

Ms. Kelly,

As you have stated, Chief Eaton did produce a personal recording device and asked if he could record a portion of the meeting, and he did so. He then took his personal device with him. The Chief recorded the discussion for his own reasons and not to generate a recording as a Police Department record or as part of his official duties. I sought and received a copy of the Chief's personal recording for my personal use as well. It too is not a department record of a part of my official duties.

Town Counsel advises that this recording is exempt from the Public Records Law pursuant to "Exemption (e)", G.L. c.4, §7(26)(e): **"notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit."** Any such records are statutorily exempted from the definition of "public records." Therefore, I do not have any record to produce that is responsive to your request.

You may appeal this response to the Supervisor of Public Records pursuant to 950 CMR 32.08(1)(d). By law, the Supervisor is required to respond within 10 business days of receipt of your appeal. You may also seek judicial review of an unfavorable response by commencing a civil action in the superior court, under G.L. c. 66, §10A(c).

Regards,

Jim Kreidler