



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

STEVEN T. MARSHALL
ATTORNEY GENERAL

March 1, 2019

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By U.S. Mail and Electronic Mail

Mr. Dillon Nettles
Policy Analyst, ACLU of Alabama
P.O. Box 6179
Montgomery, AL 36106-0179
dnettles@aclualabama.org

Re: Open Records Request

Dear Mr. Nettles:

The Office of the Attorney General hereby responds to the letter signed by you, Benard Simelton, and Ben Crump on February 20, 2019, that cites Alabama's Open Records Law to request documents related to the November 22, 2018 shooting death of E.J. Bradford.

○ *Documents Produced*

Attached to this letter is the document responsive to Request #9; that is, correspondence from District Attorney Danny Carr that was "relied upon by the Attorney General in making his decision to take over the investigation from the Jefferson County District Attorney." As requested, the Office waives any charge for this copy. Please refer to pages 3-4 of the Attorney General's February 5, 2019 report for a detailed explanation of the Attorney General's reliance on this correspondence. ("Two days later, the Attorney General informed District Attorney Carr that he would assume jurisdiction over both shootings based on District Attorney Carr's admission that the public could perceive a conflict of interest").

○ *Documents Not Possessed*

Regarding Request #2, metadata is not subject to disclosure. This office does not possess a written record of the requested metadata, and governmental entities are not required to generate lists or compile or assimilate information for the public. Opinions to Honorable Molly Meadows, Chair, Houston County Board of Registrars, dated August 19, 2014, A.G. No. 2014-082; Chancellor Charles L. Payne, Department of Postsecondary Education, dated December 16, 1987, A.G. No. 88-00079; Honorable

Steve Windom, Member, Alabama State Senate, dated January 22, 1990, A.G. No. 90-00105.

Regarding Requests #3-5, to the extent any such records exist, this Office is not in possession of any audit logs or event logs dated November 22, 2018 (Request #3); any records regarding the deletion of metadata, audit logs, or event logs (Request #4); or any written records that reflect the failure, interruption, or termination of body camera recordings (Request #5).

o *Documents Not Produced*

Regarding Requests # 1, #6-8, the written records and/or videos possessed by this Office that might otherwise be responsive to your requests are not subject to disclosure for several reasons. First, records related to a criminal investigation are not subject to disclosure under section 12-21-3.1(b) of the Code of Alabama, which specifically states that “[l]aw enforcement investigative reports and related investigative material are not public records.” ALA. CODE § 12-21-3.1(b) (2012). Second, consistent with the first stated reason and advice given to this Office by the Alabama State Bar, disclosure of investigative records could compromise the pending criminal investigation and/or prosecution of Erron Brown. Opinion to Honorable Al Kelley, Mayor, City of Millbrook, dated July 30, 2015, dated July 30, 2015, A.G. No. 2015-057; *Stone v. Consol. Publ’g Co.*, 404 So. 2d 678 (Ala. 1981). Third, the Open Records Law excepts from disclosure documents “relating to, or having an impact upon, the security or safety of persons,” and this Office understands that threats of physical harm, including death, have been made against Hoover police officers regarding this incident. ALA. CODE § 36-12-40 (2013). Fourth, the Open Records Law excepts disclosure if disclosure would be “detrimental to the best interests of the public.” *Id*; *Stone v. Consol. Publ’g Co.*, 404 So. 2d 678, 681 (Ala. 1981).

Based on these reasons, releasing documents with potential relevance to the Erron Brown case and/or documents that could reveal the involved officers’ identities is presently unwarranted because disclosure would negatively impact the public’s best interest and the personal safety of law enforcement officials.

Sincerely,

STEVE MARSHALL
Attorney General
By:



G. WARD BEESON, III
Chief, Opinions Division

OFFICE OF THE DISTRICT ATTORNEY



DANNY CARR

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December 11, 2018

Via Electronic Mail

The Honorable Steve Marshall
Attorney General of Alabama
501 Washington Avenue
Montgomery, AL 36130

RE: *Riverchase Galleria, Hoover, Alabama, Use of Force*

Dear General Marshall:

I appreciate your ongoing monitoring and inquiry into the Thanksgiving night officer involved shooting at the Riverchase Galleria. Please allow this letter to serve as my response to the concerns you expressed at our meeting on December 10, 2018 regarding any possible conflicts.

My office has substantial involvement with the Hoover Police Department, the agency that employs the officer under investigation. As you might expect, the Jefferson County District Attorney's Office prosecutes a substantial number of cases brought by sworn officers of that department each year. To that end, the officer in question is the charging officer and/or witness in approximately 20 cases currently pending with my office. We also work closely with the Jefferson County Sheriff's Department's Drug Interdiction Task Force on an array of civil asset forfeiture cases. The Hoover Police Department is integrally involved and has a major presence in that unit.

In the interest of honesty and transparency, please be advised that I am familiar with and have come to know some of the participants in the protest through my community involvement and upbringing in Jefferson County.

The purpose of this letter is *not* that of recusal. I understand that you have the legal authority as the State's chief law enforcement officer to inquire and identify if any potential conflict may exist.¹ I also recognize that, based upon the above information provided, a fair-minded, objective observer *could* conclude that a conflict exists. I am confident in my ability to act without bias in this case as well as any related cases.

Please do not hesitate to contact me if you have any questions or require any additional information. I stand ready to answer the call and look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Danny Carr", with a stylized flourish extending to the right.

Danny Carr
District Attorney

DC/as

¹ Ala. Code 1975 § 36-15-14