

IN THE SUPREME COURT OF OHIO

STATE, EX REL.,	:	
STEPHANIE Y. CLOUGH,	:	CASE NO. 2014-1122
	:	
Relator,	:	
	:	
vs.	:	Original Action
	:	In Mandamus
FRANKLIN COUNTY CHILDREN	:	
SERVICES, et al.,	:	
	:	
Respondents.	:	

RESPONSE OF RESPONDENTS FRANKLIN
COUNTY CHILDREN SERVICES, EXECUTIVE DIRECTOR
CHARLES SPINNING, AND ANNE O'LEARY TO RELATOR'S
EMERGENCY MOTION TO STAY DESTRUCTION OF DOCUMENTS

Stephanie Y. Clough, *pro se*
8060 Wright Road
Broadview Heights, OH 44147

RELATOR, PRO SE

Ron O'Brien (0017245)
Franklin County Prosecuting Attorney
Nick A. Soulas, Jr. (0062166)
(COUNSEL OF RECORD)
First Assistant Prosecuting Attorney
Amy L. Hiers (0065028)
Assistant Prosecuting Attorney
373 S. High St., 13th Floor
Columbus, Ohio 43215
Phone: 614-525-3520/Fax: 614-525-6012
nasoulas@franklincountyohio.gov
ahiers@franklincountyohio.gov

COUNSEL FOR RESPONDENTS

On March 23, 2015, Relator filed an Emergency Motion to Stay Destruction of Documents Specified Under Original Action in Mandamus. As grounds for her motion, Relator cites to the records retention schedule published on the Ohio Department of Administrative Services website, which lists the retention schedule for a class of documents identified as “Child Abuse & Neglect Program Operations.” Contrary to the understanding of Relator, the records of the investigation that she seeks in this action are not subject to the schedule attached to her motion. The records subject to that retention schedule are programmatic in nature and are “reports, correspondence, and/or memos relating to *administration* of the Child Abuse and Neglect Program” (emphasis added). See, ODJFS Schedule, attached to Relator’s Motion as Appendix A.

As relevant here, the retention schedule adopted by Respondent Franklin County Children Services (“FCCS”) for records maintained by FCCS is attached as Exhibit 1 to the Affidavit of Nick A. Soulas, Jr., Counsel for Respondents (Exhibit A). This schedule demonstrates that any records maintained by FCCS pertaining to the investigation conducted by FCCS involving Relator are permanently maintained electronically. See, Exhibit 1, Schedule of Records Retention and Disposition, items INTK-01 and DATA-01, pp. 1, 2. As a result, the records being sought by Relator that are be maintained by FCCS are maintained permanently, and therefore, there is no order required by this Court to ensure that such records will not be destroyed.

Respondent recognizes that some of the records Relator seeks are maintained at the state level in the State Automated Child Welfare Information System (“SACWIS”). Notwithstanding the foregoing, counsel for Respondents currently has in his possession, solely as a result of this litigation, a complete copy of the investigatory materials that were compiled as a result of the

allegations first reported by the Relator, including the records maintained in SACWIS. See, Soulas Aff., Exhibit A. The purpose of counsel's receipt of these records was to preserve the records and to ensure timely compliance with any future order of this Court. It is important to note that the copy of these records is maintained confidentially and has not, and will not, be used or disclosed for any purpose in a manner inconsistent with law and the proceedings herein. Given all of the foregoing, an order from this Court is unnecessary to ensure the preservation of the records sought in this action.

It is therefore respectfully requested that this Court deny the motion of Relator for an order to stay the destruction of records specified in the mandamus action.

Respectfully submitted,

RON O'BRIEN
PROSECUTING ATTORNEY
FRANKLIN COUNTY, OHIO

/s Nick A. Soulas, Jr.

Nick A. Soulas, Jr. 0062166
First Assistant, Civil Division
Amy L. Hiers 0065028
Assistant Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215-6318
(614) 525-3520
(614) 525-6013 FAX
nasoulas@franklincountyohio.gov
ahiers@frankincountyohio.gov

Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2015, I served the foregoing via regular U.S. mail,
postage prepaid, to:

Stephanie Y. Clough
8060 Wright Road
Broadview Heights, OH 44147

Relator, *Pro Se*

/s Nick A. Soulas, Jr.
Nick A. Soulas, Jr. 0062166
Assistant Prosecuting Attorney

IN THE SUPREME COURT OF OHIO

State of Ohio, ex rel.	:	
Stephanie Y. Clough,	:	
	:	
Relator,	:	Case No. 14-1122
	:	
v.	:	
	:	(Original Action in Mandamus)
Franklin County Children Services, et al,	:	
	:	
Respondents.	:	
	:	

AFFIDAVIT OF NICK A. SOULAS, JR.

STATE OF OHIO,
COUNTY OF FRANKLIN, SS:

I, Nick A. Soulas, Jr., being duly cautioned and **SWORN**, hereby state the following:

- 1.) I am more than 18 years of age, I have personal knowledge of all of the facts contained in this Affidavit, and I am competent to testify to the matters contained herein.
- 2.) I am the First Assistant Prosecuting Attorney, Civil Division for the Franklin County Prosecuting Attorney. I have served in that capacity for 9 years. As a part of my duties, I undertake the direct representation of the statutory clients of the Franklin County Prosecuting Attorney pursuant to Ohio Revised Code § 309.09, including the Franklin County Children Services Board, and its employees.
- 3.) I am Counsel of Record in the action styled State, ex rel. Stephanie Clough v. Franklin County Children Services, et al., Ohio Supreme Court Case No. 2014-1122.
- 4.) In the course of my representation of Franklin County Children Services Board in this action, I requested a copy of the complete investigative file which is the subject



of this action in order to maintain said file and ensure prompt compliance with any future order of the Court. I currently possess and maintain said file in a confidential manner, and have ensured that it will not be used in any manner inconsistent with this litigation.

- 5.) Attached hereto as Exhibit 1 is a true and accurate copy of Schedule of Records Retention and Disposition of the Franklin County Children Services Board as adopted by the Franklin County Records Commission on April 9, 2012 and approved by the Ohio Auditor of State on May 23, 2012.
- 6.) The Schedule of Records Retention and Disposition attached as Exhibit 1, hereto, establishes that the records sought by Relator in this action are required to be kept by FCCS permanently. See items INTK-01 and DATA-01.

FURTHER AFFIANT SAITH NAUGHT.



Nick A. Soulas, Jr. (0062166)

SWORN to before me and subscribed in my presence this 30 day of March, 2015.


NOTARY PUBLIC

DENISE L. HANSON
Attorney at Law
NOTARY PUBLIC, STATE OF OHIO
My Commission Has No
Expiration Date
Section 147.03 R.C.

Schedule of Records Retention and Disposition

- 1) To: Franklin County Records Commission 614-462-3322 373 S High Street, Columbus, Ohio 43215 Franklin
 Tel. No. Address County
- 2) From: Franklin County Children Services 614-229-7680 Data Management Department
 Political Subdivision Name Tel. No. Unit

Judy F. Boyd
 Signature of Responsible Official

Judy F. Boyd, Supervisor
 Name & Title

April 28, 2012
 Date

3) Certification: I hereby certify that our records commission met in an open meeting, as required by Section 121.22 ORC, and passed the retention schedules contained on this form and any continuation sheets. I further certify that our commission will make every effort to prevent these record series from being destroyed, transferred, or otherwise disposed of, in violation of this schedule, and that no record will be knowingly disposed of which pertains to any pending case, claim, action, or request. Further, any microfilm replacing a record listed on this schedule will conform to ANSI standards. This RC-s was approved on April 9, 2012 as reflected by the minutes kept by this commission.

Chairman, Records Commission:

[Signature] 4/9/12
 Signature Date

4) Subject to selection upon receipt of a Certificate of Records Disposal (RC-3):

[Signature] 5/14/12
 For the Ohio Historical Society Date

Approved by the Ohio Auditor of State:

[Signature] 5-23-12
 For the Ohio Auditor of State Date

Separate Entries Should Be Made For Records With More Than One Media Type

Schedule Number	Record Title and Description	Retention Period	Media Type	For Use by Auditor of State Or OHS-LGRP
INTK-01	<u>Abuse/Neglect Referrals</u> (not opened as cases) Contains allegations, investigation findings, and dispositions.	Until Scanned	Paper	
INTK-01	<u>Abuse/Neglect Referrals</u>	Permanent	Electronic/Optical Disc	
INTK-02	<u>Out-of-Town Inquiries</u> Requests from other states/countries for home investigations prior to placement of children in Franklin County Children Services which includes Interstate Compact studies.	Until Scanned	Electronic/Paper As Appropriate	



Form RC-2

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Schedule of Records Retention and Disposition Continuation Sheet

From: Franklin County Children Services
Political Subdivision Name

614-229-7680
Tel. No.

Data Management Department
Unit

Schedule Number	Record Title and Description	Retention Period	Media Type	For Use by Auditor of State Or OHS-LGRP
INTK-02	<u>Out-of-Town Inquiries</u>	Permanent	Electronic/Optical Disc As Appropriate	
INTK-03	<u>Inquiries Made To Intake Dept.</u> (that did not require agency intervention - Info Only)	Until Scanned	Paper	
INTK-03	<u>Inquiries Made To Intake Dept.</u>	Permanent	Electronic/Optical Disc As Appropriate	
INTK-04	<u>Non-Abuse/Neglect Referrals</u> (not opened as cases) Pertains to dependency, unruly, delinquent, out-of-home perpetrator investigations, and unwed parent services.	Until Scanned	Paper	
INTK-04	<u>Non-Abuse/Neglect Referrals</u> (not opened as cases)	Permanent	Electronic/Optical Disc As Appropriate	
FOST-01	<u>Foster Care Records</u> Records of active foster homes showing name and address of person fostering children, certification information, names of children cared for, board rates, and caseworkers investigation and service reports.	Until Scanned	Paper	
FOST-01	<u>Foster Care Records</u>	Permanent	Electronic/Optical Disc As Appropriate	
FOST-02	<u>Foster Home Rule Violation</u>	Until Foster Home Closes	Paper	
FOST-02	<u>Foster Home Rule Violation</u>	Permanent	Electronic/Optical Disc As Appropriate	
DATA-01	<u>Client Records</u> Contains case number, identifying information, risk assessments, case plans, record of service, placement, medical, and legal information.	Until Scanned	Paper	
DATA-01	<u>Client Records</u>	Permanent	Electronic/Optical Disc As Appropriate	
ADOP-01	<u>Adoption Records</u> Application for adoption, home study, child's record, caseworker reports, date of approval/ denial, and related correspondences.	Until Scanned	Paper	

Form RC-2

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Unit

Schedule Number	Record Title and Description	Retention Period	Media Type	For Use by Auditor of State Or OHS-LGRP
ADOP-01	<u>Adoption Records</u>	Permanent	Electronic/Optical Disc As Appropriate	
ADOP-02	<u>Unlicensed - Withdrawn or Rejected Adoptive/Foster Home Studies</u> Content similar to adoption records.	Six Months	Paper	
ADOP-03	<u>Licensed - Withdrawn or Rejected Adoptive/Foster Home Studies</u>	Six Years	Paper	
ADOP-04	<u>Adoption/Foster Subsidy Cases - State and Federal</u> Contains federal contracts, documentation of re-determination and initial agreements.	Until Scanned	Paper	
ADOP-04	<u>Adoption/Foster Subsidy Cases - State and Federal</u>	Permanent	Electronic/Optical Disc As Appropriate	
ADOP-05	<u>Adoption Assistance Records</u> Contains applications and data which validate eligibility, and communications.	Until Scanned	Paper	
ADOP-05	<u>Adoptions Assistance Records</u>	Permanent	Electronic Optical Disc As Appropriate	
PLAN-01	<u>Policy And Procedure Manual</u>	Until Superseded/Obsolete	Paper	
HRES-01	<u>Applications For Employment</u>	One Year	Paper	
HRES-02	<u>Job Descriptions</u>	Until Superseded/Obsolete	Paper	
HRES-03	<u>Personnel Files Including Time Sheets</u>	Until Terminated	Paper	
HRES-04	<u>Terminated Personnel Files Including Time Sheets</u>	Permanent	Electronic/Optical Disc As Appropriate	
REV-01	<u>Title IVE And Medicaid</u> Contains applications for ADC-FC, data which validates eligibility, and communications.	Two Years After Closing	Paper	

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REV-01	<u>Title IVE And Medicaid</u> Contains applications for ADC-FC, data which validates eligibility, and communications	Permanent	Electronic/Optical Disc As Appropriate	RC-3 Required by OHS
REV-02	<u>Federal Insurance Records</u> Contains applications for benefits, data which validates eligibility, and communications.	Until Scanned	Paper	
REV-03	<u>Estates</u> Contains all papers in estate administration.	Until Scanned	Paper	
REV-03	<u>Estates</u>	Permanent	Optical Disc	
FIS-01	<u>Accounts Receivable Records</u>	Three Years After End Of Fiscal Year That Has Been Audited	Paper	
FIS-02	<u>State/Federal Grant Financial Records</u>	Five Years After End Of Fiscal Year That Has Been Audited	Paper	
FIS-03	<u>Accounts Payable</u> Contains purchase orders, vouchers, and invoices.	Three Years After End Of Fiscal Year That Has Been Audited	Paper	
FIS-04	<u>Audit Report</u> Bureau Of Inspection And Supervision.	Permanent	Paper	
FIS-05	<u>Sick Leave Requests</u>	Three Years After End Of Fiscal Year That Has Been Audited	Paper	
FIS-06	<u>Vacation Leave Request</u>	Two Years After End of Fiscal Year That Has Been Audited	Paper	

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Schedule Number	Record Title And Description	Retention Period	Media Type	For Use by Auditor of State Or OHS-LGRP
FIS-07	<u>Payroll And Time Cards</u>	Three Years After End Of Fiscal Year That Has Been Audited	Paper	Audited notes: the years encompassed by the records have been audited by the Auditor of State and the audit report has been released pursuant to Sec. 117.26 O.R.C.
CONST-01	<u>Contracts/Agreements/ Letters of Understanding</u>	Fifteen Years After End Of Time Performance Of Agreements Or Contracts	Paper	