

**From:** Meenan, Evan

**Sent:** Wednesday, March 14, 2018 11:01 AM

**To:** 'ricardo.ramos@crimewatchdaily.com' <ricardo.ramos@crimewatchdaily.com>

**Subject:** RE: Public Records Request - FOIA National TV Show Request for audio/video assets for Jody Herring Criminal Case in 2015

Good Morning Mr. Ramos.

I attached to this email the Vermont Attorney General's Office's response to your public records request.

Thank you and have a nice day.

Evan

Evan Meenan

Assistant Attorney General

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March 14, 2018

VIA ELECTRONIC MAIL

Crime Watch Daily  
Attn: Ricardo Ramos  
Recardo.Ramos@CrimeWatchDaily.com

Re: March 9, 2018 Public Records Request.

Dear Mr. Ramos:

I am writing in response to your request for records, which the Vermont Attorney General's Office ("AGO") received on March 9, 2018.

Request

You have requested copies of all "visual assets" or "visual or audio elements" from the AGO's criminal case involving Jody Herring. As examples of the types of materials you are looking for, you have identified a jail cell video, police interviews, body camera footage, and any 911 calls.

Response

The AGO has located several records in its possession that fall within the scope of your request. These records are presently exempt from disclosure because the case is still on appeal before the Vermont Supreme Court. The applicable statutory exemptions are:

1. 1 V.S.A. § 317(c)(3), which applies to records "which, if made public...would cause the custodian to violate duly adopted standards of ethics or conduct for any profession regulated by the State." Since the case is on appeal, the AGO is limited by Rules of Professional Conduct 3.6 and 3.8 in what information it can release about the case.
2. 1 V.S.A. §§ 317(c)(5)(A)(i) and (ii), which apply to records "dealing with the detection and investigation of crime...to the extent that the production of such records...could reasonably be expected to interfere with enforcement proceedings [or] would deprive a person of a right to a fair trial or an impartial adjudication."

3. 1 V.S.A. § 317(c)(14), which applies to records “which are relevant to litigation to which the public agency is a party of record, provided all such matters shall be available to the public...upon final termination of the litigation.”

You may renew your request after the appeal has concluded. However, please note that at that time the AGO will have to review the applicability of several other statutory exemptions to determine whether the responsive records may be released or must be redacted. These other statutory exemptions include, but are not necessarily limited to:

1. 1 V.S.A. §§ 317(c)(5)(A)(iii), which applies to records “dealing with the detection and investigation of crime...to the extent the production of such records...could reasonably be expected to constitute an unwarranted invasion of personal privacy.”
2. 1 V.S.A. § 317(c)(5)(D), which exempts from disclosure information that could identify a private individual who is a witness to or victim of a crime.
3. 1 V.S.A. § 317(c)(7), which exempts from disclosure personal documents relating to an individual, including but not limited to medical or psychological facts.

Pursuant to Vermont law, the Attorney General’s Office may assess costs associated with this work and require payment before providing the responsive records.

To the extent that this letter constitutes a denial of your request, you may appeal to the Deputy Attorney General. Any appeal should be in writing and addressed to:

Joshua Diamond  
Deputy Attorney General  
109 State Street  
Montpelier, VT 05609-1001

Sincerely,



Evan Meenan  
Assistant Attorney General