

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by)
Barbara Irwin, Complainant) Report of Hearing Officer
)
against) Docket #FIC77-186
)
State of Connecticut; Department) November 23, 1977
of Social Services of the State)
of Connecticut; and Program)
Supervisor, Department of Social)
Services of the State of)
Connecticut, Respondents)

The above captioned matter was heard as a contested case on October 14, 1977, at which time the complainant and the respondent board appeared and presented testimony and argument on the complaint. At the request of Connecticut Legal Services, Inc., which had been named complainant in the Order to Show Cause, its client, Barbara Irwin, was substituted as complainant.

After consideration of the entire record the following facts are found:

1. The respondents are public agencies within the meaning of §1-18a(a), G.S.
2. By letter to the respondent program supervisor, dated September 9, 1977, complainant's attorney requested copies of a complaint and the findings of an investigation concerning her alleged child abuse.
3. By letter dated September 20, 1977 the respondent, program supervisor, denied the complainant's request.
4. By letter filed with this Commission on September 22, 1977, the complainant through her attorney, appealed the respondent's denial of her request.
5. The complainant argued that since under §17-431(e)(1), G.S., the requested record of a child abuse complaint and investigation would be available to her if it were in the possession of the Department of Children and Youth Services, where the same type of record is in the possession of the respondent department of said records, that it should similarly be available to her.
6. The respondents contended that the records were exempt from disclosure under §1-19a, G.S., in that their disclosure was barred by federal law and state statute.
7. The child abuse prevention program which is administered by the respondent department is subject to confidentiality requirements established by federal statute, 42 U.S.C. §5103(b)(2), and federal regulation, 45 C.F.R. 1340.3-3(d)(5).

8. The respondent department's compliance with these federal confidentiality requirements is set out in §17-38a(g), G.S., which makes records relating to the child abuse and neglect in the possession of the respondent department, "confidential subject to such regulations governing their use and access as shall conform to federal law or regulations."

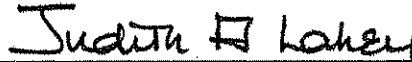
9. There are no regulations under §17-38a(g).

10. It is concluded, therefore, that because §17-38a(g) requires that the requested documents be kept confidential, they are exempt from disclosure under §1-19a, G.S.

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.


2. The Commission notes that the federal regulations cited herein provide numerous exceptions to the confidentiality requirement, set forth in 42 U.S.C. §5103(b)(2), which is imposed upon records of child abuse and neglect cases. In light of the policy supporting disclosure of public records which has been affirmed by the legislature with the adoption of the Freedom of Information Act, the Commission urges the respondent department to adopt regulations which maximize the disclosure of child abuse reports in a manner which is consistent with the beneficial and rational recommendations set forth in the federal regulations, 45 C.F.R. 1340.3-3(d)(5).



Commissioner Judith A. Lahey

as Hearing Officer

Approved by order of the Freedom of Information Commission on
December 19, 1977.



Charlene G. Arnold
Clerk of the Commission