

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Curtis Bowman,

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

August 9, 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 that, 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.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 9, 2017.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

CURTIS BOWMAN, #195865, MacDougall Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

CHIEF, POLICE DEPARTMENT, CITY OF NEW HAVEN; POLICE DEPARTMENT, CITY OF NEW HAVEN, c/o Attorney Kathleen Foster, Assistant Corporation Counsel, City of New Haven, 165 Church Street, New Haven, CT 06510;
COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A.. Cannata
Acting Clerk of the Commission