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FREEDOM OF INFORMATION



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James Quattro,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-541

Vital Statistics Registrar, State of Connecticut,
Department of Public Health; and State of
Connecticut, Department of Public Health,
Respondent(s)

June 8, 2012

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 p.m. on Wednesday, June 27, 2012**. 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 June 15, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE June 15, 2012**. 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 **fourteen (14) copies** be filed **ON OR BEFORE June 15, 2012**, 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

W. Paradis
Acting Clerk of the Commission

Notice to: James Quattro
Daniel Shapiro, AAG

6/8/12/FIC# 2011-541/Trans/wrbp/VDH/TCB

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

James Quattro,

Complainant

against

Docket #FIC 2011-541

Vital Statistics Registrar,
State of Connecticut,
Department of Public Health;
and State of Connecticut,
Department of Public Health,

Respondents

June 7, 2012

The above-captioned matter was heard as a contested case on April 17, 2012, 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, on September 12, 2011, the complainant went to the respondents' place of business, during regular office hours, and orally requested to inspect all of the indices of death and marriage records, as well as the actual death and marriage records maintained by the respondents, whether such records were maintained or kept on file in a computer storage system or by any other method.
3. By letter dated September 30, 2011 and filed October 4, 2011, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying him prompt access to inspect the records described in paragraph 2, above.
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, printed, photostated, photographed or recorded by any other method.

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

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. It is found that the respondents maintain the documents described in paragraph 2, above, and it is therefore concluded that such records are “public records” within the meaning of §§1-200(5) and 1-210(a), G.S., and that access to such records must be granted in accordance with §1-210(a), G.S., unless they are exempt from disclosure.

8. With regard to the indices of death and marriage records, it is found that the respondents maintain these records in a vault with the actual death and marriage records. It is found that the vault is located within a restricted, password protected area of the respondents’ office, to which no member of the public has access. It is found that the indices are a summary of actual deaths and marriages, and span from 1897 to the present. It is found that the indices are categorized by year, and there are multiple volumes of indices for each calendar year. It is found that the marriage indices for 1951, for example, list all of the marriages that took place throughout Connecticut during that particular year. Finally, it is found that, combining the death indices and the marriage indices, there are almost a thousand indices in total.

9. It is found that, while the indices to death and marriage records do not contain confidential information, these records are the respondents’ official records. It is found that the respondents permit supervised access to the indices in order to ensure the records’ integrity. It is found that the respondents provide a requester with access to one index at a time, at the front counter in their office.

10. It is found that the respondents offered the complainant access to the indices one at a time, but that he refused to specify any particular year because he wanted access to all of the indices at the same time. It is found that, based on the number of total

indices, (see ¶ 8, above), it would be unreasonable to require the respondents to have to remove all of the indices from the vault and place them on the front counter at one time.

11. It is found that the respondents' policy of providing access to the indices of death and marriage records one index at a time is reasonable.

12. With regard to the actual death and marriage records, §7-51a, G.S., entitled "Copies of vital records. Access to vital records by members of genealogical societies. Marriage and civil union licenses. Death certificates. Issuance of certified copies of electronically filed certificates," provides in relevant part as follows:

- (a) Any person eighteen years of age or older may purchase certified copies of marriage and death records, and certified copies of records of births or fetal deaths which are at least one hundred years old, in the custody of any registrar of vital statistics. The department may issue uncertified copies of death certificates for deaths occurring less than one hundred years ago, and uncertified copies of birth, marriage, death and fetal death certificates for births, marriages, deaths and fetal deaths that occurred at least one hundred years ago, to researchers approved by the department pursuant to section 19a-25, and to state and federal agencies approved by the department. During all normal business hours, members of genealogical societies incorporated or authorized by the Secretary of the State to do business or conduct affairs in this state shall (1) have full access to all vital records in the custody of any registrar of vital statistics, including certificates, ledgers, record books, card files, indexes and database printouts, except for those records containing Social Security numbers protected pursuant to 42 USC 405 (c)(2)(C), and confidential files on adoptions, gender change, gestational agreements and paternity, (2) be permitted to make notes from such records, (3) be permitted to purchase certified copies of such records, and (4) be permitted to incorporate statistics derived from such records in the publications of such genealogical societies. For all vital records containing Social Security numbers that are protected from disclosure pursuant to federal law, the Social Security numbers contained on such records shall be redacted from any certified copy of such records issued to a genealogist by a registrar of vital statistics. (Emphasis supplied).
- (b) For marriage and civil union licenses, the Social Security numbers of the parties to the marriage or civil union shall be recorded in the "administrative purposes" section of the marriage or civil union license and the application for such

license. All persons specified on the license, including the parties to the marriage or civil union, officiator and local registrar shall have access to the Social Security numbers specified on the marriage or civil union license and the application for such license for the purpose of processing the license. Only the parties to a marriage or civil union, or entities authorized by state or federal law, may receive a certified copy of a marriage or civil union license with the Social Security numbers included on the license. Any other individual, researcher or state or federal agency requesting a certified or uncertified copy of any marriage or civil union license in accordance with the provisions of this section shall be provided such copy with such Social Security numbers removed or redacted, or with the "administrative purposes" section omitted. (Emphasis supplied).

- (c) For deaths occurring after December 31, 2001, the Social Security number, occupation, business or industry, race, Hispanic origin if applicable, and educational level of the deceased person, if known, shall be recorded in the "administrative purposes" section of the death certificate. All parties specified on the certificate, including the informant, licensed funeral director, licensed embalmer, conservator, surviving spouse, physician and town clerk, shall have access to the Social Security numbers of the decedent as well as other information contained in the "administrative purposes" section specified on the original death certificate for the purpose of processing the certificate. For any death occurring after July 1, 1997, only the surviving spouse, next of kin or state and federal agencies authorized by federal law may receive a certified copy of a death certificate with the decedent's Social Security number or the complete "administrative purposes" section included on the certificate. Any researcher requesting a death certificate for a death occurring after July 1, 1997, may obtain the information included in the "administrative purposes" section of such certificate, except that the decedent's Social Security number shall be redacted. (Emphasis supplied).

13. In addition, §7-51, G.S., entitled "Access to and examination and issuance of certified copies of birth and fetal death records or certificates restricted. Access to and disclosure of confidential information restricted," provides in relevant part as follows:

- (a) The department and registrars of vital statistics shall restrict access to and issuance of a certified copy of birth and fetal death records and certificates less than one hundred years old, to the following eligible parties: (1) The person whose birth is recorded, if over eighteen years of age; (2) such person's children, grandchildren, spouse, parent, guardian or grandparent; (3) the chief executive officer of the municipality where the birth or fetal death occurred, or the chief executive officer's authorized agent; (4) the local director of health for the town or city where the birth or fetal death occurred or where the mother was a resident at the time of the birth or fetal death, or the director's authorized agent; (5) attorneys-at-law representing such person or such person's parent, guardian, child or surviving spouse; (6) a conservator of the person appointed for such person; (7) members of genealogical societies incorporated or authorized by the Secretary of the State to do business or conduct affairs in this state; (8) agents of a state or federal agency as approved by the department; and (9) researchers approved by the department pursuant to section 19a-25. Except as provided in section 19a-42a, access to confidential files on paternity, adoption, gender change or gestational agreements, or information contained within such files, shall not be released to any party, including the eligible parties listed in this subsection, except upon an order of a court of competent jurisdiction.
- (b) No person other than the eligible parties listed in subsection (a) of this section shall be entitled to examine or receive a copy of any birth or fetal death record or certificate, access the information contained therein, or disclose any matter contained therein, except upon written order of a court of competent jurisdiction (Emphasis supplied).

14. It is found that §7-51a (a), G.S., recognizes the following three classes of record seekers, each with different rights of access: 1) members of the public eighteen years of age or older; 2) researchers as well as state and federal agencies approved by the respondent agency; and 3) members of genealogical societies incorporated or authorized by the Secretary of State to do business or conduct affairs in this state. It is further found that §7-51, G.S., prohibits public access to birth records and fetal death records less than one hundred years old.

15. The complainant testified that he requested access to the records identified in paragraph 2, above, in his capacity as a member of the public. In addition, the complainant testified that he did not have particular death or marriage records in mind when he made his request. Rather, it is found that the complainant was seeking general

access to the actual death and marriage records, and that the records to which he wanted access were both less and more than one hundred years old.

16. It is found that, as a member of the general public who is eighteen years of age or older, the complainant is permitted access to copies of marriage and death records, and copies of fetal death records that are at least one hundred years old. See § 7-51a (a), G.S.

17. It is found that, when a person requests to inspect a death or marriage record, the respondents will locate the requested record in the vault, copy it and redact any confidential information from the record before providing the record to the requester for inspection. It is found that the respondents do not charge the requester for the cost of the copy they are required to make in order to perform the required redactions. It is further found that the respondents require that the requester provide some specificity regarding the record or records he is seeking, by providing a last name and the year of death or marriage, as the case may be, so that the respondents can locate the record. It is found that the respondents in this case offered such access to the complainant, but that he refused to specify any particular record because he wanted access to all of the actual death and marriage records at the same time.


18. It is found that, depending on the year of the requested record, the respondents are statutorily required to make certain redactions in the records. See, e.g. 42 U.S.C. § 405 (c)(viii)(I, III) (“Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law, enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number or related record” and “[f]or purposes of this clause, the term ‘authorized person’ means an officer or employee of the United States, or an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State,); see also § 7-51a (c), G.S. (“For deaths occurring after December 31, 2001, the Social Security number, occupation, business or industry, race or Hispanic origin if applicable, and educational level of the deceased person, if known, shall be recorded on the ‘administrative purposes’ section of the death certificate. . . . For any deaths occurring after July 1, 1997, only the surviving spouse, next of kin or state or federal agencies authorized by federal law may receive a certified copy of a death certificate with the decedent’s Social Security number or the complete ‘administrative purposes’ section included on the certificate. . . .”).

19. It is found that, given the respondents’ statutory obligation to keep certain information confidential, the requirement that the requestor identify with some specificity the record or records he wants to inspect is reasonable.

20. Based on the foregoing, it is concluded that the respondents did not violate the provisions of §1-210(a), G.S., in this matter.

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.


Valicia Dee Harmon
as Hearing Officer

FIC2011-541/HOR/vdh/6/7/2012