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SLIP OPINION NO. 2026-OHIO-3354

THE STATE EX REL. HOWARD *v.* SACKETT.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Howard v. Sackett*, Slip Opinion No. 2026-Ohio-3354.]

Mandamus—Public-records requests—R.C. 149.43—Inmate public-records requester denied writ for production of public records that (1) are subject to security-records exception under R.C. 149.433(B)(1), (2) would require public office to search for and compile records that do not already exist, (3) do not exist, (4) were not preserved by public office, and (5) are not maintained by public office—Writ granted pertaining to public-records requests for (1) a copy of a form maintained and regularly used by public office and (2) unredacted copies of emails between correctional-facility staff, because copies previously produced were improperly redacted—Writ granted in part and denied in part and relator awarded $4,000 in statutory damages.

(No. 2025-0492—Submitted May 19, 2026—Decided September 1, 2026.)

IN MANDAMUS.

The per curiam opinion below was joined by FISCHER, DEWINE, DETERS, HAWKINS, and SHANAHAN, JJ. KENNEDY, C.J., concurred in part and dissented in part, with an opinion joined by BRUNNER, J.

Per Curiam.

{¶ 1} Between April 2024 and March 2025, relator, Devin D. Howard, an inmate at Lake Erie Correctional Institution ("LaECI"), transmitted nine public-records requests to respondent, Laura Sackett, the designated public-records coordinator at LaECI. Contending that Sackett has not provided him with copies of all the public records he requested, Howard seeks a writ of mandamus ordering her to do so. In addition, Howard seeks statutory damages under the versions of the Public Records Act that apply in this case. Howard has also filed an "emergency application" for an order directing the clerk of this court to accept a document for filing and a request for judicial notice.

{¶ 2} For the reasons set forth below, we deny Howard's emergency application and his request for judicial notice, we grant in part and deny in part the writ of mandamus, and we award Howard $4,000 in statutory damages.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Request No. 1

{¶ 3} Howard sent an electronic kite[1] to Sackett on April 22, 2024, requesting a copy of (1) the staff schedule of LaECI Case Manager Rachel Smith for April 9 through 20, (2) Smith's "punch-in/punch-out logs" for those dates, and (3) Smith's "future" staff schedule for April 22 through 26. Sackett denied the request, informing Howard that such records are exempt from public disclosure

1. "A kite is a type of written correspondence between an inmate and prison staff." *State ex rel. Griffin v. Szoke*, 2023-Ohio-3096, ¶ 3.

under R.C. 149.43(A)(1)(k) and (A)(1)(m) and R.C. 149.433(B). Those statutes, respectively, exempt inmate records under R.C. 5120.21, intellectual-property records, and security records from R.C. 149.43's definition of "public record." Howard avers in an affidavit submitted with his evidence that he has not received copies of the requested records.

B. Request No. 2

{¶ 4} On July 6, 2024, Howard sent another electronic kite to Sackett, requesting to inspect and obtain copies of records showing which businesses, companies, or entities provided email and phone services to LaECI from May 2023 until July 6, 2024. Sackett responded two days later, asking Howard to clarify what he wanted and inquiring if he was "wanting to know who [LaECI's] phone and internet providers [were]." Howard explained that he wanted to inspect and obtain copies of the records showing "the business(es), company(s), or entity(s) which provide e-mail services to LaECI (e.g., Yahoo, Google, Microsoft, or ServiceNow) . . . and [those] which provide phone services to LaECI (e.g., AT&T or Spectrum)." Sackett informed Howard that his request was "too vague, overbroad, and [did] not provide enough information to the public office to determine where to look for responsive records."

C. Request No. 3

{¶ 5} On August 20, 2024, Howard became agitated with an LaECI correction officer named Webster after Webster ordered Howard to leave a dayroom area in his housing unit and return to his cell because the dayroom would be closing soon. The dayrooms are common areas in the LaECI housing unit where inmates socialize, watch television, and prepare meals.

{¶ 6} Later that day, Howard sent an electronic kite to Sackett, requesting to view footage from Correction Officer Webster's body-worn camera and footage from the surveillance camera installed in the dayroom area showing Howard's interaction with Webster earlier that day. Howard also requested an electronic copy

of the footage "to be placed on a compact disk." Howard specified that his request pertained to body-worn-camera footage covering a ten-minute period from 3:47 p.m. to 3:57 p.m. and surveillance-camera footage covering a 15-minute period from 3:45 p.m. to 4:00 p.m.

{¶ 7} Sackett responded eight days later to Howard's request for the dayroom-surveillance-camera footage: she denied the request on the basis that the footage sought is an exempt security record under R.C. 149.433(A)(1). As for the request for body-worn-camera footage, Sackett informed Howard on August 30 that a search revealed that "[n]o footage was recorded" for the ten-minute period Howard sought.

D. Request No. 4

{¶ 8} On September 30, 2024, Howard sent an electronic kite to Sackett, asking for a paper copy of the following "words as defined by [the Ohio Department of Rehabilitation and Correction ("DRC" or "ODRC")], on its Policy 10-SAF-22 webpage": "qualifying event," "digital evidence system," "video recall," "body worn camera (BWC)," and "body worn camera administrator." Sackett denied the request on October 8 on the ground that the request was not one for public records.

E. Request No. 5

{¶ 9} On October 23, 2024, Howard and another inmate were walking to the prison library when they were stopped by Correction Officer Hagerman, who instructed them "to return to Huron C/D." Howard protested, indicating that he had an institutional pass that allowed him to go to his job assignment at the library. Howard avers that when the other inmate began to curse and argue with Hagerman, the correction officer summoned other officers to assist him.

{¶ 10} Later that day, Howard sent an electronic kite to Sackett, requesting to view and obtain a copy of the following:

– footage from the BWC unit worn by Correction Officer Guijarro and for the period of 6:40 pm to 6:54 pm (today);

– footage from the BWC unit worn by that Correction Officer whom is depicted in Guijarro's BWC unit during that aforesaid period (Caucasian, blond-haired male officer, who, I believe, has the employment status of "C.O. 1," regularly wears a black baseball cap with gold lettering, and was posted on the yard or the chow hall during that aforesaid period);

– footage from the BWC unit worn by Correction Officer Dix (male, blond-haired) from 6:35pm to 6:45pm;

– footage from the surveillance camera positioned at the outside entrance/exit of Huron C/D from 6:35pm to 6:45pm;

– footage from the surveillance camera positioned at the inside entrance/exit of Huron C/D from 6:35pm to 6:45pm.

{¶ 11} Sackett responded to Howard's request on November 4. She informed Howard that no footage had been saved from the officers' body-worn cameras for the requested date and times. Sackett further informed Howard that there was no officer with the title "C.O. 1." As for the surveillance-camera footage that Howard requested, Sackett informed Howard that the requested footage was exempt from disclosure as a security record under R.C. 149.433(A)(1).

F. Request No. 6

{¶ 12} On October 31, 2024, Howard sent an electronic kite to Sackett, asking for a paper copy of the "'Lake Erie Correctional Institution Request for Incoming Funds'" and for paper copies of four kites. Sackett responded a week later, providing Howard with copies of the requested kites but denying his request for LaECI's request for incoming funds on the ground that it was not a public record under R.C. 5120.21(F).

G. Request No. 7

{¶ 13} On December 12, 2024, Howard sent yet another electronic kite to Sackett. Howard asked "to view and inspect the withheld printed material which was sent by the U.S. Postal Regulatory Commission." According to Howard, the LaECI mailroom withheld certain materials that the United States Postal Regulatory Commission had mailed to him. Sackett denied the request, informing Howard that "inmate mail is not a public record per R.C. 5120.21(F)."

H. Request No. 8

{¶ 14} On February 19, 2025, Howard sent Sackett an electronic kite with the following request:

> I request . . . a paper copy of all email correspondences between LaECI staff (whether that be Ms. Rimel or Mrs. Hess [library staff] or Ms. Jackson [education staff]) and DRC staff (Ms. Wicks) concerning inmate e-filing with the Ohio Supreme Court under S.Ct.Prac.R. 3.02(A)(4)(a). The date(s) of the email correspondences would be within the approximate range of 2/10/25 and 2/19/25. Also, I request a paper copy of any DRC notice, memo, written communication, or policy which addresses, concerns, or discusses the implementation, piloting/on boarding, or execution of S.Ct.Prac.R. 3.02(A)(4)(a) at DRC correctional institutions (and at private correctional institutions, if such notice(s), memo(s), or policy(s) are distinguishable when utilized at private correctional institutions).

(Bracketed text in original.)

{¶ 15} Howard avers that he received redacted copies of responsive emails on April 17, 2025.

I. Request No. 9

{¶ 16} Howard sent the final request at issue in this case on March 11, 2025. In an electronic kite to Sackett, Howard requested a paper copy of the form DRC 4225—which he described as a "Notice of an Unauthorized Item Received/Withholding of Incoming Mail"—for mail received on September 27, 2024, and for which a determination of withholding was made on November 25, 2024. Sackett responded to Howard on March 17, 2025; she informed him that he should have a copy of the form DRC 4225 with the warden's withholding decision on it and that because a copy of the form is not kept on file, she did not have one to give to him.

J. Howard Files This Action

{¶ 17} Howard filed his complaint in this original action on April 7, 2025, and he filed an amended complaint on May 6, 2025. We granted an alternative writ, ordering Sackett to file an answer and setting the schedule for the parties' filing of evidence and briefs. 2025-Ohio-3300.

{¶ 18} The parties submitted evidence and merit briefs; Howard did not file a reply brief. After the deadline for filing evidence, Howard filed a motion styled as an "Emergency Application for Order (R.C. 2701.20(B))," asking us to order the clerk of this court to accept additional evidence for filing.

{¶ 19} After the briefing in this case was complete, Howard filed a "Judicial Notice of Law," in which he asks us to take judicial notice of several decisions issued by this court that he says should be "accorded precedential value." Sackett contends that Howard's judicial-notice filing is procedurally improper and therefore should be disregarded.

II. ANALYSIS

A. Howard's Emergency Application for Relief under R.C. 2701.20(B)

{¶ 20} After having timely filed evidence in this case, Howard attempted to file documents on December 1, 2025, titled "second additional evidence" and "third

additional evidence." The clerk of this court rejected his filings for noncompliance with S.Ct.Prac.R. 3.13. That rule provides: "A party who wishes to make corrections or additions to a previously filed document *shall file* a revised document . . . that *completely incorporate*[*s*] the corrections or additions." (Emphasis added.) S.Ct.Prac.R. 3.13(A).

{¶ 21} Howard asks us to order the clerk to accept his additional evidence for filing under R.C. 2701.20(B), which states:

> If the clerk of a court of record, pursuant to [R.C. 2701.20(A)], refuses to accept a document for filing or refuses to docket and index a document, the person who presented the document to the clerk may commence an action in or apply for an order from the court that the clerk serves to require the clerk to accept the document for filing or to docket and index the document. If the court determines that the document is appropriate for filing or for docketing and indexing, it shall order the clerk to accept the document for that purpose.

{¶ 22} We deny Howard's application. R.C. 2701.20(A) authorizes a clerk of court to refuse to accept a document for filing if it "is not required or authorized to be filed." Here, the clerk properly refused to file Howard's second and third additional evidence because the documents he sought to file failed to comply with S.Ct.Prac.R. 3.13(A). As shown by Howard himself in his emergency application, the additional evidence he sought to file did not include a revised document completely incorporating his additions, as required by the rule.

B. Judicial Notice

{¶ 23} After the close of briefing, Howard filed a "Judicial Notice of Law," asking us to take judicial notice of several cases. Sackett contends that Howard's filing is improper and that we therefore should disregard it.

{¶ 24} We agree with Sackett. Howard is not asking us to take judicial notice of adjudicative facts under Evid.R. 201. Rather, Howard's "judicial notice" filing consists of law and argument in support of his claims. Accordingly, it is either an improper supplemental merit brief, *see* S.Ct.Prac.R. 16.08, or an untimely reply brief, *see* 2025-Ohio-3300. Either way, the filing is improper and we disregard it.

C. Amended R.C. 149.43 Does Not Apply

{¶ 25} Sackett argues that this court should dismiss this case because Howard failed to comply with the 2025 amendments to Ohio's Public Records Act, R.C. 149.43. Effective April 9, 2025, R.C. 149.43 was amended to require a person seeking to commence a mandamus action to compel a public office's compliance with R.C. 149.43(B) to complete an additional step before filing his or her petition in mandamus. *See* R.C. 149.43(C)(1), 2024 Sub.H.B. No. 265 ("H.B. 265"). Under the amended statute, a person must first serve "a complaint, on a form prescribed by the clerk of the court of claims," on the public office, which then has three business days "to cure or otherwise address the failure alleged in the complaint." *Id.* A mandamus action is subject to dismissal if the relator does not submit with his or her petition a written affirmation stating that he or she properly transmitted such complaint and that the failure alleged in the complaint was not cured within three business days. *See id.* Sackett contends that Howard did not comply with amended R.C. 149.43(C)(1)'s requirements.

{¶ 26} But the procedural requirements enacted by the General Assembly in H.B. 265 do not apply in this case. "A statute is presumed to be prospective in its operation unless expressly made retrospective." R.C. 1.48. The General Assembly did not make amended R.C. 149.43 retrospective. Thus, the amendments to

R.C. 149.43(C)(1) must be applied prospectively. Because Howard filed this action on April 7, 2025—two days before the amendment's effective date—he was not subject to the additional procedural requirement of serving a complaint on the public office from which records are sought and giving that public office three days to cure its alleged noncompliance with R.C. 149.43(B). *See Estate of Johnson v. Randall Smith, Inc.*, 2013-Ohio-1507, ¶ 20 (prospective application of statute means it applies to actions filed on or after the statute's effective date). The applicable versions of the Public Records Act in this case[2] contain no such filing prerequisites.

{¶ 27} Sackett argues, however, that Howard is subject to the statutory amendments because he filed an amended complaint after their effective date. But she fails to account for Civ.R. 15(C), which provides: "Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading." Under that rule, Howard's amended complaint filed on May 6, 2025, relates back to the date he filed his original complaint, April 7, 2025. Thus, the amendments to R.C. 149.43 that became effective on April 9, 2025, do not apply in this case.

D. Mandamus

{¶ 28} A writ of mandamus is an appropriate remedy to compel compliance with the Public Records Act. *State ex rel. Griffin v. Doe*, 2021-Ohio-3626, ¶ 5. To be entitled to the writ, Howard must establish a clear legal right to the requested relief and a clear legal duty on the part of Sackett to provide it. *Id.* Howard must prove his entitlement to the writ by clear and convincing evidence. *State ex rel. Plunderbund Media, L.L.C. v. Born*, 2014-Ohio-3679, ¶ 17.

2. Unless otherwise noted, this opinion applies the versions of R.C. 149.43 enacted in 2023 Sub.H.B. No. 33 (effective Oct. 3, 2023) and 2024 Sub.S.B. No. 29 (effective Oct. 24, 2024); those versions are substantially similar.

1. Request No. 1: Staff Schedules

{¶ 29} In his April 2024 kite to Sackett ("request No. 1"), Howard asked for work schedules for LaECI Case Manager Rachel Smith for April 9 through 20 and April 22 through 26, 2024; he also requested Smith's punch-in/punch-out logs for the former dates. Sackett denied the request, informing Howard that such records are exempt from public disclosure under R.C. 149.43(A)(1)(k) and (A)(1)(m) and R.C. 149.433(B). Those statutes, respectively, exempt inmate records under R.C. 5120.21, intellectual-property records, and security records from R.C. 149.43's definition of "public record." In this case, Howard seeks a writ of mandamus only with respect to the requested staff schedules. Sackett relies solely on the security-records exemption to justify her denial of Howard's request for these records.

{¶ 30} A "security record" is one "that contains information directly used for protecting or maintaining the security of a public office against attack, interference, or sabotage." R.C. 149.433(A)(1). Subject to an exception not applicable here, a security record is not a "public record" under R.C. 149.43 "and is not subject to mandatory release or disclosure under that [statute]." R.C. 149.433(B)(1). A public office asserting the security-records exemption to a public-records request must submit "evidence providing specific factual support that goes beyond mere conclusory statements in an affidavit." *State ex rel. Welsh-Huggins v. Jefferson Cty. Prosecutor's Office*, 2020-Ohio-5371, ¶ 50.

{¶ 31} We have consistently required an in camera inspection of requested records to determine whether requested records are exempt from disclosure under the Public Records Act. *State ex rel. Lanham v. DeWine*, 2013-Ohio-199, ¶ 22. However, we do not have to conduct an in camera inspection "where 'the matters contained in an allegedly public record are not in dispute, making only its status under the public records law an issue.'" *Salemi v. Cleveland Metroparks*, 2016-Ohio-1192, ¶ 33, quoting *State ex rel. Renfro v. Cuyahoga Cty. Dept. of Human Servs.*, 54 Ohio

St.3d 25, 26, fn.1 (1990). In this case, Sackett has not submitted copies of the staff schedules that Howard requested for our in camera review. But there is no dispute over what the requested records contain, making only their status under the public-records law an issue. *See Salemi* at ¶ 33-34; *see also Plunderbund Media*, 2014-Ohio-3679, at ¶ 31 (because the requested records fell within the definition of "security records" under R.C. 149.433(A)(3)(a), there was no need to review them in camera).

{¶ 32} In an affidavit submitted with her evidence, Sackett avers that the LaECI staff shift schedules reveal the location of staff throughout the facility, including information regarding which staff are present at the facility and at what times. And Howard does not dispute this characterization of the records. We have previously held that documents containing such information are security records as defined in R.C. 149.433(A)(1).

{¶ 33} In *McDougald v. Greene*, shift-assignment duty rosters detailing the identity and location of guards posted throughout a prison were deemed exempt from disclosure under the Public Records Act because of their clear status as security records. 2020-Ohio-4268, ¶ 1. We concluded that because of their content, including the identity and location of particular personnel within the prison, the shift-assignment duty rosters could be used to plan an escape from or attack on the prison or be used to smuggle in contraband and therefore constituted security records exempt from public-records disclosure. *Id.* at ¶ 9. Similarly, in *State ex rel. Slager v. Trelka*, we held that lists of work schedules and work posts of correction officers that contained the same type of information as the records at issue in *McDougald* also constitute security records under R.C. 149.433(B)(1). 2024-Ohio-5125, ¶ 18-19. Because the records requested by Howard in this case are of the same ilk, they too are exempt from production under the Public Records Act as security records.

{¶ 34} Howard argues, however, that past work schedules from more than two years ago can no longer be classified as security records. Relying on *State ex*

rel. Ohio Republican Party v. FitzGerald, 2015-Ohio-5056, and *State ex rel. Rogers v. Dept. of Rehab. & Corr.*, 2018-Ohio-5111, Howard argues in his merit brief that the passage of time "diminishes the feasibility of a 'security record' exemption." But the cases Howard cites in support of his argument are distinguishable from the facts presented here.

{¶ 35} In *FitzGerald*, the security-records exemption no longer applied to "key-card-swipe data" documenting a county executive's entry and exit from a public building, because the evidence showed that the person whose data was sought was no longer a county executive and the county had since moved from that building, which had been demolished. *FitzGerald* at ¶ 27-28. And in *Rogers*, there was no evidence showing that the requested security-camera-video footage from three years earlier showed any current security plans or protocols of the correctional institution where the footage was recorded. *Rogers* at ¶ 1, 21. In this case, however, Sackett avers that the staff schedules that Howard requested from April 2024 are still indicative of current staffing operations at LaECI and, in particular, the current work schedule of the employee whose information Howard specifically seeks. Indeed, in *Slager*, we found that the security-records exemption applied even though the requested records were from a year earlier. *See Slager* at ¶ 18-19.

{¶ 36} For these reasons, we deny the writ as to Howard's request No. 1.

2. Request No. 2: Records of Email- and Phone-Service Providers

{¶ 37} In his July 2024 kite to Sackett ("request No. 2"), Howard asked for records showing which businesses, companies, or entities provided email and phone services to LaECI from May 2023 until July 6, 2024. When Sackett asked Howard to clarify his request, Howard explained that he wanted records showing "the business(es), company(s), or entity(s) which provide e-mail services to LaECI (e.g., Yahoo, Google, Microsoft, or ServiceNow) . . . and [those] which provide phone services to LaECI (e.g., AT&T or Spectrum)." After seeking clarification from Howard about the records Howard wanted, Sackett told Howard that his

request was "too vague, overbroad, and [did] not provide enough information to the public office to determine where to look for responsive records."

{¶ 38} Howard argues that in failing to allow him to inspect and receive copies of the requested records, Sackett did not comply with R.C. 149.43(B)(2), which provides:

> If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

{¶ 39} Alternatively, Howard contends that it was reasonably clear to Sackett what he was asking for both in his original request and in his clarification.

{¶ 40} Sackett contends that Howard did not make a valid public-records request in the first place, because he did not ask for a specific record kept by LaECI but instead asked Sackett to search for records containing certain information and to produce those records. This argument has merit and is dispositive of Howard's claim as to request No. 2.

{¶ 41} Howard asked to inspect and obtain copies of "records that exhibit[] which business(es), company(s), or entity(s) provide[] e-mail services to LaECI . . . and, also, those records that exhibit[] which business(es), company(s), or entity(s) provide[] phone services to LaECI (particularly the phones within the administrative

area of the institution)." When Sackett asked Howard to clarify which records he was seeking, Howard stated that he wanted to see "records . . . which show[] the business(es), company(s), or entity(s) which provide" email and phone services to LaECI, such as Yahoo, Google, Microsoft, ServiceNow, AT&T, and Spectrum. But a close reading of Howard's request shows that he was not asking to inspect and receive copies of specific records kept by the public office. Rather, he was asking Sackett to produce records containing specific information. "If a requested record does not already exist, the custodian of records need not search through another record to find information that the requester seeks and compile it into a new record." *State ex rel. Huwig v. Dept. of Health*, 2025-Ohio-4454, ¶ 21. Thus, when a requester asks for documents containing certain information, a public office has no duty to search for and compile such records. *See id.*; *see also State ex rel. Kerner v. State Teachers Retirement Bd.*, 1998-Ohio-242, ¶ 6 (request for records containing the names and addresses of certain persons was not a valid public-records request).

{¶ 42} Accordingly, Sackett did not violate a duty under the Public Records Act when she failed to search for and compile records containing the information Howard described in request No. 2. And even though Sackett did not raise this objection in her response to Howard's request or his clarification thereof, she is not foreclosed from raising it here as a defense to Howard's mandamus claim. *See* R.C. 149.43(B)(3).

3. Request Nos. 3 and 5: Body-Worn-Camera and Surveillance-Camera Footage

{¶ 43} In his August and October 2024 kites to Sackett ("request No. 3" and "request No. 5," respectively), Howard asked to view and receive copies of certain correction officers' body-worn-camera footage of incidents that occurred at specified times on those dates. With respect to the August 20 request for the body-worn-camera footage of Correction Officer Webster, Sackett responded that "[n]o footage was recorded at that time." With respect to the October 23 request for the body-worn-camera footage of Correction Officers Guijarro and Dix and "C.O. 1," Sackett

responded that no body-worn-camera footage was saved during the specified period for Officers Guijarro and Dix and that there was no officer with the title "C.O. 1." In her affidavit, Sackett confirms the nonexistence of body-worn-camera footage responsive to Howard's request Nos. 3 and 5.

{¶ 44} "A record's existence is a prerequisite to its production, so a writ of mandamus cannot issue to command production of records that do not exist." *State ex rel. Clark v. Dept. of Rehab. & Corr.*, 2025-Ohio-5552, ¶ 23; *see also State ex rel. Toledo Blade Co. v. Seneca Cty. Bd. of Commrs.*, 2008-Ohio-6253, ¶ 27. In this case, Howard does not contest Sackett's position that the requested body-worn-camera footage does not currently exist. Rather, Howard argues that the requested footage existed or should have existed at the time of his requests and for some period thereafter. But without evidence to rebut Sackett's affidavit testimony that the body-worn-camera footage did not exist then and does not now exist, Howard cannot obtain a writ of mandamus to compel its production. *See State ex rel. Culgan v. Jefferson Cty. Prosecutor*, 2024-Ohio-4715, ¶ 14 ("[a relator's] belief that responsive records exist is not sufficient evidence to establish that they exist"). Accordingly, we deny the writ with respect to the body-worn-camera footage Howard asked for in request Nos. 3 and 5.

{¶ 45} In addition to body-worn-camera footage, Howard asked for surveillance-camera footage of the incidents he referred to in request Nos. 3 and 5. In request No. 3, Howard asked for "video system surveillance footage of Huron C/D's front dayroom" from 3:45 p.m. to 4:00 p.m. on August 20, 2024. In request No. 5, Howard asked for footage from the surveillance cameras positioned at "the outside entrance/exit of Huron C/D" and "the inside entrance/exit of Huron C/D" from 6:35 p.m. to 6:45 p.m. on October 23, 2024.

{¶ 46} Unlike the requests for body-worn-camera footage discussed above, Sackett did not deny Howard's requests for surveillance-camera footage on the basis that the requested footage did not exist. Rather, Sackett denied the requests on the

basis that the surveillance-camera footage was exempt from disclosure as security records under R.C. 149.433(A)(1). Sackett's security-records argument focuses on the alleged jeopardy to the safety and security of prison staff, other inmates, and the public at large if Howard, a current inmate at LaECI, is allowed to review surveillance-camera footage.

{¶ 47} In her affidavit, however, Sackett avers that the surveillance-camera footage that Howard requested was not preserved but was automatically recorded over in accordance with DRC Policy No. 09-INV-01. With respect to the retention of surveillance-camera footage within an institution, DRC Policy No. 09-INV-01, Section VI(D)(12) states:

> b. When recordings captured on an ODRC surveillance camera are part of any matter being litigated or a "litigation hold letter" is issued for recordings captured on an ODRC surveillance camera or an investigative or administrative record or file containing recordings captured on an ODRC surveillance camera, the recordings shall not be destroyed but shall be maintained and retained until released by ODRC Legal Services.
>
> c. Recordings not reviewed as part of an official ODRC investigation or official ODRC administrative process, not specifically captured on ODRC surveillance cameras to record a planned event or transaction, or not part of any matter being litigated or being retained pursuant to a "litigation hold letter" shall be retained for a minimum of forty-five (45) calendar days.

In addition, the policy states that "[r]ecordings captured on ODRC surveillance cameras shall be copied, saved, or stored . . . only when approved by" certain designated ODRC personnel. *Id.* at Section VI(D)(10).

{¶ 48} According to Sackett, no "qualifying event" or "qualifying incident" occurred on August 20 or October 23, 2024, to trigger the copying and preservation of the surveillance-camera footage that Howard requested. Thus, the surveillance-camera footage at issue was not preserved and was automatically recorded over. And Howard himself acknowledges in his merit brief that the surveillance-camera footage "was automatically deleted" at least 45 days after he requested it. Accordingly, we deny the writ with respect to the surveillance-camera footage Howard asked for in request Nos. 3 and 5.

4. Request No. 4: Definitions of Certain Words in an ODRC Policy

{¶ 49} In his September 2024 kite to Sackett ("request No. 4"), Howard submitted a public-records request that read as follows:

> I request a paper copy of the following records (words as defined by DRC, on its Policy 10-SAF-22 webpage):
>
> – qualifying event
>
> – digital evidence system
>
> – video recall
>
> – body worn camera (BWC)
>
> – body worn camera administrator

Sackett denied the request on the basis that Howard was not requesting a specific record.

{¶ 50} "Requests for information and requests that require the records custodian to create a new record by searching for selected information are improper requests under R.C. 149.43." *State ex rel. Morgan v. New Lexington*, 2006-Ohio-6365, ¶ 30; *see also State ex rel. Griffin v. Sehlmeyer*, 2021-Ohio-3624, ¶ 6. In request No. 4, Howard did not ask for a copy of ODRC Policy No. 10-SAF-22 or any pages of the policy containing the definitions of the listed terms. Rather, he purported

to ask for records containing the defined terms found in that policy. Sackett, therefore, properly denied the request, as she reasonably construed it to be for a request for a compilation of information. *See id.* at ¶ 5. We therefore deny the writ with respect to request No. 4.

5. Request No. 6: Incoming Funds

{¶ 51} In his October 2024 email to Sackett ("request No. 6"), Howard asked for a paper copy of the "'Lake Erie Correctional Institution Request for Incoming Funds'" and paper copies of four kites. Sackett provided Howard with copies of the kites but denied his other request on the ground that "[t]he Lake Erie Correctional Institution Request for Incoming Funds is not a public record pursuant to R.C. 5120.21(F)."

{¶ 52} Howard argues in his merit brief that he requested "a blank, paper copy" of a form that is "regularly utilized at the LaECI." Sackett acknowledges in her affidavit that "[t]he Lake Erie Request for Incoming Inmate Funds is a form used by incarcerated persons to request approval for funds to be sent to them from another person or entity" and that "[b]lank forms are available to inmates at LaECI through unit staff and in the library." Accordingly, Sackett does not dispute that the blank form is a public record. But Sackett attests that Howard "failed to identify" the form he was requesting and that to the extent Howard was seeking copies of forms completed by other inmates, those forms are not public records under R.C. 5120.21(E)(1).

{¶ 53} Sackett's defense is without merit. In her affidavit, Sackett confirms her understanding of which form Howard was requesting, and the evidence before us shows that the form's title is as he identified it in his request. Howard's request is not reasonably construed as asking for forms completed by other inmates. It is clear from Howard's request that he sought a paper copy of the form itself. If, as Sackett contends, Howard could obtain the blank form from unit staff or the library, she could have so advised him. *See State ex rel. Clark v. Dept. of Rehab. & Corr.*,

2025-Ohio-1611, ¶ 29 ("it is not a violation of the Public Records Act when an employee not responsible for a public-records request directs the requester to the proper office or to where the record may be located or to the person responsible for the public record"). Instead, Sackett denied outright Howard's request for a public record. We therefore grant the writ of mandamus as to request No. 6.

6. Request No. 7: Mail from the United States Postal Regulatory Commission

{¶ 54} Howard contends that the LaECI mailroom withheld from him certain materials that the United States Postal Regulatory Commission had mailed to him. Therefore, in a December 2024 kite to Sackett ("request No. 7"), Howard asked that he be permitted "to view and inspect the withheld printed material which was sent by the U.S. Postal Regulatory Commission." Sackett denied the request, stating that "inmate mail is not a public record per R.C. 5120.21(F)." Sackett attests in her affidavit that the mail at issue was withheld from Howard as contraband because it exceeded the allowable number of pages for inmate mail under ODRC Policy No. 75-MAL-01(C)(1)(a). And she argues in her merit brief that Howard's mandamus claim for the withheld mail is nothing more than an attempt to circumvent ODRC's mail policy and bypass the institutional appeal process that inmates are required to follow when seeking to view their withheld mail.

{¶ 55} To meet his burden of proof, Howard must show that he requested a public record and that Sackett did not make the record available in response to that request. *See Griffin*, 2021-Ohio-3626, at ¶ 6. Howard has not met his burden in this case, because he has not shown that he requested *a public record*. The Public Records Act defines "public record" as "records kept by any public office." R.C. 149.43(A)(1). "Records" means "any document, device, or item . . . created or received by or coming under the jurisdiction of any public office . . . , which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office." R.C. 149.011(G).

{¶ 56} Howard makes much of the fact that the mail-classification schedule is a record of the *federal* government that is publicly available, thereby making it a public record. Howard asserts that the mail-classification schedule is a public record and that the LaECI mailroom withheld it from him.

{¶ 57} But to be a public record *under Ohio's Public Records Act*, the record must be one that documents the organization, functions, policies, decisions, procedures, or other activities *of the public office* from which the record is requested. *See id.* In request No. 7, however, Howard asked for a record of the United States Postal Regulatory Commission, not a record maintained by LaECI. Accordingly, Sackett properly denied Howard's request, and we deny the writ as to request No. 7.

7. Request No. 8: Correspondence Between LaECI Staff and ODRC Staff

{¶ 58} In his February 2025 kite to Sackett ("request No. 8"), Howard asked for a copy of "all email correspondences between LaECI staff . . . and DRC staff . . . concerning inmate e-filing with the Ohio Supreme Court under S.Ct.Prac.R. 3.02(A)(4)(a)" from on or about February 10 to 19, 2025. Howard also asked for a copy of "any DRC notice, memo, written communication, or policy" related to the implementation of S.Ct.Prac.R. 3.02(A)(4)(a) at correctional institutions.

{¶ 59} Sackett provided Howard with copies of emails responsive to the first part of his request but redacted the work cellphone numbers and email addresses of the email senders and recipients (all of whom are CoreCivic[3] or ODRC personnel). Sackett considers the redactions "appropriate," while Howard argues that he is entitled to unredacted copies of the requested emails.

{¶ 60} "If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the

3. LaECI is owned and operated by CoreCivic, Inc., under a contract with ODRC. *State ex rel. Brown v. Sackett*, 2025-Ohio-2080, ¶ 2.

person responsible for the public record shall make available all of the information within the public record that is not exempt." R.C. 149.43(B)(1). Accordingly, the Public Records Act allows the public office to redact portions of a public record that are exempt from disclosure. *Welsh-Huggins*, 2020-Ohio-5371, at ¶ 73. But if the redaction is *not* authorized by federal or state law, the redaction is deemed a denial of the request to inspect or copy the redacted information. R.C. 149.43(B)(1).

{¶ 61} In this case, Sackett does not dispute that the emails Howard requested are public records. But she has not identified any statutory exemption that allowed her to redact the senders' and recipients' work cellphone numbers and work email addresses from those records before providing them to Howard. Rather, Sackett asserts in both her affidavit and merit brief that incarcerated persons have used such information in the past to attempt to bypass proper administrative channels and harass prison staff. Sackett's explanation, however, fails to include a valid *statutory* basis for the redactions under the Public Records Act. And while we have held that a state employee's *home* address is not a public record, *see State ex rel. Dispatch Printing Co. v. Johnson*, 2005-Ohio-4384, syllabus, Sackett has not cited any case for the proposition that a public employee's *work* cellphone number or work email address may be redacted from a public record being produced to a requester under the Public Records Act.

{¶ 62} When redactions are not covered by a statutory exemption, a writ of mandamus compelling production of an unredacted copy will issue. *See, e.g.*, *State ex rel. Mahajan v. State Med. Bd. of Ohio*, 2010-Ohio-5995, ¶ 67. Because Sackett has not raised a valid justification for her redactions, we grant a writ of mandamus regarding request No. 8, ordering Sackett to provide Howard with an unredacted copy of the emails that she previously provided him.

8. Request No. 9: A Copy of Form DRC 4225

{¶ 63} In his March 2025 kite to Sackett ("request No. 9"), Howard asked for a paper copy of form DRC 4225, which he described as a "Notice of an Unauthorized Item Received/Withholding of Incoming Mail," related to mail he received on September 27, 2024, that was withheld from him. Howard specifically requested a copy of the form that showed "a determination affirming withholding [as] made on 11/25/24." Sackett responded six days later, advising Howard that the "pink copy" of that form was "returned to the incarcerated person so [he] should have it" and that the prison does not make a copy to keep on file before it is returned to the incarcerated person. In other words, the only copy of form DRC 4225 with the warden's withholding determination on it is returned to the inmate and therefore Howard should have already received it. Sackett attests in her affidavit that LaECI does not have any other copy of the record Howard requests. Howard disputes Sackett's response, arguing that LaECI should have retained a copy of the record he is requesting.

{¶ 64} "When a public office attests that it does not have responsive records, the relator in a public-records mandamus case bears the burden of proving by clear and convincing evidence that the requested records exist and are maintained by the public office." *Culgan*, 2024-Ohio-4715, at ¶ 13. In attempting to satisfy his burden, Howard contends that the ODRC records-retention schedule requires LaECI to maintain a copy of form DRC 4225 that contains the warden's determination affirming the withholding of an inmate's mail.

{¶ 65} Regardless of what the records-retention schedule says, however, "the existence of a particular records schedule at a public office does not necessarily mean that the public office has records encompassed by that schedule." *State ex rel. Mobley v. Bates*, 2024-Ohio-2827, ¶ 9. Thus, Howard has not offered clear and convincing evidence to rebut Sackett's attestation that LaECI does not have the

record Howard requested. *See State ex rel. Mobley v. Witt*, 2025-Ohio-868, ¶ 13. Accordingly, we deny the writ as to request No. 9.

E. Statutory Damages

{¶ 66} As an initial matter, Sackett argues that Howard may not recover statutory damages, because R.C. 149.43(C), as amended by H.B. 265, precludes an inmate from recovering statutory damages in a public-records case. However, as stated above, Howard filed this mandamus action before the effective date of H.B. 265. This case therefore is governed by versions of R.C. 149.43 that do not bar an inmate from recovering statutory damages (*see* footnote 3).

{¶ 67} Under the versions of the Public Records Act applicable in this case, any person who transmits a written request by electronic submission may recover statutory damages in a public-records mandamus action if a court determines that the public-records custodian failed to comply with an obligation set forth in R.C. 149.43(B). *See* R.C. 149.43(C)(2). There is no dispute that Howard sent his nine public-records requests by electronic kite, which qualifies as an electronic transmission for purposes of awarding statutory damages under R.C. 149.43(C)(2). *See State ex rel. Griffin v. Sehlmeyer*, 2021-Ohio-1419, ¶ 21.

{¶ 68} The amount of statutory damages that may be awarded is $100 for each business day during which the public office failed to comply with an obligation under R.C. 149.43(B), beginning on the day the mandamus action was filed; statutory damages may be awarded up to a maximum of $1,000. R.C. 149.43(C)(2). In this case, Howard seeks an award totaling $9,000 in statutory damages—the maximum award for each of his public-records requests. For the reasons stated above, however, Howard has not shown that Sackett violated R.C. 149.43(B) in denying Howard's request Nos. 1, 2, 4, 7, and 9. Therefore, we deny statutory damages with respect to those requests. *See State ex rel. Ames v. Big Walnut Local School Dist. Bd. of Edn.*, 2025-Ohio-2493, ¶ 12, 14 (no entitlement to statutory damages when the relator failed to prove a violation of R.C. 149.43(B)).

{¶ 69} Howard, however, has established that Sackett failed to comply with an obligation under R.C. 149.43(B) when she denied Howard's request Nos. 6 and 8. And with respect to Howard's claims regarding the surveillance-camera footage in request Nos. 3 and 5, he may be entitled to statutory damages—even though the footage no longer exists—if he proves that the footage he asked for existed when Sackett received his public-records requests. *See Clark*, 2025-Ohio-5552, at ¶ 24.

1. Statutory Damages for Request Nos. 6 and 8

{¶ 70} For the reasons explained above, we grant a writ of mandamus ordering Sackett to produce (1) the LaECI form sought in Howard's October 31, 2024 public-records request (request No. 6) and (2) an unredacted copy of the emails Howard requested on February 19, 2025 (request No. 8). Sackett argues that statutory damages are unwarranted with respect to those requests because she "timely replied to [Howard], acted in good faith, and fully complied with her obligations under R.C. 149.43."

{¶ 71} Sackett has not put forth a valid defense against a statutory-damages award for request Nos. 6 and 8. Sackett failed to comply with R.C. 149.43(B) when she denied request No. 6 without a valid reason and improperly redacted information from records produced in response to request No. 8. And as for her contention that she acted in good faith, "[a] statutory damages award . . . is 'not contingent on the good or bad faith of the public-records custodian,' " *State ex rel. Luikart v. Washington Court House*, 2026-Ohio-111, ¶ 15, quoting *State ex rel. Ware v. Akron*, 2021-Ohio-624, ¶ 18.

{¶ 72} We therefore award statutory damages for request Nos. 6 and 8. And because more than ten business days have passed since the filing of Howard's mandamus complaint, we award the maximum amount of $1,000 for each request—for a total of $2,000.

2. Statutory Damages for Request Nos. 3 and 5

{¶ 73} In request Nos. 3 and 5, respectively, Howard asked for footage from surveillance cameras for a 15-minute period on August 21, 2024 (request No. 3) and a 10-minute period on October 23, 2024 (request No. 5). As stated above, we deny the writ as to those two requests because the surveillance-camera footage no longer exists.

{¶ 74} But notwithstanding the denial of the writ, Howard may obtain statutory damages if the surveillance-camera footage existed at the time of his requests and if Sackett violated R.C. 149.43(B) by failing to allow Howard to view or obtain a copy of it as he requested. *See State ex rel. Adkins v. Cole*, 2025-Ohio-1026, ¶ 39; *see also Clark*, 2025-Ohio-5552, at ¶ 24 (denying statutory damages when the relator did not show that the requested video footage existed at the time of his public-records request). In this case, Howard has shown by clear and convincing evidence that the surveillance-camera footage at issue existed at the time of his requests: with regard to both request Nos. 3 and 5, Howard submitted a public-records request by electronic kite on the same day the footage was recorded, and Sackett avers that the footage remained available for 45 days, at which point it would have been overwritten under DRC Policy No. 09-INV-01. Accordingly, the statutory-damages question turns on whether Sackett had a valid basis for denying Howard's requests for the footage.

{¶ 75} Sackett argues that she properly denied Howard's requests for the surveillance-camera footage because such footage is an exempt "security record" under R.C. 149.433(B)(1). "Security record" is statutorily defined to include "[a]ny record that contains information directly used for protecting or maintaining the security of a public office against attack, interference, or sabotage" or that is "assembled, prepared, or maintained by a public office . . . to prevent, mitigate, or respond to acts of terrorism." R.C. 149.433(A)(1) and (2). This includes the "portions of records containing specific and unique vulnerability assessments or

specific and unique response plans either of which is intended to prevent or mitigate acts of terrorism, and communication codes or deployment plans of law enforcement or emergency response personnel." R.C. 149.433(A)(2)(a). Sackett bears the burden to prove that the requested surveillance-camera footage falls squarely within the security-records exemption. *See State ex rel. Snodgrass v. Trumbull Corr. Inst.*, 2025-Ohio-4688, ¶ 11, 23.

{¶ 76} Howard's requests for surveillance-camera footage present a similar issue to the one we confronted in *Rogers*, 2018-Ohio-5111. In *Rogers*, a prison employee requested video of two use-of-force incidents recorded by security cameras at the prison. The prison denied the request, stating that the videos were exempt from disclosure as infrastructure records and security records under R.C. 149.433(B). In the mandamus action that followed, we granted the writ, ordering the prison to release the requested video after holding that the prison failed to meet its burden to show that the video was exempt from disclosure under the Public Records Act as either an infrastructure record or a security record. *See Rogers* at ¶ 22. With respect to our holding in that case, we observed that ODRC's evidence submitted on the security-records issue was "general and insufficient to meet [its] burden." *Id.* at ¶ 19. Beyond the bare allegations contained in two affidavits that ODRC had submitted as evidence, it "ha[d] not attempted to explain how the video recording at issue actually constitute[d] 'information directly used for protecting or maintaining the security of a public office against attack, interference, or sabotage,' or was 'assembled, prepared, or maintained by the public office . . . to prevent, mitigate, or respond to acts of terrorism.'" (Ellipsis in original.) *Id.*, quoting R.C. 149.433(A)(1) and (2).

{¶ 77} Sackett's evidence in this case is no more compelling than the evidence was in *Rogers*. The only evidence submitted here in support of the security-records exemption is Sackett's affidavit. Like ODRC's evidence in *Rogers*, Sackett does not explain in her affidavit testimony how the surveillance-camera footage that Howard requested contained "information directly used for protecting or maintaining

the security of a public office against attack, interference, or sabotage" or how the footage was "assembled, prepared, or maintained . . . to prevent, mitigate, or respond to acts of terrorism," R.C. 149.433(A)(1) and (2). Sackett focuses instead on how the safety and security of inmates and staff could be jeopardized generally by allowing a current inmate to review surveillance-camera footage. According to Sackett, "[t]here are myriad reasons and countless scenarios where an inmate's review of surveillance footage could pose a legitimate risk to the safety and security of staff, other inmates, volunteers, the public at large, and themselves."

{¶ 78} Sackett's affidavit, however, suffers from the same flaws as the affidavits this court found lacking in *Rogers*. Sackett's descriptions of how an inmate *could* make nefarious use of surveillance-camera footage are not enough to satisfy her burden of showing that the video was a security record. "Regardless of whatever perceived limitations or vulnerabilities [the public office] believes might be revealed by public viewing of the video, R.C. 149.433(A)(1) dictates that a record's security-record status is determined by the public office's actual use of the record for the stated purposes, not by a public-records requester's potential use or misuse of the record." *Welsh-Huggins*, 2020-Ohio-5371, at ¶ 57. And here, Sackett's affidavit lacks any description of the prison's "actual use" of the surveillance-camera footage at issue.

{¶ 79} Moreover, Sackett's general averments about the dangers of releasing surveillance-camera footage do not even attempt to place the stated concerns in the context of the specific footage that Howard requested. Howard requested footage from (1) the surveillance camera in the dayroom for a 15-minute period on August 20, 2024, and (2) the entrance/exit-area cameras at a specific location for a 10-minute period on October 23, 2024. In both requests, Howard sought footage of specific incidents that were captured by the surveillance cameras on the stated dates and at the stated times. Sackett does not explain in her affidavit how the specific footage that Howard requested fits squarely within the security-records exemption. Indeed, in rejecting ODRC's security-records-exemption argument in *Rogers*, this

court noted that ODRC had "not offered any analysis as to why the video requested in [that] case fit[] squarely within the exception" when the requested video was from a single camera on a specified day and at a specified time and did not contain any information regarding the network of cameras operating in and around the prison. *Rogers*, 2018-Ohio-5111, at ¶ 21. So too here: Sackett fails to explain or provide evidence showing how the specific surveillance-camera footage that Howard asked for fits the definition of "security record."

{¶ 80} Further cutting against Sackett's security-records-exemption argument is her averment that surveillance-camera footage "is withheld from inmates as a security record *unless* such video is attached to a particular qualifying event such as a disciplinary action, use of force incident, or other qualifying incident pursuant to ODRC policy." (Emphasis added.) This testimony is inconsistent with Sackett's stated position that surveillance-camera footage is, generally speaking, a security record. In her affidavit testimony, Sackett emphasizes the perceived dangers of providing *any* surveillance-camera footage to an inmate. The dangers that Sackett describes would exist regardless of whether the surveillance-camera footage shows "a particular qualifying event." Yet, Sackett acknowledges that the prison would release the surveillance-camera footage as a public record if it showed a "qualifying event."

{¶ 81} Apart from the security-records exemption, Sackett argues that Howard did not request surveillance-camera footage of "a qualifying event" that would have triggered the prison's responsibility to preserve the footage. Sackett argues that because there was no "qualifying event," providing Howard with a copy of the requested surveillance-camera footage would have required her to perform a search of the footage and create a new record by compiling the requested footage onto another storage device for production to Howard. This argument is without merit.

{¶ 82} In support of her argument, Sackett relies on this court's decision in *Huwig* as standing for the proposition that "[a] digital record that is the subject of a public-records request exists at the time the request was made only if the 'computer were already programmed to produce the desired printout' " and that she "is not required to 'create a new "document" by compiling material to facilitate review of the public records.'" 2025-Ohio-4454 at ¶ 22, quoting *State ex rel. Scanlon v. Deters*, 45 Ohio St.3d 376, 379 (1989), *overruled on other grounds by State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420 (1994), *overruled in part on other grounds by State ex rel. Caster v. Columbus*, 2016-Ohio-8394, ¶ 47. In *Huwig*, we denied the writ because fulfilling the relator's request in that case for a particularized spreadsheet populated by data extracted from other records would have required the public office "to run a complex query to extract certain information from the existing databases and then organize that information in two new files," *id.* at ¶ 23. Thus, the public office would have had to undertake a process that was "akin to reprogramming its computer software . . . to search[] through existing records to compile information into a new record." *Id.*

{¶ 83} The facts of this case are nothing like those presented in *Huwig*. Here, Howard requested surveillance-camera footage that existed on LaECI's video-surveillance system. Sackett has not presented any evidence showing that LaECI would have been required to reprogram its computer software to extract the 10- and 15-minute excerpts of footage that Howard requested. Indeed, Sackett herself testifies that LaECI could manually copy excerpts of surveillance-camera footage if a qualifying event occurred that necessitated preserving a copy of the footage. In his request Nos. 3 and 5, Howard asked for nothing more than what Sackett admits LaECI is capable of doing: making a copy of existing surveillance-camera footage.

{¶ 84} For these reasons, Howard has shown by clear and convincing evidence that Sackett failed to comply with R.C. 149.43(B) when she denied Howard's request for surveillance-camera footage that existed when he made request

Nos. 3 and 5. Here again, because more than ten business days have passed since the filing of Howard's mandamus complaint, we award the maximum amount of statutory damages for each request—for a total of $2,000.

F. Forfeiture

{¶ 85} Finally, Howard requests a civil forfeiture under R.C. 149.351(B)(2) in the amount of $7,000 as a consequence of Sackett's improper destruction of public records that he requested. R.C. 149.351(B)(2) permits "[a]ny person who is aggrieved by the removal, destruction, mutilation, or transfer of" a public record to commence a civil action "in the court of common pleas" of the county in which the violation occurred to recover a forfeiture. This court does not have jurisdiction over Howard's forfeiture claim. *See State ex rel. Harris v. Watson*, 2026-Ohio-508, ¶ 27.

III. CONCLUSION

{¶ 86} We deny Howard's emergency application for relief under R.C. 2701.20(B) and his request for judicial notice. And we deny the writ as to request Nos. 1, 2, 3, 4, 5, 7, and 9. But because Sackett improperly denied Howard's request for surveillance-camera footage that existed when Howard made request Nos. 3 and 5, we award Howard a total of $2,000 in statutory damages for those requests. We grant the writ as to request Nos. 6 and 8 and award a total of $2,000 in statutory damages for those requests. All told, we award Howard $4,000 in statutory damages for request Nos. 3, 5, 6, and 8.

Writ granted in part
and denied in part.

KENNEDY, C.J., joined by BRUNNER, J., concurring in part and dissenting in part.

{¶ 87} I agree with the majority, with three exceptions.

{¶ 88} First, in my view, correctional-staff schedules and punch-in/punch-out logs are not automatically exempt from disclosure as security records under

Ohio's Public Records Act, R.C. 149.43. Second, relator Devin D. Howard's request for records containing information regarding the email- and phone-service providers of Lake Erie Correctional Institution ("LaECI") was not ambiguous, overly broad, or otherwise improper. Finally, Howard's request for a paper copy of the definitions in an Ohio Department of Rehabilitation and Correction ("ODRC") policy was not an improper request for information or a request that respondent, Laura Sackett, the designated public-records coordinator at LaECI, create a new record.

{¶ 89} Therefore, in addition to granting the writ of mandamus for the public records the majority identified, I would also order Sackett to provide Howard with the records he asked for in each of these three public-records requests and would award Howard an additional $3,000 in statutory damages.

Request No. 1: Staff Schedules

{¶ 90} In an April 22, 2024 electronic kite[4] to Sackett, Howard requested the work schedule and punch-in/punch-out logs of an LaECI case manager for April 9 through 20 and the case manager's work schedule for April 22 through 26 ("request No. 1"). Sackett denied the request under various statutory exemptions, but in this mandamus action, she has pursued only her argument that the security-record exemption in R.C. 149.433(B) applies to this request.

{¶ 91} While "public records are the people's records" (cleaned up), *State ex rel. Mun. Constr. Equip. Operators' Labor Council v. Cleveland*, 2020-Ohio-3197, ¶ 63 (Kennedy, J., concurring in judgment only), "not all government records are public records," *State ex rel. Lawrence v. Dept. of Rehab. & Corr.*, 2026-Ohio-509, ¶ 49 (Kennedy, C.J., concurring in part and dissenting in part). "Security records are one example." *Id.*

4. "A kite is a type of written correspondence between an inmate and prison staff." *State ex rel. Griffin v. Szoke*, 2023-Ohio-3096, ¶ 3.

{¶ 92} As applicable here, a "security record" is "[a]ny record that contains information directly used for protecting or maintaining the security of a public office against attack, interference, or sabotage," R.C. 149.433(A)(1). Such records are "not subject to mandatory release or disclosure under" the Public Records Act. R.C. 149.433(B)(1). However, this exemption does not apply automatically. "The public-records custodian bears the burden of establishing that a record is exempt from release . . . ." *Lawrence* at ¶ 51 (Kennedy, C.J., concurring in part and dissenting in part), citing *State ex rel. Rogers v. Dept. of Rehab. & Corr.*, 2018-Ohio-5111, ¶ 7, 14.

{¶ 93} In an affidavit submitted with her evidence, Sackett states that the requested records are security records because the knowledge of staff's presence at and location within LaECI "*could* jeopardize" the facility's security, "*could* increase the likelihood of threats, harassment, violence, and insubordination towards" staff, "*could* . . . impact the likelihood of criminal activity" in the facility, and "*could* jeopardize the safety and security of" the staff member whose schedule was requested. (Emphasis added.) And in her merit brief, Sackett argues that "the passage of time" does not "warrant a disclosure" of the requested records, "especially *if*" the case manager "*could* have the same schedule" at some future time. (Emphasis added.)

{¶ 94} "When the statutory language is plain and unambiguous, and conveys a clear and definite meaning, we must rely on what the General Assembly has said." *Jones v. Action Coupling & Equip., Inc.*, 2003-Ohio-1099, ¶ 12. The statute here unambiguously requires security records to "contain[] information directly used for protecting or maintaining the security of a public office" to be exempt from production under the Public Records Act. R.C. 149.433(A)(1). In *State ex rel. Welsh-Huggins v. Jefferson Cty. Prosecutor's Office*, we held that "evidence providing specific factual support that goes beyond mere conclusory statements in an affidavit is required to show that the record sought falls squarely

within the prescribed exception." 2020-Ohio-5371, ¶ 50. The applicability of the security-record exemption "is determined by the public office's *actual use of the record* for the stated purposes, not by a public-records requester's potential use or misuse of the record." (Emphasis added.) *Id.* at ¶ 57.

{¶ 95} Sackett's evidence does not clear this bar. She does not give specific factual support demonstrating that the records Howard requested are directly used to maintain security at LaECI. Indeed, her claims for application of the security-record exemption are based only on vague hypotheticals regarding what *could* happen if Howard misused the information contained in the requested records and what *could* happen if the staff member whose schedule and punch-in/punch-out logs were requested has the same schedule at some future time.

{¶ 96} This stands in sharp contrast with what we have found to be adequate evidence in the past. For example, in *State ex rel. Cincinnati Enquirer v. Wilson*, the Ohio Department of Public Safety submitted multiple valid affidavits from law-enforcement officers explaining in detail the kinds of information contained in the requested documents—including the patterns of the governor's security detail—and how that information would be directly "'incorporated into future security plans.'" 2024-Ohio-182, ¶ 49 (Kennedy, C.J., concurring), quoting *id.* at ¶ 20.

{¶ 97} "It is not enough that the record contains information that is relevant to the security of a public office. It does not matter that the information in that record, if released, might make the public office vulnerable to attack, interference, or sabotage." *State ex rel. Slager v. Trelka*, 2024-Ohio-5125, ¶ 43 (Kennedy, C.J., concurring in part and dissenting in part). If the respondent does not meet his or her burden to show that the requested records "'fall[] squarely within the security-record exemption,'" *id.* at ¶ 44, quoting *Rogers*, 2018-Ohio-5111, at ¶ 19, then the record must be provided to the requester.

{¶ 98} The cases the majority relies on to find the records Howard asked for in request No. 1 exempt are inapplicable anyway. In *McDougald v. Greene*,

this court found that the shift-assignment duty rosters showing the location of guards in a correctional facility were relevant to the security of the facility and therefore exempt from production under the Public Records Act. 2020-Ohio-4268, ¶ 1, 9. And this court found similarly in *Slager* regarding a request for multiple lists of work schedules and work posts of correctional officers in a particular correctional facility. *See Slager* at ¶ 18-19. But even if, for the sake of argument, the schedules of guards and correctional officers are properly construed as security records (which, without more, they are not, *see McDougald* at ¶ 21-38 (Kennedy, J., dissenting); *Slager* at ¶ 42-46 (Kennedy, C.J., concurring in part and dissenting in part)), the records that Howard requested here do not involve LaECI's security staff. They involve the schedule of an LaECI case manager. Sackett does not explain in either her merit brief or her affidavit why or how a case manager's schedule and punch-in/punch-out logs are used by LaECI to maintain the security of the facility at all, let alone how they are directly used for such purpose.

{¶ 99} I would therefore grant a writ of mandamus with respect to request No. 1.

Request No. 2: Records Identifying LaECI's Email- and Phone-Service Providers

{¶ 100} On July 6, 2024, Howard sent an electronic kite to Sackett, requesting records showing the identity of LaECI's email- and phone-service providers from May 2023 until the date of his request ("request No. 2"). On July 8, Sackett requested clarification from Howard regarding his request. Howard replied the next day stating that he believed an agreement existed between LaECI's management and its email-service provider "for the provision of e-mail services to LaECI staff," and he provided examples of potentially relevant entities, including Yahoo, Google, Microsoft, and ServiceNow. Similarly, he clarified that he was looking for records regarding the phone services provided to LaECI; he listed

AT&T and Spectrum as potential providers. On July 15, Sackett denied the request as "too vague" and "overbroad."

{¶ 101} R.C. 149.43(B)(2)[5] allows a public-records custodian to deny a public-records request if the request is "ambiguous or overly broad" or if the records custodian "cannot reasonably identify what public records are being requested," as long as the records custodian gives the requester an opportunity to revise his or her request.

{¶ 102} Here, Sackett asked Howard to clarify his request, and Howard did. The majority skips over the part of Howard's response to Sackett's request for clarification where he stated that he believed an agreement existed between LaECI's management and its email- and phone-service providers. *See* majority opinion, ¶ 37. In this way, Howard clarified his request such that a records custodian ought to be able to reasonably identify the records sought: the agreement between LaECI's management and its email-service provider and the agreement between LaECI's management and its phone-service provider for the period indicated in his initial request.

{¶ 103} Public-records requests are not magical incantations, nor do they follow a strict formula. There is no requirement that the requester phrase things just so. The requester does not even have to get the first attempt at his or her request right. If the requester clarifies his or her request such that the records custodian can reasonably identify the record sought, the records custodian must provide the record, unless an exemption applies.

{¶ 104} Because Howard made clear in his follow-up kite to Sackett that he was looking for the agreements between LaECI's management and its email- and phone-service providers, I would grant a writ with respect to request No. 2.

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5. I agree with the majority opinion's analysis of the versions of the Public Records Act applicable to this case. *See* majority opinion at ¶ 25-27.

Request No. 4: Definitions in an ODRC Policy

{¶ 105} On September 30, 2024, Howard sent an electronic kite to Sackett, requesting a paper copy of the definitions of terms in ODRC Policy No. 10-SAF-22 ("request No. 4"). Sackett denied Howard's request on October 8, stating, "These are not records. They are terms that are used in policy 10-SAF-22 Body Worn Camera (BWC)."

{¶ 106} In general, "[r]equests for information and requests that require the records custodian to create a new record by searching for selected information are improper requests under R.C. 149.43." *State ex rel. Morgan v. New Lexington*, 2006-Ohio-6365, ¶ 30. The majority states that Howard "purported to ask for records containing the defined terms found in" ODRC Policy No. 10-SAF-22, majority opinion at ¶ 50, and that Sackett "reasonably construed [Howard's request] to be a request for a compilation of information," *id.* There is just one problem with that assessment: a document containing the definitions of terms used in ODRC policies does, in fact, exist, but that record was not offered to Howard. *See* ODRC Policy Definition Spreadsheet, https://dam.assets.ohio.gov/image/upload/drc.ohio.gov/MyOhio/Policies/Policy%20Definitions/Policy%20Definition%20Spreadsheet%20-%20Intranet%202021.pdf (accessed Aug. 12, 2026) [https://perma.cc/Y4J6-RPMX].

{¶ 107} Sackett was under no obligation to go through that document, pull the individual definitions Howard sought, and create a new record of just those definitions. But as the majority correctly construed, Howard asked "for records containing the defined terms" in a specific ODRC policy, majority opinion at ¶ 50, and a public record that contains those terms exists.

{¶ 108} Because a responsive record exists and was not produced to Howard, I would grant a writ for request No. 4.

Statutory Damages

{¶ 109} Finally, I agree with the majority that Howard may recover statutory damages and with the majority's calculations with respect to damages for Howard's request Nos. 3, 5, 6, and 8. But because, in my view, the requested writ should be granted with respect to Howard's request Nos. 1, 2, and 4, and each of those requests meets the criteria for awarding statutory damages, *see* R.C. 149.43(C)(2), Howard is entitled to an additional $3,000 in statutory damages, for a total of $7,000.

Conclusion

{¶ 110} In addition to the writ of mandamus and award of statutory damages granted by the majority, I would grant Howard's request for a writ of mandamus with respect to his request Nos. 1, 2, and 4 and award him an additional $1,000 in statutory damages for each of those requests. Because the majority does otherwise, I concur in part and dissent in part.

Devin D. Howard, pro se.

Struck Love Acedo, P.L.C., and Dana M. Keene, for respondent.