

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Kathryn B. Rivard and The
Bristol Press,

Complainants

Report of Hearing Officer

against

Docket #FIC79-164

City and Town of Bristol; and
Mayor of the City and Town of
Bristol,

March 12, 1980

Respondents

The above captioned matter was heard as a contested case on February 5, 1980 at which time the complainants and respondents appeared and presented testimony, exhibits and argument on the complaint.

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. The respondents moved to dismiss on the ground that the hearing was not held in a timely manner in accordance with time limits set forth at §1-21i(b), G.S. which requires that the Commission schedule a hearing within twenty days of receipt of the complaint.
3. It is found that the Commission has jurisdiction in the above matter because the twenty day time limit is directory and not mandatory.
4. By letter dated July 26, 1979 the complainant alleged that the mayor of the city of Bristol failed to provide her with the names of the six city workers who had been disciplined in connection with a landscaping scheme conducted by the superintendent of parks when he was assistant superintendent of parks.
5. The then assistant superintendent of parks was disciplined with a six day suspension for misusing city equipment.
6. The facts concerning the disciplining of the superintendent of parks were well known.
7. The parties stipulated at hearing that the complainant sought copies of records showing the names and the nature of the disciplinary action taken against persons involved in the aforesaid landscaping scheme.
8. The five or six individuals involved received reprimands and the reprimands were placed in personnel files in May or June, 1979.

9. At the time of the hearing only one of the reprimands remained in one of the employee's personnel file.

10. The other reprimands had been shredded six months after they were placed in the files in accordance with the union contract.

11. The respondents were aware of the complainant's request for records containing the names of the disciplined employees prior to the time that the reprimands were shredded in accordance with the union contract.

12. The respondents claimed that the records were exempt under §1-19(b) (2), G.S.

13. §1-19(b) (2), G.S. provides in relevant part that "Nothing in sections 1-15, 1-18a, 1-19 to 1-19b, inclusive, and 1-21 to 1-21k, inclusive, shall be construed to require disclosure of ... personnel or medical files and similar files the disclosure of which would constitute and invasion of personal privacy.

14. It is found that the public has a legitimate interest in knowing the names and the nature of the disciplinary action taken with respect to the public employees disciplined in connection with the landscaping scheme.

15. It is found that disclosure of records showing the names and the nature of the disciplinary action taken against the persons involved in the landscaping scheme does not constitute an invasion of privacy and that therefore the records are not exempt from disclosure under §1-19(b) (2), G.S.

16. The respondents further claimed that the union contract prohibits disclosure of the records containing the names and the nature of the disciplinary action taken against the city workers.

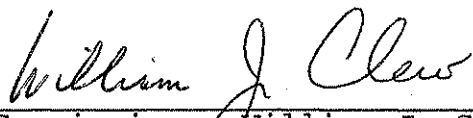
17. It is found that the respondent city and the union cannot by contract nullify the requirements of the Freedom of Information Act and that therefore the withholding of the records at the time of the complainant's request violated the requirements of §1-19(a), G.S.

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

1. The respondents shall provide the complainant with a copy of the one reprimand which has not been shredded.

2. The respondents shall reconstruct a list of the names of the workers who were disciplined in connection with the landscaping scheme and shall provide the complainant with the reconstructed list.

3. If the reprimands which were shredded differed in their content from the copy of the existing reprimand which the respondents have been ordered to provide the complainant at paragraph 1 herein, the respondents shall reconstruct the language of each of the reprimands as accurately as possible and shall provide copies of the same to the complainant.



Commissioner William J. Clew
as Hearing Officer

Approved by order of the Freedom of Information Commission on
April 9, 1980.



Leslie Ann McGuire
Clerk of the Commission