

IN THE SUPREME COURT OF OHIO

STATE EX REL.,
FRANKLIN WOODS,

RELATOR,

v.

LAWRENCE COUNTY SHERIFF'S,
OFFICE, ET AL.,

RESPONDENTS.

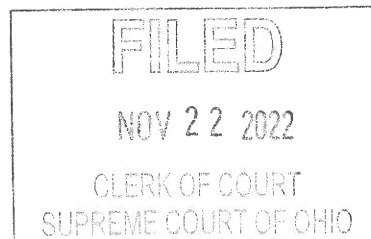
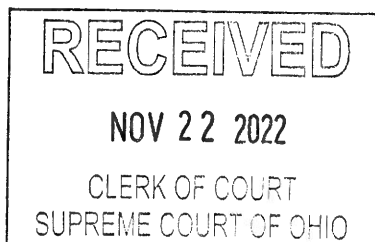
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Case No. 22-1359

ANSWER TO COMPLAINT

Now come the Respondents, the Lawrence County Sheriff's Office, Sheriff Jeffery Lawless, and Major John Chapman, by counsel, and hereby answer Relator's Complaint for a Writ of Mandamus as follows:

1. Paragraph 1 does not set forth allegations that require an admission or denial.
2. Respondents admit that Franklin Woods is the Relator in this action. Respondents deny knowledge regarding where Franklin Woods is currently incarcerated.
3. Respondents admit the allegations set forth in Paragraph 3.
4. Respondents admit that Jeffery Lawless is the elected Sheriff of Lawrence County, Ohio. Respondents admit the remaining allegations set forth in Paragraph 4.
5. Respondents admit the allegations set forth in Paragraph 5.
6. Respondents deny Relator's public records request requested "[t]he Lawrence County Sheriff Office's retention schedule." Respondents admit the remaining allegations set forth in Paragraph 6.



7. Respondents state that R.C. § 149.43(B)(8) speaks for itself. Respondents admit that Relator's public records request sought "a written retention schedule."
8. Respondents admit that Jeffery Lawless is the elected Sheriff of Lawrence County, Ohio. Respondents admit the remaining allegations set forth in Paragraph 8.
9. Respondents admit the allegations set forth in Paragraph 9.
10. Respondents admit the allegations set forth in Paragraph 10.
11. Respondents deny Relator's public records request was "disregarded." Respondents admit the remaining allegations set forth in Paragraph 11.
12. Respondents deny the allegations set forth in Paragraph 12.
13. Respondents admit that Relator is entitled to the Lawrence County Sheriff's Office's Record Retention Schedule. Respondents deny the remaining allegations set forth in Paragraph 13.

DEFENSES

FIRST DEFENSE

Relator's Complaint fails to state facts constituting a claim for relief in mandamus or otherwise.

SECOND DEFENSE

Relator's public records request was vague, overbroad, and/or ambiguous. *See Affidavit of John Chapman, attached as Exhibit A.*

THIRD DEFENSE

This case is moot because the public records requested by Relator have been provided. *See November 16, 2022, letter to Franklin Woods, with attached Lawrence County Sheriff's Office's*

Record Retention Schedule and Lawrence County Sheriff's Office's policy regarding public records, attached as Exhibit B.

FOURTH DEFENSE

Relator seeks records that are not public records as defined in § 149.43 of the Ohio Revised Code, and as a result, are not subject to mandatory release or disclosure pursuant to R.C. § 149.43(A) and (B).

FIFTH DEFENSE

Relator is not entitled to a writ of mandamus under the Public Records Act because he cannot show both (1) a clear legal right to the extraordinary relief sought and (2) that the respondent has a clear legal duty to perform the requested act.

SIXTH DEFENSE

With respect to all actions referred to in the Complaint, Respondents acted in accordance with law, did not act arbitrarily or capriciously, and at all times acted reasonably and in good faith.

SEVENTH DEFENSE

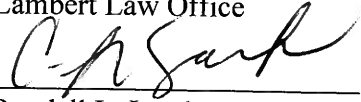
Respondents reserve the right to amend this Answer to assert additional defenses, including affirmative defenses, that may be uncovered or made known during the pendency of this case.

WHEREFORE, having fully answered, Respondents pray that:

1. This Court deny Relator's request for a writ of mandamus;
2. This Court deny every and all relief requested by Relator;
3. This Court deny the Complaint in its entirety, with prejudice, and enter judgment for Respondents; and

4. This Court grant any such other relief as this Court deems just and proper.

Respectfully Submitted,
Lambert Law Office

A handwritten signature in black ink, appearing to read "C. L. Sark", written over a horizontal line.

Randall L. Lambert (0017987)

Cassandra L. Sark (0087766)

215 South Fourth Street

P.O. Box 725

Ironton, OH 45638

(740) 532-4333

(740) 532-7341 – Fax

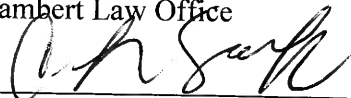
Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the Answer to the Complaint for Writ of Mandamus was provided via U.S. regular mail, postage paid, on the 21st day of November 2022 upon:

Franklin Woods
Inmate No. A730633
P.O. Box 5500
Chillicothe, OH 45601

Lambert Law Office

A handwritten signature in black ink, appearing to read 'C. Sark', written over a horizontal line.

Cassandra L. Sark (0087766)
Counsel for Respondents

AFFIDAVIT OF JOHN CHAPMAN

The undersigned, John Chapman, being duly cautioned and sworn, states the following to be true to the best of his knowledge, belief, and recollection:

I am currently the Jail Administrator for the Lawrence County Jail and have held that position since 2019.

On or about August 1, 2022, I received a letter from Franklin Woods. The letter requested "a written retention schedule" for incident reports, dispatch calls, dash cam footage, arrest reports, and incoming/outgoing calls. I believed that Mr. Woods was requesting records regarding incident reports, dispatch calls, dash cam footage, arrest reports, and incoming/outgoing calls. The Lawrence County Sheriff's Office does not have dash camera footage or keep a record of incoming/outgoing calls, and as a result, no records exist regarding those requests. Regarding incident reports, dispatch calls, and arrest reports, Mr. Woods' request did not provide a date or name to search for the records, and as a result, I did not believe his request clearly described what public records he was requesting. Thus, I responded by providing that Mr. Woods' request was too vague. I did not believe that Mr. Woods was requesting the Lawrence County Sheriff's Office's Record Retention Schedule.

Upon consultation with counsel for the Lawrence County Sheriff's Office, I then understood that Mr. Woods' request was apparently for the Record Retention Schedule itself, not documents. On or about November 16, 2022, it is my understanding that Cassaundra Sark, counsel for the Lawrence County Sheriff's Office, Sheriff Lawless, and myself, sent a letter to Mr. Woods that included a copy of the Lawrence County Sheriff's Office's Record Retention Schedule and the Lawrence County Sheriff's Office's policy regarding public records based upon the belief that his request was actually requesting the Record Retention Schedule for the Lawrence County Sheriff's Office.

JOHN CHAPMAN

Printed Name

John Chapman

Signature

COUNTY OF LAWRENCE
STATE OF OHIO

Before me, a notary public, in and for said County and State, personally appeared JOHN CHAPMAN who acknowledged that he did sign the foregoing Affidavit, and that the same is his free act and deed.



KIM TITSWORTH
NOTARY PUBLIC
STATE OF OHIO

Recorded in
Lawrence County
Comm. Exp. 8/29/2023

IN TESTIMONY WHEREOF,
I have hereunto set my hand and
official seal

Thus the 17 day of November
2022

Kim Tittsworth
NOTARY PUBLIC



LAMBERT LAW OFFICE, LLC

Attorneys at Law

Telephone: 740.532.4333

Facsimile: 740.532.7341

Randall L. Lambert
Cassandra L. Sark

215 South Fourth Street
P. O. Box 725
Ironton, OH 45638

November 16, 2022

Re: Public Records Request of July 19, 2022, to the Lawrence County Sheriff's Office

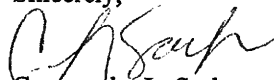
Mr. Woods,

I represent the Lawrence County Sheriff's Office, Sheriff Lawless and Major Chapman regarding the Writ of Mandamus that you filed in the Ohio Supreme Court. It is my understanding that Major Chapman believed you were requesting records regarding incident reports, dispatch calls, dash camera footage, arrest reports, and incoming/outgoing calls in your July 19, 2022, public records request. Based on his belief, and the fact that no names or dates were provided, Major Chapman responded stating that the request was "too vague to determine your requests."

After reviewing your July 19, 2022, public records request, I believe you are requesting the Lawrence County Sheriff's Office's Record Retention Schedule. Thus, attached to this letter is the Record Retention Schedule for the Lawrence County Sheriff's Office, as well as the Lawrence County Sheriff's Office's policy regarding public records. The Lawrence County Sheriff's Office does not have dash cameras and incoming/outgoing calls are not logged. As a result, there is no record retention schedule for dash camera footage and incoming/outgoing calls.

If you have any questions or concerns, please contact me at the number and/or address provided above.

Sincerely,


Cassandra L. Sark



**LAWRENCE COUNTY SHERIFF'S OFFICE
POLICY AND PROCEDURE**

REVISED: May 2, 2018

POLICY # A-14

EFFECTIVE: 2/28/2001

PAGES: 5

SUBJECT: PUBLIC RECORDS

PURPOSE

The State of Ohio views public records as the people's records, and the Lawrence County Sheriff's Office as the custodian of the people's records, records that rightfully belong to the citizens of this state, which are entitled to access under Ohio's Public Record Act (Sunshine Laws). For this reason, it is the policy of the Lawrence County Sheriff's Office to strictly adhere to the state's Public Record Act.

POLICY

A. Public Records

1. Ohio Revised Code 149.43 defines a public record as "record" kept by any public office. A "record" is any item that:
 - a. Contains information stored on a fixed medium-paper, electronic (including, but not limited to, e-mail), or another format;
 - b. Is created or received by, or comes under the jurisdiction of a public office;
 - c. Documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office
2. All records of the Lawrence County Sheriff's office are public record, unless they are specifically exempt from disclosure under the Ohio Revised Code or a specific provision of either state or federal law prohibits their release.
3. As required by Ohio law, employees must organize and maintain records, including e-mail records, so they are readily available for inspection and copying.
4. The Ohio Sunshine Laws: An Open Government Resource Manual is an overview of statutes and case law provided by the Attorney General's Office that employees can

use as a guide regarding the application of the public records law. Employees can access this manual on the Attorney General's website or by reviewing the manual within the sheriff's office.

B. Records Custodian

1. The clerk's division serves as the Sheriff's Office records custodian and is responsible for maintaining the security of agency files, ensuring compliance with Ohio's public records law, and disposing of documents in accordance with the Schedule of Records Retention and Disposition.

C. E-mail as a Public Record

1. Documents in electronic mail format are records, as defined by the Ohio Revised Code, when their content relates to the business of the Sheriff's Office. Employees will treat e-mail in the same fashion as records in other formats and should follow the same retention schedules.

D. 9-1-1 Tapes

1. Pursuant to case law, 911 are subject to immediate release, upon request, and employees may not redact the tapes for any reason. However, Ohio Revised Code 4931.49 prohibits the disclosure of information concerning telephone numbers, addresses, or names obtained from the 911 system.

A. The Lawrence County Sheriff's Office does not record or maintain any 911 records/tapes. These are maintained by the 911 office.

B. Anyone requesting a 911 tape is to be referred to the 911 Administration Office.

E. Court Record Personal Identifiers

1. Because court records are open to public access, the Rules of Superintendence for the Courts of Ohio require employees to omit or redact personal identifiers when filing affidavits, complaints, or traffic citations, with the court. "Personal Identifiers" means any of the following:

- Social Security Numbers, except for the last four digits
- Financial account numbers including, but not limited to, debit card, charge card, and credit card numbers.
- Employer and employee identification numbers
- Names of juveniles in abuse, neglect, or dependency cases, except for initials or generic abbreviations (such as CV for child victim) used to identify these juveniles.

2. When an employee omits or redacts the personal identifiers from affidavit, complaint, or traffic citations. It is to be marked in a fashion that clearly shows an item has been redacted.

F. Public Records Request

1. employees will ask the requester to complete a Public Records Request Form in an effort to provide the record in a timely fashion, the requestor does not have to complete the Public Record Requestor Form, provide his identity, or advise of the

intended use of the requested public records. Employees will not limit or condition the availability of the public record by requiring disclosure of this information.

2. Although the Ohio Revised Code requires no specific language to make a request, the requester must at least identify the public record he or she is requesting with sufficient clarity to allow employee to identify, retrieve, and review the records.
 - A. If it is not clear what records the requestor is seeking, the employee must ask the requestor for clarification and should assist in revising the request by informing the requestor of the manner in which the Sheriff's Office keeps its records.
3. Employees should evaluate each public records request to estimate the length of time required to gather the records.
 - A. If feasible to do so, employees should immediately satisfy routine public record requests. Routine request includes, but are not limited to, records maintained in the Sheriff's Record Section.
 - B. If employees deem a request significantly beyond routine, such as seeking voluminous number of copies or requiring extensive research, the acknowledgement must include the following:
 - An estimated number of business days it will take to satisfy the request
 - An estimated cost, if copies are required.
 - Any items within the request that may be exempt from disclosure 4. 4.
4. Employees forward requests beyond the scope of the Sheriff's Records/Clerk Section to the Sheriff. The Sheriff will direct the appropriate personnel to assist in completing the records request.
5. Employees forward request of a questionable nature to the Prosecutors Office. The clerk will seek an opinion from the prosecutor's office before making a determination on releasing the records.

6. A public records request from a person who is incarcerated pursuant to a form of criminal conviction or juvenile adjudication normally requires permission from the judge or court who sentenced the requestor before the employee can release the record.
7. Public records are available for inspection during regular business hours, with the exception of published holidays, and are prompt inspection
8. Employees will make available, within a reasonable period of time, copies of public records.
9. "prompt" and "reasonable" take into account the volume of records requested, the proximity of the location where the records are stored, and the necessity for any legal review of the records requested.

10. Employees will permit a requestor to choose to have a public record reproduced on paper, on the same medium in which it is kept, or on any other medium that he can reasonably duplicate.

11. If portions of a record are public record and portions are exempt, employees will redact the exempt portions and release the rest. If there are redactions, employees must accompany each redaction with a supporting explanation, including legal authority. All exemptions to openness are to be construed in the narrowest sense.

12. According to Ohio Law, the person seeking a copy of the public record has no right to make his own copies.

13. Employees denying public in response to a valid request must provide written notification setting forth why the Sheriff's Office is denying the request.

G. Failure to respond to a Public Records Request

1. The Lawrence County Sheriff's Office recognizes the legal and non-legal consequences of failure to respond properly to a public records request. In addition to the distrust in government that the failure to comply may cause, failure to comply with a request may result in a court ordering the Sheriff's Office to comply with the law and to pay attorney's fees and damages to the requester.

H. Cost for Public Records

1. The Sheriff's Office charges those seeking public records requests with only the actual cost of duplicating the public record, including the actual cost the Sheriff's Office pays to private contractors for duplicating or mailing services, if required.
2. The Sheriff's Office may require payment in advance for the cost involved in providing the copy of the public record.

3. Requestors may ask that the documents be sent to them by mail or by other means of delivery or transmission. Employees may require the requestor to pay in advance for the cost of postage or other supplies used in the mailing, delivery, or transmission of the public record.

I. Posting of "Public Records" policy

1. The "Public Records" chapter of the General Orders Manual is conspicuously posted in a public area at each of the following Sheriff's Office locations: • Lawrence County Sheriff's Office and the Lawrence County Sheriff's Office Sub Station.

J. Receipt and Instruction

1. The Sheriff's Office distributes its "Public Records" policy through policy and procedure manuals placed throughout the Sheriff's Office at each workstation. Each employee is responsible for reviewing the policy and procedure manual.

2. In order to enhance his knowledge of the duty to provide access to the public records, the Sheriff or his designee will attend three hours of public training, as described in Ohio Revised Code 109.43, for every term he is in office.

LAWRENCE COUNTY SHERIFF'S OFFICE

Sheriff Jeffery S. Lawless

RECORD RETENTION SCHEDULE

TITLE: Record Retention Schedule

POLICY #: A-57

EFFECTIVE DATE: February 7, 2011

REVISED 07-Jan-2021

DISTRIBUTE TO: All Employees

APPROVED: Jeffery S. Lawless, Sheriff

POLICY:

The purpose of this order is to establish an internal guideline for the RETENTION and DESTRUCTION of documents generated by employees as a result of business operations. This policy is meant as an internal guide to the Lawrence County Sheriff's Office employees and is not meant to convey any substantive rights to any person. This policy is also not an enlargement of any deputy's civil duties to members of the general public.

The following schedule is a guideline for employees for records retention periods within the Lawrence County Sheriff's Office. The information identifies how long a physical record must be archived. The Lawrence County Sheriff's Office and the Ohio Historical Society have approved these retention periods. This schedule also incorporates the records retention schedule set by the Lawrence County Prosecutor's Office.

PROCEDURE:

The chart on the following pages identifies documents and the associated retention periods. These files will be stored as identified.

On an annual basis, documents in our archives will rotate. For example, documents from the year that has just concluded will be stored to be accessed as needed. The oldest year stored will be removed for processing to be shredded. This will be in accordance with the schedule on the following pages.

The documents to be shredded must be identified and forwarded to the Records Custodian. A destruction form must be completed documenting the records being destroyed. The original destruction form is sent to the Ohio Historical Society. A copy is sent to the Lawrence County Records Commission and a copy is maintained in our files.

After a document has been approved to be destroyed, an employee authorized by the Sheriff will either shred the documents or destroy by fire.

All E-mail correspondence sent or received that pertain to any Sheriff's Office business are to be retained by the employee. Adds, spam, and unsolicited E-mails that not pertain to the Sheriff's Office business will be deleted. You are to print a copy or burn a copy to media, place it in a file for the current month and then at the end of each month provide the file to the Sheriff to be retained per our retention schedule.

TYPE OF RECORD	DESCRIPTION	ACTUAL DOCUMENTS	IMAGED REPORT	COMMENTS
Accident Reports	Motor Vehicle Crash Reports	3 years		Fatals- permanent
Appraisalment Sheets		3 years		
Arraignment Sheets	weekly schedule prepared by jail records	3 years		
Civil Cases Records	Civil orders served by the Sheriff showing county from which the order was received, date received and served, type of service, server, mileage and type of case	5 years		
CCH Logs & CCH fax receipts		current year plus the previous year		
Clergy Inmate Log	Logs clergy visits to detention facility	2 years		
Commissary Records		2 years		
Court Commitments	Original Orders to commit persons to the county jail, showing person committed, date of order, court, offense charged and length of commitment	6 years after commitment		Falls under approved 6 year retention period for Inmate booking packets
General Incident reports	As made by the Deputies, shows name & address of complainant, date & time reported, narrative summary of complaint & Invest. And investigating officer.	5 years		
Inmate Criminal Files	Contains criminals arrested to include name, date of arrest, offense, previous criminal record, newspaper clippings relating to the case, fingerprint card, arrest report, disposition of the case and photograph & signature of prisoner.	10 years		Providing they all are outside the statute of limitation for prosecution both criminally and/or civilly. If not, must be kept permanently.
Daily Medication & dental records/Inmates		6 years		
Dispatch and communication logging tapes	Archives phone calls and radio transmissions	90 days		Absent notification of any pending action, the tapes may then be reused.
Executions & Attachments		5 years		from the Sheriff Sales work area
Expungement File	Destroy all files, records & computer reference upon receipt of the expungement order from a court	2 years after the order		Destroy all juvenile files at the time of the order
Extradition List		2 years		

TYPE OF RECORD	DESCRIPTION	ACTUAL DOCUMENTS	IMAGED REPORT	COMMENTS
Fingerprint Cards	Contains the finger and/or palm print of the prisoner, name date of birth, social security number and last known address	7 years		
Foreign Summons	Service received from outside of Lawrence County	7 years		
Futherance of Justice	(F.O.J) Funds	Permanent		
Grant Records		Life of grant plus 3 years		
Inmate Booking Packets	Contains Inmate intake sheets, booking sheet with mug shot, court commits, property inventory, fingerprint cards and all other paperwork associated with Incarceration excluding medical	6 years		As approved by the Records Commission & Ohio Historical Society
Inmate Medication Records	Contains the name of the prisoner, name of medications and the time administered.	6 years		
Inmate Property Recelpts		2 years		
Registers	Contains a record of prisoners confined in the county jail showing for each: name, number, nativity, offense, commitment date, by what authority committed, term of confinement and the date of discharge.	25 years		
Jail Daily Log		5 years		
Jail Reports	Daily report showing the date of report, number of prisoners at beginning of the day, number admitted and discharged and total number of prisoners at end of the day.	3 years		
Juvenile Arrest Records & Offense Reports		until the offender turns 18 years old		
LEADS Newsletters		Current year plus the previous 2 years		
LEADS Work Sheets		When no longer of administrative value		
LEADS Teletypes	Informational teletypes received from LEADS	Placed where directed		
LEADS Teletypes	Sent teletypes and other teletypes received from other agencies	When no longer of administrative value		

TYPE OF RECORD	DESCRIPTION	ACTUAL DOCUMENTS	IMAGED REPORT	COMMENTS
Monthly F.B.I. Reports (UCR Reporting)		3 years		
Orders of Sale	Contains a record of sales ordered in foreclosure showing date of order, litigants, attorneys, appraisers, title of case, judgement, rate of interest, amount of appraisal, date sale advertised, description of property to be sold, date and amount of sale and to whom sold.	5 years or until obsolete		Providing all monies have been disbursed.
Photo Log (Mug Shots)		6 years		See Inmate Booking Packet
Records of Accrued Fees		2 years		Provided Audited
Records of Monies turned over to the Treasurer		3 years		
Records of Writs and Summons		7 years		
Sheriff's Returns		2 years		Two years after date of filing with the clerk of courts
Sheriff's Sale Publication Record		5 years		
Unclaimed Fee Records		3 years		
Visitation Log		1 year		
911 Call Logs	From Printer	1 year		
E-Mail Correspondence	Any e-mail received at this agency that relates to any function of our daily jobs. (Job Related E-mail)	1 year		