

Request for copies of Investigative Records from Grand Jury

February 8, 2016

Office of the Dearborn County Prosecutor
F. Aaron Negangard
215 W High St
Lawrenceburg, IN 47025
812.537.8884

Dear Dearborn County Prosecutor F. Aaron Negangard:

Pursuant to the Access to Public Records Act (Ind. Code 5-14-3), Requester requests copies of the following public records pertaining the grand jury investigation in the case of State of Indiana vs Daniel Brewington, Cause No: 15D02-1103-FD-00084:

Please provide copies of the audio discs from the Grand Jury proceedings occurring on the following dates:

February 28, 2011

March 1, 2011

March 2, 2011

To ensure specificity in an effort to assist the Office of the Dearborn County Prosecutor in complying with this request, this Requester references material downloaded from the following blog post: <http://danbrewington.blogspot.com/2012/03/missing-records-from-brewington-case.html>. Special Judge Brian D. Hill authorized the release of the audio from the above Grand Jury proceedings in an ORDER RELEASING AUDIO COPIES file stamped January 12, 2012. However, Special Judge Brian D. Hill issued an AMENDED ORDER RELEASING AUDIO COPIES file stamped February 02, 2012 stating that, "no audio recordings of the Grand Jury Proceedings for February 28, 2011, March 1, 2011, and March 2, 2011 were admitted into evidence in this cause, therefore, these audio recordings are not a record in these proceedings." If the audio is not a record of the court in the proceedings then the grand jury audio must be considered an investigative record. As the Dearborn County Prosecutor and head of the Dearborn County Special Crimes Unit, please provide me with a copy of the audio from the grand jury proceedings. A review of the Chronological Case Summary ("CCS") of the Criminal Docket in the above case shows that Judge Hill issued the order to release Grand Jury Exhibits on August 23, 2011, roughly a week after the original trial date was scheduled for August 16, 2011.

Rule 5 of the Indiana Rules of Criminal Procedure allows the record of cases and hearings to be maintained in the form of shorthand notes, stenographic reporting, and audio recordings and Rule 7 of the Indiana Administrative Rules sets forth the parameters of record archival in Judicial Retention Schedules. In *Wurster v. State*, 715 N.E.2d 341 (Ind. 1999) at 346, the Indiana Supreme Court wrote, "The manner of recording evidence in trial courts is governed by Criminal Rule 5." What remains constant is the court record remains

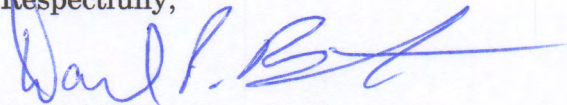
the same regardless of the medium in which it is stored. Requester provides the above explanation to preemptively defuse any potential claim that the release of the Grand Jury audio is still bound by I.C. § 35-34-2-10(a) regarding unauthorized disclosure of grand jury information, a Class B misdemeanor. The record of grand jury proceedings became a reviewable public record when Judge Hill allowed the State to admit a digital copy of the Grand Jury Exhibits into evidence, which includes a digital copy of the transcripts from the proceedings. In playing a dual role as the Dearborn County Prosecutor and head of the Dearborn County Special Crimes Unit task force responsible for the investigation of the above case, the audio recordings from the Grand Jury proceedings are part of the law enforcement investigative record and are subject to release given that the record of the grand jury is already a public record via the transcription of the grand jury audio. The Dearborn Superior Court II has issued a number of conflicting rulings on the matter with the constant variable being that the grand jury audio was not admitted into evidence at trial. As the Dearborn Superior Court II failed to direct Requester to the public agency who maintains the grand jury audio, Requester seeks the grand jury audio from the investigatory record from the Dearborn County Prosecutor/Dearborn County Special Crimes Unit. Though an explanation or reasoning for the release of a public record is not required, despite the erroneous contentions of the Dearborn Superior Court II, Requester seeks the audio from the above listed grand jury hearings to determine if there was any misconduct by the Office of the Dearborn County Prosecutor while convening a grand jury to investigate an unconstitutional criminal defamation allegation. If Requester's written request is denied, Requester assumes Prosecutor Negangard will oversee his staff in ensuring the refusal is in writing and include a statement of the specific exemption authorizing the withholding of all or part of the public record and the name and the title or position of the person responsible for the denial. Indiana Code § 5-14-3-9(c).

I understand by seeking a 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 513.383.3136 or by email, contactdanbrewington@gmail.com.

According to the statute, the Office of the Dearborn County Prosecutor has seven (7) days to respond to this request. If the request is denied, please state the statutory exception authorizing the withholding of all or part of the public record and the name and title or position of the person responsible for the denial. If another entity retains authority over the release of said audio record, please provide the name and contact information of that entity/agency. Failure to release the grand jury audio only serves to cast doubt upon an already secretive grand jury process that returned indictments based on the unconstitutional criminal defamation argument made by the Office of the Dearborn County Prosecutor.

A copy of this request is viewable on www.danbrewington.blogspot.com for your convenience. The content of this request and other information regarding the release of the already public grand jury proceedings will be forwarded to other state agencies and advocacy groups supporting transparency through the release of public records. Thank you for your assistance on this matter.

Respectfully,



Daniel P. Brewington, Requester

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