

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Stephen B. Alderman,

Complainant

Report of Hearing Officer

Docket #FIC80-64

April 24, 1981

against

the City and Town of New Haven; and Fire Marshall of the City and Town of New Haven,

Respondents

The above-captioned matter was heard as a contested case on August 7, 1980, at which time the complainant and the respondent appeared, and presented testimony, exhibits and argument on the complaint. The Office of the State's Attorney also appeared, was granted intervenor status and presented testimony, exhibits and argument.

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

1. The respondents are public agencies as defined by §1-18a(a), G.S.

2. By letter filed with this Commission on December 12, 1979, the complainant alleged that the respondent violated the Freedom of Information Act by refusing his request for records concerning a fire that occurred on May 9, 1979 at 47 Grand Avenue in New Haven.

3. The complainant is seeking the fire or police records and investigation records pertaining to six specific questions:

1. When the fire started
2. How it started
3. How it spread
4. Whether the building had fire escapes or doors
5. Whether any fire code violations were found
6. Where the two fatally injured children were found

4. By letter dated March 7, 1980 the respondent Department of Fire Services denied the complainant's request and contended that "all records" of the police and fire departments were exempt from disclosure under §1-19(h), G.S. due to a pending criminal investigation into the fire.

5. Section 1-19(b)(3) inter alia, exempts from disclosure

"records of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of (A) the identity of informants not otherwise known, (B) information to be used in a prospective law enforcement action if prejudicial to such action."

6. It is found that the respondent's claim to a blanket exemption from disclosure is not supported by the statute since §1-19(b)(3)(B) provides that investigatory records such as those sought by the complainant are not subject to disclosure only "if prejudicial to such action" (emphasis added).

7. There exists a pending prosecution for felony murder as a result of the fire at 47 Grand Avenue.

8. It is found that while most of the information sought by the complainant is clearly relevant to the pending prosecution, there has been no showing that its disclosure would be prejudicial to such action.

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

1. The respondents shall forthwith provide the complainants with the records pertaining to the six questions listed in paragraph 3 above.

*Judith A. Lahey*

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Commissioner Judith A. Lahey as  
Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of May 27, 1981.

*Wendy Rae Briggs*

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Wendy Rae Briggs  
Clerk of the Commission