

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)	
Robert J. Bailyn, Complainant)	Report of Hearing Officer
)	
against)	Docket #FIC78-70
)	
Town of New Fairfield; Board)	July 10, 1978
of Selectmen of the Town of)	
New Fairfield, Respondents)	

The above captioned matter was heard as a contested case on June 5, 1978 at which time the complainant and the respondent appeared and presented evidence and argument on the complaint.

After consideration of the record, the following facts are found:

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.
2. The first selectman of the Town of New Fairfield requested a state police investigation of certain allegations of criminal activity on the part of the town sanitarian in a matter pertaining to his function as town sanitarian.
3. The individuals who made the allegations were interviewed by the state police.
4. The state police completed the requested investigation and sent a report concerning such investigation to the first selectman.
5. The report which the state police sent to the first selectman contained among other things accounts of interviews with the individuals described in paragraph 3.
6. The first selectman shared the aforesaid report with the members of the board of selectmen who asked to review it.
7. There was no personnel action taken as a result of the state police investigation.
8. There is no law enforcement action presently pending or prospective as a result of the state police investigation.
9. By letter dated March 17, 1978 the complainant requested that the records relating to the misconduct of the town sanitarian be made available for him to inspect.
10. On March 23, 1978 the complainant's request was denied by the town counsel.

11. By letter filed with this Commission on April 7, 1978 the complainant appealed the respondent's denial of his request for access to record.

12. The respondents alleged that the records were exempt from disclosure under §1-19(b)(2) and §1-19(b)(3)(A) and (B), G.S.

13. The first selectman keeps the report in a file which is separate from personnel records to insure its confidentiality.

14. It is found that the records to which the complainant seeks access have different functions depending upon the identity of the custodian: those records which are in the files of the first selectman function as documentation of the disposition of allegations of criminal misconduct which were made concerning a town employee; while those records which are maintained by the state police function as documentation of the state police disposition of a case.

15. It is concluded that the aforesaid records are not personnel or similar files within the meaning of §1-19(b)(2), G.S., because they concern the administrative disposition of allegations of misconduct by a public official in a matter pertaining to the public's business.

16. It is found that the disclosure of the requested records would not constitute an invasion of personal privacy of the town sanitarian because he is a public official who is deemed to have waived the right of privacy with respect to matters relating to his conduct of the public's business.


17. It is further found that the disclosure of the requested records would not constitute an invasion of personal privacy of those persons who made the allegations of improper conduct on the part of the town sanitarian since they are deemed to waive their privacy rights with respect to matters involving allegations of the improper conduct of a public official.

18. It is further found that the respondent board is not a law enforcement agency within the meaning of §1-19(b)(3), G.S.

19. It is concluded, therefore, that the records which the complainant seeks to inspect are not exempt from disclosure under §1-19(b)(3), G.S. as records of a law enforcement agency.

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

1. The respondent board shall forthwith provide the complainant with access to the records in the files of the first selectman concerning the misconduct of the town sanitarian.



Commissioner Judith A. Lahey

as Hearing Officer