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STATES' LAWS ON DISCLOSING CRIME SCENE PHOTOGRAPHS, AUTOPSY REPORTS, AND 911 TAPES AND TRANSCRIPTS

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This report describes states' laws that directly address the disclosure of crime scene photographs, autopsy reports, and 911 tapes and transcripts.

SUMMARY

We conducted a 50-state survey and found (1) nine states that have laws directly addressing the disclosure of crime scene photos, (2) 26 states with laws directly addressing the disclosure of autopsy reports, and (3) 16 states with laws directly addressing the disclosure of 911 tapes, seven of which directly address the disclosure of 911 transcripts. Generally, the laws restrict the disclosure of the above records to certain entities (e.g., next of kin), but in some cases, particularly for autopsy reports and 911 transcripts, they specify that the records, or certain information in the records, are available to the public. Additionally, some laws give an agency discretion to release the record to entities other than those specified in the statute.

While this report identifies statutes that directly address these particular records, their disclosure may also be limited by provisions in state law that apply to general categories of records. For example, most states exempt from disclosure law enforcement investigatory records, and some have statutes prohibiting disclosure of a record when disclosure

would invade a person's privacy. Whether a particular document can be withheld under these exemptions in a particular state will depend on the circumstances. Similarly, the disclosure of these records in other states may also be governed by case law, which we do not address in this report.

The report covers only statutes that directly address access to crime scene photographs, autopsy reports, and 911 tapes and transcripts. In some cases, these statutes specifically address access by law enforcement, prosecutors, and emergency responders. But even if these entities do not derive authority to access these records under the statutes this report covers, they presumably derive it under other statutes when necessary to perform their duties.

CRIME SCENE PHOTOGRAPHS

We found nine states that have laws directly addressing the disclosure of crime scene photographs (see Table 1). Generally, all nine restrict access to these photos or exempt them from disclosure, with certain exceptions. For example, some states, such as Florida, Georgia, and Texas, allow the release of the photos to a decedent's close family members or people they designate.

In all but two of the states (Minnesota and Montana), the laws apply to photographs of deceased people. Some laws specify, in detail, the types of photos that they cover. Texas' law, for example, applies to "sensitive crime scene images," including those depicting dismemberment and other types of mutilation. Georgia has a similar restriction. And North Dakota exempts from disclosure images of homicide and sex crime victims and of minor victims of any crime.

Table 1: State Statutes that Directly Address Disclosure of Crime Scene Photographs

| State (citation) | Direct Limitations on Disclosure |
|--|--|
| <p>California (Code of Civil Procedure § 129)</p> | <p>The law bars the copying of photographs taken for the coroner at the death scene. They are available for use only in a criminal action or proceeding that relates to the deceased, or as a court permits.</p> |
| <p>Connecticut (CGS § 1-210(b)(27))</p> | <p>An image of a homicide victim is exempt from disclosure, to the extent that the record could reasonably be expected to constitute an unwarranted invasion of the victim's or surviving family members' personal privacy.</p> |
| <p>Florida (Fla. Stat. § 119.07) (Fla. Stat § 406.136) (Art. I, § 24, Fla. Const.)</p> | <p>A photograph or video or audio recording that depicts or records the killing of a person is confidential and exempt. It may be disclosed for viewing and copying only to:</p> <ul style="list-style-type: none"> • a surviving spouse, • if no surviving spouse, the surviving parents, and • if no surviving spouse or parent, then an adult child. <p>The deceased's surviving relative with authority to obtain such records may designate in writing an agent to obtain them.</p> <p>A local government entity, or a state or federal agency, at its written request, may view or copy a photograph or video recording or listen to or copy an audio recording of the killing of a person and, unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential and exempt.</p> <p>The court, upon a showing of good cause, may issue an order authorizing anyone to view or copy a photograph or recording that depicts or records the killing of a person and may prescribe any appropriate restrictions or stipulations.</p> |
| <p>Georgia (Ga. Code. Ann. § 45-16-27 (e))</p> | <p>Restricts access to crime scene photographs and videos in a state or local agency's custody that depict or describe a decedent in a state of dismemberment, decapitation, or similar mutilation, including those where the decedent's genitalia are exposed .</p> <p>May be released to decedent's next of kin or an individual who has secured a release from the next of kin. Must give the deceased person's next of kin at least two weeks' notice before release.</p> <p>Limited disclosure to bona fide credentialed press members, subject to certain restrictions (Ga. Comp. Rules & Regs. § 92-5-.01).</p> <p>A court may order disclosure on a written finding that it is in the public interest and outweighs any privacy interest that the decedent's next of kin may assert.</p> |
| <p>Minnesota (Minn. Stat. §§ 13.82 (7) and § 13.10)</p> | <p>Photographs that are part of inactive investigations that are clearly offensive to common sensibilities are private or nonpublic data, but the existence of the photographs must be disclosed to a person requesting access to the inactive file. (They are confidential while the investigation is active.)</p> |

Table 1 (continued)

| State (citation) | Direct Limitations on Disclosure |
|---|--|
| <p>Montana (Mont. Code Ann. §§ 44-5-103, 44-5-303)</p> | <p>By definition, “confidential criminal justice information” includes photographs and criminal investigative information.</p> <p>Access is limited to:</p> <ul style="list-style-type: none"> • criminal justice agencies, • those authorized by law to receive it, and • those authorized by a district court to receive it upon finding that privacy concerns do not exceed disclosure merits. <p>May also be disclosed, in certain circumstances, (1) by the prosecutor to the victim and (2) to the county attorney or his or her designee.</p> |
| <p>North Dakota (N.D. Cent. Code. §§ 44-04-18.7 and 44-04-17.1)</p> | <p>Crime scene images of a victim of homicide or a sex crime or any image of a minor victim of any crime are exempt from disclosure.</p> |
| <p>Pennsylvania (65 P.S. §§67.708(b) (20)) and 65. § 67.506(c)</p> | <p>A photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death, is exempt from access.</p> <p>A record of an agency relating to or resulting in a criminal investigation, including investigative . . . videos [and] victim information, is exempt from access (65 P.S. § 67.708(b) (16) (ii) and (v)).</p> <p>An agency may exercise its discretion to make any otherwise exempt record accessible for inspection and copying, if all of the following apply:</p> <ul style="list-style-type: none"> • disclosure of the record is not prohibited under (1) federal or state law or regulation or (2) judicial order or decrees; • the record is not protected by a privilege; and • the agency head determines that the public interest favoring access outweighs any individual, agency, or public interest that favors restricting access. |

Table 1 (continued)

| State (citation) | Direct Limitations on Disclosure |
|---|--|
| <p>Texas (Tex. Government Code, § 552.1085)</p> | <p>By law, “sensitive crime scene image” means a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation, or that depicts the deceased person’s genitalia.</p> <p>A sensitive crime scene image is confidential and exempt from disclosure, with the following exceptions:</p> <ul style="list-style-type: none"> • next of kin or person authorized in writing by him or her; • a defendant or his or her attorney; • a person who establishes an interest in a sensitive crime scene image based on, connected with, or in support of the creation of an “expressive work;” • someone performing bona fide research sponsored by a higher education institution; or • a local, state, or federal agency. <p>However, a government body may (1) assert an exception to disclosure of a sensitive crime scene image on the grounds that the image is exempt under another law or (2) file a request for an attorney general decision on whether the image is exempt from disclosure.</p> |

AUTOPSY REPORTS

We found 26 states with statutes directly addressing the disclosure of autopsy reports (see Table 2). Most of these states specify limited categories of people who are entitled to access the reports. These typically include specified family members, the estate’s personal representative, and prosecutors or other specified government agencies. Some states specify that people with a sufficient interest in an autopsy report can access it. For example, Connecticut provides that no person with a “legitimate” interest in such a report can be denied access. New York generally gives access to anyone who, pursuant to a court order, has a “substantial” interest in the report.

Some states (such as Iowa and North Dakota) make autopsy reports generally confidential but specify that the public generally has access to information about the cause and manner of death.

A minority of these 26 states specify that autopsy reports are public records, but even in these states, there are certain circumstances when the records can be withheld. Some states (such as Louisiana and Texas) generally make autopsy reports public but certain related materials are confidential, such as photographs and videos made during the autopsy.

Table 2 below describes state statutes that directly address the disclosure of autopsy reports. The table does not include confidentiality provisions that apply in some states (e.g., Louisiana) to records of child fatality review teams in their investigation of child deaths.

Table 2: State Statutes that Directly Address Disclosure of Autopsy Reports

| State (citation) | Direct Limitations on Disclosure |
|--|--|
| Alabama (Ala. Code § 36-18-2) | Autopsy reports are public records and have no direct limitations on disclosure. |
| Alaska (Alaska Stat. § 12.65.020(b)) | Disclosable to: <ul style="list-style-type: none"> • public officers and employees for a public purpose and • to a person related to the deceased or who has a financial or personal interest in the estate, if doing so will not interfere with an ongoing investigation or prosecution. |
| Arkansas (Ark. Code §§ 12-12-312) | Records, files, and information of the state crime lab (including autopsy reports) are generally confidential. They are disclosable: <ul style="list-style-type: none"> • under and at the direction of a court, the prosecutor, or the public defender assigned to case; • to a defendant or his or her attorney; and • to the Department of Health for specified purposes. |
| California (Cal. Civ. Proc. Code. § 130) | Autopsy reports for children under age 18 killed as a result of criminal act are generally restricted when family requests that the records be sealed. Such records are disclosable to: <ul style="list-style-type: none"> • law enforcement or social service agencies, child death review teams, or the hospital that treated the child immediately prior to death, to be used solely for investigative, prosecutorial, or review purposes; • the defendant and the defense team in criminal or related habeas proceedings; and • civil litigants in a cause of action related to the victim's death with a court order upon a showing of good cause. <p>The law specifies that these provisions do not abrogate the rights of victims, their authorized representatives, or insurance carriers to request the release of information pursuant to the Public Records Act.</p> |

Table 2 (continued)

| State (citation) | Direct Limitations on Disclosure |
|---|---|
| <p>Connecticut (CGS § 19a-411; Conn. Agencies Reg., § 19a-401-12)</p> | <p>Disclosable to:</p> <ul style="list-style-type: none"> • prosecutors and law enforcement officials • person with a legitimate interest in the records (except that records concerning a person in state custody must be disclosed to any requester); and • attorneys and researchers, under specified conditions (pursuant to Commission on Medicolegal Investigations' regulations). <p>The medical examiner or state's attorney can seek a court order to prohibit disclosure (even to parties otherwise entitled to record) if there is a compelling public interest against disclosure.</p> |
| <p>Delaware (Del. Code title 29, §§ 4707(e) and 4710(b), (c))</p> | <p>Records disclosable to:</p> <ul style="list-style-type: none"> • next of kin, • attorney general, and • police. |
| <p>Indiana (Ind. Code. § 36-2- 14-18)</p> | <p>Full report (except photo/video/audio) disclosable to:</p> <ul style="list-style-type: none"> • specified family members, • insurance company, and • certain state agencies/entities. <p>Limited information available to public.</p> <p>Prosecutor can ask court to prohibit a coroner from disclosing if disclosure likely to harm criminal investigation (Anyone can petition court to modify or terminate such an order.)</p> |
| <p>Iowa (Iowa Code § 22.7(41))</p> | <p>Disclosable to:</p> <ul style="list-style-type: none"> • law enforcement agency investigating the death and • next of kin (in most cases). <p>Public can generally learn the cause and manner of death.</p> <p>Need not disclose to next of kin or public if it would jeopardize investigation or pose a clear and present danger to public safety or an individual's safety.</p> |
| <p>Kansas (Kan. Stat. Ann. § 22a-232(b))</p> | <p>Disclosure is restricted if coroner determines that information in the report might jeopardize a criminal investigation. (Court may order disclosure of criminal investigation records if it makes certain findings.)</p> |

Table 2 (continued)

| State (citation) | Direct Limitations on Disclosure |
|---|---|
| <p>Louisiana (La. Rev. Stat. Ann. §§ 13:5713, 44:19)</p> | <p>Autopsy reports are generally public records. There are exceptions for (1) deaths from natural causes not referred to the coroner and (2) reports pertaining to criminal litigation.</p> <p>Autopsy photos, videos, or other visual images are disclosable to:</p> <ul style="list-style-type: none"> • specified family members or estate representatives, • law enforcement agencies for official use only, • specified professionals to establish the deceased's identity, and • others as directed by court order or subpoena. |
| <p>Massachusetts (Mass. Gen. Laws Ann. ch. 38 § 2; 505 Mass. Code Regs. 1.03)</p> | <p>Autopsy results are not public records, and are available only to those legally entitled to receive them.</p> <p>Under chief medical examiner's regulations, autopsy records are disclosable to surviving spouse or next of kin if certain conditions are met. If unnatural or suspicious death, the district attorney or law enforcement official must determine and disclose in writing that he or she does not object to disclosure.</p> |
| <p>Mississippi (Miss. Code Ann. § 41-61-65)</p> | <p>The law names certain parties who have access to the reports, but does not specifically state whether they are public records.</p> <p>Mandatory disclosure to:</p> <ul style="list-style-type: none"> • one adult member of the deceased's immediate family or legal representative upon request, • medical examiner, • district attorney, and • court clerk. |
| <p>Missouri (Mo. Rev. Stat. §§ 58.740, 194.115, 194.117)</p> | <p>The law names certain parties who have access to the reports, but does not specifically state whether they are public records.</p> <p>Disclosable to:</p> <ul style="list-style-type: none"> • the personal representative or administrator of the deceased's estate and specified family members, • the prosecuting attorney in a criminal investigation, and • the parent or guardian if the deceased was an infant who died of suspected sudden infant death syndrome (SIDS). |
| <p>New Hampshire (N.H. Rev. Stat. Ann. § 611-B:21)</p> | <p>Disclosable to:</p> <ul style="list-style-type: none"> • next-of-kin; • law enforcement, prosecutorial, or other government agency investigating the death; • decedent's treating physician; • medical or scientific body or university or similar organization for educational or research purposes; and • other person with permission from next-of-kin. <p>Homicide reports given only to Department of Justice unless the department provides a written release.</p> |

Table 2 (continued)

| State (citation) | Direct Limitations on Disclosure |
|--|---|
| <p>New Jersey (N.J. Rev. Stat. § 52:17B-92)</p> | <p>Medical examiner records are available to people “with a proper interest in such records.”</p> |
| <p>New York (N.Y. County Law § 677)</p> | <p>Disclosable to:</p> <ul style="list-style-type: none"> • personal representative, spouse, or next of kin; • with court order: anyone who is or may be affected in a civil or criminal action by the contents or anyone having a substantial interest therein; and • certain state agencies. <p>This section of the county laws is not applicable to counties wholly contained within a city (i.e., New York City).</p> |
| <p>North Carolina (N.C. Gen. Stat. §§ 132-1.8 and 130A-389.1)</p> | <p>Autopsy report text (including findings and interpretations) is a public record. Autopsy photos, video, or audio are not public records, but may be examined at reasonable times and under reasonable supervision.</p> |
| <p>North Dakota (N.D. Cent. Code § 44-04-18.18 and 23-01-05.5)</p> | <p>“Autopsy report” is confidential, while “report of death” is not. The latter is the face page of the report, indicating the decedent and the cause and manner of death. The law specifies who may receive copies of the autopsy report, related notes and working papers.</p> <p>The autopsy report is disclosable to:</p> <ul style="list-style-type: none"> • coroner, • state’s attorney or criminal justice agency, • workforce safety and insurance for work-related deaths, • the child fatality review panel, and • others by court order. <p>It must be disclosed, on request, to other parties, including the decedent’s personal representative, a physician, an insurance company, other federal and state agencies, and professional or research organizations.</p> |

Table 2 (continued)

| State (citation) | Direct Limitations on Disclosure |
|---|--|
| <p>Ohio (Ohio Rev. Code § 313.10)</p> | <p>Coroner's report, including detailed descriptions and conclusions, are public records. The law exempts:</p> <ul style="list-style-type: none"> • preliminary notes and findings, • photos, • suicide notes, • medical and psychiatric records, • confidential law enforcement investigatory records, and • lab reports generated from an analysis of physical evidence. <p>The coroner must release the report, including the otherwise exempt material ("full and complete records"), at the written request of various surviving family members or next of kin.</p> <p>A reporter may submit a written request to view the coroner's preliminary investigative notes and findings, suicide notes, and photos. The request must state that granting it would serve the public's best interest. The coroner must grant the request; the reporter cannot copy the information or photos.</p> <p>An insurer may submit a written request to the coroner to obtain a copy of the full and complete records of the coroner with respect to a deceased person.</p> |
| <p>Oregon (Or. Rev. Stat. §§ 146.035(5); 192.501(36); 192.517(1))</p> | <p>Exempt from public disclosure unless the public interest requires disclosure.</p> <p>Disclosable to:</p> <ul style="list-style-type: none"> • personal representatives or specified family members; • anyone who may be criminally or civilly liable for the death, or the person's representatives; and • the system designated to protect and advocate for the rights of individuals with developmental disabilities or mental illness. |
| <p>Pennsylvania (65 Pa. Stat. Ann. § 67.708(b)(20))</p> | <p>Right-to-Know Law grants public access to only the deceased's name and the cause and manner of death. (The Coroner's Act, as interpreted by courts, makes autopsy reports public records.)</p> |
| <p>Tennessee (Tenn. Code Ann. § 38-7-110)</p> | <p>Autopsy reports are public records. If law enforcement believes the release of any portion of the report may seriously impede an investigation, a court may order that the portion remain confidential.</p> |
| <p>Texas (Tex. Code Crim. Proc. art. § 49.25)</p> | <p>Autopsy reports are generally disclosable.</p> <p>Autopsy photos and x-rays are disclosable:</p> <ul style="list-style-type: none"> • under a subpoena or authority of other law or • if the photo or x-ray is of the body of a person who died while in the custody of law enforcement. |

Table 2 (continued)

| State (citation) | Direct Limitations on Disclosure |
|--|--|
| Utah (Utah Code Ann., § 26-4-17) | Disclosable to: <ul style="list-style-type: none"> • decedent's next-of-kin, • legal representative, and • physician who attended the decedent in the year before his or her death. |
| Washington (Wash. Rev. Code § 68.50.105) | Disclosable to: <ul style="list-style-type: none"> • family, • certain medical professionals, and • certain government officials. <p>As of January 1, 2014, a coroner or medical examiner will be able to publicly discuss his or her findings when a police or corrections officer is the proximate cause of death.</p> |
| West Virginia (W.Va. Code § 61-12-10) | Disclosable to: <ul style="list-style-type: none"> • prosecuting attorneys or law enforcement; • courts; • parties to cases to whom the cause of death is "a material issue" (but if conflict between criminal and civil cases, criminal takes precedence); • child protection multidisciplinary teams; and • other state agencies when in the public interest. |

* This table does not address states (e.g., Florida and Georgia) that have statutes directly addressing disclosure of autopsy photos, videos, or audio recordings, but not autopsy reports.

911 TAPES AND TRANSCRIPTS

We found 16 states that have statutes directly addressing disclosure of 911 tapes. Of these, seven have statutes directly addressing disclosure of 911 transcripts (see Table 3).

Ten states specifically prohibit the release of all or some of the content of 911 tapes, with certain exceptions. Generally, the prohibitions do not apply to disclosures (1) to law enforcement and emergency services agencies or (2) required pursuant to a court order. In three other states (Connecticut, Georgia, and North Dakota), disclosure is allowed, but agencies that maintain the information have discretion about whether to grant or deny access. (The Connecticut law applies to recordings made on or before May 7, 2014.) Two states (North Carolina and Virginia) specify that 911 tapes are public records (though in the former, the portions revealing a caller's identity are not). And in South Dakota, the tapes are available if a law enforcement agency or court determines that the public interest in disclosure outweighs the nondisclosure interest.

Table 2 (continued)

Of the seven states that directly address 911 transcripts, five specify that information, other than personally identifying information, must or may be disclosed. Two others (South Dakota and Pennsylvania) specify that the information is available if a law enforcement agency or court determines that the public interest in disclosure outweighs the nondisclosure interest.

Table 3: State Statutes that Directly Address Disclosure of 911 Tapes or Transcripts

| State (citation) | Direct Limitations on Disclosures: 911 Tapes | Direct Limitations on Disclosures: 911 Transcripts |
|---|---|---|
| <p>Alabama (Ala. Code § 11-98-12)</p> | <p>May be released only:</p> <ul style="list-style-type: none"> • to law enforcement personnel conducting an investigation where the call is or may be relevant; • to the 911 caller, his or her representative, or his or her estate in certain circumstances, upon verification of the requester's identity and that the recording is pertinent to the investigation of a legal matter resulting from the events necessitating the call; or • when a court finds that the right of the public to the release of the recording outweighs the privacy interests of the individual who made the 911 call or any person involved in the facts or circumstances relating to the call. | <p>Not addressed</p> |

Table 3 (continued)

| State (citation) | Direct Limitations on Disclosures: 911 Tapes | Direct Limitations on Disclosures: 911 Transcripts |
|---|---|---|
| <p>Connecticut (PA 13-311, § 3)</p> | <p>For recordings made on or before May 7, 2014, law enforcement agencies are not required to disclose the portion of a recording where the individual speaking on the recording describes the condition of a homicide victim, but this does not apply to a recording that consists of an emergency 911 call or other call for assistance made by a member of the public to a law enforcement agency.</p> | <p>Not addressed</p> |
| <p>Georgia (Ga. Code § 50-18-72 (a)(16))</p> | <p>Except for requests by an accused or his or her attorney, not required to disclose.</p> <p>911 records containing information that would reveal the caller's identity (e.g., name, address, or telephone number) and information may be redacted to protect confidential sources, avoid danger to someone's life or safety, and avoid disclosing surveillance or an investigation.</p> | <p>Not addressed</p> |

Table 3 (continued)

| State (citation) | Direct Limitations on Disclosures: 911 Tapes | Direct Limitations on Disclosures: 911 Transcripts |
|--|---|--|
| <p>Maine (Me. Rev. Stat.. Tit. 25 § 2929)</p> | <p>Disclosure prohibited except to:</p> <ul style="list-style-type: none"> • people within the 911 system to implement and manage the system, • law enforcement officers and agencies for criminal investigations related to a 911 call, • certain designated people for system maintenance and quality control, and • others under a court order finding good cause for disclosure. <p>Personally identifying information and personal medical information may also be withheld.</p> | <p>Public information contained in a 911 call must be disclosed in the form of a transcript.</p> <p>Personally identifying information is confidential and must be excluded from the transcript, except that a public safety answering point may disclose it to:</p> <ul style="list-style-type: none"> • people within the 911 system to implement and manage the system, • law enforcement officers and agencies for criminal investigations related to a 911 call, and • certain designated people for system maintenance and quality control. |
| <p>Minnesota (Minn. Stat. § 13.10 and .82)</p> | <p>Available only to the person making the call or, if concerning a decedent, the decedent's representative.</p> <p>Data about decedents becomes public 10 years after the person's death and 30 years after the data's creation.</p> | <p>A written transcript of a 911 audio recording is public, unless it reveals the identity of an individual otherwise protected by law.</p> |
| <p>Mississippi (Miss. Code § 19-5-319(2))</p> | <p>Available only:</p> <ul style="list-style-type: none"> • to emergency services agencies or • under a court order or subpoena. | <p>Not addressed</p> |

Table 3 (continued)

| State (citation) | Direct Limitations on Disclosures: 911 Tapes | Direct Limitations on Disclosures: 911 Transcripts |
|--|--|--|
| <p>Missouri (Mo. Rev. Stat §§ 610.100 and 610.150)</p> | <p>Available only to:</p> <ul style="list-style-type: none"> • law enforcement agencies or the Division of Workers' Compensation , • anyone under a court order authorizing disclosure for good cause , or • a person involved, or whose property was involved, in an incident for a civil claim or defense investigation or to the person's attorney or insurer. <p>Information including the date, time, specific location, and immediate facts and circumstances surrounding an initial crime report is available to the public.</p> | <p>Not addressed</p> |
| <p>New York (N.Y. County Law § 308(4))</p> | <p>Available only to a government agency or body, or a private entity or person providing medical, ambulance, or other emergency services.</p> <p>(This section of the county laws is not applicable to counties wholly contained within a city (i.e., New York City).</p> | <p>Not addressed</p> |
| <p>North Carolina (NC Stat. § 132-1.4 (c))</p> | <p>911 calls are public records, except for contents revealing the caller's natural voice, name, address, phone number, or other identifying information.</p> | <p>To protect a caller's identity, the contents of a 911 call may be released as a written transcript (or altered to protect his or her identity).</p> |

Table 3 (continued)

| State (citation) | Direct Limitations on Disclosures: 911 Tapes | Direct Limitations on Disclosures: 911 Transcripts |
|---|---|--|
| <p>North Dakota (ND Stat. § 57-40.6-07 (4))</p> | <p>A public agency may deny access to 911 audio recordings.</p> <p>A person may listen to, but not copy or record the audio if he or she requests to do so and may ask for a written transcript.</p> <p>Personal information, and the identity, address, and phone number of a person requesting assistance may be redacted before its release.</p> | <p>A person may ask for a written transcript of a 911 audio recording.</p> <p>Personally identifying information of a person requesting assistance may be redacted before its release.</p> |
| <p>Pennsylvania (65 P.S. § 67.708 (18))</p> | <p>Exempt from disclosure and available only if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.</p> | <p>Exempt from disclosure and available only if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.</p> |
| <p>Rhode Island (RI Gen. Laws § 39-21.1-17)</p> | <p>Only under a court order or with written consent of the caller whose voice is recorded or under a court order.</p> | <p>Not addressed</p> |
| <p>South Dakota (SD Code § 1-27-1.5)</p> | <p>In most circumstances, available if the law enforcement agency or a court determines that the public interest in disclosure outweighs the nondisclosure interest.</p> | <p>In most circumstances, available if the law enforcement agency or a court determines that the public interest in disclosure outweighs the nondisclosure interest.</p> |
| <p>Virginia (Va. Code § 2.2-3706(C))</p> | <p>Records of any call for service or other communication to 911 or an equivalent system are public documents.</p> | <p>Not addressed</p> |

Table 3 (continued)

| State (citation) | Direct Limitations on Disclosures: 911 Tapes | Direct Limitations on Disclosures: 911 Transcripts |
|--|--|--|
| <p>West Virginia (W. Va. Code § 24-6-13)</p> | <p>Tapes of calls reporting a crime may be released only under a court order, subpoena, or criminal case discovery or to law enforcement.</p> <p>Tapes of calls for emergency services not reporting a crime are publicly available.</p> | <p>Transcripts of calls reporting a crime are public.</p> <p>Personally identifying information is confidential and must be excluded from the transcript.</p> <p>If confidential information cannot be redacted so as to protect the caller's identity, the agency may decline to provide the transcript. In that case, the requestor may apply to a court of competent jurisdiction for an order to release the transcript.</p> |
| <p>Wyoming (Wyo. Stat. § 16-4-203(d)(x))</p> | <p>Disclosure of information obtained through the 911 system is prohibited except to law enforcement personnel or public agencies for official business, to the person in interest, or under a court order.</p> | <p>Not addressed</p> |

GENERAL DISCLOSURE EXEMPTIONS

While the report identifies statutes that directly address crime scene photographs, autopsy reports, and all types and transcripts, their disclosure may also be limited by provisions in state law that apply to general categories of records. For example, most states exempt from disclosure law enforcement investigatory records. Whether a particular document can be withheld under this exemption in a particular state will depend on the circumstances. In addition, the scope of the investigatory records exception varies among the states. Some of the variations include whether the exemption:

1. is limited to active investigations or prosecutions (such as in Louisiana, La. Rev. Stat. Ann. § 44:19);
2. gives law enforcement agencies discretion to release investigatory records (such as in Mississippi, Miss. Code § 25-61-12) or entirely prohibits their disclosure (such as in Vermont, 1 Vt. Stat. § 317);
or

3. restricts access only when certain factors exist, such as when disclosure would (a) interfere with enforcement proceedings; (b) constitute an unwarranted invasion of a suspect's, defendant's, victim's, or witness's personal privacy; (c) deprive someone of a fair trial; (d) disclose a confidential source or investigative technique; or (e) endanger the life or physical safety of law enforcement personnel (for examples, see laws in Alaska, Idaho, Illinois, and Kansas (Alaska Stat. § 40.25.120, Idaho Code §§ 9-340B(1) and 9-335, 5 ILCS 140 § 7(1), and KSA § 45-221(a)).

Some states also have statutes prohibiting disclosure of a record when disclosure would invade a person's privacy. For example, Hawaii, Illinois, and Kansas prohibit disclosure of records that would constitute a clearly unwarranted invasion of personal privacy, and Kentucky law requires a court order before disclosing a record that would constitute a clearly unwarranted invasion of personal privacy (Haw. Rev. Stat. § 92F-13(3), 5 ILCS 140 § 7 (1)(b), KSA § 45-221(a), and Ky. Rev. Stat. § 61.878(1)(a)).

Other provisions may be relevant to whether these records can be disclosed in some states. For example, Washington prohibits disclosing information revealing a victim's identity, without the victim's authorization, if it would endanger a person's life, safety, or property, and Florida prohibits disclosure of information containing a person's confession until completion of the person's criminal case (RCW § 42.56.240 and Fl. Stat. § 119.07).

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