

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
William Olds, Connecticut Civil
Liberties Union,

FINAL DECISION

Complainant

Docket #FIC81-61

against

August 21, 1981

City of Hartford; Assistant
Superintendent for Elementary
Schools of the City of Hartford;
Assistant Superintendent for
Secondary Schools of the City of
Hartford,

Respondents

The above captioned complaint was scheduled for hearing on June 4, 1981 and June 19, 1981, at which time all 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, G.S.
2. By letter dated March 23, 1981 the complainants requested of both Eugene Green and John Shea, who are assistant superintendents to provide him with:
 - (1) The inventory submitted by each school which was completed in the Spring of 1980;
 - (2) All subsequent inventories or updates; and
 - (3) The distribution of funds for books allocated by the board of education to each school.
3. The respondent did provide the complainant with copies of the financial records requested by him in the letter of March 23, 1981.
4. By complaint filed April 20, 1981 the complainant alleged that the respondent had illegally destroyed certain book inventories on or before March 30, 1981.
5. The complainant is conducting a study and evaluation of public school education in Hartford.

6. Various people including at least one assistant superintendent informed the complainant that the book inventories were kept at the High Street office of the superintendent of schools.

7. On March 30, 1981 when the complainant arrived to pick up the requested documents the complainant was told by the respondent that the inventories had been destroyed at or about the time the complainant made his request for them.

8. § 709, G.S., permits destruction of the public records of municipalities only with the approval of the public records administrator.

9. The inventories were destroyed without the approval of the public records administrator.

10. The respondent failed to prove that the records were destroyed prior to the request for them by the complainant.

11. Furthermore, the respondents admitted that although the inventories stored at the High Street offices had been destroyed, several principals retained copies of the original inventories at their schools.

12. The respondents claimed that they had not provided the complainant with the existing inventories because the complainant had failed to make his request to the actual custodians, the principals who had possession of the inventories.

13. The reason the complainant had not requested inventories from the principals is because he had been told on several occasions that they had no such inventories, but that the inventories had been sent to the High Street office.

14. It is found that under these circumstances the complainant is not required to make a further request to the principals.

15. The respondent claimed that this entire matter should be dismissed because under § 1-21k, G.S., willful destruction of a public record in violation of § 1-18 and § 47 of the General Statutes is a criminal matter over which the Commission has no jurisdiction.

16. It is found that the destruction of the book inventories which occurred was not a willful or intentional violation of § 1-18 or Chapter 47 of the General Statutes.

17. It is further found that since the complainant has proved that the respondent violated § 1-51 and § 1-19a, G.S., when it failed to provide him with copies of the book inventories which did exist that the Commission does have jurisdiction over the complaint under § 1-21i, 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 advise all principals to retain their records relating to book inventories until a retention and destruction schedule has been approved by the public records administrator.

2. The respondent shall provide the complainant with access to its inventories including those which were being updated at the time of the hearing and copies of same, if the complainant desires to have copies.

3. The respondent shall provide the complainant with summaries of the contents of the destroyed 1980 inventories which recreate the information contained in the inventories to the best of the ability of the principals or school employees who had the most extensive contact with the work involved.

Approved by Order of the Freedom of Information Commission at its special meeting of August 17, 1981.



Wendy R. B. Paradis

Clerk of the Commission