

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Robert H. Boone and Journal
Inquirer,

Complainants

Report of Hearing Officer

against

Docket #FIC79-81

Town of East Windsor; and Police
Commission of the Town of East
Windsor,

July 25, 1979

Respondents

The above captioned matter was consolidated for hearing with #FIC79-67, John B. Harris and Hartford Courant vs. Town of East Windsor and the Police Commission of the Town of East Windsor, because both complaints concerned similar subject matter. The hearing was held on May 17, 1979 at which time the parties appeared and presented evidence 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. By complaint filed with the Commission March 27, 1979 the complainants alleged that the respondent police commission met improperly in executive session on two occasions: once on February 27, 1979 and again on March 13, 1979.
3. The complainants further alleged that the respondent commission failed to file notice of its February 27, 1979 meeting in accordance with §1-21, G.S.
4. The complainants requested that the respondents be fined on the basis that the aforesaid violations were wilful.
5. The respondent police commission has no regular place of business.
6. There was no agenda filed with the town clerk for the February 27, 1979 meeting.
7. It is found that the aforesaid failure of the respondent commission violated the requirement of §1-21, G.S. that the agenda of a regular meeting be filed not less than twenty-four hours prior to a regular meeting at the agency's regular office or, if there is no office, "with the clerk of such subdivision for any public agency of a political subdivision of the state."

8. During the February 27, 1979 meeting, the respondent commission held an executive session for the stated purpose of discussing personnel matters and conducting interviews for the position of dispatcher.

9. During the aforesaid executive session the respondent commission interviewed candidates for the position of dispatcher, and discussed

- a) whether to hold a joint meeting with the board of selectmen,
- b) whether to advertise the availability of the position of dispatcher, and
- c) whether to pay a bill which had been presented by a former employee, Sheralyn Chadderton, for her training as an emergency medical technician.

10. The respondent commission usually develops resolutions during discussion in executive session which it then votes in public session after the previously developed resolutions are read to it by the clerk.

11. After the March 13, 1979 executive session, the respondent commission adopted resolutions in its usual manner.

12. The aforesaid resolutions pertained to:

- a) a request from Ms. Chadderton asking that she be considered for the position of dispatcher,
- b) whether one of the police commissioners should attend a meeting of the I.B.P.O., Local 540, and
- c) whether two people should attend the Equal Employment Opportunity Conference on March 15 at the City University of New York.

13. It is found that the respondent commission discussed the aforesaid resolutions during its executive session on March 13, 1979.

14. The respondents claimed that the executive sessions on February 27, 1979 and March 13, 1979 were held for proper purposes in that they pertained either to discussion of personnel matters which are allowed under §1-18a(e)(1), G.S. or strategy and negotiations with respect to pending claims and litigation within the meaning of §1-18a(e)(2), G.S.

15. Under §1-18a(e)(1), G.S., the proper purpose for which an executive session may discuss personnel is limited to "Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that such discussion be held at an open meeting."

16. §1-18a(e) (2), G.S. exempts from disclosure "strategy and negotiations with respect to pending claims and litigation to which the public agency or a member thereof, because of his conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled."

17. It is found that the respondents failed to prove that the discussions which took place at the February 27, 1979 executive sessions which pertained to the items set forth at 9 a), 9 b) and 9 c) fall within the proper purposes for an executive session set forth at §1-18 a (e) (1) and §1-18 a (e) (2), G.S.

18. It is found that the respondents failed to prove that the discussions which took place at the March 13, 1979 executive sessions which pertained to the items set forth at paragraph 12 a), 12 b), and 12 c) fall within the proper purposes for an executive session set forth at §1-18 a(e) (1) and §1-18 a (e) (2), G.S.

19. It is concluded, therefore, that the executive sessions which were held on February 27, 1979 and March 13, 1979 violated the requirement of §1-21, G.S. that meetings of public agencies be open to the public because, in part, they included material which was not proper for an executive session.


20. It is found that the complainants failed to prove that the respondents wilfully violated the act.

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

1. The respondents shall henceforth comply with the requirements of §1-21, G.S.

2. The respondents herein have come very close to being fined for wilful violation of the act. Many of the violations found herein are obvious and should be obvious to any lay board without particular legal expertise.

3. The Commission warns the respondent commission that its members risk imposition of a fine penalty for wilful violation of the act if it continues to include in its executive sessions matters with respect to which there is no reasonable ground for inclusion within the purposes set forth at §1-18a(e), G.S.


Commissioner William J. Clew
as Hearing Officer

Approved by order of the Freedom of Information Commission on September 12, 1979.


Leslie Ann McGuire
Clerk of the Commission