FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Richard K. Sulman

Complainant Docket #FIC 85-131

against

State of Connecticut Department of
Public Safety, Division of State Police

Respondent August 13, 1986

The above captioned matter was scheduled for hearing August 20, 1985, then rescheduled to September 27, 1985, and then rescheduled to October 28, 1985. The parties appeared at these hearings and presented evidence 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. By letter dated May 28, 1985, the complainant requested all documents relating to him which were in the possession of the respondent.

3. By letter dated May 30, 1985, the respondent indicated it would require identifying information before it would search its files, i.e. location and nature of the incident, the date on which the incident took place.

4. By letter dated June 12, 1985, the complainant filed his complaint with the Commission.

5. During the several hearings which were held on this matter, various documents were provided to the complainant as a result of a search conducted by the respondent's director of records and reports.

6. At the conclusion of the proceedings the complainant asserted that he was entitled to receive the following records:

a. A record in the possession of Special Services which names an informant.

b. A tape recording which respondent claims is exempt under §1-19(b)(12), G.S.

c. Telephone toll slips obtained pursuant to a police internal memo dated February 24, 1969.

d. A document which lists names associated with certain toll slips which the respondent claims is exempt under §1-19(b)(2), G.S.

e. A one page document from the bureau of identification which the respondent claims is exempt under §29-16.

f. Records concerning the complainant from the files of the Statewide Organized Crime Investigative Task Force (SOCITF, hereinafter) which the respondents claim is exempt under §29-170 and §29-171, G.S.

7. The complainant requests that the Commission order the respondent to search the office of the commissioner of public safety for documents concerning the complainant.

8. The records which the complainant alleges should be disclosed to him will be discussed in the following section under separate headings.

A. <u>The document in the possession of Special Services which names an informant.</u>

9. It is found that there was insufficient evidence to demonstrate that Special Services retains any document,

which it has not yet disclosed to the complainant, which names an informant.

10. It is concluded, therefore, that the respondent is not withholding the document described herein at paragraph 6(a) herein.

B. The tape recording which the respondent claims is exempt under 1-19(b)(12), G.S.

11. §1-19(b)(12), G.S. exempts from disclosure "any information obtained by the use of illegal means."

12. In 1968 the complainant was arrested for burglary and wiretapping.

13. The circumstances of the arrest were that the complainant was found in the in the basement of the home of Barbara Violette, which the complainant had entered without Mrs. Violette's permission through a cellar hatchway.

14. The complainant stated that he was in the basement to place a tape recorder and to remove a tape recorder.

15. The tape recorders were taken as evidence and also the tape which the complainant now seeks.

16. The tape contains phone conversations of some girls and a housewife; one name mentioned on the tape is Barbara Violette.

17. On January 3, 1969, the complainant plead guilty to a substituted charge of breaking and entering without permission, and he subsequently served a short jail sentence.

18. It is concluded that the tape recording is exempt under §1-19(12), G.S. because it was obtained by the use of illegal means.

C. Telephone toll slips obtained pursuant to a police internal memo dated February 24, 1969.

19. The complainant alleged in his post-hearing brief

that material was omitted from a copy of an internal police memo which was dated February 24, 1969, and which was provided to him on October 28, 1986.

20. It is found that it is inappropriate for the Commission to consider this issue at this time because it is not clearly within the scope of the complaint, and also because no evidence concerning this issue was presented at hearing.

D. The document which lists names associated with the toll slips, which the respondent claims is exempt under §1-19(b)(2), G.S.

21. §1-19(b)(2), G.S. exempts from disclosure personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy.

22. The respondent refused to disclose to the complainant the names of persons who had been called from the complainant's phone, which had been provided to it by the telephone company.

23. It is found that the names are not personnel or medical or similar files and that, further, their disclosure to the complainant would not constitute an invasion of personal privacy.

E. A one page document from the bureau of identification which the respondent claims is exempt under §29-16.

24. §29-16 provides in relevant part that

> [i]nformation contained in the files of the state police bureau of identification relative to the commission of crime by any person shall be considered privileged and shall not be disclosed for any personal purpose or in any civil court proceedings except upon written order of the judge of an established court wherein such civil proceedings are had.

25. The record which is withheld concerns the history record of the complainant.

26. It is found that the record is exempted from disclosure by §29-16.

F. Records concerning the complainant from the files of SOCITF, which the respondent claims is exempt under §29-170 and §29-171, G.S.

27. The SOCITF records were created in 1978 after a local police department called for help with an investigation of the complainant.

28. The investigation is not closed and is not ten years old.

29. §29-170 provides:

> In order to keep the public informed as to the operations of organized crime and the problems encountered by the state in dealing with organized crime, the statewide organized crime investigative task force may disseminate such information by such means and to such extent as it deems appropriate.

30. §29-171 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 statewide organized crime investigative task force, shall be guilty of a class A misdemeanor.

31. It is found, since the investigation is still open that the records maintained by SOCITF are exempt from disclosure.

32. The complainant requested this Commission to order the respondent to conduct a search of the files in the office of the Commissioner of Public Safety.

33. The respondent has searched the files in approximately forty of its departments and offices for records concerning the complainant.

34. No evidence was presented which would suggest that information or records concerning the complainant would be maintained in files in the office of the Commissioner of Public Safety.

35. It is found that it is not appropriate in this case to order the respondent to conduct a search of the files maintained by the Commissioner.

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

1. The respondent shall provide to the complainant the records which list names associated with the toll slips which are discussed herein at paragraphs 6d, 21, 22, and 23.

Approved by order of the Freedom of Information Commission at its regular meeting of August 13, 1986.

Karen J. Haggett

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Clerk of the Commission