



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov

Paul Glossa

Complainant(s)

against

Notice of Meeting

Docket #FIC 2016-0726

Chief, Police Department, Town of North Branford; Police Department, Town of North Branford; and Town of North Branford

Respondent(s)

August 2, 2017

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2:00 p.m. on Wednesday, August 23, 2017**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE August 11, 2017**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE August 11, 2017**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE August 11, 2017** and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of Information Commission

Wendy R.B. Paradis
Acting Clerk of the Commission

Notice to: Paul Glossa
Attorney Pat Young

FIC# 2016-0726/IIRA/TCB/VRP/WRBP/2017-08-2

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Paul Glossa,

Complainant

against

Docket #FIC 2016-0726

Chief, Police Department, Town of
North Branford; Police Department,
Town of North Branford; and Town
of North Branford,

Respondents

August 2, 2017

The above-captioned matter was heard as a contested case on January 10, 2017, 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 letter dated October 1, 2016, the complainant made a request to the respondent department for a copy of the following records related to the deaths of his mother and brother:
 - a. the telephone number from which the emergency call originated;
 - b. the hospital and physicians report of death;
 - c. an identification form;
 - d. the receipt of evidence from the home at 271 Valley Road, North Branford, CT;
 - e. copies of the suicide note or notes;
 - f. a list of medication for Elizabeth Glasso; and
 - g. the list of donations made to the North Branford Police union.

3. By letter dated October 16, 2016, and filed on October 18, 2016, and again by letter dated October 28, 2016, and filed on November 1, 2016, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with his request.

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

“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.

5. Section 1-210(a), G.S., provides 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.

6. 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.”

7. To the extent the requested records exist, and are maintained by the respondents, it is found that such records are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. With respect to the records described in paragraphs 2a, 2d, and 2e, above, it is found that the respondents have provided the complainant with a copy of all the records responsive to those requests that they maintain.

9. With respect to the complainant’s request described in paragraph 2b and 2c, above, it is found that the respondent department maintains two Chief Medical Examiner’s reports responsive to the complainant’s request. It is found, however, that they are not able to identify any record responsive to the complainant’s request for an “identification form.”

10. Section 19a-411, G.S., provides, in relevant part, that:

(a) The Office of the Chief Medical Examiner shall keep full and complete records properly indexed, giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause and manner of death and containing all other relevant information concerning the death and a copy of the death certificate. The full report and detailed findings of the autopsy and toxicological and other scientific investigation, if any, shall be a part of the record in each case. The office shall promptly notify the state's attorney having jurisdiction of such death and deliver to the state's attorney copies of all pertinent records relating to every death in which further investigation may be advisable. Any state's attorney, chief of police or other law enforcement official may, upon request, secure copies of such records or other information deemed necessary by such official for the performance of his or her official duties. (Emphasis supplied).

(b) The report of examinations conducted by the Chief Medical Examiner, Deputy Chief Medical Examiner, an associate medical examiner or an authorized assistant medical examiner, and of the autopsy and other scientific findings may be made available to the public only through the Office of the Chief Medical Examiner and in accordance with this section, section 1-210 and the regulations of the commission. Any person may obtain copies of such records upon such conditions and payment of such fees as may be prescribed by the [Commission on Medicolegal Investigations], except that no person with a legitimate interest in the records shall be denied access to such records, and no person may be denied access to records concerning a person in the custody of the state at the time of death. . . . (Emphasis supplied).

11. In Galvin v. Freedom of Information Commission, the Supreme Court determined that §19a-411, G.S., is a state statute that falls within the “except as otherwise provided” provision of §1-210(a), G.S. See Galvin, 201 Conn 448, 462 (1986). The Galvin court recognized that a request for records from the Office of the Chief Medical Examiner (“OCME”) required “the reconciliation of the provisions of the [FOI Act and §19a-411, G.S.], each of which deals with the public’s right of access to records kept on file by public agencies.” Id. at 454. The court determined that the statutory guidelines of §19a-411, G.S., “impose stricter limitations on the disclosure of such records than the [FOI Act] permits.” Id.

12. The Galvin court further found that §19a-411, G.S., set forth three classes of record seekers, the third of which included members of the general public. In this regard, the court stated that “autopsy reports and other investigative reports may be made available to the public *only through the office of the chief medical examiner and in accordance with . . . the regulations of the commission.*” See Galvin, 201 Conn 448, 457 through 458 (1986). (Emphasis in original)

13. It is found that complainant has requested the records described in paragraph 2b and 2c, above, as a member of the general public.

14. It is found that, because the complainant is making the request as a member of the general public, the regulations of the Office of the Chief Medical Examiner control the release of those records. See Galvin, 201 Conn. at 454.

15. Regulations of Connecticut State Agencies, §§19a-401-12(a) and (c)(2) provide, respectively, and, in relevant part, as follows:

(a) Reports of investigations and of autopsies are prepared on standard forms issued by the Office of the Medical Examiner. The original reports of investigations, reports of hospital deaths, and of authorized autopsies are transmitted to the Office of the Medical Examiner and copies are obtainable only from the Chief Medical Examiner. The standard forms utilized by the Office of the Medical Examiner include: (1) telephone notice of death; (2) report of investigation; (3) hospital report of death; (4) identification form; (5) autopsy report; (6) receipt of evidence.

...

(c) Inquiries and requests for copies of records. Inquiries concerning a death may be made in person or by letter to the Chief Medical Examiner, Office of the Medical Examiner, 11 Shuttle Rd., Farmington, Connecticut 06032. Copies of reports prepared by personnel of the Office of the Medical Examiner, Assistant Medical Examiners and designated pathologists and other laboratories where pertinent, or detailed findings of other scientific investigations, are furnished upon payment of fees and upon conditions established by the Commission on Medicolegal Investigations. Copies of such reports may be obtained as follows:

....

(2) If the requester of the records is a member of the general public, he or she may obtain access to such records if the person has a legitimate interest in the documents and no court has issued an order prohibiting disclosure pursuant to section

19a-411(c) of the Connecticut general statutes. (Emphasis supplied).

16. With regard to public access of autopsy records, the Galvin Court made the following observations:

[§19a-411, G.S.] expressly mandates that disclosure must be “in accordance with . . . the regulations of the commission.” In seeking copies of records, disclosure seekers are subject to “such conditions and payment of such fees as may be prescribed by the commission.” The source of the records is similarly restricted: the public’s access is “only through the office of the chief medical examiner.”

Id. at 459.

17. It is found that while the respondent police department maintains a copy of the medical examiner’s reports and may have a copy of the requested identification form, the complainant may only obtain a copy of such records through the office of the medical examiner.

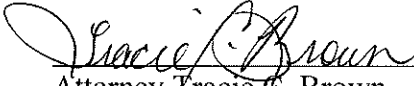
18. Consequently, it is concluded that the respondents did not violate the disclosure provisions of the FOI Act by failing to provide the complainant with a copy of the records described in paragraph 2b and 2c, above.

19. With respect to the complainant’s request described in paragraph 2f and 2g, above, it is found that the respondents do not maintain any records responsive to those requests.

20. Based on all of the forgoing, it is concluded that the respondents did not violate the FOI Act as alleged by the complainant.

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

1. The complaint is hereby dismissed.



Attorney Tracie C. Brown
as Hearing Officer