

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Mattie's Place, Inc.

Complainant

against

Town of Windsor and Police
Department of the Town of
Windsor

Respondents

Report of Hearing Officer

Docket #FIC80-87

September 2, 1981

The above captioned matter was scheduled for hearing on December 3, 1980 at which time the parties appeared and presented evidence and argument on the complaint. The matter was consolidated for hearing with #FIC80-88. At the time of the hearing the state's attorney was designated an intervenor in the case.

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. On March 17, 1980 the complainant requested all reports compiled by the fire marshall and the respondent in connection with a fire at Mattie's Place, Inc. which had been located at 1530 Palisado Avenue in Windsor.
3. The reports were not provided to the complainant.
4. On April 8, 1980 the complainant filed his complaint with the Commission.
5. The respondent claimed exemption for the requested records under §1-19(b)(3)(B) and §1-19(b)(3)(C).
6. Both the respondent and the intervening state's attorney claimed that the Commission lacked jurisdiction over the subject matter of the complaint because copies of the records of the respondent had been sent to the arson unit of the state's attorney's office.
7. It is found that although the Commission does not have jurisdiction over the state's attorney under §1-18a(a), G.S.,

nonetheless it does have jurisdiction over the respondent and it must therefore decide whether the records in its files which are the subject of the complainant's request must be disclosed.

8. Sections 1-19(b)(3)(B) and 1-19(b)(3)(C), G.S. provide in pertinent part that:

Nothing in sections 1-15, 1-18a, 1-19 to 1-19b, inclusive, and 1-21 to 1-21k, inclusive, shall be construed to require disclosure of

(3) 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 (B) information to be used in a prospective law enforcement action if prejudicial to such action, (C) investigatory techniques not otherwise known to the general public.

9. The respondent is a law enforcement agency.

10. The records sought by the complainant are not otherwise available to the public and were compiled in connection with the detection or investigation of a fire of suspicious origin.

11. The investigation of the fire had been conducted under the supervision of the state fire marshall and had been transferred to the arson unit of the state's attorney's office.

12. The records contain investigatory techniques which are used in cases where arson is suspected but which are not known to the general public.

13. No arrest has been made as a result of the arson investigation.

14. It is found that the records in question are not protected from disclosure under §1-19(b)(3)(B) because there is no prospective law enforcement action pending.

15. It is found that some portions of the requested records are exempt from disclosure under §1-19(b)(3)(C) because they contain investigatory techniques not otherwise known to the public.

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

1. The respondent shall disclose the records requested by the complainant. However, it may mask from disclosure those portions which are exempt from disclosure under §1-19(b)(3)(c), G.S.

Judith A Lahey
Commissioner Judith Lahey
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of October 14, 1981.

Mary Jo Jolicœur
Mary Jo Jolicœur
Clerk of the Commission