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## Family of Ben Lane, seeking answers four years after his death, sues Nashville police



**Evan Mealins**

Nashville Tennessean

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An attorney for the family of Ben Lane, the Vanderbilt University data scientist who was shot and killed in a shocking attack in East Nashville in August 2020, has filed an open records lawsuit against Nashville police because the family says they received nearly no information about his killing for more than four years.

As of Dec. 3, police have not made any arrests and have no active leads, and the case is currently in the Metro Nashville Police Department's nine-person cold case unit along with more than 500 other cases.

The Lane family, desperate for closure, went to great lengths to understand the case, including hiring private investigators. Their attorney Lance Baker says police have refused to look into the investigators' leads and denied their records requests.

Nashville police, through the city's legal department, assert they are legally justified in withholding records in the case because there is an "ongoing criminal investigation." Releasing too much information could potentially taint a future jury pool or make witnesses less likely to come forward, a sergeant said. Additionally, MNPD spokesperson Kristin Mumford said detectives are "always willing to speak with victims' families" about cases and any possible updates.

But without access to the case records, the family can't shake the feeling they aren't being given the whole truth.

"I'm not accusing them (police) of anything, but I just can't dismiss that thought of, maybe they just don't really want to get to the bottom of this that much," Bill Lane, the older brother

of Ben Lane, said in an interview. “Now, I don't know, I have no evidence of that, but you can't dismiss that thought either.”

After a Dec. 3 court hearing, Chancellor Patricia Head Moskal will soon decide whether all, some or none of the records in the case file will be made publicly available.

## **A haunting phone call**

Wendy Lane is a doctor. Until 2020, she never kept her phone on silent.

The night of Aug. 11 that year, more than 300 miles from her Asheville, North Carolina, home, her son Ben Lane was shot. He'd been putting together porch furniture outside his house in the Porter Heights neighborhood of Nashville when his girlfriend heard a shotgun blast and saw him fall to the ground.

His girlfriend called his sister, who called his mother, Wendy Lane, in hysterics.

Wendy Lane then called Vanderbilt University Medical Center, where he'd been taken by ambulance.

“The nurse answered. I said, ‘I'm calling — I'm Ben Lane's mother. I'm trying to call about his status,’” Wendy Lane remembered. “She said, ‘Oh, he was lifeless when they brought him in.’”

Wendy Lane turned to her husband, Ronald Lane, and told him his son was dead.

Ronald Lane fell to the floor crying. Thinking back, Wendy Lane had never seen him cry before that day, and every time he's cried since, it's been over Ben.

Now she lets calls go through at night and checks them in the morning.

“I can't bear the sound of a phone ringing at night,” Wendy Lane said.

## **Not seeing much progress, Lanes hire their own investigators**

The shooting seemed random to his family. Ben Lane — a friendly, kind and funny man — “had no enemies,” his mother said. Positive remembrances of the 30-year-old victim appeared on social media and in news outlets across the city, including in the pages of the Vanderbilt Hustler.

“He was just a kind, funny, very compassionate, friendly person,” Wendy Lane said. “You just can't understand why things like this would happen to somebody so good.”

Police initially said they suspected the shooting was targeted. But aside from a request for assistance identifying the owner of a Kia Sportage connected with the shooting that police put out a month after, nearly no other information has been released.

Det. Mike Windsor, who initially handled the investigation, emailed Wendy Lane in May 2023 that he "truly regret(s) that you and your family have not received the closure you deserve" and that he had tried "during the most active stages of the investigation to provide detailed emails concerning the investigation."

Wendy Lane was in contact with MNPd detectives as the investigation went on, but they rarely had updates, she said.

Upset at what seemed like a lack of progress, the Lane family eventually hired private investigators to look into the case. In January 2023, MNPd officially moved the Ben Lane investigation to its cold case unit — where unsolved homicides without any viable leads go after about 36 months, according to Sgt. Robert Nielsen, who oversees the unit.

## **The case is cold but still open, MNPd says**

In May 2023, one of the Lane family's private investigators, Robert Songer of Knoxville, emailed Nielsen requesting information and records from the shooting. Because it was a cold case and the department wasn't actively going after a suspect, Songer reasoned that police would be able to release more details.

"Being retired Law Enforcement I understand rules of evidence and the difference between a cold case and active case," Songer wrote in an email attached in court records. "If your department can assist please feel free to give me a call so we can schedule some time and maybe share some details."

Nielsen wrote back that while the investigation was cold, it was still "technically open."

"Therefore what I can say or release is limited as I am sure you understand," Nielsen wrote. "I explained to Ms. Lane that I have to look at it but there is a significant chance that some or nothing at all might be released due to the nature of the case."

How police have treated records in this case has not been different from most other unsolved crimes. In Nashville, cold cases are considered open investigations "basically in perpetuity," undefined, Metro Legal Attorney Cate Pham said at the Dec. 3 hearing. Under state law, law enforcement records do not have to be made public when they're related to "open, pending,

or contemplated criminal cases." That said, in most cases there are no laws stopping police from releasing records.

The lawsuit was filed Sept. 3 in Davidson County Chancery Court. The Lane family is not listed as the petitioner because the Tennessee Public Records Act is limited to Tennessee residents.

## **Attorney doesn't want to take police's 'word for it'**

The open criminal case exemption to Tennessee's public records law is very common in public disclosure laws across the country and exists for good reason, according to Kevin Goldberg, the First Amendment specialist at the Freedom Forum.

Goldberg agrees the reasons for not releasing records in pending criminal cases are often legitimate, but he also said police or other government officials can use this exemption inappropriately to shield information from the public.

"This exemption tends to be exploited by government officials who want to withhold that data," Goldberg said.

Baker argues that is what MNPD is doing.

"Simply having an employee or a 'Cold Case Unit' available to review an unsolved crime file every year or so should not permit Metro Police to withhold investigative files from the public by characterizing the case as an 'open' investigation, when, in truth, all factual barometers reveal that it is not," the lawsuit reads.

Nielsen in an affidavit acknowledged that "there is no definitive timeline for when this case will be reviewed due to the Unit's limited resources" but said "the investigation is active and ongoing."

Baker said at the court hearing he believes police should have to provide evidence they are actually actively investigating a case.

"I've got to say, I don't want to take their word for it," he said. "I don't think petitioners and families should just have to take their word for it."

## **How releasing cold case information could help or hurt an investigation**

MNPD denied the request for several records related to Ben Lane's killing in one fell swoop, including for records Baker argues should be disclosed no matter the status of an investigation, records created in the "ordinary course of business."

Goldberg said when police refuse a public records request because they are investigating a case, they often take an "all-or-nothing approach" and deny all the records, even if that's not justified.

"In reality, they're supposed to redact individual pieces of information, but release what they can," Goldberg said.

Doing so might even be in the best interest of the investigation.

"While there are reasons to protect and withhold information relating to law enforcement investigations, there are many reasons to release it as well," Goldberg said. "And one of those would be to perhaps take a cold case and heat it up a little bit — you know, get the public involved and try to uncover new leads if you can on something that people haven't thought about in a while."

But Pham, the Metro attorney, argued releasing information can harm future prosecutions.

"I think what we know here is the victim's family, and understandably so, wants to find out who did this and bring them to justice, but that is the job of law enforcement," Pham said.

**More:** Nashville Police launch new website chronicling cold homicide, missing persons cases

### **'The more withholding there is, the less trust there will be'**

Bill Lane was the big brother. He was three years older than Ben, and he was always the serious one.

They were close growing up. They did things together, from competitive gymnastics to exploring the woods.

As they became adults and started careers, Bill moved to California to work in the tech industry. They caught up during yearly family vacations where they would reflect on their childhoods and shared memories.

Since Ben's death, he has no one to share those memories with, Bill Lane said. "And that's painful."

Wendy Lane said closure would make Ben's death easier to deal with. But she says she feels that "we have had none of that, nor any attempt," from the undisclosed records, to what she and her attorney describe as MNPDP's refusal to examine the leads their private investigators have come up with.

It's caused her to lose trust in the justice system and become suspicious of what happened after Ben Lane's death.

Goldberg said people naturally become distrustful of groups "operating in secrecy."

"The more withholding there is, the less trust there will be," he said.

*Evan Mealins is the justice reporter for The Tennessean. Contact him at [emealins@gannett.com](mailto:emealins@gannett.com).*