

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Louis D'Onofrio

FINAL DECISION

Complainant

Docket #FIC84-135

against

February 27, 1985

West Haven Board of Police
Commissioners

Respondent

The above captioned matter was heard as a contested case on November 31, 1984 at which time the complainant and the respondent 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. By letter of complaint filed with the Commission on July 19, 1984 the complainant alleged that the respondent met, without notice, on June 20, 1984 and June 21, 1984, that the respondent conducted business on June 20, 1984 other than the business for which the meeting was called and that the complainant did not receive individual notice of the meetings as requested pursuant to §1-21c, G.S. The complainant requested that actions taken at the June 20, 1984 and June 21, 1984 meetings be declared null and void and that civil penalties be imposed pursuant to §1-21k(b), G.S., based upon earlier decisions of the Commission ordering the respondent to comply with §1-21c, G.S.

3. On June 19, 1984 the respondent held a meeting during which it chose five individuals from an eligibility list for appointment to the police department

4. At approximately 2:00 a.m. on June 20, 1984 one of the persons appointed on June 19, 1984, Mr. Greene, caused a "disturbance" which required the involvement of five police officers.

5. At approximately 9:00 a.m. on June 20, 1984 the chairman of the respondent called a meeting for the purpose of discussing Mr. Greene's conduct. At such meeting, held at 5:30 p.m. that evening, the respondent voted to rescind the appointment of Mr. Green and to appoint the next eligible individual to the department.

6. On June 21, 1984 the respondent received notice from one of the candidates chosen on June 19, 1984, Mr. Smith, that he did not wish to accept his appointment to the department.

7. The respondent convened a meeting on June 21, 1984 at 7:05 p.m. at which it discussed Mr. Smith's letter of resignation and appointed the next applicant from the eligibility list.

8. The officers appointed by the respondent on June 19, 1984 were to be sworn in on July 6, 1984.

9. The respondent claimed that it could not wait 24 hours before holding the two meetings because the officers appointed had to be fitted for uniforms prior to July 6, 1984, because the respondent wanted all officers to begin training at the same time, because the approaching weekend made it more difficult to gather a quorum, and because candidates needed time to inform their employers that they would be leaving. The respondent also claimed with respect to Mr. Greene that it did not want him to quit his job in anticipation of employment with the police department.

10. The respondent failed to prove that its concern that Mr. Greene would quit his job could not have been resolved administratively by informing Mr. Greene that his conduct was going to be the subject of a special meeting at which the possibility of rescinding his appointment would be considered.

11. It is further found that the appointment of a replacement for Mr. Greene did not constitute an emergency within the meaning of §1-21(a), G.S.

12. It is therefore found that the respondent violated §1-21(a), G.S. when it discussed and took action on June 20, 1984 with respect to rescinding Mr. Greene's appointment and choosing a replacement without providing notice thereof 24 hours in advance.

13. It is found that neither the resignation of one of the individuals appointed to the police department on June 19, 1984 nor the necessity of appointing a replacement constituted an emergency within the meaning of §1-21(a), G.S.

14. It is therefore found that the respondent violated §1-21(a), G.S. when it held a meeting on June 21, 1984 without providing notice thereof 24 hours in advance.

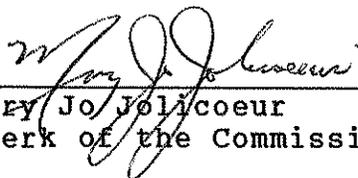
15. It is found that due to the respondent's convening of the June 20, 1984 and June 21, 1984 meetings as "emergency" meetings, the complainant was deprived of individual notice of the meetings as requested pursuant to §1-21c, G.S. It is found, however, that such deprivation did not constitute a failure to comply with an order of the Commission within the meaning of §1-21k, G.S.

16. Because the June 20, 1984 meeting was convened without notice, the complainant's claim that a matter other than the announced purpose was discussed is inappropriate.

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, except in the case of an emergency, hold its special meetings only after first providing the public with the twenty-four hour advance notice required by §1-21(a), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of February 27, 1985.



Mary Jo Jolicoeur
Clerk of the Commission