



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
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Curtis Bowman

Complainant(s)

against

Notice of Meeting

Docket #FIC 2016-0679

Chief, Police Department, City of New Haven; and Police  
Department, City of New Haven

Respondent(s)

July 20, 2017

### 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, August 9, 2017**. 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 July 28, 2017**. 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, an **original and fourteen (14) copies** must be filed **ON OR BEFORE July 28, 2017**. **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 **fifteen (15) copies** be filed **ON OR BEFORE July 28, 2017** 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

Wendy R. B. Paradis  
Acting Clerk of the Commission

Notice to: Curtis Bowman  
Kathleen Foster  
Commissioner, State of Connecticut, Department of Correction; and State of  
Connecticut, Department of Correction cc: Craig Washington

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by  
Curtis Bowman,

Report of Hearing Officer

Complainant

against

Docket #FIC 2016-0679

Chief, Police Department,  
City of New Haven; Police  
Department, City of New Haven;  
and City of New Haven,

Respondents

June 27, 2017

The above-captioned matter was heard as a contested case on March 6 and May 16, 2016, at which times the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, *Anthony Sinchak v. FOIC et al*, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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. By letter of complaint filed September 26, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his request for certain transcripts and audio recordings.
3. It is found that the complainant made a September 8, 2016 request to the respondents for copies of “transcripts and audio-recordings of all call[s] made from (203) 777-7916 between the hours of 10:00 a.m. and 12:00 [p.m.] on July 13, 2003.”
4. It is found that the respondents by letter dated February 7, 2017 provided the complainant with the only responsive transcripts in their custody, and informed the complainant that no recordings of 911 calls from (203) 777-7916 were located.
5. It is found that the City of New Haven recorded 911 calls in 2003 on magnetic tape at the New Haven Fire Department, and that such tape recordings no longer exist.

6. It is found if the 911 call requested a police response, the call was forwarded to the respondent Police Department.

7. It is found that, if the Police Department recorded 911 calls forwarded to it, those calls may have been recorded on rewritable single-sided DVDs at the time.

8. It is found that the respondents located a DVD of this type, labeled “#203 7/4/03 10:25:23 [to] 7-16-03 00:43:17.” The dates on the label would appear to encompass the dates requested by the complainant, but the label itself contains no information about whether it contains recordings of any 911 calls, or of the requested 911 calls in particular.

9. It is found that the respondents still own a machine, a “Wordnet Reproducer System” now located in a storage closet, used in 2003 to record and play back telephone calls. However, the machine is not functional, and is no longer supported either by the manufacturer or the respondents’ recordings support company, BEI Holdings, Inc. The DVD can only be played on the Wordnet Reproducer System, which is obsolete. BEI Holdings, Inc. also located a Wordnet Reproducer System, and it also was not functional.

10. It is found that the respondents cannot play the DVD, and cannot determine whether it contains the requested 911 call recordings.

11. 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.

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

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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

13. 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.”

14. It is found that the DVD located by the respondents is a public record within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

15. Section 1-211(a), G.S., provides in relevant part:

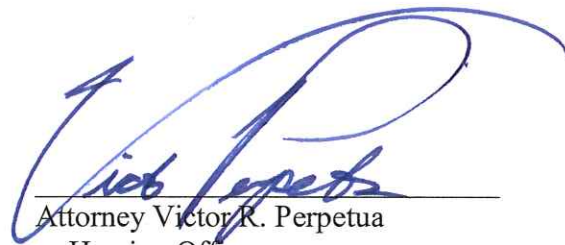
Any public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the Freedom of Information Act, a copy of any nonexempt data contained in such records, properly identified, on paper, disk, tape or any other electronic storage device or medium requested by the person, including an electronic copy sent to the electronic mail address of the person making such request, if the agency can reasonably make any such copy or have any such copy made.

16. It is found that, even if the DVD located by the respondents is responsive to the complainant’s request, the respondents cannot reasonably make a copy of it or have such a copy made.

17. It is therefore concluded that the respondents did not violate the FOI Act as alleged.

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.



Attorney Victor R. Perpetua  
as Hearing Officer