

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

William H. Neubec

Docket #FIC83-144

Complainant(s)

February 8, 1984

v.

Police Department of the
City and Town of Norwalk

Respondent(s)

The above captioned matter was scheduled for hearing November 4, 1983 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 respondent is a public agency within the meaning of §1-18a(a), G.S.
2. By letter filed with the Freedom of Information Commission June 16, 1983 the complainant alleged that the respondent had violated the Freedom of Information Act by failing to provide it with a copy of an internal affairs investigation report dealing with an incident in which a 63-year old man was found dead approximately 150 yards from police headquarters.
3. The respondent claimed that the record is exempt from disclosure under §1-19(b)(1), G.S. as a preliminary note and draft with respect to which the public agency determined that the public interest in withholding such documents clearly outweighed the public interest in disclosure.
4. The respondents claim that the public interest which requires that the report be withheld is that suppression of the report until after the trial board hearing is necessary to guarantee a fair hearing.

5. The respondents agree that the requested report becomes public record after the trial board has been held.

6. Although initially scheduled during the summer of 1983 the hearing before the trial board had been postponed and had not been held by the date this matter was heard by the hearing officer for the Commission.

7. The internal affairs report was reviewed by the chief of police before he determined to recommend that a trial board hearing be held.

8. The chief shared the internal affairs report with the board of police commissioners so they could determine whether to hold a trial board hearing.

9. Section 1-19(c) provides in relevant part that

notwithstanding the provisions of subdivision (1) of subsection (b) of this section, disclosure shall be required of (1)". . . . any report comprising part of the process by which governmental decisions are formulated. . . ."


10. It is found that the internal affairs report sought by the complainant was part of the process by which the decision to hold the trial board hearing was formulated.

11. It is concluded therefore that the record requested by the complainant is not exempt from disclosure.

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

1. The respondent shall forthwith provide the complainant with a copy of the internal affairs report requested by him.

Approved by order of the Freedom of Information Commission at its regular meeting of February 8, 1984.



Mary Jo Jolicoeur
Clerk of the Commission