

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Randall Meredith and Kevin McClellan,
Complainants

Final Decision

against

Docket #FIC79-94

Town of New Canaan; Police
Commission of the Town of New
Canaan; and Chief of Police of
the Town of New Canaan,
Respondents

July 25, 1979

The hearing in the above entitled matter was scheduled for May 21, 1979, but by agreement of the parties and the Hearing Officer it was rescheduled to May 25, 1979, at which time the parties appeared and presented evidence and argument on the complaint.

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.
2. By letter delivered April 27, 1979 the complainant, Randall Meredith, requested through his attorney a copy of a letter dated May 25, 1978, which had been placed in the internal affairs file of Sergeant Ferri.
3. By letter dated April 26, 1979 the complainant, Kevin McClellan, requested a copy of a letter written by Selectman Terry Spring to the Board of Police Commissioners, which requested access to a document in the internal affairs file, and which was considered in an executive session of the respondent commission on April 19, 1979.
4. Both complainants were denied access to the requested copies.
5. By letter filed May 2, 1979 the complainants appealed to this Commission alleging denial of their rights under the Freedom of Information Act as codified in Chapter 3 of the Connecticut General Statutes.
6. Sergeant William Ferri is a police officer against whom a civilian complaint was filed by Randall Meredith.
7. On May 25, 1978, the date Sergeant Ferri got a permanent position and the rank of sergeant, the respondent police commission filed a letter in Ferri's internal affairs file.
8. The aforesaid letter referenced Randall Meredith, it pointed out certain rules to Sergeant Ferri and it counseled him regarding appropriate behavior.

9. The contents of the letter are such that they could have a detrimental effect upon further promotional possibilities for Sergeant Ferri.

10. Were it not for the civilian complaint filed by Randall Meredith, the letter of May 25, 1978 would not have been placed in the internal affairs file of Sergeant Ferri.

11. Subsequently, Sergeant Ferri filed a grievance stating that the aforesaid letter should be removed from his file.

12. Sergeant Ferri's grievance was withdrawn after an agreement with the Police Commission that the letter of May 25, 1978 would be withdrawn from his file on May 25, 1979 providing he maintained good conduct until that date.

13. The respondents alleged that disclosure of both documents -- the letter of Selectman Spring and the May 25, 1978 letter in Sergeant Ferri's file was barred by §1-19(b)(2), G.S.

14. It is found that the respondent's failed to prove that Selectman Spring's letter was a personnel, medical, or similar file within the meaning of §1-19(b)(2), G.S.

15. It is further found that the respondents failed to prove that disclosure of Mrs. Spring's letter would constitute an invasion of privacy.

16. It is concluded that Selectman Spring's letter is subject to disclosure under §1-19(a) and §1-15, G.S.

17. It is found that the letter of May 25, 1978 which was put in Sergeant Ferri's internal affairs file constituted an action of the respondent commission which pertained to the civilian complaint of Randall Meredith.

18. It is further found that the letter of May 25, 1978 serves a function which is distinct from the recording of data for personnel or similar purposes. In this regard it constitutes a record of a non-criminal, police internal affairs investigation and the administrative disposition thereof and relates directly to the conduct of the public's business.

19. It is found that the public has a legitimate interest in the conduct and disposition of police internal affairs investigations concerning the treatment of members of the public and that therefore disclosure of the May 25, 1978 letter to Sergeant Ferri will not constitute an invasion of Sergeant Ferri's privacy.

20. It is therefore concluded that §1-19(b)(2), G.S. does not exempt the May 25, 1978 letter from disclosure.

21. The respondents further allege by way of defense that §7-470(a)(6), G.S. prohibits disclosure of the May 25, 1978 letter.

22. §7-470 provides in relevant part that "(a) municipal employees or their representatives or agents are prohibited from ... (6) refusing to comply with a grievance settlement, or arbitration settlement...."

23. §1-19(a), G.S. provides in relevant part "Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency ... shall be public records."

24. It is found that §7-470(a)(6), G.S. is not such a statute as to specifically exempt otherwise public records from disclosure.

25. It is further found that even assuming the respondents were authorized under the relevant statutes to make an agreement to remove a document from officer Ferri's file, the agreement was not to deprive any person of access to public records, but only to remove the document from the internal affairs file on May 25, 1979 assuming Officer Ferri continued good conduct.

26. It is concluded that on April 27, 1979 the date of Randall Meredith's request for a copy of the letter it was a public record subject to disclosure under §1-19(a), G.S.

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

1. The respondents shall forthwith provide the complainant Kevin McClellan with a copy of the letter of Selectman Spring which is described at paragraph 3.

2. The respondents shall forthwith provide the complainant Randall Meredith with a copy of the letter dated May 25, 1978 which was filed in Sergeant Ferri's internal affairs file.

Approved by order of the Freedom of
Information Commission on July 25,
1979.


Leslie Ann McGuire
Clerk of the Commission