

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
C. J. Mozzochi,

FINAL DECISION

Complainant

Docket #FIC85-105

against

Town Manager of the Town of
Glastonbury,

Respondent

JULY 23, 1986

The above captioned matter was heard as a contested case on October 31, 1985 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. In an April 11, 1985 letter to the respondent the complainant made a request for the following:

a) A copy of the Glastonbury police department's daily log for the month of March, 1985, with appropriate expurgation of exempt information, "provided that you indicate clearly for each item the reason why it is being expurgated;"

b) Copies of all applications for unemployment compensation filed during the tenure of Chief of Police Hoffman by any employee of the Glastonbury police department after retirement from the department; and

c) Unexpurgated copies of the citizen complaints against the police department and/or its personnel case numbers 12681-84 and 15534-84.

3. By letter of complaint filed with the Commission on April 22, 1985 the complainant appealed the respondent's failure to provide him with the requested records.

4. By letter filed with the Commission on May 30, 1985 the complainant asked that a civil penalty be imposed against the respondent for failure to provide him with a copy of the police daily log, on the ground that "[i]t has been clearly established that the police daily log, properly expurgated, is available . . . under the Act."

5. By letter dated June 11, 1985 the respondent denied the complainant's request for unemployment applications and copies of citizen complaint files.

6. In its June 11, 1985 letter the respondent indicated, with respect to the daily log, that the Town was entitled to compensation for the time required to expurgate exempt materials and that an estimate of the time it would take to prepare the records would be provided. The respondent never prepared such an estimate, but claims that the failure to do so was an oversight.

7. The respondent claims that the provisions of the erasure statutes contained in Chapter 961a of the General Statutes mandate the examination of the daily log prior to its release to ensure that information subject to erasure is not disclosed. The respondent claims that the preparation of a document from which mandatorily-exempt material has been deleted amounts to the creation of a document at the complainant's request and that it is entitled to recover the cost of creating such a document.

8. It is found that §54-142a, G.S. requires the erasure of police, court and state's attorney's records where an accused is found not guilty of a charge or the charge is dismissed. Such requirement is not contingent upon the complainant's request or upon the request of any other person for disclosure.

9. It is concluded that the complainant's request for disclosure does not impose any burden not already imposed by the language of §54-142a, G.S. The Commission, therefore, rejects the respondent's claim regarding recovery of the costs of examining the log prior to its release.

10. Although not specifically raised by the respondent, the Commission finds that the police daily log for the month of March, 1985 may contain information which is exempt from disclosure pursuant to §1-19(b)(3), G.S.

11. The respondent claims that a civil penalty is not appropriate because the police daily log was withheld on the ground that the respondent felt it was entitled to compensation for the time spent in examining the log.

12. It is found that the imposition of a civil penalty is not an appropriate remedy for the respondent's failure to provide access to the police daily log.

13. The respondent claims that the only records relating to claims for unemployment compensation which fall within the complainant's request are two forms which, it maintains, are exempted from disclosure by §31-254, G.S.

14. The forms, which are entitled "Notice of Hearing and Unemployment Compensation Claim" are issued by the State of Connecticut Department of Labor. The forms include the name of the individual filing a claim for unemployment compensation and the "reason for separation" as stated by the claimant and provide an opportunity for the employer to indicate whether he or she will attend the hearing on the claim.

15. It is found that §31-254, G.S. provides that records obtained by the unemployment compensation administrator pursuant to such statute shall not be disclosed in any manner revealing the identity of the employer or the employee.

16. §31-254 does not prohibit the disclosure, by the respondent, of the records requested by the complainant.

17. The respondent also claims that the forms are exempted from disclosure by §1-19(b)(2), G.S.

18. It is found that disclosure of the fact of application for unemployment compensation does not constitute an invasion of personal privacy within the meaning of §1-19(b)(2), G.S.

19. The respondent's request for a rehearing, after notice to the two persons whose forms are at issue, is hereby denied.

20. It is concluded that the respondent violated §§1-15 and 1-19(a), G.S. when it denied the complainant copies of the two notices of unemployment compensation claims.

21. The respondent claims, with respect to the citizen complaints requested by the complainant, that the complainant made a request for the same records in 1984 and that at that time the respondent provided the complainant with the files, from which had been deleted all references identifying the private citizen or citizens who had filed the complaints. The respondent claims that the identities of persons filing the complaints are exempted from disclosure by §1-19(b)(2), G.S.

22. It is found that civilian complaints of police misconduct may chronicle the non-criminal conduct of civilians as well as of police officers.

23. It is also found that civilian complaint files may contain accounts of civilian non-criminal behavior, the disclosure of which would, if personally identifiable, constitute an invasion of personal privacy.

24. To the extent that the two files in question record civilians' non-criminal conduct, the disclosure of which would constitute an invasion of personal privacy, the personally identifiable portions of such records are exempt from disclosure pursuant to §1-19(b)(2), G.S.

25. It is also found that to the extent that the complaint files were compiled in connection with the detection or investigation of crime, the identities of informants not otherwise known are exempt from disclosure pursuant to §1-19(b)(3)(A), G.S.

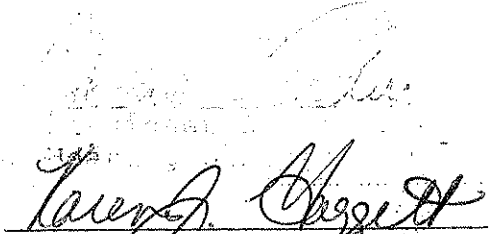
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint.

1. The respondent shall forthwith provide the complainant, at no cost, with copies of the police daily log for the month of March, 1985. The respondent may mask or delete from the log such information as is exempted from disclosure by §54-142a, G.S. The respondent may also mask or delete from the log such information as is exempted from disclosure by §1-19(b)(3), G.S.

2. The respondent shall forthwith provide the complainant with the two forms related to claims for unemployment compensation referred to at paragraph 13 of the findings, above.

3. The respondent shall forthwith provide the complainant with copies of the two complaint files referred to at paragraph 2(c), above. The respondent may mask the records provided so as to prevent disclosure of the names of civilians or other identifying material to the extent that disclosure of such information would constitute an invasion of such civilians' personal privacy within the meaning of §1-19(b)(2), G.S. The respondent may also mask or delete information which is exempted from disclosure by §1-19(b)(3)(A), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of July 23, 1986.


Karen J. Haggett
Clerk of the Commission