

**STATE OF SOUTH CAROLINA  
COUNTY OF COLLETON**

The Post and Courier, Inc.; Olivia Diaz; and  
Jamie Lovegrove,

Plaintiff,

v.

Colleton County Sheriff's Office; and  
South Carolina Law Enforcement Division,

Defendant.

) **IN THE COURT OF COMMON PLEAS**  
) **FOURTEENTH JUDICIAL CIRCUIT**  
) CIVIL ACTION NO.: 2021-CP-15-\_\_\_\_\_

**SUMMONS  
(Non-Jury)**

TO: THE ABOVE-NAMED DEFENDANTS

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the Plaintiffs, The Post and Courier, Inc.; Olivia Diaz; and Jamie Lovegrove, in care of attorney, Edward T. Fenno, Fenno Law Firm, LLC, at 1459 Stuart Engals Blvd., Suite 202, Mt. Pleasant, South Carolina 29464 within thirty (30) days from the date of such service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiffs will apply to the Court for judgment by default for the relief

FENNO LAW FIRM, LLC

By: s/Edward T. Fenno  
Edward T. Fenno (S.C. Bar No. 68517)  
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ATTORNEY FOR PLAINTIFFS

Mount Pleasant, South Carolina  
June 17, 2021

**STATE OF SOUTH CAROLINA  
COUNTY OF COLLETON**

The Post and Courier, Inc.; Olivia Diaz; and  
Jamie Lovegrove,

Plaintiffs,

v.

Colleton County Sheriff's Office; and  
South Carolina Law Enforcement Division,

Defendants.

) **IN THE COURT OF COMMON PLEAS**  
) **FOURTEENTH JUDICIAL CIRCUIT**  
) CIVIL ACTION NO.: 2021-CP-15-\_\_\_\_\_

**COMPLAINT**

**Freedom of Information of Information Act  
Suit for Declaratory Judgment and  
Injunctive Relief  
(Non-Jury)**

Plaintiffs The Post and Courier, Inc. ("Post and Courier"), Olivia Diaz ("Diaz") and Jamie Lovegrove ("Lovegrove") (collectively, "Plaintiffs"), by and through their undersigned counsel, complaining of Defendants Colleton County Sheriff's Office ("CCSO") and South Carolina Law Enforcement Division ("SLED") (collectively, "Defendants"), allege and say as follows:

1. Plaintiff Post and Courier is a corporation organized and existing under the laws of the State of South Carolina. Plaintiff owns and publishes a daily newspaper, *The Post and Courier*, with circulation in Charleston and elsewhere throughout South Carolina.

2. Plaintiff Diaz is a resident of the State of South Carolina and a reporter for *The Post and Courier*. Diaz was acting within the scope of her employment with Plaintiff Post and Courier at all times referenced herein.

3. Plaintiff Lovegrove is resident of the State of South Carolina and a reporter for *The Post and Courier*. Lovegrove was acting within the scope of his employment with Plaintiff Post and Courier at all times referenced herein.

4. All Plaintiffs are persons within the meaning of §30-4-20(b) of the Freedom of Information Act, codified in South Carolina Code §§30-4-10 through 30-4-165 ("FOIA" or "the

FOIA”) and citizens within the meaning of FOIA, South Carolina Code §30-4-100(A). At all times referenced herein, Plaintiffs Diaz and Lovegrove were acting within the scope of their employment with Plaintiff Post and Courier.

5. Defendant CCSO, known as both Colleton County Sheriff’s Office and Colleton County Sheriff’s Department, is a political subdivision of the state of South Carolina having the capacity to sue and be sued.

6. CCSO is a public body within the meaning of FOIA, S.C. Code §30-4-20(a), as reflected by Burton v. York County Sheriff’s Department, 358 S.C. 339 (Ct. App. 2004).

7. Defendant SLED is a political subdivision of the state of South Carolina having the capacity to sue and be sued.

8. SLED is a public body with the meaning of FOIA, S.C. Code §30-4-20(a).

9. Jurisdiction and venue are proper in this Court. The events described below took place in Colleton County and/or in association with events in Colleton County and Defendant SLED is a statewide agency.

10. On information and belief, on or about June 7, 2021, Paul Murdaugh and his mother, Margaret Murdaugh, were shot and killed at their hunting lodge, “Moselle,” in Colleton County.

11. On information and belief, the sheriff and/or deputies from Defendant CCSO were called to the scene of the killings and have investigated the killings as a possible crime.

12. On information and belief, Defendant SLED is also assisting with or controlling the criminal investigation into the deaths of the Murdaughs.

13. On information and belief, CCSO generated a crime or incident report (the “CCSO Incident Report”) which contained information concerning the nature, substance and location of an alleged crime associated with the death of the Murdaughs.

14. On information and belief, CCSO also generated or maintained one or more reports that supplement the CCSO Incident Report (“CCSO Supplemental Reports”) which contained additional information concerning the nature, substance and location of an alleged crime associated with the death of the Murdaughs.

15. On information and belief, the CCSO Incident Report and CCSO Supplemental Reports (collectively, the “CCSO Reports”) are “reports which disclose the nature, substance and location of any crime or alleged crime reported as having been committed” under FOIA, S.C. Code §30-4-50(a)(8).

16. Pursuant to FOIA, S.C. Code §30-4-30(d)(2), all reports identified in Section 30-4-50(a)(8), including without limitation all incident reports and their supplements, must be made available for public inspection and copying during the hours of operation of the public body that maintains a copy of such reports when the requestor appears in person, unless the report is exempt pursuant to S.C. Code §30-4-40 or other state or federal laws, so long as the report was generated in the past 14 days from the date of the personal appearance.

17. On June 9, 2021, Plaintiff Diaz, a reporter for *The Post and Courier* newspaper, arrived at the CCSO’s office in Walterboro at approximately 4:05 pm and requested to review all CCSO Reports relating to the Murdaugh killings, as is her right pursuant to FOIA, S.C. Code §§30-4-30(d)(2) and 30-4-50(a)(8).

18. At approximately 4:15 PM, Shalane Lowes, the Public Information Officer for Defendant CCSO (“Lowes”), met with Plaintiff Diaz and provided her a print copy of a bare-bones document that reads as follows in its entirety:

“On June 7, 2021 at approximately 2226 hours, I \_\_\_\_\_, responded to 4147 Moselle Rd in Colleton County in reference to two gunshot victims found by the caller. See supplement for details.”

Attached as Exhibit A is a copy of this document (the “CCSO Redacted Report”).

19. The CCSO Redacted Report explicitly references a “supplement” containing the “details.” No such supplement was provided to Plaintiff Diaz with the CCSO Redacted Report. Plaintiff Diaz then explicitly requested access to the supplement. (Such supplement will hereinafter be referred to as a CCSO Supplemental Report, as that term is defined in Paragraph 14, herein.) Lowes responded that the CCSO was not permitted to release the CCSO Supplemental Report because that would impede the investigation into the deaths of Maggie and Paul Murdaugh.

20. South Carolina Code Section 30-4-40 lists several possible exemptions to FOIA’s disclosure requirements. One such exemption is for records or information “compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) would interfere with a prospective law enforcement proceeding.” S.C. Code §30-4-40(a)(3). All FOIA exemptions must be “narrowly construed” to protect the public’s right of access. Evening Post Publishing Co. v. City of North Charleston, 363 S.C. 452 (2005). The public body claiming the exemption has the burden of proving that the exemption applies. Id.

21. The public body is also required to separate the exempt and non-exempt material from the records, and make the non-exempt material available pursuant to FOIA, S.C. Code §30-4-40(b).

22. Plaintiff Diaz responded that she respected the needs of the investigation, but that she believed that she was entitled to the CCSO Supplemental Report under FOIA. Plaintiff Diaz added that she would be able to wait in the waiting area of the CCSO's office while the CCSO Supplemental Report was redacted if any redactions were required. Lowes responded that she was going to call the captain of investigations and would follow up with Plaintiff Diaz shortly.

23. At approximately 4:45 PM, Lowes and Jason Chapman, Captain of Criminal Investigations for Defendant CCSO ("Chapman"), came to the waiting area to speak with Plaintiff Diaz. Chapman said that the CCSO had requested that SLED lead the investigation because the CCSO had a conflict of interest in the case. Chapman specified the conflict of interest was that Alex Murdaugh works part-time for the 14th Circuit's solicitor's office. Chapman said that because SLED is now the lead on the investigation, the CCSO is not permitted to release any CCSO Supplemental Reports, including the one referenced in the CCSO Redacted Report. Chapman said he contacted SLED and informed them that Diaz requested the CCSO Reports and urged *The Post and Courier* to call SLED in the morning. At 4:55 PM, Plaintiff Diaz left the CCSO waiting room and Lowes and Chapman returned to their offices. At 5:00 PM, Diaz left the CCSO office without being given the opportunity to review the CCSO Supplemental Report referenced in the CCSO Redacted Report or any other CCSO Supplemental Reports. Nor was she provided access to the CCSO Incident Report in any version less redacted than the bare-bones CCSO Redacted Report.

24. No provision in FOIA relieves Defendant CCSO of its duties under the statute when another public body is assisting with or in charge of the criminal investigation.

25. The next day, June 10, 2021, Plaintiff Lovegrove, a reporter for *The Post and Courier*, went in person to Defendant SLED's headquarters in Columbia, South Carolina to

attempt to review the CCSO Reports. Lovegrove also attempted to review any incident reports or other reports generated or maintained by SLED which disclosed the nature, substance and location of any crime or alleged crime reported as having been committed in relation to the Murdaugh deaths (“SLED Reports”). On information and belief, SLED had generated one or more such SLED Report by the time of Plaintiff Lovegrove’s visit.

26. Defendant SLED refused to allow Plaintiff Lovegrove to enter SLED’s building to review the CCSO Reports or the SLED Reports. Nor were such reports provided to him by SLED – even in redacted form – despite his in-person appearance at SLED’s office.

27. At 3:11 PM the same day, June 10<sup>th</sup>, Plaintiff Post and Courier mailed and emailed a letter from its Executive Editor, Mitch Pugh (“Pugh”) to SLED’s Chief, Mark Keel (“Keel”). A copy of the letter is attached as Exhibit B hereto. Among other things, the letter notifies Keel that Defendant SLED refused to grant Plaintiffs access to the CCSO Supplemental Reports and that such refusal was a violation of FOIA. The letter further requests that SLED provide the records requested by Plaintiffs and remind SLED employees of their obligations under FOIA.

28. To date, Pugh has not received a response to his letter. And to date, Plaintiffs have not been given access to the CCSO Supplemental Reports or the CCSO Incident Report (other than the highly redacted CCSO Redacted Report). In addition, Defendants have not provided Plaintiffs access to the SLED Reports.

29. On June 9, 2021, Plaintiff Post and Courier submitted a written FOIA request to Defendant CCSO seeking a copy of the 911 call or calls that caused CCSO or other law enforcement to be dispatched on June 7 to 4147 Moselle Road in regards to the deaths of Paul and Margaret Murdaugh (the “911 Call Request”).

30. On June 15, 2021, CCSO responded to the 911 Call Request by stating that the “CCSO is not the primary investigating agency involving this incident, therefore we are not authorized to release any information as it is an active investigation. We have sent your request to South Carolina Law Enforcement’s PIO.” Attached as Exhibit C hereto is a copy of the correspondence between Plaintiff Post and Courier and Defendant CCSO concerning the 911 Call Request.

31. To date, neither Defendant has provided the recordings of the 911 call or calls to any of the Plaintiffs. Instead, Defendant SLED issued a news release on June 15, 2021, generally denying immediate access to the media and the public to the recordings of the 911 call(s).

32. Plaintiffs seek access to the CCSO Reports, the SLED Reports and the recordings of the 911 call(s) (collectively, the “Public Records”) in order to help the general public, as reflected in the readership of *The Post and Courier*, be more aware of the circumstances of the deaths of Paul and Margaret Murdaugh. No one has been arrested yet. If the Murdaughs were murdered, the public may be in danger from the killer or killers.

33. In addition, Plaintiffs seek access to the requested Public Records in order to help the general public be more aware of the performance of its law enforcement officials and other government officials. As set forth at the beginning of the FOIA statute,

“The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public



officials at a minimum cost or delay to the persons seeking access to public documents or meetings.”

South Carolina Code §30-4-15.

34. The Public Records sought by Plaintiffs are public records as defined in FOIA, S.C. Code §30-4-20(c).

35. On information and belief, one or both of the Defendants maintains originals and/or copies of some or all of the Public Records requested. On information and belief, one or both of the Defendants is in charge of such Public Records, or created, filed or keeps such Public Records, and is a legal custodian of the Public Records. Accordingly, either or both of the Defendants has/have an obligation under FOIA to disclose the Public Records to Plaintiffs for viewing and copying.

36. On information and belief, Defendants, and each of them, have violated FOIA in at least the following ways:

- a. Failing to permit Plaintiffs to review the CCSO Supplemental Reports, including without limitation during an in-person visit (S.C. Code §§30-4-30(D));
- b. Failing to permit Plaintiffs to review the SLED Reports, including without limitation during an in-person visit (S.C. Code §§30-4-30(D));
- c. Failing to permit Plaintiffs to review the CCSO Incident Report in a form redacted any less than as appeared in the CCSO Redacted Report, including without limitation during an in-person visit (S.C. Code §§30-4-30(D)); and
- d. Failing to permit Plaintiffs to review the recordings of the 911 call(s) (S.C. Code §§30-4-30(C)).

37. In addition, on information and belief, Defendants violated FOIA in the following respects:

a. Any exemptions claimed by Defendants to producing or otherwise providing access to the Public Records under FOIA are inapplicable, in whole or in part, and/or

b. Even if there is material within the scope of Plaintiffs' requests that may be exempt from access under FOIA, Defendants have failed and refused to separate the exempt and nonexempt material and make the nonexempt material available as required by FOIA, S.C. Code Ann. 30-4-40(b).

38. On information and belief, the exemptions provided from the mandatory access requirements of FOIA are to be narrowly construed with the burden placed on Defendants to prove the application of each claimed exemption.

39. Plaintiffs hereby request that the Court conduct an *in camera* review of the Public Records sought by Plaintiffs and the exemptions claimed by Defendants, to determine if Defendants have claimed exemptions that have no basis in fact or law, have applied the exemptions too broadly, or have failed to separate exempt and nonexempt material so as to make the nonexempt material available for inspection and copying as required by FOIA.

40. Plaintiffs are informed and believe that an *in camera* review of the Public Records sought by Plaintiffs, and the exemptions claimed by Defendants, will reveal that Defendants have violated FOIA by claiming exemptions that are not supported by fact or law, have violated FOIA by construing exemptions too broadly, and/or have violated FOIA by failing and refusing to separate exempt and nonexempt material and make the nonexempt material available for inspection and copying.

41. The failure of Defendants to provide Plaintiffs access to the Public Records as requested constitutes a violation of FOIA and an irreparable injury for which no adequate remedy at law exists.

42. Plaintiffs bring this action pursuant to the provisions of South Carolina Code Sections 30-4-100 and 15-53-10 for declaratory relief for the purpose of determining the respective rights, duties and responsibilities of Plaintiffs and Defendants under FOIA.

43. Plaintiffs further seek a temporary and permanent injunction pursuant to South Carolina Code Section 30-4-100(A) enjoining Defendants from violating FOIA and from withholding access to the Public Records requested by Plaintiffs.

44. Pursuant to South Carolina Code Section 30-4-100(A), Plaintiffs request that the chief administrative judge of this Court schedule an initial hearing within ten (10) days of the service of this Complaint on all parties and follow the remaining procedures of Section 30-4-100(A).

45. Pursuant to South Carolina Code Section 30-4-100(B), Plaintiffs and each of them request that should one or more of them prevail in whole or in part in this matter, the prevailing Plaintiff(s) be granted an award of reasonable attorneys' fees and costs.

WHEREFORE, Plaintiffs pray that this Court:

1. Schedule an initial hearing within ten (10) days of the date of service on all parties of this Complaint;
2. Conduct an *in camera* review of the Public Records sought by Plaintiffs;
3. Declare that each of the Defendants violated FOIA as set forth in Paragraphs 36 and 37, above;
4. Declare that any exemptions claimed by Defendants are in violation of FOIA;

5. Declare that no provision in FOIA relieved Defendant CCSO of its duties under FIOA even if Defendant SLED was assisting with or in charge of the Murdaugh criminal investigation;
6. Issue an order temporarily and permanently restraining and enjoining Defendants from continuing to violate FOIA in any of the particulars described herein;
7. Issue an order that Plaintiffs immediately disclose the Public Records to Plaintiffs for viewing and copying;
8. Award reasonable attorney fees and costs to Plaintiffs; and
9. Grant such other relief as may be appropriate.

Respectfully submitted,

FENNO LAW FIRM, LLC

By: s/Edward T. Fenno  
Edward T. Fenno (S.C. Bar No. 68517)  
1459 Stuart Engals Blvd., Suite 202  
Mount Pleasant, SC 29464  
Ph: (843) 720-3747  
Email: efenno@fennolaw.com

ATTORNEYS FOR PLAINTIFFS

Mount Pleasant, South Carolina  
June 17, 2021

# Exhibit A



**Colleton County Sheriff's Office**  
***Sheriff Guerry L. "Buddy" Hill, Jr***

394 Mable T. Willis Blvd., Walterboro, SC 29488  
Phone (843) 549-2211 Fax (843) 538-4384  
[www.colletoncountysheriff.com](http://www.colletoncountysheriff.com)



Printed on June 8, 2021

On June 7, 2021 at approximately 2226 hours I,  
reference to two gunshot victims found by the caller.

See supplement for details.

responded to 4147 Moselle Rd in Colleton County in

# Exhibit B

**From:** Cleve O'Quinn <coquinn@postandcourier.com>  
**Sent:** Thursday, June 10, 2021 3:11 PM  
**To:** mkeel@sled.sc.gov  
**Cc:** Mitch Pugh <mpugh@postandcourier.com>  
**Subject:** Murdaugh records

Chief Keel,  
Please see the attached letter from Executive Editor Mitch Pugh.

Very respectfully,

Cleve O'Quinn  
Local editor  
The Post and Courier  
134 Columbus St.  
Charleston, SC 29403  
843-937-5566  
[twitter.com/clevoquinn](https://twitter.com/clevoquinn)



# The Post and Courier

134 Columbus Street

CHARLESTON, SC 29403-4800

(843) 577-7111

Chief Mark Keel  
State Law Enforcement Division  
4400 Broad River Road  
Columbia, SC 29210

Chief Keel:

Your agency is violating the S.C. Freedom of Information Act by refusing to provide records related to the June 7 homicides of Paul Murdaugh and Margaret Murdaugh in Colleton County.

A Post and Courier reporter went to the Colleton County Sheriff's Office June 9 to obtain the incident report and supplemental reports generated as part of the investigation into the homicides.

The agency provided an incident report that contained a single line of information.

After asking about the supplemental reports, the reporter was informed that SLED possessed all records related to the investigation of the homicides, and our request would need to be directed to SLED.

A reporter spoke with Tommy Crosby, director of information services for SLED, about the reports on June 9. Crosby said the reports would not be released because of the active investigation into the homicides.

There is no language in the S.C. Freedom of Information Act that allows law enforcement agencies to withhold reports because of an "active investigation."

Law enforcement agencies may redact information from the report that is exempt, including information that would interfere with "a prospective law enforcement proceeding," but such a determination should be made on a line-by-line basis while reviewing the reports. This will ensure that important information about the investigation is made available to the public.

On June 10, a reporter attempted to obtain the records at SLED's headquarters. The reporter was not allowed into the building, and told via intercom to contact Crosby.

Under state law, these supplemental reports must be made available for public inspection during SLED's hours of operation when the requester appears in person.

The reporter should have been granted the right to review the records at SLED's headquarters.

This is not the first time SLED has tried to withhold records using an overly broad exemption.

In 1992, the South Carolina Supreme Court ruled that the agency has an obligation under the law to separate nonexempt information from criminal investigative reports and make that material available.

"In sum, we emphasize that law enforcement agencies do not have carte blanche to deny all FOIA requests for criminal investigative reports," the court ruled. "The information contained in these reports can be withheld from disclosure only to the extent that it falls within one or more of the exemptions enumerated in section 30-4-40(a)."

Enclosed is a copy of the court's decision in that case.

We understand that some information may need to be withheld so as to protect the investigation. But public information serves the public good. In the absence of information, rumor and gossip fills the void, which is detrimental to our communities and the people who reside in them.

We ask that you provide the information we have requested and further remind agency employees of their responsibilities under the Freedom of Information Act.

Thank you,

A handwritten signature in black ink, appearing to read 'Mitch Pugh', followed by a long horizontal line.

Mitch Pugh  
Executive Editor

# Exhibit C

**From:** Angela Stallings <astallings@colletoncounty.org>  
**Date:** June 15, 2021 at 10:28:52 AM EDT  
**To:** Shalane Lowes <slowes@colletoncounty.org>  
**Cc:** Steve Garrison <sgarrison@postandcourier.com>  
**Subject:** Re: FOIA Request - 911 call - 6/9/21

Good Morning,

The Colleton County Sheriff's Office has received your FOIA request. Our agency is not the primary investigating agency involving this incident, therefore we are not authorized to release any information as it is an active investigation. We have sent your request to South Carolina Law Enforcement's PIO.



On Wed, Jun 9, 2021 at 3:31 PM Shalane Lowes <[slowes@colletoncounty.org](mailto:slowes@colletoncounty.org)> wrote:

Good evening Steven,

I hope all is well. Please visit our website [www.colletoncountysheriff.com](http://www.colletoncountysheriff.com) to fill out the CCSOs FOIA request form. Afterward, please email me the request, and I will forward it for review. In the meantime, if you have additional questions regarding this, please let me know—thank you for your patience and understanding.

Best,

Shalane

On Wed, Jun 9, 2021 at 3:24 PM Steve Garrison <[sgarrison@postandcourier.com](mailto:sgarrison@postandcourier.com)> wrote:

Hello Shalane,

This is a formal request under the S.C. Freedom of Information Act to obtain a copy of the recording of the 911 call or calls that caused law enforcement officers to be dispatched June 7 to 4147 Moselle Road in regards to the deaths of Paul and Margaret Murdaugh.

Please provide this information in an electronic format, if available. Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. If any fees are required, please contact me before proceeding with the processing of this request. Please cite the specific exemption under the FOIA if you choose to withhold any of the requested materials.

Thank you for your time and attention to this matter.

Sincerely,

Steve Garrison

QR Reporter

The Post and Courier

134 Columbus Street

Charleston, SC 29403

843-607-1052

[sgarrison@postandcourier.com](mailto:sgarrison@postandcourier.com)

--  
Shalane Lowes  
Public Information Officer  
Colleton County Sheriff's Office  
394 Mable T. Willis Blvd.  
Walterboro, SC 29488  
Office: 843-549-2211 ext. 2021

--  
*Captain Angela Stallings*  
*Administrative Services*  
*Colleton County Sheriff's Office*  
[astallings@colletoncounty.org](mailto:astallings@colletoncounty.org)  
*843-549-2211 ext 2065*

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