

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION
Sue Howard,

Complainant

Docket #FIC83-38

against

August 26, 1983

Hartford Police
Department,
City of Hartford,

Respondents

The above captioned matter was heard as a contested case on June 10, 1983, at which time the complainant and the respondent police 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 police department is a public agency within the meaning of §1-18a(a), G.S.
2. By letter dated January 25, 1983, the complainant made a request of the respondent police department for a copy of its investigative report on the November 19, 1982 shooting in Bellevue Square of one Michael David Williams.
3. By letter dated January 27, 1983 the respondent denied the complainant's request "as there is civil litigation against the City of Hartford pending at this time."
4. By letter of complaint filed with the Commission on February 8, 1983, the complainant appealed the denial of her request.
5. It is found that a civil suit was filed on January 5, 1983 against the respondent police department and others in connection with the shooting of Mr. Williams.
6. The respondent police department claimed that the requested records are exempted from disclosure by §1-19(b)(4), G.S. as records pertaining to strategy and negotiations with respect to pending claims and litigation.
7. It is found, however, that the records in question were compiled as a direct result of the shooting incident, and not as a result of the subsequent civil action. The records were already in existence at the time the civil suit was filed.

8. It is therefore found that the requested records do not pertain to strategy and negotiations with respect to the civil suit, and are therefore not exempted from disclosure by §1-19(b)(4), G.S.

9. The respondent police department also claimed that because the civil suit is before the superior court, the records of the police investigation are quasi-judicial, and not subject to the jurisdiction of the Commission.

10. It is found, however, that the investigative report is recorded data or information relating to the conduct of the public's business prepared, owned, used, received, or retained by the respondent police department, a public agency.

11. It is found that the respondent police department is not a judicial office, official or body.

12. It is therefore found that the investigative report is a "public record or file" as defined in §1-18a(d), G.S., and is subject to disclosure unless exempted from disclosure by §1-19(b), G.S., other state statute or federal law.

13. The respondent police department also claimed that the privacy of witnesses might be invaded if the report were disclosed, and that the report is therefore exempted from disclosure by §1-19(b)(2), G.S.

14. It is found, however, that the investigative report is not a personnel, medical, or similar file.

15. It is also found that the respondent failed to prove that the investigative report contains information which, if disclosed, would constitute an invasion of privacy.

16. It is therefore concluded that the requested records are not exempted from disclosure by §1-19(b)(2), G.S.

17. The respondent police department also claimed that the witnesses' belief that information would be kept confidential renders the information privileged and therefore, not subject to disclosure.

18. It is found, however, that the witnesses' belief that their interviews would be confidential does not exempt the interviews from disclosure under the Freedom of Information Act.

19. It is found that the investigative report is exempted from disclosure by §1-19(b)(3)(A), however, to the extent that release of the report would result in the disclosure of the identity of informants not otherwise known.

20. The respondent police department also claimed that because the respondent police department is involved in civil litigation, the records are exempted from disclosure pursuant to §1-19b(b), G.S., which provides that:

Nothing in sections 1-15, 1-18a, 1-19 to 1-19b, inclusive, and 1-21 to 1-21k, inclusive, shall be deemed. . . to affect the rights of litigants... under the laws of discovery of this state.

21. It is found, however, that the respondent police department failed to prove that any requests for discovery had as of the date of hearing been made or ruled upon by a judge with respect to the investigative report.

22. It is found, therefore, that §1-19b(b), G.S., does not exempt the investigative report from disclosure.

23. At hearing, the respondent police department requested the Commission to conduct an in camera inspection of the investigative report, which request was denied.


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

1. The respondent police department shall henceforth provide the complainant with access to inspect or copy the investigative report referred to at paragraph two of the findings, above.

2. The respondent police department may mask or delete from such investigative report information exempted from disclosure by §1-19(b)(3)(A), G.S.

3. If the respondent withholds or masks any records or information from the complainant pursuant to paragraph 2 of this order, it shall provide the complainant with an affidavit, sworn to by a competent party, describing each record or piece of information withheld or masked with sufficient specificity to establish that the material was properly withheld.

Approved by order of the Freedom of Information Commission at its regular meeting of August 24, 1983.



Mary Jo Jolicoeur
Clerk of the Commission