

# Sheriff Tracy Murphree

DENTON COUNTY SHERIFF'S OFFICE



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July 10, 2019

Open Records Division  
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## RE: Public Information Request from Marshall Reid with the Denton Record Chronicle

Dear Attorney General's Office,

On July 2, 2019, the Denton County Sheriff's Office Records Division received a Public Information Request from Marshall Reid. **Exhibit A.** The requestor seeks the 9-1-1 audio recordings, body cam video, dash cam video, call records, and offense report for a specific incident in Denton County. This was an officer involved shooting incident, which is being investigated by the Texas Rangers. Mr. Reid specifically asked for documents naming the officers involved and the name of the person who was killed in this incident. The attached email from Chief Kish states that the Denton County Sheriff's Office has not released the names of the officers involved.

On July 2, 2019, the Denton County Sheriff's Office Communications Division received a call reporting a domestic disturbance and that one party had a gun. Deputies responded to the address. The enclosed packet of documents are from this incident, which is still being investigated by the Texas Rangers. The email from Ranger Clair Barnes stating that the investigation is ongoing, and asking that no information be released is attached.

**Government Code § 552.108(a) (1) Exception: information that deals with a pending criminal investigation and prosecution.** Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of a crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of a crime."

The **Public Information Act, Section 552.101** excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

The **Public Information Act, Section 552.108 (b)** excepts from disclosure "an internal record or notation of a law enforcement agency . . . that is maintained for internal use in matters relating to law enforcement or prosecution . . . if (1) the release of the internal record or notation would interfere with law enforcement or prosecution. Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate the laws of this State." *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no writ). Furthermore, the Texas Attorney General's Office has previously concluded that section 552.108(b) excepts from public disclosure information relating to the security or operation of a law enforcement agency. *See, e.g.,* Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 252 (1980) (section

552.108 of the Government Code is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted).

**Section 772.318 of the Health and Safety Code** provides, in pertinent part, the following:

(a) As part of computerized 9-1-1 service, a service supplier shall furnish current telephone numbers of subscribers and the addresses associated with the numbers on a call-by-call basis.

(c) Information furnished under this section is confidential and is not available for public inspection.

The **Public Information Act, Section 552.130 Confidentiality of Certain Motor Vehicle Records** [provides] that:

“(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country;

(2) a motor vehicle title or registration issued by an agency of this state or another state or country”

The Incident/Investigation Report, **Exhibit B**, contains specific information about the case, which is still under investigation. Release of these documents will interfere with the investigation and prosecution of a crime. Section 552.108 (a)(1) excepts from public disclosure “information held by a law enforcement agency . . . that deals with the . . . investigation of a crime . . . if release of the information would interfere with the . . . investigation of a crime.” This investigation is still open. Release of this report will interfere with the investigation. The report has the names of the involved officers, as well as the person that was killed in the incident. As previously stated, the names of the officers involved in this incident have not been released, pending the conclusion of the investigation.

The report also has dates of birth for persons who are not the requestor. Section 552.101 of the Government Code provides that dates of birth are not public information.

The Sheriff’s Office is providing a representative sample of the call notes. **Exhibit C**. The call was made to 9-1-1, and received in the Denton County Sheriff’s Office Communications Division. Denton County is part of a computerized 9-1-1 service, with information on callers provided by a service supplier on a call-by-call basis. Pursuant to Health and Safety Code section 772.318, the provided information about the caller is confidential and is not available for public inspection.

Additionally, the call notes have details of the incident that is still being investigated. Texas Government Code section 552.108 (a)(1) provides that information held by a law enforcement agency that deals with the investigation of a crime is excepted from public disclosure if the release of that information will interfere with the investigation. The Sheriff’s Office and the Texas Rangers know that release of this information will interfere with the investigation.

The body camera videos, dash camera video, 9-1-1 audio, and a representative sample of the scene photos are on the enclosed flash drive. **Exhibit D**. Both of the body camera recordings and the dash camera recordings show license plates for vehicles that do not belong to the requestor. The Sheriff’s Office does not have the technical ability to redact information from these recordings. Section 552.130 excepts this information from public disclosure.

It is immediately obvious that the body camera recordings are vital to the open investigation. The entire incident is on these recordings, providing details that impact the integrity of the investigation. Section 552.108 (a)(1) allows the Sheriff’s Office to withhold these recordings from public release due to the open investigation. In addition, these recordings demonstrate methods used by the Sheriff’s Office in this type of situation. Release of these videos would allow private citizens to anticipate weaknesses in a police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to enforce the laws of this State. Section 552.108 (b) of the Texas Government Code excepts this information from public disclosure.

As with the body camera recordings, the investigative photos taken at the scene by the Criminal Investigations Division are part of the open investigation. Release of these photos will interfere with the investigation.

The 9-1-1 audio is protected from public release by Health and Safety Code section 772.318 and the Public Information Act section 552.108 (a)(1). The identifying information relating to a 9-1-1 caller is confidential by law. Additionally, the recording has details and information about the incident that are pertinent to the open investigation. Release of this audio recording will interfere with the investigation.

The Denton County Sheriff's Office now asks for a ruling on the release of the requested information. Thank you for your attention to this matter.

Sincerely,

Mary E. Miller, Assistant District Attorney  
Counsel to the Sheriff

Enclosures

cc: Marshall Reid, Denton Record Chronicle