

IN THE SUPREME COURT OF OHIO

THE STATE OF OHIO ex rel.

Derek J. Myers

P.O. Box 41

Jeffersonville, Ohio 43128,

Relator,

v.

Case No. _____

RON MEYERS, CHIEF OF POLICE

28 North Paint Street, Suite B

Chillicothe, Ohio 45601

and

MICA KINZER, RECORDS CLERK

28 North Paint Street, Suite B

Chillicothe, Ohio 45601

and

CITY OF CHILLICOTHE, OHIO

35 South Paint Street

Chillicothe, Ohio 45601,

Respondents.

VERIFIED PETITION FOR WRIT OF MANDAMUS

Relator Derek J. Myers (“Relator”), respectfully alleges as follows:

INTRODUCTION

1. Relator, Derek J. Myers (“Myers”) brings this Petition for Writ of Mandamus in order to compel Respondents—Chillicothe Chief of Police Ron Meyers (“Meyers”), Chillicothe Police records clerk Mica Kinzer (“Kinzer”), and the City of Chillicothe (“City”; together with

Meyers and Kinzer, the “Respondents”)—to comply with their legal duty to make available the at-issue public records.

2. Relator brings this action on behalf of the State of Ohio. Further, he brings this action in his individual capacity and as editor and proprietor of the Scioto Valley Guardian (“Guardian”), a news organization. As part of his work as editor and reporter for the Guardian, Relator has submitted written requests via electronic submission for police report public records created by Officers of the Chillicothe Police Department (the “Department”).

3. Ohio law clearly establishes that Respondents must make the requested records available to Relator, but they have illegally refused to do so.

PARTIES

4. Relator is a resident of Pickaway County, Ohio and is a United States citizen.

a) Relator is the editor of the Guardian, a local news organization. The Guardian provides original reporting, analysis, and editorial commentary on Ohio politics and newsworthy events, publishing such information on its news website. Relator also distributes journalistic content through a newspaper and other media, including other websites, social media, and Google.

b) Relator is a journalist. Relator reports on and disseminates news and information of interest, and benefit, to the public.

5. Respondent City is a incorporated political subdivision within the State of Ohio.

a) The City has a principal place of business at 35 South Paint Street, Chillicothe, Ohio 45604.

b) The City is a “public office” as that term is used in the Public Records Act, R.C. 149.43 (the “Act”), and likewise satisfies the definition of “public office” found in R.C. 149.011.

6. Meyers is the Chief of Police of the Department, which is itself an organ of the City. Meyers oversees the City’s day-to-day operation of the police department.

a) Meyers’s principal place of business in his official capacity is at 28 North Paint Street, Suite B, Chillicothe Ohio 45601.

b) Meyers is a public official and a “person responsible for public records” as that term is used in the Act.

7. Kinzer is the records clerk for the Department. As such, she is tasked with overseeing the custodial care of records for the Department and responding to public records requests.

a) Kinzer’s principal place of business in her official capacity is at 28 North Paint Street, Suite B, Chillicothe Ohio 45601.

b) Kinzer is a public official and a “person responsible for public records” as that term is used in the Act.

8. As the persons and public office responsible for the public records at issue, Respondents are obligated under the Act to promptly prepare such records and make them available for inspection and copying upon request.

JURISDICTION AND VENUE

9. This Court has original jurisdiction pursuant to Ohio Constitution, Article IV, Section 2 and R.C. 2731.02. Venue is likewise proper. *See* R.C. 143.49(C)(1).

RELATOR’S PUBLIC RECORDS REQUESTS

10. Relator, as a journalist, has made, in writing via electronic submission, a number of requests for Department routine offense and incident reports (“Reports”) that have been denied. The Reports are public records as defined by R.C. 143.49(A)(1). Respondents are required to make the Reports available to Relator pursuant to R.C. 143.49(B)(1). The law on this point is incontrovertible. *E.g.*, *State ex rel. Beacon Journal Publishing Co. v. Maurer*, 91 Ohio St.3d 54, 55, 2001-Ohio-282, 741 N.E.2d 511. Further, on each occasion, Respondents have failed to cite the “legal authority[] setting forth why the request was denied,” in blatant violation of R.C. 149.43(B)(3). The following is an account of each request and denial at issue in this complaint. At all times herein, Respondents have acted in their official capacities. Further, at all times herein Kinzer has also acted at the direction—implicit or explicit—and/or as the agent, of Meyers, the City, and/or the Department.

Report 18-019929

11. On December 6, 2020, Relator sent Kinzer an email requesting “the report for the investigation into Bill McKell, including the narratives.” The report was identified in the Department’s system as Report 18-019929.

12. On December 7, 2020, Kinzer responded to Relator’s written request with an email of her own. She refused to release the Report or otherwise make it available, informing Relator that the Report “cannot be released, it is still a pending investigation.”

13. That same day, Relator replied to Kinzer’s email requesting that she “cite the reason for this denial, including legal authority.” Kinzer replied but did not cite legal authority, in violation of R.C. 143.49(B)(3): “If a request is ultimately denied, . . . the person responsible for the requested public record shall provide the requester with an explanation including legal

authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing.”

14. To this day, Respondents still have failed to make Report 18-019929 available as required.

15. A true and correct copy of the email chain quoted in this section of the complaint is attached hereto as Exhibit A.

Reports P2015431 and P2015437

16. On December 8, 2020, Relator sent Kinzer an email requesting disclosure of “P2015431 and P2015437.” P2015431 and P2015437 are Reports created by Department officers.

17. On December 10, 2020, Kinzer forwarded an email to Relator from Department officer Derek Wallace. Wallace created Report P2015431. In his email—forwarded, and ratified, by Kinzer—Wallace states that the case “is still pending” and that therefore Relator could only have a copy of the “initial” lines of the Report narrative.

18. Accordingly, Kinzer refused to release the Report or otherwise make it available.

19. Also on December 10, 2020, Kinzer forwarded an email to Relator from Department officer Monique Lee. Lee created Report P2015437. In her email—forwarded, and ratified, by Kinzer—Lee states that Relator cannot have a copy of P2015437 because “it is under investigation.”

20. Accordingly, Kinzer refused to release the Report or otherwise make it available.

21. With respect to both P2015431 and P2015437, Kinzer failed to cite legal authority for the denials as required by R.C. 143.49(B)(3).

22. To this day, Respondents still have failed to make Reports P2015431 and P2015437 available to Relator as required.

23. A true and correct copy of the email chains quoted in this section of the complaint regarding P2015431 and P2015437 are attached hereto as Exhibits B and C, respectively.

Report P2015499

24. On December 10, 2020, Relator sent Kinzer an email requesting disclosure of Report “P2015499.” Noting Respondents’ clear statutory obligation, Relator requested in that same email, “If you deny this request, please cite your legal authority.”

25. Later on December 10, 2020, Kinzer replied to Relator’s email denying the request. She refused to release the Report or otherwise make it available. She also again failed to cite legal authority as required. Rather, she stated, in full: “The information below is what Det. Demint stated I could give out to you on the report you requested.”

Victim is a juvenile (16 yr old male) that was shot in the leg; two unidentified suspects still at large; victim is still in the hospital with non-life[-]threatening injuries. Once the case is closed then we will be able to release more details.

26. To this day, Respondents still have failed to make Report P2015499 available as required.

27. A true and correct copy of the email chain quoted in this section of the complaint is attached hereto as Exhibit D.

Report P2015606

28. On December 15, 2020, Relator sent Kinzer an email requesting two Reports, including “P2015606.”

29. Later on December 15, 2020, Kinzer responded via email that she would “have to check with Det. Fyffe and see what info I can give on” P2015606.

30. On December 16, 2020, Kinzer emailed Relator as follows: “This is all I am able to release on the case from Det. Fyffe at this time—P2015606.” She proceeded to quote what appears to be a two-sentence excerpt from the Report.

31. Accordingly, Kinzer denied Relator’s request for disclosure of P2015606—refusing to release the Report or otherwise make it available—and she failed to cite legal authority as required.

32. To this day, Respondents still have failed to make Report P2015606 available as required.

33. True and correct copies of the email chains quoted in this section of the complaint are attached hereto as Exhibit E.

Report P2100231

34. On January 18, 2021, Relator sent Kinzer an email requesting disclosure of Report “P2100231.”

35. On January 19, 2021, Kinzer responded via email that “[t]he initial report is attached. I have sent a request to the officer to see what all can be released since it’s still an open investigation. Once I hear from him, I will let you know.”

36. A partial Report was indeed attached to Kinzer’s January 19, 2021 email as represented. But the substantive portion of the Report—i.e., the portion that contains the detailed incident narrative—was omitted from the report. On information and belief, in what appears to be a misguided effort to skirt the Act, the Department has adopted the practice of referring to the substantive portion of its Reports as the “Supplement Narrative.” On information and belief, the

Supplement Narrative portion of P2100231 was composed as an integral part of the Report itself on the date when the Report itself was created.¹

37. Kinzer’s response to Relator was thus a denial of his request that the Report be made available in full. *See, e.g.*, R.C. 149.43(B)(1) (“A redaction shall be deemed a denial of a request to inspect or copy the redacted information . . .”). Kinzer failed to cite legal authority in support of this denial as required.

38. To this day, Respondents still have failed to make Report P2100231 available as required.

39. A true and correct copy of the email chain quoted in this section of the complaint is attached hereto as Exhibit F.

Report P2100318

40. On January 22, 2021, Relator sent Kinzer an email requesting disclosure of Report “P2100318.”

41. Later on January 22, 2021, Kinzer responded via email to Relator with a redacted version of Report P2100318. As with Report P2100231, again the Supplement Narrative—the actual substantive portion of the incident Report—was impermissibly omitted from the version of Report P2100318 provided by Kinzer.

42. Minutes later, Relator responded via email to Kinzer requesting that she disclose the “supplement,” i.e., the Supplement Narrative, for P2100318. Kinzer responded via email one

¹ By way of example, Exhibit I, *infra*, contains two sample Reports. The first report—P2100102—shows an “Initial Narrative” one sentence long, followed immediately by a “Supplemental Narrative”—*entered one minute later*—that begins with that same sentence and then continues for nine paragraphs to provide the actual incident report. The second report—P2100549—likewise shows a “Supplement Narrative” entered one minute after the “Initial Narrative.”

minute later refusing to make the Supplemental Narrative portion of Report P2100318 available because it was “still an open investigation.”

43. Kinzer’s response to Relator was thus a denial of his request that the Report be made available in full. *See, e.g.*, R.C. 149.43(B)(1) (“A redaction shall be deemed a denial of a request to inspect or copy the redacted information . . .”). Kinzer failed to cite legal authority in support of this denial as required.

44. To this day, Respondents still have failed to make Report P2100318 available as required.

45. A true and correct copy of the email chain quoted in this section of the complaint is attached hereto as Exhibit G.

Report P2100352

46. On January 26, 2021, Relator sent Kinzer an email requesting disclosure of Report “P2100352.”

47. Later on January 26, 2021, Kinzer responded via email to Relator with a redacted version of Report P2100352. Once again, as with Reports P2100231 and P2100318, the Supplement Narrative—the substantive portion of the incident Report—was impermissibly omitted from the version of Report P2100352 provided by Kinzer.

48. In that same email, Kinzer also stated that this was “all I can release on it at this time. Det. Demint still has it under investigation at this time.”

49. Kinzer’s response to Relator was thus a denial of his request that the Report be made available in full. *See, e.g.*, R.C. 149.43(B)(1) (“A redaction shall be deemed a denial of a request to inspect or copy the redacted information . . .”). Kinzer failed to cite legal authority in support of this denial as required.

50. To this day, Respondents still have failed to make Report P2100352 available as required.

51. A true and correct copy of the email chain quoted in this section of the complaint is attached hereto as Exhibit H.

COUNTS 1 through 8

Failure to Make the Requested Reports Available for Inspection by Relator

52. Relator hereby incorporates all of the foregoing paragraphs into his allegations concerning Counts 1 through 8.

53. All of the requested Reports were public records subject to disclosure upon request. With regard to each Report, Relator made such a request in writing via electronic submission. With regard to each Report, Respondents refused, in whole or in part, to make the requested Report available, in violation of the Act and R.C. 149.43(B)(1). To this day, Respondents have failed to make the sought-after Reports available to Relator.

54. Each such failure to make a requested Report available constitutes a separate violation of the Act and, thus, a separate count of this complaint, to wit:

Count	Report	Date of Request	Date of Wrongful Denial	Primary Supporting Paragraphs
1	18-019929	12/6/2020	12/7/2020	11-15
2	P2015431	12/8/2020	12/10/2020	16-18, 21-23
3	P2015437	12/8/2020	12/10/2020	16, 19-23
4	P2015499	12/10/2020	12/10/2020	24-27
5	P2015606	12/15/2020	12/16/2020	28-33
6	P2100231	1/18/2021	1/19/2021	34-39
7	P2100318	1/22/2021	1/22/2021	40-45
8	P2100352	1/26/2021	1/26/2021	46-51

COUNTS 9 through 16

Failure to Cite Legal Authority Setting Forth Why Relator’s Requests Were Denied

55. Relator hereby incorporates all of the foregoing paragraphs into his allegations concerning Counts 9 through 16.

56. All of the requested Reports were public records subject to disclosure upon request. With regard to each Report, Relator made such a request in writing via electronic submission. With regard to each Report, Respondents refused, in whole or in part, to make the requested Report available, and, when so doing, failed to cite legal authority setting forth why the request was denied, in violation of the Act and R.C. 149.43(B)(3).

57. Each such failure to cite legal authority setting forth why a request for a Report was denied constitutes a separate violation of the Act and, thus, a separate count of this complaint, to wit:

Count	Report	Date of Request	Date of Denial and Failure to Cite Legal Authority	Primary Supporting Paragraphs
9	18-019929	12/6/2020	12/7/2020	11-15
10	P2015431	12/8/2020	12/10/2020	16-18, 21-23
11	P2015437	12/8/2020	12/10/2020	16, 19-23
12	P2015499	12/10/2020	12/10/2020	24-27
13	P2015606	12/15/2020	12/16/2020	28-33
14	P2100231	1/18/2021	1/19/2021	34-39
15	P2100318	1/22/2021	1/22/2021	40-45
16	P2100352	1/26/2021	1/26/2021	46-51

STATUTORY DAMAGES

58. Where, as here, a requester transmits a written request by hand delivery, electronic submission, or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records, the requester is entitled to recover statutory damages if a court determines that the respondent failed to comply with its obligation under R.C. 149.43(B)(1) to make the requested record available to the requester.

59. Such a requester is likewise entitled to recover statutory damages if a court determines that the respondent, in denying the request, failed to cite legal authority setting forth why the request was denied, in violation of R.C. 149.34(B)(3).

60. Statutory damages equal \$100 per violation for each business day during which the respondent fails to comply with an obligation under R.C. 149.43(B), beginning with the day on which the requester files a mandamus action, up to a maximum of \$1,000 per violation.

61. Respondents have failed to comply with their obligations under R.C. 149.43(B)(1) and (3) as detailed above.

62. A well-informed public office or person responsible for the requested Reports could not reasonably believe that the failure to make the requested Reports available to Relator, and the failure to cite legal authority setting forth why the Reports were not made available, did not constitute a failure to comply with Respondents obligations under R.C. 163.43(B)(1) and (3).

63. Likewise, a well-informed public office or person responsible for the requested Reports could not reasonably believe that the failure to make the requested Reports available to Relator, and the failure to cite legal authority setting forth why the Reports were not made available, served the public policy that underlies the authority that is asserted as permitting such conduct on the part of Respondents. Indeed, no such authority was ever even cited by Respondents.

64. Accordingly, Relator is entitled to statutory damages of \$100 per business day for each of the 16 violations set forth in this complaint, for aggregate statutory damages of \$1,600 per business day.

ATTORNEY'S FEES

65. If and when this Court orders Respondents to make the wrongly withheld Reports available, Relator, a journalist seeking to benefit the public interest, will be entitled to recover all attorney's fees in this action.

66. Likewise, if and when this Court orders Respondents to cite the legal authority setting forth why the Reports were not made available to Relator, Relator, a journalist seeking to benefit the public interest, will be entitled to recover all attorney's fees in this action.

67. Alternatively, should Respondents finally make the requested Reports available to Relator after the filing of this complaint, Respondents will have acted in bad faith in withholding the Reports to that point and in strategically releasing them to avoid full accountability. This is true because, *inter alia*, Relators were put on notice that they are in direct violation of the precedents of this Court no later than December 4, 2020, when Relator filed his companion action in Case Number 2020-1469; Respondent's were separately and repeatedly warned by Relator of their duty to cite legal authority; and there is no good faith basis for first withholding, and then strategically releasing post-litigation, the Reports.

68. A well-informed public office or person responsible for the requested Reports could not reasonably believe that the failure to make the requested Reports available to Relator, and the failure to cite legal authority setting forth why the Reports were not made available, did not constitute a failure to comply with Respondents obligations under R.C. 163.43(B)(1) and (3).

69. Likewise, a well-informed public office or person responsible for the requested Reports could not reasonably believe that the failure to make the requested Reports available to Relator, and the failure to cite legal authority setting forth why the Reports were not made available, served the public policy that underlies the authority that is asserted as permitting such

conduct on the part of Respondents. Indeed, no such authority was ever even cited by Respondents.

ORAL ARGUMENT

70. To the extent this Court concludes that its decisional processes would be aided by such, and to the extent the Court may be disinclined to grant the requested mandamus relief, Relator respectfully requests oral argument to address any of the Court's concerns.

PRAYER FOR RELIEF

For all of these reasons, Relator requests the following relief:

- Issuance of a writ of mandamus directing Respondents to make the requested Reports available immediately and without improper redactions;
- An award of statutory damages at a rate of \$1,600 per day (\$100 per violation x 16 violations in Counts 1 through 16);
- An award of damages in the form of all court costs and reasonable attorney's fees; and
- Any and all other relief available under the Act or that the Court otherwise deems just and proper.

Dated: February 16, 2021

Respectfully submitted,

/s Emmett E. Robinson
Emmett E. Robinson (0088537)
(COUNSEL OF RECORD)
Robinson Law Firm LLC
16 W. Main St. #3
Wakeman, OH 44889
Telephone: (216) 505-6900
Facsimile: (216) 649-0508
erobinson@robinsonlegal.org

COUNSEL FOR RELATOR, DEREK J.
MYERS.

AFFIDAVIT AND VERIFICATION OF DEREK J. MYERS

1. My name is Derek J. Myers. I am over the age of 18 and have personal knowledge of each of the matters discussed herein. I am competent to testify as to all matters set forth in this affidavit. I am a journalist and am editor of the Scioto Valley Guardian. I personally made each of the record requests discussed herein.

2. The entire factual contents of the immediately preceding Verified Complaint for Writ of Mandamus (“Complaint”) is true and correct to the best of my knowledge, information, and belief.

3. Each police report discussed herein constitutes a routine offense and/or incident report.

4. Attached hereto as Exhibit A is a true and correct copy of email correspondence between myself and the person responsible for public records at the Chillicothe Police Department, Micah Kinzer (“Kinzer”), regarding disclosure of Police Report 18-019929. As set forth in the Complaint, I requested Report 18-019929 on December 6, 2020, via email sent to Kinzer. Kinzer denied the request on December 7, 2020, and failed to cite legal authority setting forth the reasons for the denial. To this day, Kinzer and the other Respondents have failed to make this Report available to me.

5. Attached hereto as Exhibit B is a true and correct copy of email correspondence between myself and Kinzer regarding disclosure of Police Report P2015431. As set forth in the Complaint, I requested Report P2015431 on December 8, 2020, via email sent to Kinzer. Kinzer denied the request on December 10, 2020, and failed to cite legal authority setting forth the reasons for the denial. To this day, Kinzer and the other Respondents have failed to make this Report available to me.

6. Attached hereto as Exhibit C is a true and correct copy of email correspondence between myself and Kinzer regarding disclosure of Police Report P2015437. As set forth in the Complaint, I requested Report P2015437 on December 8, 2020, via email sent to Kinzer. Kinzer denied the request on December 10, 2020, and failed to cite legal authority setting forth the reasons for the denial. To this day, Kinzer and the other Respondents have failed to make this Report available to me.

7. Attached hereto as Exhibit D is a true and correct copy of email correspondence between myself and Kinzer regarding disclosure of Police Report P2015499. As set forth in the Complaint, I requested Report P2015499 on December 10, 2020, via email sent to Kinzer. Kinzer denied the request on December 10, 2020, and failed to cite legal authority setting forth the reasons for the denial. To this day, Kinzer and the other Respondents have failed to make this Report available to me.

8. Attached hereto as Exhibit E is a true and correct copy of email correspondence between myself and Kinzer regarding disclosure of Police Report P2015606. As set forth in the Complaint, I requested Report P2015606 on December 15, 2020, via email sent to Kinzer. Kinzer denied the request on December 16, 2020, and failed to cite legal authority setting forth the reasons for the denial. To this day, Kinzer and the other Respondents have failed to make this Report available to me.

9. Attached hereto as Exhibit F is a true and correct copy of email correspondence between myself and Kinzer regarding disclosure of Police Report P2100231. As set forth in the Complaint, I requested Report P2015231 on January 18, 2021, via email sent to Kinzer. Kinzer denied the request on January 19, 2021, by wrongfully withholding the “Supplement Narrative”

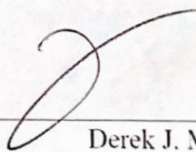
and failed to cite legal authority setting forth the reasons for the denial. To this day, Kinzer and the other Respondents have failed to make the Supplement Narrative available to me.

10. Attached hereto as Exhibit G is a true and correct copy of email correspondence between myself and Kinzer regarding disclosure of Police Report P2100318. As set forth in the Complaint, I requested Report P2015318 on January 22, 2021, via email sent to Kinzer. Kinzer denied the request on January 22, 2021, by wrongfully withholding the "Supplement Narrative" and failed to cite legal authority setting forth the reasons for the denial. To this day, Kinzer and the other Respondents have failed to make the Supplement Narrative available to me.

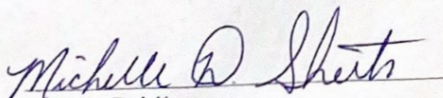
11. Attached hereto as Exhibit H is a true and correct copy of email correspondence between myself and Kinzer regarding disclosure of Police Report P2100352. As set forth in the Complaint, I requested Report P2015352 on January 26, 2021, via email sent to Kinzer. Kinzer denied the request on January 26, 2021, by wrongfully withholding the "Supplement Narrative" and failed to cite legal authority setting forth the reasons for the denial. To this day, Kinzer and the other Respondents have failed to make the Supplement Narrative available to me.

12. Attached hereto as Exhibit I is a true and correct copy of Chillicothe Police Department Reports P2100102 and 2100549.

Further Affiant sayeth not.


Derek J. Myers

Sworn and subscribed before me this 16th of February 2021.


Michelle Danette Sheets
Notary Public



Michelle Danette Sheets
Notary Public
In and for the State of Ohio
My Commission Expires
August 22, 2024

Exhibit A

RE: [External]Re: [External]PRR request

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Mon 12/7/2020 2:21 PM

To: Derek Myers <dmyers@chillicotheguardian.com>

Cc: Ron Meyers <ron.meyers@chillicotheoh.gov>

Det. Demint provided me with the contact information for the agent handling the case with BCI. If you want to contact them and see what they tell you about releasing anything on it. I am not permitted to release any reports, to anyone including the media, if it is a pending investigation. Especially if I do not even have access to the report.

Agent Joshua Rammel

BCI

855-BCI-OHIO

Mica Kinzer

Records Division

Chillicothe Police Department

740-773-1195 ext 132

From: Derek Myers <dmyers@chillicotheguardian.com>

Sent: Monday, December 7, 2020 1:18 PM

To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Cc: Ron Meyers <ron.meyers@chillicotheoh.gov>

Subject: [External]Re: [External]PRR request

Can you please cite the reason for this denial, including legal authority? Thank you.

Derek J. Myers

Editor | The Guardian

c: [740.463.0029](tel:740.463.0029)

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On Dec 7, 2020, at 1:15 PM, Mica Kinzer <Mica.Kinzer@chillicotheoh.gov> wrote:

I spoke with Det. Demint about this case and he said that it cannot be released, it is still a pending investigation, and has been turned over to BCI. I do not even have access to pull up the report.

Mica Kinzer

Records Division

Chillicothe Police Department

740-773-1195 ext 132

From: Derek Myers <dmyers@chillicotheguardian.com>

Sent: Sunday, December 6, 2020 6:31 AM

To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Subject: [External]PRR request

Mica, can you please send over a copy of the report for the investigation into Bill McKell, including narratives? Thank you.

Derek J. Myers

Editor | The Guardian

c: [740.463.0029](tel:740.463.0029)

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Exhibit B

FW: [External]Fwd: media reports 12/4/20-12/7/20

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Thu 12/10/2020 9:30 AM

To: Derek Myers <dmyers@chillicotheguardian.com>

Please see the response from Det. Wallace, who is the investigating detective on this case (P2015431). I have already provided the initial to everyone. Once he completes his investigation, I am more than happy to send out the full report.

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

From: Derek Wallace <derek.wallace@chillicotheoh.gov>
Sent: Thursday, December 10, 2020 9:27 AM
To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>
Subject: Re: [External]Fwd: media reports 12/4/20-12/7/20

Algeo is still pending and he can only have initial

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From: Derek Myers <dmyers@chillicotheguardian.com>
Sent: Wednesday, December 9, 2020 9:06 AM
To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>
Subject: [External]Fwd: media reports 12/4/20-12/7/20

Hi, Mica. I hope you had a good weekend. Would you please send P2015431 and P2015437? Thank you.

Derek J. Myers
Editor | The Guardian
c: [740.463.0029](tel:740.463.0029)
SciotoValleyGuardian.com
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Begin forwarded message:

From: Derek Myers <dmyers@chillicotheguardian.com>
Date: December 8, 2020 at 10:14:21 AM EST
To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>
Subject: Re: media reports 12/4/20-12/7/20

Hi, Mica. I hope you had a good weekend. Would you please send P2015431 and P2015437? Thank you.

Derek J. Myers
Editor | The Guardian
c: [740.463.0029](tel:740.463.0029)

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CAUTION: This email originated from outside of the Organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Exhibit C

FW: [External]Fwd: media reports 12/4/20-12/7/20

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Thu 12/10/2020 11:14 AM

To: Derek Myers <dmyers@chillicotheguardian.com>

This is what Ofc. Lee's response was in regards to her case she is still working on (P2015437).

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

From: Monique D. Lee <monique.lee@chillicotheoh.gov>
Sent: Thursday, December 10, 2020 11:05 AM
To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>
Subject: Re: [External]Fwd: media reports 12/4/20-12/7/20

For my case no it is under investigation and is not completed.

Ofc. Monique Lee
Chillicothe Police Department
740.773.1191 ext.2

From: Derek Myers <dmyers@chillicotheguardian.com>
Sent: Wednesday, December 9, 2020 9:06 AM
To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>
Subject: [External]Fwd: media reports 12/4/20-12/7/20

Hi, Mica. I hope you had a good weekend. Would you please send P2015431 and P2015437? Thank you.

Derek J. Myers
Editor | The Guardian
c: [740.463.0029](tel:740.463.0029)
SciotoValleyGuardian.com
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Begin forwarded message:

From: Derek Myers <dmyers@chillicotheguardian.com>
Date: December 8, 2020 at 10:14:21 AM EST
To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>
Subject: Re: media reports 12/4/20-12/7/20

Hi, Mica. I hope you had a good weekend. Would you please send P2015431 and P2015437? Thank you.

Derek J. Myers
Editor | The Guardian
c: [740.463.0029](tel:740.463.0029)

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Exhibit D

RE: [External]Re: media reports 12-9-20

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Thu 12/10/2020 10:50 AM

To: Derek Myers <dmyers@chillicotheguardian.com>

The information below is what Det. Demint stated I could give out to you on the report you requested.

- Victim is a juvenile (16 yr old male) that was shot in the leg; two unidentified suspects still at large; victim is still in the hospital with non-life threatening injuries. Once the case is closed then we will be able to release more details.

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

From: Derek Myers <dmyers@chillicothe Guardian.com>

Sent: Thursday, December 10, 2020 8:59 AM

To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Subject: [External]Re: media reports 12-9-20

Hi, Mica, please send P2015499. If you deny this request, please cite your legal authority.

Derek J. Myers

Editor | The Guardian

c: [740.463.0029](tel:740.463.0029)

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On Dec 10, 2020, at 8:57 AM, Derek Myers <dmyers@chillicotheguardian.com> wrote:

How are we suppose to know if you can or cannot release them? How are we suppose to know if they're under investigation unless you say so? I speak for us, and us only: you are required, by law, to answer the requests and deny them in writing; that's the law. Just as I'm required to use my turn signal 100 feet before turning.

Ignoring to do so will only open you up to civil liability.

Derek J. Myers

Editor | The Guardian

c: [740.463.0029](tel:740.463.0029)

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On Dec 10, 2020, at 8:53 AM, Mica Kinzer <Mica.Kinzer@chillicotheoh.gov> wrote:

I have attached the media reports for 12/9/20. If there are any reports you would like to *ask* about receiving more information on, you are welcome to do that. If they are reports that are still an open investigation and the report is not completed, I will ***NOT*** be able to release it at this time, unless I am given permission to do so. Please do not keep sending me requests for reports I am not able to release. Once the investigation is completed and the case is closed, then we will be able to release it at that time. I am more than happy to send you copies of reports that are releasable at this time.

Thank you and have a good day!

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

<CPD Daily Media Report.pdf>

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Exhibit E

RE: [External]Re: media reports 12/11/20-12/14/20

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Tue 12/15/2020 11:51 AM

To: Derek Myers <dmyers@chillicotheguardian.com>

 1 attachments (577 KB)

P2015549 acc rpt.pdf;

I have attached P2015549. I will have to check with Det. Fyffe and see what info I can give on the other report.

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

From: Derek Myers <dmyers@chillicotheguardian.com>
Sent: Tuesday, December 15, 2020 10:30 AM
To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>
Subject: [External]Re: media reports 12/11/20-12/14/20

Hi, Mica, would you please send P2015549 and P2015606? Thank you.

Derek J. Myers
Editor | The Guardian
c: [740.463.0029](tel:740.463.0029)
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On Dec 15, 2020, at 9:02 AM, Mica Kinzer <Mica.Kinzer@chillicotheoh.gov> wrote:

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

<CPD Daily Media Report.pdf>

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RE: [External]Re: media reports 12/11/20-12/14/20

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Wed 12/16/2020 9:03 AM

To: Derek Myers <dmyers@chillicotheguardian.com>

This is all I am able to release on the case from Det. Fyffe at this time – P2015606.

Detective was notified via ICAC of possible pornography involving a juvenile. Suspect in case has not been identified at this time, still awaiting information on case.

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

From: Derek Myers <dmyers@chillicotheguardian.com>

Sent: Tuesday, December 15, 2020 10:30 AM

To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Subject: [External]Re: media reports 12/11/20-12/14/20

Hi, Mica, would you please send P2015549 and P2015606? Thank you.

Derek J. Myers

Editor | The Guardian

c: [740.463.0029](tel:740.463.0029)

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On Dec 15, 2020, at 9:02 AM, Mica Kinzer <Mica.Kinzer@chillicotheoh.gov> wrote:

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

<CPD Daily Media Report.pdf>

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Exhibit F

RE: [External]Re: media reports 1/15/21-1/17/21

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Tue 1/19/2021 9:19 AM

To: Derek Myers <dmyers@chillicotheguardian.com>

 1 attachments (76 KB)

P2100231.pdf;

The initial report is attached. I have sent a request to the officer to see what all can be released since it's still an open investigation. Once I hear from him, I will let you know.

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

From: Derek Myers <dmyers@chillicotheguardian.com>

Sent: Monday, January 18, 2021 8:42 AM

To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Subject: [External]Re: media reports 1/15/21-1/17/21

Happy MLK JR., Day, Mica. Would you please send P2100231? Thank you.

Derek J. Myers
Editor | The Guardian
c: [740.463.0029](tel:740.463.0029)
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On Jan 18, 2021, at 8:39 AM, Mica Kinzer <Mica.Kinzer@chillicotheoh.gov> wrote:

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Exhibit G

RE: [External]Re: [External]Re: media reports 1-21-21

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Fri 1/22/2021 8:53 AM

To: Derek Myers <dmyers@chillicotheguardian.com>

Not at this time. It is still an open investigation.

Mica Kinzer

Records Division

Chillicothe Police Department

740-773-1195 ext 132

From: Derek Myers <dmyers@chillicotheguardian.com>

Sent: Friday, January 22, 2021 8:52 AM

To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Subject: [External]Re: [External]Re: media reports 1-21-21

Mica, thanks. Can you send the supplement?

Derek J. Myers

Editor | The Guardian

c: [740.463.0029](tel:740.463.0029)

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On Jan 22, 2021, at 8:48 AM, Mica Kinzer <Mica.Kinzer@chillicotheoh.gov> wrote:

Mica Kinzer

Records Division

Chillicothe Police Department

740-773-1195 ext 132

From: Derek Myers <dmyers@chillicotheguardian.com>

Sent: Friday, January 22, 2021 8:34 AM

To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Subject: [External]Re: media reports 1-21-21

Hi, Mica, I'll take P2100318.

Also, the report company you use has an auto-email feature built in that will send out the media logs daily on its own. Pickaway Sheriff and Ross both utilize the feature.

Derek J. Myers

Editor | The Guardian

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On Jan 22, 2021, at 8:30 AM, Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>
wrote:

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<P2100318.pdf>

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Exhibit H

RE: [External]Re: media reports 1/22/21-1/25/21

Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Tue 1/26/2021 9:28 AM

To: Derek Myers <dmyers@chillicotheguardian.com>

 1 attachments (73 KB)

P2100352.pdf;

This is all I can release on it at this time. Det. Demint still has it under investigation at this time.

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

From: Derek Myers <dmyers@chillicotheguardian.com>

Sent: Tuesday, January 26, 2021 9:19 AM

To: Mica Kinzer <Mica.Kinzer@chillicotheoh.gov>

Subject: [External]Re: media reports 1/22/21-1/25/21

Hi, Mica. I'd like P2100352. Thank you.

Derek J. Myers

Editor | The Guardian

c: [740.463.0029](tel:740.463.0029)

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On Jan 26, 2021, at 8:42 AM, Mica Kinzer <Mica.Kinzer@chillicotheoh.gov> wrote:

Mica Kinzer
Records Division
Chillicothe Police Department
740-773-1195 ext 132

<CPD Daily Media Report.pdf>

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Exhibit I



CHILLICOTHE POLICE DEPARTMENT

28 N. PAINT STREET
CHILLICOTHE, OHIO 45601
PHONE 740-773-1191 FAX 740-779-2802

Case PD-P2100102

Printed on January 7, 2021

Status	Approved
Report Type	Patrol
Primary Officer	Shane Daubenmire
Investigator	None
Reported At	01/06/21 17:02
Incident Date	01/06/21 17:02
Incident Code	FIRE : Fire
Location	21 WESTERN AVE, CHILLICOTHE, OH 45601
Zone	CPD4
Disposition	Referred to Another Agency
Disposition Date/Time	01/06/21 19:46
Review for Gang Activity	None
Body Cam Used?	Yes
K9 Deployed?	No

Offense Information

Offense	Arson
Statute	2909.03
NIBRS Code	200 - Arson
Counts	1
Include In NIBRS	Yes
Completed	Yes
Bias Motivation	No Bias/Not Applicable
Location	Single Family Home
Entry Forced	No

Dispatch Information

CFS #	PD2100394
Location	21 WESTERN AVE, CHILLICOTHE, OH 45601
Incident Code	FIRE : Fire
Occurred Between	01/06/21 17:02:53 and
Assigned	17:03:22
Enroute	17:03:52
On Scene	17:05:42
Completed	18:57:01

Reporters

Name	Unknown
Involvement	Initial Reporter
Sex	
DOB	
Address	
Report Time	01/06/21 17:02:53
How Reported	
From Phone	
Contact Phone	
Comments	

Other Names

Vehicles

Call Details

CFS Responders

Engine-1 (Primary)	E1 - Engine 1	CFD (Primary)
Engine-4	Engine 4	CFD (Primary)
Medic-1	Medic 1	CFD (Primary)
Medic-4	Medic 4	CFD (Primary)
PD32	Lee, Monique	CPD
PD33	Shanks, Micah	CPD
PD39	Yoder, Brock	CPD
PD68	Althouse, CHRISTOPHER	CPD
PD92 (Primary)	Daubenmire, Shane	CPD

Offender

ISBELL, KENNETH

Male, DOB 10/14/83 2909.03 - Arson
21 WESTERN AVE
CHILLICOTHE, OH 45601
(740) 779-0899 Home

Victim

DOWNS, ANDREA D

Female, DOB 8/28/84 2909.03 - Arson
21 WESTERN AVE
CHILLICOTHE, OH 45601
(740) 779-0899 Home
(000) 851-5116 Home
(000) 773-6890 Home
(000) 775-8220 Home

Witness

ISBELL, MITFORD L, JR

Male, DOB 1/30/50 2909.03 - Arson
21 WESTERN AVE
CHILLICOTHE, OH 45601
(740) 703-5937 Home

WOLFE, MARY

Female, DOB 8/5/62 2909.03 - Arson
21 WESTERN AVE
CHILLICOTHE, OH 45601
(000) 779-0899 Home
(740) 779-0899 Home

Initial Narrative By Shane Daubenmire, 01/06/21 20:43

I was dispatched to 21 Western Ave. in reference to a fire.

Supplement Narrative By Shane Daubenmire, 01/06/21 20:44

I was dispatched to 21 Western Ave. in reference to a fire. I shut down the intersection of the roadway and waited for the FD to extinguish the fire. An FD member approached me and stated they were clearing the scene and believed this was a domestic issue.

I then responded to the scene and contacted Kenneth Isbell who I was told was reported to start a small fire in a trash bin in the residence. I spoke to Kenneth who denied he started a fire. Kenneth stated he had left with his father and his girlfriend. I noted that Kenneth possible had mental health issues.

I spoke to Kenneth's father Milford Isbell and his girlfriend Mary Wolfe. Mary stated that they all three did leave but were only gone a short time before being notified of the fire. Mary stated that she believes Kenneth started the fire because he was upset over being kicked out of the residence today. Mary stated that Kenneth started a fire in the residence yesterday but nobody was called. Mary stated that Kenneth lit an oven mitt on fire yesterday and threw it behind the stove. Mary stated that Kenneth was in the bathroom where the trash bin was set on fire just prior to them leaving the residence to go get food. Mary notified me that she was a "witch" and could not lie. Milford stated that Kenneth did admit to the fire yesterday and that he extinguished the fire yesterday before anyone was called. Milford stated he was unsure if Kenneth started the fire in the trash bin today.

Ofc. Yoder advised Kenneth of his Miranda rights and I spoke to him further. Kenneth stated he did light an oven mitt on fire yesterday using the kitchen stove. Kenneth stated he started the fire today in the trash bin by lighting a piece of paper off the stove and putting it in the trash bin. Kenneth stated he was mad because he was being kicked out and moving to Alabama. Kenneth stated he was not trying to harm anyone in the residence. I detained Kenneth pending further investigation into this incident.

Ofc. Yoder stated that Milford told him that he was unsure if Kenneth started the fire and it was possible that someone told him to say that he did it.

I examined the scene and obtained photographs of the scene. I noted a plastic bucket on the front porch that was used as a trash bin. The trash bin had apparent damage from a small fire. I noted there was evidence of a fire in the bathroom where the trash bin had been. I noted that there was a cloth towel and multiple dishes over the stove top burners.

I contacted Andrea Downs and her two juvenile children Kelton Downs and Deonte Thompson-Downs. Andrea stated she lives upstairs with her children when she noted smoke in the residence. Andrea stated she went downstairs and observe smoke in the bathroom and called the FD. Andrea did not see who started the fire.

Contact was made with the Chillicothe FD arson investigator who was requested to the scene. I secured the scene and stood by until the arson investigator arrived. I briefed the investigator on what I had discovered and turned the investigation over to him. Kenneth was released from custody and the FD did not request he be arrested on any charges from this incident. I was notified that the victim decline to pursue any criminal charges.

I have nothing further at this time, investigation was turned over to the FD.



CHILICOTHE POLICE DEPARTMENT

28 N. PAINT STREET
CHILICOTHE, OHIO 45601
PHONE 740-773-1191 FAX 740-779-2802

Case PD-P2100549

Printed on February 9, 2021

Status	Approved
Report Type	Patrol
Primary Officer	Adam Steele
Investigator	None
Reported At	02/05/21 14:49
Incident Date	02/05/21 14:49
Incident Code	VEHSTLN : Stolen Vehicle
Location	N PAINT ST, CHILICOTHE, OH 45601
Zone	CPD3
Disposition	Cleared by Arrest - Adult (Closed)
Disposition Date/Time	02/05/21 20:02
Review for Gang Activity	None
Body Cam Used?	Yes
K9 Deployed?	No

Offense Information

Offense	Theft - 240 - Motor Vehicle Theft
Statute	2913.02
NIBRS Code	240 - Motor Vehicle Theft
Counts	1
Include In NIBRS	Yes
Completed	Yes
Bias Motivation	No Bias/Not Applicable
Location	Street
Entry Forced	No
Cargo Theft	No

Dispatch Information

CFS #	PD2102095						
Location	N PAINT ST, CHILICOTHE, OH 45601						
Incident Code	VEHSTLN : Stolen Vehicle						
Occurred Between	02/05/21 14:49:47 and						
Assigned	14:50:19	Enroute	14:50:19	On Scene	14:50:19	Completed	16:03:34

CFS Responders

PD26 (Primary)	Tuttle, Jeremy	CPD (Primary)
PD27	Steele, Adam	CPD (Primary)

Offender

BREWER, JAMES CHARLES - Age 51 - Sex Male 2913.02 - Theft - 240 - Motor Vehicle Theft

Victim

CHILICOTHE CITY OF 2913.02 - Theft - 240 - Motor Vehicle Theft

Initial Narrative By Adam Steele, 02/05/21 16:02

On February 5th 2021 I took over this investigation in reference to a Motor Vehicle Theft from 28 N Paint St.

Supplement Narrative By Adam Steele, 02/05/21 16:03

Contact was made with Chillicothe Municipal Court Probation Officer, Kenton Lovely. Ofc Lovely stated he had pulled in the alley way near the Ross County Jail, 28 N Paint St. Vehicle was left unlocked with keys in the ignition and running. He stated when leaving the Law Complex he discovered his vehicle was gone.

I reviewed cameras from Ross County Court of Common Pleas building. I observed Ofc Lovely arrived at approximately 2:17pm and entered the Law Complex. At approximately 2:23 pm a male identified as James Brewer enters the vehicle and drives W/B in the alley way toward N Walnut St.

Mr Brewer was previously incarcerated in the Ross County Jail on February 4th 2021 and was released at approximately 1:40 pm on this date. He was observed exiting the Law Complex at around that time and walking the alley way and standing near the N Paint St and alley way intersection after his release from jail.

The vehicle stolen was a 2008 Chevrolet Impala white in color with State Plates "347ZCV." Vehicle had a decal or magnet with "Chillicothe Municipal Court Probation" on both the passenger and driver sides.

Vehicle was entered into LEADS as stolen NIC #V382711866.

At approximately 5:10 pm dispatch advised that Pike County Sheriff's Office was in contact with Mr Brewer, however no vehicle was recovered at this time. He was placed under arrest and transported tot he Ross/Pike County Line.

I made contact with Mr Brewer at the Ross/Pike County Line and advised him of his Miranda Rights. Mr Brewer stated he understood his rights and agreed to speak with me without a lawyer present. Mr Brewer initially denied stealing the vehicle, but quickly stated he knew where it was stating "If you help me out I will help you out." Mr Brewer stated the vehicle was on "Spunk Run Rd" which happened to intersect with Loys Run Rd, same street listed for Mr Brewer's home address. Mr Brewer then again denied taking the vehicle, but stated he knew who did. Mr Brewer claimed he was not going to say any names. I explained to Mr Brewer that he was caught on security camera, yet he still claimed no camera caught him getting into the vehicle.

Mr Brewer was transported to the Ross County Jail on charge of Theft (4th Degree Felony). Once in the Ross County Jail Mr Brewer admitted to stealing the car claiming he was not from around here and had no phone or phone numbers to call for a ride. He stated he wasn't "trying to steal the car" but needed a ride home.

I left and went to Spunk Run Rd where Mr Brewer stated he left the vehicle with the keys still inside. While en-route dispatch advised that Pike County Sheriff's Office had located the vehicle near 1431 Spunk Run Rd. I arrived in the area and located the vehicle parked approximately 20 feet on off Spunk Run Rd on the South side of the roadway. I photographed the vehicle and released it to Ofc Lovely who was present at this time. I also discovered this location was only approximately 100 feet west of Loys Run Rd where Mr Brewer resided.

Vehicle was removed from LEADS as stolen and I cleared the scene without incident.

Mr Brewer was held without bond in the Ross County Jail until his initial appearance on February 8th 2021 at 09:00 am in the Chillicothe Municipal Court.

Nothing further at this time.