

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing **PETITION FOR WRIT OF MANDAMUS**

was mailed via regular U.S. Mail, postage pre-paid, on this day, \_\_\_\_\_, 2024, to the following

Respondents:

FRANKLIN COUNTY PROSECUTOR'S  
OFFICE  
373 South High Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215

FRANKLIN COUNTY SHERIFFS  
DEPARTMENT  
410 South High Street  
Columbus, Ohio 43215

THE CITY OF COLUMBUS, DIVISION  
OF POLICE  
120 Marconi Boulevard  
Columbus, Ohio 43215

  
\_\_\_\_\_  
John Hambel, Relator

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# I. FACTS ON WHICH CLAIM OF RELIEF IS BASED

## A. Initial Requests.

1. On May 24, 2021, Relator, through regular US Mail, sent identical public information requests to all three Respondents, the Franklin County Prosecutor's Office (FCPO), the Franklin County Sheriff's Department (FCSD), and the City of Columbus, Division of Police, a.k.a. the Columbus Police Department (CPD), requesting the following records:

1. Exhibits that were used in the trial for case #02-CR-1153.
  - a. The first group of exhibits I am requesting are photographs made of the parking lot at a nightclub known at the time as "Dockside Dolls" located at 2210 East Dublin-Granville Road, Columbus, Ohio. These were marked at trial as exhibits P-1 through P-34. These photographs have to be printed so that the details are just as visible as they were at trial. Simple black and white grainy photocopies are not sufficient.
  - b. The second set of exhibits I am requesting are a set of two diagrams, marked exhibits V-1 and V-3, of the same parking lot listed in (a) above. Exhibit V-1 was large, but I need an accurate copy of it.
  - c. Lastly, from this trial, I need exhibits W-4 through W-8, all which are forms used by the crime scene search unit.
2. The ballistics report from a gun associated with case #02-CR-1153. The gun was a Colt .45 M1991A1 Compact with a 3.5-inch barrel. I believe the serial number was CP29695. It was recovered from the parking lot at 1312 South High Street, on the corner of South High and East Moler, known at the time as "Big Mike's Palace," in Columbus, Ohio on February 23, 2002.
3. Any audio or video surveillance recordings, surreptitious or otherwise, and any transcripts or summaries of such recordings made by the Columbus Police Department or the Franklin County Sheriff's Department at 1312 South High Street, on the corner of South High and East Moler, known at the time as "Big Mike's Palace," in Columbus, Ohio between January 1, 2002 and February 23, 2002.
4. Any statements or summaries of statements made by Riyadh Altalla regarding or related to any of the above cases.
5. The grand jury testimony of Mike Arthurs in any of the above listed cases. (Arthurs was a named codefendant in cases 02-CR-3117 and 02-CR-3118.)

6. The phone records and billing statements listing every phone call made between May 16, 2002 and May 30, 2002 on the phone provided to Ronald Trent by the Franklin County Sheriff's Department, phone number (614)397-9607.
7. Any documentation including but not limited to notes, statements, or summaries relating to Ronald Trent Providing any information to any law enforcement agency or government official including but not limited to the Columbus Police Department, Franklin County Sheriff's Department, the Franklin County Prosecutor's Office, the Chillicothe police department, and any individual working for the Ohio department of Rehabilitation and Corrections.
8. Any personnel records regarding complaints or any misconduct by Franklin County Sheriff's Detective Zach Scott, whether or not related to any of the above entitled cases, during his career in law enforcement.
9. The Franklin County Sheriff's Department policy, and any related policy of any state agency, regarding the procedures for keeping trial witnesses separated when they are housed in the Franklin County jail and a court order that witnesses should have no contact is in effect between January 1 and December 31, 2003.
10. The original unedited audio recordings of conversations between Ronald Trent and other individuals including James Conway, Calvin Horton, and Shawn Nightengale made by the Franklin County Sheriff's Department on May 20, 2002 (there are at least two on this date), May 16, 2002, and May 28, 2002. There were at least 34 similar recordings made between May 16, 2002 and May 28, 2002, but I am looking for all the recordings made on these specific dates.

## B. Initial Responses.

2. The responses to these requests were as follows:

A) In an exchange of emails, CPD indicated they needed some clarity as to Relator's request.

Relator replied via email (Appdx. Exhibit A, p. 13) that he needed to know what information would help clarify his request. CPD offered no information, and instead denied Relator's request as follows (Appdx. Exhibit A, p. 14):

1. Franklin County Prosecutors file, CPD does not have access to these materials.
2. "...searching [] records for [] request with no success. The case numbers [] provided are case numbers for the court system, which are different than those used by the Division of Police. Unfortunately, they are not cross-referenced, so I have been looking by event date and suspect/offender names...I have nothing to release."

3. Same as 2.
4. Same as 1.
5. Same as 1.
6. Franklin County Sheriff's file, CPD does not have access to these materials.
7. Same as 2.
8. Same as 6.
9. Same as 6.
10. Same as 6.

B) The FCSD did not respond to Relator's requests.

C) FCPO mailed a letter dated October 7, 2021, along with a "PR-1 form," (Appdx. Exhibit B, pp. 16-18) with the following responses:

1. ...
  - a. P1 through P34 provided.
  - b. V3 only provided as and enlargement (V1) is unavailable. V3 is the same as V1.
  - c. W4 through W8 provided.
2. Unable to locate a ballistics report for a Colt 45 M1991A1.
3. Two (2) recordings provided.
4. Unable to release this item. Confidential law enforcement investigatory records, 149.43 (A)(1)(h); 149.43(A)(2)(a).
5. Grand jury testimony not provided. Rule 6(E) of the Ohio Rules of Criminal Procedure and *State ex rel. Beacon Journal v. Water*, 67 Ohio St. #d 321.
6. Unable to provide as it concerns a criminal matter which is unresolved.
7. Unable to provide as it concerns a criminal matter which is unresolved.
8. Not a part of this criminal file.
9. Not a part of this criminal file.
10. Unable to provide as it concerns a criminal matter which is unresolved.

### C. Relator's Reply.

3. Relator replied to FCPO by email on January 3, 2022 as follows (Appdx. Exhibit C, pp. 21-22):

1. (No response, request fulfilled.)
2. In form PR-1 you said you were unable to locate the ballistics report requested in #2? The weapon was picked up by Columbus Police on February 23, 2002. If you cannot locate it does

that mean CPD doesn't have it either? Are there any records related to that weapon, such as documentation of it being impounded or destroyed? If such documents exist, are you able to provide?

3. While you did provide a recording (you list it as two records) of Big Mike's Palace on South High per request #3, this recording is only 90 minutes and is of a single conversation. It gives no indication when it was made and doesn't have transcripts. Big Mike's was under surveillance much longer. There should be more recordings and transcripts.
4. Could you provide an explanation as to why request #4 was not fulfilled? It pertains to statements made by Riyad Altalla. Mr. Riyad was a known informant and he was listed as a witness. He was set to testify for the prosecution in case #02CR-1153. The substance of his testimony was made public during the trial. The reason he didn't testify; he went back to Palestine. This was also made public at trial. Could you please provide detail as to why you are saying he was a confidential informant?
5. Request #5 relates to the grand jury testimony of Mike Arthurs. According to form PR01, you state that grand jury testimony is not subject to release. However, Mike Arthur was a named codefendant, so his grand jury testimony should be part of the trial record per the rules of discover, which is public information. Was this testimony made part of the trial record? Does it exist?
6. In your PR-1 form in regards to request #6, #7, and #10 you stated that Calvin J. Horton's (02CR-3118) and Shawn E. Nightingale's (02CR-31190 cases are not resolved. That directly contradicts the Ohio Supreme Court's decision in *Castor v. City of Columbus*, 151 Ohio St.3d 425 (2016), which says that a case is resolved for the purposes of the public records law once a conviction has been obtained. Those two cases are just as resolved as James T. Conway's cases (02CR-1153 and 02CR-3117). Knowing this, could you please provided further detail as to why the request was not fulfilled?
7. (Same as 6 with the following addition.) In regards to request #7, Ronald Trent's work as an informant, you included several statements, but not all of them. And only statements made about the cases listed in the request. The cases above were listed to clarify my request, not limit it. Request #7 is broader than the cases listed. I requested anything regarding information Trent provided to any law enforcement or government official. Trent testified publicly and thus loses his status as a confidential informant. So, any statements he made in any case is public information. He has made statements in a t least a half dozen cases including against Orlando Wilson (robbery case 2000 CRA 032729) and Gary Hall (murder case 2002 CRA 011885). Mr. Hall claims Tent, at Det. Scott's behest, signed an affidavit claiming Hall confessed to him. Hall says at that time he had not spoken with Trent for a couple of years. Should be easy to verify, both were in the jail. I believe your office has a record of all the information Trent has provided over the years and I would like to investigate these cases.

8. Your office didn't provide any information regarding requests #8 and #9 because they were not part of the criminal cases listed. Again, listing those cases were meant to help clarify my request. It was not meant to limit it. Complaints made against Detective Scott or his misconduct in his capacity as a public servant should be public record, and I would like copies of the complaints please.
9. (Same as 8 with the following addition.) ...And the procedures for keeping witnesses separated should qualify as public record as well. I would like copies of them as well please.
10. (Same as 6 with the following addition.) Finally, you sent the recordings I asked for in request #10. The problem is these recordings do not match up with the phone records for the number that was used to record the phone calls, (614) 397-9607. Between any two calls that are recorded, there are several calls listed on the phone records that are not. Some of these calls, according to the phone records you provided, last several minutes and are made to phone numbers of individuals under investigation. Why would these calls not be recorded? And if they were, why were they not provided?

#### D. Final Responses by FCPO.

4. In a letter dated September 19, 2022, FCPO responded to requests #1, #2, #5, #7, #8, and #9 from Relator's January 3, 2022 email. Finally, in an email dated October 12, 2023 along with another PR-1 form dated October 12, 2023, the FCPO responded to the remaining requests from Relator's January 3 email (#3, #4, #6, and #10) (Appdx. Exhibit D, pp. 24-31). These responses are combined here and are as follows:

1. (a) Copies of these exhibits were provided to you on or about 9-3-2021.  
(b) A copy Exhibit V-3 was provided to you on or about 9-3-2021. It is our understanding that Exhibit V-1 is a larger but identical version of Exhibit V-3. We have been unable to locate Exhibit V-1.  
(c) These exhibits were provided to you on or about 9-3-2021.
2. We previously advised that we were unable to locate this report. We have been unable to locate this report in our subsequent review of the files. You may direct your request for this report to the Columbus Police Department.
3. We have located and are providing redacted surveillance logs prepared by Franklin County Sheriff's Office which summarize surveillance of "Big Mike's Palace" and the area of High and Moler in February 2002. Any responsive audio recordings are exempt from release as confidential law enforcement records pursuant to R.C. 149.43(A)(1)(h), (2). Please also note

that our office has no authority over records maintained by the Columbus Division of Police or the Franklin County Sheriff's Office. You may make requests directly to these agencies for such records. (From PR-1 form) The record/information requested: Is not maintained by this office; *Sate ex rel. Hubbard v. Fuerst*, 8<sup>th</sup> Dist. Cuyahoga No. 94799, 2010-Ohio-2489; *State v. ex rel. Cordell v. Paden*, 156 Ohio St.3d 394, 2019-Ohio-1216.

4. These records are exempt from release as confidential law enforcement records pursuant to R.C. 149.43(A)(2)(a) and (b). In addition, this request is overly broad and lacks specificity required under Ohio law. See, e.g., *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122, 2012-Ohio-4228, 976 N.e.2d 861; *Paramount Advantage v. Ohio Dept. O Medicaid*, Ct. of Cl. No. 2021-00262PQ, 2021-ohio-4180. (From PR-1 form)

5. We previously advised you that these records are exempt from release under Rule 6 of the Ohio Rules of Criminal Procedure, as well as the ruling by the Ohio Supreme Court in *State ex rel. Beacon Journal V. Water*, 67 Ohio St.3d 321 (1993). A subsequent review of this request has not changed our position.

Your January 3 2022 email contains a statement regarding your understanding of and application of the rules of discovery and inquires as to whether Mr. Arthur's grand jury testimony was made a part of the trial record in cases nos. 02-CR-3117 and 02-CR-3118. Specifically, statements about the rules of discovery and requests for information do not constitute a public record request requiring a response by tis office. (See, *State ex rel. Fant v. Mengel*, 62 Ohio St.3d 455 (1992)).

6. Our office has no records responsive to this request. Please note that our office has no authority over records maintained by Franklin County Sheriff's Office. You may make requests directly to this agency for such records. (From PR-1 form) The record/information requested: Is not maintained by this office; *Sate ex rel. Hubbard v. Fuerst*, 8<sup>th</sup> Dist. Cuyahoga No. 94799, 2010-Ohio-2489; *State v. ex rel. Cordell v. Paden*, 156 Ohio St.3d 394, 2019-Ohio-1216.

7. We previously advised you that these records were not release as they pertained to a criminal matter which is unresolved. As a result of our subsequent review of this request, we have determined that this request is overly broad and lacking the specificity required by the Supreme Court of Ohio. "Please note that requests for "any and all records..." are overly broad requests for information and fail to provide the specificity required by Ohio Public Records Act. See *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122; See *State ex rel. Thomas v. Ohio State Univ.*, 71 Ohio St.3d 245, 245 (1994). You may revise this request, to specifically reflect the records being sought, and those records will be provided if the records are public records pursuant to RC 149.43.

Additionally, please note that our office has no authority over any records maintained by the Franklin County Sheriff's Office, Columbus Police, Chillicothe Police and/or the Ohio Department of Rehabilitation and Corrections. Our suggestion is that you contact these

agencies directly for a response to your request. Further, if the request in Item 7 were limited to Cases Nos. 02CR 1153, 02CR 3117 and 02CR 3119 such records would be exempt from release under the CLEIR's exceptions to Ohio Public Records Act, pursuant to RC 149.43(A)(1)(h) and RC 149.43(A)(2)(a) and (b).

Finally, your comments in you January 3, 2022 email regarding our earlier response to Item 7 do not constitute a public records request requiring a response by this office. Specifically, requests for information or expressing a desire to investigate a matter do not constitute a public record request (See, *State ex rel. Fant v. Mengel*, 62 Ohio St.3d 455, (1992) and *State ex rel. Fant v. Tober*, 8<sup>th</sup> Dist. Cuyahoga No. 63737, (Apr. 28, 1993), *aff'd*, 68 Ohio St.3d 117 (1993)). Your comment that Ronald Trent has made "statements in at least a half a dozen cases" is not a request for public records request requiring a response by this office. Statements you attribute to Gary Hall are also not a public records request and do not require a response by this office. Your remaining comments regarding a desire to "investigate both Trent and Detective Scott" is not a public record request requiring a response by our this office.

8. We previously advised you that these records were not part of this criminal file. As a result of our subsequent review of this request, we have determined that this request is overly broad and lacking the specificity required by the Supreme Court of Ohio. "Please note that request for "any and all records..." are overly broad requests for information and fail to provide the specific require by Ohio Public Records Act. See *State ex rel. Zidonis v. Columbus Stat Community College*, 133 Ohio St.3d 122; See *State ex rel. Thomas v. Ohio State Univ.*, 71 Ohio St.3d 245, 245 (1994). You may revise this request, to specifically reflect the records being sought, and those records will be provided if the records are public records pursuant to RC 149.43.

Further, our office has no records responsive to this request regarding any history of complaints or misconduct by Detective Scott's. Further. We suggest that you direct your request to the Franklin County Sheriff's Office for response to this request.

9. We previously advised you that these records were not part of this criminal file. As a result of our subsequent review of this request, we have determined that this request is overly broad and lacking the specificity required by the Supreme Court of Ohio. "Please note that request for "any and all records..." are overly broad requests for information and fail to provide the specific require by Ohio Public Records Act. See *State ex rel. Zidonis v. Columbus Stat Community College*, 133 Ohio St.3d 122; See *State ex rel. Thomas v. Ohio State Univ.*, 71 Ohio St.3d 245, 245 (1994). You may revise this request, to specifically reflect the records being sought, and those records will be provided if the records are public records pursuant to RC 149.43.

Moreover, our office has no records responsive to your request relating to any Franklin County Sheriff's Office's policy regarding separation of jailed trial witnesses. Nor do we have

records responsive for such policies for “any other state agency”. We also have no records responsive to your request for a “court order” regarding witness having no contact between January 1 and December 31, 2003. We suggest that you direct your request to the Franklin County Sheriff’s Office for response relating to their policies that may be responsive to your request. We also suggest you direct your request to the Ohio Attorney general concerning any state agencies you believe may have such records. We also suggest you contact the Franklin Country Common Pleas Court or any other court regarding an order that relates to you request.

10. These records are exempt from released as confidential law enforcement records pursuant to R.C. 149.43(A)(1)(h) and R.C. 149.43(A)(2)(a), (d). Please also note that our office has no authority over records maintained by Franklin County Sheriff’s Office. Our may make requests to this agency for such records. (From PR-1 form) The record/information requested: Is not maintained by this office; *Sate ex rel. Hubbard v. Fuerst*, 8<sup>th</sup> Dist. Cuyahoga No. 94799, 2010-Ohio-2489; *State v. ex rel. Cordell v. Paden*, 156 Ohio St.3d 394, 2019-Ohio-1216.
5. Respondents are the parties solely responsible for taking action on Relator’s issue.

## II. DISCUSSION

6. “Mandamus is a writ, issued in the name of the state to an inferior tribunal, a corporation, board, or person, commanding the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station.” R.C. 2731.01. Essentially, Mandamus compels a party legally obligated to perform a task to perform that task. This Court has original jurisdiction in these cases pursuant to Article IV, Section 2(B)(1) of the Ohio Constitution.
7. To be entitled to a writ of mandamus, Relator must establish “by clear and convincing evidence: (A) a clear legal right to the requested relief; (B) a clear legal duty on the part of the respondent to provide it; and (C) the lack of an adequate remedy in the ordinary course of the law.” *State ex rel. Fraley v. Ohio Dep’t of Rehab. & Corr.*, 161 Ohio St. 3d 209, ¶16 (2020).

8. Relator is entitled to receive copies of public records, and made a request for such records, pursuant to the Public Records Act, R.C. 149.43(B). This Court has found that “Mandamus is the appropriate remedy to compel compliance with R.C. 149.43, Ohio’s Public Records Act.” *State ex rel. Caster v. City of Columbus*, 151 Ohio St. 3d 425, 428 (2016). “Mandamus is an appropriate remedy to compel compliance with the Public Records Act, R.C. 149.43, and a relator need not demonstrate the absence of an adequate remedy in the ordinary course of the law.” *State ex rel. Ware v. Parikh*, 172 Ohio St. 3d 49, 52 (2023).
9. Respondents maintain the records that Relator requested, and thus have a clear legal duty to comply with R.C. 149.43 and provide copies of such records to Relator. Of the 10 specific requests made by Relator listed above, Respondents failed to completely comply with all but request #1.
10. Respondents bear the burden of proof when claiming an exemption to R.C. 149.43(A)(1)(h) and (2). See *Welsh-Huggins v. Jefferson Cty. Prosecutor’s Office*, 163 Ohio St. 3d 337, ¶27 (2020). And these exemptions are strictly construed with any doubt resolved in favor of disclosure. *State ex rel. Frank v. Ohio State Univ.*, 161 Ohio St. 3d 112, ¶7 (2020). If the status of a record is disputed, then it must be submitted to the court for *in camera* inspection. *State ex rel. Wallace v. State Med. Bd.*, 89 Ohio St. 3d 431, 437 (2000).

**A. Records Maintained by Franklin County Sheriff’s Office (Request #3, #6, #7, #8, #9 and #10).**

11. In Respondent FCPO’s final responses and second PR-1 form (Appdx. Exhibit D, pp. 24-31) in relation to requests #3, #6, #7, #8, #9 and #10, they stress they have no authority over records maintained by the other two Respondents in this action, CPD and FCSD. CPD responded separately, but FCSD never responded. This should not effect this mandamus action as Relator made the required request

to FCSD. Furthermore, it would be futile for this Court to dismiss the claim as it relates to Respondent FCSD. See *State ex rel. Holwadel v. Hamilton Cnty. Bd. of Elections*, 144 Ohio St. 3d 579, ¶41 (2015).

## **B. Ballistics Report (Request #2.)**

12. In request #2, Relator asked for the ballistics report from a .45 Colt pistol that was confiscated by CPD on February 23, 2002. Both FCPO and CPD claim they were unable to locate these records. At the very least CPD has some evidence that the weapon was impounded. At that time, CPD was investigating a homicide in which a .45 Colt pistol was allegedly used, and the suspect in that case was present at the scene when the .45 Colt pistol that is the subject of the present action was seized. Under these circumstances, it is a relative certainty that a ballistics comparison was done to determine if the impounded .45 Colt pistol was the same pistol used in the homicide, a homicide that resulted in that suspect receiving the death penalty in *State v. Conway*, case #CR02-1153. Apparently, the seized pistol wasn't a match because it was not used as evidence in that case, or any other case known to Relator.
13. Relator requested a copy of this report from all Respondents. FCSD did not respond and FCPO and CPD both claim they were unable to locate the requested ballistics report. This statement lacks credibility for several reasons. To begin with, CPD responded to Relator's entire request within a few weeks and refused an offer of additional information to clarify this request. Besides, what are the chances that at least two agencies happened to misplace the same report and have no record whatsoever of a handgun they impounded? As stated above, it is a relative certainty that a ballistics report was done and that it was part of the FCPO case file for case #02CR-1153. It would have also

been in CPD files. Additionally, that case was a death penalty case that has been active, either in trial or on appeal, since the date the pistol was seized. Which means Respondents would normally have made efforts to preserve the entire file, including the ballistics report in question.

14. Respondents have reason to conceal the ballistics report. Although the seized pistol itself was not used at trial in case #02CR-1153, the box it came in was found in a residence associated with the suspect in that case. The box was labeled as containing a .45 Colt pistol and was used to imply that that suspect was the owner of the .45 Colt pistol that was used in the homicide. An inference the State would have known was misleading given that the ballistics report of the gun that was ascribed to the gun box did not match the ballistics from the homicide.

15. Relator gave Respondents every piece of information known to him in connection with the pistol. On the side of the gun box used in case #02CR-1153 there is a label that reads, "M1991A1, Compact, 3,5" Barrel, .45ACP Matte Blue Finish, Model – 09091." There is also what appears to be a serial number, "CP29695." In addition, Relator offered to supply any information needed to assist in locating this ballistics report. Relator is not familiar with Respondents filing system. So, if there was some information that would have assisted them in locating this ballistics report, they should have conveyed such information to Relator. R.C. 149.43(B)(2) requires the office or person responsible for public records

... to provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

*State ex rel. Zidonis v. Columbus State Cmty. College*, 133 Ohio St. 3d 122, ¶133 (2012).

..."R.C. 149.43 contemplates that the requester and the public-records custodian cooperate in fulfilling a request".

Id. ¶140.

16. Respondent FCPO simply responded they were unable to locate the ballistics report (Appdx. Exhibit B, p. 17). Respondent CPD claimed their case numbers did not match those of the Franklin County Prosecutors Office and they are not cross-referenced (Appdx. Exhibit A, p. 14). This is a pretty incredible statement given that every single felony case investigated by the CPD is charged and pursued by the FCPO. It would be strange if there was no system in place to ensure that evidence collected by Columbus Police in a felony investigation was readily available for use by the FCPO.
17. This Court should issue a writ requiring Respondents make a more thorough search and produce the requested ballistics report or at least some evidence that the gun was seized. Alternatively, Respondent FCPO could concede that they deliberately misled the jury in a death penalty case.

### **C. Audio or Video Recordings from “Big Mike’s Palace.” (Request #3.)**

18. Initially, as stated in Exhibit B, p. 18, Respondent FCPO provided two recordings in answer to request #3. Because it was obvious to Relator that Respondent did not provide all records responsive to this request, he sent an email reply to get the outstanding records Exhibit C, p. 21. In response to which, he was provided with surveillance logs that detail the dates in which surveillance occurred and the times audio and video devices were recording (Appdx. Exhibit E, pp. 33-35). These logs reveal that surveillance of “Big Mike’s Palace” took place on 2/15/02, 2/16/02, 2/20/02, and 2/22/02. The two recordings initially provided were 90 minutes long and took place on the same date, likely 2/16/02.

Surveillance logs provided by Respondent list the following entries related to recordings:

- Saturday, 2/16/02.
  - 2:27am-Video recorder started.
  - 2:30am-Audio cassette recorder started.
  - 3:15am-Audio tape turned over.
  - 4:00am-Audio cassette recorder stopped.

- 4:10am-Surveillance terminated.
- Total audio recording time: 90minutes.
- Total video recording time: 103 minutes.
- Wednesday, 2/20/02.
  - 9:31pm-Video recorder started.
  - 9:32pm-Audio recorder started.
  - 10:19pm-Audio cassette turned over.
  - 10:22pm-Audio surveillance terminated.
  - 10:25pm-Video surveillance terminated.
  - Total audio recording time: 50 minutes.
  - Total video recording time: 54 minutes.
- Friday, 2/22/02.
  - 11:14pm-Video surveillance begin.
  - 11:21pm-Audio recorder started.
  - 12:08am-Audio tape turned over.
  - 1:43am-Audio tape 2 turned over.
  - 2:31am-Audio tape 3 Started.
  - 3:17am-Video tape 3 started.
  - 3:18am-Audio tape 3 flipped over.
  - 4:09am-Last entry (presumably surveillance terminated).
  - Total audio recording time: at least 288 minutes (may be multiple tapes).
  - Total video recording time: at least 295 minutes (may be multiple tapes).

19. Respondent now claimed (Appdx. Exhibit D, p. 30), however, that the remaining recordings were exempt from disclosure as confidential law enforcement records pursuant to R.C. 149.43(A)(1)(h), (2) and that they did not have authority over records maintained by CPD or FCSD.

20. In addition to surveillance of "Big Mike's Palace," FCSD also had an informant in the establishment: it's owner-operator, Riyadh Altalla. Presumably, this is the basis for invoking the R.C. 149.43(A)(1)(h), (2) confidentiality exceptions. A portion of the recordings were already released by Respondent FCPO. Thus, these records are in their possession and to claim otherwise is disingenuous. The confidentiality exception is not available once part of the records are released when the additional

records do not reveal any additional confidential information. Voluntarily disclosing records can waive any right to claim an exemption to disclosure. See *State ex rel. Zuern v. Leis*, 56 Ohio St.3d 20, 22 (1990); *State ex rel. Gannett Satellite Information Network, Inc. v. Petro*, 80 Ohio St.3d 261, 265 (1997); *State ex rel. Cincinnati Enquirer v. Dupuis*, 98 Ohio St. 3d 126, ¶122 (2002); *Narciso v. Powell Police Dep't*, 2018-Ohio-4590, ¶127 (Ct. of Cl).

21. Due to the fact that the records requested were compiled for a trial that took place over twenty years ago, the investigatory-work-product exemption found in R.C. 149.43(A)(2)(c) is not available to Respondent. See *State ex rel. Caster v. City of Columbus*, 151 Ohio St. 3d 425, ¶147 (2016). It is also hard to see how releasing these records would endanger Altalla. The fact that he was an informant has been public knowledge for twenty years (see ¶122 and ¶123 below), and Relator seeks no information regarding his current location. That leaves the confidentiality exceptions in R.C. 149.43(A)(2)(a) and (b). The problem with relying on these is they require a source to be reasonably promised confidentiality. As part of a plea agreement for his own criminal conduct, Altalla agreed to help collect evidence in a homicide investigation and to allow his place of business to be wired for audio and video recording, and then to testify in a public trial regarding this evidence. There cannot possibly be a reasonable promise of confidentiality under such circumstances.
22. Altalla was in fact subpoenaed to testify about his work as a confidential informant at trial in *State v. Conway*, case #02CR-1153 (Appdx. Exhibit F, pp. 38-39), but was never called to the stand. In addition, at that same trial, Assistant Prosecutors Sheryl Prichard and James Lowe elicited testimony from Detective James Gravett that Altalla was an informant for the FCSD.

Q. Do you know who Riyadh Altalla is?

A. Yes, I know who he is.

Q. Who is Riyad?

A. He is an informant with the Franklin County Sheriff's Office.

Q. And did you become – did you work with the Sheriff's Office in part while they were working with Riyad with respect to this investigation?

A. Yes.

(Direct examination of CPD Detective James Gravett by Assistant Prosecutor Sheryl Prichard TT at 1959. Appdx. Exhibit I, page 70.)

Both prosecutors also made statements to the same effect during cross-examination.

Q. Showed up at a bar, Riyad's?

A. Yes.

Q. And you didn't know at that time it was being run by a Franklin County Sheriff Office informant, did you?

A. I mean, didn't think it was at that time, no.

(Cross-examination of James Conway by Assistant Prosecutor Sheryl Prichard, TT at 2313. Appdx. Exhibit G, 43)

Q. ...was at Big Mike's? You mentioned a bunch of people. Was there anybody else there?

A. Riyad, he's the owner of the bar.

Q. Okay. How well do you know Riyad?

A. I just know him from the bar. I mean, I'm not real close friends with him, I was cool with him, I went up there to his bar a few times.

Q. Did you know he was working for the Sheriff's Office?

A. Nope.

(Cross-examination of Jeffrey Conway by Assistant Prosecutor James Lowe, TT at 2160. Appdx. Exhibit H, p. 48)

23. In view of that, not only did Altalla not receive any reasonable assurance of confidentiality, FCPO voluntarily revealed the fact that he was a confidential informant. The burden of proof is on the state; they must identify the precedent that would allow an exemption under these conditions. Furthermore, R.C. 149.43(A)(2) is designed to protect identity, not information. "The exception exists to protect the identity of an uncharged suspect, not to conceal investigatory information about the offense." *Narciso v. Powell Police Dep't*, 2018-Ohio-4590, ¶128 (Ct. of Cl.). Also

see *State ex rel. Toledo Blade Co. v. Telb*, 50 Ohio Misc. 2d 1 at 5 (Lucas Cty. Common Pleas, 1990).

These records were created by FCSD, and they also maintain them in addition to FCPO. Accordingly, this Court should issue a writ of mandamus compelling all Respondents who maintain records responsive to request #3 to comply with R.C. 149.43, and provide the audio and video recordings made at “Big Mike’s Palace” on 2/15/02, 2/16/02, 2/20/02, and 2/22/02.

#### **D. Statements by Riyad Altalla. (Request #4.)**

24. In request #4, Relator asked for copies of any statements made by Riyad Altalla. As made clear in the previous section, Altalla was a FCSD confidential informant, and was subpoenaed in *State v. Conway*, case #02CR-1153, a CPD case. Thus, all Respondents maintain the records responsive to request #4. In response to this request, FCPO claims statements made by Altalla in connection with *State v. Conway*, case #02CR-1153 and *State v. Conway*, case #02CR-3117 should not be subject to release because they are exempt according to R.C. 149.43(A)(1)(h) and (A)(2)(a), and the request is “overly broad” or “ambiguous” citing *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122 (2012); *Paramount Advantage v. Ohio Dept. of Medicaid*, Ct. of Cl. No. 2021-00262PQ, 2021-ohio-4180 (Ct. of Cl.).
25. In their initial PR-1 form (Appdx. Exhibit B, p.18), Respondent did not claim request #4 was overly broad, but instead relied solely on R.C. 149.43(A)(1)(h) and (A)(2)(a). The second PR-1 form (Appdx. Exhibit D, pp. 28 and 30) makes the “overly broad” claim, but the two cases cited in support of this contention in no way support denying Relator’s request. Request #4 was necessarily temporally limited by virtue of the limited duration of the active investigation of the cases referenced in the request. All total about three months. Relator did not request “an entire category of records” or

make a request that identified “correspondents as only belonging to titles, groups, or categories for which research is required to establish membership.” *Paramount Advantage v. Ohio Dep't of Medicaid*, Ct. of Cl. No. 2021-00262PQ, 2021-Ohio-4180, ¶19 and ¶24 (Ct. of Cl.). *Zidonis* deals with a 6-year period of time and requires Respondent to “provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.” *Zidonis* ¶33 quoting R.C. 149.43(B)(2). Respondent FCPO made no “efforts to clarify” Relator’s request, as claimed and required. Also see *State ex rel. Morgan v. Strickland*, 121 Ohio St. 3d 600, ¶18 (2009).

26. Relator does not see what possible clarification he can give: Altalla only worked as an informant for a few months, and could not have made more than a handful of statements related to the above entitled cases. The request in question here is not a “voluminous” request for documents covering multiple years. It is a narrow request for statements from a single individual covering a few months in two criminal cases. If Respondent needed clarification beyond that, they should have informed Relator as to what information was necessary to locate the documents responsive to his request.
27. Respondent FCPO also relies on R.C. 149.43(A)(1)(h) and (A)(2)(a) and (d). As demonstrated in paragraphs 21 through 23 above, incorporated here by reference, Respondents themselves made Altalla’s work as a confidential informant public twenty years ago. The exceptions relied on only protect information to the extent it would reveal a protected individual’s identity. Altalla’s identity has already been revealed and Relator seeks no information on his current whereabouts.
28. This Court should issue a writ of mandamus compelling Respondents to make the records responsive to request #4 available to Relator. Alternatively, the writ should compel Respondents to

detail their system of keeping records so that Relator can more clearly specify the records he would like access to.

**E. Grand Jury Records. (Request #5.)**

29. Mike Arthurs was a witness called by FCPO in three cases *State v. Conway*, case #02CR-1153, a CPD case and *State v. Conway*, case #02CR-3117, and *State v. Horton*, case #02CR-3118, both FCSD cases. In request #5, Relator requested Arthurs grand jury testimony. Because he testified for FCPO, FCSD, and CPD, all Respondents maintain the prior statements of Arthurs, including his grand jury testimony. Arthurs was a codefendant in the latter two cases.
30. Relator agrees, generally, that grand jury testimony is excepted from public records law and that the rules of discovery are separate and independent of the Public Records Act, R.C. 149.43. Relator proposes this general rule should not apply in the narrow case of a criminal codefendant's testimony once that codefendant has testified publicly to the substance of the grand jury testimony. First, it is clear that any records that would otherwise be exempt from the public records law lose this exemption once made public. See *State ex rel. Zuern v. Leis*, 56 Ohio St.3d 20, 22 (1990); *State ex rel. Gannett Satellite Information Network, Inc. v. Petro*, 80 Ohio St.3d 261, 265 (1997); *State ex rel. Cincinnati Enquirer v. Dupuis*, 98 Ohio St. 3d 126, ¶122 (2002); *Narciso v. Powell Police Dep't*, 2018-Ohio-4590, ¶127 (Ct. of Cl.). This would include grand jury testimony. Furthermore, grand jury testimony of a criminal codefendant is discoverable pursuant to Crim.R. 16 (B)(1), and would be used by competent defense counsel during cross-examination. Accordingly, if a codefendant's grand jury testimony was used for some purpose at a public trial, either by the State or defense counsel, it becomes public record.

31. Relator believes this Court should also require release of grand jury testimony that *could have* been made public, but was not for an arbitrary reason unrelated to any specific exception. Exceptions are to be strictly construed and any doubt is resolved in favor of release. *State ex rel. Frank v. Ohio State Univ.*, 161 Ohio St. 3d 112, ¶17 (2020). Moreover, the onus is on the State to show that a specific exception applies. See *Welsh-Huggins v. Jefferson Cty. Prosecutor's Office*, 163 Ohio St. 3d 337, ¶127 (2020). Once the substance of grand jury testimony has been made public under oath at trial, strict scrutiny and preference for release demand that the decision to release records turn on more than the arbitrary decision of defense counsel in using these records. After the justification for the exception is removed, the exception should no longer apply.

32. In the instant case, Relator requested the grand jury testimony of Mike Arthurs, who testified publicly in case #02CR-1153, #02CR-3117, and #02CR-3118. Arthurs' grand jury testimony in these three cases has thus already been substantially released to the public and the public records exception to its release are no longer available. This testimony is in the possession of Respondents and this Court should issue a writ ordering Respondent to provide access to Relator. In the alternative, this Court should examine such testimony *in camera* to determine whether any exceptions or redactions are necessary.

#### **F. Confidential Informant's Phone Records. (Request #6.)**

33. In Respondent FCPO's first PR-1 form (Appdx. Exhibit B, p. 18) they refused to provide records responsive to Relator's request #6 because these records purportedly concerned a criminal matter that was unresolved, apparently invoking the work-product exception, R.C. 149.43(A)(2)(c). This denial is in reference to two criminal cases, *State v. Horton*, #02CR-3118 and *State v. Nightengale*,

#02CR-3119, in which both defendants either pled guilty or were convicted well over twenty years ago. In response, Relator pointed to Ohio Supreme Court precedent, *State ex rel. Caster v. City of Columbus*, 151 Ohio St. 3d 425 (2016) (Appdx. Exhibit C, p. 21) that specifically addresses this issue. To which FCPO responded that they were not in possession of those records (Appdx. Exhibit D, p. 30-31). The records requested are of the phone used by a confidential informant to make calls in the service of FCSD in investigating case #02CR-1153, #02CR-3117, #02CR-3118, and #02CR-3119. It is likely that they were made part of the criminal record in these cases and would thus be in possession of FCPO. However, these records were generated by FCSD, and were part of the request made directly to them. This Court should issue a writ requiring any Respondent in possession of these records to provide copies to Relator.

**G. Documents Relating to Ronald Trent's Work as a Confidential Informant. (Request #7.)**

34. Relator requested any documentation of Ronald Trent's work as a confidential informant. As with request #6, Respondent FCPO initially claimed records requested under request #7 were exempt because they involved a case that was unresolved, again invoking the work-product exception, R.C. 149.43(A)(2)(c) (Appdx. Exhibit B, p. 18). Similar to request #6, Relator pointed to *State ex rel. Caster v. City of Columbus*, 151 Ohio St. 3d 425 (2016) (Appdx. Exhibit C, p. 21), which specifically rejected the notion that the work-product exception survives conviction. In answer, Respondent then claimed Relator's request was overly broad and ambiguous, that FCPO did not possess these records, and if they did, the records would be exempt from release pursuant to RC 149.43(A)(1)(h) and RC 149.43(A)(2)(a) and (b) (Appdx. Exhibit D, pp. 25-26). The confidential informant in question, Ronald Trent, worked directly for FCSD, a named Respondent in this action, and an identical request

for this information was made to them as well. While it borders on absurd that FCPO would not have these records in their possession as part of the criminal file in case #02CR-1153, #02CR-3117, #02CR-3118, and #02CR-3119, surely each agency maintains the records of information provided to their agency. Relator submitted requests for any information provided to any agency, including Respondents, none of which provided them.

35. As far as ambiguity is concerned, Relator did not request “an entire category of records” or make a request that identified “correspondents as only belonging to titles, groups, or categories for which research is required to establish membership.” *Paramount Advantage v. Ohio Dep't of Medicaid*, 2021-Ohio-4180, ¶19 and ¶24 (Ct. of Cl.). Relator focused his request on a single confidential informant, Ronald Trent, and requested Respondents release exactly what information he has provided to specific state agencies, including their own. When it comes to a time range and the total volume of records, that would depend on the period of time and number of cases in which Ronald Trent was used as a confidential informant both in and out of the Franklin County jail. Relator does not have knowledge of how such records are kept and what information Respondents’ would need to comply with his request. Presumably, that is the rationale behind R.C. 149.43(B)(2) and this Court’s decisions in *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122, ¶133 (2012) and *State ex rel. Morgan v. Strickland*, 121 Ohio St. 3d 600, ¶18 (2009). Respondent denied request #7 for being overly broad or ambiguous without giving Relator any information he could use to clarify his request.

36. Furthermore, there is no question that at least one Respondent has the requested information. It seems they contend, through ambiguity, that it would be too difficult or voluminous to gather. All Respondents, FCPO, FCSD, and CPD are large agencies serving a large metropolis and must have a

system in place for tracking individuals who work as confidential informants. That being the case, Relator believes that either a file exists specifically for Trent detailing all the separate cases for which he gave information or there is some cross-referencing system that would enable Respondents to quickly provide the records responsive to request #7. Prosecutors confronted with an individual such as Trent attempting to provide information must have access to documents that give them the ability to determine his credibility and any past information he has provided to avoid being surprised by defense counsel. Such a file or cross-referencing system would make compliance with Relator's request quite simple. Thus, Relator believes Respondents are hiding behind the ambiguity and overly broad exceptions to avoid fulfilling his request.

37. To the extent that files responsive to Relator's request were part of the case file in case #02CR-1153, #02CR-3117, #02CR-3118, and #02CR-3119 this request is clearly narrow and unambiguous. However, Respondent contends that such records would be exempt pursuant to R.C. 149.43(A)(1)(h) and R.C. 149.43(A)(2)(a) and (b). Trent was working off sexual assault charges, and has an in depth knowledge of the legal system. He should have known that by providing evidence in a murder investigation there was a chance that he would have to testify publicly regarding this evidence. He was not given any reasonable assurance of confidentiality. Trent, in fact, gave extensive public testimony in multiple trials regarding his work as a confidential informant for FCSD. See attached Affidavit of John Hambel, paragraph 11. He has probably spent more than a week testifying publicly in pretrial hearings and in at least three trials, *State v. Conway*, case #02CR-1153, *State v. Conway*, #02CR-3117, and *State v. Horton*, #02CR-3118, all of which were death penalty cases receiving wall-to-wall local coverage.

38. There have also been enumerable newspaper accounts and at least two documentaries, one prime time on ABC<sup>1</sup>, detailing Trent's work as a confidential informant in the above entitled cases. Franklin County Prosecutor Ron O'Brien, Assistant Prosecutors Dave Devillers, James Lowe, and Sheryl Prichard as well as Detective Zach Scott all worked with Trent and were responsible for investigating and prosecuting the above entitled cases. All gave interviews regarding Trent's work as a confidential informant in the prime time ABC documentary. Thus, it is dishonest of this same prosecutor's office to now claim confidentiality. Again, voluntary disclosure of the identity of a confidential informant prohibits the State agency from claiming the R.C. 149.43(A)(2)(a) and (b) exemptions. See *State ex rel. Zuern v. Leis*, 56 Ohio St.3d 20, 22 (1990); *State ex rel. Gannett Satellite Information Network, Inc. v. Petro*, 80 Ohio St.3d 261, 265 (1997); *State ex rel. Cincinnati Enquirer v. Dupuis*, 98 Ohio St. 3d 126, ¶122 (2002); *Narciso v. Powell Police Dep't*, 2018-Ohio-4590 ¶127 (Ct. of Cl.). Any fair reading of R.C. 149.43(A)(1)(h) and R.C. 149.43(A)(2)(a) and (b) make clear that these exemptions are designed to protect the identity of an informant, suspect, or victim, not the information they divulge. *Narciso v. Powell Police Dep't*, 2018-Ohio-4590, ¶128 (Ct. of Cl.). Also see *State ex rel. Toledo Blade Co. v. Telb*, 50 Ohio Misc. 2d 1 at 5 (Lucas Cty. Common Pleas, 1990). Once the confidential informant's identity has been revealed, whether it be voluntarily by the State or some other legitimate means, the barrier is removed, and these exemptions no longer apply.

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<sup>1</sup> The ABC documentary is entitled "Final Witness: A mother's revenge" and can be found on YouTube under the URL: [https://m.youtube.com/watch?v=9zqphzGeluM&list=PLt\\_a9ZHUXYqQWilp-Pdhcns-FQWifuusi&index=1&pp=iAQB](https://m.youtube.com/watch?v=9zqphzGeluM&list=PLt_a9ZHUXYqQWilp-Pdhcns-FQWifuusi&index=1&pp=iAQB). The other documentary aired on the ID Channel, but a Google search did not bring this up.

39. Granting this request is also imperative from a public policy standpoint. This Court convened a task force in order to determine potential court rules and laws the General Assembly could enact that would reduce unreliable convictions in death penalty cases<sup>2</sup>. This task force voted unanimously, 19-0, to recommend a prohibition on the use of uncorroborated jailhouse informant's testimony in criminal cases (page 10 of task force report). Again, Trent was a jailhouse informant attempting to work off sexual assault charges on a minor. The information Relator requested is vital for the General Assembly and public at large to be able to make critical decisions about whether or not such rules are necessary. Nearly every recommendation made by that task force was eventually turned into law by the General Assembly, with the exception of the prohibition on using jailhouse informants. The only way an issue like this can be brought to light is for news organizations or the public at large to be able to access the type of information Relator requests. Respondents are the only agencies that maintain any credible evidence in this regard.

40. Even if this Court limits its writ to those requests where Relator mentioned specific cases, the requests were somewhat wider in scope than case #02CR-1153, #02CR-3117, #02CR-3118, and #02CR-3119. Request #7 mentioned Trent working as an informant against Orlando Wilson (robbery, case #2000 CRA 032729) and signing a false affidavit used to interrogate Gary Hall (murder, case #2002 CRA 011885). See Appdx. Exhibit C, p. 21. These requests are unambiguous and narrow in scope so that this Court should issue a writ compelling Respondents to provide the records requested.

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<sup>2</sup> The complete report can be found at [www.supremecourt.oh.gov/docs/boards/deathpenalty/resources/finalreport.pdf](http://www.supremecourt.oh.gov/docs/boards/deathpenalty/resources/finalreport.pdf).

41. To the extent that Respondents contend that they have no records responsive to request #7, this Court should examine Respondents' files *in camera*. This procedure advocated by the Court is required when there is a dispute regarding the veracity of Respondents' determination of excepted material. See *State ex rel. Wallace v. State Med. Bd.*, 89 Ohio St. 3d 431, 437 (2000). Relator is looking for specific records documenting Trent providing information to Respondents prior to April 25, 2002, the date they maintain was their first contact with Trent and when he first became a confidential informant in case #02CR-1153, #02CR-3117, #02CR-3118, and #02CR-3119.
42. To that end, Relator requests this Court examine *in camera* the source of a tip received by the Chillicothe Police Department from Respondent FCSD on March 22, 2002 (Appdx. Exhibit J, p. 76). Detective Zach Scott of the FCSD was assigned to case #02CR-1153, #02CR-3117, #02CR-3118, and #02CR-3119. He testified he was on the periphery when the FCSD provided this tip to the Chillicothe Police Department. See attached Affidavit of John Hambel, paragraph 12. Scott stated unequivocally that Trent was not the source of this tip. However, Trent testified later that day that he was, in fact, the source. As part of this Court's writ to provide information on Trent working as a confidential informant, the writ should include that the records on the source of this particular tip should either be provided to Relator, or provided to the Court to be examined for the purpose of determining whether it falls under any exception to the public records law. Surely, because Trent testified publicly that he gave this tip, were the records to show that he was the source of the tip, these records would not fall under any exception to the public records law. In addition, were Riyad Altalla found to be the source of the tip, it would not fall under any exception to the public records law as he agreed to testify publicly regarding information he provided in case #02CR-1153, #02CR-3117,

#02CR-3118, and #02CR-3119 as a confidential informant. See paragraph 21 through 23 above, incorporated by reference here.

43. In closing, this Court should issue a writ of mandamus compelling all Respondents to provide any records they have documenting Ronald Trent working as a confidential informant in or out of the Franklin County Jail on any case, in any capacity whatsoever. This should include, but is not limited to, *State v. Conway*, case #02CR-1153; *State v. Conway*, case #02CR-3117; *State v. Horton*, 02CR-3118; *State v. Nightengale*, #02CR-3119; *State v. Wilson*, case #2000 CRA 032729; and *State v. Hall*, case #2002 CRA 011885. In the alternative, this Court should issue a writ of mandamus compelling Respondents to explain their system of keeping records on informants to allow Relator to give a more detailed description of the records he is requesting. In any case, the writ should compel Respondents to provide this Court with any record relating to Ronald Trent being an informant for *in camera* inspection.

#### H. Complaints and Misconduct of Detective Zach Scott. (Request #8.)

44. In request #8 Relator asked all three Respondents for the disciplinary file of Franklin County Sheriff's Detective Zach Scott. FCSD never responded, and they without question maintain these records as Scott is their employee. FCPO denied this request initially because these records were not part of "this" criminal file (Appdx. Exhibit B, p. 18). Relator's written request was clear, he was looking for "Any personnel records regarding complaints or any misconduct by Franklin County Sheriff's Detective Zach Scott, *whether or not related to any of the above entitled cases*, during his career in law enforcement." (Emphasis added.) It would be rare for such files to be part of any criminal file.

Yet, this Court has stated unequivocally that such files are available pursuant to the Public Records Act, R.C. 149.43.

This court has held that personnel records reflecting the discipline of police officers are required to be disclosed pursuant to R.C. 149.43. *State, ex rel. Dispatch Printing Co., v. Wells* (1985), 18 Ohio St. 3d 382, 18 OBR 437, 481 N.E. 2d 632; *Barton v. Shupe* (1988), 37 Ohio St. 3d 308, 525 N.E. 2d 812.

*State ex rel. Nat'l Broad. Co. v. City of Cleveland*, 38 Ohio St. 3d 79, 83 (1988).

45. In an email reply, Relator reiterated that request #8 was not meant to be limited to any specific criminal case (Appdx. Exhibit C, pp. 21-22). Now, FCPO claimed that request #8 was overly broad, and that they did not have any records responsive to his request (Appdx. Exhibit D, p. 26). They directed Relator to FCSD. As stated above, Relator made identical requests to all three Respondents, including FCSD, none of which provided any records.
46. There are several specific instances of Scott's misconduct for which Relator requests records. In *State v. Nightengale*, case #02CR-3119, Scott was accused of entering Nightengale's jail cell, grabbing him by the shirt and throwing him against the bars for the purpose of intimidating him into firing his attorney. Scott wanted Nightengale's testimony to prosecute attorney Chris Cicero, and apparently felt Nightengale's attorney, Gerald Simmons, was an impediment. Scott was also accused of committing perjury in a pretrial hearing in what was called the "Freeway shooter" case. *State v. McCoy*, case #2004 CRA 006001. Defense counsel was attempting to suppress an interrogation and claimed the defendant hadn't taken his psychological medication. Scott allegedly lied under oath, saying he witnessed the defendant ingest his medication in an attempt by Scott to defeat the suppression motion. Another of many allegations against Scott is using false affidavits to force a defendant to plead guilty to avoid the risk of going to trial; *State v. Hall*, case #2002 CRA 01188. (Records specifically requested by Relator.) There are also allegations that he coerced witnesses

And colluded with prosecutors to suppress evidence of this coercion in *State v Jackson*, case #97-CR-1902. Each of these instances involves a criminal case for which FCPO maintains records.

47. Scott was a homicide detective for many years, was involved in innumerable homicide investigations prosecuted by the FCPO and was required to testify in many of these cases. Any competent prosecutor's office would keep a record of witness misconduct, particularly that of a detective, to aid in making decisions regarding whether to call them as a witness and to avoid surprise by defense counsel. In support of this, Relator would refer this Court to the documentary "Philly DA" which follows Philadelphia's newly elected District Attorney, Larry Krasner, as he attempts to implement progressive policies in the Philadelphia prosecutor's office<sup>3</sup>. In episode three, thirty-six minutes in, Krasner claims that it is "standard procedure" for a prosecutor's office to maintain disciplinary and misconduct files on all law enforcement officers that could possibly be called to testify in a criminal proceeding so that they are aware of such misconduct and are not surprised by defense counsel allegations. Krasner felt this type of material should be regularly handed over to defense as part of discovery. Given Krasner's presence on multiple nationwide expert panels, and sound justification for doing such, it seems likely that FCPO does in fact keep these sort of records and should be compelled by writ to provide them to Realtor.

48. It is also good public policy to keep such records and make them available to the public. Police officers are public servants whose integrity and temperament are central to law enforcement relations with the public and more generally public confidence in the legal system.

The Ohio Public Records Act requires the state to make "public records" available upon request. Ohio Rev. Code § 149.43(B)(1). This requirement "shed[s] light on the state government's performance, thereby enabling Ohio citizens to understand better the

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<sup>3</sup> This documentary is available at [www.phillyda.tv](http://www.phillyda.tv)

Operations of their government.” Indeed, such a requirement will “expose government activity to public scrutiny, which is absolutely essential to the proper working of a democracy” because “[s]crutiny of public records allows citizens to evaluate the rationale behind government decisions so that government officials can be held accountable.” *Doe v. City of Mansfield*, 2023 U.S. App. LEXIS 3166, 11-12 (6<sup>th</sup> Cir, 2023).

In the short term, keeping this information out of the public eye may prevent distrust of law enforcement, but in the long term it just makes things worse. Eventually, completely undermining societies faith that they can depend on the police assistance when they have been victimized.

Additionally, the fact that Scott ran for Franklin County Sheriff and mayor of Columbus makes public access to these records that much more necessary.

49. Clearly, FCSD has Scott’s employment file, which would contain disciplinary records and records of misconduct. These are public record pursuant to R.C. 149.43(B). See *State ex rel. Lorain Journal Co. v Lorain*, 87 Ohio App. 3d 112,115 (9<sup>th</sup> Dist., 1993); *State v. Schimmel*, 2017-Ohio-7747 ¶62 (2<sup>nd</sup> Dist.); *Doe v. City of Mansfield*, 2023 U.S. App. LEXIS 3166, 12 (5<sup>th</sup> Cir, 2023). This court should issue a writ compelling FCSD to provide Relator with copies. Although Scott works for the Franklin County Sheriff’s Department, the city of Columbus covers nearly the entirety of Franklin County. Thus, Scott operates with the jurisdiction of CPD, and they would have received complaints, if any exist, and have reports of misconduct by Scott. If CPD does maintain such a file, or hold records of individual complaints or misconduct, they should be compelled to provide those a well. Based on common sense and the reasoning laid out in the previous two paragraphs, relator believes FCPO maintains a more complete file on Scott’s misconduct, which is public record and Relator should be provide a copy. Since it is likely that all respondents maintain such records in a single file, this request is not overly broad or ambiguous. In the alternative, this Cours should issue a writ compelling FCPO to detail how they access such information when they need it so that Relator can clarify his request. Furthermore, all these records should be submitted to the Court for *in camera* inspection.

## I. Procedures Regarding Separation of Witnesses. (Request #9.)

50. In response to request #9 for any policies or procedures in effect between January 1, 2003 and December 31, 2003 related to keeping witnesses separated when a court order exists requiring such, FCPO initially responded that these procedures were not part of “this” criminal file (Appdx. Exhibit B, p. 18). The CPD responded that those were FCSD’s files and that they did not have access to them (Appdx. Exhibit A, p. 14). FCSD did not respond. As far as CPD is concerned, request #9 specified, “The franklin County Sheriff’s Department policy, and *any related policy of any state agency...*” (Emphasis added.) CPD is a related agency and may or may not have procedures in place for ensuring that witnesses comply with a court order to be separated. If no policy exists in that regard, then CPD can merely state that. If one does exist, then it is public record. Similarly for FCPO. Relator made this specific request because FCPO represented to the Court in *State v. Conway*, case #02CR-3117 that they did, in fact, have such a policy. If that is not true, then they should state such. If they do, then it is public record regardless of whether or not it was part of any specific criminal file.
51. The question remains, what happens when a witness finishes testifying and they are leaving the court room and sitting with other witnesses who have yet to testify? Or what happens in similar circumstances when witnesses are housed in the Franklin County Jail? Presumably, this would primarily fall under the purview of FCSD. However, agents of law enforcement, including CPD, FCSD, and FCPO, are frequently witnesses and have many interactions with other witnesses and among themselves. Thus, it is hard to believe that there wouldn’t be an explicit policy in each agency as to how officers who are witnesses should conduct themselves and limit interactions with other witnesses.

52. After their initial response, FCPO countered that request #9 was overly broad or ambiguous (Appdx. Exhibit D, p. 26). This reply borders on the ridiculous and shows either contempt for Relator, or contempt for the Public Records Act itself. Relator made a specific request encompassing a limited time period, and does not have access to any internal policies of FCPO. If they have such policies which are enumerated in some way, then provide Relator with some sort of table of contents and he will make a more specific request. Are they representing that there are so many policies in this regard that they are having a hard time determining which ones Relator is looking for? Are there enumerable types of witnesses such that each requires some specific policy to ensure compliance with a court ordered separation of witnesses?
53. This Court should issue a writ compelling all Respondents to either provide all policies responsive to request #9, provide some additional information regarding internal policies so that Relator can clarify his request, or state that no policy exists.

**J. Unedited Recordings made by FCSD of Ronald Trent. (Request #10.)**

54. In request #10, Relator asked for the unedited recordings made by FCSD of conversations between their confidential informant, Ronald Trent, and other known persons on three specific days, May 16, 2002, May 20, 2002, and May 28, 2002. The edited versions of these recordings were used as direct evidence during the testimony of Ronald Trent in *State v. Conway*, case #02CR-1153, a CPD case and *State v. Conway*, #02CR-3117, a FCSD case. Both cases were prosecuted by FCPO. Thus, all Respondents maintain the edited versions of these recordings. Since the recordings were made by FCSD, they at least maintain the unedited versions, but it is unclear which agency did the editing. It is possible that all Respondents maintain copies of the unedited versions.

55. FCSD did not respond to this request and CPD responded that they did not have access to these materials as they were FCSD files (Appdx. Exhibit A, p. 14). FCPO initially responded that these records were part of a case that was unresolved (Appdx. Exhibit B, 18), but later responded that these records were exempt pursuant to R.C. 149.43(A)(1)(h) and R.C. 149.43(A)(2)(a), and (d), or that they did not have authority over the records as they are maintained by FCSD (Appdx. Exhibit D, 31). The records were collected and used as evidence in case #02CR-1153, #02CR-3117, #02CR-3118, and #02CR-3119, all of which were prosecuted over twenty years ago resulting in convictions or guilty pleas in all cases. Thus, these cases have been resolved for the purposes of the public records law. See *State ex rel. Caster v. City of Columbus*, 151 Ohio St. 3d 425 (2016).
56. The exemptions claimed by FCPO regarding revealing the identity of Trent as a confidential source were addressed thoroughly above in paragraphs 34 through 42 and Relator incorporates them herein. Trent testified publicly to the substance of all the records requested and those records were themselves used publicly. Furthermore, it has been public knowledge that Trent was a confidential informant for over twenty years and Relator seeks no information on his current whereabouts. He would not be in any additional danger by providing these records, most of which are already public information.
57. Relator seeks the *unedited* version of these records because he believes the information left out by whichever Respondent edited the records is public information. This Court should issue a writ compelling all Respondents who maintain the unedited versions of these particular records to provide copies to Relator. Alternatively, the unedited records should be provided to the Court for *in camera* inspection.

### III. RELIEF REQUESTED

WHEREFORE, Relator requests the following relief pursuant to Article IV, Section 2(B)(1) of the Ohio Constitution:

- 1) That a writ of mandamus issue to the Respondents directing them to take action as follows:  
Provide Relator access to all records responsive to requests #2 through #10, and provide the Ohio Supreme Court with any records responsive to those requests but are believed by Respondent to qualify for an exemption pursuant to R.C. 149.43(A)(2) or any other exemption.
- 2) Only if this Court declines to initially grant the first request for relief, that an alternative writ issue; and
- 3) Any relief to which Relator may be entitled, including: statutory damages of \$100 per day per request for each of three Respondents to a maximum of \$1000 per request per Respondent; attorney fees, if applicable; and court costs pursuant to R.C. 149.43(C)(2).

Respectfully submitted,

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John Hambel, Relator, *pro se*  
4155 Leppert Road  
Hilliard, Ohio 43026  
(614)218-1391  
[john.hambel@gmail.com](mailto:john.hambel@gmail.com)

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing **PETITION FOR WRIT OF MANDAMUS**

was mailed via regular U.S. Mail, postage pre-paid, on this day, \_\_\_\_\_, 2024, to the following

Respondents:

FRANKLIN COUNTY PROSECUTOR'S  
OFFICE  
373 South High Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215

FRANKLIN COUNTY SHERIFFS  
DEPARTMENT  
410 South High Street  
Columbus, Ohio 43215

THE CITY OF COLUMBUS, DIVISION  
OF POLICE  
120 Marconi Boulevard  
Columbus, Ohio 43215

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John Hambel, Relator

IN THE SUPREME COURT OF OHIO

STATE EX REL. JOHN HAMBEL  
4155 Leppert Road  
Hilliard, Ohio 43026  
Relator,

CASE NO. \_\_\_\_\_

vs.

FRANKLIN COUNTY PROSECUTOR'S  
OFFICE  
373 South High Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215  
Respondent,

vs.

**ORIGINAL ACTION IN MANDAMUS**

FRANKLIN COUNTY SHERIFFS  
DEPARTMENT  
410 South High Street  
Columbus, Ohio 43215  
Respondent,

vs.

THE CITY OF COLUMBUS, DIVISION  
OF POLICE  
120 Marconi Boulevard  
Columbus, Ohio 43215  
Respondent

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**AFFIDAVIT OF JOHN HAMBEL**

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John Hambel, *pro se*  
4155 Leppert Road  
Hilliard, Ohio 43026  
(614)218-1391  
[johnhambel@gmail.com](mailto:johnhambel@gmail.com)

STATE OF OHIO        )  
                              ) ss:  
FRANKLIN COUNTY    )

I, John Hambel, after being sworn according to law, swear that the following are true:

1. I was born and raised in Columbus, Ohio and currently reside at 4155 Leppert Road, Hilliard, Ohio, 43026.
2. My date of birth is February 22, 1973.
3. On or about May 24, 2021, I mailed, by regular US Mail, three identical requests for 10 separate categories of public information to each of the following state agencies: FRANKLIN COUNTY PROSECUTOR’S OFFICE, at 373 South High Street, 14<sup>th</sup> Floor Columbus, Ohio 43215; FRANKLIN COUNTY SHERIFFS DEPARTMENT, at 410 South High Street, Columbus, Ohio 43215; and THE CITY OF COLUMBUS, DIVISION OF POLICE, (Columbus Police Department) at 120 Marconi Boulevard, Columbus, Ohio 43215.
4. These requests are restated in the PETITION FOR WRIT OF MANDAMUS, Section I.A. filed with this affidavit.
5. I attempted by email on June 24, 2021 to obtain information that would help clarify my request to the Columbus Police Department, but none was forthcoming. I received an email response denying all my requests from them on June 28, 2021. (Both in Exhibit A below.)
6. The Franklin County Sheriff’s Department never responded.

7. After exchanging emails with the Franklin County Prosecutor's Office, I received their initial response dated October 7, 2021 along with a Public Records Request Response Form (FORM PR-1) dated September 28, 2021 by regular US Mail. (Both in Exhibit B below.)
8. I replied to this response by email on January 3, 2022 with some clarification and as much detail as possible given my limited knowledge of internal procedures of the Franklin County Prosecutor's Office. (Exhibit C below.) No representative of the Franklin County Prosecutor's Office ever made any attempt to provide any information that would help me clarify my request.
9. I received another response dated September 19, 2022 by regular US Mail from the Franklin County Prosecutor's Office followed by a final response by email on October 12, 2023 and another Public Records Request Response Form (FORM PR-1) by regular US Mail dated October 12, 2023. (All in Exhibit D below.)
10. In response to the 10 separate categories of requests to all three of the state agencies listed herein, I in total received all records responsive to request #1, two recordings and multiple surveillance reports responsive to request #3, and nothing in response to any of the other 8 requests made.
11. Ronald Trent was a confidential informant working for the Franklin County Sheriff's Department in the Franklin County Jail in April and May 2002. Trent testified publicly regarding his work as a confidential informant during that period of time in *State v. Conway*, case #02CR-1153, *State v. Conway*, case #02CR-3117, and *State v. Horton*, case #02CR-3118.

12. In a pretrial hearing for *State v. Conway*, case #02CR-1153 and *State v. Conway*, case #02CR-3117 that took place in December of 2002, Detective Zach Scott and Ronald Trent testified publicly regarding Trent working as a confidential informant throughout the months of April and May 2002. During this Testimony, Scott testified that he was on the “periphery” when a information was given to the Chillicothe Police Department during an alleged robbery of Rex Appliances that took place in Ross County, Ohio sometime in 2001. Trent testified during that same hearing that he was the source of that same information.
13. All exhibits, including emails, letters and transcripts, attached to this Appendix are accurate duplications of the original documents.
14. Further affiant sayeth naught.

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John Hambel

Sworn and subscribed in my presence the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Notary Public

## Sections of the Ohio Revised Code

### R.C. 149.43(A)(1)(h)

(A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(h) Confidential law enforcement investigatory records;

### R.C. 149.43(A)(2)

(A) As used in this section:

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

### R.C. 149.43(B)

(B)

(1) Upon request by any person and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request by any person, a public office or person responsible for public records shall make copies of the requested public record available to the requester at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a

public office to make the redaction. When the auditor of state receives a request to inspect or to make a copy of a record that was provided to the auditor of state for purposes of an audit, but the original public office has asserted to the auditor of state that the record is not a public record, the auditor of state may handle the requests by directing the requestor to the original public office that provided the record to the auditor of state.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requester's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory, that the requester may decline to reveal the requester's identity or the intended use, and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person requests a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require the requester to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the requester under this division. The public office or the person responsible for the public record shall permit the requester to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the requester makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the requester. Nothing in this section requires a public office or

person responsible for the public record to allow the requester of a copy of the public record to make the copies of the public record.

(7)

(a) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

(b) Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to division (B)(7) of this section. A public office that adopts a policy and procedures under division (B)(7) of this section shall comply with them in performing its duties under that division.

(c) In any policy and procedures adopted under division (B)(7) of this section:

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes;

(ii) A public office that chooses to provide some or all of its public records on a web site that is fully accessible to and searchable by members of the public at all times, other than during acts of God outside the public office's control or maintenance, and that charges no fee to search, access, download, or otherwise receive records provided on the web site, may limit to ten per month the number of records requested by a person that the office will deliver in a digital format, unless the requested records are not provided on the web site and unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes.

(iii) For purposes of division (B)(7) of this section, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9)

(a) Upon written request made and signed by a journalist, a public office, or person responsible for public records, having custody of the records of the agency employing a specified designated public service worker shall disclose to the journalist the address of the actual personal residence of the designated public service worker and, if the designated public service worker's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the designated public service worker's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for:

(i) Customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information;

(ii) Information about minors involved in a school vehicle accident as provided in division (A)(1)(gg) of this section, other than personal information as defined in section 149.45 of the Revised Code.

(c) As used in division (B)(9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(10) Upon a request made by a victim, victim's attorney, or victim's representative, as that term is used in section 2930.02 of the Revised Code, a public office or person responsible for public records shall transmit a copy of a depiction of the victim as described in division (A)(1)(ii) of this section to the victim, victim's attorney, or victim's representative.

### **R.C. 149.43(C)(2)**

(C)

(2) If a requester transmits a written request by hand delivery, electronic submission, or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requester shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

### **R.C. 2731.01**

Mandamus is a writ, issued in the name of the state to an inferior tribunal, a corporation, board, or person, commanding the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station.

## **Criminal Rules**

### **Crim.R. 16(B)(1)**

(B) Discovery; Right to copy or photograph. Upon receipt of a written demand for discovery by the defendant, and except as provided in division (C), (D), (E), (F), or (J) of this rule, the prosecuting attorney shall provide copies or photographs, or permit counsel for the defendant to copy or photograph, the following items related to the particular case indictment, information, or complaint, and which are material to the preparation of a defense, or are intended for use by the prosecuting attorney as evidence at the trial, or were obtained from or belong to the defendant, within the possession of, or reasonably available to the state, subject to the provisions of this rule:

- (1) Any written or recorded statement by the defendant or a co-defendant, including police summaries of such statements, and including grand jury testimony by either the defendant or co-defendant;

# Sections of the Ohio Constitution

## Article IV, Section 2(B)(1)

(B)

(1) The supreme court shall have original jurisdiction in the following:

- (a) Quo warranto;
- (b) Mandamus;
- (c) Habeas corpus;
- (d) Prohibition;
- (e) Procedendo;
- (f) In any cause on review as may be necessary to its complete determination;
- (g) Admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.

**Exhibit A: Relator John Hambel's June 24, 2021 email and  
Columbus Police Department June 28, 2021 email Response.**

**From:** John Hambel [mailto:john.hambel@gmail.com]  
**Sent:** Thursday, June 24, 2021 8:13 AM  
**To:** Foster, Clayton E. <CEFoster@columbuspolice.org>  
**Subject:** [EXTERNAL] Response to your (US MAIL) Letter

Clayton.....

Thank you for your response in reference to CASE #'s:

02-CR-1153

02-CR-3117 and

02-CR-3118

You were asking that I provide you with a telephone number and/or email address:

john.hambel@gmail.com (this account) or

614-218-1391

You mentioned needing clarity on my requests.

Let me know what you need and I'll do my best to give more info..... and go from there.

Thank you. I appreciate you taking the time.

~John



jennifer conway &lt;terralynn123@gmail.com&gt;

---

**Fwd: [EXTERNAL] Response to your (US MAIL) Letter**

1 message

---

**John Hambel** <john.hambel@gmail.com>  
To: Sis Conway <terralynn123@gmail.com>

Tue, Jul 9, 2024 at 11:54 AM

Response from Columbus Police. See below.

----- Forwarded message -----

**From:** Foster, Clayton E. <CEFoster@columbuspolice.org>  
**Date:** Mon, Jun 28, 2021 at 9:52 AM  
**Subject:** RE: [EXTERNAL] Response to your (US MAIL) Letter  
**To:** John Hambel <john.hambel@gmail.com>

Mr. Hambel,

Thank you for providing your contact information. I have been searching our records for your request with no success. The case numbers that you have provided are case numbers for the court system, which are different than those used by the Division of Police. Unfortunately, they are not cross-referenced, so I have been looking by event date and suspect/offender names. Also, a large amount of your request, specifically in numbers one, four and five, reference specific exhibit numbers that were used by the prosecution. I don't know for sure what the prosecutor is required to keep in regards to exhibits and trial preparation, but I would not have access to those. You may be able to request them from the Franklin County Prosecutor's Office.

Items numbered six, eight, nine and ten would all be kept by the Franklin County Sheriff's Office and you would need to make a public records request to them. I am not sure from which other state agencies you would need to request policies regarding inmate separation.

If you can provide any specific information about Columbus Division of Police records, I would be happy to assist you, but at this time, I have nothing to release.

Thank you,

Clayton Foster  
Management Analyst I  
Columbus Division of Police  
120 Marconi Blvd.  
Columbus Ohio, 43215

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**Exhibit B: Respondent Franklin County Prosecutor's Office  
October 7, 2021 Letter and PR-1 Form.**



# G. GARY TYACK

FRANKLIN COUNTY PROSECUTING ATTORNEY

October 7, 2021

John M. Hambel  
4155 Leppert Road  
Hilliard, Ohio 43026

Re: State v. James T. Conway, III  
Case No.: 02CR 1153

Dear Mr. Hambel:

Enclosed please find the public records you requested on the above entitled action. Included, you will find our PR-1 form which indicates what records we are required to redact according to law.

If you have any questions, please contact me at 614-525-3520.

Sincerely,

John Zervas  
Assistant Prosecuting Attorney

JZ/pwe

Enclosure

Page 16

# Public Records Request Response Form

(FORM PR-1)

Thank you for your recent public records request. The Office of the Franklin County Prosecuting Attorney will respond in accordance with the applicable provisions of the Ohio Public Records Act.

On, June 8, 2021, you requested the following records/information:

James T. Conway III, 02CR 1153

Calvin J. Horton 02CR 3118 and Shawn E. Nightingale 02CR 3119 are unresolved matters.

**The record / information requested:**

**Legal Authority Cited**  
(if applicable)

Is not maintained by this office  
(office will attempt to direct requester to correct office)

Is overly ambiguous (despite efforts to clarify).

ORC 149.43 (B)(2)

Does not exist and/or no obligation to create.

ORC 149.40

Concerns a criminal matter which has not yet been resolved

149.43 (A)(2)(c)

Note Horton's and Nightingale's cases are still ongoing which are intertwined with Conway's case and can not be released.

Has been disposed pursuant to One Time Records Disposal or pursuant to Retention Schedule.

Is not subject to release in its entirety

See below

Is subject to release, however the following redactions have been made to protect exempted information (ORC 149.43 (B)(1)-(3)):

**Redaction**

**Legal Authority Cited**

Confidential law enforcement investigatory records

149.43 (A)(1)(h); 149.43(A)(2)(a)

Grand Jury testimony

Rule 6(E) of the Ohio Rules of Criminal Procedure and *State ex rel. Beason Journal v. Water*, 67 Ohio St. 3d 321 (1993)

**Able to provide per the request:**

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1. a. P1 through P34 provided.
1. b. V3 only provided as and enlargement (V1) is unavailable. V3 is the same as V1.
1. c. W4 through W8 provided.
2. Unable to locate a ballistics report for a Colt 45 M1991A1.

Page 17

3. Two (2) recordings provided.
4. Unable to release this item. See above citing.
5. Grand Jury testimony not provided. See above.
6. Unable to provide as it concerns a criminal matter which is unresolved.
7. Unable to provide as it concerns a criminal matter which is unresolved.
8. Not a part of this criminal case file.
9. Not a part of this criminal case file.
10. Unable to provide as it concerns a criminal matter which is unresolved.

Prepared by: Paula Wake-Evans

Date: 9-3-21

If applicable, legal review by: John Zervas

Date: 9-28-21

**Exhibit C: Relator John Hambel's January 3, 2022 email Reply.**

----- Forwarded message -----

From: **John Hambel** <john.hambel@gmail.com>  
 Date: Mon, Jan 3, 2022 at 10:02 AM  
 Subject: Re: PRR request  
 To: Wake-Evans, Paula M. <pwakeevans@franklincountyohio.gov>  
 Cc: John Hambel <john.hambel@gmail.com>

Miss Wake-Evans (please forward/share) --

In regards to your response (see attached) made by APA John Zervas and the request I made on May 24, 2021.

Just finished reviewing and have a few follow up items I'd like to discuss please.....

In your PR-1 form in regards to request #6, #7, and #10 you stated that Calvin J. Horton's (02CR 3118) and Shawn E. Nightingale's (02CR 3119) cases are not resolved. That directly contradicts the Ohio Supreme Court's decision in *Castor v City of Columbus*, 151 Ohio St.3d 425 (2016), which says that a case is resolved for the purposes of the public records law once a conviction has been obtained. Those two cases are just as resolved as James T. Conway's cases (02CR 1153 and 02CR 3117). Knowing this, could you please provide further detail as to why the request was not fulfilled?

In form PR-1 you said you were unable to locate the ballistics report requested in #2? The weapon was picked up by Columbus Police on February 23, 2002. If you cannot locate it does that mean CPD doesn't have it either? Are there any records related to that weapon, such as documentation of it being impounded or destroyed? If such documents exist, are you able to provide?

While you did provide a recording (you list it as two records) of Big Mike's Palace on South High per request #3, this recording is only 90 minutes and is of a single conversation. It gives no indication when it was made and doesn't have transcripts. Big Mike's was under surveillance much longer. There should be more recordings and transcripts.

Could you provide an explanation as to why request #4 was not fulfilled? It pertains to statements made by Riyadh Altalla. Mr. Riyadh was a known informant and he was listed as a witness. He was set to testify for the prosecution in case #02CR 1153. The substance of his testimony was made public during the trial. The reason he didn't testify, he went back to Palestine. This was also made public at the trial. Could you please provide detail as to why you are saying he was a confidential informant? Otherwise, could you fulfill the request please?

Request #5 relates to the grand jury testimony of Mike Arthurs. According to form PR-1, you state that grand jury testimony is not subject to release. However, Mike Arthur was a named codefendant, so his grand jury testimony should be part of the trial record per the rules of discovery, which is public information. Was this testimony made part of the trial record? Does it exist?

In regards to request #7, Ronald Trent's work as an informant, you included several statements, but not all of them. And only statements made about the cases listed in the request. The cases above were listed to clarify my request, not limit it. Request #7 is broader than the cases listed. I requested anything regarding information Trent provided to any law enforcement or government official. Trent testified publicly and thus loses his status as a confidential informant. So, any statements he made in any case is public information. He has made statements in at least a half dozen cases including against Orlando Wilson (robbery case 2000 CRA 032729) and Gary Hall (murder case 2002 CRA 011885). Mr. Hall claims Trent, at Det. Scott's behest, signed an affidavit claiming Hall confessed to him. Hall says at that time he had not spoken with Trent for a couple of years. Should be easy to verify, both were in the jail. I believe your office has a record of all the information Trent has provided over the years and I would like to investigate these cases.

At the same time as Ron O'Brien's office was/is upholding these convictions and numerous others based on little more than Trent's word, ex-Franklin County prosecutor Tim Braun testified pretrial in case 02CR 1153 regarding a false affidavit, Trent was paid to sign claiming responsibility for a shooting for which Terry Mayle had been convicted. Ron O'Brien stated in a federal deposition on Jan 6, 2010, that you can't believe anything Trent says.

Is your office investigating these types of cases? Can I contact someone to investigate both Trent and Detective Scott? If so, who please?

Your office didn't provide any information regarding requests #8 and #9 because they were not part of the criminal cases listed. Again, listing those cases were meant to help clarify my request. It was not meant to limit it. Complaints made against Detective

Scott or his misconduct in his capacity as a public servant should be public record, and I would like copies of the complaints please. And the procedures for keeping witnesses separated should qualify as public record as well. I would like copies of them as well please.

Finally, you sent the recordings I asked for in request #10. The problem is these recordings do not match up with the phone records for the number that was used to record the phone calls, (614) 397-9607. Between any two calls that are recorded, there are several calls listed on the phone records that are not. Some of these calls, according to the phone records you provided, last several minutes and are made to phone numbers of individuals under investigation. Why would these calls not be recorded? And if they were, why were they not provided?

I appreciate your time and efforts in these matters. If you need further information from me, please let me know.

Please reply at your earliest convenience.

Take care,

~John

On Tue, Sep 21, 2021 at 9:05 AM Hummer, Jeanine A. <jhummer@franklincountyohio.gov> wrote:

Dear Mr. Hambel,

We are actively working on your request. Given the number of records to review and redact, it takes time. Each record contained has to be legally reviewed and appropriate redactions made. We will provide you with the requested records.

### Jeanine Hummer

First Assistant Prosecuting Attorney and Chief Counsel  
Civil Division  
373 S. High Street, 13th Floor  
Columbus, OH 43215  
Phone: 614-525-3269  
Fax: 614-525-6012  
jhummer@franklincountyohio.gov

### Office of G. Gary Tyack

Franklin County Prosecuting Attorney  
Franklin County Prosecutor's Facebook  
Franklin County Prosecutor's Office

---

**From:** John Hambel <john.hambel@gmail.com>

**Sent:** Tuesday, September 21, 2021 7:24 AM

**To:** Hummer, Jeanine A. <jhummer@franklincountyohio.gov>

**Cc:** Hiers, Amy L. <ahiers@franklincountyohio.gov>; Wake-Evans, Paula M. <pwakeevans@franklincountyohio.gov>; Gilbert, Seth L. <sgilbert@franklincountyohio.gov>; Prichard, Sheryl L. <sprichard@franklincountyohio.gov>; Huey, Sundry <shuey@franklincountyohio.gov>; Conrad, Melinda L <mconrad@franklincountyohio.gov>; John Hambel <john.hambel@gmail.com>

**Subject:** Re: PRR request

Ms Hummer.....

**Exhibit D: Respondent Franklin County Prosecutor's Office  
Final Responses: September 19, 2022 Letter, October 12, 2023  
PR-1 Form, and October 12, 2023 email.**



# G. GARY TYACK

## FRANKLIN COUNTY PROSECUTING ATTORNEY

September 19, 2022

John M. Hambel  
4155 Leppert Rd.  
Hilliard, OH 43026

Re: Public Record Request 02 CR 1153, 02 CR 3117, and 02 CR 3118

Mr. Hambel,

Our office is in the process of conducting a follow up legal review of your public record request dated May 24, 2021 and your email dated January 3, 2022. Below is our supplemental response to Items 1, 2, 5, 7, 8 and 9 listed to your May 24, 2021 public records request and follow up email dated January 3, 2022. Our legal review of the remaining items in you public record requests continues and we will provide a response to those items when it is complete.

Item 1 (a)-Copies of photographs of Exhibits 1-34.

Response: Copies of these exhibits were provided to you on or about 9-3-2021

Item 1(b)-Copies of diagrams marked as Exhibits V-1 and V-3.

Response: A copy Exhibit V-3 was provided to you on or about 9-3-2021. It is our understanding that Exhibit V-1 is a larger but identical version of Exhibit V-3. We have been unable to locate Exhibit V-1.

Item 1(c)-Copies of Exhibits W-4 through W-8.

Response: These exhibits were provided to you on or about 9-3-2021.

Item 2-Copy of ballistics report for a Colt 45 Model M1991A1.

Response: We previously advised that we were unable to locate this report. We have been unable to locate this report in our subsequent review of the files. You may direct your request for this report to the Columbus Police Department.

Franklin County Office Tower • 373 South High Street, Columbus, Ohio 43215-6318  
Criminal Division • (614) 525-3555 • Fax (614) 525-6103  
Civil Division • (614) 525-3520 • Fax (614) 525-6012  
Juvenile Division • (614) 525-4440 • Fax (614) 525-6072

Item 5: "The grand jury testimony of Mike Arthurs in any of the above listed cases. (Arthurs was a codefendant in cases 02-CR-3117 and 02-CR-3118)."

Response: We previously advised you that these records are exempt from release under Rule 6 of the Ohio Rules of Criminal Procedure, as well as the ruling by the Ohio Supreme Court in *State ex rel. Beason Journal v. Water*, 67 Ohio St. 3d 321 (1993). A subsequent review of this request has not changed our position.

Your January 3, 2022 email contains a statement regarding your understanding of and application of the rules of discovery and inquires as to whether Mr. Arthur's grand jury testimony was made a part of the trial record in cases nos. 02-CR-3117 and 02-CR-3118. Specifically, statements about the rules of discovery and requests for information do not constitute a public record request requiring a response by this office. (See, *State ex rel. Fant v. Mengel*, 62 Ohio St.3d 455, (1992)).

Item 7: "Any documentation including but not limited to notes, statements or summaries relating to Ronald Trent Providing any information to any law enforcement agency or government official, including but not limited to the Columbus Police Department, Franklin County Sheriff or the Chillicothe Police Department and any individual working for the Ohio Department Rehabilitation and Corrections."

Response: We previously advised you that these records were not released as they pertained to a criminal matter which is unresolved. As a result of our subsequent review of this request, we have determined that this request is overly broad and lacking the specificity required by the Supreme Court of Ohio. "Please note that requests for "any and all records..." are overly broad requests for information and fail to provide the specificity required by Ohio Public Records Act. See *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122; See *State ex rel. Thomas v. Ohio State Univ.*, 71 Ohio St.3d 245, 245 (1994). You may revise this request, to specifically reflect the records being sought, and those records will be provided if the records are public records pursuant to RC 149.43.

Additionally, please note that our office has no authority over any records maintained by the Franklin County Sheriff's Office, Columbus Police, Chillicothe Police and/or the Ohio Department of Rehabilitation and Corrections. Our suggestion is that you contact these agencies directly for a response to your request. Further, if the request in Item 7 were limited to Cases Nos. 02CR 1153, 02CR 3117 and 02CR 3119 such records would be exempt from release under the CLEIRs exceptions to Ohio Public Records Act, pursuant to RC 149.43(A)(1)(h) and RC 149.43(A)(2)(a) and (d).

Finally, your comments in your January 3, 2022 email regarding our earlier response to Item 7 do not constitute a public records request requiring a response by this office. Specifically, requests for information or expressing a desire to investigate a matter do not constitute a public record request. (See, *State ex rel. Fant v Mengel*, 62 Ohio St.3d 455, (1992) and *State ex rel. Fant v. Tober*, 8th Dist. Cuyahoga No. 63737, (Apr. 28, 1993), *aff'd*, 68 Ohio St.3d 117 (1993)). Your comment that Ronald Trent has made "statements in at least a half a dozen cases" is not a request for public records request requiring a response by this office. Statements you attribute to Gary Hall

are also not a public records request and do not require a response by this office. Your remaining comments regarding a desire to "investigate both Trent and Detective Scott" is not a public record request requiring a response by our this office.

Item 8: "Any personnel records regarding complaints or any misconduct by Franklin County Sheriff's Detective Zach Scott, whether related to any to the above cases, during his career in law enforcement."

Response: We previously advised you that these records were not part of this criminal file. As a result of our subsequent review of this request, we have determined that this request is overly broad and lacking the specificity required by the Supreme Court of Ohio. "Please note that requests for "any and all records..." are overly broad requests for information and fail to provide the specificity required by Ohio Public Records Act. See *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122; See *State ex rel. Thomas v. Ohio State Univ.*, 71 Ohio St.3d 245, 245 (1994). You may revise this request, to specifically reflect the records being sought, and those records will be provided if the records are public records pursuant to RC 149.43.

Further, our office has no records responsive to this request regarding any history of complaints or misconduct by Detective Scott's. Further. We suggest that you direct your request to the Franklin County Sheriff's Office for response to this request.

Item 9: "The franklin County Sheriff's Department policy and any related policy of any state agency regarding the procedures for keeping trial witnesses separated when they are housed in the Franklin County jail and a court order that witnesses should have been no contact is in effect between January 1 and December 3, 2003."

Response: We previously advised you that these records were not part of this criminal file. As a result of our subsequent review of this request, we have determined that this request is overly broad and lacking the specificity required by the Supreme Court of Ohio. "Please note that requests for "any and all records..." are overly broad requests for information and fail to provide the specificity required by Ohio Public Records Act. See *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122; See *State ex rel. Thomas v. Ohio State Univ.*, 71 Ohio St.3d 245, 245 (1994). You may revise this request, to specifically reflect the records being sought, and those records will be provided if the records are public records pursuant to RC 149.43.

Moreover, our office has no records responsive to your request relating to any Franklin County Sheriff's Office's policy regarding separation of jailed trial witnesses. Nor do we have records responsive for such policies for "any other state agency". We also have no records responsive to your request for a "court order" regarding witness having no contact between January 1 and December 31, 2003. We suggest that you direct your request to the Franklin County Sheriff's Office for response relating to their policies that may be responsive to your request. We also suggest you direct your request to the Ohio Attorney General concerning any state agencies you believe may have such records. We also suggest you contact the Franklin County Common Pleas Court or any other court regarding an order that relates to your request.

# Public Records Request Response Form

(FORM PR-1)

Thank you for your recent public records request. The Office of the Franklin County Prosecuting Attorney will respond in accordance with the applicable provisions of the Ohio Public Records Act.

On, May 24, 2021, you requested the following records/information:

Item 3: "Any audio or video surveillance recordings, surreptitious or otherwise, and any transcripts or summaries of such recordings made by the Columbus Police Department or the Franklin County Sheriff's Department at 1312 South High Street, on the corner of South High and East Moler, known at the time as 'Big Mike's Palace,[]' in Columbus, Ohio between January[]1, 2002 and February 23, 2002."

Item 4: "Any statements or summaries of statements made by Riyad Altalla regarding or related to any of the above cases."

Item 6: "The phone records and billing statements listing every phone call made between May 16, 2002 and May 30, 2002 on the phone provided to Ronald Trent by the Franklin County Sheriff's Department, phone number (614)397-9607."

Item 10: "The original unedited audio recordings of conversations between Ronald Trent and other individuals including James Conway, Calvin Horton, and Shawn Nightengale made by the Franklin County Sheriff's Department on May 20, 2002 (there are at least two on this date), May 16, 2002, and May 28, 2002. There were at least 34 similar recordings made between May 16, 2002 and May 28, 2002, but I am looking for all recordings made on these specific dates."

Defendant's Name: James Conway

**The record / information requested:**

**Legal Authority Cited**

(if applicable)

Is not maintained by this office

(office will attempt to direct requester to correct office)

*State ex rel. Hubbard v. Fuerst*, 8th Dist. Cuyahoga No. 94799, 2010-Ohio-2489; *State ex rel. Cordell v. Paden*, 156 Ohio St.3d 394, 2019-Ohio-1216.

Is overly ambiguous (despite efforts to clarify)

*State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122, 2012-Ohio-4228, 976 N.E.2d 861; *Paramount Advantage v. Ohio Dept. of Medicaid*, Ct. of Cl. No. 2021-00262PQ, 2021-Ohio-4180.

Does not exist and/or no obligation to create

\_\_\_\_\_

Concerns a criminal matter which has not yet been resolved

\_\_\_\_\_

Has been disposed pursuant to One Time  
Records disposal or pursuant to Retention  
Schedule

\_\_\_\_\_

Is not subject to release in its entirety

*State ex rel. Master v. Cleveland*, 76 Ohio St.3d 340,  
342, 1996-Ohio-300, 667 N.E.2d 974.

Is subject to release, however the following  
redactions have been made to protect exempted  
information

\_\_\_\_\_ See below. \_\_\_\_\_

**Redaction**

**Legal Authority Cited**

Confidential Law Enforcement Investigatory Records

R.C. 149.43(A)(1)(h)  
R.C. 149.43(A)(2)(a), (d)

Prepared by: Patrick Stevens

Date: 10-11-23

If applicable, legal review by: John A. Zervas

Date: 10-12-23



jennifer conway &lt;terralynn123@gmail.com&gt;

---

**Fwd: PRR-0398 State of Ohio v. James Conway**

1 message

---

**John Hambel** <john.hambel@gmail.com>  
 To: Sis Conway <terralynn123@gmail.com>

Tue, Jul 9, 2024 at 12:06 PM

Wait..... found this. I believe this is the final correspondence.

----- Forwarded message -----

From: **Zervas, John A.** <jzervas@franklincountyohio.gov>

Date: Thu, Oct 12, 2023 at 4:58 PM

Subject: PRR-0398 State of Ohio v. James Conway

To: john.hambel@gmail.com <john.hambel@gmail.com>

Cc: Jackson Mowery, Jessica A. <jmowery@franklincountyohio.gov>, Stevens, Patrick A. <stevensp@franklincountyohio.gov>

Mr. Hambel,

Our office has completed its legal review of the remaining requests relating to your public records requests and provides the below response to those requests. Records responsive to that request are attached along with a copy of our office's PR-1 form detailing the basis and legal justification for our responses to your requests.

Item 3: "Any audio or video surveillance recordings, surreptitious or otherwise, and any transcripts or summaries of such recordings made by the Columbus Police Department or the Franklin County Sheriff's Department at 1312 South High Street, on the corner of South High and East Moler, known at the time as 'Big Mike's Palace,[]' in Columbus, Ohio between January[]1, 2002 and February 23, 2002."

Response: We have located and are providing redacted surveillance logs prepared by Franklin County Sheriff's Office which summarize surveillance of "Big Mike's Palace" and the area of High and Moler in February 2002. Any responsive audio recordings are exempt from release as confidential law enforcement records pursuant to R.C. 149.43(A)(1)(h), (2).

Please also note that our office has no authority over records maintained by the Columbus Division of Police or the Franklin County Sheriff's Office. You may make requests directly to these agencies for such records.

Item 4: "Any statements or summaries of statements made by Riyad Altalla regarding or related to any of the above cases."

These records are exempt from release as confidential law enforcement records pursuant to R.C. 149.43(A)(2)(a) and (d). In addition, this request is overly broad and lacks specificity required under Ohio law. See, e.g., *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St.3d 122, 2012-Ohio-4228, 976 N.E.2d 861; *Paramount Advantage v. Ohio Dept. of Medicaid*, Ct. of Cl. No. 2021-00262PQ, 2021-Ohio-4180.

Item 6: "The phone records and billing statements listing every phone call made between May 16, 2002 and May 30, 2002 on the phone provided to Ronald Trent by the Franklin County Sheriff's Department, phone number (614)397-9607."

Our office has no records responsive to this request. Please note that our office has no authority over records maintained by Franklin County Sheriff's Office. You may make requests directly to this agency for such records.

Item 10: "The original unedited audio recordings of conversations between Ronald Trent and other individuals including James Conway, Calvin Horton, and Shawn Nightengale made by the Franklin County Sheriff's Department on May 20, 2002 (there are at least two on this date), May 16, 2002, and May 28, 2002. There were at least 34 similar recordings made between May 16, 2002 and May 28, 2002, but I am looking for all recordings made on these specific dates."

These records are exempt from release as confidential law enforcement records pursuant to R.C. 149.43(A)(1)(h) and R.C. 149.43(A)(2)(a), (d).

Please also note that our office has no authority over records maintained by Franklin County Sheriff's Office. You may make requests directly to this agency for such records.

Thank you. John

## John Zervas

Assistant Prosecuting Attorney  
Civil Division  
373 S. High Street, 13th Floor  
Columbus, OH 43215  
Phone: 614-525-7146  
Fax: 614-525-6012  
[jzervas@franklincountyohio.gov](mailto:jzervas@franklincountyohio.gov)

## Office of G. Gary Tyack


Franklin County Prosecuting Attorney  
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Franklin County Prosecutor's Office

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### 2 attachments

 **Surveillance Logs-Big Mike's Place\_Redacted.pdf**  
1638K

 **PR-1 Form Conway (supp response).pdf**  
74K

**Exhibit E: Surveillance Logs from “Big Mike’s Palace,”  
Responsive to Request #3.**

**FRANKLIN COUNTY SHERIFF'S OFFICE SPECIAL INVESTIGATIONS UNIT**

DATE 2 / 16 / 02 DAY Saturday WEATHER Fair

PHOTO  PHYSICAL

**SURVEILLANCE WAS CONDUCTED IN THE VICINITY OF**

Big Mike's Palace

**AT WHICH TIME THE FOLLOWING OBSERVATIONS WERE NOTED:**

TIME	INITIALS	OBSERVATIONS
		<b>SURVEILLANCE INITIATED</b>
1:59 AM		Surveillance started
2:10 AM		[REDACTED]
2:27 AM		Two male subjects and a female subject enter target location. Video recording started.
2:29 AM		Male and female subject enter target location.
2:30 AM		Audio cassette recording started.
2:31 AM		Two male subjects exit.
2:35 AM		Male subject enters.
2:55 AM		Male and female subject enter.
3:15 AM		Male subject exits, audio tape turned over.
4:00 AM		Audio cassette recording stopped.
4:01 AM		3 male subjects and 2 female subjects exit.
4:10 AM		Surveillance terminated.
LAST ENTRY		

PAGE 1 of 1

FRANKLIN COUNTY SHERIFF'S OFFICE SPECIAL INVESTIGATIONS UNIT

DATE 2/20/02 DAY Wednesday WEATHER Low

PHOTO [ ]	PHYSICAL [ ]	SURVEILLANCE WAS CONDUCTED IN THE VICINITY OF <u>Big Mike's Place</u> AT WHICH TIME THE FOLLOWING OBSERVATIONS WERE NOTED:
--------------	-----------------	--

TIME	INITIALS	OBSERVATIONS
		SURVEILLANCE INITIATED
9:19 AM	[initials]	Surveillance started
9:20 AM	[initials]	[redacted] pulls onto the parking lot of Big Mike's Place
9:21 AM	[initials]	[redacted] pulls onto the parking lot of Big Mike's Place.
9:22 AM	[initials]	[redacted]
9:31 AM	[initials]	Video Recorder started
9:32 AM	[initials]	Audio Recorder started.
10:19 AM	[initials]	Audio Cassette Taped over.
10:22 AM	[initials]	Major subject exiting the target location. Audio surveillance terminated.
10:25 AM	[initials]	Video surveillance terminated

PAGE 1 of 1

**FRANKLIN COUNTY SHERIFF'S OFFICE SPECIAL INVESTIGATIONS UNIT**

DATE 2/22/2002 DAY Friday WEATHER N. Wind

PHOTO <input type="checkbox"/> PHYSICAL <input checked="" type="checkbox"/>	SURVEILLANCE WAS CONDUCTED IN THE VICINITY OF <p align="center">S.W. 4th St + Mulder</p> AT WHICH TIME THE FOLLOWING OBSERVATIONS WERE NOTED:
---	--

TIME	INITIALS	OBSERVATIONS
11:10P	afw	1. SURVEILLANCE INITIATED
11:14P	afw	VIDEO SURVEILLANCE BEGAN
11:14P	afw	SOURCE, 2 MALE WHITES AND 1 FEMALE IN TARGET LOCATION
11:21P	afw	AUDIO RECORDER STARTED
12:08A	afw	AUDIO TAPE 1 TURNED OVER
1:02A	afw	1 FEMALE ENTERS
1:43A	afw	AUDIO TAPE 2 TURNED OVER
2:28A	afw	LARGE GROUP OF MALES AND FEMALES ENTER TARGET LOCATION
2:50A	afw	2ND LARGE GROUP OF TARGETS ENTER
2:51A	afw	AUDIO TAPE 3 STARTED
2:57A	afw	SEVERAL TARGETS EXIT
3:17A	afw	VIDEO TAPE 3 STARTED
3:18A	afw	AUDIO TAPE 3 FLIPPED OVER
4:09A	afw	GUN SHOTS FIRED FROM PARKING LOT
		ALL TARGETS EXIT

**Exhibit F: Subpoena of Riyadh Altalla in *State v. Conway*, Case  
#02CR-1153.**

doc # 620623 p 8 23

# SUBPOENA - CRIMINAL

41572J16

CASE NO.: <sup>02</sup> DCR-1153

CHARGE: Agg. Murder

The State of Ohio, Plaintiff, vs. James Conway, Defendant.

ON COMPUTER  
3

THE STATE OF OHIO

Franklin County, ss: TO THE SHERIFF OF FRANKLIN COUNTY, OHIO, Greetings:

**YOU ARE HEREBY COMMANDED TO SUBPOENA THE FOLLOWING NAMED PERSONS, to wit:**

Riyad altalla

c/o Dennis McNamara, ESQ  
88 E. Broad Street., 43215

*Need floor & suite #  
12-2-02 JEL*

To be and appear before the Court of Common Pleas of the County of Franklin, at Hall of Justice, 369 South High Street, Columbus, Ohio, in said County, on **January 10, 2003**, at **9:00 a.m.**, to testify as a witness in the above entitled criminal action.

**PLEASE REPORT TO COURTROOM 7C**

**Sheryl L. Prichard 0064868**  
**Assistant Prosecuting Attorney**  
614-462-3555

Hereof fail not under penalty of the law, and have then and there this writ:

SHERIFF'S  
Service \_\_\_\_\_  
Mileage \_\_\_\_\_  
Copy \_\_\_\_\_  
Total 0  
Sheriff \_\_\_\_\_

WITNESS my hand and Seal of said Court,  
November 27, 2002.  
JOHN O'GRADY, Clerk of the Court of  
Common Pleas.  
BY [Signature] Deputy Clerk  
of the Court of Common Pleas.

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350

*doc # 620602 p8111*

# SUBPOENA - CRIMINAL

1449H16

**CASE NO.:** 02CR-1153

**CHARGE:** Agg. Murder

The State of Ohio, Plaintiff, vs. **James Conway**, Defendant.

THE STATE OF OHIO

Franklin County, ss: TO THE SHERIFF OF FRANKLIN COUNTY, OHIO, Greetings:

**YOU ARE HEREBY COMMANDED TO SUBPOENA THE FOLLOWING NAMED PERSONS, to wit:**

Riyad Altalla

c/o Dennis McNamara, ESQ  
88 E. Broad Street Suite 1350., 43215

*Filed 12/5/02*

To be and appear before the Court of Common Pleas of the County of Franklin, at Hall of Justice, 369 South High Street, Columbus, Ohio, in said County, on **January 10, 2003**, at **9:00 a.m.**, to testify as a witness in the above entitled criminal action.

**PLEASE REPORT TO COURTROOM 7C**

**Sheryl L. Prichard 0064868**  
**Assistant Prosecuting Attorney**  
614-462-3555

Hereof fail not under penalty of the law, and have then and there this writ:

SHERIFF'S

Service 1-  
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Total 1.70  
Sheriff \_\_\_\_\_

WITNESS my hand and Seal of said Court,  
December 5, 2002.

JOHN O'GRADY, Clerk of the Court of  
Common Pleas,

BY *James Conway* Deputy Clerk  
of the Court of Common Pleas.

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AND VIDEO

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*303*

**Exhibit G: Trial Transcripts from *State v. Conway*, Case #02CR-1153. Cross-examination of James Conway by Assistant Prosecutor Sheryl Prichard.**

43737J05

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO  
CRIMINAL DIVISION

State of Ohio,

Plaintiff,

vs.

James T. Conway, III,

Defendant.

Case Number 02CR-03-1153

VOLUME XIII of XVII

CONTINUED TRANSCRIPT OF PROCEEDINGS

Before the Honorable Patrick M. McGrath, Judge,  
and a jury duly impaneled and sworn, on Tuesday,  
January 28, 2003.

APPEARANCES:

Ms. Sheryl L. Prichard, Mr. James L. Lowe,  
and Ms. Jennifer L. Coriell, Assistant  
Prosecuting Attorneys,

On behalf of the Plaintiff, State of Ohio.

Messrs. Robert W. Suhr and Brian J. Rigg,  
Attorneys at law,

On behalf of the Defendant, James T.  
Conway, III.

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43737J06

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INDEX TO THE WITNESS

CALLED BY THE DEFENDANT:

PAGE

JAMES CONWAY

Direct examination by Mr. Suhr 2224  
Cross-examination by Ms. Prichard 2249

- - -

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IDENTIFIED

ADMITTED

30 Scale drawing by Mr. Edwards 2237  
34-37 Stills from tape (visual images) 2219 (proffered)  
38 Tape (Reenactment Animation) 2220 (proffered)  
39 Curriculum vitae of James Brian Cope 2222 (proffered)  
40 Lottery photograph 2227  
41 Lottery photograph 2227

- - -

STATE'S:

S-8 Photograph of gun box and live rounds 2290  
S-9 Photograph (posed) of 20 .45-caliber rounds and 50 9-millimeter rounds in box 2291  
S-10 Photograph of 36 .380-caliber and 49 .45 long Colt live rounds 2293  
U-1 Photograph of Deputy Shively 2333

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1 and they said, "Yeah, we're going to take you to your  
2 brother, we're going to take you to your brother, just  
3 calm down."

4 Q. You didn't show up at a hospital or  
5 anything, did you?

6 A. No.

7 Q. Showed up at a bar, Riyadh's?

8 A. Yes.

9 Q. And you didn't know at that time it was  
10 being run by a Franklin County Sheriff Office informant,  
11 did you?

12 A. I mean, didn't think it was at that time,  
13 no.

14 Q. And when you got there, your brother's  
15 there, or did he come after you?

16 A. He was already there, yeah.

17 Q. And did you say, "We got to get you to the  
18 hospital, that looks terrible"?

19 A. Yes.

20 Q. So you went to the hospital; right?

21 A. No.

22 Q. Well, why not?

23 A. Because he said it was going to be okay.

24 Q. So it wasn't that bad, was it?

25 A. I don't know how bad it was.

**Exhibit H: Trial Transcripts from *State v. Conway*, Case #02CR-1153. Cross-examination of Jeffrey Conway by Assistant Prosecutor James Lowe.**

43737J01

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO  
CRIMINAL DIVISION

State of Ohio, :  
Plaintiff, :  
vs. : Case Number 02CR-03-1153  
James T. Conway, III, :  
Defendant. : VOLUME of XII of XVII

CONTINUED TRANSCRIPT OF PROCEEDINGS

Before the Honorable Patrick M. McGrath, Judge,  
and a jury duly impaneled and sworn, on Monday,  
January 27, 2003.

APPEARANCES:

Ms. Sheryl L. Prichard, Mr. James L. Lowe,  
and Ms. Jennifer L. Coriell, Assistant  
Prosecuting Attorneys,

On behalf of the Plaintiff, State of Ohio.

Messrs. Robert W. Suhr and Brian J. Rigg,  
Attorneys at law,

On behalf of the Defendant, James T.  
Conway, III.

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43737J02

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1 CALLED BY THE DEFENDANT:

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3 RON EDWARDS

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 5 Cross-examination by Ms. Prichard 2083  
 6 Redirect examination by Mr. Rigg 2090

7 JEFFREY T. CONWAY

8 Direct examination by Mr. Suhr 2091  
 9 Cross-examination by Mr. Lowe 2119  
 10 Redirect examination by Mr. Suhr 2177  
 11 Recross-examination by Mr. Lowe 2183

- - -

12 CALLED BY THE STATE:

13 DR. JEFF HILSON

14 Voir dire examination by Mr. Lowe 2190  
 15 Voir dire examination by Mr. Suhr 2193  
 16 Further voir dire examination by  
 17 Mr. Lowe 2196

- - -

18 INDEX TO EXHIBITS

19 STATE'S:

IDENTIFIED ADMITTED

20 P-28 Photograph of evidence 2118  
 21 number 10  
 22 Q-4 Photograph of Jeff Conway 2155  
 23 Q-5 Photograph of Jeff Conway 2148  
 24 EE Certified copy of a  
 25 judgment entry 2056 2058

- - -

26 DEFENDANT'S:

27 2-10 Photographs of area of  
 28 Dockside Dolls 2085

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1 was at Big Mike's? You mentioned a bunch of people. Was  
2 there anybody else there?

3 A. Riyadh, he's the owner of the bar.

4 Q. Okay. How well do you know Riyadh?

5 A. I just know him from the bar. I mean, I'm  
6 not real close friends with him, I was cool with him, I  
7 went up there to his bar a few times.

8 Q. Did you know he was working for the  
9 Sheriff's Office?

10 A. Nope.

11 Q. And when you went there, did you call  
12 anybody?

13 A. No, not that I can recall.

14 Q. Did you call Jennifer at some point?

15 A. I think she might have called me, I'm not  
16 for sure.

17 Q. Okay. That's Jennifer Conway we're talking  
18 about?

19 A. Yeah.

20 Q. That's your sister?

21 A. Yeah. I remember talking to her, I just  
22 don't remember if I called her or not or if she called  
23 me.

24 Q. Do you have a cellphone?

25 A. Yeah.

**Exhibit I: Trial Transcripts from *State v. Conway*, Case #02CR-1153. Direct-examination of Detective James Gravett by Assistant Prosecutor Sheryl Prichard.**

1 Another witness on behalf of the State of  
2 Ohio?

3 MS. PRICHARD: Yes, Detective Gravett.

4 THE COURT: Would you raise your right  
5 hand, sir.

6 (Witness is sworn.)

7 THE COURT: Talk right into that mike,  
8 ladies and gentlemen can hear you better.

9 - - -

10 JAMES L. GRAVETT

11 called as a witness on behalf of the Plaintiff, State  
12 of Ohio, being first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. PRICHARD:

15 Q. Would you please state your name and spell  
16 your last name for the jury.

17 A. James L. Gravett, G-r-a-v, as in Victor,  
18 e-t-t.

19 Q. And where are you employed?

20 A. Columbus Division of Police.

21 Q. How long have you been employed there?

22 A. Twelve years.

23 Q. What division are you currently with?

24 A. Homicide squad.

25 Q. And how long have you been a homicide

1 detective?

2 A. Almost five years.

3 Q. Were you one of the homicide detectives  
4 assigned to the Dockside Dolls case?

5 A. Yes.

6 Q. How is it that you became assigned to the  
7 case?

8 A. I was secondary investigator on the case.  
9 The cases are assigned, our sergeant prior to a shift  
10 beginning places out who's going to be primary and  
11 secondaries on homicide cases and who would primary other  
12 cases that we may be involved in.

13 Q. So as cases arise, it's just sort of a  
14 random assignment who's up next?

15 A. Yes. At start of shift we know who's going  
16 to be taking homicide case, we know who's going to be  
17 assigned homicide case or who's going to be assigned an  
18 agg. assault case.

19 Q. Did you actually respond to the scene at  
20 Dockside Dolls on January 19th, 2002?

21 A. Yes, I did.

22 Q. What shift did you work that night?

23 A. Third shift.

24 Q. Is that 11:00 p.m. to 7:00 a.m.?

25 A. Yes.

1 Q. And who did you respond with?

2 A. Detective Mike Cone and Detective James  
3 McClary.

4 Q. Is McClary still with Columbus Police?

5 A. No, he's left the department.

6 Q. When you went out to the scene, what was  
7 your role, what did you do?

8 A. I interviewed witnesses at the scene.  
9 Basically that was it. I interviewed witnesses that  
10 stayed at the scene.

11 Q. When you arrived, were the witnesses already  
12 gone?

13 A. Yes.

14 Q. Were there other police personnel on the  
15 scene?

16 A. Yes, there was patrol officers as well as we  
17 did contact and had other detectives arrive to the scene.

18 Q. Had the scene been secured?

19 A. Yes.

20 Q. Did you work with crime scene search unit  
21 detectives to have them take photographs and collect  
22 property?

23 A. Yes.

24 Q. Did you, I guess, did you direct them to  
25 collect certain items?

1           A.    Yes, we asked them to collect, there was  
2 items in the parking lot, the shell casings, I know there  
3 was a knife in the parking lot, we asked them to collect  
4 those items and photograph the scene as it was when we  
5 got there.

6           Q.    So you looked around and determined what was  
7 part of the scene?

8           A.    Yes.

9           Q.    Let me show you State's Exhibit V-1.  Is  
10 that a fair and accurate representation of the scene as  
11 you saw it that night?

12          A.    Yes, it does.

13          Q.    These numbers being evidence items, does  
14 that still appear accurate to you?

15          A.    Yes.

16          Q.    You said you interviewed witnesses at the  
17 scene?

18          A.    Yes.

19          Q.    Did you note vehicles that were at the  
20 scene?

21          A.    Yeah, they were noted by crime scene search  
22 unit detectives.

23          Q.    And did you become aware of any vehicles  
24 that had left the scene and investigate with respect to  
25 that?

1 A. Yes.

2 Q. Did you look into any particular license  
3 plates or specific vehicles?

4 A. Yes, we did.

5 Q. Could you please explain what vehicles you  
6 investigated having left the scene that might have been  
7 important to your investigation?

8 A. There was a vehicle that witnesses at the  
9 scene stated was a large SUV-type vehicle that had a  
10 vanity tag of SERVNUM that we investigated and did  
11 follow-up work on. Based upon witness statements, we  
12 believed that the person responsible might have gotten  
13 inside that vehicle when he fled the scene.

14 Q. And did you have any other concrete  
15 license-plate information for other vehicles that had  
16 left the scene?

17 A. No.

18 Q. When you followed up on this particular car  
19 with the plate, you said SERVNUM?

20 A. Yes.

21 Q. Who did you come to find that belonged to?

22 A. It was in possession of individual named  
23 Joe Epling.

24 Q. And were you able to ascertain whether or  
25 not Joe Epling had any association with James Conway?

1 A. He was a friend of his.

2 Q. Were cars towed away from that scene because  
3 they had been left on the lot?

4 A. Yes.

5 Q. Was any property from any cars that were  
6 towed turned in to you?

7 A. Yes.

8 Q. Please explain what was turned in to you.

9 A. There was a vehicle towed at the scene that  
10 belonged to the agg. assault victim, Mandel Williams.  
11 When it was towed to the lot, where it was taken to, the  
12 tow truck driver had found a handgun in the vehicle.  
13 That handgun was turned over to a Columbus police  
14 officer, who then turned it into the property room at  
15 our -- that we advised to make sure it was turned into  
16 the property room.

17 Q. And what did you have done with that weapon?

18 A. We had that weapon test fired and compared  
19 to the shell casings that we had at our scene.

20 Q. And why did you do that?

21 A. That was to exclude that weapon as being  
22 involved in this incident.

23 Q. And were you able to do so?

24 A. Yes.

25 Q. Do you recall approximately, based upon your

1 investigation, how long it took for police to arrive from  
2 the time of the 9-1-1, first 9-1-1 call?

3 A. I believe it was within just several minutes  
4 before the patrol officers arrived.

5 Q. Were there several 9-1-1 calls?

6 A. Yes.

7 Q. And were you able to ascertain how long it  
8 took the medics to arrive after that?

9 A. The medics arrived I believe under ten  
10 minutes from the time the first 9-1-1 call came in.

11 Q. So from the time of the 9-1-1 call to the  
12 time police and medics arrive is near ten minutes or so?

13 A. Less than that, yes.

14 Q. When you were at the scene interviewing  
15 witnesses, did you find that there were a lot of  
16 witnesses?

17 A. There was a lot of people at the scene and  
18 there were people that were able to state they were in  
19 the parking lot during the altercation and the shots  
20 fired.

21 Q. Were there people who had bits of  
22 information?

23 A. Yes.

24 Q. People with different vantage points?

25 A. Yes.

1 Q. Did you come into contact with an individual  
2 who had been assaulted and knocked unconscious at the  
3 scene?

4 A. Yes.

5 Q. And who was that?

6 A. That was Shawn Gallagher.

7 Q. Would this be a Caucasian or  
8 African-American?

9 A. Male white.

10 Q. Were you able to obtain any video footage  
11 from the club?

12 A. Yes.

13 Q. Show you what's been marked as State's  
14 Exhibit K. Do you recognize that?

15 A. Yeah. That's the video from the camera  
16 system, the security system at the Dockside Dolls.

17 Q. And did you review that tape extensively?

18 A. Yes.

19 Q. Were you able to find footage of the crime  
20 occurring on that tape?

21 A. No, we did not.

22 Q. Why was that, could you tell?

23 A. There was -- the camera that was set up on  
24 the north end of the building could be viewed on the east  
25 side where the altercation took place, but the manager or

1 security people had turned the camera so it would face  
2 the back parking lot where the dancers would exit, so  
3 they were pretty much taping their vehicles, and so we  
4 didn't pick up that side of the bar.

5 Q. Did you have any problems locating  
6 witnesses?

7 A. Yes.

8 Q. Please explain.

9 A. Some of the witnesses, we had some of them  
10 we only had some first names, we had names of some female  
11 dancers, but -- like proper names, but we didn't have  
12 stage names. It became hard to locate these people  
13 because a lot of times the clubs that they work at, they  
14 don't know real names, they only know stage names and  
15 they switch stage names from each bar they may go to.

16 Q. Did you have any difficulties with  
17 uncooperative witnesses?

18 A. Yes.

19 Q. Please explain.

20 A. There was some witnesses that we tried to  
21 locate that we couldn't find them, they wouldn't talk to  
22 us, and it became difficult because they didn't have  
23 warrants on arrests, we couldn't arrest them for anything  
24 to get them to talk to us and we just couldn't locate  
25 them.

1 Q. Did you interview or attempt to interview  
2 associates of the Defendant?

3 A. Yes.

4 Q. Did you have a great deal of cooperation?

5 MR. RIGG: Objection.

6 THE COURT: Form of the question, sustained.  
7 That may be asked a different way.

8 BY MS. PRICHARD:

9 Q. Did associates of the Defendant talk with  
10 you?

11 MR. RIGG: Objection.

12 THE COURT: Overruled.

13 A. Yes.

14 Q. Did you find based upon the information you  
15 had that they were being forthcoming?

16 A. They --

17 MR. RIGG: Objection, offering opinion.

18 THE COURT: Well, if this is based on  
19 hearsay -- he may testify to what his impression or  
20 knowledge is, he may not testify to what somebody else  
21 told him.

22 MR. RIGG: Your Honor, it's offering  
23 opinion, exactly like we went through this issue before  
24 regarding another witness.

25 THE COURT: Well, come up here a second.

1 - - -

2 Thereupon, there was a discussion at the  
3 bench among the Court, Ms. Prichard and Mr. Rigg, out of  
4 the hearing of the court reporter and the jury.

5 - - -

6 BY MS. PRICHARD:

7 Q. Let me rephrase a little bit.

8 You talked with some associates of the  
9 Defendant; right?

10 A. Yes.

11 Q. When they appeared to talk to you, did they  
12 come alone or with others?

13 A. No, they came with their attorney.

14 Q. Who came with an attorney?

15 A. Jimmy Turner, Ricky Turner and Joe Epling,  
16 and then a Brian Cheatwood.

17 Q. And they came with separate attorneys or one  
18 attorney?

19 A. No, they had one attorney.

20 Q. Who was the attorney?

21 A. Chris Cicero.

22 Q. And did they all come in in a group to talk  
23 with you?

24 A. Jimmy Turner, Ricky Turner and Joe Epling  
25 came in, all three came in together and we interviewed

1 each one separately with Mr. Cicero. Brian Cheatwood was  
2 brought in on a later date.

3 Q. Did you ask that they all come in at the  
4 same time?

5 A. We just asked to talk to them.

6 Q. And did you actually set up this meeting or  
7 did they appear on their own?

8 A. We set up the time.

9 Q. Time for all three or time for one of them?

10 A. Just set up a time to interview. We didn't  
11 differentiate between one at this time, that time. We  
12 said, this is the time we want to interview them, and  
13 Mr. Cicero brought all three of Jimmy Turner, Ricky  
14 Turner and Joe Epling in together, and then through those  
15 interviews we realized that Brian Cheatwood, we needed to  
16 talk to, so he set up a time to bring Brian Cheatwood in  
17 at a later date.

18 Q. And were you aware at the time that  
19 Mr. Cicero was also representing Jim Conway?

20 A. No.

21 Q. When you spoke with them, did you later feel  
22 it was necessary to have follow-up interviews?

23 A. Yes.

24 Q. Why was that?

25 A. Based upon information we had received from

1 the time of the first interview, we realized that there  
2 was more information we needed from them as to what  
3 happened and who else was present at the scene.

4 Q. Were you able to eventually locate them and  
5 get their cooperation?

6 A. No.

7 Q. As part of your investigation, did you show  
8 photo arrays to people?

9 A. Yes.

10 Q. Would you explain what a photo array is?

11 A. A photo array is six photographs in random  
12 order on a single sheet of paper. These photo arrays  
13 that we show may or may not have an individual within  
14 those six photographs that are the subject of an  
15 investigation. These photo arrays are created by our  
16 computer system, and the subjects, the six photographs  
17 which we use, we try to make them either as closely  
18 resembling each other as possible or as totally separate  
19 as possible so no one would stick out.

20 Q. And when you show these to people, do you  
21 give them any instructions?

22 A. Yes. We have a procedural form that we read  
23 to the subjects that we're showing these photographs to  
24 that basically state that the subject of the  
25 investigation may or may not be within the photograph and

1 that they need to be 100 percent sure before choosing  
2 somebody.

3 Q. Let me show you some photo arrays here. Let  
4 me first show you State's Exhibit A-1. Do you recognize  
5 that?

6 A. Yes, I do.

7 Q. What is that?

8 A. That's a photo array number 8480 and it has  
9 a photograph of Joe Epling in it.

10 Q. And Joe Epling is in which position?

11 A. Number 4.

12 Q. State's Exhibit A-2, what is that?

13 A. It's photo array number 10368. It is a  
14 photo array containing the photograph of Ricky Turner,  
15 and he is positioned in spot number 3.

16 Q. State's Exhibit A-3.

17 A. This is photo array number 10370. It is  
18 photograph containing -- a photo array containing the  
19 photograph of James Turner, and he is located in position  
20 number 6.

21 Q. State's Exhibit A-5.

22 A. This is photo array number 10420. It's a  
23 photo array containing the photograph of Mandel Williams,  
24 and he's located in photo number 2.

25 Q. A-6, please.

1           A.    This is photo array number 8496.  It is a  
2 photo array containing the photo of Brian McWhorter, and  
3 he's in position number 4.

4           Q.    And then A-7.  And follow up with A-8.

5           A.    A-7 is photo array lineup number 8495, and  
6 it contains a photograph of Jeff Conway, and he's in  
7 position number 3.

8                   And then photo array number 10654 is  
9 photograph of James Conway, III, and he's in position  
10 number 3.

11          Q.    James Conway, III, being the Defendant?

12          A.    Yes.

13          Q.    Do you see him here in the courtroom today?

14          A.    Yes, he's sitting right there.

15          Q.    Sitting -- if you'd identify for the record?

16          A.    He's sitting there between, he's got the  
17 black suit on, gray-colored shirt.

18                   MS. PRICHARD:  Ask that the record reflect  
19 he's identified the Defendant.

20                   THE COURT:  It will so reflect.

21 BY MS. PRICHARD:

22           Q.    Are those photo arrays, although they're  
23 copies, fair and accurate representations of the arrays  
24 that you created?

25          A.    Yes.

1 Q. Did you make an immediate arrest in this  
2 case?

3 A. No, we did not.

4 Q. Why not?

5 A. Just from the investigative process, we  
6 wanted to make sure that we had the right --

7 MR. RIGG: Objection.

8 THE COURT: Overruled.

9 You may answer.

10 A. Answer. Just through the investigative  
11 process, we wanted to make sure we had the right person.

12 BY MS. PRICHARD:

13 Q. Were you continuing to interview witnesses,  
14 show photo arrays and do things like that?

15 A. Yes.

16 Q. When ultimately was an arrest made?

17 A. I can't remember the exact date.

18 Q. Okay. Several days later or weeks later?

19 A. It was several weeks later.

20 Q. Was there an opportunity for you or someone  
21 at your direction to interview Jeff Conway?

22 A. Yes.

23 Q. And was that interview tape-recorded?

24 A. Yes.

25 Q. Is that down at headquarters?

1 A. Yes.

2 Q. And do you recall how it was that officers  
3 had come into contact with Jeff Conway?

4 A. There was a group of bouncers that had gone  
5 into a bar, and upon being inside the bar they saw Jeff  
6 Conway as well as Brian McWhorter enter this bar. They  
7 recognized Jeff Conway from the night of this incident.  
8 They alerted an off-duty police officer whom they knew,  
9 who in turn was able to get in contact with on-duty  
10 personnel who made a traffic stop on Jeff Conway.

11 Q. And he was brought down to headquarters?

12 A. Yes.

13 Q. And at your direction were any photographs  
14 taken of him?

15 A. There were photographs taken of Mr. Conway  
16 at headquarters.

17 Q. In connection with your investigation?

18 A. Yes.

19 Q. Let me first show you State's Exhibit Q.  
20 Are you familiar with that form?

21 A. Yes. It's the crime scene procedural form.

22 Q. And what was that form being used for?

23 A. It was used to document the photographs that  
24 were taken of Mr. Jeff Conway when he was at Columbus  
25 police headquarters.

1 Q. And please look at Exhibits Q-1 through Q-5,  
2 I believe it was. Do you recognize those?

3 A. Yes.

4 Q. What do they show?

5 A. These are photographs of Mr. Conway at  
6 headquarters as well as a laceration that he had to his  
7 stomach area.

8 Q. And what date were those photographs taken?

9 A. January 24th.

10 Q. Was Mandel Williams ever investigated in  
11 connection with this?

12 A. No.

13 Q. Was he ever charged?

14 A. No.

15 Q. Why not?

16 A. We never -- we never had a victim. No one  
17 ever came forward to state that they were assaulted that  
18 night, that they were stabbed, and no report has ever  
19 been made.

20 Q. If it had been made, would you have  
21 investigated?

22 A. Yes.

23 Q. Did you ever interview Rob Myers?

24 A. No, we have not.

25 Q. You ever have any contact or locate Rob

1 Myers?

2 A. No.

3 Q. Did you attempt to look for him?

4 A. Yes.

5 Q. During your investigation, did you interview  
6 Brian McWhorter?

7 A. Yes.

8 Q. How many times, if you can estimate?

9 A. I think it was four times total.

10 Q. When you interviewed him, were any of these  
11 over the telephone?

12 A. There was one conversation over the  
13 telephone.

14 Q. And do you know where he was or who he was  
15 with during that telephone interview?

16 A. We later learned that he was at Chris  
17 Cicero's office.

18 Q. You didn't know anything at the time?

19 A. No.

20 Q. Did you work in part with the Franklin  
21 County Sheriff's Office in this case?

22 A. Yes.

23 Q. And did the Sheriff's Office primarily  
24 handle the agreement with Ronald Trent?

25 A. Yes.

1 Q. Your office didn't get as involved in that  
2 as the Sheriff's Office; would that be accurate?

3 A. Yeah, correct.

4 Q. Do you know who Riyadh Altalla is?

5 A. Yes, I know who he is.

6 Q. Who is Riyadh?

7 A. He is an informant with the Franklin County  
8 Sheriff's Office.

9 Q. And did you become -- did you work with the  
10 Sheriff's Office in part while they were working with  
11 Riyadh with respect to this investigation?

12 A. Yes.

13 Q. And do you know what Riyadh's connection with  
14 the case was?

15 A. He ran an after-hours club down on South  
16 High Street that these individuals would go to after they  
17 would leave bars at closing time, they would go to his  
18 establishment.

19 Q. Who do you mean "these individuals"?

20 A. Mr. Conway, the Turner boys, Ricky and  
21 Jimmy Turner, Joe Epling. That's where they would go  
22 afterwards.

23 Q. Were search warrants conducted in connection  
24 with this case?

25 A. Yes.

1 Q. How many?

2 A. Two.

3 Q. Why two?

4 A. There was -- Mr. Conway, the Defendant, had  
5 a home address on Dyer Road and we had also gained  
6 information --

7 MR. RIGG: Objection.

8 THE COURT: Sustained.

9 BY MS. PRICHARD:

10 Q. Were there two places that the Defendant was  
11 connected with as a residence?

12 A. Yes.

13 Q. And two search warrants were then done?

14 A. Yes.

15 Q. At what addresses, if you recall?

16 A. I don't recall the addresses.

17 Q. If you saw the search warrant --

18 A. Yes.

19 Q. -- would that help your memory?

20 Show you first State's Exhibit Z-1. Do you  
21 recognize that?

22 A. Yes. That's the search warrant we conducted  
23 at 1944 Dyer Road.

24 Q. Let me also show you State's Exhibit Z-2.  
25 Do you recognize that document?

1           A.    Yes.  It's the inventory receipt that we did  
2 in connection with the search warrant at 1944 Dyer Road.

3           Q.    And were photographs taken at that  
4 residence?

5           A.    Yes.

6           Q.    And then what is that inventory sheet used  
7 for?

8           A.    That's to show what items we had collected  
9 from the address as well as the number of photographs  
10 that were taken.

11          Q.    Let me show you State's Exhibit S-1 through  
12 S-11.  Do you recognize those?

13          A.    These are photographs that were taken at  
14 1944 Dyer Road.

15          Q.    What property did you collect from that  
16 residence?

17          A.    We took 20 rounds of .45-caliber ammunition  
18 and a box as well as these ten photographs.

19          Q.    Were there other items that you didn't  
20 collect but merely photographed?

21          A.    Yes.

22          Q.    Show you State's Exhibit S-8.  What is that?

23          A.    That is a gun box.

24          Q.    Did you collect that gun box?

25          A.    No.  We just photographed it.

1 Q. Did you find a gun in the box?

2 A. No.

3 Q. State's Exhibit Z-3.

4 A. This is the copy of the search warrant that  
5 was conducted at 2005 Dyer Road.

6 Q. And Z-4.

7 A. This is the property inventory receipt that  
8 was completed as a result of the search warrant at 2005  
9 Dyer Road.

10 Q. Nothing taken from 2005 Dyer?

11 A. No, there was nothing taken.

12 Q. And the Sheriff's Office worked with you in  
13 connection with these search warrants?

14 A. Yes.

15 Q. Did you ever find the gun that left the  
16 casings there at the scene?

17 A. No.

18 Q. Let me show you State's Exhibit J. Do you  
19 recognize that?

20 A. It's a copy of the tape from the 9-1-1 calls  
21 on the night of this incident.

22 Q. And you kept those as part of your  
23 investigation?

24 A. Yes.

25 Q. And those would indicate the time of those

1 calls as well?

2 A. Yes.

3 (Assistant Prosecuting Attorneys conferring  
4 off the record.)

5 Q. Are you familiar with whether or not Brian  
6 McWhorter was in protective custody?

7 A. Yes.

8 Q. Yes, he was; or yes, you're familiar?

9 A. Yes, he -- both.

10 Q. And was that something that Columbus police  
11 assisted in facilitating?

12 A. Yes.

13 (Assistant Prosecuting Attorneys conferring  
14 off the record.)

15 MS. PRICHARD: I have nothing further.

16 Thank you.

17 - - -

18 Thereupon, there was a discussion at the  
19 bench between the Court and Mr. Rigg out of the hearing  
20 of the court reporter and the jury.

21 - - -

22

23

24

25

**Exhibit J: Chillicothe Police Department Police Report.**

\*\*\*\*\*  
CHILLICOTHE POLICE DEPARTMENT

Full Call Report

02-002128

06/11/02 12:49

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\*\*\*\*\*

also did a print out of the days business receipts and found that \$679.14 cash was taken in and that there is usually \$200.00 in start-up cash at the time that the business opens, which would have totaled \$879.14 that should have been in the cash drawer. Upon checking the cash left in the drawer it was determined that about \$865.00 in cash was taken during the robbery.

S/Agent Caplinger was able to get some shoe prints from the scene and those were collected and turned to this agency. They will be placed in evidence to be used if a suspect shoe is located. Other evidence collected was also turned over and placed in the evidence room at the Police Department.

This matter remains under investigation.

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Supplemental: As of 02/14/02 at 08:00 by WEATHERSBEE, JOSEPH-6446

On February 13, 2002 Joseph Johnson, Store Manager for Rex TV and Appliances, 850 N. Bridge St. went to Waverly and took a Polygraph test. Michael Corwin gave the test and asked questions about involvement and knowledge of the Aggravated Robbery of the Rex TV store. Mr. Johnson passed all portions of that test and was no longer considered a suspect in the planning or execution of the robbery. This matter remains under investigation.

-----  
Supplemental: As of 02/15/02 at 11:00 by HEWITT, THOMAS L.-1234

On 2/15/02, Officer was contacted by Det. Gary Bedard, from the Franklin Co.S.O., who stated that while they were working an unrelated case, they were able to recover some stolen property from this case. Det. Bedard stated that recovered was one RCA Camcorder, Model/CC4352, Ser.#112630536 and one RCA Camcorder, Model/CC4393, Ser.#025530104. Det. Bedard was unable to give Officer any further information at this time due to their investigation. Det. Bedard did advise that the evidence is secured at the Franklin Co.S.O. Officer did remove the entered items from N.C.I.C.

Investigation continues.

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Supplemental: As of 03/22/02 at 02:00 by HEWITT, THOMAS L.-1234

On this date, Officer was called in reference a subject (confidential informat) had information pertaining to this case. Upon contact with the informat, they had told Officer that one of the persons involved had been talking about the robbery at Rex T.V. They said that they heard that Marcus Simmons, who is an employee at Rex T.V. along with a subject named Shawn Nightingale, who lives locally had planned the robbery. This subject said that they heard from the subject responsible that Shawn contacted some of his friends, Mike

IN THE SUPREME COURT OF OHIO

STATE EX REL. JOHN HAMBEL  
4155 Leppert Road  
Hilliard, Ohio 43026  
Relator,

CASE NO. \_\_\_\_\_

vs.

FRANKLIN COUNTY PROSECUTOR'S  
OFFICE  
373 South High Street, 14<sup>th</sup> Floor  
Columbus, Ohio 43215  
Respondent,

vs.

**ORIGINAL ACTION IN MANDAMUS**

FRANKLIN COUNTY SHERIFFS  
DEPARTMENT  
410 South High Street  
Columbus, Ohio 43215  
Respondent,

vs.

THE CITY OF COLUMBUS, DIVISION  
OF POLICE  
120 Marconi Boulevard  
Columbus, Ohio 43215  
Respondent

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APPENDIX

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Respondent

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PETITION FOR WRIT OF MANDAMUS

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