

Claude Albert, Legislative Chair, Connecticut Council on Freedom of Information

Statement in opposition to one provision of Senate Bill 954, An Act Concerning Electronic Recording of Custodial Interrogations

March 9, 2011

Senator Coleman, Representative Fox and members of the Judiciary Committee:

My name is Claude Albert. I live in Haddam, and I am the legislative chair of the Connecticut Council on Freedom of Information, an organization dedicated to transparency and accountability in government.

I am here to comment on one provision of Senate Bill 954 – subsection (i) – which makes taped interrogations of criminal suspects exempt from disclosure under the Freedom of Information Act. We believe that taping interrogations may be good public policy that protects both criminal suspects and the police, but we are concerned about the provision keeping video interrogations forever exempt from the Freedom of Information Act.

Presumably some of these interrogations will become public through the court process, but others will not, either because they are not used in court or because charges are never brought.

It seems only logical that recorded interrogations should be subject to the same disclosure requirements and exemptions that written records of interrogations are subject to today. For example, the FOI Act allows police to withhold information that would be prejudicial to a pending law enforcement action. In practice, this has generally meant that such information can be withheld until there is a disposition of charges in court or an investigation is no longer active. The FOI Act also provides other screens through which police records can be passed before being released, such as exemptions for uncorroborated allegations of criminal activity, the identities of informants, investigative techniques not otherwise known to the public, medical information and invasions of personal privacy. These have been adequate protections for police materials in the past and we would expect them to continue to be so.

The actions of the police are an area of government authority where legitimate public interest is at its apogee. Though rare, cases will inevitably arise in which the public interest demands close scrutiny of an investigation that includes a recorded interrogation that has not become public in court. A person questioned by the police may want access to the recording of his own interrogation. We believe that such recordings should meet the same tests for exemption as other material in police files and that adoption of this beneficial technology should not upset the present balance of public access to police information.