

# Handling 911 Transcript Requests

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# The Name of the Victim

**Act 2022-363 amended Ala. Code § 11-98-12 regarding 911 call recordings and transcripts.**

One significant change under this act is that an emergency communications district (ECD) may not release the **name of a victim**, except pursuant to a court order or to law enforcement personnel conducting an investigation.

# Audio Recordings

An ECD must retain a recording of each 911 call received by the district for **2 years following the date of the call**. Upon request of an agency conducting a criminal investigation or an attorney conducting a civil investigation, the district must retain the recording for **an additional 2 years**. After that 2- or 4-year period, the ECD may dispose of the recording.

# Audio Recordings

An ECD may only release the **audio recording of a 911 call** under the following circumstances:

- There is a **court order** finding that the right of the public to the release of the recording outweighs the privacy interests of the individual, the victim, or any person involved in the facts or circumstances relating to the 911 call.

# Audio Recordings

An ECD may only release the audio recording of a 911 call under the following circumstances:

(continued)

- The requestor is a member of **law enforcement personnel** conducting an investigation where the 911 call is or may be relevant to the investigation.

# Audio Recordings

An ECD may only release the audio recording of a 911 call under the following circumstances:

(continued)

- The requestor is **the caller whose voice is on the recording** or, in the event that the caller is deceased or incapacitated, to **the legal representative of the caller or the caller's estate.**

# Audio Recordings

Where the requestor is **the caller whose voice is on the recording** or, in the event that the caller is deceased or incapacitated, to **the legal representative of the caller or the caller's estate**, the requestor must submit a sworn affidavit—with enough specificity for the emergency communications district director to verify the statements—that includes the following information:

- 1) That the person signing the affidavit is the caller, or that the caller is deceased or incapacitated and the person signing the affidavit is the legal representative of the caller or the caller's estate.
- 2) That release of the 911 audio recording is pertinent to the investigation of a legal matter resulting from the events necessitating the making of the 911 call at issue.

# Other Written or Electronic Records

Any written or electronic record detailing the circumstances, response, or other events related to a 911 call, **other than the audio recording of the 911 call**, which is kept by the ECD in its **regular course of business** is a public writing subject to the Open Records Law.



# 911 Recording Transcripts

A person who is entitled to access the records under the Open Records Law may request a transcript of a specific 911 call that is kept by the ECD in its regular course of business. However, the requestor must pay a reasonable fee not to exceed the actual cost of the transcription.

# 911 Recording Transcripts

The request for a 911 transcript must identify the 911 transcript with enough specificity that the ECD can identify that individual call from others that may have been received during the same time period or from others involving similar circumstances.

# 911 Recording Transcripts

Before releasing the transcript, the ECD may redact the name, address, and telephone number of the caller or any person involved in the facts or circumstances relating to the 911 call, as well as any other personal identifying or sensitive information. After receiving the transcript, the requestor becomes responsible for the transcript. In other words, the ECD is not liable for what happens with the transcript after it gets into the requestor's hands.



# Reviewing the New Laws Impacting 911 Board Meetings

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# Alabama's Open Meetings Law: Electronic Meetings

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# Electronic Meetings

Act 2022-421 authorizes counties, municipalities, and entities established or appointed by counties or municipalities to allow **electronic participation in meetings** under very specific circumstances.

# Electronic Meetings

Under this act, a member of one of these governmental bodies who is unable to be physically present at the meeting **due to illness** may participate in a meeting electronically if the following requirements are met:

- The governing body has adopted an **Electronic Meeting Policy** at least **45 days before the first meeting** at which the electronic means of communication will be used.

# Electronic Meetings

- The electronic meeting policy provides details on the following matters:
  - The communications equipment and procedures to be used;
  - How the public may access the meeting; and
  - How voting will be conducted.



# Electronic Meetings

- The communications equipment allows all participants to hear one another at the same time.
- The member who is participating remotely is unable to be physically present at the meeting due to illness.
- At the time of the meeting, a quorum of members are physically present at the meeting location.

# Electronic Meetings

- At the physical location of the meeting, interested members of the public are able to hear the members who are participating electronically.
- Any vote taken at the meeting is taken as a roll call vote that allows each member to vote individually in a manner audible to all persons who are participating or present.

# Electronic Meetings

If a County Commission wishes to “opt in” to electronic participation in meetings as authorized by this act, the county commission should consider adopting an Electronic Meetings Policy.

# Act 2022-387

# 911 Services

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# Act 2022-387

Act 2022-387 added definitions for:

- **Call or 911 Call** Ala. Code § 11-98-1(2).
- **First Responder** Ala. Code § 11-98-1(12).
- **Public Safety Answering Point or PSAP**  
Ala. Code § 11-98-1(16).
- **Public Safety Telecommunicator**  
Ala. Code § 11-98-1(17).

# Act 2022-387

Act 2022-387 changed “**Public Safety Agency**” to “**Emergency Service Provider**” and revised the definition as follows:

An agency of the State of Alabama, or a political subdivision thereof, that provides fire fighting, rescue, natural or man-caused disaster, or major emergency response, public safety telecommunication and dispatch, law enforcement, ambulance, or emergency medical services. The term also includes private ambulance services.

*Ala. Code § 11-98-1(9).*

# Act 2022-387

Act 2022-387 authorizes the 911 Board to establish a certification program to train and certify public safety telecommunicators hired after June 30, 2022.

A newly hired employee has 180 days to be enrolled in the certification process but shall be allowed to perform the duties of a public safety telecommunicator without certification until the expiration of a 180-day period.

# Act 2022-387

Act 2022-387 requires a 911 operator to remain on the call until the operator has connected the person with the appropriate provider of emergency services.



# Alabama's Open Meetings Law: Executive Sessions

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# What is an Executive Session?

*Ala. Code § 36-25A-2(2)* defines “executive session” as:

That portion of a meeting of a subcommittee, committee, or full governmental body from which the public is excluded for **one or more reasons** prescribed in *Ala. Code § 36-25A-7(a)*.

# When can an Executive Session be Convened?

An executive session can only be convened during a meeting **in which notice of the meeting has been properly given** as required by law.

# How is Executive Session Convened?

1. Noticed Meeting Called to Order
2. Motion to Convene
3. Recorded Vote
4. Statement of Applicability
5. Statement on Reconvening “Open” Portion of the Meeting

# How is Executive Session Convened?

## 4. Statement of Applicability

1. Pending or Threatened Litigation

2. Criminal Investigations or Revealing Undercover Agents

3. Matters of Commerce or Trade

4. Public Employee Negotiation Strategy



# Who can Participate in an Executive Session?

With a few exceptions, the Open Meetings Law does not directly address who can be present during an executive session.

- Where the discussion involves pending or threatened litigation, the attorney representing the governmental body in the legal matter at issue must be present.

# How Does the Governmental Body Conduct Itself During the Executive Session?

With the one limited exception related to administrative hearings, **no deliberation and no votes** can occur during the executive session. The executive session is for **discussion and information-gathering purposes only**, and must be concluded before the body begins to deliberate or make decisions about its course of action.

It is important to understand the difference between **“discussion”** and **“deliberation”** to understand what conduct is appropriate in an executive session.

# Terminating Executive Session

When the discussion authorized to be held in executive session has concluded and the body is ready to debate or vote on the issue, or to table any action, the executive session must be adjourned.



# How Can Liability Be Avoided?

There are several ways that a member of a governmental body can be sued and/or fined for violating the executive session provisions of the law. Some examples include:

- Voting to go into executive session and remaining in the executive session during a discussion on a subject not included in the motion to convene the executive session.
- Intentionally violating the prohibition against deliberation or voting during the executive session.

# How Can Liability Be Avoided?

There are several ways that a member of a governmental body can be sued and/or fined for violating the executive session provisions of the law. Some examples include:

- Intentionally participating in an executive session on a subject for which there is no authority to convene an executive session.
- Failing to follow the proper procedures for convening an executive session.

# How Can Liability Be Avoided?

To protect against being sued or having to pay a fine for violating the Open Meetings Law, each member of the body must carefully consider each of the following:

- Whether or not to vote for the body to convene an executive session;
- Whether or not to participate in an executive session; and,
- Whether or not to remain in the executive session once convened.

# How Can Liability Be Avoided?

Each member of a governmental body who remains in attendance at an alleged “illegal” meeting shall be named in a lawsuit filed over the alleged violation.

- If a member believes that the governmental body is intentionally violating the law with regard to executive sessions, such as by deliberating or voting in an executive session, he or she should leave the meeting.

# What are the Purposes for Executive Session?

1. General Reputation and Character
2. Employee Disciplinary Matters
3. ***Pending or Threatened Litigation and Mediation/Arbitration***
4. Security Matters
5. ***Criminal Investigations***



# What are the Purposes for Executive Session?(continued)

6. Purchase or Sale of Property
7. ***Matters of Commerce or Trade***
8. ***Public Employee Negotiations Strategy***
9. Administrative Hearing Matters

# What are the Purposes for Executive Session?

## 1. General Reputation and Character

A governmental body may convene an executive session to discuss:

- The general reputation and character of an individual;
- The physical condition of an individual;
- The professional competence of an individual;
- The mental health of an individual; or
- The job performance of a public employee who is **not** required by Alabama law to file a Statement of Economic Interests.

# What are the Purposes for Executive Session?

## 2. Employee Disciplinary Matters

When expressly allowed by federal or state law, a governmental body may convene an executive session to consider the discipline or dismissal of, or to hear formal written complaints or charges brought against:

- A public employee;
- A student at a public school or college; or
- An individual, corporation, partnership, or other legal entity subject to the regulation of the governmental body.



# What are the Purposes for Executive Session?

## 3. *Pending or Threatened Litigation and Mediation/Arbitration*

A governmental body may convene an executive session:

- To discuss with their attorney the legal ramifications and options regarding pending litigation;
- To discuss with their attorney controversies where litigation is imminently likely if the body pursues a proposed course of action; or
- To meet or confer with a mediator or arbitrator regarding any litigation or decision concerning matters within the jurisdiction of the governmental body involving another party, group, or body.



# What are the Purposes for Executive Session?

## 4. Security Matters

A governmental body may convene an executive session to discuss each of the following security matters **if public disclosure could reasonably be expected to be detrimental to public safety or welfare:**

- Security plans, procedures, assessments, measures, or systems;
- The security or safety of persons, structures, facilities, or other infrastructures; or
- Critical energy infrastructure information, as defined by federal law.

# What are the Purposes for Executive Session?

## 5. *Criminal Investigations*

A governmental body may convene an executive session related to criminal investigations under the following circumstances:

- To discuss information that would disclose the identity of an undercover law enforcement agent or informer;
- To discuss a criminal investigation of someone who is not a public official where there are allegations or charges of specific criminal misconduct; or
- To discuss whether or not to file a criminal complaint.



# What are the Purposes for Executive Session?

## 6. Purchase or Sale of Property

A governmental body may convene an executive session to discuss the **consideration** the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property.

The law states that, “the material terms of any contract to purchase, exchange, or lease real property shall be disclosed in the public portion of a meeting prior to the execution of the contract.”

# What are the Purposes for Executive Session?

## 7. *Matters of Commerce or Trade*

A governmental body may convene an executive session to discuss “preliminary negotiations” involving matters of trade or commerce where the governmental body is in competition with private individuals or entities or other governmental bodies in Alabama, in other states, or in foreign nations. The law does not define “preliminary negotiations.”

# What are the Purposes for Executive Session?

## 8. *Public Employee Negotiations Strategy*

A governmental body may convene an executive session to discuss strategy in preparation for negotiations between the governmental body and a group of public employees.

# What are the Purposes for Executive Session?

## 9. Administrative Hearing Matters

If the governmental body is acting as a “quasi-judicial body,” the body may convene an executive session to deliberate and discuss evidence or testimony presented during a public or contested case hearing, provided that the body either:

- Votes upon its decision in an open meeting or
- Issues a written decision which may be appealed to a body which has the authority to conduct a hearing or appeal which is open to the public

# Questions?



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