

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

|                                 |   |                           |
|---------------------------------|---|---------------------------|
| In the Matter of a Complaint by | ) |                           |
| The Advocate, Complainant       | ) | Report of Hearing Officer |
|                                 | ) |                           |
| against                         | ) | Docket #FIC77-122         |
|                                 | ) |                           |
| City and Town of New Haven and  | ) | August 10, 1977           |
| Police Department of the City   | ) |                           |
| and Town of New Haven,          | ) |                           |
| Respondents                     | ) |                           |

The above captioned matter was heard as a contested case on July 12, 1977, at which time the complainant and the respondent department appeared and presented testimony, exhibits and argument on the complaint.

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

1. The respondent department is a public agency as defined by §1-18a(a), G.S.
2. By letter dated April 4, 1977, the complainant requested from the respondent department access to any and all documents contained in its files pertaining to some forty-seven specified groups and organizations.
3. By letter dated June 15, 1977, the respondent department denied the complainant access to the files relating to the complainant's request kept by its intelligence division.
4. From such denial, the complainant filed the present appeal with the Commission on June 23, 1977, asserting its right of access to the records requested.
5. The respondent department is made up of several divisions and each division keeps and maintains its own record files.
6. The criminal intelligence division of the respondent department maintains files on only three of the organizations specified in the complainant's request.
7. The respondent department could not answer the question of whether or not any of its divisions, other than the criminal intelligence division, maintains records relating to the organizations specified in the complainant's request, although knowledge of such matter is peculiarly within the control of the respondent department.
8. It is concluded that the failure of the respondent department to make available to the complainant, for inspection,

any files maintained by its other divisions, relating to the subject matter of the complainant's request, constituted a denial of the complainant's right to inspect records under §1-19, G.S.

9. The three files kept by the criminal intelligence division, referred to in paragraph 6 above, consist of the following documents:

- a. Literature about or produced by such organizations;
- b. membership lists;
- c. undercover information reports.

10. The respondent department first contends that such documents are exempt from disclosure under §1-19(b)(2), G.S. as personnel and similar files the disclosure of which would constitute an invasion of personal privacy.

11. The documents in questions were compiled by the respondent department in connection with the detection or investigation of crime.

12. Such files are found not to be personnel and similar files within the meaning of §1-19(b)(2), G.S.

13. The respondent department next contends that such documents are exempt from disclosure under §1-19(b)(3), G.S. as records compiled in connection with the investigation or detection of crime.

14. The custodian of the records thereof was familiar with the contents of only three of large numbers of undercover informant reports contained in the files in question. He testified that, although the individual informations were mentioned in such reports only by coded reference, the documents contained information so specific as to time, meeting place and individuals, that disclosure of the documents would point by inference to the identity of the individuals who produced them.

15. It is found that the aforesaid three undercover informant reports are exempt from disclosure as records of law enforcement agencies within the meaning of §1-19(b)(3), G.S.

16. It was not proved that any of the other documents referred to in paragraphs 6, 9 and 14 above fall within the meaning of the exemption under §1-19(b)(3), G.S.

17. It is therefore concluded that such documents are also public records as defined under §1-19(a) and §1-18a(d), G.S., and that the complainant has been denied its right to inspect such records.

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

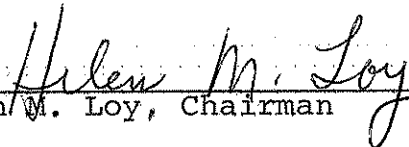
1. The respondent department shall forthwith provide the complainant with access to the three files described in paragraph

6 above.


2. With respect to those undercover informant reports that were not reviewed by the custodian thereof prior to this hearing, the respondent department shall forthwith provide the complainant with access to such documents. However, the respondent department may delete or conceal from the complainant's view only that part of such documents containing information which, in its good faith opinion, would result in the disclosure of the identity of informants not otherwise known. The respondent shall give the complainant written notice of any deletion pursuant to this paragraph of the order.

3. Nothing herein shall be construed as limiting the complainant's rights in seeking further relief before this Commission in the case where specific information is deleted or concealed from such reports as aforesaid and the complainant believes that such deletion or concealment is not in conformity with its rights under §1-19, G.S.

4. With respect to files kept by the respondent department in its divisions other than the intelligence division, the respondent department shall forthwith conduct a diligent search throughout each of those divisions and, shall, within 20 days of its receipt of notice of final decision hereof, provide the complainant with a catalogue identifying all files, pertaining to the Complainant's April 4, 1977 request, which are maintained by each such division. Furthermore, the respondent department shall simultaneously certify to this Commission its compliance with this paragraph by filing a copy of the aforesaid catalogue.

  
Helen M. Loy, Chairman

Approved by order of the Freedom of Information Commission on August 10, 1977.

  
Charlene G. Arnold, Clerk  
Freedom of Information Commission