

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Karolyn Ryan,

Complainant

against

Docket # FIC 2023-0069

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

Respondents

July 26, 2023

The above-captioned matter was heard as a contested case on June 5, 2023, at which time the complainant¹ and the respondents appeared 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 email dated January 25, 2023, the complainant requested that the respondents provide her with the following:
 - (a) All 2022 accepted Careline reports, redacted for identifying information, in which the “High Risk Newborn” box was checked off of the SDM careline assessment upon intake. [“Careline reports request”]
 - (b) Of these High Risk Newborn 2022 . . . cases, how many were substantiated for abuse or neglect within 45 days of acceptance? [“substantiated cases query”]
 - (c) A copy of any and all contracts or agreements [the Department of Children and Families] DCF [m]ay have with Connecticut hospitals concerning the care and/or reporting of newborns for child protective services. [“contracts request”]

¹The case caption originally identified the complainant as “Assistant Agency Legal Director.” At the hearing, the complainant clarified that, although she is an attorney, she does not hold such position. The case caption has been modified to reflect such clarification.

3. By email dated February 22, 2023, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying her request for certain public records.

4. It is found that, by letter dated March 24, 2023, the respondents responded to the complainant’s records request. The respondents denied the complainant’s Careline reports request on the ground that such records were exempt from disclosure under §§17a-28(b) and 17a-101k, G.S. The respondents answered the complainant’s substantiated cases query, providing relevant statistical data. Finally, the respondents indicated that they did not maintain any records responsive to the complainant’s contracts request.²

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

“[p]ublic 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, videotaped, printed, photostated, photographed or recorded by any other method.

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

[e]xcept 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 . . . (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 records described in paragraphs 2(a) and 2(c), above, to the extent that they exist, are public records within the meaning of §§1-200(5) and 1-210(a) and 1-212(a), G.S.

9. At the hearing, the complainant testified that she was satisfied with the respondents’ response to her contracts request, described in paragraph 2(c), above. Therefore, that request will not be further considered herein.

²On June 1, 2023, the respondents moved to dismiss the matter, arguing that this Commission lacked jurisdiction to determine the right of access to records of DCF’s child protection activities. By notice dated June 2, 2023, the hearing officer advised the parties that the motion to dismiss would be taken up at the hearing. At the close of the hearing, the hearing officer informed the parties that she intended to issue a full report on the matter. Accordingly, on June 7, 2023, the hearing officer denied the respondents’ motion to dismiss.

10. The complainant also acknowledged that her substantiated cases query, described in paragraph 2(b), above, was a question, not a records request. Although the respondents answered the question, it is well-settled that they were not required to do so under the FOI Act and that this Commission has no authority to compel them to do so. See Albright-Lazzari v. Murphy, No. CV-10-5014984S, 2011 WL 1886878, at *3 (Conn. Super. Ct. Apr. 21, 2011) (upholding the Commission’s determination that a public agency has no obligation under the FOI Act to answer questions). Therefore, it is concluded that the respondents did not violate the FOI Act with regard to the complainant’s substantiated cases query, described in paragraph 2(b), above.

11. As to the complainant’s Careline reports request, described in paragraph 2(a), above, the respondents argued that such reports are exempt from disclosure under §§17a-101k and 17a-28(b), G.S., because they contain information relative to child abuse and are created in connection with DCF’s child protection activities. The complainant argued that they are subject to disclosure because DCF uses them for purposes of screening and intake and that, therefore, the reports, on their own, do not necessarily trigger child protection activities.

12. Section 17a-101k, G.S., provides, in relevant part:

(a) The Commissioner of Children and Families shall maintain a registry of the commissioner’s findings of abuse or neglect of children pursuant to section 17a-101g The regulations adopted pursuant to subsection (i) of this section shall provide for the use of the registry on a twenty-four-hour daily basis to prevent or discover abuse of children and the establishment of a hearing process for any appeal by a person of the commissioner’s determination that such person is responsible for the abuse or neglect of a child pursuant to subsection (b) of section 17a-101g. The information contained in the registry and any other information relative to child abuse, wherever located, shall be confidential, subject to such statutes and regulations governing their use and access as shall conform to the requirements of federal law or regulations. (Emphasis added).

13. It is found, and undisputed, that Careline reports detail allegations of child abuse or neglect. It is thus found that, by their very nature, such reports contain “information relative to child abuse” pursuant to §17a-101k, G.S.

14. Section 17a-28(b), G.S., provides, in relevant part, that “[n]otwithstanding the provisions of [the FOI Act], records maintained by [DCF] shall be confidential and shall not be disclosed”

15. Section 17a-28(a)(5), G.S., defines “records maintained by [DCF]” as “information created or obtained in connection with [DCF]’s child protection activities or other activities related to a child while in the care or custody of the department, including information in the

registry of reports to be maintained by the commissioner pursuant to section 17a-101k” (Emphasis added.)

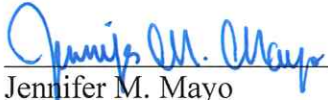
16. The respondents testified, and it is found, that a Careline report initiates DCF’s involvement with a family. The respondents further testified that once DCF receives such a report, it responds in one of the following three ways: it either accepts the report for a traditional intake or for further investigation, accepts the report for a family assessment response, or declines to accept the report. Although the respondents acknowledged that DCF declines to accept some Careline reports for further agency action, the ultimate disposition of a report does not change its underlying function, that is, to alert DCF to potential child abuse or neglect. It is thus found that such reports are “created . . . in connection with [DCF]’s child protection activities” pursuant to §17a-28(a)(5), G.S. See Raymond Reynolds v. Commissioner, State of Connecticut, Department of Children and Families; and State of Connecticut, Department of Children and Families, Docket #FIC 2016-0884 (October 25, 2017) (concluding that Careline reports are exempt from disclosure under the FOI Act); see also Love v. Moynihan, No. HHD-CV-15-6059776S, 2018 WL 794036, at *1 (Conn. Super. Ct. Jan. 17, 2018) (noting that “General Statutes § 17a-28 . . . represents ‘a broad legislative declaration of confidentiality.’”).

17. Accordingly, it is concluded that Careline reports are exempt from disclosure under §§17a-28 and 17a-101k, G.S., and therefore, the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to the complainant’s request, described in paragraph 2(a), above.

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 July 26, 2023.



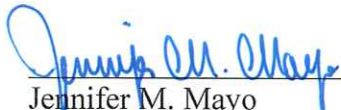
Jennifer M. Mayo
Acting Clerk of the Commission

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:

KAROLYN RYAN, 20a Lake Shore Drive, Middlefield, CT 06455

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CHILDREN AND FAMILIES; AND STATE OF CONNECTICUT, DEPARTMENT OF CHILDREN AND FAMILIES, c/o Charlotte Shea, Assistant Legal Director, 505 Hudson Street, Hartford, CT 06106



Jennifer M. Mayo
Acting Clerk of the Commission