

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Albert McGrail and James Leal.

Complainant

Docket #FIC85-151

against

Department of Public Safety
Division of State Police.

Respondent

The above captioned matter was heard as a contested case on October 10, 1985 at which time the complainant and the respondent appeared and presented testimony, exhibits and argument on the complaint. On November 26, 1985 the matter was opened for the taking of further evidence.

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 12, 1985 the complainants made a written request of the respondent for a copy of the state police report on case number H85-059477, a motor vehicle accident in which Brien J. Morrissey was charged with violating §14-227a, G.S.
3. On June 20, 1985 the complainants' request was denied on the ground that Mr. Morrissey had applied for pretrial alcohol education under §54-56g, G.S.
4. On July 3, 1985 the complainants again requested the report, at which time they were informed that the report would be made available, but that any mention of the violation of §14-227a, G.S. would be deleted.
5. On July 12, 1985 the complainants received a copy of the report, with portions deleted to "comply with provisions of Section 54-56g of the 1985 Revision of the General Statutes of Connecticut, if in fact pertinent."
6. By letter of complaint filed with the Commission on July 15, 1985 the complainants appealed the respondent's deletion of certain information.

7. §54-56g, G.S. provides that there shall be a pretrial alcohol education system for persons charged with a violation of §14-227a and that

Upon application by any such person for participation in such system, the court shall, but only as to the public, order such information or complaint to be filed as a sealed information or complaint, provided such person states under oath in open court under penalties of perjury that he has never had such system invoked in his behalf and that he has not been convicted of a violation of section 14-227a before or after October 1, 1981.

8. The parties stipulated that Mr. Morrissey has applied for pretrial alcohol education pursuant to §54-56g, G.S. and that the terms of the statute regarding the sealing of records have been invoked.

9. It is found that the police report in question is not part of the "information and complaint" filed in connection with Mr. Morrissey's case.

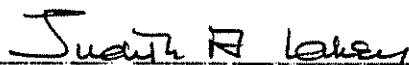
10. It is concluded that §54-56g, G.S. does not bar access to the records in question.

11. The respondent failed to prove that the information in question is exempted from disclosure by any other state statute or federal law.

12. It is further concluded that the respondent violated §1-19(a) when it denied the complainants access to information contained in the report on case number H85-059477.

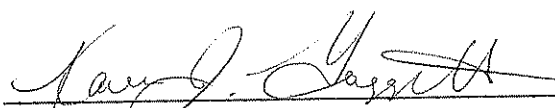
The following order by the Commission is hereby recommended on the basis of the record concerning the above captioned complaint.

1. The respondent shall further provide the complainants with a complete copy of the report on case number H85-059477.



Commissioner Judith A. Lahey
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of January 22, 1986.



Karen J. Haggett
Clerk of the Commission