

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT,
IN AND FOR VOLUSIA COUNTY, FLORIDA**

ERIC JOSEY,

Plaintiff,

v.

CITY OF DELAND, a Florida municipal corporation;
JASON D. UMBERGER, in his official capacity as
Chief of the DeLand Police Department; and
MICHAEL PLEUS, in his official capacity as
City Manager and Custodian of Records,

Case No.: _____

Defendants.

**VERIFIED COMPLAINT FOR VIOLATION OF FLORIDA PUBLIC RECORDS ACT
(CH. 119, F.S.)**

COMES NOW, Plaintiff ERIC JOSEY, and brings this verified complaint under Chapter 119, Florida Statutes, and Article I, § 24(a) of the Florida Constitution to enforce his constitutional right of access to public records relating to a September 2, 2025, false arrest incident (Case No. DL250003455). Despite his lawful and sufficiently explicit request, the Defendants failed to produce multiple categories of existing responsive records, provided body-worn camera recordings that were entirely blurred or obscured, cited and relied upon an exemption for their redactions in error of the public records law, and did not identify the individual specifically responsible for the withholding of missing records as required by § 119.07(1)(f), *Fla. Stat.*

These acts constitute an unlawful refusal to allow inspection and copying of non-exempt public records. Plaintiff therefore seeks declaratory and injunctive relief, an order compelling production, and an award of statutory fees under § 119.12(1). *Fla. Stat.*

I. JURISDICTION AND VENUE

1. This action arises under Chapter 119, Florida Statutes, and Article I, § 24(a), *Fla. Const.*
2. The Court has jurisdiction pursuant to § 119.11(1), *Fla. Stat.*
3. The venue is proper in Volusia County, City of DeLand, where the records are maintained and the refusal of records occurred.
4. Plaintiff is a resident of Florida and the requester of the subject public records.
5. Defendant, the City of DeLand, is a municipality subject to Chapter 119.
6. Defendant Chief Jason D. Umberger is the head of the DeLand Police Department, an agency under the City of DeLand, and is the statutory custodian of police records.
7. Defendant City Manager Michael Pleus is the statutory custodian of the City's official records under § 119.011(5), *Fla. Stat.*
8. Service made pursuant to § 48.111(2), *Fla. Stat.*, by personally serving the City Manager or City Clerk at: 120 S. Florida Ave., DeLand, FL 32720, and Chief Jason D. Umberger at: 219 W Howry Ave, DeLand, FL 32720, via the Sheriff's Office.

II. FACTUAL BACKGROUND

9. On September 2, 2025, this cause of action originated from an arrest incident involving Deputy Police Chief Adam Kisthardt of the DeLand Police Department. While off-duty and in his personal vehicle, Kisthardt falsely reported that Myles Lee, age 19, and his friend/colleague, Wil'Javian De'Quan, age 19, had assaulted and battered him following a minor incident when Miller's car door allegedly contacted Kisthardt's vehicle parked outside the Chipotle restaurant at 125 E. International Speedway Blvd., in DeLand.

10. According to preliminary available evidence, Kisthardt engaged in official misconduct defined by § 838.022, *Fla. Stat.*, by acting with "corrupt intent" to cause harm to Lee and Miller by falsifying and alter an official record, specifically, by making perjurious statements in the Charging Affidavits, ordering their unlawful arrests, failing to identify himself as a Deputy Chief both at the scene of the incident and in the Charging Affidavits.

11. On October 7, 2025, the Plaintiff assisted Travis Lee, father of Myles Lee, in promulgating and serving his "Complaint of Abuse of Authority, Official Misconduct, and Constitutional Violations by Deputy Police Chief Adam Kisthardt," letter to the Defendants. The Defendants subsequently acknowledged receipt and preservation of their records but did not indicate that an internal investigation had commenced.

12. On October 9, 2025, the State Attorney's Office (SAO) entered a formal "NO PROSECUTION" disposition, supporting that these arrests were meritless, unsupported by any evidence, and initiated without probable cause, all of which affirms that Kisthardt engaged in unlawful official misconduct warranting this records query.

13. On October 20, 2025, the Plaintiff served written notice to the Defendants entitled "Public Records Request Preservation and Disclosure of All Evidence Related to September 2, 2025, Arrest – Case No. DL250003455 (Myles Antonio Lee / Wil'Javian De'Quan Miller)."

14. The request identified specific categories of records, including but not limited to:

- a. Body-worn and dash-camera recordings with metadata upload logs.
- b. Evidence.com audit logs and chain-of-custody reports.
- c. 911 audio and CAD dispatch logs.
- d. Department policies, general orders regarding off-duty incidents, reporting misconduct, duty to intervene, and reporting employment discrimination.
- e. Communication records among the responding and supervisory officers.

- f. Incident reports, narrative supplements, and supervisory reports of the arrest incident.
- g. Internal Affairs records, disciplinary records, all civilian and employee complaints, and performance evaluations regarding Deputy Chief Kisthardt's employment history.

15. The DeLand Police Department routinely maintains each of these record categories in the ordinary course of business. The records are retrievable through the standard agency systems such as CAD, IAPro, Evidence.com, and departmental email archives. At the time of filing this complaint, there are no "active investigations" that may exempt these records under § 119.071(2)(c), *Fla. Stat.*

16. On October 28, 2025, after paying the Defendant's invoice, the Defendants uploaded records to the public records portal (Ref. PRR_PD-1526-2025). Still, most of the records were either non-responsive, duplicative, not requested, or redacted in violation of the public records law. For example, the body cam videos depicting the arrest processing of either Lee or Miller at DPD's detention area are [entirely] blurred. The provider employee cited § 119.071 (3) SECURITY AND FIRESAFETY, which states:

(b)1. Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I am of the State Constitution. (b)2. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act.

17. Here, the Defendants improperly equated the routine booking of prisoners in DPD's designated detention area with the type of "internal structural security schematics" contemplated by § 119.071(3), *F.S.* However, this exemption applies only to drawings or representations that

depict how to breach or compromise a facility — not to real-time officer-worn video documenting ordinary police arrest process activity.

18. In other words, routine prisoner booking areas are not exempt locations under § 119.071(3), *Fla. Stat.*, because these areas do not constitute “internal security system plans,” and courts have explicitly rejected attempts to convert ordinary operational spaces into exempt structural schematics, and courts have explicitly rejected attempts to convert routine operational environments into “security system plans,” for exemption purposes.

19. On October 29, 2025, the Plaintiff emailed DPD entitled “Deficient Production of Public Records, Case: PRR_PD-1526-2025 (F.S. § 119.07 Compliance),” which objected to their redaction errors, unexplained missing records, and useless records that were not requested.

20. The following missing or withheld requested records without lawful exemption include, but are not limited to:

- a. Prior administrative reviews, civilian or employee complaints, and disciplinary file records for Deputy Chief Kisthardt.
- b. DeLand Police Department’s policies, general orders, or directives, regarding agency employees’ obligation to report employee misconduct, reporting employment discrimination, officer duty to intervene, and taking police action while off duty.
- c. All internal communications or correspondence with the State Attorney’s Office related to this case.
- d. Internal Affairs records, disciplinary records, civilian and employee complaints, employee discrimination complaints, evaluations, internal emails, texts, and command communications regarding Deputy Chief Kisthardt.
- e. Evidence.com metadata and chain-of-custody logs.
- f. Unredacted body-worn camera recordings of the officers and supervisor who responded to the location of the arrest incident.

21. As of November 10, 2025, the date this complaint, the Defendants did not respond.

III. UNLAWFUL REDACTION OF BODY-CAMERA RECORDINGS

22. The Defendants rely on § 119.071(3), *Fla. Stat.*, (“Security System Plans”) to justify their blurring of the [entire] Body-worn camera recordings. Also, Body-worn camera recordings are not plans, schematics, blueprints, or system layouts, and therefore do not fall within § 119.071(3), *Fla. Stat.* See *State v. City of Clearwater*, 863 So.2d 149 (Fla. 2003) (exemptions strictly construed).

23. Agencies must redact only the exempt portion and disclose the remainder. See § 119.07(1)(d), *Fla. Stat.* Blanket redaction of non-exempt material is unlawful. *Bray v. City of Miami Police Dep’t*, 97 So. 3d 842 (Fla. 3d DCA 2012); *Dade Aviation Consultants v. Knight-Ridder*, 800 So.2d 302 (Fla. 3d DCA 2001).

24. While the Plaintiff acknowledges that limited computer screen display redaction is permitted under the Driver Privacy Protection Act (18 U.S.C. § 2721) and § 119.0712(2), *Fla. Stat.*, however, these laws do not authorize redacting the [entire] recording. Thus, the Defendants’ use of a security-structure exemption as a basis to obscure the entire recording is overbroad and contrary to the exemption law.

IV. APPLICABLE LAW AND CONTROLLING PRECEDENT

25. The Florida Public Records Act, Chapter 119, Florida Statutes, and Article I, Section 24(a) of the Florida Constitution guarantee every person the right to inspect or copy public records of any agency. In *Stare decisis*, the Florida Supreme Court held “this right must be liberally construed in favor of openness, and that any statutory exemption must be strictly and narrowly construed.” *Wait v. Florida Power & Light Co.*, 372 So. 2d 420, 425 (Fla. 1979).

26. An agency denying access to public records carries the burden of proving that a statutory exemption applies. The DPD intentionally avoided doing so. It is not the requester’s

burden to prove entitlement. *Weeks v. Golden*, 764 So. 2d 633, 635 (Fla. 1st DCA 2000). The agency must demonstrate specific, fact-based justification, not general or conclusory assertions. *Bent v. State*, 46 So. 3d 1047, 1049 (Fla. 4th DCA 2010).

27. Where only part of a record may be exempt, only that portion may be redacted, and the remainder must be produced. § 119.07(1)(d), *Fla. Stat.* The agency must also identify the individual who decided to deny or withhold the missing records. § 119.07(1)(f), *Fla. Stat.* Failure to do so constitutes a violation of the public records act. *Barfield v. City of Fort Lauderdale Police Dep't*, 639 So. 2d 1012, 1014 (Fla. 4th DCA 1994). When exemptions are asserted, they must be “specific, limited, and supported by record evidence.” General or categorical redaction or justification for missing records is insufficient and unlawful. *State v. City of Clearwater*, 863 So.2d 149, 152 (Fla. 2003).

28. Blanket redaction of entire audio or video files is unlawful. The Third District has held that agencies may not obscure an entire recording based on generalized safety or privacy claims. *Bray v. City of Miami Police Dep't*, 97 So. 3d 842 (Fla. 3d DCA 2012); see also *Dade Aviation Consultants v. Knight Ridder, Inc.*, 800 So. 2d 302 (Fla. 3d DCA 2001).

29. Furthermore, “illusory or obstructed access does not satisfy the Act. An agency must provide meaningful access to the actual content of its records.” *NCAA v. Associated Press*, 18 So. 3d 1201, 1210 (Fla. 1st DCA 2009). Additionally, the Fifth District has held that “where a court determines that an agency unlawfully refused access to public records, the court must award the requesting party its costs and reasonable fees.” *WFTV, Inc. v. School Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004). This fee provision is mandatory, not discretionary. See § 119.12(1), *Fla. Stat.*

30. Most notably, the Florida Supreme Court has expressly held that exemptions must be applied only where the Legislature has provided them, and courts are not permitted to “extend, expand, or imply” exemptions beyond their narrow statutory terms. *Tribune Co. v. Cammella*, 458 So. 2d 1075, 1077 (Fla. 1984). In other words, if the Legislature did not expressly exempt a record, the record is subject to public access.

31. Finally, the Legislature has mandated that lawsuits brought under Chapter 119 be given priority on the court’s docket, and that the court set an immediate hearing upon the request of the requester. § 119.11(1), *Fla. Stat.*

V. CAUSE OF ACTION

VIOLATION OF THE FLORIDA PUBLIC RECORDS ACT (CH. 119, FLA. STAT.)

32. Plaintiff realleges and incorporates paragraphs 1 through 31 of the preceding paragraphs as if fully set forth herein.

33. Defendants are public agencies and are subject to the Florida Public Records Act. § 119.011(2), *Fla. Stat.* Plaintiff submitted a lawful and detailed Public Records Request seeking identifiable non-exempt materials kept in the normal course of business relating to the September 2, 2025, arrest incident referenced in this action. The Plaintiff’s request was sufficiently specific such that Defendants could locate the requested records with ordinary diligence.

34. Defendants failed to comply with their statutory duties in the following ways:

a) Failure to Produce Existing Records.

Defendants failed to produce multiple categories of responsive public records that are known or reasonably presumed to exist and which fall squarely within the scope of Plaintiff’s request, in violation of § 119.07(1)(a), *Fla. Stat.*

b) Unlawful Blanket Redaction.

Defendants produced body-worn camera video that was wholly blurred or obscured, rendering the content inaccessible, rather than redacting only those portions allegedly exempt. Blanket redaction is prohibited and constitutes an unlawful refusal to provide access under § 119.07(1)(d), *Fla. Stat.*

c) Failure to Cite Specific Exemptions.

Defendants did not contemporaneously cite the specific **[applicable]** statutory exemption relied upon for each withheld or redacted record, as required by § 119.07(1)(d), *Fla. Stat.* General references or applying erroneous statutory exemptions are legally insufficient.

d) Failure to Identify Responsible Official.

Defendants did not identify the individual(s) who made or approved the decision to withhold or redact records, contrary to the explicit requirement of § 119.07(1)(f), *Fla. Stat.*

e) Failure to Provide Records Within a Reasonable Time.

Defendants failed to produce non-exempt records or provide a lawful justification for delay within a reasonable time, in violation of § 119.07(1)(a) and § 119.11(1), *Fla. Stat.*

35. As held in *Weeks v. Golden*, 764 So. 2d 633 (Fla. 1st DCA 2000), the burden of proving that a statutory exemption applies rests solely with the Defendant public agencies, not the requester of records. Defendants have not met their burden, nor have the Defendants provided the factual justification for the missing records as explicitly held in *Bent v. State*, 46 So. 3d 1047 (Fla. 4th DCA 2010).

36. The Defendants' actions constitute an unlawful refusal to allow inspection and copying of public records within the meaning of Chapter 119, Florida Statutes. The Plaintiff has no adequate remedy at law to secure the requested public records absent judicial intervention.

37. Accordingly, Plaintiff is entitled to Declaratory relief confirming that Defendants violated the Public Records Act, Injunctive relief compelling immediate production of all non-

exempt records and requiring compliance going forward; and an award of reasonable costs and fees, which is mandatory where an agency unlawfully refuses public records. § 119.12(1), *Fla. Stat.*; *WFTV, Inc. v. School Bd. of Seminole County*, 874 So. 2d 48 (Fla. 5th DCA 2004).

VI. REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor and against Defendants, and grant the following relief:

A. Declaratory Relief.

Declare that Defendants violated the Florida Public Records Act, Chapter 119, Florida Statutes, and Article I, § 24(a) of the Florida Constitution by failing to timely produce public records, by applying blanket or overbroad body worn video redactions, by failing to cite specific statutory exemptions contemporaneously with any withholding of missing records, and by failing to identify the individual specifically responsible for such decisions.

B. Injunctive Relief Compelling Production.

Order Defendants to immediately produce to Plaintiff **all** responsive non-exempt records in Plaintiff's request, including but not limited to:

1. Body-worn camera recordings at the arrest incident location (except where a narrowly tailored exemption applies to a limited portion of the footage).
2. All requested DPD's policies or general orders.
3. Police computer-aided dispatch (CAD) logs and metadata, real-time records of the arrest incident, and police activity.
4. Axon Evidence.com uploads and audit logs access of administrators and authorized users of detailed audit logs of the entire arrest incident and officer's user activity which ensures a complete chain of custody by tracking all actions, including uploads, views, downloads, and deletions.
5. Internal chain-of-command communications regarding the arrest incident.
6. All requested disciplinary records, civilian complaint records, employee complaints records, employment discrimination complaint records, supervisory reviews, and performance evaluations regarding Deputy Chief Kisthardt.

** Each category of records requested is identifiable, limited in scope, tied to a single documented police incident, and retrievable by Defendants with ordinary diligence using routine agency systems (CAD, IAPro, Axon Evidence.com, and departmental email archives). **

C. Exemption Log Requirement.

Order Defendants to produce their written exemption log identifying:

1. Each requested record was withheld, missing, non-existent, or redacted.
2. The specific statutory exemption provision claimed, if redacted.
3. The name and title of the employee responsible for invoking the exemption in compliance with § 119.07(1)(d)-(f), *Fla. Stat.*

D. Prospective Compliance Order.

Enjoin Defendants from applying blanket redactions or asserting generalized exemption claims in response to future public records requests and require Defendants to comply with the procedural requirements of Chapter 119 going forward.

E. Mandatory Costs and Fees.

Award Plaintiff reasonable costs and fees pursuant to § 119.12(1), *Fla. Stat.*, for the Defendant's unlawful refusal of Plaintiff's access to public records requiring this cause of action award. *WFTV, Inc. v. School Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004) ("The fee award to the requester is mandatory, not discretionary.")

F. Expedited Hearing.

Direct that this matter be set for immediate priority hearing pursuant to § 119.11(1), *Fla. Stat.*, requiring the Court to provide accelerated review in actions enforcing access to public records.

Grant such other and further relief as this Court deems just, equitable, and proper. Because the public's constitutional right of access is at stake, the requested relief should be construed and applied liberally in favor of disclosure and award of fees.

/s/ Eric Josey

ERIC JOSEY, *Plaintiff*
250 Palm Coast Pkwy NE
Suite 607 PMB 173
Palm Coast, FL 32137
Email: premier.consulting173@aol.com
Phone: (917) 882-1330

VII. VERIFICATION

I, ERIC JOSEY, declares under penalty of perjury that the foregoing allegations and claims are true and correct to the best of my knowledge and belief, pursuant to § 92.525, *Fla. Stat.*

Executed this 10 day of November 2025, in Volusia County, Florida.

/s/ Eric Josey

ERIC JOSEY, *Plaintiff*

(Filed) Exhibits:

- Exhibit A: Public Records Request (Oct 20, 2025).
- Exhibit B: DPD Records Portal Output (PRR_PD-1526-2025).
- Exhibit C: Plaintiff's Deficient Production Notice (Oct 29, 2025).
- Exhibit D: DPD Production Invoice.
- Exhibit E: Email Records between parties.