

**Amended request for Grand Jury Audio**

**February 8, 2016**

**Dearborn County, Indiana Superior Court II  
Judge Sally A. McLaughlin (Formerly Blankenship)  
215 W High St  
2nd Floor  
Lawrenceburg, IN 47025  
812.537.8800**

**Dear Judge Sally A. McLaughlin (Blankenship):**

**This is an amended public records request to clarify Requester's prior request for copies of the audio discs from the Grand Jury proceedings pertaining to the case of State of Indiana vs Daniel Brewington, Cause No: 15D02-1103-FD-00084:**

**February 28, 2011**

**March 1, 2011**

**March 2, 2011**

**In this Court's ORDER ON REQUEST FOR RELEASING AUDIO RECORDINGS, filed February 4, 2016, Special Judge Brian Hill stated,**

**"Mr. Brewington has alleged that these audio recordings were admitted into evidence at his criminal trial, however, the Court finds that they were not, and there's been no sufficient reason set forth which would necessitate the release of said audio recordings."**

**A number of problems exist in Judge Hill's denial of Requester's request for the audio from the grand jury proceedings in the above case. Judge Hill made the claim that Requester "alleged that these audio recordings were admitted into evidence at his criminal trial." Requester made no such allegation. Requester went to great lengths in explaining that the written transcripts and the audio from the grand jury proceedings were simply different means of maintaining the record of the proceedings to "defuse any potential claim that the release of the Grand Jury audio is still bound by I.C. § 35-34-2-10(a) regarding unauthorized disclosure of grand jury information." Requester specified how Judge Hill's prior orders regarding the release of the grand jury audio resorted "to splitting hairs on the technicality that an actual audio record from the Grand Jury proceedings was not physically admitted during trial." Just as the grand jury audio was not admitted into evidence, neither was the audio from any hearing in the above case, yet the Court has authorized the release of the audio from all trial court proceedings in the above case to more than one individual. Requester also requested the Dearborn County Superior Court II to refer Requester to the appropriate agency responsible for maintaining the grand jury information in the case the responsibility did not fall upon the Dearborn County Superior Court II. Any claim by Judge Hill that Requester alleged audio from the grand jury proceedings was admitted as evidence during any criminal trial is not only misleading, but**

is also patently false and only serves as an attempt to negatively impact Requester's credibility in future proceedings on this matter.

Another problem arising from the order out of the Dearborn County Superior Court II is the finding by Judge Hill that "there's been no sufficient reason set forth which would necessitate the release of said audio recordings." Judge Hill's contention sharply conflicts with IC 5-14-3-1, regarding disclosure of public records which "place[s] the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record." Judge Hill's finding that Requester failed to provide a sufficient reason as to why the public should have the ability to inspect or copy the public record clearly shifts the Court's burden of proof for non-disclosure, as a public agency, to the Requester. Not only did Judge Hill's order fail to "state the statutory exception authorizing the withholding of all or part of the public record," Judge Hill's order effectively invites Requester to provide the Dearborn County Superior Court II with a list of potential reasons as to why the Court should prohibit the release of the audio. Even more troubling is the question of why the Dearborn County Superior Court II is dragging its feet in the Court's reluctance to release a public record. As Indiana law relieves Requester of the burden to demonstrate why the public record should be released, Requester offers the potential consequences associated with the release of the grand jury audio related to the above cause number:

1. The transcription of the audio from the grand jury proceedings is not accurate and/or incomplete, thus demonstrating incompetence and/or misconduct in abusing the grand jury process or, in the least, the inaccurate transcription of the grand jury record.

That is the extent of any damage potentially incurred by the release of the audio from the grand jury proceedings. All evidence and testimony of witnesses before the grand jury are part of the public record because the transcripts of the audio were admitted as evidence during trial. All witnesses testifying before the grand jury also testified during the above criminal trial. If the release of the grand jury audio mirrors the restrictions set forth by the orders releasing the audio from the criminal trial, which prohibits the sharing of the audio with other persons, the grand jury audio would be limited to the ears of the Requester and any subsequent legal counsel. If the Court is concerned of "potential intentions" of what the Requester "might do" with the audio in regards to potentially sharing the information publicly, then the Court has the authority to punish Requester via criminal contempt proceedings for not following any potential orders of the court. If the court's decision to release the grand jury audio is contingent on what the Requester "might do" with the record, then the Court has already acknowledged that the records are subject to release.

The Dearborn County Superior Court II has issued three conflicting orders in response to requests for the audio from the grand jury proceedings occurring on February 28, 2011, March 1, 2011, and March 2, 2011. The Court's order dated January 12, 2012, ordered the court reporter to prepare compact disk audio recordings of the grand jury proceedings. The Court then issued an amended order dated February 2, 2012 stating the audio from grand jury proceedings was not admitted during trial and the Court rendered



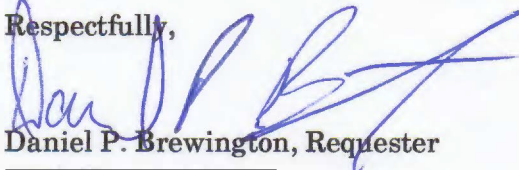
the request moot and failed to address the matter any further. On February 4, 2016, the Court of Judge Sally A. McLaughlin, Dearborn County Superior Court II, issued an order that erroneously claimed Requester alleged that the grand jury audio was submitted during trial. However, rather than once again rendering the request moot, the Court declined to release the grand jury audio claiming Requester failed to specify why the release was necessary. Even though the recent ruling conflicts with Indiana laws regarding the release of public records, the Dearborn County Superior Court II issued a ruling on the matter, demonstrating that the court of Sally A. McLaughlin (Blankenship) does have the authority to order the release of the grand jury audio in question. The Requester offers this amended request for the audio from the aforementioned grand jury proceedings to avoid wasting the resources associated with initiating an action in a court of law because the court of Sally A. McLaughlin (Blankenship) continues to give varying responses regarding the release of public records, which are contrary to fact and Indiana law. Any further sua sponte attempts by the Court to oppose releasing the audio from a proceeding from which transcripts have already been deemed reviewable public record can only be perceived as an attempt to provide cover for misconduct. If this Court would once again change its mind and determine it does not retain authority over the release of the grand jury audio, Requester asks that the Court staff refer him to the appropriate agency responsible for maintaining the record.

I understand by seeking copies of these records there may be a copying fee. Please inform me of the costs prior to making the copies. I can be reached at [REDACTED] or by email, [contactdanbrewington@gmail.com](mailto:contactdanbrewington@gmail.com).

According to the statute, you have seven (7) days to respond to this request. If you choose to deny the request, Requester asks that the Dearborn County Superior Court II provide an explanation of the statutory exception authorizing the withholding of all or part of the public record that does not conflict with Indiana Code § 5-14-3-9(e). As Special Judge Brian Hill issued three conflicting orders regarding the release of the grand jury audio, it may be necessary for Judge Hill or Judge McLaughlin to seek the appointment of a new judge for the matter given Judge Hill's advocacy against releasing the audio from an already public grand jury proceeding. The Court's resistance to transparency only serves to call into question the integrity of the usually secretive grand jury process operating under current Indiana Supreme Court applicant, Dearborn County Superior Court II Judge Sally A. McLaughlin (Blankenship).

A copy of this request can be found on [www.danbrewington.blogspot.com](http://www.danbrewington.blogspot.com) for your convenience. Thank you for your assistance on this matter.

Respectfully,



Daniel P. Brewington, Requester

[REDACTED]  
[REDACTED]  
[REDACTED]  
[contactdanbrewington@gmail.com](mailto:contactdanbrewington@gmail.com)