

EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY,  
FLORIDA

CASE NO.: CACE20-

THE COURIER-JOURNAL, INC., d/b/a;  
FLORIDA TODAY newspaper,

Plaintiff,

v.

**ACCELERATED HEARING REQUEST  
§ 119.11, FLA. STAT.**

WAYNE IVEY, SHERIFF OF BREVARD  
COUNTY, in his official capacity,

Defendant.

---

**COMPLAINT TO ENFORCE PUBLIC RECORDS LAW AND REQUEST FOR  
ACCELERATED HEARING PURSUANT TO § 119.11, FLORIDA STATUTES**

COMES NOW THE COURIER-JOURNAL, INC., d/b/a FLORIDA TODAY newspaper (“FLORIDA TODAY”), by counsel, who sues Brevard County Sheriff Wayne Ivey in his official capacity as sheriff and custodian of records, and says:

1. This is an action pursuant to Article I, § 24, Florida Constitution, and chapter 119, Florida Statutes, for declaratory judgment, and injunctive relief to access public records pertaining to the in-custody treatment and subsequent death of Gregory L. Edwards, a U.S. Army combat veteran who died December 10, 2018 following an altercation the day before with deputies at the Brevard County Jail Complex.

2. The Brevard County Sheriff’s Office (“BCSO”) has denied FLORIDA TODAY’s requests for access to audiovisual recordings from inside the jail complex booking area where the altercation on December 9, 2018 resulted in Edwards being found unconscious and unresponsive; his wrists handcuffed behind his back; torso and legs bound in an emergency restraint chair, and a mesh spit hood covering his face after being pepper sprayed and tased.

3. BCSO claims an exemption against revealing security systems in section 119.071(3)(a)(3), Florida Statutes. FLORIDA TODAY contends the exemption does not apply, or if it does, then BCSO waived the exemption by publishing numerous video productions showing the same security procedures and areas of the jail where Gregory Edwards lost consciousness. If the exemption applies and there has been no waiver, the sheriff should have released the video in furtherance of his duties. In the alternative, if there has been no waiver and no unlawful failure by BCSO to release the video in furtherance of its duties, then there is ample good cause pursuant to section 119.071(3)(a)(3)(d), Florida Statutes, for the Court to order public disclosure of the recordings.

4. BCSO has consistently attempted to block the newspaper's access to certain records regarding Edwards' in-custody treatment and death, BCSO investigations, and medical examiner information. Those attempts, coupled with unresolved inconsistencies between the autopsy and two BCSO investigation reports as compared to the evidence gathered in preparing those reports, have given rise to lingering questions about exactly what happened during Gregory Edwards' time in the jail. In turn, those lingering questions have prompted widespread calls from all corners of the Space Coast community for the sheriff to release the disputed jail recordings and restore trust between the community and the BCSO.

5. FLORIDA TODAY has reported extensively on Gregory Edwards' death as well as BCSO operations before and after his death. The newspaper intends to continue reporting on this subject until the public has information it needs and wants to determine for itself if county law enforcement is operating with transparency and in a manner the public finds trustworthy. **See Affidavit of Mara Bellaby.** The requested audiovisual recordings are newsworthy. Obtaining

public release of the recordings is crucial to the First Amendment and open-government functions of the news media so the public can judge for itself how its government is performing.

6. Making those recordings public will answer lingering questions regarding Gregory Edwards's behavior in the booking area, his treatment by law enforcement, his condition leading to the need for paramedics, and ultimately his death. All of these issues relate directly to the training, operation, and public accountability of a law enforcement agency.

7. Ultimately, public release of the disputed recordings will answer the overriding question: was there anything law enforcement could have done differently that would have saved Gregory Edwards' life while still maintaining order in the jail?

### **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction pursuant to Article V, Section 5(b) of the Florida Constitution and section 119.11, Florida Statutes.

9. Venue is appropriate in Brevard County because all material events took place in Brevard County.

### **PARTIES**

10. The Courier-Journal, Inc., a Delaware corporation registered to conduct business in Florida, owns and publishes FLORIDA TODAY, a daily newspaper with readership throughout the state in print and digital editions, and website at [www.floridatoday.com](http://www.floridatoday.com). FLORIDA TODAY uses public records, including records from BCSO, as important newsgathering sources.

11. Wayne Ivey is Sheriff of Brevard County and maintains offices throughout Brevard County, Florida. The Brevard County Sheriff's Office is an "agency" as that term is defined in chapter 119.

**FACTS PERTINENT TO GREGORY EDWARDS' DETENTION,  
DEATH AND FLORIDA TODAY'S PUBLIC RECORDS REQUESTS**

**A. Gregory Edwards arrest, detention, and subsequent death.**

12. Gregory Edwards and his wife Kathleen Edwards both served in the U.S. Military and were combat veterans. Gregory had volunteered for the U.S. Army where he served as a combat medic in Kosovo and Iraq. He was a disabled veteran diagnosed with post-traumatic stress disorder ("PTSD").

13. Gregory Edwards was a father, and at the time of his arrest his wife was pregnant with their second child. Both Gregory and Kathleen were active in veterans' affairs and their work with the Wounded Warriors Project had taken them to the White House.

14. On December 9, 2018, at about 11:30 a.m., Gregory Edwards was arrested outside a retail store for assaulting a charity worker. West Melbourne Police officers transported him to the Brevard County Jail Complex ("jail complex").<sup>1</sup>

15. Three hours and fifteen minutes after his arrest, paramedics were called to the jail complex where they found Gregory Edwards unresponsive and without a pulse. Gregory Edwards was transported to the hospital and pronounced dead on December 10, 2018 after removal of life support.

16. Kathleen Edwards was at the scene of his arrest. She told officers that Gregory was suffering a PTSD-related episode. From there, Gregory Edwards was delivered to the jail complex. West Melbourne police called ahead to the jail to request assistance with a combative detainee who was a military veteran with a PTSD diagnosis.

---

<sup>1</sup> See *A Violent End: A FLORIDA TODAY Investigation. The death of veteran Gregory Edwards in a Brevard jail raises many questions*, Nov. 10, 2018, available at <https://www.floridatoday.com/in-depth/news/2019/11/08/army-veteran-ptsd-dies-brevard-jail/1584907001/>.

17. In-car video of Gregory Edwards on the day of his arrest show him handcuffed in the back of a police car appearing alert, without injury or distress upon his arrival at the jail's sally port where officers escorted him into the jail without incident.

18. Officers reported that during the booking process, Gregory Edwards became uncooperative. There was an altercation between Gregory and a single deputy; at least six additional deputies interceded to subdue Edwards. One officer reported Edwards seemed to exhibit exceptional strength.

19. In order to subdue Gregory Edwards, corrections personnel employed a high level of force and multiple force techniques, including pepper spray, various physical strikes with knees and fists, physical holds, followed by repeated application of a Conducted Energy Weapon (brand name Taser). The Taser strikes allowed deputies to hand-cuff Gregory Edward and place him in an Emergency Restraint Chair.

20. Gregory Edwards resisted attempts to strap his legs into the restraint chair, at which point corrections personnel punched Gregory's legs until he complied. Corrections personnel then placed a spit hood—a fine-mesh hood designed to prevent spitting on officers—over his head even though he had not been spitting or attempting to spit on deputies.

21. Gregory Edwards had been pepper sprayed, which causes mucous membranes to discharge fluids. BCSO policy and procedures require that water should be used to flush pepper spray from a combative detainee's eyes and mouth once restrained. Upon sworn testimony of multiple witnesses, at no time did corrections personnel flush the pepper spray and mucous from Gregory's eyes and mouth after he was restrained and either before or after the spit hood was placed.

22. Corrections personnel then wheeled Gregory Edwards into a holding cell where he was left alone without adequate or direct supervision for at least 16 minutes. BCSO personnel claim to have been able to observe Gregory Edwards from across the room in the booking area. Eventually, a supervisor checked on Gregory Edwards and found him to be unresponsive.

23. At 2:45 p.m. paramedics were called to the jail. Gregory Edwards was taken to the hospital and on the following day, pronounced dead after life support was removed.

**B. The post-mortem, investigations, and lingering questions.**

24. BCSO issued its first public comment on December 12, 2018, stating that Gregory Edwards died of a medical incident at the jail during the booking process. The comment intimated that Gregory Edwards' medical event may have been caused by "previous inhalant use/abuse."<sup>2</sup>

25. Pursuant to policy, two investigations (Death Investigation, which evaluates if crimes have been committed for potential prosecution, and Staff Services Investigation, which evaluates if BCSO policies have been violated for potential discipline), and an autopsy were set in motion.

26. Sheriff Ivey has insisted publicly that the Death Investigation was the most comprehensive he has seen in his law enforcement career. He also hailed the Staff Services internal affairs investigation for its findings that held some corrections officers accountable for a failure of leadership.

27. Nonetheless, there are several inconsistencies that FLORIDA TODAY and the experts it consulted found in both investigations and the autopsy, including the following.

---

<sup>2</sup> See *NR 18-40 Brevard Inmate Dies after Suffering Medical Emergency at the Jail*, Dec. 12, 2018, <http://www.brevardsheriff.com/home/nr-18-40-brevard-inmate-dies-after-suffering-medical-emergency-at-the-jail/>.

28. Neither investigation appeared to examine ten or more policy violations FLORIDA TODAY found concerning use of force, most especially policies governing the use of pepper spray, Tasers, emergency restraint chairs, and spit masks.

29. Notably, one sworn interview confirmed actual custom and practice for deputies to allow inmates that have been pepper sprayed to shower or remove the chemical agent from their person once an inmate becomes compliant. If the inmate is not compliant, personnel would leave the chemical agent on detainees for an indeterminate period as they did with Gregory Edwards, even though he had been subdued and therefore rendered compliant by being restrained.

30. The Death Investigation also failed to document what kind of pepper spray was used, from what kind of canister, and how it was applied, all as required by policy.

31. At several times during the Death Investigation, it is clear that investigators made credibility determinations before they were supported by forensic evidence. For example, within hours of Gregory Edwards dying, a determination was made that Edwards may have died from a medical event related to using inhalants. No toxicology report supports this conclusion.

32. Consistently throughout both the Death and Staff Services Investigations, investigators can be heard on recorded interviews asking deputies leading questions, giving the impression of inviting a specific response.

33. Neither investigation made any reference to the public and well-known romantic relationship between Corrections Deputy Alison Blazewicz, who tased Gregory Edwards at least three times, and as many as six, and Deputy Brian Otto, the deputy who first fought with Edwards and whom Edwards knocked to the ground, giving Otto a concussion and leading to the all-hands call to subdue Mr. Edwards.

34. The medical examiner ruled the manner of death as an accident. The cause of death was “excited delirium” and complications “due to: hyperactive and violent state with subsequent restraint.”

35. There was a lack of evidence supporting the medical examiner’s excited delirium diagnosis as no deputies reported Edwards showed signs of elevated body temperature, and his autopsy did not reveal an enlarged heart, both of which are telltale symptoms for excited delirium.

36. FLORIDA TODAY conducted a comprehensive review of autopsies across the state where “excited delirium” was listed as the cause of death and found that the legitimacy of the term “excited delirium” as a cause of death has been called into question.<sup>3</sup>

37. FLORIDA TODAY obtained an independent review of the autopsy by Stephen Nelson, the 10th District Medical Examiner and chair of the Florida Department of Law Enforcement Medical Examiners Commission. Dr. Nelson: 1) said the autopsy’s findings did not support the conclusion of excited delirium; 2) said he did not understand from the autopsy report how Gregory Edwards died; 3) questioned why the manner of death was not listed as “homicide” rather than “accident”; and 4) questioned why the autopsy report failed to note that a BCSO investigator was in the room when the medical examiner performed the autopsy.<sup>4</sup>

38. After FLORIDA TODAY spoke with Dr. Nelson but before the newspaper reported his comments, Sheriff Ivey learned that Dr. Nelson had reviewed the Brevard medical examiner report and discussed his finding with the newspaper. Sheriff Ivey telephoned Dr. Nelson to

---

<sup>3</sup> See *Excited delirium: rare and deadly syndrome or a condition to excuse deaths by police?*, Oct. 24, 2019, available at <https://www.floridatoday.com/in-depth/news/2019/10/24/excited-delirium-custody-deaths-gregory-edwards-melbourne-taser/2374304001/>.

<sup>4</sup> See *Top medical examiner doubts Army veterans death in Brevard jail was an accident*, Oct. 24, 2019, available at <https://www.floridatoday.com/story/news/2019/10/24/top-medical-examiner-doubts-excited-delirium-florida-jail-death/4054446002/>.



complain that he had questioned another medical examiner's autopsy report and then communicated this with the news media.

39. In July 2019, the State Attorney for the 18th Judicial Circuit ruled that the use of force employed by law enforcement officers to subdue Gregory Edwards in the jail booking area "was entirely reasonable and justifiable under Chapter 776, Florida Statutes" and no criminal charges were warranted. The state attorney went further and commended "the efforts of the deputies and staff at the jail in the actions they took in attending to Mr. Edwards after it became apparent he was in distress." Though the state attorney commended the deputies for their response to Gregory Edwards' distress, two officers were reprimanded following the Staff Services Investigation for policy violations regarding a failure of leadership.<sup>5</sup>

40. Community groups and concerned citizens, including Kathleen Edwards, have called for further investigation into Gregory Edwards's death. These groups include the NAACP, a member of the Cocoa City Council, mayor of Cocoa, several military veterans, a retired U.S. Marshal, and the Democratic Party of Brevard County.<sup>6</sup> BCSO has rejected all subsequent requests for additional investigations. Ultimately, in June 2020, Sheriff Ivey announced he had asked the FDLE to review his investigation. This would be a review, not a new investigation or re-interviewing of witnesses.

---

<sup>5</sup> See *Attorney: veteran's death not a crime use of force at Brevard Jail ruled justifiable*, July 2, 2019, <https://www.floridatoday.com/story/news/crime/2019/07/01/brevard-state-attorney-say-violent-death-army-vet-reasonable-and-justifiable/1586624001/>.

<sup>6</sup> See *Vet's death spurs call to action*, Oct. 30, 2019, available at <https://www.floridatoday.com/story/news/2019/10/29/brevard-community-leaders-call-action-custody-death-us-army-vet/2494090001/>.

**C. BCSO's reliance on the security system exemption is not credible.**

41. Sheriff Ivey has refused to provide FLORIDA TODAY access to the requested public records claiming an exemption from revealing a security system, as found in section 119.071(3)(a)(3), Florida Statutes, but such exemption does not apply to these audiovisual recordings.

42. The security system exemption applies when videos may reveal the capabilities—and as a corollary, the vulnerabilities—of a current security system. *C. Fla. Reg. Tran. Auth. v. Post-Newsweek Stations Orlando*, 157 So. 3d 401 (Fla. 5th DCA 2015); *see also* Op. Att'y Gen. Fla. 15-06 (2015). The purpose of the exemption is to prevent would-be bad actors from determining how to operate around a security system if records reveal the range and location of cameras, including blind spots. That concern is not present here because (i) the locations of cameras in the jail complex booking area are readily visible to the casual observer; (ii) BCSO has produced and published numerous online videos which clearly show the locations of cameras in the jail complex booking area (and throughout the jail complex itself); and (iii) the requested public record pertains to actions that occurred in a narrow portion of the booking and viewing the disputed recording would not reveal a security system that has not already been revealed, and would not reveal any exploitable vulnerabilities in a security system.

43. Sheriff Ivey's publicly stated security concerns have not stopped him from publishing numerous educational/promotional videos online depicting the same area of the jail complex where Gregory Edwards was handled on December 9, 2018. The content of those videos directly contradicts the sheriff's asserted security concerns.

44. These videos have been available for public viewing on social media and YouTube over the last three years. They provide anyone with internet access a clear view and in-depth look

at the different security features and procedures that the sheriff claims will be revealed by releasing the disputed recording(s).<sup>7</sup>

45. Specifically, BCSO video productions blatantly reveal numerous points of jail security without effort to obscure security features, including:

- i. how officers begin their shifts, their procedures, and what they do during their shifts;
- ii. the walkways officers use underneath the main level of the jail to get from place to place and to move detainees around within the jail walls;
- iii. where inmates are held prior to "inside court" or first appearance, the stairway from the main level to the underground walk ways, and both doors into the jail court room;
- iv. the layout of most of the female annex, 200 pod, and the pod for high-risk detainees and those detainees on "watch" due to mental health issues;
- v. the schedule for and methods for delivering to detainees supplies including mail, toiletries, and food;
- vi. the time for lock down in that pod;
- vii. different codes and call signs officers use when communicating information to each other within the jail including how the officers conduct and report count of the inmates during each shift;
- viii. the "tags" officers use to designate different detainees and the different uniforms and levels of security for different inmates;
- ix. the strategy corrections officers' use, including how and when "shake down" searches of detainees and their cell occur and what officers are looking for;
- x. the tactics officers use to remove unruly, or non-compliant, detainees from their cells;
- xi. the number of deputies on a Corrections Response Team, where they stage, what equipment they have, how they approach a cell, when a takedown order is issued, and how inmates are taken down and restrained;

---

<sup>7</sup> The audiovisual recordings produced and published by the sheriff are presented in high-definition format, most likely higher quality than images generated by cameras in the jail.

xii. the number of deputies on duty at the female annex and how many are assigned to maximum security there.

46. In this respect, the most revealing BCSO videos are a seven-part reality program on YouTube titled “*Behind the Bars.*” Episodes of *Behind the Bars* openly show the entire jail booking area, nearby detention cells (including the room where Gregory Edwards lost consciousness), surveillance camera locations, and other security features of jail intake and booking areas.<sup>8</sup>

47. Judging from how the BCSO video productions widely reveal the booking and other jail areas, the disputed video recordings in this lawsuit will not reveal any exploitable vulnerabilities of the jail. As listed above, BCSO’s own video productions reveal more about the security of the jail complex booking area than could possibly be contained in the disputed recordings where Gregory Edwards lost consciousness.

46. In light of the sheriff’s many revelations of security features and procedures throughout the jail, his assertion that the Edwards video will weaken jail security deserves zero evidentiary weight.

47. Even if the “security system” exemption applies, such information may nonetheless be disclosed:

- a. To the property owner or leaseholder
- b. In furtherance of the official duties and responsibilities of the agency holding the information

---

<sup>8</sup> See *Behind the Bars: Part 1*, Jan. 12, 2017, [https://www.youtube.com/watch?v=7zbg\\_n553M](https://www.youtube.com/watch?v=7zbg_n553M); *Behind the Bars: Booking Part 2*, Feb. 1, 2017, <https://www.youtube.com/watch?v=bkpZQSW7ho>; *Behind the Bars with Deputy Blazewicz*, May 19, 2017, <https://www.youtube.com/watch?v=C5iYmvXe2f0>; *Behind the Bars CRT with Sgt. Mike Ingram*, Feb. 27, 2018, <https://www.youtube.com/watch?v=F0RwdAxHeY0>; *Behind the Bars with Deputy Fred Mendiola & K9s*, July 24, 2017, [https://www.youtube.com/watch?v=s\\_7cIFI0pZl](https://www.youtube.com/watch?v=s_7cIFI0pZl); *Behind the Bars Chain Gang*, Feb. 27, 2018, <https://www.youtube.com/watch?v=B16fobBOx8>; *Behind the Bars 200 Pod*, Feb. 8, 2017, <https://www.youtube.com/watch?v=5JB1EVBUl-I>.

- c. To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
- d. Upon a showing of good cause before a court of competent jurisdiction.

§ 119.071(3)(a)(3), Fla. Stat.

48. At the same time as he cannot and will not release the video, Sheriff Ivey has admitted he has discretion to disclose the recording in furtherance of his official duties and responsibilities. For example, he offered on June 14, 2020 to show the audiovisual recording to Kathleen Edwards and one additional person of her choosing. It was a Sunday night when Kathleen Edwards found half a dozen sheriff's deputies outside her home, asking her to come outside for a purported wellness check. She came out to find a phalanx of deputies and Sheriff Ivey, who offered to disclose the audiovisual recording showing her husband's final moments of consciousness. She declined. As a combat veteran with PTSD, she was shaken by the experience. She expressed terror of what the BCSO intended by this show of force at her home on a Sunday night, "Because the last time I dealt with police officers, my husband didn't come home."<sup>9</sup>

49. Under section 119.071(3)(a)(3), Kathleen Edwards is not a property owner or leaseholder relative to the BCSO jail complex, nor is she a local, state, or federal agency representative. At the time, there was no court order as to good cause for disclosure of the record to Kathleen Edwards.

50. Therefore, the offer to disclose the recording to Kathleen Edwards was an admission that either (i) disclosure of the record would further BCSO's official duties and responsibilities by building trust with the community it polices or (ii) the disputed recording is not

---

<sup>9</sup> See *Florida sheriff makes 'uncomfortable' surprise visit to the widow of Gregory Edwards*, June 15, 2020, available at <https://www.usatoday.com/story/news/nation/2020/06/15/gregory-edwards-florida-sheriff-makes-uncomfortable-visit-widow/3190204001/>.

exempt under section 119.071(3)(a)(3) in relation to a security system. Whether the sheriff waived the exemption by attempting discretionary disclosure or merely admitted the disputed recording was never exempt, the outcome is the same—the disputed recording is not confidential and exempt as revealing a security system and the public has a right to access the record.

**D. Building public trust will be “in furtherance of official duties”**

52. Assuming the security system exemption applies, and has not been waived, and assuming the sheriff’s offer to show the video to Kathleen Edwards was not a discretionary disclosure, BCSO should have nonetheless disclosed the recordings in furtherance of BCSO’s duties.

53. The following paragraphs show why no reasonable jury would disagree that BCSO should have released the disputed video by now to facilitate trust with the community, in furtherance of its duties.

54. Since December 2018, FLORIDA TODAY made several public records requests to better understand and report on how the arrest, detention, and death of Gregory Edwards unfolded and the response by BCSO.

55. In response, BCSO produced substantial records, but not all requests were processed in a lawful or transparent or timely manner. The manner of BCSO’s responses to these requests, in addition to conflicting evidence, helps sustain lingering questions and distrust about the BCSO’s Death Investigation and its Staff Services Investigation.

56. For instance, on August 6, 2019, FLORIDA TODAY’s reporter requested via email “all use of force reports by Brevard County sheriff’s personnel or deputies filed in connection with the Dec. 10 in-custody death of Gregory Lloyd Edwards, . . .”

57. After several attempts to obtain information about the status of that request, the reporter was told the records were not available yet for public distribution. Then, a BCSO major (now a commander) told the reporter there were no use of force reports because the in-house Staff Services investigation supplanted the need for such reports.

58. On or about February 13, 2020, some 190 days after FLORIDA TODAY first requested use of force reports with no formal response, BCSO claimed again that no use of force reports exist, in spite of sworn audio interviews that refer to use of force reports.

59. In her interview, one deputy referred directly to use of force reports. The deputy, Alison Blazewicz, reported that she used taser weapon least three times in the effort to subdue Gregory Edwards. The weapon's digital log, which records time and number of each trigger pull, shows there were six trigger pulls. Blazewicz testified that another officer had typed up a use of force report regarding Blazewicz's efforts to subdue Gregory Edwards, but that the use of force report typed by the other officer did not mention application of the taser weapon. BCSO nonetheless sticks with its claim that there is no use of force report and has never explained these inconsistencies.

60. Contrary to the use of force reports, there is no dispute that jail recordings exist and that they provide the best chance of confirming Gregory Edwards' behavior leading to the altercation with corrections personnel, how corrections personnel responded, and the events after Gregory's restraint leading to paramedics finding him unresponsive and without a pulse.

61. BCSO says it recognizes community trust is vital to its mission as shown by the following statement on the agency's website:

**To ensure public trust and maintain the integrity of the Sheriff's Office**, the Division of Staff Services conducts timely, thorough, and objective investigations. All investigations will stand a test of fairness, and all involved employees will be treated equally, regardless of rank. Once a determination has been made whether the allegations

are valid or invalid, Staff Services initiates appropriate closure, with recommendations for corrective action if necessary, to be reviewed and approved by the Sheriff.

**By receiving citizen input regarding the quality of Sheriff's Office services:**

**The agency becomes better informed on community concerns and employee performance;**

**Helps identify employee training needs; and**

**Gives the agency an opportunity to discuss citizen perceptions of service with the employee and supervisor.”**

<https://www.brevardsheriff.com/home/commands-services/staff-services/> (last viewed on July 13, 2020) (emphasis added).

62. All of these foregoing reasons and others, including Kathleen Edwards' experience, have helped erode trust among many corners of the community. Rebuilding trust between law enforcement and all citizens is certainly in "in furtherance of that agency's duties and responsibilities." Releasing the disputed video will help restore trust. **See Declaration of Pastor Oliver Wells.**

**E. Good cause exists to order the recordings released to the public.**

63. There is always a strong public interest in fully evaluating how officers respond to detaining citizens who suffer from a mental illness. BCSO's policies, procedures, and performance generally as well as how those policies, procedures, and performance specifically relate to Gregory Edwards's arrest, custody, death and post-mortem are of significant importance to the community. Access to the disputed recording is to permit public evaluation of government behavior.

64. What more compelling good cause could there be than to determine if law enforcement could have done anything differently that might have saved the life of Gregory Edwards while still maintaining order?

65. Gregory Edwards's status as a disabled combat veteran also is a topic of great concern both in Brevard County and across the Nation. The incidence and awareness of PTSD



among veterans are higher than ever before. The public has an interest in knowing how agencies train their employees to treat citizens when mental health factors are present, even in violent confrontations.

66. In-custody deaths of detainees are not unique. From 2015 to 2019, there were 11 in-custody deaths involving the Brevard County jail complex (several from natural causes). Law enforcement personnel must be trained regarding medical emergencies with persons who often have been combative and subjected to heightened use of force prior to their need for medical care.

67. The incidence of in-custody deaths of African-American citizens underlies an international movement to reform law enforcement procedures regarding treatment of citizens while being subdued and detained. The reform movement ignited after the death of George Floyd on May 25 in Minneapolis includes discussions on dealing with mental health issues.

68. Locally, various citizen groups have repeatedly demanded that the BCSO release the disputed recordings.

69. On June 4, 2020, James Minus, President of the South Brevard NAACP, attorney Kendall Moore, and Reverend Lorenzo Laws called for release of the audiovisual recording to ensure accountability and transparency by the BCSO.

70. On June 11, 2020, the Brevard County Public Defender and the Brevard Chapter of the Florida Association of Criminal Defense Lawyers called for BCSO to release the disputed recording, noting that defense attorneys receive similar audiovisual recordings from the jail regularly in discovery. BCSO's refusal in this instance is atypical and potentially disingenuous.

71. FLORIDA TODAY has reported extensively about public interest in this matter and provided the community with significant information relating to Gregory Edwards' death. FLORIDA TODAY has published at least 41 separate news reports regarding the death, BCSO's

response, community concerns, and calls for follow-up investigation. See **Affidavit of Mara Bellaby**.

72. As these news reports show, serious and lingering questions remain about the precise manner of Gregory Edwards's death, scope of force applied, presence of supervision when he lost consciousness, and other circumstances of his detention and demise. Gregory Edwards died in custody of law enforcement whom the public entrusts not only to restrain violent detainees but to also keep them reasonably safe. Both Gregory Edwards' "medical event" and subsequent loss of consciousness began in the jail booking area under the complete control of law enforcement. There are inconsistencies and conflicting facts relating to investigations of Gregory Edwards' death. The public cannot verify which of the accounts it should believe nor can it assess BCSO's conduct without access to the disputed recording.

73. Gregory Edwards' story speaks to the relationship between law enforcement and community members of color, community members suffering from mental health issues, community members who are combat veterans. Kathleen Edwards and her daughter both have an interest in knowing why their husband and father is dead.<sup>10</sup> Fellow combat veterans have an interest in knowing why their brother-in-arms is dead. The Black community has an interest in knowing why a member of their community is dead. The public at large has a right to know and observe how their government operates.

74. By refusing access to the audiovisual recording, BCSO is depriving the public of significant first-hand information that would allow them to have an informed voice on the policing

---

<sup>10</sup> Tragedy befell the Edwards family again in late June 2020 when her 18-month-old son drowned in the family swimming pool. Mrs. Edwards was pregnant with that son at the time of her husband's death on Dec. 10, 2018.

in their communities and to answer whether changes in detainment policies could avoid the death of citizens like Gregory Edwards.

75. The only conclusion is that good cause exists to release the requested audiovisual recording and grant the relief requested herein.<sup>11</sup>

## II. REQUEST FOR EXPEDITED HEARING

76. The constitutional right of access to public records applies to “any public body, officer, or employee of the state, or persons acting on their behalf. . .” Art. I, § 24, Fla. Const.

77. BCSO is a public agency under § 119.011(2), Florida Statutes, and has a legal obligation to provide access to non-exempt public records. Sheriff Ivey is an officer of the public agency under § 119.011(2).

78. Under the Public Records Act, records made or received in connection with public agency business are presumptively open, section 119.01(1), Florida Statutes. The Florida Legislature has created certain exemptions which the courts must construe narrowly. A records custodian bears the burden of proving those exemptions apply to particular records.

79. Courts must set early hearings in actions to enforce the provisions of the Public Records Act and must give such cases priority over other pending cases pursuant to section 119.11, Florida Statutes. *See also Salvador v. Fennelly*, 593 So. 2d 1091, 1094 (Fla. 4th DCA 1992), *disapproved on other grounds, Abdool v. Bondi*, 141 So. 3d 529 (Fla. 2014).

80. As the Florida Supreme Court has recognized: “News delayed is news denied.” *State ex. Rel. Miami Herald Publ'g Co. v. McIntosh*, 340 So. 2d 904, 910 (Fla. 1976). FLORIDA

---

<sup>11</sup> BCSO has reacted to calls for transparency with hostility aimed at FLORIDA TODAY and have focused on Gregory Edwards’s violent behavior rather than how officers might have responded differently so that his life might have been saved. Rather than release the disputed recordings in its discretion, the BCSO accuses the newspaper of bias and having an agenda of seeking to denigrate the agency. These responses dishonor the importance of Gregory Edwards’ experience and the essential function of the news media to our democracy.

TODAY requests an accelerated hearing be set and the Court give this case priority over other pending cases in compliance with the Public Records Act.

### **III. REQUEST FOR IN CAMERA REVIEW**

81. FLORIDA TODAY requests the Court order BCSO to produce the disputed recordings for in camera review without any modifications whatsoever. The Court's unfiltered review is necessary to determine (a) whether and to what extent the jail complex booking area recordings implicate BCSO's claimed exemption, or (b) whether BCSO has waived that exemption, or (c) whether BCSO should have granted access to the recordings to further its duties and responsibilities, or (d) whether good cause exists to order release of the disputed recording.

82. Complete and proper analysis of the disputed records hinges on the particular information contained in records. *See In re Records of DCF*, 873 So. 2d 506, 513 (Fla. 2d DCA 2004). Indeed, "[i]t is impossible to judge the potential impact of the disclosure of information contained in records without knowing what the information is." *Id.* at 514.

83. The Court must inspect the disputed recordings in camera to determine the correct disposition of this matter.

### **COUNT ONE - DECLARATORY JUDGMENT**

84. Paragraphs 1-83 above are incorporated by reference and re-alleged as if fully set forth herein.

85. This is an action for Declaratory Judgment pursuant to chapter 86, Florida Statutes.

86. A present, actual bona fide controversy exists over the parties' rights and obligations with respect to the disputed recording FLORIDA TODAY requested from BCSO.

87. The present, actual bona fide controversy is whether BCSO's assertion of a security system exemption from the Public Records Act is an unlawful violation of the public's

constitutional and statutory rights of inspection, under Article I, § 24 of the Florida Constitution and chapter 119, Florida Statutes. Further, there is a bona fide dispute whether BCSO has waived the security system exemption. Thirdly, there is a bona fide controversy whether BCSO should have released the video in furtherance of its duties. Lastly, there is a bona fide dispute whether the recordings should be released for good cause shown.

88. FLORIDA TODAY requests the Court declare whether BCSO should release the disputed recording responsive to FLORIDA TODAY's request pursuant to Article I, § 24 of the Florida Constitution and chapter 119, Florida Statutes.

### **COUNT TWO - INJUNCTIVE RELIEF**

89. Paragraphs 1-83 above are incorporated by reference and re-alleged as if fully set forth herein.

90. As described above, BCSO failed to comply with chapter 119, Florida Statutes.

91. FLORIDA TODAY is entitled to injunctive relief under the Public Records Act to remedy the BCSO's violations, and to prevent future violations of a similar nature. In the alternative, more than adequate good cause exists to order the dispute recordings released.

92. FLORIDA TODAY has been irreparably injured by the inability to report fully on the operations of a public agency, and has no adequate remedy at law.

### **V. REQUEST FOR ATTORNEYS' FEES**

93. The Public Records Act states if a court determines that an agency unlawfully refused to permit access to a public record, "the court shall assess and award, against the agency responsible, the reasonable costs of enforcement including reasonable attorneys' fees." § 119.12, Fla. Stat.

94. FLORIDA TODAY complied with the requirements of section 119.12(b) for providing adequate advance notice to BCSO of its intent to commence this action.

95. FLORIDA TODAY has retained the undersigned counsel and is obligated to pay to counsel reasonable attorneys' fees, costs, and expenses in connection with this matter.

## VI. RELIEF REQUESTED

WHEREFORE, FLORIDA TODAY prays:

(a) The Court will find the requested public records are not confidential and exempt from public disclosure and therefore BCSO has unlawfully withheld access to the recordings; or

(b) The Court will find, if the records are confidential and exempt, that BCSO waived its right to assert such exemption by prior, intentional and repeated publications of the recordings from the same areas of the jail complex as shown in the disputed recordings, and by offering to show the recordings to Kathleen Edwards on June 14, 2020; or

(c) The Court will find, if the records are confidential exempt, and if BCSO has not waived its right to assert the exemption, that BCSO should have in its discretion released the recordings in furtherance of its duties and responsibilities for maximizing public trust in law enforcement, and by not doing so has unlawfully withheld access to the records; or

(d) The Court will find, if the records are confidential and exempt, if BCSO has not waived its right to assert the cited exemption, and if BCSO need not have made the recordings public in furtherance of duties and responsibilities, that there is good cause to order release of the requested audiovisual recordings, and issue such order to do so; **and**

(e) Order BCSO to show cause why the recording(s) should not be public; and

(f) Order BCSO to provide the disputed recording(s) to the Court in unredacted and unmodified form for in camera inspection, followed by an evidentiary hearing if needed, on the questions of exemption, waiver, release in furtherance of duties, and good-cause exception; and

(g) Award FLORIDA TODAY its reasonable attorneys' fees, costs, and expenses incurred in this action, as provided in Section 119.12, Florida Statutes, upon a finding that BCSO unlawfully refused to grant public access to the disputed recordings; and

(h) Grant such further relief as the Court deems just and proper.

Respectfully submitted this 13th day of July 2020.

---

Edward L. Birk  
Florida Bar No.: 068462  
Logan K. McEwen  
Florida Bar No.: 098683  
**MARKS GRAY, P.A.**  
Post Office Box 447  
Jacksonville, Florida 32201  
Telephone: (904) 398-0900  
Email: [elb@marksgray.com](mailto:elb@marksgray.com)  
[lkm@marksgray.com](mailto:lkm@marksgray.com)

Attorneys for The Courier-Journal, Inc.  
d/b/a FLORIDA TODAY

30952/2035542