

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION
Edmund Grady, Jr.,

Complainant

Docket #FIC83-121

against

December 23, 1983

Farmington Police Department,

Respondent

The above captioned matter was heard as a contested case on August 29, 1983, at which time the complainant and the respondent appeared and presented testimony, exhibits 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 dated May 2, 1983 the complainant made a request of the respondent for its investigation reports concerning the death on January 12, 1982 of Malcolm D. Robertson, II, including all photographs.

3. By letter dated May 17, 1983 the respondent advised the complainant that the investigation of Mr. Robertson's death was an "open case" and that the requested records were being withheld pursuant to §1-19(b)(3), G.S.

4. By letter of complaint filed with the Commission on June 9, 1983 the complainant appealed the denial of his request.

5. The certificate of death prepared by the office of the chief medical examiner of the State of Connecticut indicates that Mr. Robertson committed suicide.

6. The respondent claims, however, that Mr. Robertson may have been murdered and that if such is the case, disclosure of the requested records would adversely affect any law enforcement actions involving the perpetrator.

7. The respondent also claims that persons interviewed in the course of investigating Mr. Robertson's death expected that their statements would be kept confidential, and that to identify the persons chosen by the respondent to be interviewed would be prejudicial to possible law enforcement actions.

8. It is found that for 2 to 3 months following Mr. Robertson's death the respondent conducted an active investigation, collecting data and conducting interviews. The resulting report is approximately 1,000 pages long and contains 30 to 40 photographs.

9. By the respondent's admission, all evidence gathered as a result of such investigation indicates that Mr. Robertson committed suicide.

10. The last investigative activity conducted with respect to the file in question was in January, 1983 when, prompted by a letter written by Mr. Robertson's parents, the respondent reviewed the file to determine whether anything new had been added to it. The last activity prior to the January, 1983 review occurred in August, 1982.

11. The Robertson case is currently dormant, as it has been since August, 1982. No one in the respondent department is working on the file, and there is no expectation that any work on the file will be done in the future absent a presently unforeseeable turn of events.

12. It is found that the records in question were compiled in connection with the detection or investigation of crime, and that the identity of the individuals interviewed by the respondent in the course of its investigation are not otherwise available to the public.

13. It is concluded that mere expectations of confidentiality will not exempt records from disclosure. However, the identity of informants providing information to the respondent in connection with Mr. Robertson's death are exempted from disclosure by §1-19(b)(3)(A), G.S., to the extent that the identity of such informants is not otherwise known.

14. It is found, however, that the respondent failed to prove that the circumstances of Mr. Robertson's death, an apparent suicide, indicate the possibility of a prospective law enforcement action. The respondent also failed to prove that the release of the file in question would be prejudicial to any such prospective law enforcement action.

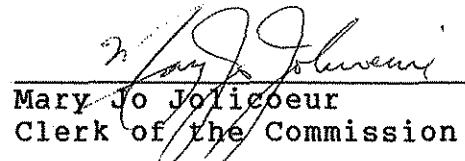
15. It is concluded that the file in question is not exempted from disclosure by §1-19(b)(3)(B), G.S.

16. The respondent also failed to prove that the records in question are exempted from disclosure by other state statute or federal law.

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 access to inspect or copy the records referred to at paragraph 2, above.
2. The respondent may mask the records provided to the complainant so as to prevent disclosure of the identities of informants not otherwise known, pursuant to §1-19(b)(3)(A), G.S.

Approved by order of the Freedom of Information Commission at its regular meeting of December 14, 1983.



Mary Jo Jolicoeur
Clerk of the Commission