

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



FREDDIE O'CONNELL
MAYOR

WALLACE W. DIETZ
DIRECTOR OF LAW

DEPARTMENT OF LAW
METROPOLITAN COURTHOUSE, SUITE 108
P O BOX 196300
NASHVILLE, TENNESSEE 37219-6300
(615) 862-6341 • (615) 862-6352 FAX

LAW DIRECTOR'S SUMMARY REGARDING RELEASE OF COVENANT SCHOOL DOCUMENTS

November 9, 2023

As Metropolitan Nashville Police Department officers and detectives along with Tennessee Bureau of Investigation officers quickly arrived at the Covenant School on March 27, the assailant's automobile was secured and inventoried. Officers recovered journals from the automobile containing writings of the assailant. Those became part of the criminal investigative file. Pursuant to Rule 16 of the Tennessee Rules of Criminal Procedure, records in a criminal investigative file are not subject to disclosure under the Tennessee Public Records Act (TPRA) until the investigation and any related criminal case is complete.

MNPD provided a copy of the journals to Metro Legal to review what should be produced in accordance with the TPRA. Before that process was completed, multiple parties, including news media and Second Amendment activist groups, filed suit in the Chancery Court of Davidson County to compel production of the journals and other items in the investigative file. The Chancellor consolidated the cases and entered a scheduling order.

Having heard from many concerned parents and family members of the deceased, Metro Legal asked the Court to provide some additional time for Covenant parents and the School to discuss retaining legal counsel to represent their views as victims of this horrible crime. In the meantime, Metro Legal complied with the May 4 Court order as amended on May 11 and filed under seal for the Court's *in camera* review (1) an unredacted copy of the journals and (2) a proposed redacted copy of the journals based on our interpretation of the TPRA.

MNPD approved this limited release because they wanted to answer some of the questions being raised about the crime and thought that releasing this redacted version would not harm the ongoing investigation. However, those documents remain under seal. Pursuant to the terms of the Court order, Metro Legal has not shared the documents filed under seal with other attorneys in the case, the Mayor, Council members, or anyone else.

The TPRA contains a “school safety” exception that exempts from public disclosure items relating to the safe operation of schools. Metro Legal redacted certain portions of the journals relating to the specific planning of the attack on this school. We did not redact comments on various issues and what could be considered expressions of the motivation for carrying out this horrific crime. After the Court granted their motion to intervene, the Covenant Parties argued that none of the journals should be released. The arguments raised by the Covenant Parties are multi-faceted but based, in part, on a broader interpretation of the school safety exception in the TPRA. The Court heard arguments and took the matter under advisement.

Subsequently, the Petitioners filed a notice of appeal to the Tennessee Court of Appeals on the narrow question whether the Covenant Parties have a right to intervene. The appeal raises important issues about the rights of victims of crime to be heard in cases brought under the TPRA. Metro strongly supports the rights of the Covenant Parties to be heard. The Court of Appeals stayed the proceedings in Chancery Court pending a ruling on the intervention issue. The Court of Appeals heard arguments on October 16 and took the case under advisement.

Until this matter is resolved by the Courts, Metropolitan Nashville is prohibited from releasing the journals. The journals are filed under seal with the Chancery Court and may not be released by MNPD, the Mayor, Metro Legal, or any other local authority.