for jobs as members of the police force.

4. It is found that the respondent requested that the police chief attend the executive session to present testimony or opinion concerning the individual requesting retirement and to present testimony or opinion about procedures in the recruitment of job applicants.

5. It is found that the respondent requested that the assistant chief attend the executive session to present testimony or opinion on the case history of the individual requesting retirement and to present testimony or opinion on the application packet concerning each job applicant.

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

7. It is found that the respondent notified the job applicants that they would be discussed at the regular meeting on April 3, 1984 but did not notify the job applicants that they would be discussed in executive session.

8. It is found that the respondent voted on the job applicants in public session but that the vote was not recorded in the minutes of the meeting. The chairman of the police commission testified at the Hearing herein that the minutes will be corrected to reflect the vote on the job applicants.

9. It is concluded that §1-21g, G.S., was not violated when the police chief and the assistant chief attended the portion of the executive session concerning the retirement matter.

10. It is concluded that §1-21g, G.S., was not violated when the police chief attended the portion of the executive session on the job applicants to the extent that his testimony or opinion on recruitment procedures included his evaluation of how the procedures applied to particular applicants. 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.

11. It is concluded that §1-21g, G.S., was not violated when the assistant chief attended the portion of the executive session on the job applicants because he presented testimony or opinion on the individual applicants.

12. It is concluded that §1-18a(e)(1), G.S., was violated because the respondent failed to notify the job applicants that they would be discussed at the executive session.

13. It is concluded that §1-21(a), G.S., was not violated because the vote on the job applicants was properly taken in public session and not in executive session.

14. It is concluded that §1-21(a), G.S., was violated by the respondent's failure to record the votes on the job applicants in the minutes of the 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., by limiting the attendance of non-members to the period for which their presence is necessary to present testimony or opinion pertinent to matters before the body.

2. Henceforth the respondent shall comply with §1-18a(e)(1), G.S., by notifying individuals subject to personnel discussions in an executive session that they may require the discussion be held in a public meeting.

3. The Commission notes that general policy discussion of personnel matters may not be a permissible subject for executive sessions, pursuant to §§1-18(e) and 1-21(a), G.S.

4. The respondent shall correct the minutes of the meeting of April 3, 1984 to reflect the motion and votes concerning job applicants.

Approved by order of the Freedom of Information Commission at its regular meeting of October 24, 1984.



Mary Jo Jolicœur
Clerk of the Commission