

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Robert L. Hurney
Complainant

Report of Hearing Officer

Docket #FIC78-240

against

September 26, 1979

State of Connecticut; Police Dept.
of the State of Connecticut; and
Commissioner of State Police of the
State of Connecticut,

Respondents

The above captioned matter was heard on August 9, 1979, at which time the parties appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondents are public agencies as defined by Sec. 1-18a (a), G.S.

2. The complainant has requested access to a certain investigative file kept by the respondents concerning an unsolved felony perpetrated on a daughter of a certain Superior Court judge.

3. By letter filed with the Commission on July 24, 1978, the complainant asserted his right of access to such file under the Freedom of Information Law.

4. As recently as August 9, 1979, access to the requested file has been denied to the complainant.

5. The complainant, a former state's attorney, seeks access to such file for the purpose of determining whether either the judge in question, or his daughter, made statements naming him as the perpetrator of the crime. The complainant believes that the post-assault investigative activities of the respondents, with respect to him, may only be accounted for by a statement made against him by such individuals.

6. The file has not yet been closed and there has been investigative activity on the file as recently as July, 1978.

7. The statute of limitations for the assault in question, which constitutes a Class D felony, is five years from April 11, 1977, the date of the perpetration of the crime.

8. The respondents have never considered the complainant a suspect in the assault.

9. The file in question does contain information which, if disclosed to the public, would help the real perpetrator of the crime to avoid apprehension.

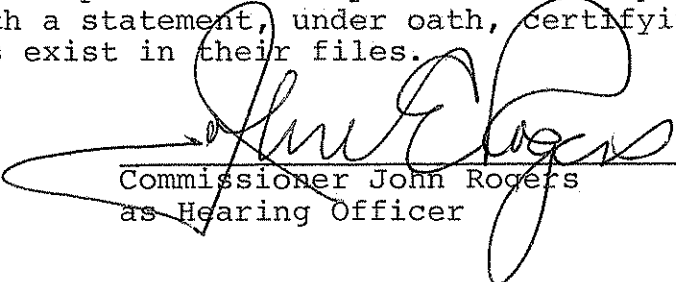
10. Although the existence of a statement by either the aforesaid judge or his daughter against the complainant is highly uncertain, any such statement can not be prejudicial to a prospective law enforcement action against the real perpetrator of the crime.

11. With the exception of those records, or portions thereof, which record statements by the aforesaid judge or daughter against the complainant, should the same exist, the file in question is exempt from compulsory disclosure pursuant to Sec. 1-19(b)(3).

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 complainant with any and all records containing statements by the aforesaid judge or his daughter which may implicate the complainant with the crime in question.

2. In the event that the files of the respondents contain no such statements, the respondent shall provide the complainant and the Commission with a statement, under oath, certifying that no such documents exist in their files.



Commissioner John Rogers
as Hearing Officer

Approved by Order of the Freedom of Information Commission at its regular meeting of October 10, 1979.



Wendy Rae Briggs
Acting Clerk of the Commission