

Freedom of Information Commission
of the State of Connecticut

In the Matter of a Complaint by)
The Chronicle, Complainant) Report of Hearing Officer
against) Docket #FIC 76-11
State of Connecticut,)
Commissioner of the Department) March 2, 1976
of Mental Health and the)
Superintendent of Norwich Hospital,))
Respondents)

1. The respondents are public agencies, as they are State of Connecticut, one of its department heads, and the superintendent of one of its institutions.

2. On January 30, 1976, complainant requested in writing the status of a person believed to be a patient at the hospital. The complainant's intent was to verify that this person was, in fact, a patient at the hospital.

3. This request was denied based upon Section 52-146d through 52-146j of the general statutes and Sections 2(a) and 2(b)(9) of P.A. 75-342.

4. No document exists which in and of itself sets forth the information sought, namely the name, age, address, time and date of arrival and by what official authority the person was sent to Norwich Hospital.

5. The chart of the person does show this information and also contains entries directly relating to the diagnosis and treatment of the patient.

6. The patient's chart is a "record" as defined under Section 52-146d of the general statutes and is not available to the complainant, 52-146e and Section 2(a) and 2(b)(1) of P.A. 75-342.

7. The information sought by the complainant is an integral part of this "record". The release of this record would have important consequences for the individual and his treatment. It is excluded from access under Section 2(b)(1) of Public Act 75-342 because access to this record would constitute an invasion of personal privacy. This is true whether or not the information sought is a "record" as defined in Section 52-146d.

8. The criteria relied upon in arriving at this conclusion were set in Advisory Ruling #10, adopted by the Commission on February 10, 1976:

" A judicially approved definition of the right of privacy is that it is the right to be free from the unwarranted appropriation or exploitation of one's personality, the publicizing of one's private affairs with which the public has no legitimate concern, or the wrongful intrusion into one's private activities in such manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities. The right of privacy has also been defined as the right to be let alone, to be free from unwarranted publicity, and to live without unwarranted interference by the public in matters with which the public is not necessarily concerned." (62 Am. Jr. 2nd §1, pp. 677-678)

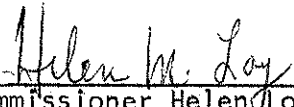
9. Subsequent to the time of the hearing, the complainant newspaper notified the Commission that it had not, in fact, filed this complaint. The complainant explained that the complaint was filed by a reporter in its employ, who was acting in his own name and without any delegation of authority to take this action in the name of the newspaper.

10. These facts were communicated ex parte and would in other circumstances require this hearing be reopened in order to comply with Sec. 4-181 of the general statutes. The added facts do not alter the result for the reasons hereafter set forth. Consequently, any deviation from the uniform administrative procedure act and from the Commission rules of practice will be overlooked.

11. The central issue turns primarily on appraisal of access to this patient's medical record as an invasion of privacy. Viewed most favorably, an inquiry in behalf of the newspaper would be a request for records concerning a person who is the object of legitimate public interest during the period of time after the patient's hospitalization had brought him to the public attention, if that were the case. As such the invasion of privacy by the publisher of a newspaper could be accorded some weight in the balancing of the public interests that are protected. On the other hand, if this were an inquiry by a random curiosity seeker, any invasion of the patient's privacy would be lacking in such merit under this view of the facts. In the instant case the reporter was seeking access to these records within the scope of his employment by the newspaper. It follows that this complaint was really offered in the interest of the newspaper, regardless of whether the reporter or the newspaper is named as the complainant. The circumstance that the reporter filed the complaint without the consent of the newspaper does not alter the result.

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

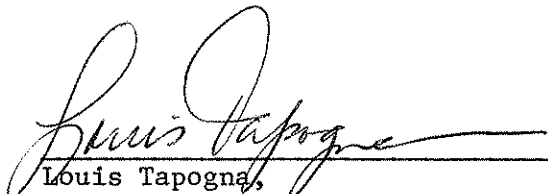
This complaint should be dismissed because the public record sought falls under one of the exemptions to the Act.



Commissioner Helen Loy

as Hearing Officer

Approved by order of the Freedom of Information Commission on March 10, 1976.



Louis Tapogna,
Clerk of the Commission