

IN THE SUPREME COURT OF OHIO

STATE, *ex rel.* THE CINCINNATI  
ENQUIRER, a Division of Gannett  
Satellite Information Network, Inc.

Relator,

vs.

HONORABLE ROBERT H. LYONS,

Respondent.

: Case No. 13-0300  
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: ORIGINAL ACTION IN MANDAMUS AND  
: PROHIBITION  
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ANSWER TO COMPLAINT FOR WRIT OF MANDAMUS AND PROHIBITION BY  
RESPONDENT HONORABLE ROBERT H. LYONS

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**GRAYDON HEAD & RITCHEY LLP**

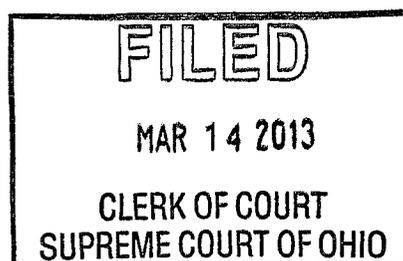
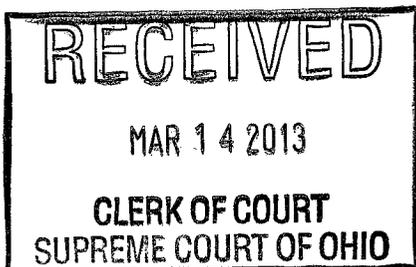
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*Counsel for Respondent  
Honorable Robert H. Lyons*





Comes now the Honorable Robert H. Lyons and for his answer to relator's complaint, states as follows:

1. Respondent admits the allegations contained within paragraph 1 of relator's complaint.

2. Respondent admits the allegations contained within paragraph 2 of relator's complaint.

3. Respondent admits the allegations contained within paragraph 3 of relator's complaint.

4. Respondent admits the allegations contained within paragraph 4 of relator's complaint.

5. Respondent admits the allegations contained within paragraph 5 of relator's complaint.

6. Respondent admits the allegations contained within paragraph 6 of relator's complaint.

7. Respondent admits the allegations contained within paragraph 7 of relator's complaint.

8. Respondent admits the allegations contained within paragraph 8 of relator's complaint. Further answering, respondent states that the orders sealing the conviction records are contained within the sealed files themselves, so it is not possible to produce those records without unsealing the files.

9. Respondent admits that he has sealed numerous conviction records with an entry that erroneously cites O.R.C. 2953.52 as the statutory authority for sealing. Respondent further admits that O.R.C. 2953.52 has no application to the records of individuals convicted of a

criminal defense. Respondent denies, without knowledge or information sufficient to form a belief, the assertion that “The Enquirer therefore believes that the conviction records of numerous individuals were unlawfully sealed by respondent. Relator’s information and beliefs stem from deposition testimony given by respondent in connection with *Lyons I.*” Respondent further denies that records of individuals convicted of a minor misdemeanor were unlawfully sealed by respondent. Further answering, respondent denies each and every other allegation contained within paragraph 9 of relator’s complaint.

10. Respondent denies each and every allegation contained within paragraph 10 of relator’s complaint.

### **COUNT I**

11. Respondent admits the allegation that “Rule 45(B)(1) requires a court to promptly make a “court record” available by direct access upon request. Respondent further admits R.C. 149.43(B)(1) requires a public office or person responsible for public records to promptly prepare and make available for inspection all public records other than those public records or portions of public records which contain information which is exempt from the duty to permit public inspection or copying. Further answering, respondent denies each and every other allegation contained within paragraph 11 of relator’s complaint.

12. Respondent admits that records of unsealed criminal conviction are within the meaning of “court record” as defined by Superintendent’s Rule 44 subsections (B) and (C). Further answering, respondent admits that unsealed records of criminal conviction constitute “public records” within the meaning of R.C. 149.43.

13. Respondent denies that he unlawfully sealed conviction records. Further answering, respondent denies for lack of information or knowledge sufficient to form a belief, each and every other allegation contained within paragraph 13 of relator's complaint.

14. Respondent denies each and every allegation contained within paragraph 14 of relator's complaint.

15. Respondent denies each and every allegation contained within paragraph 10 of relator's complaint.

## COUNT II

16. Respondent admits that Superintendent's Rule 45(E)(3) states, in part, "when restricting public access to a case document or information in a case document pursuant to this division, the Court shall use the least restrictive means available, including but not limited to the following: . . ." Respondent denies that he has failed to use the least restrictive means available by failing to produce a redacted version of the sealing orders requested by relator because the orders themselves are part of the sealed files and respondent does not fall within any of the categories set forth in O.R.C. 2953.32(D). Further answering, respondent denies each and every other allegation contained within paragraph 16 of relator's complaint.

17. Respondent admits the allegations contained within paragraph 17 of relator's complaint.

18. Respondent denies each and every allegation contained within paragraph 18 of relator's complaint.

19. Respondent admits the allegations contained within paragraph 19 of relator's complaint.

20. Respondent denies each and every allegation contained within paragraph 20 of relator's complaint.

21. Respondent denies each and every allegation contained within paragraph 21 of relator's complaint.

22. Respondent denies each and every allegation contained within paragraph 22 of relator's complaint.

**WHEREFORE**, having fully responded to relator's complaint, respondent requests the complaint be dismissed and that relator take nothing thereby.

Respectfully submitted,

*George Jonson by Lisa Zaunig*  
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CERTIFICATE OF SERVICE

I served a copy of the foregoing by First-Class U.S. Mail, postage prepaid, upon the following on this 13th day of March, 2013:

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