

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Robert Kowal,

Complainant

against

Docket #FIC 2019-0623

Commissioner, State of Connecticut,
Department of Children and Families;
and State of Connecticut, Department of
Children and Families,

Respondents

August 12, 2020

The above-captioned matter was heard as a contested case on January 16, 2020, at which time the complainant and the respondents 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 and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by Department of Children and Families' ("DCF") Authorization for the Release of Information Form, which was dated September 13, 2019, the complainant requested that the respondents provide him with copies of all medical or hospital records concerning the complainant, regarding a report or reports of "clergy sexual assault." Thereafter, it is found that, by letter dated October 4, 2019, reporter Bob Sirkin, acting on the complainant's behalf and with the complainant's authorization, requested complete access to the complainant's DCF file.
3. It is found that, by letter dated October 10, 2019, the respondents acknowledged the request, indicating that a review of their records revealed that they did not maintain any records responsive to the requests set forth in paragraph 2, above.
4. By letter dated October 9, 2019 and filed October 11, 2019, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act ("FOI Act") by failing to provide him with a copy of the records described in paragraph 2, above.

5. Section 1-200(5), G.S., provides:

“Public records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. It is found that the complainant and his representatives have made several requests to the respondents for the records described in paragraph 2, above. It is found that the requested records concern a report or reports of sexual assault on the complainant in or around 1964, when the complainant was six years old.

10. It is found that the respondents have searched for records responsive to the requests set forth in paragraph 2, above, as well as for records responsive to requests that have preceded the instant requests.

11. It is found that the respondents’ searches of its records have not unearthed any responsive records. It is further found that the respondents have expressly informed the complainant and his representatives, as follows:

The Department does not have any records regarding Mr. Robert Kowal. Please note, that reports not accepted for investigation are expunged pursuant to the Regulations of CT State Agencies. Likewise, cases which have no substantiations are expunged pursuant to CT State Statute

after 5 years.

12. Counsel for the respondents represented at the contested case hearing that, if the respondents maintained sexual assault records concerning the complainant, they would have released such records to the complainant and/or his representatives pursuant to §17a-28, G.S., which statute provides for disclosure of records of abuse and neglect to the subject of the records and to the subject's representatives.

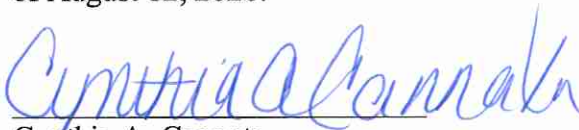
13. In this case, it is found that the respondents do not maintain records responsive to the requests set forth in paragraphs 2, above.

14. It is therefore concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 12, 2020.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

ROBERT KOWAL, 180 Yantic Lane, Norwich, CT 06360

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CHILDREN AND FAMILIES; AND STATE OF CONNECTICUT, DEPARTMENT OF CHILDREN AND FAMILIES, c/o Attorney Lynn M. Hebert, Department of Children and Families, 505 Hudson Street, Hartford, CT 06106



Cynthia A. Cannata
Acting Clerk of the Commission