

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by Kenneth Burak, Complainant	)	Report of Hearing Officer
	)	
against	)	Docket #FIC77-206
	)	
State of Connecticut; and Board of Parole of the State of Connecticut; and J. Bernard Gates of the Board of Parole of the State of Connecticut,	)	November 23, 1977
Respondents	)	

The above captioned matter was heard as a contested case on November 4, 1977, 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:

1. The respondents are public agencies as defined by §1-18a(a), G.S., as they are the board of parole and the chairman of the board of parole, as constituted by §54-124a, G.S.

2. By letter dated October 11, 1977, the complainant, an inmate of the Connecticut Correctional Institution at Somers, through his attorney, requested from the respondent board the file the board maintains concerning him.

3. This request was denied by letter from the respondent chairman dated October 14, 1977.

4. By letter of complaint filed with the Commission on October 18, 1977, the complainant alleged that such denial constituted a violation of his rights under §1-19(a), G.S., to inspect or copy records.

5. The file in question contains the complainant's presentence investigation report produced by order of the judicial authority pursuant to §54-109, G.S.

6. Under §54-109, G.S., the presentence investigation report contains material resulting from an inquiry into:

"...the circumstances of the offense,  
the attitude of the complainant or victim,  
or of the immediate family where possible in  
cases of homicide, and the criminal record,  
social history and present condition of the  
defendant...."

When the court deems it desirable, a physical and mental examination is also the subject of such investigation and report.

7. The term "public records or files" is defined in §1-18a (d), G.S., 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...."

8. It is found that the presentence investigation report, as described above, contains information personal to the complainant's and other person's private lives and does not relate to the conduct of the public's business.

9. It is therefore found not to be a public record within the meaning of §1-18a(d), G.S.

10. The remainder of the requested file contains written reports and statements concerning the complainant's adjustment to the correctional institution at Somers and a record of his program participation, conduct and work while a resident therein.

11. With the exception of the complainant's presentence investigative report, the aforesaid file is found to constitute a personnel file and similar file exempt from disclosure within the meaning of §1-19(b) (2), G.S.

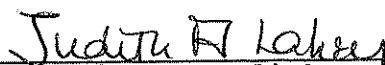
12. The complainant contends that this Commission can order the disclosure of the entire contents of the aforesaid file because he is the subject thereof and because, as to him, it would not constitute an invasion of personal privacy.

13. Nowhere in the Freedom of Information Act are certain individuals granted special rights of access. Under §1-19(a), G.S., if a record is a public record, every person shall have the right to inspect or copy such record.

14. It is therefore concluded that the Commission is without jurisdiction to order the disclosure of records that are not public records for purposes of Chapter 3 of the Connecticut 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.
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, the Commission strongly urges the respondents to permit the complainant to inspect or copy the contents of his file on the basis of the policy embodied in the access provisions of Chapter 55, entitled Personal Data, as amended by P.A. 77-431, which becomes effective January 1, 1978.

  
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Commissioner Judith A. Lahey

as Hearing Officer

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

A handwritten signature in cursive script, appearing to read "Charlene G. Arnold", written over a horizontal line.

Charlene G. Arnold  
Clerk of the Commission