

Freedom of Information Commission
of the State of Connecticut

In the Matter of a Complaint by)
Robert Hunter and Marie Theresa) Report of Hearing Officer
Hunter, Complainants)
against) Docket #FIC 76-200
State of Connecticut and the) March 21, 1977
Child and Family Services of)
Connecticut, Inc., Respondents)

The above captioned matter was heard as a contested case on December 21, 1976 and March 11, 1977, at which times the complainants and the respondent Child and Family Services of Connecticut, Inc. (hereinafter referred to as the respondent corporation) 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:

1. The respondent corporation, in its capacity as a child-placing agency, is a public agency within the meaning of §1-18a(a), General Statutes. In this regard, the decision and order of this Commission dated January 26, 1977, concerning the above captioned matter, is incorporated herein by reference and made a part hereof as if fully set forth.
2. In January 1976, the complainants learned of a program conducted by the respondent corporation leading to the adoption of a child.
3. The complainants enrolled and participated in this program, which was designed, in part, to determine the fitness of the complainants as adoptive parents, until their termination by the respondent corporation in the summer of 1976.
4. As part of the aforesaid program, the respondent corporation established and maintained in its custody and possession a file concerning the complainants. This file contains such documents as correspondence with the complainants, staff summaries of interviews and case summations, medical reports and letters of reference. This file has no reference to any child placed for adoption or otherwise cared for by the respondent corporation.

6. By letter dated October 28, 1976, the complainants requested of the respondent corporation a copy of the contents of the aforesaid file.

7. This request was denied by letter dated November 4, 1976 and the complainants appealed to this Commission on November 16, 1976, alleging that such denial constituted a violation of P.A. 75-342, as codified in Chapter 3 of the General Statutes.

8. The sole and dispositive issue raised by this complaint and remaining before this Commission is whether the contents of the aforesaid file constitute a public record within the meaning of the Freedom of Information Act, as codified in Chapter 3 of the General Statutes.

9. The term "public records on files" is defined in §1-18a(d), General Statutes, in pertinent part, as "any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency..." (Emphasis added).

10. §1-19(a), General Statutes, however, also states in pertinent part that "Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency...shall be public records and every person shall have the right to inspect or copy such records..." (Emphasis added).

11. While it is clear that §1-18a(d) forms part of a general definitional statute to be used in construing the Freedom of Information Act, it must be read together with §1-19(a) and the legislative policy underlying the entire Act in order to resolve any question as to the operative definition of the term "public records."

12. Using the criteria set forth in paragraph 11, above, it is concluded that the General Assembly intended that public records must, in fact, relate to the conduct of the public's business, as stated in §1-18a(d).

13. Since every document in the custody or possession of a public agency arguably touches, in some respect, the public's business, this Commission must consider each request and complaint on its own merits and determine whether the subject documents indeed relate to the conduct of the public's business within the meaning of §1-18a(d).

14. The file in question contains information personal to the complainants only. It was obtained primarily from the complainants themselves or with their cooperation or approval. It contains intimate details of their private lives, reports of their medical and psychological health and conclusions of other persons concerning their fitness as adoptive parents.

15. Although this information has been utilized by a public agency in determining whether to process the complainants as adoptive parents, it defies belief that the General Assembly intended that the contents of the aforesaid file fall within the class of records to which members of the general public should have access.

16. Consequently, it is concluded that the contents of the file herein requested do not relate to the conduct of the public's business and are therefore not public records within the meaning of the Freedom of Information Act, as codified in Chapter 3 of the General Statutes.

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 since the documents requested are not public records within the meaning of the Freedom of Information Act, as codified in Chapter 3 of the General Statutes.

2. While this Commission is constrained by its understanding of the public access provisions of the Freedom of Information Act--the statute under which it must operate--to dismiss the complaint herein, the Commission strongly urges the respondents to permit the complainants to copy the contents of their file. The Commission makes this recommendation on 3 grounds. First, the file concerns the complainants directly and exclusively. Second, the complainants have already been permitted to review the file and they therefore know its contents. Finally, the complainants should be permitted to copy their file as a matter of the public policy embodied in P.A. 76-421, which becomes effective on July 1, 1977.

Helen M. Loy

Commissioner Helen Loy

as Hearing Officer

Approved by order of the Freedom of Information Commission on
June 22, 1977.

Mitchell W. Pearlman

Mitchell W. Pearlman as Acting
Clerk of the Commission