

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Kerry Vancisin

FINAL DECISION

Complainant

Docket #FIC84-187

against

March 20, 1985

Board of Police
Commissioners of the
City and Town of
Bridgeport

Respondent

The above captioned matter was scheduled for hearing November 20, 1984 at which time it was heard at the same hearing as #FIC 84-164 because the parties in each case were identical. At the time scheduled for hearing 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. By complaint mailed September 10, 1984, the complainant alleged numerous violations of the Freedom of Information Act.

3. At the hearing the claims stated in four paragraphs of the complaint (paragraphs 5, 6, 7 and 8) were withdrawn.

4. The claims stated in the complaint which were pursued at the hearing were that the respondent had failed to provide copies of minutes and that it had violated the voting requirements and requirements limiting attendance at its executive sessions on August 15, 1984.

5. On August 15, 1984, the complainant requested in writing copies of minutes of the meetings which occurred July 23, 1984, July 25, 1984, July 30, 1984, August 6, 1984, August 7, 1984, August 14, 1984 and August 15, 1984.

6. These copies were not provided to the complainant by August 30, 1984.

7. At the time of the hearing in the above entitled matter, the complainant had received all the requested copies except for copies of the minutes of the meeting of August 14, 1984.

8. The minutes of the meeting of August 14, 1984 were not prepared.

9. The respondent's failure to prepare the minutes was blamed on inadequate staffing of the respondent which was created by recent structural and personnel changes so that it was substantially understaffed.

10. It is found that the respondent violated the minutes requirements of §1-19(a) G.S. and §1-21 G.S. by failing to prepare minutes within seven days of the meeting to which they refer.

11. The complainant further alleged violations of the voting and executive session provisions of §1-21 G.S. and §1-21g G.S. claiming that the respondent both failed to vote to go into executive session and failed to properly limit the people in attendance at its executive session at the meeting held by the respondent on August 15, 1984.

12. Two executive sessions were held at the meeting of August 15, 1984.

13. The minutes of the meeting of August 15, 1984 do not reflect that any motions or votes were taken to enable the respondent to go into executive session to discuss personnel matters.

14. It is found that the respondent failed to prove that on August 15, 1984 it had made the proper motions and votes to go into executive sessions.

15. The following persons attended the executive sessions of the respondent in addition to the Commissioners:
Superintendent Walsh, Captain Trungadi, Carol Minto, Daniel Brennan, Jr., Frank Raccio, Thomas Jackson, Lorie Schaffer, A/Sgt. Boston, P.O. Robert Fitzgerald, William Ordner, P.O. C.J. Stites.

16. It is found that the respondent failed to prove that the attendance of the persons who were present at the executive sessions was "limited to the period for which their presence is necessary to present testimony or opinion" as required by §1-21g G.S.

17. It is concluded that the respondent violated the requirement of §1-21 G.S. that a motion and two-thirds vote occur prior to closing a meeting to the public and also that it violated the limitations upon attendance at an executive session stated at §1-21g G.S.

18. The complainant requested that a civil penalty be imposed upon Captain Trungadi, the clerk of the Respondent for his failure to provide the copies of minutes in a timely fashion and for the failure to have the minutes of August 14, 1984 hearing prepared.

19. Inasmuch as the delay in complying with the minutes requirements of the act is due in part to understaffing of the Respondent, it would be unfair to impose the penalty upon Captain Trungadi alone, therefore, in this instance, the Commission declines to exercise its power to impose a civil penalty.

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

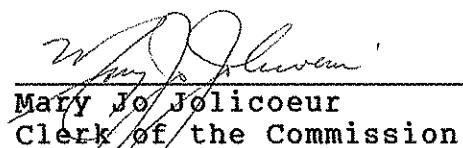
1. Henceforth, the respondent shall prepare its minutes in accordance with the time requirements set forth at §1-21 G.S.

2. Henceforth, the respondent shall limit attendance at its executive sessions in accordance with §1-21g G.S.

3. Henceforth, the respondent shall use a proper motion and obtain a vote of those present in accordance with §1-21 G.S. before proceeding into executive session

4. The Commission wants the respondent to understand that failure to impose a civil penalty in this instance should not be recorded as approval of the disregard evidenced by it toward the requirements of the Freedom of Information Act. It may be the case in the future where understaffing is cited as the reason for failure to comply with the Freedom of Information Act that the Commission will find it necessary nonetheless to impose a civil penalty upon the official[s] directly responsible for a denial of rights which are granted the public under the act.

Approved by order of the Freedom of Information Commission at its special meeting of March 20, 1985.



Mary Jo Jolicoeur
Clerk of the Commission