

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
W. K. Ruzika, Shiela Stone, and
Wendy Hull,

FINAL DECISION

Complainants

Docket #FIC79-192

against

Judicial Department of the State
of Connecticut; Anthony J. Salius
and the Honorable Maurice J. Sponzo,

April 12, 1982

Respondents

The hearing on the above entitled matter was first scheduled for March 21, 1980 in conjunction with the hearing on #FIC79-154 because of the similarity of the subject matter and the identity of the respondents. At the scheduled time all parties appeared and presented evidence and argument on the complaint.

Thereafter on May 30, 1980 the hearing officer's report was issued and the matter was considered by the full Commission on June 25, 1980. At that time the full Commission voted to recommit the proposed decision to the hearing officer for further consideration.

The hearing officer, who was seriously ill at the time, was unable to reconsider the hearing officer's report prior to his death.

On June 25, 1981 and subsequently on September 22, 1981 the matter was heard by a new hearing officer. By agreement the parties made the tape recording of the original hearing and the exhibits presented at the hearing part of the record. Prior to the June 25, 1981 hearing, Docket #FIC79-154 had been withdrawn and Wendy Sime, one of the original complainants, had withdrawn as a party from the above captioned case. On June 25, 1981 W. K. Ruzika was added as a complainant.

The parties agreed that the Commission could undertake an in camera inspection and that no issue would be raised on appeal regarding the absence of regulations governing procedure for in camera inspection.

The respondents submitted the contested record and a "Vaughn" type index to be part of the documentation reviewed by the Commission. A copy of the "Vaughn" type index was made available to counsel for the complainants. The index states on a paragraph by paragraph basis

the rationale for the respondents' position regarding the disclosure of each portion of the contested record.

The Commission staff has created a working copy of the contested record showing the material which the hearing officer deems may be deleted in order to facilitate in camera inspection. This copy will be referred to hereinafter as the Commission copy. The parties and the hearing officer have agreed that the contested record, the Vaughn-type index and the Commission copy will not be available for public inspection.

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

1. By complaint filed with the Commission on September 4, 1979 the complainants alleged the respondents violated the Freedom of Information Act when they refused to provide him with a copy of a report called the Nash-Maruzo report which had, been requested by the complainants on several occasions.
2. A written denial of the complainants' request was received from the respondent Salius on September 4, 1979.
3. At the hearing the respondents claimed the report was not subject to the disclosure provisions of the Freedom of Information Act because it concerned the performance of a judicial officer and hence did not involve the administrative functions of the judicial department within the meaning of § 1-18a(a), G.S.
4. Section 1-18a(a), G.S. provides in relevant part that "public agency" means "any executive, administrative or legislative office of the state. . .any department, institution, bureau, board, commission or official of the state. . .and also includes any judicial office, official or body but only in respect to its or their administrative functions."
5. The Nash-Maruzo report is a report which discusses an investigation conducted by the authors into the job performance of an employee of the Family Relations Division whose job title was Family Relations Supervisor.
6. The Connecticut Practice Book provides at Sec. 480:

There shall be a family relations division of the Superior Court with such offices serving the judicial districts and geographical areas as the Chief court administrator, after consultation with the superior court judges or an authorized committee thereof, deems necessary.

7. The investigation and the report were requested by the chief court administrator.

8. The matter was referred by the chief court administrator to the respondent Salius who administers the family relations division, and to Judge Sponzo who assisted the chief court administrator.

9. The aforesaid report is filed in the office of the chief court administrator.

10. It is found that the respondent Salius administers the family relations division under the supervision of the chief court administrator.

11. It is further found that the report was created for the chief court administrator, and the respondent Salius as a result of their performance of their administrative functions.

12. It is concluded that the Commission has jurisdiction over the above captioned complaint because the record sought is the record of a judicial office, official or body in respect to its or their administrative functions.

13. The respondents claimed that portions of the report were exempt under § 1-19b(b) as a judicial record in existence prior to October 1, 1975, G.S.

14. The report was created after October 1, 1975.

15. It is concluded that the report is not exempt from disclosure under § 1-19b(b), G.S.

16. The respondents claimed the report was exempt from disclosure pursuant to C.G.S. § 46b-7 and Connecticut Practice Book § 479.

17. Section 46b-7, Connecticut General Statutes and § 479 of the Connecticut Practice Book govern the status of investigations and case studies made with respect to family relations matters and also provide for limited disclosure of such investigations and studies.

18. In developing the Nash-Maruzo report the authors relied upon some of the information contained in the family relations case files including certain investigations and case studies.

19. The Nash-Maruzo report also contained excerpts from certain of the family relations files. The parties agreed that the excerpts may be withheld.

20. It is found that although the Nash-Maruzo report contains information and excerpts from the family relations files, it is not a case study or an investigation from a file of the family relations file. Rather it is a separate and independent investigation of certain allegations of misconduct by an employee of the family relations division.

21. It is concluded, therefore, that § 46b-7, G.S. and § 479 of the Connecticut Practice Book do not create an exemption to the disclosure and public access requirements of § 1-19(a) and § 1-19b(a)(1), G.S.

22. The respondents claimed that the report was exempt from disclosure as a preliminary draft under § 1-19(b)(1), G.S.

23. Public Act 81-431 provides in relevant part that "disclosure shall be required of (1) interagency or intraagency memoranda or letters, advisory opinions, recommendations or any report comprising part of the process by which governmental decisions and policies are formulated."

24. It is found that Public Act 81-431 amends, construes and clarifies the FOI Act, and is therefore a legislative declaration of the meaning of the original act.

25. The report was one of the sources of information submitted to the Chief Court Administrator so as to permit the Chief Court Administrator to make a decision concerning the subject matter of the report.

26. It is therefore concluded that the report is not a preliminary draft within the meaning of § 1-19(b)(1), G.S.

27. Finally, the respondents contended that portions of the Nash-Maruzo report are exempt from disclosure under § 1-19(b)(2), G.S. as a personnel or medical or similar file the disclosure of which would constitute an invasion of personal privacy.

28. It is found that the report is a file similar to a personnel file under § 1-19(b)(2), G.S.

29. Three of the four women who filed complaints with respect to the family relations supervisor have authorized the disclosure of the factual material in the Nash-Maruzo report to themselves.

30. It is found that the authorizations do not constitute waivers of the privacy rights protected at § 1-19(b)(2), G.S.

31. The Nash-Maruzo report contains excerpts from case study reports; transcripts of court hearings; psychologists' evaluations and letters from physical counselors; statements made by school personnel, and family histories from complainants' domestic relations files.

32. It is found that some of the material contained in the Nash-Maruzo report if disclosed would be humiliating or embarrassing to a person of ordinary sensibilities.

33. It is found that if the names of individuals identified in the report and other identifying information is withheld from disclosure that disclosure of the other material in the report would not constitute an invasion of personal privacy because it cannot be tied to any particular person.

34. The Nash-Maruzo report also contains an evaluation of the specific allegations of the complainants, and assessment of the interaction between the family relations supervisor and certain clients, as well as certain information about the private life of the family relations supervisor.

35. The family relations supervisor who is the subject of the report is no longer living.

36. It is well known under the applicable privacy law that deceased persons have no privacy rights. However, the parties agreed that the name of the family relations supervisor may be deleted from the report.

37. It is therefore concluded that those parts of the report which pertain to the family relations supervisor are not exempt from disclosure under § 1-19(b)(2) of the General Statutes.

38. The respondents allege certain additional bases for withholding portions of the report. The allegations include claims that certain portions of the report were

- a. unsubstantiated allegations
- b. private conversations between persons not a party
- c. quotations from a transcript of a judicial proceeding
- d. discussions of the medical treatment of a child or recommendations concerning medical treatment of a child
- e. reports of actions of a person not a party, reports of a family not a party
- f. discussions of minor children
- g. discussions of parent child-relations, or of a child, or visitation of a child
- h. hearsay
- i. an evaluation by a professional
- j. characterization of a person not a party

39. It is found that some of the claims while not express references to § 1-19(b)(2), G.S. do articulate some basis for exemption under that section. The Commission has indicated which items may be exempted in the Commission copy.

40. Other of the claims at paragraph 38, which would have merit under § 1-19(b)(2) if the factual disclosures were tied to a particular person, have been deprived of their force by allowing deletion of the names of most persons mentioned in the report.


41. The claims which refer to unsubstantiated allegations, quotations from a transcript of judicial proceedings and hearsay are found to be without merit.

The following order by the Commission is hereby recommended:

1. The respondent shall disclose a copy of the Nash-Maruzo report to the complainants thirty days from the date of mailing the final decision in this matter.

2. The respondents may delete such material from the Nash-Maruzo report as has been deleted from the Commission copy.

Approved by order of the Freedom of Information Commission at its special meeting of March 30, 1982.



Mary Jo Jolicœur
Clerk of the Commission