

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
William H. Neubeck

FINAL DECISION

Complainant

Docket #FIC 84-128

against

December 3, 1984

Police Chief of the
Town of Westport

Respondent

The above captioned matter was heard as a contested case on September 17, 1984 at which time the complainant and the respondent appeared, stipulated to certain facts 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. On July 1, 1983, Lawrence Browne died while detained in a police holding cell in the Town of Westport. The respondent represented that the cause of death was suicide.
3. The complainant is the Managing Editor of the newspaper, The Hour. By letter dated July 6, 1984, a reporter employed by The Hour made a request of the respondent for a copy of the internal affairs investigation conducted by the Westport Police Department into the death of Lawrence Browne.
4. By letter dated July 10, 1984, the respondent denied this request.
5. By letter of complaint filed with the Commission on July 12, 1984, the complainant appealed the denial.
6. The respondent claims that disclosure of the requested records would affect the town's rights as a litigant under the laws of discovery of the state, pursuant to §1-19b(b), G.S.
7. The town is a defendant in a civil suit which was brought by the estate of Lawrence Browne to recover for Browne's death. The complainant is not a party to the civil suit. The town has

filed a motion objecting to the plaintiff's request for production of investigation reports into the death of Lawrence Browne. The court has not yet ruled on the objections to discovery.

8. An objection to discovery does not by itself supersede the disclosure provisions of §§1-15 and 1-19(a), G.S.

9. The complainant failed to prove that, under §1-19(b), G.S., the discovery rights of any litigants would be affected by disclosure under the provisions of the Freedom of Information Act.

10. The respondent further claims that disclosure of the internal affairs investigation report is prohibited by §7-470(a), G.S., which states: "Municipal employers...are prohibited from...refusing to comply with a grievance settlement, or arbitration settlement...."

11. On June 1, 1984 the respondent entered into an agreement with the union representing the Westport Police Department. The agreement provided that the respondent would not disclose the investigation report into the death of Lawrence Browne to the public.

12. The statutory obligation of the respondent to disclose the internal affairs investigation report, pursuant to §§1-15 and 1-19(a), G.S., is not superseded by the June 1, 1984 collective bargaining agreement.

13. The respondent further claims that the internal affairs investigation report is exempt from disclosure as preliminary drafts or notes pursuant to §1-19(b)(1), G.S.

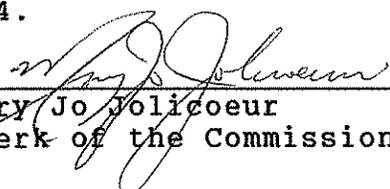
14. The requested records consist of recorded data, statements and evaluations which are not preliminary drafts or notes and are therefore not exempt from disclosure under §1-19(b)(1), G.S..

15. Therefore it is concluded that the respondent violated §§1-15 and 1-19(a), G.S., by refusing the request for a copy of the internal affairs investigation into the death of Lawrence Browne.

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 a copy of the internal affairs investigation report into the death of Lawrence Browne.

Approved by order of the Freedom of Information Commission at its regular meeting of November 28, 1984.


Mary Jo Jolicœur
Clerk of the Commission