IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel. CINCINNATI ENQUIRER, et al.	:	
Relators,	:	Case No. 2015-1222
v.	:	**Original Action in Mandamus**
JOSEPH T. DETERS, HAMILTON COUNTY PROSECUTING ATTORNEY,	:	
Respondent.	:	

AMICUS BRIEF OF OHIO ATTORNEY GENERAL MIKE DEWINE IN SUPPORT OF RESPONDENT JOSEPH T. DETERS, HAMILTON COUNTY PROSECUTING ATTORNEY

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I. INTRODUCTION AND STATEMENT OF AMICUS INTEREST

This public-records case involves a video recording from a body camera worn by a police officer when the officer shot a motorist during a traffic stop. The video was originally held by the University of Cincinnati Police Department (UCPD), as it was a UCPD officer involved. UCPD shared the video immediately with the Cincinnati Police Department (CPD), which immediately began investigating the shooting, in conjunction with Respondent Joe Deters, the Hamilton County Prosecuting Attorney. When Relators, the Cincinnati Enquirer and other news outlets, requested the video from both the UCPD and CPD, the prosecutor in consultation advised them to decline. When reporters also requested it from the prosecutor, he, too, declined to provide it for a few more days, while he investigated and took the case to a grand jury. Upon announcing the grand jury indictment on July 29, 2015, just nine days after the July 20th shooting, the prosecutor released the video. But Relators sued on July 27th, two days before the release, and they have maintained the suit to claim that the prosecutor violated the public records law in the interim.

The Attorney General files this amicus because the Enquirer's approach seeks to make new public-records law that would distort the careful balance that the General Assembly has crafted, and that this Court has rightly followed, in applying the public-records exception for "confidential law enforcement investigative records," or "CLEIRs." The Court has already rejected a bright-line approach to police "dash-cam" or "cruiser-cam" videos, saying sensibly that the content and context, not the medium, determine whether a given video is public or exempt. *State ex. rel. Miller v. Ohio State Hwy. Patrol,* 136 Ohio St.3d 350, 2013-Ohio-3720.

The video here was exempt, because the prosecutor acquired it as part of his investigation of the shooting, so it is part of his "investigative work product" *in his hands*. The critical feature

here is that the Enquirer chose to sue only the prosecutor, and not the agency that recorded the video and handed it over. That means that the video is assessed in light of his investigation, without regard to how the analysis might differ if the record were sought from the underlying agency in the first place. By comparison, a law enforcement investigation into other agencies' possible corruption might gather from those agencies select records of contracts or finances, or select employees' timesheets, all of which are investigative in the hands of the investigators, even if they might have been ordinary, non-exempt public records in the others' hands.

The Enquirer's contrary approach essentially seeks a bright-line rule exposing all police bodycam videos, without regard to the context of the particular investigation. Sometimes the investigation might involve a citizen suspect being recorded, and sometimes, as here, the investigation might be of an officer. Sometimes a body-worn camera may be activated for a non-investigative matter such as assisting a stranded motorist, or a citizen asking the officer for directions. These facts and circumstances matter.

In addition, the Attorney General urges the Court to reject the Enquirer's other theory, which seeks to hold the prosecutor responsible for *advising* the two police departments, CPD and UCPD, not to release the video. As both a statutory and a common-sense matter, that theory is wrong. A "person responsible for public records" is someone with custody or formal control, not someone who advises or coordinates with the custodian. The Attorney General, like the prosecutor, often advises clients and coordinates with co-investigating agencies about public records, but ultimately cannot force a client to act a certain way. Holding lawyers responsible for clients' public-records decisions—with attorney fees to boot—is bad law and a bad idea.

Police cameras have added much to public oversight and understanding of police work, and have served both to expose bad apples and to vindicate the good guys in uniform, as well as

to convict or vindicate defendants. That is why their release is often warranted, if not legally, then as a voluntary step, as here. The prosecutor wisely decided, after investigating and securing an indictment, that the public should see what happened. But in doing so, he went above and beyond his legal duty. He was fully within his legal rights to decline for those nine days, and could have declined further as circumstances warranted, as the video was an investigatory work product that remained, discretionarily, a confidential law enforcement investigative record.

The Attorney General supports openness and public records, and also supports the integrity of law enforcement investigations. Here, he urges the Court to deny the requested writ of mandamus.

II. FACTS

A. After a police officer shot a motorist, the county prosecutor immediately oversaw an investigation and obtained body-camera video from other offices.

On July 19, 2015, Officer Ray Tensing of the University of the Cincinnati Police Department (UCPD) was driving a marked cruiser in a residential area. He observed a vehicle that was not displaying a front license plate, a violation of Ohio law. As UCPD policy requires, Officer Tensing manually activated his body-worn camera to document the resulting investigatory traffic stop. The driver pulled over in response to Officer Tensing's emergency lights, and the traffic investigation continued until the driver put his car in gear and began to drive away. Officer Tensing drew his sidearm and shot the driver, who died at the scene. Tensing's body-worn camera recorded events before, during, and after the shooting.

These events occurred in the City of Cincinnati, so Cincinnati Police Department (CPD) officers responded immediately and took control of the crime scene. With UCPD's agreement, CPD handled the investigation of the shooting. CPD investigators gathered evidence, including the video recording from Officer Tensing's body-worn camera, which UCPD gave to CPD. The

CPD contacted the Hamilton County Prosecutor, and it gave the prosecutor's office a copy of the video for its own investigation and possible criminal prosecution.

B. Newspaper and television media outlets asked CPD, UCPD, and the prosecutor for the video, and all declined for several days until the prosecutor released it.

Within hours of the shooting, several media outlets, including those now Relators here, asked for the video through public records requests from each of the three public offices who had copies. In declining, UCPD asserted, on the prosecutor's advice, the suspect officer's Sixth Amendment right to a fair criminal proceeding. UCPD did not, however, assert that the video, in its hands, was confidential law enforcement investigatory work product. UCPD was not conducting the criminal investigation of the shooting. The only UCPD investigation that the video documented was the traffic stop, as an investigation of the driver's traffic violation, and that investigation had ended with the driver's tragic death.

In their separate responses, CPD and the prosecutor also asserted the Sixth Amendment, but they additionally cited the confidential law enforcement investigatory work product exemptions. They did so because they were together investigating and prosecuting Officer Tensing for the shooting, and not the traffic offense.

Several Relators requested the video from CPD or UCPD, but not from the prosecutor. The prosecutor received the video on July 21. He had received one request before then, on July 20, from Relator Hearst Corporation (WLWT-TV). After he had the video, Relator The Associated Press requested it on July 23, and Relator Sinclair Media III, Inc. (WKRC-TV) asked for it on July 24. The other Relators did not ask the prosecutor for it.

On July 29, immediately after the grand jury indicted Officer Tensing, the prosecutor released the video.

C. Relators sued just before the video was released, suing only the prosecutor and not CPD or UCPD.

Relators, several print and television media companies, sued in this Court on July 27, two days before the video was released, seeking a writ of mandamus. They sued only the prosecutor, not CPD or UCPD, so the status of the video in those two agencies' hands is not at issue. Relators continued the case to press the argument that the prosecutor had violated the law from July 20 to 29, and to seek attorney fees.

III. ARGUMENT

The Attorney General, as amicus, addresses two issues here. First, the video was an investigative work product, and thus a confidential law enforcement investigatory record, because *in the prosecutor's hands,* it was the product of the prosecutor's investigation of Officer Tensing. Second, the prosecutor, in his separate role as a legal adviser or while coordinating with co-investigative agencies, is not a "person responsible for public records," and can be sued only in his capacity as a separate custodian of the records. The Attorney General addresses those issues because those are the ones with broader implications for other cases. But the Attorney General does not necessarily disagree with other more fact-specific issues that the prosecutor raises, such as the reasonable timing in producing the record, and that the video was discretionarily exempt trial preparation material.

Amicus Attorney General's Proposition of Law No. 1:

> *A video recording gathered by a law enforcement officer from a separate public office to document the investigation of a suspected criminal offense constitutes confidential law enforcement investigative work product of the investigating agency, regardless of the recording's continuing status as a public record in the hands of the original public office.*

As to the request directed to the prosecutor, the video here is exempt from being produced as a public record, because in his hands it was part of his investigation of Officer Tensing. The Ohio Public Records Act expressly exempts "confidential law enforcement

investigatory records" ("CLEIRs") from its application. R.C. 149.42(A)(1)(h). The Act defines "confidential law enforcement investigatory records" at R.C. 149.43(A)(2) as:

> [A]ny 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:
>
> (c) Specific confidential investigatory techniques or procedures or *specific investigatory work product*.

(emphases added). That statutory exemption applies here because the video "pertain[ed] to a law enforcement matter of a criminal . . . nature," and it was "specific investigatory work product."

A. The prosecutor's investigation was a law enforcement matter of a criminal nature.

A "law enforcement matter" includes any investigation by an agency with the authority to investigate, based on a specific suspicion of wrongdoing, of an offense that is penalized by criminal, quasi-criminal, civil, or administrative law. *State ex rel. Polovishchak v. Mayfield*, 50 Ohio St.3d 51, 53, 552 N.E.2d 635 (1990); *State ex rel. Multimedia, Inc. v. Snowden*, 72 Ohio St.3d 141, 142, 1995-Ohio-248, 647 N.E.2d 1374. The Hamilton County Prosecuting Attorney is authorized to inquire into and prosecute criminal offenses that occur within the county. R.C. 309.08(A). Both CPD and prosecutor's office staff immediately suspected that a criminal offense had occurred, and processed this officer-involved use of deadly force as a criminal investigation, in anticipation of criminal litigation. Thus, the prosecutor's investigation was a criminal "law enforcement matter." (So, too, was the CPD's investigation, but again, CPD is not a respondent here.)

B. The video, in the prosecutor's hands, was specific investigative work product as to his investigation of Officer Tensing.

The video satisfies the second step of the CLEIRs exemption because it falls under R.C. 149.43(A)(2)'s subcategory for "specific investigatory work product." The investigation was the

prosecutor's investigation of Officer Tensing, as he gathered the video as part of assembling and compiling evidence to prosecute Officer Tensing.

As an initial matter, this case turns solely on the meaning of "investigatory work product," and that clause does not require the prosecutor to *also* show that "specific confidential investigatory techniques or procedures" are at risk. R.C. 149.43(A)(2) places an "or" between the "techniques" clause and the "work product" clause, so work product need not meet the extra factor of showing some confidential investigative technique. Thus, Relators' arguments on that score are irrelevant.

The Court explained the definition of "specific investigatory work product" in *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 434, 639 N.E.2d 83 (1994). *Steckman* expressly overruled the Court's prior definition of "investigatory work product." The old definition had protected only "an investigator's deliberative and subjective analysis, his interpretation of the facts, his theory of the case, and his investigative plans," and did not include (at that time) "the objective facts and observations he has recorded." *Id.* at 431 (citing *State ex rel. Nat'l Broad. Co.*, 38 Ohio St.3d 79, third paragraph of syllabus, pp. 83-84 (1988). But the *Steckman* Court rejected that line between the objective facts collected and the investigator's analysis of the facts.

Steckman recognized that objective facts and observations could be investigative, because they reflect what the investigator chose to gather. The Court compared investigative work product to the Black's Law Dictionary definition of attorney "work product":

> This definition (*working papers*) is broad enough to bring under its umbrella *any records compiled by law enforcement officials*.
>
> Accordingly, we further find that except as required by Crim.R. 16, *information assembled by law enforcement* officials in connection with a probable or pending criminal proceeding is, by the work product exception found in R.C. 149.43(A)(2)(c), excepted from required release *as said information is compiled* in anticipation of litigation.

Steckman, 70 Ohio St.3d at 434-35 (emphases added).

Thus, *Steckman* protects as work product any existing records that law enforcement officials compile or assemble, by collecting from individuals, businesses, public offices, and other entities, whether of witnesses, victims, or suspects. The dictionary definition of "compile" is "1. to gather and put together (statistics, facts, etc.) in an orderly form, 2. to compose (a book, etc.) of materials gathered from various sources . . . ." *Webster's New World Dictionary*, 3rd College Ed. (1988). And to "assemble" includes "1. to gather into a group; collect . . . ." *Id.*

Despite *Steckman*'s plain rejection of the earlier distinction between "objective facts and observations" and resulting opinions, Relators and their amici seek to revive that discarded dichotomy. Indeed, an amicus for Relators even cite *National Broadcasting* for support, claiming that "factual information that is gathered by the government about an event, even if it is done by law enforcement personnel, is not exempt from disclosure under the Public Records Act." Amicus Br. of Reporters Committee at 5-6 (citing *State ex rel. Nat'l Broad. Co.*, 38 Ohio St.3d at 83-84). *Steckman*'s rejection of that standard mandates rejection of any argument premised on that starting point.

Because objective information can be work product, the question is whether the information was gathered as part of an investigation—and here, it was. Both the CPD and the prosecutor obtained the video of the shooting—which they were investigating—from a separate agency, UCPD. No one disputes that UCPD, as part of UC, a *state* agency, is separate from both the *city* police department and the *county* prosecutor. As to the investigators, it does not matter that UCPD is even a public body, as investigators similarly obtain videos from citizen bystanders with phones, or obtain security camera footage from businesses, just as investigators obtain all sorts of evidence from public and private sources. Thus, the video's initial status, in UCPD's

hands, as a traffic-stop video, does not matter; it does not help or hurt the prosecutor's case as to its status in the prosecutor's hands.

An Ohio appeals court recently faced this same scenario of a police agency gathering records from another agency, and it rightly focused on the *respondent agency's* perspective. *State ex rel. Community Journal v. Reed*, 2014-Ohio-5745 (12th Dist.). In that case, a state law enforcement agency investigated possible mishandling of valuables by a local police department's property room. *Id.* ¶¶ 2-3. As part of the state agency's investigation, it needed to look at some of the local police agency's incident reports. Although such incident reports are plainly public records, and not investigative work product, in the local police agency's hands, the appeals court recognized that the reports were investigative work product in the state investigators' hands. *Id.* ¶¶ 35-42. That is not only right as a matter of statutory analysis, but it also meets common sense. The pattern of assembled evidence could compromise the investigation, but any requester remains free to seek the same records from the original agency.

This pattern could easily recur in circumstances other than video, and in all cases, what matters is the records' status in the hands of the respondent agency. For example, just as investigators looked at a local police department's property room issues, investigators often look at possible corruption or theft in office by looking at another office's contracts, financial records, employees' timesheets, and more. Such documents might easily be public records in the original agency's hands. But when gathered by a separate investigating agency, the records are *that* agency's investigative work product, as they were gathered for an investigative purpose, even if the documents are "objective facts."

Again, this is merely a straightforward application of what the Court already said in *Steckman* in rejecting the *National Broadcasting* standard. The *Steckman* holding refers to

prosecutor and law enforcement investigative files as including records "*accumulated and maintained* by a police department in connection with a particular defendant and his or her criminal proceeding," 70 Ohio St.3d at 431, and as those "*gathered" and "sorted*," *id*. at 434 (by analogy to attorney "work product"), and as items "*obtained from* or belong[ing] to the defendant," *id*. at 435 (referencing records available only through criminal discovery). The definition of law enforcement investigative work product as materials "assembled" or "compiled" by law enforcement officials in connection with a probable or pending criminal proceeding is plainly broad and deep in its coverage of documents within an investigative file, regardless of how they were obtained, or their previous function.

The *Steckman* Court explained that a major part of its rationale in redefining law enforcement investigative work product was conforming that protection with the analogous protection of attorney work product from "undue and needless interference":

> The term 'work product" emanates from the decision of the United States Supreme Court in *Hickman v. Taylor* (1947), 329 U.S. 495, 67 S.Ct. 385, 91 L.Ed. 451. The term has, most generally, arisen in the context of the relationship of attorney-client. The court indicated that proper preparation of a client's case requires that information be gathered, assembled and sorted and that theories of the case be prepared and strategy be planned "without undue and needless interference." *Id.* at 511, 67 S.Ct. at 393, 91 L.Ed. at 462. If the product of such work is to be available merely upon demand, then there is a very real probability that certain information will remain unrecorded, witnesses' names will not be catalogued and other memoranda will be absent from the "official" files. We should not, by our rulings, create a situation where there is an incentive to engage in such conduct.

Steckman, supra, at 434.

The *Steckman* Court also warned of the disincentive created if the test were otherwise, namely, that investigators are discouraged from collecting information if the collection alone risks exposure: "If the product of such work is to be available merely upon demand, then there is a very real probability that certain information will remain unrecorded …." *Id*. Relators'

demand that all bodycam video be released immediately, from departments already struggling with the cost of such systems, implicitly discourages their use. Whether investigative records are desired by those potentially involved in the investigation, or by those with a commercial interest, or by the merely curious, protection from undue interference is fundamental to the orderly operation of a law enforcement investigation. In the interest of public notice of the existence and nature of law enforcement investigations, the immediate access the public has to the initiating documents (initial incident/offense reports and any 9-1-1 records), as well as eventual public access to investigative work product at the conclusion of the legal proceedings, balances the protection of work product from interference during the legal proceeding.

Relators cannot dispute that the CPD and Hamilton County Prosecutor "assembled and compiled" the video recording of the UCPD, within the plain dictionary meanings of those terms, for the purposes of their own law enforcement investigation. This video is evidence of the alleged criminal act, assembled and compiled by an outside agency for a criminal investigation. It is *evidence*, and as such did not have to be created by the investigating agency in order to be investigative work product, contrary to Relators' Brief at 16. Relators' proposed imposition of law enforcement "creation" to the definition of investigative work product would mean that the full contents of pre-existing records that the law enforcement agency assembled or compiled, but did <u>not</u> create, such as computer hard drives, business records, personal diaries, and other evidence, would be subject to prompt release to the public as soon as received by the law enforcement agency. However, neither *Steckman* nor its progeny limit investigatory work product to materials that the investigator "created." Absurdly, Relators' contrary position would hold that anonymous tips mailed to an investigator, during an investigation, about an upcoming drug shipment; or a juvenile runaway's diary volunteered by a parent, would be unprotected by

the investigative work product exemption because they were not created by the investigator, and would thus be subject to prompt public records release. However, Relators' proposition flatly contradicts the language of *Steckman* as cited above, and must therefore be denied.

The U.S. Supreme Court has determined the plain meaning of "compiled for law enforcement purposes" in connection with the analogous Exemption 7 of the Freedom of Information Act (FOIA) (5 U.S.C.A. 552(b)(7)). That phrase, stated the Court, does not permit a distinction between documents that were originally assembled for law enforcement purposes and documents that were not so originally assembled but were gathered later for such purposes, because (1) the plain words in the phrase "compiled for law enforcement purposes" contain no requirement that compilation be effected at a specific time, since a compilation, in its ordinary meaning, is something composed of materials collected and assembled from various sources or other documents, (2) the legislative history says nothing about limiting Exemption 7 to those documents originating as law enforcement records, and (3) the "compiled for law enforcement purposes" provision is not to be construed in a nonfunctional way. *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 153-157, 110 S. Ct. 471, 107 L.Ed.2d 462 (1989). For all of the reasons stated above, the video at issue in this case was plainly "compiled" and "assembled" by the CPD and Hamilton County Prosecuting Attorney for law enforcement purposes in their criminal investigation.

The video here has never been a non-exempt public record *in the prosecutor's hands*. Context matters, and as used in the *prosecutor's* investigation, this video was investigatory work product in connection with the homicide investigation. Whether the same records, in UCPD's hands, were ever or still are "cloaked with the public records cloak" in their original location is a

separate matter. Relators, by not including UCPD here, have not put *that* separate issue before this Court.

Relators' conduct in this case provides a disturbing example of what they would have every law enforcement agency face during the conduct of an investigation—immediate records requests at the very inception of a criminal investigation, followed by civil litigation including the tools of discovery to try to plunder the materials compiled in the investigation before it is concluded; in this case, even before charges could be brought. The cases cited above recognize the systemic disruption to the justice system of such requests by either criminal defendants or other records requesters, and provide reasonable protection against this behavior. Relators offer no good reason to take such a radical step, and no such reason exists.

Amicus Attorney General's Proposition of Law No. 2:

> *A public attorney who provides legal advice to a client or co-investigating agency regarding a public records request is not thereby "a person responsible for" the requested records.*

The Attorney General addresses this second Proposition because Relators' attempt to redefine the "person responsible for" public records is bad law and leads to absurd consequences. Relators do not sue Respondent Deters, the prosecutor, solely because he held the video, but they also seek to classify him as "a person responsible for public records" that were in the hands of entirely separate public offices, on the sole ground that he gave them legal advice regarding a public records request. This partly appears to bolster Relators' attempt to stretch the time used to measure the reasonableness of his release, by starting the clock with requests to CPD and UCPD, the non-party public offices that held the video before Respondent. But since Relators did not sue CPD or UCPD this mandamus action, the requests to those agencies are irrelevant. And in assessing the prosecutor's role, the Court should look only to what he did as a custodian of the records, and should not hold him responsible for what *other agencies did.* An outside party who

offered legal advice—especially one who does not even serve as counsel to the other agencies—cannot face mandamus in that role and cannot be held liable for attorney fees.

Only a public office or person who is actually responsible for the record sought is responsible for providing inspection or copies. When statutes impose a duty on a particular official to oversee records, that official is the "person responsible" within the meaning of the Public Records Act. *State ex rel. Mothers Against Drunk Drivers v. Gosser,* 20 Ohio St.3d 30 (1985), paragraph two of the syllabus. Here, the UCPD and the CPD are responsible for overseeing their own records, and Relators provide no authority to the contrary. Nor is there any statute that imposes a duty on a county prosecuting attorney to oversee records that are only in the possession of police departments.

This Court has found a second public office responsible in only one very limited circumstance *not* present here: where the second office exercises *controlling authority* over another public office and prohibits it from releasing a record. *State ex rel. Highlander v. Rudduck,* 103 Ohio St. 3d 370, 2004-Ohio-4952, 816 N.E.2d 213, ¶ 16. In *Rudduck,* the judge sealed records held by another agency, so where the parties to a lawsuit reasonably believed that certain records were sealed, this Court held that "Judge Rudduck is also a 'person responsible' for the requested records because he controlled the public's right to access these records. The sole reason that Gardner has not released the records to Highlander is that Judge Rudduck stayed his June 4, 2004 order directing Gardner to unseal the requested divorce records." *Id.*

Here, the prosecutor did not have the control that the judge had in *Rudduck*, in his role of advising CPD and UCPD, as he did not *control* them or their copies—he could only offer advice. Before he received a copy of the video on July 21, the prosecutor did no more than offer two *independent* law enforcement agencies his non-controlling advice concerning public records

requests that they, not he, had received. His advice—that release of the requested record would violate a criminal defendant's rights under the Sixth Amendment to the U.S. Constitution, and that this constituted a valid exception to the Ohio Public Records Act—was nothing like Judge Rudduck's exercise of judicial authority. Prosecutor Deters had no other formal authority to prevent these agencies from releasing the records, and they had an unfettered choice to do so if they wished. Indeed, even if he were their legal counsel he could not have controlled them, and as a *county* lawyer speaking to a city agency (CPD) and a state agency (UCPD), his lack of control is indisputable.

Adopting Relators' argument to the contrary would make every government attorney who gives a client advice to withhold records, an automatic party to the enforcement action under the Public Records Act; indeed, a relator could elect to name *only* the government attorney as the *sole* respondent in mandamus. Unless (as here) the legal adviser also received a copy of the video, the court's order directing the attorney *to produce the records withheld by a separate public office* would be an absurdity, incapable of enforcement. This would also put government lawyers advising clients over public records in an impossible bind, as their ethical duties to provide good advice would run up against the threat of facing mandamus—and attorney fees.

Indeed, the fees request alone shows the absurdity of Relators' view: Government lawyers would routinely face attorney fees for their clients' acts, regardless of whether those clients followed or disregarded their advice. And ethical duties of confidentiality would prevent such lawyers from revealing what was said. And in cases like this, where one legal agency offered nonbinding *informal* advice—as the prosecutor did not want his own investigation and prosecution tainted by the Sixth Amendment problems he faced—holding him to attorney fees for the others' acts is absurd.

Moreover, if Relators' view were right, an advising office could face mandamus even if it never received *any* requests. To be sure, the prosecutor here did receive some. But whatever the outcome of the case based on *those* requests to him *as a custodian* in his own right, the Court should not assess the prosecutor as a "person responsible" for the records in his separate role in talking to the CPD and UCPD about what to do with *their* records.

IV. CONCLUSION

On these facts, Respondent Prosecutor Deters properly delayed producing the bodycam video, as it was the prosecutor's investigatory work product. The video was obtained from a separate public office as evidence of alleged criminal actions, and its status as a different class of "public record" in the first public office did not affect the other, investigating office. The writ of mandamus should therefore be denied.

Respectfully submitted,

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