

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Roy Tiska,

Report of Hearing Officer

Complainant

Docket #FIC84-40

against

Greenwich Police Department
of the Town of Greenwich,

June 27, 1984

Respondent

The above captioned matter was heard as a contested case on May 3, 1984 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. On January 28, 1984 the complainant was involved in a traffic accident which resulted in his arrest. All charges against the complainant were disposed of on February 23, 1984.

3. On February 2, 1984 and again on February 3, 1984 the respondent released three pages of an accident report to an individual who asked that the receipts be made out to, respectively, "Roy L. Tiska" and "Roy Tiska."

4. The identity of the person receiving copies on February 2, 1984 and February 3, 1984 was not known to either the complainant or the respondent, although it was believed by both parties that the person may have been the complainant's father.

5. At some time prior to February 20, 1984 the complainant's father, William J. Tiska, requested and was given copies of a portion of the accident report in question. William Tiska received copies of the first three pages of the six-page report, from which certain information, considered exempt by the respondent, had been deleted.

6. By letter of complaint filed with the Commission on March 12, 1984 the complainant alleged that on February 15, 1984 and February 22, 1984 he had been denied access by the respondent to the report of the January 28, 1984 accident.

7. The respondent claims that on February 15, 1984 he made a request at the records division of the respondent for access to the accident report of the January 28, 1984 incident and was told that the records could not be released without the approval of Captain Moughty, who was not there at the time.

8. The respondent also claims that on February 22, 1984 he made a second request for copies of the accident report and was denied access to the report by Sergeant Cucuel, who suggested that the complainant have his attorney contact the respondent.

9. Upon becoming aware of the complainant's complaint to the Commission, Captain Moughty indicated to the complainant and to the Commission, by letter dated March 28, 1984, that the respondent had no record of a request for information from the complainant but that the records requested were available to the complainant and would be released to him upon request.

10. At hearing the respondent again claimed that it was unaware of any requests by the complainant for access to records and that had records been requested at least a portion of them would have been released, as evidenced by the release of records to the complainant's father.

11. On or about April 30, 1984 a copy of the report in question was forwarded to the complainant by counsel for the respondent, although the report had not been received by the Commission as of the date of hearing. A copy of the report was given to the complainant at hearing.

12. It is the general policy of the respondent that its employees will release accident reports to the public unless the reports are the subject of an ongoing investigation or a "hold" has been placed on a file by a superior officer.

13. Section 7-282, G.S. provides that

The police department of any city, town or borough having or receiving any memoranda, sketches, charts, written statements, reports or photographs made in the investigation of any accident wherein any person has been injured or property damaged shall preserve and retain the same for a period of at least ten years from the date of such accident. Subsequent to the final disposition of any criminal action arising out of an accident, the records hereinbefore specified

and the information contained therein shall be open to public inspection, except that such records shall be available to any person involved in the accident subsequent to the issuance of a warrant or summons in such action.

14. It is found that the resport in question is of the type specified in §7-282, G.S. and that the matter of the complainant's arrest in connection with the January 28, 1984 accident had not, as of the dates of his requests, reached a final disposition.

15. §1-19(a), G.S. provides that all records maintained or kept on file by any public agency shall be public records and every person shall have the right to inspect such records "[e]xcept as otherwise provided by any federal law or state statute."

16. It is found that at the time of the complainant's requests, the records requested were exempted from public disclosure by §7-282, G.S.

17. It is also found that this Commission lacks jurisdiction over the administration of §7-282, G.S. regarding disclosure of records to persons who by virtue of the language of such section may have a right of access to records greater than the public right created by §1-19(a), G.S.

18. It is concluded that the respondent did not violate §§1-15 or 1-19(a), G.S. when on February 15, 1984 and February 22, 1984 it denied the complainant access to the requested records.

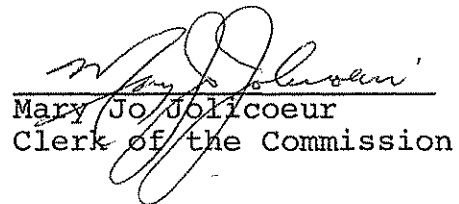
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint.

- 1. The complaint is hereby dismissed.



Commissioner Donald W. Friedman
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of July 25, 1984.



Mary Jo Jolicoeur
Clerk of the Commission