

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Aziah Dwan,

Complainant

against

Docket # FIC 2023-0631

Chief, Police Department, Town of
Hamden; Police Department, Town of
Hamden; and Town of Hamden,

Respondents

October 9, 2024

The above-captioned matter was heard as a contested case on June 3, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, *Anthony Sinchak v. FOIC*, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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 November 30, 2023, the complainant requested that the respondents provide him with copies of 12 categories of records pertaining to an “incident involving [the complainant] at the Children’s Center of Hamden in or about 2005.”
3. By letter of complaint filed December 7, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his request for certain public records.
4. 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, videotaped, printed, photostated, photographed or recorded by any other method.

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

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 ... or (3) receive a copy of such records in accordance with the provisions of section 1-212.

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

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

8. It is found that by letter dated December 11, 2023, the respondents notified the complainant that the requested records were exempt from disclosure pursuant to, among other statutes, §§17a-28 and 17a-101k, G.S.

9. At the hearing in this matter, the respondents claimed that the requested records were exempt from disclosure pursuant to §17a-101k, G.S., because they concern an investigation into allegations of child abuse.¹

10. 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 that conforms to the requirements of this section.... 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. Any violation of this section or the regulations adopted by the commissioner

¹ In the letter referenced in paragraph 8, above, and at the hearing, the respondents also claimed that some or all of the requested records were exempt from disclosure pursuant to §§1-210(b)(2), 1-210(b)(3)(G), and 1-210(b)(3)(H), G.S. In light of the conclusion that the requested records were mandatorily exempt from disclosure pursuant to §17a-101k, G.S., the Commission need not address the respondents' remaining claims.

under this section shall be punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year. (Emphasis added.)

11. In *Groton Police Department v. FOI Commission*, 104 Conn. App. 150 (2007), the Appellate Court concluded that records maintained by a police department concerning allegations of child abuse constitute “information relative to child abuse, wherever located,” within the meaning of §17a-101k(a), G.S., and therefore are not subject to disclosure under the FOI Act.

12. It is found that all of the requested records were created in connection with an investigation by the respondents that was initiated as a result of a complaint by the Department of Children and Families (“DCF”) concerning allegations of child abuse. It is therefore found that such records are “information relative to child abuse, wherever located,” within the meaning of §17a-101k(a), G.S.

13. The complainant claimed that notwithstanding §17a-101k(a), G.S., the requested records should be made available to him because he was the alleged victim in the incident that was the subject of the investigation, and he needed the records to prosecute a pending civil case.

14. In *Groton Police Department*, however, the Appellate Court rejected the claim that the confidentiality provision in §17a-101k(a), G.S., may be waived. The Court explained that “[t]he issue of whether a record is disclosable under the [FOI Act] ‘does not depend in any way on the status or motive of the applicant for disclosure, because the [FOI Act] vindicates the public’s right to know, rather than the rights of any individual.’” *Id.* at 165 (quoting *Chief of Police v. FOI Commission*, 252 Conn. 377, 387 (2000)). Even though the requester in that case was the parent of the alleged child abuse victim, the Court concluded “that [the requester’s] status as a parent, in the context of her request pursuant to the [FOI Act], has no bearing on the issue of whether she waived the confidentiality requirement of §17a-101k[, G.S.,] and was therefore entitled to the police records.” *Id.* at 166.

15. It is therefore found that the complainant’s status as the alleged victim does not grant him the right to waive the confidentiality requirements of §17a-101k(a), G.S., for purposes of a records request under the FOI Act.²

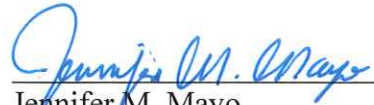
16. Based on the foregoing, it is found that the requested records are exempt from disclosure pursuant to §17a-101k(a), G.S. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by denying the complainant’s request for such records.

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

² The complainant also claimed that he was entitled to the requested records pursuant to the Personal Data Act, §4-190, G.S., et seq. However, because the Commission’s jurisdiction is limited to adjudicating disputes under the FOI Act, it is concluded that the Commission lacks jurisdiction over such claim. See §§1-205(d) and 1-206, G.S. The Commission notes, however, that there may be other avenues available that are beyond the jurisdiction of the Commission that may allow the complainant to access some or all of the requested records.

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 9, 2024.



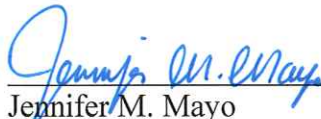
Jennifer M. Mayo
Acting Clerk of the Commission

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:

AZIAH DWAN, #411246, MacDougall-Walker Correctional Institution, 1153 East Street South, Suffield, CT 06078

CHIEF, POLICE DEPARTMENT, TOWN OF HAMDEN; POLICE DEPARTMENT, TOWN OF HAMDEN; AND TOWN OF HAMDEN, c/o Attorney Susan Gruen, Office of the Town Attorney, 2750 Dixwell Avenue, Hamden, CT 06518



Jennifer M. Mayo
Acting Clerk of the Commission