

Judge Orders Release of Exterior Video Recordings in Parkland School Shooting

By Jon M. Philipson

Responding to a petition by twelve media companies, a Florida judge ordered the release of the video recordings showing Broward County Sheriff Deputy Scot Peterson remaining outside the building during the mass shooting at Marjory Stoneman Douglas High school.

On Wednesday, February 14, 2018, Parkland, once designated Florida's safest city, was forever changed, as were the lives of the students, teachers, and families of Marjory Stoneman Douglas High School, when former student Nikolas Cruz arrived in an Uber. Cruz pulled a fire alarm, forcing students out of their classrooms in Building 12, and then proceeded to shoot and kill 17 people (teachers and students) with an AR-15 rifle while wounding many others in the hallways of a school whose motto was "be positive, be passionate, and be proud to be an eagle." Students rushed to capture the scene on social media networks, as they alerted anyone they could for help. After the six minutes of horror, Cruz blended in with the students evacuating the school. Later that day, Cruz was arrested and charged with seventeen counts of first degree murder.

A week later, Broward County's Sheriff Scott Israel held a press conference to provide "information the public needed to know." That information was that not only did exterior video footage exist from the mass shooting, but that also an armed Broward County Sheriff's Office deputy assigned to the school "was absolutely on campus through this entire [horrific] event. The deputy was armed, he was in uniform" and "remained outside for upwards of four minutes," while families lost fathers, sons, and daughters, and a community lost its innocence.

At the press conference, Sheriff Israel announced that these video recordings might never be released. When a coalition of news media parties requested the video recordings, the Sheriff's Office and the Broward County School Board rejected the request, citing three exemptions to Florida's broad public records law: (a) a security system plan (Fla. Stat. § 119.071(3)); (b) an active criminal investigative information (Fla. Stat. 119.071(2)(c)1), and (c) an active internal affairs investigation of Deputy Scot Peterson (Fla. Stat. §112.533(2)(a)).

On March 1, 2018, 12 news organizations (CNN, ABC, Associated Press, Miami Herald, South Florida Sun-Sentinel, Los Angeles Times, Gannett, the Florida First Amendment Foundation, the Florida Press Association, Los Angeles Times, The New York Times, Orlando Sentinel and Bradenton Herald) filed a petition for the release of the video, arguing the exemptions were inapplicable and that good cause existed for their release.

On March 7, 2018, the Honorable Jeffrey R. Levenson held a hearing on the petition, hearing arguments from the news organizations, the Sheriff's Office, the School Board, and the State Attorney's Office.

Responding to a petition by 12 media companies, a Florida judge ordered the release of the video recordings showing Broward County Sheriff Deputy Scot Peterson remaining outside the building during the mass shooting.

On March 12, 2018, after conducting an *in camera* review of the video recordings, Judge Levenson ordered the videos to be released, citing three fundamental reasons:

First, Judge Levenson found a lack of evidence that release of these specific recordings would impede an ongoing investigation.

Nikolas Cruz has been charged with 17 counts of murder in the mass shooting. However, Judge Levenson found the videos did not directly relate to the case against Cruz.

Second, the Court found that the recordings did not reveal significant information relating to the school's security system. In making this decision, the Court balanced the public's right to be informed regarding the perceived actions of the armed school resource officer against the potential harm to the current security system. The Court determined that any harm was outweighed by the strong public interest in disclosure.

Third, although the Sheriff's Office cited a Florida Public Records Act exemption concerning the records of an internal affairs investigation, the Court found that law was not a sufficient reason to keep the video confidential, because the sheriff's deputy stationed at the school – Scot Peterson – had resigned.

The video was released on Thursday, March 15, 2018.

The petitioners were represented by Dana J. McElroy, Jon M. Philipson, Carol J. LoCicero, and James J. McGuire of Thomas & LoCicero PL.



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