

IN THE COURT OF CLAIMS OF OHIO

DOUGLAS M. CONFORTI

Requester

v.

MACEDONIA POLICE DEPARTMENT

Respondent

Case No. 2025-00668PQ

Special Master Sarah Pierce

REPORT AND RECOMMENDATION

{¶1} This matter is before me for a report and recommendation. R.C.2743.75(F). I recommend that the Court (1) deny as moot Respondent’s motion to dismiss, (2) enter judgment for Respondent on Requester’s R.C. 149.43 claims, and (3) order Respondent to bear the costs of this case.

**I. Background**

**A. The public records request**

{¶2} In March 2025, two reported break-ins occurred at a Space Place storage facility in Macedonia, Ohio. The first break-in took place in the early hours of March 3, 2025. *Complaint, filed July 15, 2025*, p. 2, 4. The second break-in occurred on or about March 18, 2025. *Id.*, p. 8-9. Requester Douglas Mr. Conforti rents storage space in that facility. *Id.*, p. 10.

{¶3} On June 23, 2025, Mr. Conforti submitted a public records request to the City of Macedonia Police Department regarding the first break-in. *Id.*, p. 2. The request asked for a “March 03, 2025 police report regarding Space Place Macedonia 9165 Freeway Drive, Macedonia, OH 44056.” *Id.* The request also asked for a “complete unredacted report & transcripts – audio dispatch – time stamps notes, memos, emails dashcam & surveillance videos” related to that break-in. *Id.*

{¶4} On June 25, 2025, the Police Department provided a redacted copy of the incident and offense report. *Am. Compl., filed Jul. 30, 2025*, p. 5-6; *Resp. Add’l Ev., filed Dec. 12, 2025*, p. 3 ¶ 6. On June 26, 2025, the Police Department notified Mr. Conforti

that the records were redacted per the CLEIR<sup>1</sup> public records exception. *Resp. Ev., filed Nov. 26, 2025*, p. 34-35; *Resp. Add'l Ev., filed Dec. 12, 2025*, p. 3 ¶ 6.

{¶5} The Police Department did not provide the video file that was responsive to Mr. Conforti's request. Instead, the Police Department requested payment for the video in advance of its release, which Mr. Conforti declined to provide. *Req. Ev., filed Nov. 17, 2025*, p. 8, 32-33; *Resp. Add'l Ev., filed Dec. 12, 2025*, p. 3 ¶ 6 and p. 7 ¶ 6. In October 2025, to help resolve this matter, the Police Department provided Mr. Conforti with the responsive video file. *Resp. Add'l Ev., filed Dec. 12, 2025*, p. 7 ¶ 5. This video file also contains one CLEIR redaction. *Resp. Ev., filed Nov. 26, 2025*, p. 1.

{¶6} Mr. Conforti also requested records regarding the second break-in that occurred on March 18, 2025. *Req. Ev., filed Nov. 17, 2025*, p. 12. This request is not the subject of the current case. *Compl.*, p. 1; *Am. Compl.*, p. 4. The Police Department provided the responsive incident and offense report regarding that break-in. *Compl.*, p. 8-9; *Req. Ev., filed Nov. 17, 2025*, p. 20-21. The Police Department also provided available video and audio files. *Resp. Add'l Ev., filed Dec. 12, 2025*, p. 7 ¶ 5.

## **B. Procedural history**

{¶7} This matter was referred to mediation. Mediation did not resolve the case, and a schedule was set for both parties to file evidence and memoranda supporting their positions. *Order Terminating Mediation, entered October 31, 2025*. Mr. Conforti filed two evidence submissions and a reply in support of his complaint. *Req. Ev., filed Nov. 17, 2025*; *Req. Ev., filed Nov. 21, 2025*<sup>2</sup>; *Req. Reply, filed Dec. 8, 2025*. The Police Department filed evidence on the public docket, evidence for in camera review, and a motion to dismiss the complaint. *Resp. Ev., filed Nov. 26, 2025*; *Resp. Notice of Under Seal Filing, filed Nov. 26, 2025*; *Resp. Motion to Dismiss, filed Nov. 26, 2025*.

{¶8} After reviewing the parties' submissions, I determined that additional evidence was needed to resolve this case and I set a schedule accordingly. *Order, entered December 2, 2025*. Submissions were limited to whether and how particular records had

---

<sup>1</sup> "CLEIR" is a common acronym for "confidential law enforcement investigatory record" as used in the Ohio Public Records Act. See R.C. 149.43(A)(1)(h) and (A)(2). I will use CLEIR in this way throughout this report and recommendation.

<sup>2</sup> This evidence submission was accepted by my Order entered November 24, 2025.

been provided to Mr. Conforti. The parties were advised that filings outside the scope of the order were not permitted.

{¶9} The Police Department filed additional evidence in accordance with that order. *Resp. Add'l Ev., filed December 12, 2025*. Mr. Conforti also submitted an additional filing on December 11, 2025. This filing does not address the issues outlined in my December 2, 2025, order and is not considered in this report and recommendation.

{¶10} All filing schedules have now run and this case is decisional.

## II. Analysis

### A. The Police Department's motion to dismiss should be denied as moot.

{¶11} The Police Department filed a motion to dismiss the complaint. *Resp. MTD, filed Nov. 26, 2025*. The motion is not based on Civil Rule 12 grounds but instead urges dismissal because the case is moot. Therefore, the Police Department's motion should be considered a response to the complaint and denied as moot. *Hicks v. Village of Newtown*, 2018-Ohio-1540, ¶ 13 (Ct. of Cl.). The substance of the motion is addressed below as a response to the complaint.

### B. Mr. Conforti's claim for R.C. 149.43 relief should be denied.

{¶12} **Production claim.** Providing requested records generally renders a public-records claim moot. *State ex rel. Cincinnati Enquirer v. Dupuis*, 2002-Ohio-7041, ¶ 8; *Kearns v. Boardman Twp. Police Dept.*, 2025-Ohio-475, ¶ 7 (public-records claim mooted when records provided during litigation), adopted at Ct. of Cl. No. 2024-00776PQ (Mar. 19, 2025). "An event that causes a case to become moot may be proved by extrinsic evidence outside the record." *Dupuis* at ¶ 8. A public records case can be mooted by the respondent producing the responsive records during litigation. *State ex rel. Striker v. Smith*, 2011-Ohio-2878, ¶¶ 17-18, 22.

{¶13} The Police Department produced evidence that the requested records were provided to Mr. Conforti. A redacted incident and offense report about the March 3 break-in was provided to Mr. Conforti on June 25, 2025. *Resp. Add'l Ev.*, p. 3 ¶ 6. The Police Department provided the legal authority for redactions to Mr. Conforti on June 26, 2025. *Resp. Ev.*, p. 34-35; *Resp. Add'l Ev.*, p. 3 ¶ 6. These records were also filed on the public docket and served on Mr. Conforti. *Resp. Ev.*, p. 6-19. The responsive video record was

provided to Mr. Conforti in October 2025. *Resp. Add'l Ev.*, p. 7 ¶ 5. The production claim regarding these records is therefore moot.

{¶14} Mr. Conforti argues, however, that there are additional responsive records that he has not been provided. A person seeking to compel production of public records through R.C. 2743.75 must “plead and prove facts showing that the requester sought an identifiable public record pursuant to R.C. 149.43(B)(1) and that the public office or records custodian did not make the record available.” *Welsh-Huggins v. Jefferson Cty. Prosecutor’s Office*, 2020-Ohio-5371, ¶ 26. “When a public office attests that it does not have responsive records, the relator . . . bears the burden of proving by clear and convincing evidence that the requested records exist and are maintained by the public office.” *State ex rel. Culgan v. Jefferson Cty. Prosecutor*, 2024-Ohio-4715, ¶ 13. This Court has held the same. *Ackley v. Washington Court House Police Dept.*, 2025-Ohio-2882, ¶ 13-15, adopted 2025-Ohio-4333, ¶ 2 (Ct. of Cl.); *Dye v. City of Cleveland*, 2025-Ohio-4330, ¶ 13 (Ct. of Cl.).

{¶15} The operative public records request in this case was made on June 23, 2025, and asks for records about the March 3 break-in.<sup>3</sup> In particular, Mr. Conforti argues that he has not been provided with the complete surveillance video files, captured by Space Place security cameras, related to the break-in. In support of his argument, Mr. Conforti points out that the Police Department’s records indicate that “the incident spanned 2 hours and 16 minutes” and that the “59-minute video provided is demonstrably not the full, responsive public record.” *Req. Reply*, p. 4 (emphasis omitted). Mr. Conforti also points out that the Police Department’s narrative regarding the surveillance video it reviewed does not match the video file he was provided. *Id.*, p. 5.

{¶16} On review of the record, I disagree. The Police Department incident and offense report documents the investigation into the March 3 break-in. *Resp. Ev.*, p. 6-19. This record includes a review of surveillance footage taken by Space Place. *Id.*, p. 15-16. The report contains the observations made by the investigating officer while reviewing the video footage. *Id.* That narrative specifically notes where video footage was taken by the

---

<sup>3</sup> The Police Department responded to a later public records request by Mr. Conforti for records relating to the March 18 break-in. That public records request was not listed in the complaint and is not addressed in this report and recommendation.

officer to be kept as evidence in the investigation: “2347:08- . . . A video of the male suspect walking was uploaded into the media section of the report.” *Id.*, p. 15. The video provided to Mr. Conforti matches the description of the video footage taken as evidence by the Police Department. There is no further indication in the report that any other video footage was taken by the Police Department. Further, the video footage reviewed does appear to span over two hours, as Mr. Conforti notes (from 2347 hours on March 2 to 0235 hours on March 3). *Id.*, p. 15-16.

{¶17} **Video copy costs.** Mr. Conforti disputes the cost quoted by the Police Department to provide the video and argues that this point is waived by the Police Department’s decision to provide it without cost during litigation. *Req. Ev.*, p. 8; *Req. Reply*, p. 5. First, this issue is mooted by the Police Department’s provision of the responsive video file. Second, a public office may charge copying costs in advance before providing public records but must inform the requester of the amount. *State ex rel. Clark v. Dept. of Rehab. & Correction*, 2025-Ohio-895, ¶ 12. From the record before me, it appears that the Police Department informed Mr. Conforti of the cost of the video. Mr. Conforti declined to provide payment. *Req. Ev.*, p. 8, 32-33; *Resp. Add’l Ev.*, p. 3 ¶ 6 and p. 7 ¶ 6. The Police Department was not obligated to provide a copy of the video without payment.

{¶18} **Redactions.** Mr. Conforti contests the redactions made to the records provided to him. *See Compl.*, p. 10; *Req. Reply*, p. 4. These redactions were made pursuant to the CLEIR uncharged suspect exception. *Resp. MTD*, p. 3-4; *Resp. Ev.*, p. 1.

{¶19} If records are withheld from release based on a public records exception, the public office must “prove facts clearly establishing the applicability of the exception.” *Welsh-Huggins*, 2020-Ohio-5371, ¶ 27 (internal punctuation omitted); *see also id.* at ¶ 35, 54. The public office “does not meet [its] burden if it has not proven that the requested records fall squarely within the exception,” and courts “resolve any doubt in favor of disclosure.” *Id.* at ¶ 27, 63; *see also id.* at ¶ 50, 63. The public office must produce extrinsic evidence if the applicability of the exception is “not obviously apparent and manifest just from the content of the record itself[.]” *Id.* at ¶ 35; *see also id.* at ¶ 30, 50, 53.

{¶20} The Police Department relies on the CLEIR uncharged suspect exception. This exception protects the “identity of a suspect who has not been charged with the

offense to which the record pertains” and does not expire. Former R.C. 149.43(A)(2)(a), amended by 2025 Am.Sub.H.B. 96; *State ex rel. Rocker v. Guernsey Cty. Sheriff’s Office*, 2010-Ohio-3288, ¶ 10.<sup>4</sup>

{¶21} On review of the evidence filed for in camera review, I agree with the Police Department that all redactions were made to material that has a high probability of disclosing the identity of an uncharged suspect. In the video footage, this redaction is to the uncharged suspect’s head and face. In the incident and offense report, these redactions are to the uncharged suspect’s name, phone number, address, and the names of close relatives. This information clearly falls within the CLEIR uncharged suspect exception.

#### **A. Costs**

{¶22} Revised Code 2743.75(F)(3)(b) provides that the Court shall award a requester their filing fee and “any other costs associated with the action” if it finds a violation of the Ohio Public Records Act. Because the Police Department produced the requested records after Mr. Conforti filed this case, I recommend that the costs of this case be split between the parties.

#### **B. No additional relief.**

Mr. Conforti argues for a variety of relief throughout his filings in this case. This court is limited, however, in the relief it can provide in a R.C. 2743.75 public records case. Nothing in R.C. 2743.75(F)(3) authorizes this Court to grant relief beyond ordering the production of specific records in response to specific requests. Further, the statute does not permit recovery of statutory damages. *Doe v. Ohio State Univ.*, 2024-Ohio-5897, ¶ 53 (10th Dist.). Any further relief requested by Mr. Conforti should therefore be denied.

### **III. Conclusion**

Based on the above considerations, I recommend that the court:

- 1) Deny as moot Respondent’s November 26, 2025 motion to dismiss.
- 2) Enter judgment for Respondent on Requester’s claims under R.C. 149.43.
- 3) Order the Respondent to bear the costs of this case.

---

<sup>4</sup> This public records exception was amended effective September 30, 2025. I apply the exception and interpreting case law that existed on the date Mr. Conforti’s request was made. See *State ex rel. Cordell v. Paden*, 2019-Ohio-1216, ¶ 11.

*{¶123} Pursuant to R.C. 2743.75(F)(2), either party may file a written objection with the clerk of the Court of Claims of Ohio within seven (7) business days after receiving this report and recommendation. Any objection shall be specific and state with particularity all grounds for the objection. A party shall not assign as error on appeal the court's adoption of any factual findings or legal conclusions in this report and recommendation unless a timely objection was filed thereto. R.C. 2743.75(G)(1).*

---

SARAH PIERCE  
Special Master

Filed January 2, 2026  
Sent to S.C. Reporter 2/13/26