

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

DAVID CANTOR

Petitioner,

v.

Case No. _____

VIRGINIA DEPARTMENT OF
CORRECTIONS

Serve:

Joseph Walters, Director
6900 Atmore Drive
Richmond, VA 23225

Respondent.

PETITION FOR WRIT OF MANDAMUS

Petitioner David Cantor, by and through his undersigned counsel, states as follows:

1. This case involves an improper attempt by the Virginia Department of Corrections (“VADOC” or “Respondent”) to shield records from the public that are required to be disclosed under Virginia’s public records law.
2. In 2024, several Red Onion State Prison inmates burned themselves to protest prison conditions. Elizabeth Weill-Greenberg, *After Self-Immolations at Red Onion Prison, Virginia Prisoners Allege Crackdown*, The Appeal (Apr. 15, 2025), <https://perma.cc/V5ST-APK9>.
3. After learning of those self-immolation incidents, petitioner David Cantor, a freelance journalist and resident of Richmond, began reporting on Red Onion State Prison. Affidavit of David Cantor, ¶ 1; *see also, e.g.,* Dave Cantor, *Senator Aims to Pause Out-of-State Transfers to Red Onion*, Radio IQ (Feb. 12, 2026), <https://perma.cc/UQ2U-R6KX>; Dave Cantor,

Families, Advocates Protest Alleged Prison Abuses, Radio IQ (May 27, 2025),

<https://perma.cc/X3CW-QTFT>.

4. On October 2, 2025, Cantor submitted a VFOIA request to the Virginia Department of Corrections seeking all “[t]aser logs or any documentation of taser use at Red Onion State Prison from Jan. 1, 2025 to the present day.” Exhibit A (the “Request”).

5. VADOC denied the Request in full on October 21, 2025, citing Virginia Code § 2.2-3706(B)(4), which exempts from mandatory disclosure “records of persons imprisoned in penal institutions in the Commonwealth provided such records related to the imprisonment.” A true and correct copy of this denial is attached as Exhibit B.

6. As set forth below, Virginia Code § 2.2-3706(B)(4) is not applicable to the records sought through Petitioner’s Request.

7. Accordingly, Petitioner seeks the issuance of a writ of mandamus pursuant to Virginia Code § 2.2-3713 to require the Virginia Department of Corrections to comply with the provisions of VFOIA, as well as other relief under the same provision.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter pursuant to Virginia Code § 2.2-3713(A).

9. This Court is the proper venue for this motion pursuant to Virginia Code § 2.2-3713(A)(3) because VADOC is an agency of the Commonwealth’s government.

PARTIES

10. Petitioner David Cantor is a freelance journalist and resident of Richmond.

11. Respondent VADOC is the administrative agency for Virginia’s correctional system.

12. Respondent is a “public body” of the Commonwealth of Virginia and is therefore governed by the disclosure requirements of VFOIA. Va. Code §§ 2.2-3700, 2.2-3701.

FACTS

VADOC’s use and documentation of Controlled Energy Weapons in Red Onion State Prison:

13. VADOC defines a “Controlled Energy Weapon” (“CEW”) as a “less-lethal device that uses electrical current, with the goal of achieving behavior compliance by neuromuscular incapacitations, by the disruption of voluntary control of the muscles.” Exhibit C (“OP 420.1”).

14. OP 420.1 outlines the circumstances under which VADOC corrections officers are authorized to employ CEWs. *See id.* at 12-15.

15. OP 420.1 requires corrections officers to justify each use of a CEW on an Internal Incident Report. *Id.* at 14. Officers must document target zones and justification for probe placement, whether a warning was given prior to deployment, and the number of probes deployed and their effectiveness. *Id.* at 16.

16. “TASER” is a brand of energy weapon owned by Axon Enterprises. *See Axon, TASER Brand*, <https://perma.cc/CD2Q-PQB4> (last visited Mar. 16, 2026).

17. In common usage, the word “taser” refers to CEWs generally, regardless of manufacturer. *See, e.g., Taser*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/Taser> (last visited Apr. 1, 2026).

Petitioner’s VFOIA request and Respondent’s denial of Petitioner’s request:

18. On October 2, 2025, Cantor sent the Request to VADOC seeking all “[t]aser logs or any documentation of taser use at Red Onion State Prison from Jan. 1, 2025 to the present day[.]” Exhibit A.

19. On October 25, 2025, Anne-Cabrié Forsythe sent Petitioner a letter denying the Request. Exhibit B.

20. Upon information and belief, Anne-Cabrié Forsythe was, at that time, employed as a FOIA Officer with the Administrative Compliance Unit at VADOC.

21. Forsyth stated, “Please be advised the Virginia Department of Corrections (VADOC) has approximately 60 pages of records from three incidents responsive to your request.” Exhibit B.

22. VADOC denied the Request in full, stating:

[P]ursuant to § 2.2.-3706(B)(4) of the Code of Virginia, the records requested are exempt from mandatory disclosure as “records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment.” Accordingly, the VADOC is exercising its discretion to withhold these records in their entirety.

Exhibit B.

23. As of the date of this petition, Cantor has not received any records from VADOC responsive to the Request.

**FIRST CAUSE OF ACTION
RESPONDENT HAS VIOLATED VFOIA BY FAILING TO PRODUCE
RECORDS RESPONSIVE TO PETITIONER’S REQUEST**

24. Petitioner reasserts and adopts by reference paragraphs 1–23.

25. VFOIA defines “public records” as “all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, . . . or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business.” Va. Code § 2.2-3701.

26. Records prepared or owned by, or in the possession of VADOC or its officers, employees or agents in the transaction of public business that document CEW use, including CEW logs, are public records under VFOIA.

27. VFOIA provides that “[a]ll public records . . . shall be presumed open, unless an exemption is properly invoked.” Va. Code § 2.2-3700(B).

28. VFOIA further provides that “all public records shall be available for inspection and copying upon request” unless “a public body or its officers or employees specifically elect to exercise an exemption provided by this chapter or any other statute.” *Id.*

29. VADOC has denied Petitioner access to the records responsive to Petitioner’s VFOIA Request.

30. In denying Petitioner access to the records responsive to his Request, VADOC has asserted that it is permitted to exercise its discretion to withhold those records pursuant to Virginia Code § 2.2-3706(B)(4).

31. Upon information and belief, VADOC cannot demonstrate by a preponderance of evidence that Virginia Code § 2.2-3706(B)(4) applies to such recordings. *See* Va. Code § 2.2-3713(E).

32. Because VADOC has asserted no applicable exemption justifying the withholding of records documenting the use of CEWs, and because those records are public records under VFOIA, VADOC’s withholding of those records in response to Petitioners’ VFOIA Request violates Virginia Code §§ 2.2-3704(A) and 2.2-3700(B).

**SECOND CAUSE OF ACTION
RESPONDENT HAS VIOLATED VFOIA BY FAILING TO PRODUCE REDACTED
RECORDS RESPONSIVE TO PETITIONER’S REQUEST**

33. Petitioners reassert and adopt by reference paragraphs 1–32.

34. VFOIA prohibits a public body from “withhold[ing] a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by this chapter or by any other provision of law. Va. Code § 2.2-3704.01. VFOIA provides that “[a] public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under this chapter or other provision of law applies the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under this chapter or other provision of law may be withheld, and all portions of the public record that are not so excluded shall be disclosed.” Va. Code § 2.2-3704.01.

35. To the extent that any portion of any record responsive to the request may be withheld pursuant to Virginia Code § 2.2-3706(B)(4), the remainder of all of the rest of each responsive record must be made available to Petitioner, with only the exempt portions redacted. Va. Code § 2.2-3704.1; *Hawkins v. South Hill*, 301 Va. 416, 428 (2022).

36. Respondent’s failure to disclose all non-exempt portions of the requested records violates Virginia Code § 2.2-3704.1.

PRAYER FOR RELIEF

Wherefore, Petitioner prays that this Court will:

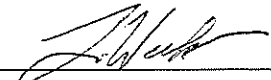
A. Issue a writ of mandamus ordering Respondent to release the records sought by the Request in full request or, alternatively, to show cause why any portion of the records may not be produced pursuant to an applicable VFOIA exemption.

B. Order Respondent to pay Petitioners’ costs, including attorneys’ fees, as Petitioners have substantially prevailed on the merits of the case and no special circumstances make an award of fees unjust. Va. Code § 2.2-3713(D).

C. Grant any further relief as this Court deems just and proper.

Respectfully submitted,

DAVID CANTOR

By:  _____

Lin Weeks, VA Bar No. 97351
Rachel Seller, *pro hac vice application forthcoming*
REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS
1156 15th Street NW, Suite 1020
Washington, D.C. 20005
Tel: (202) 800-3533

Counsel for Petitioner