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PUBLIC RECORDS - MAINE

MaineToday Media, Inc. v. State

Supreme Judicial Court of Maine - November 14, 2013 - A.3d - 2013 ME 100

Newspaper petitioned for review of state's denial of request to inspect and copy Enhanced 911 call transcripts regarding altercation that resulted in homicide investigation. Following a trial de novo, the Superior Court upheld the denial. Newspaper appealed.

The Supreme Judicial Court of Maine held that as matter of first impression, state failed to establish reasonable possibility that disclosure of transcripts in question would interfere with law enforcement proceedings, as asserted basis under Criminal History Record Information Act (CHRIA) for keeping transcripts confidential in response to newspaper's FOAA request. Participant in altercation had already been subject of an initiating criminal complaint when newspaper first made request, and state did not identify any particular investigation yet to be completed in the matter or how it could be affected by availability of transcripts.

Confidentiality pursuant to the CHRIA is afforded only if the record that the government seeks to shield (1) contains intelligence or investigative information; (2) was prepared by or at the direction of, or is kept in the custody of, a criminal justice agency; and (3) would, if disclosed, create a reasonable possibility of one or more of the harms detailed in the statute.

Bureau of Consolidated Emergency Communications is not a "criminal justice agency," within meaning of provision of CHRIA placing limitations on dissemination of intelligence and investigative information in reports or records prepared at the direction of or kept in the custody of a criminal justice agency. Although the bureau's product is used for criminal justice purposes on a daily basis, the bureau manages the telecommunications necessary for the provision of emergency services.

The Court declined to adopt a blanket rule that any Enhanced 911 transcripts that related to active homicide investigations or prosecutions were exempted under CHRIA from disclosure pursuant to a FOAA request.