

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Terrence McDonough,)
Complainant)
)
against)
)
City of Hartford; Police)
Department of the City of)
Hartford; and Chief, Police)
Department of the City of)
Hartford, Respondents)

Report of Hearing Officer
Docket #FIC78-2
May 10, 1978

The above captioned matter was heard as a contested case on January 31, 1978 at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint.

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

1. By letter dated January 9, 1978 the complainant requested access to six specific items of information.
2. The request spanned a time period of more than eight years, from January 1, 1970 to the date of the complainant's request.
3. The items requested were the following:
 - a. Names and addresses of all persons filing a citizen complaint,
 - b. the date when said complaint was filed,
 - c. the nature of said complaint,
 - d. the date of the completion of any investigation undertaken and notification of complainant of disposition,
 - e. name(s) of police officer(s) against whom said complaints have been filed,
 - f. the nature of the disposition of any complaint since January 1, 1970 and any subsequent discipline or action taken as a result.

4. On January 9, 1978 the respondent chief denied the complainant's request.

5. By letter filed with this Commission on January 10, 1978 the complainant filed his appeal.

6. Nearly all of the data sought by the complainant is contained in the files of the respondent department in complaints and letters of complaint filed by citizens, and in copies of letters to those citizen complainants indicating disposition of the complaints and in the log book which the respondent department has maintained for the past three years which contains the case number and date of complaint, a coded reference to the nature of the complaint, the date of completion, the names of the officers, if known, and the disposition of the complaint.

7. The respondent police department claimed that the complainant's request could not be granted because the records in question are protected from disclosure by the exemptions to disclosure which are set forth at §§1-19(b)(1), 1-19(b)(2), 1-19(b)(3)(A), (B), (C), (D) and 1-19(b)(4), G.S.

8. The respondent police department further contended that disclosure of some of the records to which access is sought is prohibited by the erasure statute §54-90, G.S., which requires erasure of police records when in a criminal case the accused is not found guilty, or the case is dismissed, or the charges nolleed, or where an absolute pardon has been received by a person convicted of a crime.

9. It is found that while the complainant has no right to require that public agencies create documents or records in response to questions, the complainant does have a right of access to public records under §1-19(a), G.S.

10. It is further found that most of the data to which the complainant requests access are contained in the documents described in paragraph six.

11. It is concluded that the aforesaid records are not exempt as preliminary drafts or notes within the meaning of §1-19(b)(1), G.S.

12. It is found that the respondents failed to prove that the aforesaid documents are exempt from disclosure as personnel or medical or similar files within the meaning of §1-19(b)(2), G.S.


13. It is found that the respondents failed to prove that the aforesaid documents are exempt from disclosure as personnel or medical or similar files within the meaning of §1-19(b)(2), G.S.

14. It is concluded, however, that parts of the aforesaid documents may be exempt from disclosure as records of law enforcement agencies which were compiled in connection with the detection or investigation of a crime within the meaning of §1-19(b)(3)(A), (B), (C) and (D), and under the requirements set forth in the erasure statutes §54-90, G.S.

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

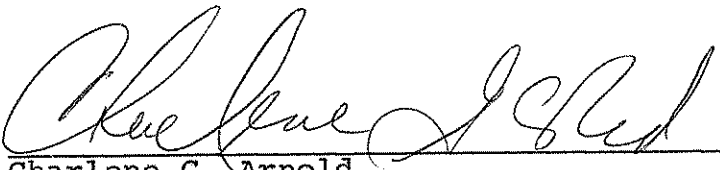
1. The respondents shall forthwith provide the complainant with access to the documents described in paragraph 6 of this report.

2. In so far as parts of the aforesaid records are exempt under §1-19(b)(3), G.S., and under the erasure statutes §54-90, G.S., the respondents may mask or otherwise conceal from the complainants view those portions of the aforesaid records which are clearly exempt from disclosure under §1-19(b)(3), G.S., and under §54-90, G.S.



Helen M. Loy
Chairman

Approved by order of the Freedom of Information Commission on
May 10, 1978.



Charlene G. Arnold
Clerk of the Commission