

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
The Hartford Courant and
Michael J. Whalen,

Complainants

Final Decision

against

Docket #FIC78-162

City of New London; and the
City Manager of the City of
New London,

October 25, 1978

Respondents

The above captioned matter was heard as a contested case on September 28, 1978, at which time the complainants and the respondents appeared and presented testimony, exhibits and argument on the complaint.

Upon motion duly made, Stephen Wise, Local 724 and Council 15 of the American Federation of State, County and Municipal Employees AFL-CIO were granted the status of intervenor for the limited purpose of presenting evidence, examining witnesses, and presenting oral argument. Patricia McCarthy, Wayne Monty, and Glenn Davis were granted the status of parties.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.
2. In June 1978 the complainant Whalen requested records concerning civilian complaints and disciplinary actions against police officers.
3. The respondent city manager, the complainant Whalen and the chief of police of the respondent city met on June 30, 1978 and reached an agreement concerning disclosure of the requested records.
4. The police chief is subordinate to the city manager in this particular matter.
5. Subsequently the police chief notified those members of the police department whose names or activities were mentioned in the records which were to be disclosed.
6. After receiving the aforesaid notification several police officers protested disclosure of the records and threatened litigation.
7. On the advice of counsel the respondent city manager determined that he would not disclose the requested documents.

8. By letters dated August 15, 1978 the complainants formally requested access to records of disciplinary actions and citizen complaints filed against city police officers between January 1970 and June 15, 1978.

9. By press release to the complainant newspaper dated August 9, 1978 and by letter dated August 18, 1978 to the complainant Whalen, the respondent city manager denied access to the aforesaid records, in part because he claimed that an adjudication by the Freedom of Information Commission would be in the best interest of all concerned.

10. The complainants' appeal was filed with this Commission on August 28, 1978.

11. At hearing the complainants specified, and the respondents agreed, that the complainants' request for records is to be understood in the following manner:

a. The records of disciplinary actions sought by the complainants are records of actions taken by the city or by the police department against an officer regarding his treatment of a person whether the officer has been either disciplined or exonerated.

b. The records of citizen complaints sought by the complainants are written or transcribed oral complaints of civilians, and records showing investigations and disposition of those complaints.

12. The complainants agreed that the respondent manager might exempt from disclosure the names of persons who have been interviewed in connection with the investigation of the civilian complaints and material which is exempt from disclosure under §1-19(b)(3), G.S.

13. Since April 1977 the police department of the respondent city has maintained separate filing systems for records of its internal disciplinary actions and for records of civilian complaints.

14. The records of internal disciplinary actions since April 1977 consist of documents, some tape recordings of hearings and one transcript of a hearing.

15. The records on each civilian complaint filed since April 1977 consists of the written complaint, documentation of the police investigation of the civilian complaint, a letter or report of the disposition of the civilian complaint and, in some cases, records relating to an appeal of a decision regarding the civilian complaint to the city manager.

16. Prior to April 1977 records of civilian complaints and internal disciplinary hearings were kept in a much more haphazard fashion.

17. To the extent that such records exist for the period from January 1970 to April 1977 they may only exist in the personnel files of the individual police officers.

18. It is found that the disciplinary records and the records of citizen complaints which are sought by the complainants serve a function which is distinct from the recording of data for personnel or similar purposes. In this regard they constitute records of non-criminal, police internal affairs investigations and the administrative disposition thereof that relate directly to the conduct of the public's business.

19. It is found that the police officers who are the subject of the aforesaid records have no privacy rights with respect to the subject matter of the internal disciplinary proceedings because these proceedings relate to the conduct of the public's business.

20. It is further found that neither the respondent city manager nor the intervenor union proved that any privacy rights of the police officers who were subjects of the aforesaid records of internal disciplinary proceedings would be invaded by disclosure of the requested records.

21. It is therefore concluded that the records in question are not exempt from disclosure under §1-19(b)(2), G.S.

22. Since the requested records relate to non-criminal police internal affairs investigations into the alleged misconduct of police officers, it is found that §1-19(a) and §54-90, G.S. do not provide an exemption to the disclosure of the records here in issue.

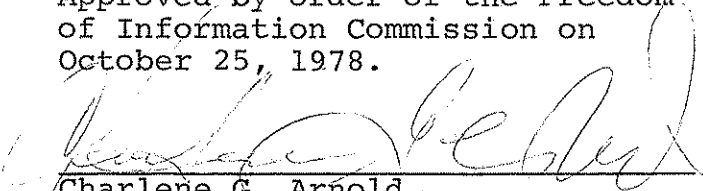
23. It is further found that the contract between the respondent city and the intervenor union does not supercede or otherwise invalidate the disclosure provisions of §1-19a, G.S.

24. It is therefore concluded that the complainants are entitled to access to the requested records subject to the exemptions stipulated at hearing and recited herein at paragraph 12.

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

1. The respondents shall provide the requested records in accordance with the complainant's request as specified and stipulated in paragraphs 11 and 12 and as described in paragraphs 14 through 17 within a reasonable time, such time period not to exceed thirty days.

Approved by order of the Freedom
of Information Commission on
October 25, 1978.


Charlene G. Arnold
Clerk of the Commission