

## New Effort to Restrict Access to 911 Calls in North

### Digital Media and Data Privacy Law Blog

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As the 2011 session of North Carolina's General Assembly kicks off this week, we see the first (and likely not the last) salvo seeking to curtail access to public records in North Carolina.

Representatives of the Durham Police Department have persuaded the N.C. Association of County Commissioners to lobby the legislature to revise North Carolina's Public Records Act so that it no longer provides unfettered access to 911 tapes. Instead, police departments would have to provide only written transcripts of recordings or recordings that obscure or distort the caller's voice.

As currently drafted, N.C. Gen. Stat. s. 132-1.4(c)(4) specifically provides for access to 911 recordings, stating that the following "shall be public records":

The contents of "911" and other emergency telephone calls received by or on behalf of public law enforcement agencies, except for such contents that reveal the name, address, telephone number, or other information that may identify the caller, victim, or witness.

Such tapes offer an important newsgathering source for media organizations, not just with respect to criminal conduct and emergency events but also with respect to the performance of 911 call operators.

The motivation for seeking a change in this law is apparently a particular instance in which a 911 call was aired on television, and the caller was recognized by voice and subsequently stopped cooperating with Durham police after being threatened. The problem with this approach to lawmaking is that it would have access to 911 records for everyone turn on the peculiarities of an exceptional circumstance. We've seen this same sort of argument made before with respect to autopsy records, and we've reported on similar rationales given for restricting access to 911 calls in other jurisdictions. These arguments allow the tail to wag the dog when it comes to access to government records.

The argument in this particular case also ignores the presence of a safety valve. In this case, if a police department truly felt that a cooperating witness would be placed in harm's way if a 911 recording were made available, the department could seek a court order under N.C. Gen. Stat. s. 132-1.4(e) to restrict access to the recording and to permit the department instead to provide a written transcript of the call. Thus, the law as currently written has a mechanism for addressing the

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truly exception situations in which the Durham police department's concern is triggered, while preserving unrestricted access in the vast majority of cases in which that concern does not arise. The General Assembly should retain this sensible approach.