

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Roger Moore, Lynne Garnett and
The Hartford Courant

FINAL DECISION

Complainants

Docket #FIC 85-32

against

March 20, 1985

Commissioner, Department
of Public Safety of the
State of Connecticut

Respondent

The above captioned matter was heard as a contested case on February 26, 1985 at which time the complainants and the respondent appeared and presented testimony, exhibits and argument on the complaint. State's Attorney John J. Kelly applied for party status. The application for party status was denied because State's Attorney Kelly is not the custodian of the subject records. State's Attorney Kelly was granted leave to participate as an intervenor pursuant to §1-21j-28 of the Regulations of Connecticut State Agencies.

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. By letter filed with the Commission on February 20, 1985, the complainants alleged that the respondent had denied their request for public records in violation of the Freedom of Information Act.

3. In a contested case involving the parties in this proceeding, FIC #85-22, approved by the Commission on February 13, 1985, the complainants requested that the respondent provide copies of, or access to "all State Police reports, records and memoranda on any investigations conducted by your department into the conduct of Waterbury Assistant State's Attorney Arthur M. McDonald."

4. In FIC #85-22, the respondent represented that the requested records were contained in file #84-00250-O. The Commission ordered that file #84-00250-O be disclosed to the complainants.

5. Pursuant to notification of the complaint in this proceeding, the respondent searched its files for any additional records of investigations concerning McDonald.

6. The respondent located additional records concerning McDonald which consist of 9 or 10 pages in the files of the Statewide Organized Crime Investigative Task Force (SOCITF). The records consist of data gathered or received in 1979, 1982 and 1985. The records contain specific allegations about McDonald placing bets, receiving gifts of food and liquor, and fixing criminal cases in return for cash and items of value.

7. The complainants represented that they do not seek the names of informants contained in records from SOCITF files.

8. The respondent claims that the records specified in paragraph 6, above, are not subject to the public disclosure provisions of §1-19, G.S., because of the provisions of §29-171, G.S.

9. §29-171, G.S., provides:

"Any person conducting or participating in any investigation under this chapter who discloses to any person other than the director or a member of the statewide organized crime investigative task force or the advisory committee the name of any informant or any information obtained or given upon any investigation, except as directed by the director of the organized crime investigative task force, shall be guilty of a class A misdemeanor."

10. It is found that §29-171, G.S., provides for criminal penalties for the unauthorized release of information by subordinate personnel in SOCITF, but does not prohibit the director of SOCITF from disclosing any of its records.

11. The acting director of SOCITF testified that §29-171, G.S., protects the integrity of intelligence information and allows SOCITF to effectively gather confidential intelligence.

12. §29-170, G.S., requires the director of SOCITF to keep the public informed about organized crime, but authorizes him to withhold such information as he deems appropriate.

13. It is found that under §§29-170 and 29-171, G.S., the director of SOCITF may only withhold records the release of which would compromise SOCITF's ability to effectively gather confidential information.

14. It is concluded that records not governed by the provisions of §§29-170 and 29-171, G.S., are subject to the disclosure provisions of §1-19, G.S.

15. The intervenor also claimed that the records in question are exempt from disclosure because §1-19c, G.S., provides that the Division of Criminal Justice is not a public agency, except for its administrative functions, for the purposes of the Freedom of Information Act.

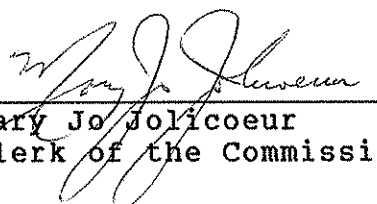
16. It is found that the subject records were requested from, and are in the custody of, the respondent State Police, which is not a part of the Division of Criminal Justice, and that therefore §1-19c does not exempt the records from disclosure.

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

1. The respondent shall forthwith provide the complainants with access to inspect or copy, at the complainants' option, the requested records as more fully described in paragraph 6 of the findings, above.

2. If necessary to protect SOCITF's ability to gather confidential information, the respondent may mask or otherwise withhold specific information that would identify confidential informants, in which case, the respondent shall insert in lieu thereof a non-identifying description or summary of the withheld information.

Approved by order of the Freedom of Information Commission at its regular meeting of March 13, 1985.



Mary Jo Jolicoeur
Clerk of the Commission