

ORIGINAL

STATE OF OHIO

Office of the Clerk
Supreme Court of Ohio
65 South Front Street, 8th Floor
Columbus, Ohio 43215-3431

Date: 9-3-13

RE: State of Ohio exrel, JOHN MARK ANDREWS V CHARDON POLICE DEPT et al

Ohio Supreme Court Case No: 2013-0816

Dear Ohio Supreme Court Clerk,

Please find enclosed One Original and One Copy of the following:

RELATOR-APPELLANT JOHN MARK ANDREWS REPLY-BRIEF
CERTIFICATE/PROOF OF SERVICE

that Relator-Appellant request to be processed, fulfilled, and to expedite the Appeal By Right of the above captioned Original Petition For Writ of Mandamus decision by the Ohio Supreme Court under Relator-Appellant's Indigency Status to be allowed to file ONE ORIGINAL.

(NOTE: Relator-Appellant's pro se pleadings cannot be held same standards as those drafted by attorney as held/ruled by the United States Supreme Court in Hughes v. Rowe, 449 U.S. 5, 9-10, 101 S.Ct. 173, 175-76, 66 L.Ed.2d 163 (1980); Boag v. MacDougall, 454 U.S. 364, 365 (1982) (per curiam); Haines V Kerner, 404 US 519, 521(1972);and accept Relator-Appellant's allegations as true, unless they are clearly irrational or wholly incredible. Denton v. Hernandez, 504 U.S. 25, 33 (1992).

Date: 9-3-13

Respectfully Submitted,

CC: Respondents Attorneys
File

John M. Andrews
RELATOR-APPELLANT IN PRO PER
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IN THE SUPREME COURT OF OHIO

Case No: 2013-0816

State of Ohio ex rel,)
)
JOHN MARK ANDREWS,)
)
Relator-Appellant,)
)
-VS-)
Chardon Police Department et al,)
)
Respondent-Appellee(s),)
_____)

On Appeal From
Warren County Court of Appeals
Eleventh Appellate District

RELATOR-APPELLANT JOHN MARK ANDREWS REPLY-BRIEF

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STATEMENT OF FACTS

That on APRIL 12,2012, This Relator-Appellant submitted a Public Records Request to Respondents- Chardon PD and the Geauga Co Sheriff Dept, and April 20,2012 Respondent- Chardon Police Dept et al; and on April 30,2012 Respondent- Geauga Co Sheriff's Dept et al "arbitrarily and capriciously" denied Relator-Appellant's formal written request under the Ohio Public Records Act(Ohio FOIA), per ORC 149.43 et seq. See Appendice A.

That the Respondent-Appellee(Chardon PD, and Geauga Co Sheriff Dept) Representatives filed subjective/relative, and intentionally false/misleading/fraudulent motion(s) for summary judgment in the Ohio 11th District Court of Appeals, and attached subjective/misleading/false sworn Affidavits by the Respondent(s)- , Sally A Harmasek, and ATTORNEY JAMES M. GILLETTE(Respondents Representaive). That Relator-Appellant filed a Public Records Request on APRIL 16,2012(That was Relator's 2nd Public Record Request), and that there exists absolutely NO Video/Audio Digital or Tape Recordings of inside/outside of the Respondent-Appellee Chardon PD and/or absolutely NO Video/Audio Digital or Tape Recordings from any of the Respondents-Appellees Patrol Cars for the date/time claimed in the herein Mandamus Action Appeal. See attached Sworn Affidavit In Support by Relator-Appellant John Mark Andrews. See Appendice B.

(NOTE: Relator-Appellant advises this Honorable Ohio Supreme Court that Relator's Public Records Request was filed/submitted BEFORE his criminal discovery or "trial preparations". Respondent Chardon PD responded there was absolutely NO dashboard video/audio, and absolutely NO video/audio of Lobby Area of Chardon PD etc. But prior to Relator's Criminal Jury Trial on/about 10/2/12. This Relator was provided with one single video recording of only the booking area by Asst Geauga Co Prosecutor(s) now Representing Respondents on Appeal of the Chardon PD from the date/time requested. That Respondent(s) told Relator in writing did not exist. Relator states he is entitled to ALL video by right after in camera review as to whether that video should be edited out for security reasons, accounted for, and/or decide not to disclose video. Since it will expose corruption/abuse of the Criminal Justice System and Respondent-Appellees(law enforcement agencies) and Geauga Co Prosecutors Office. Since the Respondent-Appellee(s) have clear legal duty to disclose/release said Public Records). See Relator-Appellant's "Supplement To Record", Single DVD of Chardon PD Booking Area. Appendice/Exhibit A.

Relator-Appellant claims/states that he filed a meritorious Pro Se Motion(s) To Strike, and Objection to the herein Respondent-Appellees subjective/misleading motion for summary judgment, and that this Relator-Appellant "fully stipulated and attached exhibits/evidence". That Respondent-Appellee(s) have "failed to assert a defense to the allegations against them" in their summary judgment with attached misleading/false Affidavits by the Respondent(s), and OHIO ATTORNEY JAMES M. GILLETTE(Now Representing Respondent-Appellees on Appeal in this Honorable Ohio Supreme Court). That any/all requested Public Records sought by Relator in the form of police reports, police policies, etc was also provided to this Relator-Appellant when in fact said Requested Public Records were NOT disclosed to Relator, and that what disclosed was for Relator-Appellant's SECOND Public Records Request filed on April 16,2012.

Simply put- Both the Respondent-Appellees filed a motions for summary judgment defending against the WRONG Public Records Request, and the Ohio 11th District Court of Appeals made a decision on the WRONG Public Records Request.

This Mandamus Action Appeal is only about this Relator-Appellant's April 12,2012 Public Records Request. See Appendice A.

(NOTE: Relator advises this Honorable Ohio Supreme Court that it was brought to the Geauga Co Court of Common Pleas Trial Court Judge's and to the Jury's Attention during both Jury Trials on court transcript/record by impeaching Chardon PD Officer Child's perjured testimony. That was intentionally used by the Geauga Co Prosecutors Office in futile attempts to Maliciously Prosecute me with a EDITED copy of his own police Report disclosed during "trial preparations", and that the Respondent- Chardon PD Officer SALLY A. HARMASEK only released/disclosed to Relator a UNedited copy of Chardon PD Police Report to unlawfully remove/delete weapons/property found, criminal activity cover-up by police/prosecutors, and this Relator's brutal assault by Respondent-Appellees at time of arrest and in the Chardon PD. Further, Both Respondent- Chardon PD Sally A. Harmasak and Officer Paul Pfiester refused to testify, and take the stand at Jury Trial even though she was officially served. The Trial Court Judge refused to hold either of them in contempt for good cause shown after TWO Jury Trials on false charges).

See Appendices C-D.

That Relator-Appellant only filed this Pro Se Petition For Writ of Mandamus after being summarily and literally denied non-exempt Public Records retained by said Respondent(s), and

since the Respondent-Appellee(s) had a clear legal duty to release Public Records to the herein Relator that is entitled to Public Records by Right.

But as of to date, The Relator still has not been given, or provided with a copy of any/all non-exempt Public Records as falsely alleged in Respondent's Motion For Summary Judgment by simply attaching a unsworn/un-notarized Affidavit of Respondent-Appellee Geauga Co Sheriff Information Officer- John Hiscox in the 11th District Court of Appeals. That lacks both the Official State of Ohio Notary Seal, and sworn statement that under Penalty of Perjury that said Affidavit is Truthful.

Thus, The Ohio Court of Appeals abused their discretion, created manifest injustice, and erred in granting Respondent-Appellees misleading motion for summary judgment. Because the Respondent(s) have "failed to assert a defense to the allegations against them". Since the Respondent-Appellees responded/defended against the WRONG-dated Public Records Request that is not even being litigated, and/or since the Respondent-Appellees have blatantly failed to attach a sworn notarized Affidavit by any Officials by the Respondent-Appellee Chardon PD and the Respondent-Appellee Geauga Co Sheriff's Office. That there exists NO Video/Audio Digital or Tape Recordings from any of the Respondent-Appellees Patrol Cars, and Respondent-Appellees very own Policies/Procedures as claimed in the herein Mandamus Action.

Further, That this Relator-Appellant now advises this Honorable Ohio Supreme Court that he recently filed a Ohio Public Records Requests with the Respondent Chardon PD, and that said Respondent(s) recently disclosed Public Records. That were intentionally denied previously by Respondents(Chardon PD). When the Geauga Co Prosecutor's made repeatedly made futile attempts to Maliciously Prosecute this Relator with known perjured police

testimony, and/or by intentionally failing/refusing to disclose requested Public Records and exculpatory Discovery Material. According to said recently released Public Records the Respondents "CHARDON PD MOBILE VIDEO RECORDING BY POLICE OFFICERS" Policy clearly establishes that Chardon PD SHALL NOT delete/edit Police Dashcam Video. See Appendice E.

The Ohio Attorney General- Mike Dewine recently issued a publication entitled/called "THE OHIO SUNSHINE LAW MANUAL 2013" projecting/proclaiming this facade to Ohio Citizens that- "My number one priority as Attorney General is to protect Ohio families. My office does this in a variety of ways. One way is making sure the public has access to information. My office fosters a spirit of open government by promoting Ohio's Public Records Law and Open Meetings Law. Together, these laws are known as "Ohio Sunshine Laws" and are among the most comprehensive open government laws in the nation.

Along with this 2013 Ohio Sunshine Laws Manual, Our office and the Ohio Auditor of State's office provide Ohio Sunshine Laws training for elected officials throughout the state, as mandated by Ohio Revised Code Sections 109.43 and 149.43(E)(1). By providing elected officials and other public employees with information concerning public records and compliance, we help ensure accountability and transparency in the conduct of public business".

However, The Ohio Attorney General Office remains completely silent after being served with copies of all Relator's Mandamus Pleading in the 11th District Court of Appeal, and this Honorable Ohio Supreme Court concerning the Respondent-Appellees(Chardon PD, Geauga Co Sheriff, and/or Respondents Representatives- Geauga Co Prosecutor Office et al) blatant refusal/denial to disclose/release requested Public Records, and/or comment on the herein Respondents intentionally destruction of Public Records to cover-up criminal activity, perjury,

and after two unsuccessful attempts to maliciously prosecute this Relator by allowing police/prosecutors to intentionally destroy/delete/edit existing Public Records, and any/all exculpatory evidence in violation of Ohio Revised Code and Chardon PD Policy- "CHARDON PD MOBILE VIDEO RECORDING BY POLICE OFFICERS". See Appendice E.

Therefore, This Honorable Ohio Supreme Court can either condone the Respondent-Appellee(s) Intentional refusal and failure to disclose existing Public Records, and the Intentional Destruction of Public Records to cover-up criminal activity in Geauga Co; or this Honorable Supreme Court can Order the Respondent(s) by Order For Writ of Mandamus to provide the Honorable Ohio Supreme Court Justices with a copy of any/all of the Public Records allegedly provided to this Relator-Appellant. Because the Relator-Appellant claims/states that the Respondent-Appellees are intentionally misleading this Honorable Ohio Supreme Court. That the Respondent(s) allegedly sent/provided Public Records to Relator in "CD ROM" form to assure that all Public Records requested have been provided to Relator as requested in Relator's April 12,2013 Public Records Request(not the April 16,2013 Public Records Request), and that there exists absolutely NO Video/Audio Digital or Tape Recordings from ANY of Respondent(s) Law Enforcement Police Cars and/or of the inside/outside of the Chardon PD for the date/time claimed in the herein Mandamus Action.

(NOTE: During Relator's Jury Trial on 10/2/12 in the Geauga Co Court of Common Pleas. That Geauga Co Sheriff Dept Deputy Jonovich testified under oath that he activated his emergency lights on said date/time, and that all recordings were automatically downloaded to Sheriff's Dept Computer upon return to the Geauga Co Sheriff Dept. The Respondent-Appellee Sheriff/Chief has failed to explain why all the video/audio was conveniently destroyed to cover-up Relator being assaulted by Geauga Co Sheriff Deputies and the Chardon PD Officers, and/or state in any notarized Affidavit that video/audio recordings are only retained only for short time period and/or cover-up criminal activity by fellow officers under "The Blue Wall of Silence" not to inform on or prosecute police officers).

ARGUMENT

Proposition of Law No: 1

(1) RELATOR-APPELLANT CLAIMS/ASSERTS WITH ATTACHED DOCUMENTED EVIDENCE/EXHIBITS THAT THE RESPONDENT-APPELLEES OBTAINED SUMMARY JUDGMENT BY COMMITTING AN ACTUAL FRAUD/PERJURY AND INTENTIONALLY PRESENTED FALSE/MISLEADING INFORMATION, TO THE OHIO COURT OF APPEAL TO NOW ENTITLE THIS RELATOR-APPELLANT BY RIGHT TO FULL MANDAMUS RELIEF BY THIS HONORABLE OHIO SUPREME COURT AS A MATTER OF LAW. SINCE THE RESPONDENT-APPELLEES DEFENDED AGAINST, AND THE OHIO COURT OF APPEAL JUDGES RULED ON THE COMPLETELY WRONG/DIFFERENT PUBLIC RECORDS REQUEST BEING CONTESTED IN QUEST TO COVER-UP CRIMINAL ACTIVITY/CORRUPTION BY THE CHARDON PD, GEAUGA CO SHERIFF DEPT, AND GEAUGA CO PROSECUTORS NOW REPRESENTING THE VERY RESPONDENT-APPELLEES ON APPEAL BEFORE THE OHIO SUPREME COURT.

On the case/appeal at bar, The Relator-Appellant requests that this Honorable Ohio Supreme Court to decide whether the Ohio Eleventh District Court of Appeals abused their discretion, created manifest injustice, erred; and/or whether the Respondent-Appellees obtained Summary Judgment by intentionally presented false/misleading information or intentionally committing actual fraud/perjury to the Ohio Court of Appeals to erroneously obtain summary judgment.

Relator-Appellant claims that pursuant to Ohio Civ.R. 56(C), Summary Judgment is appropriate when:

“(1) No genuine issue as to any material fact remains to be litigated; (2) the moving party is entitled to judgment as a matter of law; and (3) it appears from the evidence that reasonable minds can come to but one conclusion, and viewing such evidence most strongly in favor of the party against whom the motion for summary judgment is made, that conclusion is adverse to that party. Temple v. Wean United, Inc., 50 Ohio St.2d 317, 327 (1977)”.

In order to succeed on a summary judgment motion, the movant bears the initial burden of demonstrating that there are no genuine issues of material fact concerning an essential element of the opponent’s case. Dresher v. Burt, 75 Ohio St.3d 280, 292 (1996). If the

movant satisfies this burden, then the nonmoving party “must set forth specific facts showing that there is a genuine issue for trial.” Id. at 293, quoting Civ.R. 56(E).

A summary judgment shall not be rendered unless it appears from the ‘evidence or stipulation, and only from the evidence or stipulation’, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party’s favor.” Gilbert v. Summit County, 104 Ohio St.3d 660, 2004-Ohio-7108, citing Temple v. Wean United, Inc. (1977), 50 Ohio St.2d 317.

Because summary judgment is a procedural device intended to terminate litigation and to avoid trial when there is nothing to try. Frano v. Red Robin Internatl., Inc., 181 Ohio App.3d 13, 17, 2009-Ohio-685, at ¶12, citing Murphy v. Reynoldsburg, 65 Ohio St.3d 356, 358, 1992-Ohio-95.

“Consequently, in order to avoid summary judgment * * *, [the nonmoving party] must provide more than a simple denial of the conduct * * *.” Wigglesworth v. Mettler Toledo Internatl., Inc., 10th Dist. No. 09AP-411, 2010-Ohio-1019, ¶19; FCMP Inc. v. Alegre, Inc., 2nd Dist. No. 21457, 2007-Ohio-132. A simple denial, even in affidavit form, is not sufficient.

“Civ.R. 56(E) requires not only a denial but also requires that the responding party ‘* * * set forth specific facts showing that there is a genuine issue for trial.’” Med. Care Emp. Credit Union v. Morris (July 13, 1987), 7th Dist. No. 85 C.A. 127, quoting State ex rel. Garfield Hts. v. Nadratowski (1976), 46 Ohio St.2d 441, 442, 349 N.E.2d 298.

On the case/appeal at bar, This Relator-Appellant claims/states that he responded by presented not only evidence/exhibits, but also fully stipulated by repeatedly repeating to the Ohio 11th District Court of Appeals in both this Relator’s Pro Se Motion To Strike and Objection to Respondents motion for summary judgment; and once again in this Relator-Appellant’s Motion For Reconsideration. That Respondents were defending/litigating against the WRONG dated Public Records Request, and that the Respondent(s) motion for summary judgment must be denied and this Mandamus scheduled for immediate Jury Trial. Because reasonable minds of any juror panel could conclude that the Public Records requested by Relator exist; That Relator

is entitled to Public Records; and that Respondent(s) has a legal duty to disclose said Public Records to Relator.

RELATOR'S PROFFERED "EVIDENCE AND/OR STIPULATION"

Relator claim/states that he proffered evidence or stipulation to the Ohio 11th District Court of Appeals in his meritorious Pro Se Motion To Strike and Objection to Respondent motion for summary judgment. Because this Relator attached both sworn notarized Affidavit or Stipulation By this Relator and literal evidence/exhibits to Relator's Motion To Strike and Objection to Respondent motion for summary judgment.

In any event, The Respondent(s) has not only NOT met their burden to entitle them to any form of summary judgment that there exists no genuine issue for trial, and the Respondent's motion for summary judgment must be denied as a matter of law and Justice. Since there does exist a genuine fact for Trial, and there is a strong likelihood that Relator would prevail at Trial.

Ohio Appellate Courts have long held/ruled, that, "Mandamus is the appropriate remedy to compel compliance with Ohio's Public Records Act, R.C. 149.43. State ex rel. Leonard v. White(1996), 75 Ohio St.3d 516, 516, 664 N.E.2d 527, 528, and that O.R.C. 149.43 must be liberally construed in favor of broad access, with any doubt resolved in favor of disclosure of public records. State ex rel. Cincinnati Enquirer v. Hamilton Cty.(1996), 75 Ohio St.3d 374, 376, 662 N.E.2d 334, 336.

Further, O.R.C. 149.43(B) unambiguously provides that "all public records shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours."(Emphasis added.) See, State ex rel. Mayes v. Holman(1996), 76 Ohio St.3d 147, 149, 666 N.E.2d 1132, 1134, quoting State ex rel. Steckman v. Jackson(1994), 70 Ohio St.3d 420, 639 N.E.2d 1132, paragraph five of the syllabus (" Routine offense and incident reports are subject to immediate release upon request"). A mandamus action under O.R.C. 149.43(C) is appropriate "if a person allegedly is aggrieved by the failure of a governmental unit to promptly prepare a public record and make it available to the person for inspection in accordance with [O.R.C. 149.43(B)]."

Finally, This Relator-Appellant would like to thank the Ohio Supreme Court Justices for taking the opportunity to read this Petition For Writ of Mandamus Appeal, and/or that full Oral Argument be conducted in Open Court in this Honorable Ohio Supreme Court. So that the Respondent-Appellees, and the Respondent-Appellees Attorneys(The Geauga Co Prosecutors Representing the Respondent-Appellee on Appeal), and who personally made futile attempts during TWO Jury Trials to maliciously prosecute this Relator with blatant perjured testimony by Respondent-Appellees(Police Officers) during Two Jury Trials to cover-up criminal activity of Law Enforcement to violate Federal Constitutional Right, and for the unlawful seizure of property/weapons by Respondent-Appellees admitted failure/refusal to return Relator's property/weapons in violation of his Federal Constitution Right under Equal Protection procedural Due Process of Law protected under the 1st, 4th, 5th, 6th, and 14th Amendments of the U.S. Constitution.

This Honorable Ohio Supreme Court has clearly established that in a pending criminal proceeding, defendants may only seek records through discovery under the Rules of Criminal Procedure. State ex rel. Steckman v. Jackson, 70 Ohio St.3d 420, 432 (1994), and that "information, not subject to discovery pursuant to Crim.R. 16(B), contained in the file of a prosecutor who is prosecuting a criminal matter, is not subject to release as a public record pursuant to R.C. 149.43, and is specifically exempt from release as a trial preparation record in accordance with R.C. 149.43(A)(4).".

However, This limitation does not extend to police initial incident reports, (eg, All other Public Records) which must be made available immediately, even to the defendant. State ex rel. Rasul-Bey v. Onunwor, 94 Ohio St.3d 119, 120, 2002-Ohio-67 (which are subject to immediate release upon request); State of Ohio v. Twyford, 2001-Ohio-3241 (7th Dist.).

(NOTE: The Respondent-Appellees Representatives at the Geauga Co Prosecutor Office, and Chardon 'Police Prosecutor' Office should know or reasonably know as any intoxicated pre-law grad student with dyslexia, that: "A Prosecutor's duty in a criminal prosecution extends beyond merely trying to secure a conviction. Indeed, The prosecution has the obligation to see that Justice is done and to protect the constitutional rights of the accused. BERGER V U.S., 295 US 78, 88; 55 Sct 629; 79 Led2d 1315(1935); and, It is the prosecutor's duty, as well as the court's,

to see to it that the defendant receives a Fair Trial. US V YOUNG, 470 US 1; 105 Sct 1038; 84 LEd2d 11(1985).

This Relator/Citizen should not have been required to prove his innocence by having to file a Ohio Public Records Request to obtain existing exculpatory discovery evidence in Relator's April 16,2013 Public Records Request. That the prosecution knows or reasonably should have know would be used to prove that the prosecution was blatantly using perjured testimony during Two Jury Trials. That the Relator was not mirandized as a perjured testimony would have revealed to cover up criminal activity by their police officers unreasonable/brutal use of force, and then to intentionally destroy all the videotapes from the date/time, except for one single video of the Chardon PD booking area was released in criminal discovery, and EDITED Police Property Report showing Relator's property/weapons being unlawfully deleted/edited but was blatantly denied in Relator's April 12,2013 Public Records Request.

In conclusion, That this Relator claims/states that his procedural Due Process Rights of Access to the Court under his clearly established Federal/State Constitutional Right under Equal Protection of Law as protected under the U.S./Ohio Constitutions are being blatantly violated on the case/appeal at bar by prejudicial decisions against this Relator, and both Judgment Entries violated Ohio Court Rules and Revised Codes as determined by Ohio Appellate Courts as clearly established are being blatantly disregarded/violated by the Respondent to entitle this Relator-Appellant to full Mandamus Relief as a matter of law.

ARGUMENT

Proposition of Law No: 2

(2) DID THE RESPONDENT-APPELLEES BLATANTLY VIOLATE THE OHIO PUBLIC RECORDS ACT(FOIA) SUNSHINE LAWS, AND THE FEDERAL SUPREMACY CLAUSE OF THE U.S. CONSTITUTION ON THE FEDERAL INTENT OF THE FEDERAL FREEDOM OF INFORMATION ACT(FOIA) TO ALLOW/CONDONE RESPONDENT-APPELLEES(IE, OHIO LAW ENFORCEMENT OFFICIALS) TO INTENTIONALL/MALICIOUSLY DESTROY PUBLIC RECORDS TO COVER-UP CORRUPTION/ABUSE OF THE OHIO JUSTICE SYSTEM IN VIOLATION OF STATE/FEDERAL FOIA INTENT, AND FOR RESPONDENT-APPELLEES EVEN VIOLATING THE RESPONDENTS-APPELLEES VERY OWN CLEARLY ESTABLISHED RESPONDENTS POLICE PUBLIC RECORD POLICY NOT TO DESTROY/DELETE/EDIT RESPONDENTS PUBLIC RECORDS TO MAKE THIS A ISSUE OF GREAT PUBLIC INTEREST AND A FEDERAL/STATE CONSTITUTIONAL ISSUE.

On the case/appeal at bar, This Relator-Appellant claims/states that the Respondent-Appellees blatantly violated the Federal Supremacy Clause of the U.S. Constitution regarding the Legislative/Judicial Intent of Ohio Public Records Act(FOIA), and the Ohio Sunshine Laws protected under the Federal Supremacy Clause of the U.S. Constitution on the Federal Intent of FOIA, and the Federal/State Sunshine Laws. Since the 11th District Court of Appeals erroneously issued orders/decisions on the completely WRONG-dated Public Records Request, and to unlawfully/wrongfully allow, and/or condone the Respondent-Appellees (eg, Chardon PD et al, Geauga Co Sheriff et al, and Geauga Co Prosecutor's Office) to respond/defend against the WRONG-dated Public Records Request , and/or to unlawfully allow the Respondents-Appellees to intentionally and maliciously destroy Public Records that Relator was entitled to by Right, and that the Respondent-Appellees had a clear legal duty to disclose to this Relator in order to cover-up the corruption/abuse of Respondent-Appellees Law Enforcement Agencies, and/or Geauga County Prosecutor's Office in Geauga County, Ohio.

The Federal Supremacy Clause provides that the laws and treaties of the United States “shall be the Supreme Law of the Land . . . anything in the Constitution or Laws of any State to the Contrary notwithstanding.” Article 6, Clause 2 of the U. S. Constitution.

That is why Our United States Supreme CU.S. Supreme Court has held for over 100 years that under the Federal Supremacy Clause, Article 6 Clause 2 of the U.S. Constitution, State Courts have a concurrent duty to enforce Federal Law according to their regular modes of procedure. Claffin v. Houseman, 93 U. S. 130, 93 U. S. 136-137(1876). Such a State Court may not deny a Federal Right, when the parties and controversy are properly before it, in the absence of a "valid excuse." Douglas v. New York, N.H. & H.R. Co., 279 U. S. 377, 279 U. S. 387-389(1929).

The Federal Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, was enacted in 1966 as an amendment to the Administrative Procedure Act(APA) to provide a statutory basis for public access to government information. The statute establishes a presumption that all records of governmental agencies are accessible to the public unless they are specifically exempted from disclosure by FOIA, or another statute. The principles of openness, and accountability underlying FOIA, however, are inherent in the democratic ideal: “The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption, and to hold the governors accountable to the governed.” NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 242 (1978).

In 1976, The Federal Government enacted the Sunshine Act Laws to amend the clearly established Federal Freedom of Information Act(FOIA), 5 USC 552 et seq; and that the State

Ohio Legislators similarly enacted Sunshine Laws in the State of Ohio for the full disclose of non-exempt Public Record to the Public promptly upon request.

This Relator-Appellant requests that when this Honorable Ohio Supreme Court decides whether the Respondent-Appellees, and/or the Ohio 11th District Court of Appeals decision to deny Relator-Appellant's Mandamus, and Motion For Reconsideration is whether the Respondent-Appellees violated the Federal Supremacy Clause on the Federal Intent of FOIA and Federal/State Sunshine Laws or whether the Ohio Court of Appeals decision conflicts with, or is not in accord with controlling doctrine of Federal/State FOIA, and Federal/State Sunshine Laws.

The relative importance to this Honorable Ohio Supreme Court on its own law is not material, however, when there is a conflict with a valid Federal Law(eg, Federal FOIA, 5 USC 552 and/or State/Federal Legislative Intent for disclosure of Public Records under Sunshine Laws), for the Framers of our Constitution provided that the Federal Law must prevail. Article VI, Clause 2. This principle was made clear by Chief Justice Marshall when he stated for the Court that any State Law, however clearly within a State's acknowledged power, which interferes with, or is contrary to Federal Law must yield. Gibbons v. Ogden, 9 Wheat. 1, 22 U. S. 210-211(1824). Also see Franklin National Bank v. New York, 347 U. S. 373(1954); Wissner v. Wissner, 338 U. S. 655(1955); Sola Electric Co. v. Jefferson Electric Co., 317 U. S. 173(1942).

The U.S. Supreme Court held, in Free v. Bland - 369 U.S. 663(1962), that, A claim that a State Statute is preempted by, or in conflict with a Federal Law provision though grounded in the Federal Supremacy Clause primarily involves the comparison of two statutes, rather than the interpretation of the U.S. Constitution; therefore, as established in Ex Parte Buder, 271 U. S. 461 (1926); Ex Parte Bransford, 310 U. S. 354(1940), and Case v. Bowles, 327 U. S. 92 (1946).

Because under the Federal Supremacy Clause, State Laws that conflict with Federal Law are “without effect.” Maryland V Louisiana, 451 U. S. 725, 746(1981); Gade v. National Solid Wastes Management Assn., 505 U. S. 88, 108 (1992)(“Under the Supremacy Clause, from which our pre-emption doctrine is derived, any State Law, however clearly within a State’s acknowledged power, which interferes with, or is contrary to Federal Law, must yield”(internal quotation marks omitted)).

This Honorable Ohio Supreme Court is being asked by this Relator-Appellant to resolve the State of Ohio’s position on whether there is a valid Federal Law(eg, Federal FOIA, Federal Sunshine Law, etc), and, if so, whether there is a conflict with State Law to allow Public Officials, that is, The Respondent-Appellees(Law Enforcement Officials and Prosecutor in Geauga Co) to intentionally refuse/fail to disclose existing non-exempt Public Records, and/or to intentionally destroy Public Records in bad faith. Because that disclosure would expose corruption/abuse of Respondent-Appellees(Law Enforcement) by the very Geauga Co Prosecutors Representing the Law Enforcement Respondent-Appellees in this meritorious Pro Se Mandamus Action Appeal.

The Respondent-Appellees(Chardon PD and the Geauga Co Sheriff Dept) and the Respondent-Appellees Representatives Asst Geauga Co Prosecutor from the Geauga Co Prosecutor total disregard for the Rule of Law, Ohio/U.S. Constitutions, and corruption/abuse of the criminal Justice System is appalling. The U.S. Supreme Court held/declared in Brady v. Maryland - 373 U.S. 83(1963), that:

“Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the

administration of the criminal law the end justifies the means * * * would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face.' Olmstead v. United States, 277 U.S. 438, 485, 48 S.Ct. 564, 575, 72 L.Ed. 944 (1928) (dissenting opinion).

In conclusion, Relator-Appellant's Pro Se pleadings cannot be held same standards as those drafted by attorney as held/ruled by the United States Supreme Court in Hughes v. Rowe, 449 U.S. 5, 9-10, 101 S.Ct. 173, 175-76, 66 L.Ed.2d 163 (1980); Boag v. MacDougall, 454 U.S. 364, 365 (1982); Haines V Kerner, 404 US 519, 521(1972); and accept Petitioner's allegations as true, unless they are clearly irrational or wholly incredible. Denton v. Hernandez, 504 U.S. 25, 33 (1992).

CONCLUSION

WHEREFORE, Relator-Appellant requests/prays that this Honorable Ohio Supreme Court honors this Relator-Appellant's meritorious Appeal By Right. Since Relator-Appellant showed that the 11th District Court of Appeals abused their discretion, created manifest injustice, erred, and/or were intentionally misled by Respondent-Appellees responding/defending to the completely wrong-dated(4/16/13) Public Records ; and by the Ohio 11th District Court of Appeals abusing its discretion, creating manifest injustice, and/or err by denying this Relator's original Pro Se Petition For Writ of Mandamus; Pro Se Final Motion To Strike and/or For Objection; and/or Pro Se Motion For Reconsideration. Based upon the fact: (1) The Relator's entire Mandamus is concerning Relator's April 12,2013 Public Records Request, not the 4/16/13 request; (2) That Respondent still has not provided Relator with a copy of all Public Records as alleged; (3) That Respondent has failed to assert a defense to allegations against them; (4) That Respondent has not disclosed all Public Record until Court-Ordered Disclosure, and that Respondent were required under ORC 149.43(b) promptly disclose Public Records;

and/or (5) That Respondent still has not addressed why Respondents intentionally destroyed Public Records requested by Relator in their response to this Honorable Supreme Court. Thus, The Respondent's motion for summary judgment should have been DENIED, and Relator's Pro Se Petition For Writ of Mandamus GRANTED for Court-Ordered disclosure of Public Records to Relator, and/or to conduct IN CAMERA REVIEW by the Honorable Ohio Supreme Court Justices in order for this Honorable Ohio Supreme Court to make a well-informed decision based upon Truth/Justice/Law, as all circumstances should dictate and Justice would so demand.

Date: 9-3-13

Respectfully Submitted,

John M. Andrews
RELATOR-APPELLANT IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024
(440) 391-3381

APPENDICE A

IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY, OHIO

Case No: 2012-63074

State of Ohio ex rel,
JOHN MARK ANDREWS,

Relator(s),

V

Chardon Police Department et al,
Respondent,

_____ /

STATE OF OHIO)
)SS.
COUNTY OF GEAUGA)

CERTIFICATE/PROOF OF SERVICE

On 5-1 2012, The undersigned served a copy of Relators Pro Se Original Petition For Writ of Mandamus, *Sworn Affidavit In Support of Realtor JOHN MARK ANDREWS*; Relator's Pro Se Brief In Support of Original Petition For Writ of Mandamus; and Proof of Service. Upon Co-Relator- State of Ohio, via, Ohio Attorney General, Mike Dewine, at 30 E. Broad Street, 14th Floor, Columbus, Ohio 43215; Respondent(s) Chardon Police Department et al, 111 Water Street, Chardon, Ohio 44024; and Respondent(s) Geauga Co Sheriff Department et al., at 12450 Merritt Drive, Chardon, Ohio 44024. By placing a copy of said documents in a sealed envelope, properly addressed with **First Class Certified Mail, Return Receipt Requested**, and depositing it in the U.S. Mail. See attached returned green "Certified Mail Cards" signed from said Relator(Ohio AG), and Respondent(s) Chardon PD, and Geauga Co Sheriff et al.

FILED
IN COURT OF APPEALS
MAY 08 2012
DENISE M. KAMINSKI
CLERK OF COURTS
GEAUGA COUNTY

I declare under penalty of perjury after being sworn by the below Notary Public. That the above statements of Relator's Certificate/Proof of Service are true to the best of my knowledge, information, and belief.

Date: 5/8/12

Vicki L. Seuffer
NOTARY PUBLIC



VICKI L. SEUFFER
Notary Public, State of Ohio
My Commission Expires
March 12, 2013

Respectfully Submitted,

John M. Andrews
RELATOR IN PRO PER AT PRESENT
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024

APPENDICE B

IN THE SUPREME COURT OF OHIO

Case No: 2013-0816

State of Ohio ex rel,
JOHN MARK ANDREWS,

Relator-Appellant,

V

Chardon Police Department et al,

Respondent-Appellee(s),

_____ /

RELATOR-APPELLANT JOHN MARK ANDREWS AFFIDAVIT IN SUPPORT

I, JOHN MARK ANDREWS, Relator-Appellant after first being duly sworn, deposes, and says:

(1) That Relator-Appellant claims/states that he filed two Ohio Public Records Requests on April 12,2012, and April 20,2012. But that Relator only litigated the April 12,2012 Public Records Request by filing in the herein meritorious Petition For Writ of Mandamus against Respondents. See Appendice A.

(2) That Relator-Appellant claims/states that the Respondents Representatives- Asst Geauga Co Prosecutor, Bridey Matheney herein intentionally falsely advised both the Geauga Co Court of Commons Judge David Fury during this Relator's Pretrial Conference on record, and throughout their pleadings filed in the 11th District Court of Appeals. That no Public Records exist, Public Records have been provided, and/or that the Respondents Public Records were destroyed 10-Days after the Respondents Dashcams(in the form of DVD Video/Audio Recording) recorded Respondents subordinates of unlawfully assaulting/battering this Relator

during an unlawful arrest, for which, The Respondents Representatives attempted to maliciously prosecute this Relator in bad faith. By intentionally using perjured testimony, and false evidence in bad in futile attempt to convict, for which, This Relator was found NOT GUILTY by Jury Trial.

(2) That Relator-Appellant claims/states that the Respondents Representatives- Asst Geauga Co Prosecutor, Bridey Matheney herein intentionally falsely advised both the Geauga Co Court of Commons Judge David Fury during this Relator's Pretrial Conference on record, and in their pleadings to the 11th District Court of Appeals. That no Public Records exist, Public Records have been provided, and/or that the Respondents Public Records were destroyed 10-Days after the Respondents entire inside/outside of the Respondents Police Depts in the form of DVD Video/Audio Recording) recorded Respondents subordinates of unlawfully assaulting/battering this Relator during intake of Respondents Police Dept, and that Respondents Representative attempted to maliciously prosecute Relator. By intentionally using perjured testimony, and false evidence in bad in futile attempt to convict, for which, This Relator was found NOT GUILTY by Jury Trial.

(3) That Relator-Appellant claims/states that if all the Respondent-Appellees Chardon PD video/audio tape recordings of the entire inside/outside Chardon PD were destroyed after Relator timely made Public Records request. Then how did the Respondents Representatives- Asst Geauga Co Prosecutor conveniently produce a single booking room video inside the Chardon PD during two Jury Trials and destroy the rest? Because the Respondents knew that by producing said Public Records. That relator/I would have proved/showed that any statements were not voluntary, made under extreme duress, and without being mirandized as perjured

testimony was used to assert that this Relator was mirandized. As well as Video/Audio Recorded proof of Relator being savagely assaulted/battered by Respondents for an unlawful arrest on false charges. That Relator was found NOT GUILTY on.

(4) That Relator-Appellant claims/states that the problem with Respondents response on appeal before this Honorable Ohio Supreme Court is why the Respondents Chardon Police Chief Timothy M. McKenna testified under oath during Two Jury Trials on Geauga Co Court of Common Pleas case entitled OHIO V JOHN MARK ANDREWS, case no: 2012C000034, that, all such video tapes(including dashboard cams etc) is retained for ONE-YEAR by the Respondent-Chardon PD according to the clearly established Chardon PD Policy- "Mobile Video Recordings". See Appendice E.

(5) That Relator-Appellant claims/states that during Relator's Jury Trial on 10/2/12 in the Geauga Co Court of Common Pleas. That Respondent-Appellees Geauga Co Sheriff Dept Deputy Jonovich testified under oath that he activated his emergency lights on said date/time, and that all recordings were automatically downloaded to Respondents Geauga Co Sheriff's Dept Computer upon return to the Geauga Co Sheriff Dept. The Respondent-Appellee Geaugau Co Sheriff Dept has failed to explain why all the video/audio was conveniently destroyed to cover-up Relator being assaulted by Geauga Co Sheriff Deputies and the Chardon PD Officers, and/or state in any notarized Affidavit that video/audio recordings are only retained only for short time period and/or cover-up criminal activity by fellow officers under "The Blue Wall of Silence" not to inform on or prosecute police officers).

(6) That Relator-Appellant claims/states that it was brought to the Geauga Co Court of Common Pleas Trial Court Judge's and to the Jury's Attention during Two Criminal Jury Trials on

court transcript/record by impeaching Chardon PD Officer Child's perjured testimony concerning Respondents Chardon PD edited and unedited versions of Respondents Police/Property Reports concerning the unlawful seizure of Relator's property/weapon without Equal Protection procedural Due Process of Law (and said unlawfully seized property/weapons are still being unlawfully deprived by instructions/orders of the Chardon Police Property and/or the Geauga Co Prosecutor Office). That was intentionally used by the Geauga Co Prosecutors Office in futile attempts to Maliciously Prosecute me with a EDITED copy of his own police Report disclosed during "trial preparations", and that the Respondent- Chardon PD Officer SALLY A. HARMASEK only released/disclosed to Relator a UNedited copy of Chardon PD Police Report to unlawfully remove/delete weapons/property found, criminal activity cover-up by police/prosecutors, and of this Relator's brutal assault by Respondent-Appellees at time of arrest and in the Chardon PD on Video Recording. It should also be noted, That both Respondent- Chardon PD Sally A. Harmasak and Officer Paul Pfiester refused to testify, and take the stand at Jury Trial even though they were officially served. The Trial Court Judge refused to hold either of them in contempt after good cause shown after TWO Jury Trials on false charges, and Relator-Appellant timely motioned for contempt charges to be issued against Respondents. See Appendices C-D.

(7) That Relator-Appellant claims/states that his April 12,2012 Public Records Request was filed/submitted BEFORE his criminal discovery or "trial preparations". That Respondent Chardon PD responded there was absolutely NO dashboard video/audio, and absolutely NO video/audio of Lobby Area of Chardon PD etc. But prior to Relator's Criminal Jury Trial on/about 10/2/12. This Relator was provided with one single video recording of only the booking area by

Asst Geauga Co Prosecutor(s) now Representing Respondents on Appeal of the Chardon PD from the date/time requested. That Respondent(s) told Relator in writing did not exist. Relator states he is entitled to ALL video by right after in camera review as to whether that video should be edited out for security reasons, accounted for, and/or decide not to disclose video. Since it will expose corruption/abuse of the Criminal Justice System and Respondent-Appellees(law enforcement agencies) and Geauga Co Prosecutors Office. Since the Respondent-Appellee(s) have clear legal duty to disclose/release said Public Records).

(8) That Relator-Appellant claims/states that Relator systematically repeated through any/all pro se pleadings filed in the 11th District Court of Appeal. That Relator was only litigating the April 12,2012 Public Records Request, and NOT the April 20,2012 Public Records Request and Denial/Response from Respondents. See Appendice A.

(9) That Relator-Appellant claims/states that BOTH the Respondents litigated/defended the April 20,2013 Public Record Request, but that is NOT the Public Records being litigated by Relator in his original Petition For Writ of Mandamus. It Relator's April 12,2012 Public Records Request. Understand????

(10) In conclusion, That Relator-Appellant claims/states that the 11th District Court of Appeals in its quest to be a judicial advocates to cover-up Respondent-Appellees police brutality, malicious prosecution, intentional destruction of exculpatory Public Records, etc. That the 11th District Court of Appeals Justices and Staff Attorneys drafted/issued erroneous Judgment Entries denying Relator's meritorious Petition For Writ of Mandamus for Public Records that he was entitled too by Right based April 12,2013 Public Records Request. That is NOT the Public Records Request being litigated herein on appeal. Understand?????

That I declare/state under oath of perjury that the any/all of the herein statements are true to the best of my knowledge, information, and belief.

Date: 9-3-13

Michelle R. Peda



MICHELLE R. PEDA
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES
AUGUST 21, 2017

Respectfully Submitted,

John M. Andrews

RELATOR-APPELLANT IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024

APPENDICE C

Misc Entry:

and: 22:50:41 04/02/12

Modus Operandi:

Description :

Method :

Involvements

Date	Type	Description	
04/03/12	Law Incident	Citizen Assist T12-1720	related
04/02/12	Name	Andrews, Judee Lee	Wife
04/02/12	Name	Andrews, John Mark	Subject
04/02/12	Name	Johnson, Kory D	Complainant
04/02/12	Name	Rondeau, Robert Frederick III	Other
04/03/12	Offense	Offense#: 33111 - M4 - 1 count	Charged With
04/03/12	Offense	Offense#: 33112 - F2 - 1 count	Charged With
04/02/12	Cad Call	22:50:58 04/02/12 Domestic Violen	Initiating Call
04/03/12	Property	SIL Pistol ruger mk II 0	evidence
04/03/12	Property	BLK Rifle ruger ranch rifle 0	evidence
04/03/12	Property	BLK Shotgun remington express magnum 0	evidence
04/03/12	Property	GRN Ammunition sellior&bellot .223 ammo 0	evidence
04/03/12	Property	BLK Magazine mag for ruger 0	evidence
04/03/12	Property	GRY Blanket 0	evidence
04/03/12	Property	Bow Bear Black Bear 0	Property
04/03/12	Property	Ammunition Federal .22 cal lighting 0	Property
04/03/12	Property	Ammunition Remington 12 Ga Express 0	Property

APPENDICE D

Misc Entry:

and: 22:50:41 04/02/12

Modus Operandi:

Description :

Method :

Involvements

Date	Type	Description	
04/02/12	Name	Andrews, Judee Lee	Wife
04/02/12	Name	Andrews, John Mark	Subject
04/02/12	Name	Johnson, Kory D	Complainant
04/02/12	Name	Rondeau, Robert Frederick III	Other
04/03/12	Offense	Offense#: 33111 - M4 - 1 count	Charged With
04/03/12	Offense	Offense#: 33112 - F2 - 1 count	Charged With
04/02/12	Cad Call	22:50:58 04/02/12 Domestic Violen	Initiating Call
04/03/12	Property	SIL Pistol ruger mk II 0	evidence
04/03/12	Property	BLK Rifle ruger ranch rifle 0	evidence
04/03/12	Property	BLK Shotgun remington express magnum 0	evidence
04/03/12	Property	GRN Ammunition sellior&bellot .223 ammo 0	evidence
04/03/12	Property	BLK Magazine mag for ruger 0	evidence
04/03/12	Property	GRY Blanket 0	evidence

APPENDICE E



Village of Chardon

POLICE DEPARTMENT
(440) 286-6123

FAX
(440) 286-2680

111 Water Street
Chardon, Ohio 44024-1201

W R I T T E N D I R E C T I V E S Y S T E M

subject: MOBILE VIDEO RECORDINGS BY POLICE OFFICERS		number: 98-039
issue date: November 7, 1998	amendments:	no. pages: 5
distribution: All Police Officers	classification: GENERAL ORDER	
issued by: <i>David J. Hyslop</i> DAVID J. HYSLOP, Chief of Police		

I. Purpose

The purpose of this directive is to establish departmental policies, procedures, rules and regulations regarding the use of mobile video recording (MVR) units and related equipment during a police officer's tour of duty on patrol.

II. Policy

Mobile video recording (MVR) equipment has been demonstrated to be of great value in the prosecution of traffic violations and criminal offenses, and in the evaluation of police performance and training. Whenever possible, for the protection of police officers and the general public, it is the policy of the Chardon Police Department to create and maintain a videotaped record of police officer's activities. In order to maximize the use of this equipment in these related areas, officers shall follow the procedures outlined below, as it relates to the use of this equipment.

III. Objectives

A. The Chardon Police Department adopts the use of MVR for the purposes below:

1. Accurate documentation of events, incidents, conditions, and statements made during a police contact, traffic violation, OMVI, traffic crash, or other criminal offense or incident, so as to enhance the officer's investigation in the field, and support the officer's testimony in court.
2. Enhance CPD's ability to record, review and evaluate an officer's probable cause for arrest, arrest tactics and procedures, interaction between the officer and either a suspect, prisoner or traffic violator in the field, documenting the collection of evidence for investigative purposes, as well as officer training and evaluation.

IV. Operating Procedures - Officers assigned to an MVR equipped vehicle shall:

- A. Maintain a working knowledge of how the equipment is to be operated and its maintenance according to the manufacturer's specification and recommendations.
- B. At the beginning of every shift, officers shall determine if their MVR equipment is working properly and shall report any problem or malfunction to their supervisor as soon as possible.
- C. Throughout their shift, officers shall ensure the MVR equipment continues to operate properly, in order to record all pertinent patrol activity. In so doing, they shall ensure the following:
 - 1. The camera is position and adjusted properly to record events.
 - 2. The wireless microphone is activated when appropriate.
- D. Officers shall not erase, edit, alter or purposefully damage/destroy any MVR tape.
- E. Officers shall ensure they are equipped to begin their shift with a fresh tape to complete their shift.
- F. All tapes retained as "evidence" or for training purposes shall be properly labeled and identified prior to being submitted with related documentation at the end of their shift.
- G. Officers are encouraged to inform their supervisor of any taped sequences that may be of value for training purposes,
- H. Officers will note on traffic citations, investigation and arrest reports whenever the MVR equipment was used to record the activity.
- I. Officers shall only use videotapes issued and approved by this department.

V. Tape Control and Management

- A. MVR tapes containing information that may be of evidentiary value for criminal prosecution or in any adversarial civil proceeding shall be safeguarded the same as all other forms of evidence. The MVR tape shall:

1. Be subject to the same security restrictions and chain of evidence safeguards as detailed in CPD's evidence control policy.
 2. Not be released to another criminal justice agency for trial or other purposes without having a duplicate copy made and the original returned to safe storage.
 3. Not be released to other than a bona fide criminal justice agency without the prior approval of the Chief of Police or his designee.
- B. Tapes not scheduled for court proceedings or other departmental use shall be maintained for the minimum period required by law (30 days). All tapes shall be maintained in a manner that permits efficient identification and retrieval.
- C. No video tapes shall be re-issued for operational use unless completely erased by a evidence officer. Evidence officers, however, shall never erase their own tape.
- VI. Supervisory Responsibilities - Supervisors who manage or direct officers equipped with MVR capabilities shall ensure the following:
- A. All officers follow established procedures for the use and maintenance of all MVR equipment, handling of video/audio recordings and the completion of all documentation necessary for prosecution.
 - B. Twice a month, supervisors shall randomly review video tapes and recordings to assist them in periodic assessment of the officer's proper use of MVR equipment, performance and to identify any material that may be of value for training.
 - C. All repairs of damaged or non-functional MVR equipment conducted.
 - D. All statistical reporting requirements are being completed as required to ensure and adequate program evaluation.
- VII. Additional requirements for officers using MVR equipment
- A. Use of the MVR equipment is mandatory for all officers assigned to a vehicle that is so equipped.
 - B. They must familiarize themselves with the proper operation of MVR equipment using the instruction manual supplied by the manufacturer.
 - C. Whenever possible and practical, supervisory officers shall assign patrol officers under their command, to patrol vehicles equipped with MVR equipment.

- D. Prior to the start of each shift, officers assigned to MVR equipped vehicles shall remove the (Car Tape) from the trunk recorder and load their individual tape for that particular date. The (Car Tape) should remain in the trunk and be returned to the trunk recorder at the end of the officer's shift. The (Car Tape) will serve as a back-up in the event of an officer forgetting to load his own tape at the start of a shift, when an emergency occurs. After loading the tape to start the shift, the officers shall notify the dispatcher, who shall enter the officer's I.D. #, date and time to the "Y" page. Officers shall also equip themselves with the wireless microphone/transmitter to ensure the audio is recorded correctly on the vide tape.
- E. Officers shall continuously record ALL patrol activity. The following exceptions to this rule should be for meals/coffee breaks, all station activity ie., conducting follow-up investigations, interviews, statements, weapons cleaning, any training, witnessing prisoner processing, BAC or urine testing, other administrative tasks, relief of a dispatcher, or comfort stop for the officer. Officers may also choose to turn the recorder off, when meeting another officer on the street to exchange information, provided they notify the dispatcher they are meeting another unit, and indicate the recorder is "off." This will ensure privacy and at the same time provide a back-up reminder for the officer(s) involved to turn their recorder back "on" when their meeting is complete.
- F. While on regular patrol, with no call assigned, officers should not activate their individual wireless microphone because the rear seat hidden microphone is "on" at all times and can only be deactivated by turning the MVR system "off." The presence of two microphones in close proximity will create a feedback effect. Officers shall activate the wireless microphone when stepping out of the car. The audio recording of conversations can be made from a distance up to 1,000 ft. For this reason, officers stopping a traffic violator or arriving at certain calls, ie., domestics, disturbances, or altercations, the wireless microphone provides a record of conversations with others who are involved in the investigation at hand.
- G. Officers shall rewind all recorded tapes at the end of their shift. Generally, the MVR should not be used for this purpose. Instead, a rewind unit located in the tape storage area will be provided.
- H. Officers who must retain a numbered (1-31) video tape for evidentiary purposes shall mark the tape as "EVIDENCE" with the appropriate incident/case number, place it in an evidence envelope, and place it into one of the evidence lockers.
- I. Officers shall replace tapes entered into evidence or submitted for department training purposes from their individually assigned supply of extra tapes labeled with their I.D. # and A, B, C, or D. Officers working overtime beyond their regular shift will, no doubt, need to use one of these extra tapes as well.

- J. Full-time officers regularly assigned to a MVR equipped vehicles will be issued 31 numbered video tapes (one for each day/date in a month) and four extra tapes lettered A, B, C, D, for use as needed to replace a tape entered into evidence or if need to complete an overtime shift. The 31 (day/date) tapes shall be used progressively, in order to maintain a one-month archival record for each officer. The tapes are eight-hour length and should cover the officer's regular shift, provided the equipment is not left "on" during the exceptions, as noted earlier.
- K. Part-time officers shall utilize the next (part-time) tape in order designated by a log book for this purpose.

VIII. Other Considerations and Tips for Effective Use of MVR Equipment

- A. Officers should practice working with the video, operating the auto/zoom focus while on regular patrol and behind a vehicle in traffic. Notice the auto/zoom has two stages: 1) zeroing in on the car itself, from the wide angle position; and 2) capturing a close-up of the vehicle's license number. It will take some practice to determine the appropriate distance between a violator's car and the patrol car.
- B. At night, with headlights, takedown lights, spotlight and rotating lights reflecting back from the rear of a stopped vehicle might produce less-than-quality images. For this reason, officers should practice appropriate cruiser placement at angles to get away from reflecting glare from the vehicle ahead.
- C. Officers who have stepped out of their vehicle and are unsure whether or not they have activated their wireless microphone/transmitter, only have to glance back at the center of the overhead lights. Behind the siren screen, is a small rectangular amber light. If not illuminated, the wireless microphone is NOT yet activated or the transmitter is beyond the 1,000 ft. range.
- D. The camera is mounted on a swivel post allowing the officer to adjust it for the most ideal position to capture valuable evidence. In addition to audio/video taping events outside of the car, prisoners or suspects conversations in the rear seat compartment are recorded. Upon transporting any prisoner, and especially those who threaten an officer or begin harming themselves, head butting the security screen, the camera shall be turned 180 degrees to capture that activity.

IN THE SUPREME COURT OF OHIO

Case No: 2013-0816

State of Ohio ex rel,
JOHN MARK ANDREWS,

Relator-Appellant,

V

Chardon Police Department et al,

Respondent-Appellee(s),

STATE OF OHIO)
)SS.
COUNTY OF GEAUGA)

CERTIFICATE OF SERVICE

On 9-3 2013, The undersigned served a copy of Relator-Appellant's meritorious Reply Brief of Relator-Appellant John Mark Andrews; and Certificate/Proof of Service. Upon Co-Relator-Appellant- State of Ohio, via, Ohio Attorney General, Mike Dewine, at 30 E. Broad Street, 14th Floor, Columbus, Ohio 43215; Respondent-Appellee(s)- Chardon PD Representative/Attorney, James M. Gillette, Law Director, City of Chardon, 117 South Street, Suite 208, Chardon, Ohio 44024; and Respondent-Appellee(s) Geauga Co Sheriff Department et al., Representative- Geauga Prosecuting Attorney, James R. Flaiz; Bridey Matheney, at 231 Main Street, Suite 3A, Chardon, Ohio 44024. By placing a copy of said documents in a sealed envelope, properly addressed with First Class Postage being fully prepaid, and depositing it in the U.S. Mail.

I declare that the above statements of Relator's Certificate/Proof of Service are true to the best of my knowledge, information, and belief.

Date: 9-3-2013
Michelle R. Peda
NOTARY PUBLIC

Respectfully Submitted,
John M. Andrews
RELATOR-APPELLANT IN PRO PER
JOHN MARK ANDREWS
120 COURT STREET
CHARDON, OHIO 44024

