

IN THE CHANCERY COURT FOR THE TWENTIETH JUDICIAL DISTRICT  
DAVIDSON COUNTY, TENNESSEE

CLARA RENEE BREWER,	)	
	)	
Plaintiff/Petitioner,	)	
v.	)	NO. 23-0538-III
	)	
METROPOLITAN GOVERNMENT OF	)	
NASHVILLE AND DAVIDSON COUNTY,	)	
	)	
Defendant/Respondent.	)	

**MOTION FOR STATUS CONFERENCE AND TO RESCHEDULE SHOW CAUSE HEARING**

The Metropolitan Government of Nashville and Davidson County (“Metropolitan Government”), pursuant to Local Rule 27.02, moves this Court to reschedule the May 11, 2023 show cause hearing to a later date, and schedule an expedited, in-person status conference prior to the show cause hearing. Because the show-cause hearing timeline is not feasible and there are many competing interests at issue in this complex public records request, a status conference will provide the Court with helpful context in which to address the Petitions.

First, the timing of the current show cause hearing is simply not feasible, for numerous reasons. The Covenant School shooting occurred only 37 days ago. The Metropolitan Nashville Police Department (“MNPDP”) has been investigating, grieving, working with state and federal agencies, reviewing the officer-involved shootings, interviewing witnesses, executing search warrants, and gathering documents related to the incident. MNPDP has not had an opportunity to interview everyone related to the incident and review all the documents it has gathered. Its investigation file is still active. Moreover, Petitioners have requested many more documents than just the journal found in the shooter’s car. It is not feasible to produce all these materials instantly, nor are they public records while an investigation is still open. Tenn. R. Crim. P. 16(a)(2); *The Tennessean v. Metro. Gov’t of Nashville & Davidson Cty.*, 485 S.W.3d 857 (Tenn. 2016).

Moreover, there are numerous competing interests at stake concerning the release of the documents. Some parents from The Covenant School have informally indicated to the MNPd that they oppose the release of the shooter's writings. The Metropolitan Government believes they should have an opportunity to participate in the show cause hearing if they wish and that the Court should consider these varying interests.<sup>1</sup> Given the complexities surrounding the requests at issue and the fact that the matter is now before the Court for resolution in two different lawsuits (with potential for a third), the Metropolitan Government requests a status conference to discuss these issues with the Court and seek an orderly and prompt resolution of the matter.

At such status conference, the Metropolitan Government will be prepared to do the following:

- Provide the Court and other parties a list of the requested materials and the estimated volume of those materials.
- Provide the Court under seal with copies of the unredacted and proposed redacted journal found in the shooter's car, so that the Court may begin an *in camera* review.
- Request a show cause hearing on a workable schedule that allows any other interested parties time to ask to intervene and participate, should the Court decide that is appropriate.

There are many benefits to the status conference approach. First, setting a status conference will allow for an orderly process whereby some items may be provided quickly with court

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<sup>1</sup> The victim of the crime at issue in *The Tennessean v. Metro. Gov't of Nashville & Davidson Cty.* was permitted to intervene in the case and prompted a vigorous discussion at the Tennessee Court of Appeals and Supreme Court level of the victim's rights under Article 1, § 35 of the Tennessee Constitution and Tennessee Code Annotated Sections 40–38–101 through –506. *The Tennessean v. Metro. Gov't of Nashville & Davidson Cty.*, No. M2014-00524-COA-R3CV, 2014 WL 4923162, at \*6 (Tenn. Ct. App. Sept. 30, 2014), *aff'd on other grounds*, 485 S.W.3d 857 (Tenn. 2016).

approval, while also providing appropriate time for production of more voluminous items or those that require more extensive redaction under the Tennessee Public Records Act, with the Court supervising the redactions. For example, certain redactions are appropriate for the requests at issue under applicable law including (1) information related to school security, under Tenn. Code Ann. § 10-7-504(p); and, (2) information related to active criminal investigation files, under Tenn. R. Crim. P. 16(a)(2). Other exceptions also may apply, such as attorney-client privilege, but that analysis will not be complete until the records have been reviewed.

Setting a status conference will also allow any other parties who wish to intervene in the case time to do so. Intervening parties are likely to include news organizations, who have already contacted the Department of Law indicating that they would likely intervene. Intervening parties may also include representatives or parents of The Covenant School who wish to be involved in this process. The Metropolitan Government believes those family members deserve the opportunity to be heard. The Metropolitan Government will come to the status conference with a proposal for providing notice to them.

The Metropolitan Government has no desire to slow-walk this process. MNPD appropriately anticipated that portions of the journal found in the shooter's vehicle would be released very soon. Now that these lawsuits have been filed, however, and many more documents have been requested, the Metropolitan Government seeks the Court's assistance to manage all the requests and competing interests, in compliance with the Public Records Act, in a well-ordered, transparent manner.

Respectfully submitted,

DEPARTMENT OF LAW OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
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#### **NOTICE OF HEARING**

**THE METROPOLITAN GOVERNMENT ASKS THAT THIS MOTION BE  
CONSIDERED ON AN EXPEDITED BASIS.**

#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served via the Davidson County Chancery Court electronic filing system and via electronic mail and/or U.S. Mail on the following:

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on this the 3<sup>rd</sup> day of May, 2023.

/s/ Lora Fox

Lora Barkenbus Fox  
Associate Director of Law