

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.
CINCINNATI ENQUIRER,

Relator,

v.

OHIO DEPARTMENT OF PUBLIC
SAFETY, et al.

Respondents.

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: Case No. 2015-0390
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: **Original Action in Mandamus**
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MERIT BRIEF OF RESPONDENTS OHIO DEPARTMENT OF
PUBLIC SAFETY AND JOHN BORN, DIRECTOR

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I. INTRODUCTION

The Ohio Public Records Act provides broad access to records of the activities of public offices, but specifically exempts confidential law enforcement investigatory records, including “specific investigative work product.” Law enforcement “investigations” and “investigatory work product” encompass the broad spectrum of officer responses to actual or potential criminal activity, such as the officer relying on video and audio equipment to obtain evidence and record her observations for use in criminal prosecution. An “investigation” can begin and end within minutes, and as a suspect’s actions evolve, or new reasonable suspicion or probable cause arises, the investigation can shift to encompass new or continuing violations. An “investigation” does not wait to begin until an officer returns to her post to fill out reports, and a traffic investigation includes, in every case, documenting an officer’s discovery and pursuit of a suspect when there is reasonable suspicion of the commission of a crime.

Relator’s contrary position glosses over the realities of law enforcement investigation, and would sidestep the Court’s precedent broadly defining this exemption. In 1994, this Court found that its previous under-inclusive definition of the term, “investigative work product” had rendered the exemption virtually meaningless. The Court firmly corrected what it described as “this chaos,” by applying to “investigatory work product” the same broad definition used for “attorney work product.” *State ex rel. Steckman v. Jackson*, 70 Ohio St. 3d 420, 431 and 434, 639 N.E.2d 83 (1994). This Court should reject Relator’s invitation to return to the daily bombardment of the criminal justice system, the undue and needless interference with investigation and prosecution, in short, the former chaos that *Steckman* recognized and fairly corrected.

Relator’s underlying premise that police cruiser video can never constitute a confidential law enforcement investigatory record is untenable, and cannot account for the myriad

permutations of facts surrounding, or events captured by, cruiser video and audio equipment. There can be no all-or-none approach in determining whether cruiser videos are always or never public records. Indeed, this Court rejected Relator's premise in a 2013 case, relating, as it happens, to cruiser video obtained by Respondent here. In *State ex. rel. Miller v. Ohio State Hwy. Patrol*, 136 Ohio St.3d 350, 2013-Ohio-3720, this Court laid out the proper test for identifying a confidential law enforcement investigatory record, and remanded the matter for findings on whether that test was met. Under Relator's view, remand was improper because there are no circumstances under which a cruiser video could constitute a confidential law enforcement investigatory record. In *Miller*, and as Respondents urge the Court here, the Court held that application of the confidential law enforcement investigatory record exemption requires balancing the facts at hand under the Court's test for the statutory exemption. That is exactly what Respondents did here, initially analyzing and withholding the videos as confidential law enforcement investigatory records, but promptly producing the records once the suspect pled guilty to criminal activity evidenced and described on the videos.

At issue are two Highway Patrol troopers' video recordings of their pursuit of a person they suspected of multiple offenses. These cruiser videos were made to document a traffic investigation based on the prior existence of reasonable suspicion and/or probable cause, and in anticipation of criminal prosecution. The videos documented both evidence of traffic offenses, and the Troopers' investigatory actions, and thus fell squarely within the public records exemption for "specific investigatory work product" that was properly applied by Respondents.

The requested writ should be denied.

II. STATEMENT OF FACTS

Other than as noted herein, Respondents agree with Relator's Statement of Facts in its Merit Brief. As relevant to the core issue in this case, Respondents additionally present the following facts surrounding the creation of the cruiser video records:

On January 22, 2015, the Lebanon Post of the Ohio State Highway Patrol received a 9-1-1 call from a motorist who reported seeing a vehicle without a rear license plate, traveling southbound on Interstate 71, weaving off of the roadway and unable to maintain lanes. Respondents' Exhibit E. Trooper Laura Harvey then received a radio call in which the post's dispatcher relayed to her the report of the 9-1-1 caller. Trooper Harvey positioned her cruiser to intercept the reported vehicle. Respondents' Exhibit A, ¶ 3.

A short time later, Trooper Harvey observed a vehicle with no rear license plate that matched the description she had been given, and recognized the absence of a visible rear license plate as probable cause that the driver was in violation of R.C. 4503.21(A), *Display of license plates and validation stickers*. Based on the citizen report relayed to her of the vehicle as traveling off the roadway and unable to maintain lanes, Trooper Harvey also suspected that the driver was in violation of R.C. 4511.33, *Driving in marked lanes*. *Id.*, ¶ 4.

Trooper Harvey pulled onto I-71 and attempted to initiate a traffic stop by pulling behind the vehicle and activating her cruiser's emergency lights, which automatically activated the dashboard-mounted video camera. *Id.* The driver of the vehicle did not respond to the activation of Trooper Harvey's light bar, at which point she recognized probable cause to believe that the driver was in violation of R.C. 2921.331(B), *Failure to comply with signal of police officer*, which was a violation that continued for the rest of her pursuit. *Id.*, ¶ 5.

Nearby Trooper Cristian Perrin joined Trooper Harvey in the pursuit, and activated his light bar and dashboard mounted camera. *Id.*; Respondents' Exhibit B, ¶ 3. During the rest of

the pursuit, both Troopers observed and/or captured on their dashboard mounted cameras additional traffic violations by the pursued vehicle. Respondents' Exhibit A, ¶ 5; Respondents' Exhibit B, ¶ 4. At the end of the pursuit, Trooper Harvey pulled in behind the vehicle, leaving her lights and camera activated, documenting the apprehension, search, and questioning of the driver, Aaron Teofilo, and the securing of his vehicle. Respondents' Exhibit A, ¶ 5; Respondents' Exhibit C. The records sought by Relator document the initial traffic offenses, and the charged criminal offenses adjudicated in the case of *State v. Teofilo*, Warren County Court of Common Pleas, Case No. 15CR30699.

Trooper Harvey and Trooper Perrin state that the purpose of creating their video records of the pursuit, stop, and apprehension of the suspect and vehicle in this case was, 1) to capture evidence documenting that the driver of the pursued vehicle was committing violations of criminal law, 2) to document their investigation of the observed actions of the vehicle and driver that were apparent violations of criminal law, and 3) to preserve that documentation in anticipation of use by the appropriate prosecuting attorney in criminal litigation. Respondents' Exhibit A, ¶ 6; Respondents' Exhibit B, ¶ 5.

III. ARGUMENT

RESPONDENTS' PROPOSITION OF LAW: A video recording initiated by a law enforcement officer to document the investigation of her reasonable suspicion that the driver of a vehicle has violated Ohio traffic law constitutes specific investigative work product within the meaning of R.C. 149.43(A)(2)(c), and is thereby exempt from release as a public record until the investigation of the offense has concluded.

This Court recently held that where the Ohio State Highway Patrol has withheld cruiser video as “law enforcement investigative work product,”

... the Patrol needs to establish that the withheld records pertain to a “law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature” whose release would create a “high probability of disclosure” of “specific investigatory work product.”

State ex. rel. Miller v. Ohio State Hwy. Patrol, 136 Ohio St.3d 350, 2013-Ohio-3720, 995 N.E.2d 1175, ¶ 25. The *Miller* Court did not find that all cruiser video automatically is, or is not, investigatory work product. As with the assertion of any public records exemption, a case-by-case examination of the facts and circumstances of the record must be conducted. In *Miller*, the Court expressly recognized that ongoing routine offense and incident reports and 911 recordings were public records. *See id.* ¶ 26. Rather than apply either description to dash camera videos, however, the Court “remand[ed] the case to the Twelfth District to review the withheld records and determine whether they fall under the ‘confidential law enforcement investigatory record’ exception to the Public Records Act, and specifically whether they would create a ‘high probability of disclosure’ of ‘specific investigatory work product’ as asserted by the Patrol.” *Id.* ¶27. On remand, the lower court found that the officer-initiated video recording was investigative work product from the time the officer observed a traffic offense and activated his emergency lights, throughout his investigative activities for that and additional offenses. *State ex rel. Miller v. Ohio State Highway Patrol* (“Miller II”), 12th Dist. Clermont No. CA2012-05-034, ¶2244, 14 N.E.3d 396.

At issue in this case is whether Respondents properly withheld very similar cruiser video, during the criminal investigation and prosecution to which it pertained, under the investigative work product exemption set forth in the Public Records Act, R.C. 149.43:

(A) As used in this section:

(1) “Public record” means records kept by any public office, ... “Public record” does not mean any of the following:

...

(h) Confidential law enforcement investigatory records;

...

(2) “Confidential law enforcement investigatory record” means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

* * *

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product. (Emphasis added.)

In its Merit Brief, p. 12, Relator selectively related only the *Miller* Court’s introductory language, but did not quote the statutory two-part test that the Court then specifically applied to the Highway Patrol records: First, do the records “pertain to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature?” - quoting R.C. 149.43(A)(2) “record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature”). Second, would the release of those records create a “high probability of disclosure” of “specific investigatory work product,” - quoting R.C. 149.43(A)(2) through (2)(c)(“to the extent that the release of the record would create a high probability of disclosure of any of the following: ... (c) ... specific investigatory work product.”)

The first prong of the two-prong test is thus whether the cruiser video records at issue “pertain to a law enforcement matter.”

A. The Video Recording In This Case Pertains To A “Law Enforcement Matter,” And The First Prong Of The Exemption Is Not Seriously In Dispute

A “law enforcement matter” means an investigation by an agency with the authority to investigate, based on a specific suspicion of wrongdoing, of an offense that is penalized by criminal, quasi-criminal, civil, or administrative law. *State ex rel. Polovishchak v. Mayfield*, 50 Ohio St.3d 51, 53, 552 N.E.2d 635 (1990); *State ex rel. Multimedia, Inc. v. Snowden*, 72 Ohio St.3d 141, 142-143, 647 N.E.2d 1374. The investigatory video record at issue meets this definition because:

(1) The Ohio State Highway Patrol has authority to investigate and enforce Ohio laws relating to the operation and use of vehicles on the highways pursuant to R.C. 5503.02, which

includes enforcement of R.C. 4503.21(A), *Display of license plates and validation stickers*; R.C. 2921.331(B), *Failure to comply with signal of police officer*; and all of the other offenses observed and/or charged in this law enforcement matter;

(2) “In order to conduct an investigative stop of a motor vehicle, a police officer must have an articulable and reasonable suspicion that the motorist is engaged in criminal activity or is operating his vehicle in violation of the law.” *State v. Johnson*, 105 Ohio App.3d 37, 40, 663 N.E.2d 675 (12th Dist.1995). The investigating Troopers had specific suspicion, from the outset, of wrongdoing by the driver in this matter, *see*, Respondents’ Exhibits A and B, Affidavits of Troopers Laura Harvey and Cristian Perrin; and,

(3) The offenses of R.C. 4503.21(A), R.C. 2921.331(B), and all of the other offenses observed and/or charged in this case are criminal matters penalized under the Ohio Revised Code.

Indeed, motor vehicle stops initiated with reasonable suspicion are expressly recognized by this Court as “investigative stops.” *City of Maumee v. Weisner*, 87 Ohio St.3d 295, 720 N.E.2d 507 (1999) (information constituting reasonable suspicion for officer’s investigative stop of vehicle was provided by a dispatch based upon an informant’s tip). The term “investigative stop” and its defining standard recognize that the initiation of such stops constitutes an “investigation” that is based on preexisting suspicion of criminal activity.

The first prong of the two-prong CLEIRs test is thus readily satisfied. The cruiser videos created by Troopers Harvey and Perrin pertained to a law enforcement matter initiated after they had conceived reasonable suspicion (or more) of violations of the law within the investigative jurisdiction of the OSHP. The analysis then turns to the second prong - the nature of the requested records as “specific investigatory *work product*.”

B. The Requested Records Are Investigatory Work Product, Satisfying The Second Prong Of The Test.

Investigatory work product includes any materials and information prepared, compiled or gathered by law enforcement officials in anticipation of litigation. The trooper testimony and OSHP policies submitted to the Court make abundantly clear that the cruiser videos in this case were made to capture evidence of unlawful driving behavior, and to document the audio and visual actions of the officers, all after the officers were advised of unlawful driving behavior, and/or had observed criminal violations themselves.

1. The Court's approach to "specific investigatory work product" consistently recognizes that an investigation includes documenting the facts and observations demonstrating criminal violations, with an eye toward criminal prosecution.

This Court formulated its current definition of "specific investigatory work product" in *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 434, 639 N.E.2d 83 (1994). *Steckman* expressly overruled the Court's prior definition of "investigatory work product." The old definition had protected only "an investigator's deliberative and subjective analysis, his interpretation of the facts, his theory of the case, and his investigative plans," and did not include (at that time) "the objective facts and observations he has recorded." *Id.*, at 431. In its place, the *Steckman* Court expanded "investigative work product" to match the Black's Law Dictionary definition of "work product rule":

Under this rule *any notes, working papers, memoranda or similar materials, prepared by attorneys [here, by law enforcement officials] in anticipation of litigation, are protected from discovery.*" Black's Law Dictionary (6 Ed.Rev.1990) 1606. This definition (*working papers*) *is broad enough to bring under its umbrella any records compiled by law enforcement officials.*

Accordingly, we further find that except as required by *Crim.R. 16*, *information assembled by law enforcement officials in connection with a probable or pending criminal proceeding is, by the work product exception found in R.C.*

149.43(A)(2)(c), *excepted from required release as said information is compiled in anticipation of litigation.* (Emphasis added.)

Id., at 434-35.

Cruiser dash cam videos, whether manually activated or automatically triggered by the officer deciding to activate her siren or lights with reasonable suspicion or probable cause that a crime is being committed, are “assembled by law enforcement officials,” and are “in connection with a probable or pending criminal proceeding.” Rather than concede that evident point, Relator inaptly points the Court to *State ex rel. Nat’l Broad. Co.* (“NBC I”), 38 Ohio St.3d 79, 526 N.E.2d 786 (1988), to support his argument. Relator’s Brief, p. 12. However, through *Steckman*, “investigative work product” now includes the “objective facts and observations he has recorded” that were previously excluded by *NBC I* (*NBC I* implicitly overturned in *Steckman*, see 70 Ohio St.3d at 430-435). Records compiled by a criminal investigator as “evidence” in a case are perhaps the quintessential “specific investigatory work product.” “The investigative records provide evidence of the Brotherhood’s solicitation of charitable contributions in Ohio over the course of several years, ...” *State ex rel. WLWT-TV5 v. Leis*, 77 Ohio St.3d 357, 359, 673 N.E.2d 1365 (1997). Whether telephone surveillance tapes, or the business records of a company that is the victim of embezzlement, or intercepted e-mail, or as here videotape of multiple traffic offenses while they are taking place, “evidence” is clearly material that is gathered, assembled, or compiled by law enforcement in the course of investigation and prosecution.

To that effect, an inherent function of the video recording of the vehicle pursuit, stop, and questioning involved in this case was to document the nature and sequence of objective, observed events by Troopers Harvey and Perrin, in furtherance of prosecution of the suspected offenses. The Troopers who caused the video recordings to be made affirmed that the recordings

were made to document their investigation of traffic and other criminal offenses, and in anticipation of prosecution of those offenses. Respondents' Exhibit A, ¶ 6, and Exhibit B, ¶ 5.

In response to Relator's rhetorical law enforcement question on page 15 of its Merit Brief, Respondents answer is: Yes, "every high-speed pursuit of a motorist is an investigation" of that motorist fleeing the trooper's signal to stop. The probability of using such documentation to support prosecution including a criminal charge for fleeing is obvious, and is further demonstrated by the charges filed against Aaron Teofilo following his arrest. See Report of Investigation, Respondents' Exhibit C, p. 1. The cruiser video recordings in this case contain "information ... assembled by law enforcement officials in connection with a probable or pending criminal proceeding." *State ex rel. Miller v. Ohio State Highway Patrol*, 136 Ohio St.3d 350, 2013-Ohio-3720, 995 N.E.2d 1175, ¶ 26. The cruiser video records are thus "investigative work product" under the clear, broad *Steckman* rule.

Although not binding on this Court, the remand of the above-cited *Miller* case resulted in a well-reasoned decision, *State ex rel. Miller v. Ohio State Highway Patrol* ("Miller II"), 12th Dist. Clermont No. CA2012-05-034, 2014-Ohio-2244, 14 N.E.3d 396, holding that cruiser video initiated after a trooper observed a traffic violation was investigative work product from the outset because,

"Unlike a 911 call or an incident report, the cruiser camera recorded Trooper Westhoven's pursuit of Ruberg for what he observed was a violation of Ohio's traffic laws. Trooper Westhoven's investigation was not instituted by the requested video, but rather, was created directly by Trooper Westhoven to preserve a crucial aspect of his investigation and information-gathering specific to a probable violation of Ohio law. The video constitutes materials assembled by Trooper Westhoven in connection with his investigation of that violation, and the video was recorded for its use in any future criminal proceeding against Ruberg." *Id.*, ¶ 25.

Relator inexplicably fixates throughout its Brief on the “confidential law enforcement investigatory *techniques*” portion of the CLEIRs exemption. However, that exemption is not claimed by Respondents in the case at bar, and is a separate part of the holding in *Miller II*.

What does apply from *Miller II*, however, is that an officer’s “investigation” includes additional criminal offenses that were observed in the process of investigating the original traffic violation. The entire span of the video record is investigative work product pertaining to an accumulating list of offenses.

Relator’s citation to *State ex rel. Cincinnati Enquirer v. Sage*, 142 Ohio St.3d 392, 2015-Ohio-974, 31 N.E.3d 616, ¶ 25 on page 17 of its Brief is inapposite. First, the cited paragraph addresses a respondent’s attempted application of the Sixth Amendment right to fair trial, not the CLEIRs exemption. That passage is no more relevant to this case than the *Sage* Court’s immediately preceding admonition that, “[t]he First Amendment does not give the Enquirer the right to open the prosecution’s evidence locker.” *Id.*, ¶ 22.

Second, the *Sage* Court did not find that “there is no ‘evidence’ exception in the Act,” as Relator suggests. Relator’s Brief, pp. 17, 22. Instead, in ruling that a call-back to a 9-1-1 caller was not investigatory and therefore not yet a law enforcement matter, the Court relied on the fact that 1) the 9-1-1 operator was a non-law-enforcement official, 2) who was not questioning the caller in anticipation of future litigation, 3) whose sole purpose was to protect the first responders and the victim, 4) who testified that she did not place the return call at the request of the prosecutor’s or sheriff’s office but as part of her routine duties, 5) who had never had any training in or been involved in criminal investigations, and 6) who affirmatively stated that she did not “initiate any type of criminal investigation” during the callback. *Sage*, 2015-Ohio-974, ¶ 18. None of these factors are true of the troopers in the case at bar.

Relator admits on page 20 of its Brief that the cruiser videos are “records which support the state’s decision to bring criminal charges,” e.g., *evidence* compiled to support prosecution, and thereby agrees that they are specific investigative work product and trial preparation records.

This Court, in *Steckman*, affirms this conclusion:

“... with regard to records assembled by law enforcement officials (including prosecutors), we now subscribe to Black's definition of "work product rule." "Under this rule any notes, working papers, memoranda or similar materials, prepared by attorneys [here, by law enforcement officials] in anticipation of litigation, are protected from discovery." Black's Law Dictionary (6 Ed.Rev.1990) 1606. This definition (working papers) is broad enough to bring under its umbrella any records compiled by law enforcement officials.”

State ex rel. Steckman v. Jackson, 70 Ohio St.3d 420, 434, 639 N.E.2d 83 (1994).

2. Relevant OSHP Policies Support The Finding That The Cruiser Videos Were “Investigative Work Product”

The activation and use of the OSHP cruiser video cameras by Troopers Harvey and Perrin was also consistent with, and indeed required by, the formal policies of Respondent. The parties have submitted relevant OSHP policies as Joint Exhibit B, paginated as Jt. Ex. B-1, B-2, etc. At Jt. Ex. B-2, Policy Number: OSP-103.22 AUDIO/VIDEO USE, STORAGE, RELEASE, AND DESTRUCTION provides, in pertinent part:

B. IN-CAR CAMERAS

1. Operational Use

a. **It is expected that officers operating patrol vehicles equipped with functioning recording equipment record traffic stops, pursuits, and other public contacts occurring within the operating range of the camera. Back-up officers arriving to assist should make a reasonable effort to position audio/video equipment to record events.** It is not expected that troopers record all crash investigations. Only evidence at the crash scene necessary for prosecution should be recorded.

b. **Officers may also record other events, situations, and circumstances, including, but not limited to, armed encounters, acts of physical violence, felonious activity, and any evidence at a crash or criminal investigation that would be beneficial to have recorded on video.**

c. In vehicles equipped with digital camera/DVR combinations, the DVR is programmed to automatically start recording, including a one-minute prerecord, whenever the emergency lights and/or siren are activated.

(emphasis added)

At Jt. Ex. B-20, Policy Number: OSP-200.06 PATROL CAR / MOTOR VEHICLE OPERATION BY SWORN OFFICERS A. STATEMENT OF POLICY provides, in pertinent part:

4. Use of In-Car Audio / Video Recording Equipment

a. When using patrol vehicles equipped with in-car video systems, **make every effort to document the traffic violation and/or criminal conduct through audio and visual recording.** In impaired driving violations, include driving / traffic violations committed by the driver and standardized field sobriety (SFST) testing.

b. **Record events surrounding the driver's actions, stop, and arrest of the suspect** without jeopardizing sound officer safety tactics.

c. A video recording should be used in addition to, and never in lieu of, required documentation of an incident.

(emphasis added)

Trooper Harvey activated her emergency lights and thus camera simultaneously because she already had probable cause to stop Aaron Teofilo's vehicle, but a trooper may also activate only the cruiser video, manually, during investigation of a suspected traffic offense, prior to activating lights to initiate a stop. OSP-200.06 provides at Jt. Ex. B-27-28:

F. RECORDING THE VIOLATION

1. **When an officer observes an indicator of possible traffic violation and/or criminal conduct, and has made the decision to start an investigation, the officer should manually activate the in-car video system.**

2. Once the in-car video system is activated, the officer may orally articulate any indicators that lead the officer to suspect a traffic violation and/or criminal conduct. Since the camera may miss certain actions, it is beneficial that the officer articulate both the reasonable suspicion to stop and the probable cause to arrest.

This assists the "untrained eye" during prosecution. This articulation may continue through the entire recording process.

...

(emphasis added)

In this case, Trooper Harvey immediately articulated in the video that she was pursuing a vehicle that lacked a rear license plate, and continuously updated the dispatcher and other officers of the additional offenses and actions she observed.

Activation of the cruiser video, whether automatically or manually, is expressly intended by OSHP policy and trooper practice to facilitate investigation and prosecution of traffic and other criminal offenses when reported or recognized as such. Troopers Harvey and Perrin followed the applicable policies in investigating traffic and other criminal violations, including the pursuit, stop, arrest, and other investigatory activities involved in this incident. An officer's observation of a traffic violation or erratic driving justifies an investigative stop. *State v. Bolden*, 12th Dist. Preble No. CA2003-03-007, 2004-Ohio-184, ¶¶ 12-14. The entire purpose of the stop is to develop and document facts related to already suspected criminal activity. *State v. Mays*, 119 Ohio St.3d 406, 2008-Ohio-4539, ¶ 14. The evidence obtained and recorded by Troopers Harvey and Perrin, consisting of their pursuit and on-scene investigative actions, was "investigative work product" because it was entirely obtained after the point at which the individual was suspected of specific offenses, and while an investigation into those offenses was being conducted.

Thus, by policy, practice, and the express testimony of the troopers involved in this incident, the cruiser video at issue here was created to document their investigation of multiple law enforcement matters, with the intent of using the video records in the prosecution of the observed offenses. There is simply no doubt that the video record of the suspect's activities, and

the troopers' investigative activities, were "investigative work product" as defined by this Court in the context of R.C. 149.43(A)(1)(h) and (2)(c).

3. The Historical Bases For This Court's Definition of "Investigative Work Product" Apply To An Officer Capturing Evidence For Use In Criminal Proceedings

The *Steckman* Court deliberately applied the term "work product" as used in the attorney-client context to law enforcement investigative "work product":

The term "work product" emanates from the decision of the United States Supreme Court in *Hickman v. Taylor* (1947), 329 U.S. 495, 67 S.Ct. 385, 91 L.Ed. 451. The term has, most generally, arisen in the context of the relationship of attorney-client. The court indicated that proper preparation of a client's case requires that information be gathered, assembled and sorted and that theories of the case be prepared and strategy be planned "without undue and needless interference." *Id.* at 511, 67 S.Ct. at 393, 91 L.Ed. at 462.

State ex rel. Steckman v. Jackson, 70 Ohio St.3d 420, 434, 639 N.E.2d 83 (1994).

Leading up to and during criminal proceedings, the detective, attorney, or other law enforcement investigator should not have to interrupt demanding and often time-sensitive preparation to undertake public records analysis and production. Whether investigative records are demanded by those potentially involved in the investigation, or by those with a commercial interest, or by the merely curious, protection from undue interference is fundamental to the orderly operation of a law enforcement investigation.

As a fallback position to its demand for immediate release of unredacted cruiser video from law enforcement, Relator advocates an even greater intrusion into the investigatory process – redaction of such video. At page 21 of its Brief, Relator posits that, "even if the videos could be considered 'investigatory' records, and some portions of the video constituted 'work product,' OSHP was obligated to redact those exempt portions of the video and produce the rest. R.C. 149.43(B)(1)." With rare exceptions, that is not the way the investigatory work product exemption is applied. Even where some items in an investigative file did not meet the definition,

this Court in *Leis* did not order or even refer to redaction (obscuring a portion of a record) of the evidentiary work product, and instead only ordered the prosecutor's office to release specific, entire documents. *State ex rel. WLWT-TV5 v. Leis*, 77 Ohio St.3d 357, 360; 673 N.E.2d 1365 (1997). This is a typical application of the investigative work product exemption, which covers all *records assembled or compiled* for the investigation. In referencing redaction, Relator may be confusing certain other more limited CLEIRs exemptions, such as information having a high probability of revealing the identities of uncharged suspects, R.C. 149.43(A)(2)(a), or confidential information sources, R.C. 149.43(A)(2)(b), which do permit withholding only specific identifying information from within a given document. See, e.g., *State ex rei. Rocker v. Guernsey County Sheriff's Office*, 126 Ohio St.3d 224, 2010-Ohio-3288, 932 N.E.2d 327, ¶ 11-15. The fact that these cruiser videos recorded images of trees, non-involved vehicles, an empty cruiser seat, the sky, and other items not central to the prosecution of the offenses does not mean that the OSHP must produce redacted video for Relator.

In the interest of public notice of the existence and nature of law enforcement investigations, the immediate access the public has to the initiating or initial logging documents (initial incident/offense reports and any 9-1-1 records), as well as eventual public access to investigative work product at the conclusion of the legal proceedings, balances the protection of work product from interference during the legal proceeding, with appropriate public access. The 9-1-1 recording, and the initial incident report, were promptly released to Relator in the case at bar. Relator's Brief, p. 6.

Relator insinuates that the temporary withholding of video records from a high-speed OSHP vehicle pursuit undercuts "robust public debate about the relationship of law enforcement and the community" in connection with "[r]ecent events throughout the country." Relator's

Brief, p. 2, and p.16, fn. 10. However in both this case, and in the *State ex rel. Miller v Ohio State Highway Patrol* case, and in *State ex rel. Enquirer v. Deter*, Case No. 2015-1222, Relator and other public records requesters received video records of law enforcement investigations either shortly after, or even before the conclusion of criminal proceedings.

Relator notes that “the OSHP regularly posts dash-cam videos on its web site, www.statepatrol.ohio.gov,” Relator’s Brief, p. 19, incorrectly implying that all OSHP dash-cam videos are posted on line. In reality, Respondent has posted selected samples of demonstrative and educational videos once they are no longer subject to public records exemption. Relator’s attempt to characterize this practice of the OSHP as waiving the investigatory work product exemption for all cruiser video is entirely unsupported.

C. Cruiser videotape is not an “offense and incident report.”

Relator correctly notes that, “specific investigatory work product” does not include “ongoing routine offense and incident reports.” *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 639 N.E.2d 83, paragraph five of the syllabus, but incorrectly asserts that these cruiser dashcam videos are “functionally identical” to an incident report. Relator’s Brief, pp. 2, 26. Relator does not support this assertion with evidence or precedent, and in fact the dashcam video recordings in this case fail to meet every single part of this Court’s definition of a “routine offense and incident report.”

In *Steckman*, the Court defined initial “routine offense and incident reports” as those reports which chronicle factual events “reported to” the law enforcement agency. It noted that the seminal, and now overruled, case of *State ex rel. Beacon Journal v. Univ. of Akron*, 64 Ohio St.2d 392, 415 N.E.2d 310 (1993), had initially held that:

[W]hile this court held the records in question should be released, we described those records by saying that “the materials sought by Beacon Journal can only be characterized as routine factual reports. The university’s police were simply

fulfilling the duty imposed upon all law enforcement agencies to generate ongoing *offense reports, chronicling factual events reported to them.*” (Footnotes omitted.) *Id.*, 64 Ohio St.2d at 397, 18 O.O.3d at 537-538, 415 N.E.2d at 314. In the last paragraph of the opinion, we said: “For the foregoing reasons, we conclude that the allowance of access to *these routine incident reports* by the Court of Appeals was proper, and its judgment is hereby affirmed.” (Emphasis added.) *Id.* at 398, 18 O.O.3d at 538, 415 N.E.2d at 315.

Steckman, 70 Ohio St.3d at 430-31 (italics original). This Court reaffirmed in *State ex rel. Rasul-Bey v. Onunwor*, 94 Ohio St.3d 119, 120, 760 N.E.2d 42 (2002), that, “offense and incident reports *initiate* criminal investigations *but are not part of* the investigation, and they are not exempt from disclosure under R.C. 149.43.” (Emphasis added.). Thus, an initial incident report does not meet the first prong of the CLEIRs test when it initiates and precedes the existence of a particular “law enforcement matter.”

Finally, this Court has expressly limited the definition of offense and incident reports by their format:

Offense-and-incident reports are *form reports* in which the law enforcement officer completing the form enters information in the spaces provided. See, e.g., *State ex rel. Beacon Journal Publishing Co. v. Maurer*, 91 Ohio St.3d 54, 741 N.E.2d 511 (2001) (referring to the “Ohio Uniform Incident Form”). (Emphasis added.)

State ex rel. Lanham v. Smith, 112 Ohio St.3d 527, 2007-Ohio-609, 861 N.E.2d 530, ¶ 13. The Court thus limits the meaning of “routine offense and incident reports” to those primarily factual form reports, containing information reported to the agency, that initiate criminal investigations. This definition does not include post-initiation records, and does not include video recordings documenting an investigating officer’s real-time investigative activities.

In applying these characteristics to this case, the dashcam video recordings of the suspect’s driving behavior, stop, and arrest did not initiate this traffic investigation. The dashcam video recording does not contain facts “reported to” Trooper Harvey. The videotape

capture of evidence and investigative activity began only when she had identified a vehicle that was violating the law and continued as she relayed her investigative findings throughout the pursuit. The video is obviously not a “form,” but only a medium of recording a criminal investigation that clearly reflects a post-initiation investigation of the already-suspected offenses. Relator omits from its analysis that there was an initial incident/offense report of this incident, and that Respondents promptly turned over both that incident report, and the 9-1-1 tape.

In an attempt to make the tail wag the dog, Relator argues that any record created, assembled, seized, or otherwise made part of an investigation before an incident or offense report is written, is *ipso facto* not investigatory work product. Relator’s Brief, pp. 16-18 (“They were created before Trooper Harvey wrote her incident report, and are therefore non-investigatory records as a matter of law.”). Relator’s argument presumes a rigid linear succession of events in every law enforcement matter: first, a 9-1-1 call; followed by the dispatcher or responding officer filling out an incident/offense report form; followed by the assignment of a detective or other “investigator” to the matter, and only then the commencement of “the investigation.” However, law enforcement investigations are frequently fast-moving and non-linear. The sequence of events in this case was: first, a 9-1-1 call that “initiated” the investigation of a missing license plate and erratic driving; followed by the officer-initiated investigation of fleeing a signal to stop, weapons violations, and other felonies; followed at a later time by the penning of the incident report. This Court’s requirement that incident/offense reports be made available to the public without redaction of CLEIRs information serves the laudable purpose of preventing an agency from hiding the very existence of a law enforcement matter, but it is simply not true that a routine incident/offense report always temporally precedes genuine investigatory activity. Any consideration of the spectrum of criminal investigations of crime: homicide, kidnapping, rape,

arson, and a hundred others – in many of which an incident or offense report might not be written until hours or days after an initial flurry of exigent searches, crime scene preservation, hostage negotiation, and other investigative activities pertaining to the law enforcement matter – shows how absurd it would be to force the immediate release of all such records just because those parts of the investigation took place before a formal incident/offense report could be penned.

In *State ex rel. Beacon Journal v. Maurer*, 91 Ohio St.3d 54, 57 741 N.E.2d 511 (2001), this Court ruled that where an investigator expressly “incorporated” typed narrative statements into the initial incident report by attaching them to the report form, they became part of the incident report, and thus a public record. This Court did *not* find in *Maurer* that the narrative statements were “not investigatory,” and, as the dissent in *Maurer* notes, officers often generate an incident report only after some initial investigation, and the substance of many incident reports is a product of an officer’s investigatory work. *Id.*, 516. From *Steckman* forward, the Court has simply defined an “incident/offense report” out of the scope of “investigative work product,” regardless of the actual nature of its contents. The exclusion of all initial incident/offense reports from the definition of investigative work product is thus an established, but in fact oversimplified bright line rule, and as applied in *Maurer* the Court simply and narrowly held that because a deputy expressly “incorporated the typed narrative statements” into a report labeled “Incident Report,” *Maurer*, 91 Ohio St.3d at 57, they were conclusively presumed to be within the bright line that the Court had established for those primarily factual form reports that (sometimes) initiate investigations, and thus not entitled even to analysis under the confidential law enforcement investigatory work product exemption.

Contrary to Relator's novel argument, this Court has never ruled in *Maurer* or elsewhere that all investigative material that is in existence prior to the writing of an initial incident report is automatically public record. The video recordings in this case were not attached to or expressly incorporated into the initial incident report, and *Maurer* therefore has no application here.

D. These Cruiser Video Recordings Are Not Analogous to 9-1-1 Recordings

This Court has also noted that “[r]ecords ‘even further removed from the initiation of the criminal investigation than the form reports themselves,’ such as 9-1-1 recordings, are also public records.” *Maurer*, 91 Ohio St.3d at 57. This Court’s leading case analyzing the investigation status of 9-1-1 tapes reveals a useful set of factors for distinguishing investigative records from pre-investigative records. In *State ex rel. Cincinnati Enquirer v. Hamilton Co.*, 75 Ohio St.3d 374, 662 N.E.2d 334 (1996), the Court applied the following factors to determine whether a 9-1-1 audiotape was investigative work product of a law enforcement matter, or merely outside input that could trigger a subsequent investigation:

Basic 911 systems, including the ones used by HCCC and CPCC, are systems "in which a caller provides information on the nature of and location of an emergency, and the personnel receiving the call must determine the appropriate emergency service provider to respond at that location." *R.C. 4931.40(B)*. For example, HCCC automatically records 911 calls, *which do not include the personal opinions of its employees. HCCC employees do not act under the direction of the county prosecutor or law enforcement officials* when receiving and responding to 911 calls. HCCC employees are not employees of any law enforcement agency and are *not trained in criminal investigation*. The HCCC 911 operators simply compile information and do not investigate. The 911 tapes are not made in order to preserve evidence for criminal prosecution. [911] calls that are received by HCCC are always initiated by the callers. According to CPCC Senior Police Sergeant Schrand, *a 911 call involving criminal conduct is essentially a citizen's initial report of the criminal incident*, which could typically trigger a police investigation.

From the foregoing, it is evident that 911 tapes are not prepared by attorneys or other law enforcement officials. Instead, 911 calls are routinely recorded without any specific investigatory purpose in mind.

Id., at 377-378.

In the present case, unlike a 9-1-1 call to a dispatch center, Troopers Harvey and Perrin's videos were specifically initiated and compiled to preserve evidence of unlawful driving behavior, and the pursuit, stop, and questioning for an investigation that took place after the initiating 9-1-1 call. The fact that video is a recording does not mean it is comparable to 9-1-1 call audio; the video is simply a modern medium of collecting evidence that in the pre-video age would have been documented on paper. Applying the factors in *Hamilton*, the dashcam video from the Teofilo pursuit, stop, and arrest:

1. Is not a citizen's initial complaint of an incident, but it instead documents a criminal investigation already established by the dispatched call to the trooper, and her immediate independent suspicion of multiple offenses.
2. Video taping here was not initiated by a citizen or other third party, but was activated by an investigating law enforcement officer acting under the supervision of other law enforcement officials.
3. Documents the investigation by a troopers trained in traffic enforcement (Respondents' Exhibits A and B).
4. Documents Trooper Harvey's investigation of the suspected offender that she pursued, rather than her passive receipt of information.

The dashcam videos in this case present the exact opposite of every one of the factors from *Hamilton*, and were not the equivalent of a 9-1-1 recording. In this case, the Ohio State Highway Patrol provided Relator with both the 9-1-1 tape and the initial incident report, as required, and properly withheld the video recording until the conclusion of the underlying criminal case.¹

¹ “[O]nce applicable, the records continue to be exempt work product until all proceedings are fully completed.” *State ex rel. WLWT-TV5 v. Leis*, 77 Ohio St.3d 357, 360, 673 N.E.2d 1365 (1997), citing *State ex rel. Steckman v. Jackson*, 70 Ohio St. 3d 420, 437, 639 N.E.2d 83 (1994).

E. Trial Preparation exemption

The OSHP did not include “trial preparation records” in its response to Relator’s public records request to justify withholding the video recordings created here to prepare for criminal trial, although, as Relator notes, the exemption can be asserted later in litigation. Relator’s Brief, p. 10. In fact, the trial preparation exemption for a criminal investigation is effectively subsumed in the assertion of the CLIERs exemption, as is obvious from any reading of *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 432, 639 N.E.2d 83 (1994).

To the extent that Relator adds the trial preparation exemption as an applicable exemption to this law enforcement matter, Respondents agree that where the CLEIRs exemption applies to the records, criminal “trial preparation” also applies, by Respondent’s policy and practice. *Supra*.

IV. RELATOR IS NOT ENTITLED TO ATTORNEY FEES OR STATUTORY DAMAGES

A. Attorney Fees

R.C. 149.43(C)(2)(b) provides that,

If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney’s fees subject to reduction as described in division (C)(2)(c) of this section.

This Court recently clarified the conditional availability of attorney fees in mandamus actions under R.C. 149.43(C)(2)(b):

R.C. 149.43(C)(2)(b) conditions any award of attorney fees on the court’s having “render[ed] a judgment that orders the public office or the person responsible for the public record to comply with” the public-records law. Because the judgment entered by the court of appeals disposed of the case on grounds of mootness, the plain language of the statute prohibits an award of attorney fees.

State ex rel. DiFranco v. S. Euclid, 138 Ohio St.3d 367, 2014-Ohio-538, 7 N.E.3d 1136, ¶ 4.

The underlying demand for a writ to produce records in this case is moot. Thus, even were a past violation found (as it was in *DiFranco*) the plain language of the statute prohibits an award of attorney fees. Relator's citation to pre-*DiFranco* cases is inapposite. As noted by the dissent in *DiFranco*, at ¶ 41, fn. 4, the Supreme Court's allusion in *State ex rel. Laborers Internatl. Union of N. Am., Local Union No. 500 v. Summerville*, 122 Ohio St.3d 1234, 2009-Ohio-4090, 913 N.E.2d 452, to availability of attorney fees despite mootness, was mere *dicta*. However, attorney fees would not be appropriate in the first instance because Respondents followed the law and did not violate the Public Records Act.

Even if some part of this action were found to be a violation, attorney fees would still not be appropriate because, (a) all but one of the requested records were produced prior to litigation, (b) Respondents' actions were reasonable, and (c) any initial award would be subject to reduction or elimination because Respondents reasonably believed that their actions did not violate the letter or spirit of the law.

1. Relators' Sole Claim Is Meritless, and All or the Vast Majority of Records From Their Several Related Requests Were Provided

If the writ is denied, Relators are not eligible for attorney fees by the express language of the statute. R.C. 149.43(C)(2)(b); *State ex rel. Patton v. Rhodes*, 129 Ohio St.3d 182, 2011-Ohio-3093, 950 N.E.2d 965, ¶ 21. If some violation is found in a public records case with multiple claims or concerning multiple records, a court evaluates otherwise permissible attorney fees relating only to claims on which an order to comply was issued. *State ex rel. Dillery v. Icsman*, 92 Ohio St.3d 312, 317, 2001-Ohio-193, 750 N.E.2d 156 ("Dillery is entitled to fees only insofar as her requests had merit."); *State ex rel. Ohio Patrolmen's Benevolent Assn. v. Mentor*, 89 Ohio St.3d 440, 448, 2000-Ohio-214; 732 N.E.2d 969, 977 ("Relators are not entitled to attorney fees concerning those [public records] claims that were meritless.").

An award of attorney fees is not mandatory. *State ex rel. Doe. v. Smith*, 123 Ohio St.3d 44, 2009-Ohio-4149, 914 N.E.2d 159, ¶¶ 18-36. In cases where a public office has provided all or the majority of records sought prior to the filing of a mandamus claim, and/or where the claims actually filed were largely without merit, an award of attorney fees is generally not justified. See *State ex rel. ESPN, Inc. v. Ohio State University*, 132 Ohio St.3d 212, 2012-Ohio-2690, 970 N.E.2d 939, ¶ 39 (“Ohio State complied with the vast majority of its obligations . . . and ESPN’s claims are largely without merit”); *State ex rel. Mahajan v. State Med. Bd. of Ohio*, 127 Ohio St.3d 497, 2010-Ohio-5995, 940 N.E.2d 1280, ¶ 60; *State ex rel. O’Shea & Assoc. Co. v. Cuyahoga Metro. Hous. Auth.*, 131 Ohio St.3d 149, 158, 2012-Ohio-115, 962 N.E.2d 297, ¶ 45; *State ex rel. Taxpayers Coalition v. Lakewood*, 86 Ohio St.3d 385, 392, 715 N.E.2d 179 (1999) (“The vast majority of these records was made available to relators before the institution of this action”); *State ex rel. Logan Daily News v. Jones*, 78 Ohio St.3d 322, 324, 677 N.E.2d 1195, (1997 (relator was not entitled to attorney fees because his action was largely meritless)). Here, Respondents timely provided most of the requested records prior to the institution of this action.

Relators complain that Respondents did not cite to the CLEIRs exemption, R.C. 149.43(A)(1)(h) and (A)(2) in its first response to one Relator, but that omission was promptly rectified in the next e-mail. The requirement of an explanation is not time sensitive, and as Relators note can be supplemented at any time. There was thus no violation in this case of the requirement that Respondents “provide the requester with an explanation, including legal authority setting forth why the request was denied.” R.C. 149.43(B)(3).

2. Respondents' Actions Were Reasonable, and Any Failure to Comply was not for Lack of Effort and Accommodation

In construing a demand for attorney fees under the Public Records Act, courts consider the reasonableness of the government's actions, even where there was some failure to comply. *State ex rel. Cincinnati Enquirer v. Ronan*, 127 Ohio St.3d 236, 2010-Ohio-5680, 938 N.E.2d 347, ¶ 17; *State ex rel. Doe v. Smith*, 123 Ohio St.3d 44, 2009-Ohio-4149, 914 N.E.2d 159, ¶ 32-34. Relator cannot rebut the overall reasonable course of action taken by Respondents. Although Respondents believe that the application of the confidential law enforcement investigatory records exemption to the cruiser video in this matter is plainly appropriate, Respondents' belief that these records qualify as exempt records is at worst based on "a rational stance concerning an unsettled legal issue." *State ex rel. Toledo Blade v. Seneca Cty. Bd. of Commrs*, 120 Ohio St.3d 372, 2008-Ohio-6253, 899 N.E.2d 961, ¶¶ 49-50; *State ex rel. Cincinnati Enquirer v. Jones-Kelley*, 118 Ohio St.3d 81, 2008-Ohio-1770, 886 N.E.2d 206, ¶ 48. In light of Respondent's reasonable actions under the facts and circumstances of this case, no initial award of attorney fees would be justified.

3. Statutory Criteria for Reducing Or Eliminating Any Award of Attorney Fees or Statutory Damages Would Apply In The Event Any Initial Award Were Made

Further analysis of attorney fees is not required at this point, but Respondent would have the right to support reduction or elimination of any award pursuant to R.C. 149.43 (C)(2)(c) in the event of any initial tentative award of attorney fees or statutory damages.

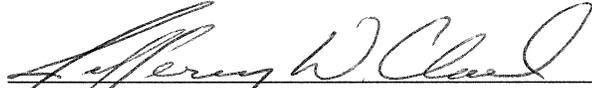
V. CONCLUSION

The video recordings before the Court constitute information created during the course of an investigative pursuit and stop, based from the outset on reasonable suspicion and/or probable cause of one or more criminal offenses. The video recording was intended for use to document

until the investigation and prosecution had concluded, at which time they promptly provided the video recording to Relator. The writ of mandamus should therefore be denied.

Respectfully submitted,

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Ohio Department of Public Safety and John Born

CERTIFICATE OF SERVICE

A true and accurate copy of Respondents' Brief was served upon Relator by sending regular United States mail postage prepaid on February 18, 2016 to:

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JEFFERY W. CLARK (0017319)
Assistant Attorney General

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel.
CINCINNATI ENQUIRER,

Relator,

v.

OHIO DEPARTMENT OF PUBLIC
SAFETY, et al.

Respondent.

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: Case No. 2015-0390
:
: **Original Action in Mandamus**
:
:
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:
:

APPENDIX TO MERIT BRIEF OF RESPONDENTS OHIO DEPARTMENT OF
PUBLIC SAFETY AND JOHN BORN, DIRECTOR

Exhibit A	Affidavit of Laura Harvey	A-1
Exhibit B	Affidavit of Cristian Perrin	A-3
Exhibit C	Report of Investigation	A-5

EXHIBIT A

the vehicle and activating my vehicle's emergency lights, which automatically activated the dashboard-mounted video camera.

5. Despite the activation of my light bar, the driver of the vehicle did not pull over, which I recognized as probable cause that the driver was in violation of R.C. 2921.331(B), *Failure to comply with signal of police officer*, which was a violation that continued for the duration of the ensuing pursuit. I activated my siren and continued to pursue the vehicle. I broadcasted by radio my initiation of pursuit, and Trooper Cristian Perrin who was located nearby joined me in the pursuit. During the pursuit, I observed the vehicle commit marked lane violations, change lanes with no turn signal, and cut Trooper Perrin's vehicle off near mile post 16, which I recognized as probable cause of violations of R.C. Sections 4511.33, 4511.39, and 4511.20. At times during the pursuit the suspect vehicle accelerated to speeds in excess of 90-120 MPH, which I recognized as probable cause of violation of R.C. 4511.21, *Speed limits*. At the conclusion of the pursuit, the vehicle crashed in the left lane of the highway. I pulled in behind the crashed vehicle. My lights and camera remained activated, recording the vehicle and documenting the apprehension, search, and questioning of the driver for various offenses, and the securing of the vehicle.
6. The video record of the pursuit, stop, and apprehension of the suspect and vehicle was created and maintained to capture evidence documenting that the driver of the vehicle I was pursuing had committed and continued to commit violations of criminal law. The video record was further created to document my investigation of observed actions and omissions that were in apparent violation of criminal law. The video record was further created in anticipation of use by the appropriate prosecuting attorney in criminal litigation.
7. Subsequently, I contributed my narrative notes to the Report of Investigation for Incident No. 15 052001 0883, that documented my observations and conclusions in this matter in detail. A true and accurate copy of the Report of Investigation is attached and marked as Respondents' Exhibit C.

And further Affiant sayeth naught.

TPR 

Trooper Laura Harvey

Sworn to before me and subscribed in my presence this 18th day of January, 2016.


Notary public (seal)
AMY MCCLEESE
Notary Public, State of Ohio
My Commission Expires
December 21, 2019
Recorded in Warren County

EXHIBIT B

**IN THE
SUPREME COURT OF OHIO**

STATE ex rel. CINCINNATI ENQUIRER,	:	
	:	Case No. 2015-0390
Relator,	:	
	:	
v.	:	
	:	
OHIO DEPARTMENT OF PUBLIC SAFETY, et. al,	:	
	:	
Respondents.	:	

AFFIDAVIT OF CRISTIAN PERRIN

State of Ohio:
County of Warren: ss:

I, Cristian Perrin, of the Ohio Department of Public Safety, having been first duly cautioned and sworn, and being under no disability that would prevent me from testifying herein, state from my own knowledge:

1. At all times relevant to this matter, I have been employed as a Trooper in the Ohio State Highway Patrol, a division of the Ohio Department of Public Safety.
2. I have completed all training required by the Patrol, including training in policies governing traffic enforcement, vehicle pursuit, and dashboard camera use.
3. On January 22, 2015 at approximately 0827 hours, I was on patrol on Interstate 275 near Interstate 75. I overheard on the radio that Trooper Harvey, Unit 1006, was attempting to get a vehicle to stop. While listening to her radio traffic it became apparent that the vehicle was not stopping. I determined I was in a position to intercept the pursuit near I-275 eastbound to I-71 southbound. I sat stationary in the gore with my overhead lights activated, which automatically activated the dashboard-mounted video camera, and could observe the pursuit heading southbound to my location. The pursuit came up on my left side and I joined at that time.
4. During the pursuit, I observed the vehicle commit marked lane violations, change lanes with no turn signal, and cut my vehicle off near mile post 16, which I recognized as probable cause of violations of R.C. Sections 4511.33, 4511.39, and 4511.20. At times during the pursuit the suspect vehicle accelerated to speeds in excess of 90-120 MPH, which I recognized as probable cause of violation of R.C.

4511.21, *Speed limits*. At the conclusion of the pursuit, the vehicle crashed in the left lane of the highway.

5. The video record of the pursuit, stop, and apprehension of the suspect and vehicle was created and maintained to capture evidence documenting that the driver of the vehicle I assisted in pursuing had committed and continued to commit violations of criminal law. The video record was further created to document the investigation of observed actions and omissions that were in apparent violation of criminal law. The video record was further created in anticipation of use by the appropriate prosecuting attorney in criminal litigation.
6. Subsequently, I contributed my narrative notes to the Report of Investigation for Incident No. 15 052001 0883, that documented my observations, actions, and conclusions in this matter in detail.

And further Affiant sayeth naught.


Trooper Cristian Perrin

Sworn to before me and subscribed in my presence this 18th day of January, 2016.


Notary public
(seal) AMY MCCLEESE
Notary Public, State of Ohio
My Commission Expires
December 21, 2019
Recorded in Warren County

EXHIBIT C



Ohio State Highway Patrol
REPORT OF INVESTIGATION
Suspect / Arrest Report

INCIDENT NUMBER 15 052001 0883
REPORT DATE/TIME 1/22/2015 08 27

TOTAL SUSPECTS: 1

NAME / DESCRIPTIVES	No. 1	<input checked="" type="checkbox"/> Adult <input type="checkbox"/> Juvenile <input type="checkbox"/> Unknown <input type="checkbox"/> Business	CHECK APPROPRIATE CATEGORY 3	<input type="checkbox"/> Suspect <input type="checkbox"/> Arrestee <input checked="" type="checkbox"/> Suspect/Arrestee <input type="checkbox"/> Runaway <input type="checkbox"/> Missing <input type="checkbox"/> Other	CHARGES FILED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
	NAME: (Last, First, Middle): Teofilo, Aaron, D			SSN#:				
	ALIASES:			GANG AFFILIATION:				
	ADDRESS: 2112 North Gimon Circle Mobile, AL - 36601			PHONE #: (330) 541-6316				
	EMPLOYER NAME & ADDRESS: , OH			PHONE #:				
	PLACE OF BIRTH		DRIVER'S LICENSE # & STATE	STATE EMPLOYEE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	OCCUPATION/SCHOOL None			
	AGE / DOB 19 12/29/1995	GENDER M	RACE Black, Non-Hispanic Origin	HEIGHT 5ft 5in	WEIGHT 120	HAIR Black	EYES Brown	MARITAL STATUS Single
	ADDITIONAL DESCRIPTION:			RESIDENT CODE <input checked="" type="checkbox"/> RESIDENT <input type="checkbox"/> TOURIST <input type="checkbox"/> MILITARY <input type="checkbox"/> STUDENT <input type="checkbox"/> OTHER <input type="checkbox"/> UNKNOWN <input type="checkbox"/> NOT REPORTED				
	SCARS, MARKS, TATTOOS: 1) 2) 3) 4) 5)			POTENTIAL INJURIES: Lacerations to face from crash				
	TYPE WEAPON FORCE USED							
SUSPECT USED: 99								
99 NONE	13B OTHER FULLY AUTOMATIC WEAPON	16 IMITATION FIREARM	50 POISON					
11 FIREARM	14 SHOTGUN	17 SIMULATED FIREARM	60 EXPLOSIVES					
12 HANDGUN	15 OTHER FIREARM	18 BB / PELLET GUN	65 FIRE / INCENDIARY DEVICE					
12A AUTOMATIC HANDGUN	15A SEMI-AUTOMATIC SPORTING RIFLE	20 KNIFE / CUTTING INSTRUM.	70 DRUGS/NARC/SLEEP PILLS					
13 RIFLE	15B SEMI-AUTOMATIC ASSAULT FIREARM	30 BLUNT OBJECT	80 OTHER WEAPON					
13A FULLY AUTOMATIC RIFLE	15C MACHINE PISTOL	35 MOTOR VEHICLE	85 ASPHYXIATION					
		40 PERSONAL WEAPON	U UNKNOWN					

NAME	ADDRESS (Street, Apt, City, State, Zip)	PHONE	RELATION

ARREST / OFFENSE DESCRIPTION	ARREST / OFFENSE CODE	COUNT	F/M & DEGREE	DISPOSITION	LARCENY	ARREST LARCENY TYPE
Failure to Comply with Order or Signal of P.O.	2921.331	1	F-3			23A POCKET PICK NG 23B PURSE SNATCHING 23C SHOP LFT NG
Carrying Concealed Weapons	2923.12	1	F-4			23D THEFT FROM BUILD NG 23E THEFT FROM CO-NOP MACH NE 23F THEFT FROM MOTOR VEHICLE
Receiving Stolen Property	2913.51	1	F-5			23G MOTOR VEH. PARTS/ACCESSORIES 240 THEFT OF MOTOR VEHICLE 23H OTHER
Possessing a Defaced Firearm	2923.201	1	M-1			

WARRANT NUMBER	WARRANT DESCRIPTION	WARRANT NUMBER	WARRANT DESCRIPTION
1.		2.	
3.		4.	

ARREST DATE: 1/22/2015 TIME: 08 51 ARREST LOCATION (Street, Apt., City, State, Zip): SB I-74 Interstate Route (Turnpike is also IR) MP23 CITATION NUMBER: OHP831006012220151447

ARRESTEE ARMED WITH: 1. None 2. 3. ARREST DISPOSITION: Stated / Incarcerated BAL:

FINGER PRINTED: YES NO THUMB PRINTED: YES NO DNA TAKEN: Yes, DNA taken by other agency ITN NUMBER: FB /BCI #: 319076KD5

MULTIPLE ARRESTEE SEGMENTS INDICATOR COUNT ARRESTEE MULTIPLE ARRESTEE INDICATOR N/A ARREST TYPE: Complaint Crime In Progress Warrant Court Summons/Citation Order Of Protection Other

COURT: Mason Municipal Court COURT DATE: 1/29/2015

JAIL SENTENCE YEARS: 0.00 DAYS: 0.00

JUVENILE'S PARENT / GUARDIAN NOTIFIED: YES NO DATE/TIME NOTIFIED: NOTIFIED By: JUVENILE DISPOSITION:

PARENT / GUARDIAN NAME & ADDRESS: PHONE: RELATIONSHIP:

PARENT / GUARDIAN NAME & ADDRESS: PHONE: RELATIONSHIP:

DATE OF LAST CONTACT: DATE OF EMANCIPATION: NCIC:

LAST SEEN WEARING:

REPORTING OFFICER: Tpr. Harvey, Laura M	UNIT NUMBER: 1006	DATE: 1/22/2015
APPROVING OFFICER: Lt. Hamilton, Matthew J	UNIT NUMBER: 1714	DATE: 1/25/2015

State of Ohio
 HP-24/VEH
 10-0157-50
 Rev. 08/01/2003



Ohio State Highway Patrol
 REPORT OF INVESTIGATION
 Vehicle Report

INCIDENT NUMBER 15 052001 0883
REPORT DATE/TIME 1/22/2015 08 27

VEHICLE INFORMATION							
CHECK CATEGORIES <input checked="" type="checkbox"/> Abandoned <input type="checkbox"/> Impounded <input type="checkbox"/> Stolen <input type="checkbox"/> Received <input checked="" type="checkbox"/> Recovered <input type="checkbox"/> Used in A Commission of a Crime <input type="checkbox"/> N/A							
LICENSE Z581064	LIC STATE OH	VEHICLE IDENTIFICATION NUMBER / OAN 3FAFP07176R227964		NCIC NO.	STOLEN OPTION Recovery and Charges	IS VEHICLE LOCATED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	VEHICLE NO. 1
VALUE 6000.00	VEH YR. 2006	MAKE Ford	MODEL Fusion	STYLE 4Door	VEHICLE COLOR TOP Burgundy (Purple) BOTTOM Burgundy (Purple)	TRACK TYPE	
OWNER NAME & ADDRESS (Street, City, State, Zip) Brian R. Kell & 739 Akron Blvd., Kent, OH - 44240						PHONE (330) 281-0240	
VEH. ASSOC. W/ SUSPECT #	VEH. ASSOC. W/ VICT M # 2	TOWED BY: John's Towing			OWNER VERIFIED BY: Tag Receipt		
ADDITIONAL DESCRIPTION						DATE TIME NOTIFIED	

REPORTING OFFICER: Tpr. Harvey, Laura M	UNIT NUMBER: 1006	DATE: 1/22/2015
APPROVING OFFICER: Lt. Hamilton, Matthew J	UNIT NUMBER: 1714	DATE: 1/25/2015



Ohio State Highway Patrol
REPORT OF INVESTIGATION
Property Report

INCIDENT NUMBER 15 052001 0883
REPORT DATE/TIME 1/22/2015 08 27

TYPE PROPERTY LOSS (ENTER CODES BELOW)										1 NONE	3. COUNTERFEITED / FORGED	5. STOLEN / ETC	7. RECOVERED	E EV DENCE	P PHOTO	U UNKNOWN	
										2 BURNED	4. DESTROYED / DAMAGED / VANDALIZED	6. SEIZED	D DAMAGED	F FOUND	L LOST		
PROPERTY NO:1	PROPERTY CODE 44	LOSS CODE E	QUANTITY 1.00	PROPERTY VALUE	VICT M NO.:	SUSPECT NO.:	VEHICLE NO.:	VEH LIC STATE :	VEHICLE YEAR :								
PROPERTY DESCRIPTION .38 Revolver (Rohm GMBH Sonthe IM/BRZ)							FOUND LOCATION Front passenger side floorboard of vehicle										
MAKE / BRAND Rohm			MODEL .38 Revolver		SERIAL FILED OFF		N.C.I.C. #										
FIREARM		CALIBER .38	TYPE Pistol - Revolver		BARREL LENGTH 3		FINISH Black		N.C.I.C. ENTRY #								
NARCOTICS		DRUG TYPE		UNIT OF MEASURE	DRUG CODE		PILL TYPE		P LL SHAPE	P LL COLOR1	PILL COLOR2						
		PILL MARK NG 1				PILL MARKING 2											
OWNER NAME & ADDRESS Aaron D Teofilo / 2112 North Gimon Circle, Mobile, AL, 36605							OWNER PHONE (330) 541-6316										
EVIDENCE CODE		EY DENCE DATE/ TIME 1/22/2015 10 00		EVIDENCE COLLECTED BY (1462) Tpr. Griffith, Joseph R			EVIDENCE FINAL DISPOSITION		OTHER EVIDENCE								
PROPERTY NO:2	PROPERTY CODE 64	LOSS CODE E	QUANTITY	PROPERTY VALUE	VICT M NO.:	SUSPECT NO.:	VEHICLE NO.:	VEH LIC STATE :	VEHICLE YEAR :								
PROPERTY DESCRIPTION 6 .38 caliber rounds							FOUND LOCATION Inside the cylinder of property #1										
MAKE / BRAND			MODEL		SERIAL		N.C.I.C. #										
FIREARM		CALIBER	TYPE		BARREL LENGTH		FINISH		N.C.I.C. ENTRY #								
NARCOTICS		DRUG TYPE		UNIT OF MEASURE	DRUG CODE		PILL TYPE		P LL SHAPE	P LL COLOR1	PILL COLOR2						
		PILL MARK NG 1				PILL MARKING 2											
OWNER NAME & ADDRESS Aaron D Teofilo / 2112 North Gimon Circle, Mobile, AL, 36605							OWNER PHONE (330) 541-6316										
EVIDENCE CODE		EY DENCE DATE/ TIME 1/22/2015 10 00		EVIDENCE COLLECTED BY (1462) Tpr. Griffith, Joseph R			EVIDENCE FINAL DISPOSITION		OTHER EVIDENCE								

PROPERTY CODES	17 COMP. HARDWARE/SOFTWARE	38 BUSES	60 CHEMICALS
EXCHANGE MEDIUMS	18 OFFICE EQUIPMENT	39 TRUCKS	61 CROPS
01 MONEY	19 STEREO EQUIPMENT, TV AND RADIO (NON-VEHICLE)	40 TRAILERS	62 DOCUMENTS/PERSONAL OR BUSINESS
02 CREDIT/DEBIT CARD	20 RECORDINGS	41 WATERCRAFT	63 EXPLOSIVES
03 NEGOTIABLE INSTRUMENTS	21 SPORTS EQUIPMENT (ALL EXCEPT BICYCLES AND FIREARMS)	42 RECREATIONAL VEHICLE	64 FIREARM ACCESSORIES
04 OTHER EXCHANGE MEDIUMS	22 PHOTOGRAPHIC EQUIPMENT	43 OTHER MOTOR VEHICLE	65 FUEL
DOCUMENTS	23 FARM EQUIPMENT	WEAPONS	66 IDENTITY- NTANGIBLE
05 NON-NEGOTIABLE INSTRUMENTS	24 HEAVY CONSTRUCTION / INDUSTRIAL EQUIPMENT	44 FIREARMS	67 LAW ENFORCEMENT EQUIPMENT
06 PERSONAL (IDENTITY) PAPERS	25 BUILDING SUPPLIES FOR CONSTRUCTION	45 OTHER WEAPONS	68 LAWN/YARD/GARDEN EQUIPMENT
07 OTHER DOCUMENTS	26 TOOLS	STRUCTURES	69 LOGGING EQUIPMENT
VALUABLES	27 VEHICLE PARTS / ACCESSORIES	46 SINGLE OCCUPANCY	70 MEDICAL/MEDICAL LAB EQUIPMENT
08 JEWELRY/PRECIOUS METALS	28 SCHOOL SUPPLIES	47 OTHER DWELLINGS	71 METALS, NON-PRECIOUS
09 ART OBJECTS, ANTIQUES, AND OTHER PRECIOUS ITEMS	29 OTHER EQUIPMENT	48 COMMERCIAL/BUSINESS	72 MUSICAL INSTRUMENTS
10 OTHER VALUABLES	CONSUMABLE ITEMS	49 INDUSTRIAL/MANUFACTURING	73 PORTABLE ELECTRONIC COMMUNICATIONS
PERSONAL EFFECTS	30 ALCOHOL	50 PUBLIC/COMMERCIAL	74 WATERCRAFT
11 CLOTHING FURS	31 DRUGS / NARCOTICS	51 STORAGE	EQUIPMENT/PARTS/ACCESSORIES
12 PURCHASES/HANDBAGS/WALLETS	32 CONSUMABLE GOODS	52 OTHER STRUCTURES	
13 OTHER PERSONAL EFFECTS	ANIMALS	OTHER	
HOUSE HOLD ITEMS	33 LIVE STOCK	53 MERCHANDISE	
14 HOUSEHOLD ITEMS	34 HOUSEHOLD PETS	54 OTHER PROPERTY	
EQUIPMENT	VEHICLES	55 PENDING INVENTORY	
15 DRUG/NARCOTIC EQUIPMENT	35 AIRCRAFT	56 SPECIAL CATEGORIES	
16 GAMBLING EQUIPMENT	36 AUTOMOBILES	57 AIRCRAFT PARTS OR ACCESSORIES	
	37 BICYCLES	58 ARTISTIC SUPPLIES OR ACCESSORIES	
		59 CAMPING/HUNTING/FISHING EQUIPMENT/SUPPLIES	

REPORTING OFFICER: Tpr. Harvey, Laura M	UNIT NUMBER: 1006	DATE: 1/22/2015
APPROVING OFFICER: Lt. Hamilton, Matthew J	UNIT NUMBER: 1714	DATE: 1/25/2015



Ohio State Highway Patrol
REPORT OF INVESTIGATION
Property Report

INCIDENT NUMBER 15 052001 0883
REPORT DATE/TIME 1/22/2015 08 27

TYPE PROPERTY LOSS (ENTER CODES BELOW)										1 NONE	2 BURNED	3 COUNTERFEITED / FORGED	4 DESTROYED / DAMAGED / VANDALIZED	5 STOLEN / ETC SEIZED	6 RECOVERED	7 DAMAGED	8 EV DENCE	9 P PHOTO	10 U UNKNOWN			
PROPERTY NO.3	PROPERTY CODE 36	LOSS CODE 7	QUANTITY 1.00	PROPERTY VALUE 6000.00	VICT M NO. : 2	SUSPECT NO. :	VEHICLE NO. :	VEH LIC STATE : OH	VEHICLE YEAR : 06													
PROPERTY DESCR PTION 2006 Maroon Ford Fusion							FOUND LOCATION IR 71 SB MP 6															
MAKE / BRAND Ford		MODEL			SERIAL 3FAFP07176R227964			N.C.I.C. #														
FIREARM		CALIBER	TYPE		BARREL LENGTH		FINISH			N.C.I.C. ENTRY #												
NARCOTICS		DRUG TYPE		UNIT OF MEASURE	DRUG CODE			PILL TYPE		P LL SHAPE	P LL COLOR1	PILL COLOR2										
		PILL MARK NG 1			PILL MARKING 2																	
OWNER NAME & ADDRESS Brian R. Keil / 739 Akron Blvd., Kent, OH, 44240							OWNER PHONE (330) 281-0240															
EVIDENCE CODE		EV DENCE DATE/ TIME 1/22/2015 08 00		EVIDENCE COLLECTED BY (0711) Tpr. Perrin, Cristian			EVIDENCE FINAL DISPOSITION Returned to Owner			OTHER EVIDENCE												
PROPERTY NO.4	PROPERTY CODE 20	LOSS CODE E	QUANTITY	PROPERTY VALUE	VICT M NO. :	SUSPECT NO. : 1	VEHICLE NO. :	VEH LIC STATE :	VEHICLE YEAR :													
PROPERTY DESCR PTION One CD recording of the suspect's interview							FOUND LOCATION Cincinnati Operations															
MAKE / BRAND		MODEL			SERIAL			N.C.I.C. #														
FIREARM		CALIBER	TYPE		BARREL LENGTH		FINISH			N.C.I.C. ENTRY #												
NARCOTICS		DRUG TYPE		UNIT OF MEASURE	DRUG CODE			PILL TYPE		P LL SHAPE	P LL COLOR1	PILL COLOR2										
		PILL MARK NG 1			PILL MARKING 2																	
OWNER NAME & ADDRESS Aaron D Teofilo / 2112 North Gimon Circle, Mobile, AL, 36601							OWNER PHONE (330) 541-6316															
EVIDENCE CODE		EV DENCE DATE/ TIME 1/23/2015 10 00		EVIDENCE COLLECTED BY (1462) Tpr. Grtflith, Joseph R			EVIDENCE FINAL DISPOSITION			OTHER EVIDENCE												

PROPERTY CODES	17 COMP.HARDWARE/SOFTWARE	38 BUSES	60 CHEMICALS
EXCHANGE MEDIUMS	18 OFFICE EQUIPMENT	39 TRUCKS	61 CROPS
01 MONEY	19 STEREO EQUIPMENT, TV AND RADIO (NON-VEHICLE)	40 TRAILERS	62 DOCUMENTS/PERSONAL OR BUSINESS
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03 NEGOTIABLE INSTRUMENTS	21 SPORTS EQUIPMENT (ALL EXCEPT BICYCLES AND FIREARMS)	42 RECREATIONAL VEHICLE	64 FIREARM ACCESSORIES
04 OTHER EXCHANGE MEDIUMS	22 PHOTOGRAPHIC EQUIPMENT	43 OTHER MOTOR VEHICLE	65 FUEL
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05 NON-NEGOTIABLE INSTRUMENTS	24 HEAVY CONSTRUCTION / INDUSTRIAL EQUIPMENT	44 FIREARMS	67 LAW ENFORCEMENT EQUIPMENT
06 PERSONAL (IDENTITY) PAPERS	25 BUILDING SUPPLIES FOR CONSTRUCTION	45 OTHER WEAPONS	68 LAWN/YARD/GARDEN EQUIPMENT
07 OTHER DOCUMENTS	26 TOOLS	STRUCTURES	69 LOGGING EQUIPMENT
VALUABLES	27 VEHICLE PARTS / ACCESSORIES	46 SINGLE OCCUPANCY	70 MEDICAL/MEDICAL LAB EQUIPMENT
08 JEWELRY/PRECIOUS METALS	28 SCHOOL SUPPLIES	47 OTHER DWELLINGS	71 METALS, NON-PRECIOUS
09 ART OBJECTS, ANTIQUES, AND OTHER PRECIOUS ITEMS	29 OTHER EQUIPMENT	48 COMMERCIAL/BUSINESS	72 MUSICAL INSTRUMENTS
10 OTHER VALUABLES	CONSUMABLE ITEMS	49 INDUSTRIAL/MANUFACTURING	73 PORTABLE ELECTRONIC COMMUNICATIONS
PERSONAL EFFECTS	30 ALCOHOL	50 PUBLIC/COMMERCIAL	74 WATERCRAFT
11 CLOTHING FURS	31 DRUGS / NARCOTICS	51 STORAGE	EQUIPMENT/PARTS/ACCESSORIES
12 PURCHASES/HANDBAGS/WALLETS	32 CONSUMABLE GOODS	52 OTHER STRUCTURES	
13 OTHER PERSONAL EFFECTS	ANIMALS	OTHER	
HOUSE HOLD ITEMS	33 LIVE STOCK	53 MERCHANDISE	
14 HOUSEHOLD ITEMS	34 HOUSEHOLD PETS	54 OTHER PROPERTY	
EQUIPMENT	VEHICLES	55 PENDING INVENTORY	
15 DRUG/NARCOTIC EQUIPMENT	35 AIRCRAFT	56 SPECIAL CATEGORIES	
16 GAMBLING EQUIPMENT	36 AUTOMOBILES	57 AIRCRAFT PARTS OR ACCESSORIES	
	37 BICYCLES	58 ARTISTIC SUPPLIES OR ACCESSORIES	
		59 CAMPING/HUNTING/FISHING EQUIPMENTS/SUPPLIES	

REPORTING OFFICER: Tpr. Harvey, Laura M	UNIT NUMBER: 1006	DATE: 1/22/2015
APPROVING OFFICER: Lt. Hamilton, Matthew J	UNIT NUMBER: 1714	DATE: 1/25/2015



Ohio State Highway Patrol
REPORT OF INVESTIGATION
Victim/Reportee/Witness Report

INC DENT NUMBER 15 052001 0883
REPORT DATE/TIME 1/22/2015 08 27

VICTIM	NO.1	VICTIM TYPE: <input type="checkbox"/> Individual <input type="checkbox"/> Financial Institution <input type="checkbox"/> Police Officer (In The Line Of Duty) <input checked="" type="checkbox"/> Society / Public <input type="checkbox"/> Other <input type="checkbox"/> Business <input type="checkbox"/> Government <input type="checkbox"/> Religious Organization <input type="checkbox"/> Unknown <input type="checkbox"/> Trooper <input type="checkbox"/> State Agency	
	<input checked="" type="checkbox"/> Victim <input type="checkbox"/> Witness <input type="checkbox"/> Reportee		NAME (Last, First, Middle): Society / Public
	ADDRESS(Street, Apt, City,State, Zip):		PHONE #:
	OCCUPATION:		STATE EMPLOYEE: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	RES DENTIAL STATUS: <input type="checkbox"/> Resident <input type="checkbox"/> Military <input type="checkbox"/> Other <input type="checkbox"/> Tourist <input type="checkbox"/> Not Reported <input type="checkbox"/> Student <input type="checkbox"/> Unknown		STATEMENT OBTAINED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE: <input type="checkbox"/> Written <input type="checkbox"/> Oral <input type="checkbox"/> Taped <input type="checkbox"/> Other
	AGE / DOB	GENDER	RACE :
	HEIGHT FROM - TO	WEIGHT FROM - TO	HAIR
	EMPLOYER NAME & ADDRESS		PHONE #:
	VICTIM <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF INJURED, DESCRIBE INJURIES: 1) 2) 3) 4) 5)		VICTIM DECEASED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO VICTIM WITNESS REFERRAL INFO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE OF REFERRAL
	AGG. ASLT / HOMICIDE CIR: 1)		2)
VICTIM/SUSPECT RELATIONSH P: 1)Citizen/Society		VICTIM OFFENSE LINK: 1)2913.51 2)2921.331 3)2923.12 4)2923.201	
JUST FIABLE HOMIC DE:	ACTIVITY TYPE	ASSIGNMENT TYPE	
My signature verifies that the information on this report is accurate and true X		DATE:	
VICTIM	NO.2	VICTIM TYPE: <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Financial Institution <input type="checkbox"/> Police Officer (In The Line Of Duty) <input type="checkbox"/> Society / Public <input type="checkbox"/> Other <input type="checkbox"/> Business <input type="checkbox"/> Government <input type="checkbox"/> Religious Organization <input type="checkbox"/> Unknown <input type="checkbox"/> Trooper <input type="checkbox"/> State Agency	
	<input checked="" type="checkbox"/> Victim <input type="checkbox"/> Witness <input type="checkbox"/> Reportee		NAME (Last, First, Middle): Keil Brian R.
	ADDRESS(Street, Apt, City,State, Zip): 739 Akron Blvd., Kent, OH - 44240		PHONE #: (330) 281-0240
	OCCUPATION:		STATE EMPLOYEE: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	RES DENTIAL STATUS: <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Military <input type="checkbox"/> Other <input type="checkbox"/> Tourist <input type="checkbox"/> Not Reported <input type="checkbox"/> Student <input type="checkbox"/> Unknown		STATEMENT OBTAINED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE: <input type="checkbox"/> Written <input type="checkbox"/> Oral <input type="checkbox"/> Taped <input type="checkbox"/> Other
	AGE / DOB	GENDER	RACE :
	HEIGHT FROM - TO	WEIGHT FROM - TO	HAIR
	EMPLOYER NAME & ADDRESS		PHONE #:
	VICTIM <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF INJURED, DESCRIBE INJURIES: 1) 2) 3) 4) 5)		VICTIM DECEASED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO VICTIM WITNESS REFERRAL INFO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE OF REFERRAL
	AGG. ASLT / HOMICIDE CIR: 1)		2)
VICTIM/SUSPECT RELATIONSH P: 1)Stranger		VICTIM OFFENSE LINK: 1)2913.51	
JUST FIABLE HOMIC DE:	ACTIVITY TYPE	ASSIGNMENT TYPE	
My signature verifies that the information on this report is accurate and true X		DATE:	

REPORTING OFFICER: Tpt. Harvey, Laura M	UNIT NUMBER: 1006	DATE: 1/22/2015
APPROVING OFFICER: Lt. Hamilton, Matthew J	UNIT NUMBER: 1714	DATE: 1/25/2015



Ohio State Highway Patrol
REPORT OF INVESTIGATION
Investigative Notes

INCIDENT NO: 15 052001 0883	REPORT DATE/TIME 1/22/2015 08:27	PHOTO POUCH NO. 83-20156
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Thursday, January 22, 2015 09:15

1462 Tpr. Griffith, Joseph R

Cincinnati Operations was requested to assist the Lebanon Patrol Post (P-83) with a suspected stolen vehicle and a handgun recovered out of a vehicle pursuit. Tpr. Dave Griffith (U-861) and I responded to the scene. Upon our arrival, we observed multiple law enforcement agencies on scene. We observed the crashed suspect vehicle (Ford Fusion) in the left lane. We were informed the handgun was on the front passenger floorboard, and the suspect driver was at University Hospital in Cincinnati.

Tpr. Dave Griffith photographed the scene, vehicle, and handgun. I collected the handgun as evidence. The handgun was a Rohm .38 caliber special with the handle taped and the serial number damaged beyond recognition with the naked eye. The handgun was made safe and each round was taken out of the cylinder. The handgun and rounds were later given to Sgt. T. Callahan (U-1053) to be given to Tpr. D. Brown (U-494) in an attempt to reveal a serial number.

Tpr. Dave Griffith and I arrived at the University Hospital to conduct an interview with the driver (Aaron Teofilo). Teofilo was under the watch of Tpr. L. Harvey. Teofilo was in Emergency Room number 27. A recorded oral interview was conducted and entered into evidence as property #4. The recorded interview is summarized below.

I read Teofilo his Constitutional Rights; witnessed by Tpr. D. Griffith. Teofilo informed me he understood his rights, and he agreed to provide an oral statement. Teofilo was unable to sign the form because both of his wrists were handcuffed to the hospital bed.

Teofilo said he left Alabama and came to Ohio about two to three weeks prior to the incident. Teofilo said he needed to get away from his peers because they bring others down. Teofilo said he was trying to change his life for the better. Teofilo said he came by himself, and he rode a Greyhound bus to Akron. When asked if he knew anyone in Ohio, he said his grandfather lived in Ohio somewhere. Teofilo said he tried to find his grandfather, but he was unable to locate him. Teofilo said he ran out of minutes for his phone. When asked if he had money, he said his mother would send him money throughout the week. The interview was stopped in order for the ER doctor to treat Teofilos wounds.

The interview was continued at 1256 hours. When Teofilo was asked where he was staying, he said he was staying with some guy. Teofilo said he didnt know what his name was. Teofilo said he didnt know how he knew the guy. Teofilo said he was invited to Ohio by an old friend, but the old friend was not who he stayed with. Teofilo was asked why he wanted to go back to Alabama. Teofilo said he was hanging out yesterday in Kent, Ohio. Teofilo said a random guy came to him and asked him if he wanted to purchase a Kindle. Teofilo said he didnt know who the guy was, and he told the guy he didnt want to buy the Kindle. Teofilo said they guy tried to rob him with a small black gun. Teofilo said he took off running through some woods. Teofilo said he didnt have any idea where he was when this happened.

Teofilo said earlier in the day the same guy showed him the vehicle. Teofilo said the guy told him he could easily get the vehicle. Teofilo said he told the guy that he didnt own the vehicle and he was trying to better his life. Teofilo said he didnt know who the guy was. Teofilo was asked how he ended up with the vehicle. Teofilo said after he ran from the guy who tried to rob him, he went to where the vehicle was located. Teofilo said he was not from around here, so he couldnt tell me where the

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vehicle was at. Teofilo said the guy told him he had been in the vehicle. Teofilo said they guy must have taken the car before because he said he had been in it, and it would be easy to take. Teofilo said when he got into the car and locked the door; the key was already in it. Teofilo said he then took off. Teofilo said he wasnt sure if the guy took the car or not, but he was the one who showed it to him. Teofilo said once he took off in the car; he started driving around. Teofilo said there was a GPS in the vehicle, and he used it.

I informed Teofilo of the handgun located in the vehicle. Teofilo said that was why he didnt stop during the attempted traffic stop. Teofilo said the gun wasnt his. Teofilo said he couldnt stop with the gun in the car because he had touched it. Teofilo said once he jumped into the vehicle; he looked over to the passenger seat, and the gun was there. Teofilo said he was scared for his life, and that was the reason he jumped in the car and took off. Teofilo said he didnt see the gun as soon as he took the vehicle because he through his bag on the passenger seat. Teofilo said he touched the gun. Teofilo said once he first saw it, he picked it up and put it down.

Teofilo said he didnt stop anywhere after he took the vehicle. Due to the Teofilo saying the he stole the vehicle the night before and the pursuit being in the morning hours, there is a time gap. Teofilo explained he didnt stop to take any breaks and he hadnt had any sleep. Teofilo said he didnt know what time it was when he took the vehicle, but he estimated it to be around 11:00 PM.

Teofilo was questioned about where he went after he stole the vehicle. Teofilo said he dont know his way around here. Teofilo said he did stop at a gas station but he didnt know where or the name of the gas station. Teofilo said he thought it was a Speedway.

I questioned Teofilo if any of his statement was made up. Teofilo became upset and said he was trying to go somewhere and start a good life for his little baby. Teofilo said he was trying so hard to make changes in his life, but he cant seem to do things right. Teofilo said it was because of the devil. Teofilo said once he got to Ohio; he thought he would be able to start new. Teofilo said he, again, got around people who didnt want to be anything. Teofilo said it took him three weeks to screw up. Teofilo was asked if there were drugs involved. Teofilo again became upset. Teofilo said he has no idea what is going on in Ohio. Teofilo said he was trying to pull himself together, and not trying to be a nobody. This was the end of the summarized interview.

Friday, January 23, 2015 08:00

0494 Tpr. Brown, Daniel R

I had been requested to assist with the identification of the firearm. As I examined the weapon, I observed it to be a Rohm .38 caliber revolver with a blued finish. The serial number had been stamped into what would be the users right side of the weapon frame, directly above the forward end of the trigger guard. The numbers had all been ground and gouged out so that they were no longer readable.

I took digital photos of the weapon and of the location on the weapon where the serial numbers had been. I proceeded to attempt to restore the serial numbers through confidential methods. Of the six characters that would have been present in the serial number, I was able to verify the first digit as well as the third through sixth digits. The numbers were verified to be 2?5550. The second digit could not be verified with 100% certainty. Based on what I could see of the character, it was

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determined either to be a 3 or an 8, with it more likely to have been an 8.

I checked the serial number through NCIC using the 3 and then the 8 in the second character of the number. There were no matching stolen hits revealed. This information was conveyed to Tpr. J. Griffith (U1462) and it was suggested that the A.T.F. be contacted for a possible trace of the weapon for ownership.

Friday, January 23, 2015 12:30

1462 Tpr. Griffith, Joseph R

I took possession of the handgun and rounds from Tpr. D. Brown. The handgun was entered into evidence as property #1, and the rounds were entered into evidence as property #2. The handgun, rounds, and the recorded interview were given to Sgt. C. O'Bryon to be placed into permanent evidence at Lebanon Patrol Post.

Saturday, January 24, 2015 08:00

1006 Tpr. Harvey, Laura M

On, 01/22/15, at approximately 0827 hrs I was dispatched to a reckless vehicle southbound on Interstate 71. The Lebanon Dispatch center advised the vehicle was a red Ford Fusion with no rear plate; vehicle traveled off the roadway several times and was unable to maintain lanes. I pulled into the cross-over at mile post 24 and sat stationary waiting for the vehicle. I noticed a maroon vehicle in the far right lane with no rear plate after it passed my cruiser. I pulled out of the cross over and pulled behind the vehicle. I observed there was no rear license plate on the vehicle.

I initiated a traffic stop on Interstate 71 just north of the Western Row Entrance ramp onto southbound Interstate 71 near mile post 23. It was approximately 0835 hrs. The vehicle moved into the center lane as we passed under the Western Row overpass and shortly after I turned on my siren (still 0835hrs). We were traveling 57 MPH. At the Interstate 275 interchange near mile post 17 on Interstate 71, Trooper. C. Perrin began assisting in the pursuit. The suspect being pursued traveled at speeds ranging from 56MPH to 69MPH. He made several marked lanes violations, changed lanes with no turn signal and drifted into Trooper. C. Perrins lane several different times when Trooper. C. Perrin was alongside his vehicle. While Trooper. C. Perrin was alongside the vehicle, he was able to observe a single black male in the drivers seat. The suspect also cut Trooper. C. Perrin off near mile post 16 while traveling 56 MPH.

Traffic was light during the pursuit up until the Montgomery Road Exit on Interstate 71. Lieutenant. M. J. Hamilton advised Hamilton County Sheriffs Office would be deploying stop sticks at mile post 12. When we began approaching the 12 mile marker, Trooper. C. Perrin and I began to back off to give the officer room to throw the stop sticks. The suspect darted onto the left berm and began accelerating down the berm, missing the stop sticks. He then cut across traffic operating in a reckless manner. Once we passed mile post 12, the suspect accelerated to speeds in excess of 90 MPH -120 MPH. Traffic volume began to increase. I continued southbound in the left lane, and I observed two cruisers joining in the pursuit south of my location after passing mile post 12. I was no longer the primary or secondary pursuing Officer. Trooper Perrin and I backed off and became perimeter units. We continued southbound on Interstate 71 when I observed a cloud of dark smoke coming from the right side of the interstate and noticed a cruiser with flashing lights in the left lane. I observed the cruiser was stopped and that the suspect had crashed. The suspect had traveled off the right side of the roadway and struck a guardrail. He then stopped his vehicle on the left side of the roadway (Crash report number 83-0092-31) handled by Sgt. C. O'Bryon Unit 1500.

There were two Madeira Police Officers, and a Hamilton County Sheriffs Deputy on scene when I stopped and exited

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my cruiser. There were more Officers and additional Troopers that arrived on scene shortly after that as well. I ran up behind a Madeira SUV cruiser and took cover as I had my gun drawn on the suspect. He was still in his car when I got on scene. One of the Officers was ordering the suspect out of the vehicle. I saw the suspects hands as he placed them outside of the vehicle. He then opened the door and slowly exited the vehicle. The suspect was ordered to the ground and he complied. Another Officer and I cleared the car to make sure there were no other occupants in the vehicle. I approached the suspect and secured him without further incident. The suspect was handcuffed at 0853 hrs and searched. He had a silver knife in his pocket. The knife was placed in the drivers seat of the vehicle he was driving.

As I walked the suspect back to my patrol vehicle I asked him why he was running and he stated, "Trying to get back to Alabama". The suspect made a comment about how he took the vehicle. The suspect was searched and placed into my cruiser until the ambulance arrived. The suspect was mirandized at 0856 hrs. The suspect was very vague and hesitant in his answers. He stated he was coming from Ohio. I asked where he was going and he stated trying to get home. I asked why he came to Ohio and he stated just came down here. I dunno (dont know) no body. No one person. He stated he did not know where he had gotten the car. The suspect was asked again why he was running and he stated when they chasin me thats why I ran. I asked, Who was chasing you? He stated I dont know who it was. The ambulance (Norwood City EMS) arrived on scene at 0901 hrs.

The suspect was placed on a backboard and handcuffed. I road with the suspect in the ambulance to University of Cincinnati Medical Center for treatment of his injuries sustained from the crash. While I was with the suspect, Trooper Perrin Unit 711 performed an administrative inventory on the vehicle. This revealed a loaded .38 caliber Rohm Revolver in the right floor board of the suspects vehicle. The Highway Patrols Investigative Unit was requested for assistance and arrived on scene to collect the evidence (the firearm). Trooper Joseph Griffith Unit 1462 retrieved the firearm and determined the serial number had been filed off of the weapon which rendered it unreadable.

Once at the University of Cincinnati Medical Center, the suspect was admitted into the emergency room. The suspect was treated for facial lacerations from the crash. Two Highway Patrol Investigators and Sergeant O'Bryon arrived at the hospital. Trooper J. R. Griffith spoke with the suspect and obtained a recorded statement. The suspect was released from the University of Cincinnati Medical Center at 1402 hrs and placed in the rear of my patrol car. While he was in my patrol car the suspect stated how he had obtained the vehicle and the gun. He advised that the gun was in the car when he got in the car. He advised that he found the vehicle in a driveway, and the keys were in it. The suspect was transported to the Warren County Jail and incarcerated at 1457 hrs.

Once the suspect was incarcerated, I was informed the suspect had struck a vehicle while being pursued. He had side swiped a Toyota Prius. The crash report number for that incident is 83-0095-31.

During the administrative inventory of the vehicle Trooper C. Perrin observed a front plate on the vehicle, Ohio license plate GBM7512. The plate was expired and registered as a 2006 Ford, to a Brian Keil. A temporary plate was also located inside the vehicle, Ohio temporary plate Z581064. The temporary plate was also registered to a 2006 Ford, to a Brian Keil. OSHP personal made several attempts to contact Brian Keil and were unsuccessful. Lieutenant M.J. Hamilton Unit 1714 made contact with Brian Keil and determined the vehicle was stolen. Mr. Brian Keil informed him he had filed a stolen report with the Kent Police Department. Officer Mike Flemming #249 of the Kent Police department took a report. Officer Flemming advised he will fax the report to the Lebanon Patrol Post upon its completion. See Kent Police report #2015-00001182

The .38 Rohm revolver had a taped handle. The gun was fully loaded with six .38 special rounds. The serial number had appeared to have been filed off. Trooper Griffith relayed the firearm to Sgt. Callahan from the vehicle theft unit. He then relayed it to Trooper Dan Brown Unit 494. Trooper Brown attempted to lift the filed serial number from the firearm. Possible serial numbers on gun: 235550 & 285550. The firearm was then released to Sgt. O'Bryon and was

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placed in the Post 83 permanent evidence locker. An ATF trace was completed. and emailed to OSPINTEL. A copy is included in the case jacket.

Charges were filed at the Mason Municipal Court on 01/22/15. The suspect was cited for fleeing and eluding (2921.331 - F3), carrying a concealed weapon (2923.12 - F4), receiving stolen property (2913.51 - F5), possession of a firearm with a defaced serial number (2923.201- M1), driving with no license (4510.12A), reckless operation (4511.20), and failure to display (4503.21). Uniform Traffic Citation number OHP831006012220151447.

There is audio evidence of the 911 call about the suspect. There is also video evidence of the pursuit and video evidence of the suspect being transported to the Warren County Jail.

DNA and fingerprints were taken at the Warren County Jail by Warren County Corrections Officers - The Warren County Jail was asked to take hard -copy finger prints as well as digital prints.

De-confliction entry was entered TARGET ID: 122684

Photo Pouch numbers: 83-20154 & 83-20155

Towed vehicle number: 83R-37. The vehicle was towed by Johns Towing and verbally released over the phone to the registered owner.

Sunday, January 25, 2015 14:50

0711 Tpr. Perrin, Cristian

On January 22, 2015 at approximately 0827 hours, I was on patrol on IR 275 near IR 75. I overheard on the radio that Tpr Harvey, Unit 1006, was attempting to get a vehicle to stop. While listening to her radio traffic it became apparent that the vehicle was not stopping. I determined I was in a position to intercept the pursuit near IR 275 EB to IR 71 SB. I sat stationary in the gore with my overhead lights activated and could observe the pursuit heading southbound to my location. The pursuit came up on my left side and I joined at that time.

I pulled to the right side of the vehicle, giving a lane of space between the suspect vehicle and mine, to attempt to observe the driver. I could see that the driver was a light skinned black male wearing a camouflage jacket and a stocking cap. He looked over at me and we made eye contact. I motioned for him to pull over. He pointed to the left side of the roadway, then looked forward and continued to drive at speeds below the speed limit. As the suspect would approach exit ramps, I would pull ahead or beside and block his route to keep him on the interstate and out of populated areas.

We were advised by dispatch that there would be "stop sticks" set up near MP 12. As we approached the Montgomery Road Exit traffic began to get heavier. The suspect attempted to get around the stopped traffic and switched lanes in front of my patrol car, nearly striking my front left bumper. I pulled to the right and accelerated to keep him from exiting onto Montgomery Road. The suspect crossed over to the far right of the interstate and I could observe ahead where "stop sticks" were being deployed. A Hamilton County Deputy attempted to use his "stop sticks" and threw them into the center lane. The suspect avoided the sticks and accelerated quickly cutting across all lanes and began to pass vehicles on the right berm. It was at that time that I lost sight of the vehicle and began to follow behind Tpr Harvey. I could see up ahead that there were 3 units from other agencies that appeared to have taken over the pursuit. Tpr Harvey and I followed at a safe distance as not to

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create a caravan. We were approximately a half mile behind the pursuit. Traffic remained moderate to heavy while getting further into the city.

As we were approaching MP 6 I could observe a large dust cloud and saw that the other cruisers had come to a stop. I then observed the suspect vehicle on the left side of the roadway and it appeared he had crashed. I saw that the suspect was still in the vehicle and being held at gunpoint by other units. I got my K9 Rambo out of the patrol car in case the suspect attempted to escape. Rambo and I found a position of cover while the suspect was ordered out of the vehicle. The suspect complied and was taken into custody without incident. I could see that the suspect had a laceration on his cheek as a result of the crash. An ambulance was requested as well as a wrecker for the vehicle. It appeared that no other vehicles were involved.

I began to complete and administrative inventory on the vehicle while waiting for OIS and crash reconstruction. During the inventory I observed the handle of a pistol on the passenger side floorboard. The handle was wrapped in duct tape. The vehicle also had a very strong odor of marijuana coming from the passenger compartment. At that time I stopped doing the inventory and waited for OIS to arrive and recover the property. I assisted with the crash investigation until OIS arrived. Once OIS was finished at the scene I completed the administrative inventory and gave a copy to the wrecker driver.

Sunday, January 25, 2015 17:08

1005 Sgt. Kuntz, Scott J

Case reviewed

Thursday, January 29, 2015 08:37

1500 Sgt. Obryon, Charles E.

Trooper Laura Harvey advised the Lebanon Dispatch Center that she was attempting to stop a vehicle that was southbound on Interstate 71 near the 23 mile marker. She advised that the suspect wasn't speeding, but that the suspect was refusing to stop. I left the Lebanon Patrol Post and responded to assist Trooper Harvey. I was monitoring the pursuit, while responding to the area. Trooper Christian Perrin was able to join in the pursuit around the 17 mile marker. Trooper Harvey advised that traffic was mostly behind them, and the suspect was still traveling around the speed limit.

The pursuit continued southbound, and dispatch advised that an agency in Hamilton County had stop sticks ready for deployment around the 12 mile marker. The suspect avoided the stop sticks that were deployed by Deputy Scott Prickett of the Hamilton County Sheriff's Office. The suspect then accelerated, and Trooper Harvey and Trooper Perrin, whom had slowed down for the deployment of the stop sticks, lost sight of the suspect. Madeira Police and a Hamilton County Deputy became the primary units. The suspect was swerving in and out of traffic and he lost control of his vehicle and struck a guardrail at the 6 mile marker. The suspect was taken into custody without further incident.

I arrived on scene, and the City of Norwood EMS department was on scene due to the crash. The suspect had visible facial lacerations, and he was transported to the University of Cincinnati Hospital.

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Trooper Harvey accompanied the suspect in the squad to the hospital. Lieutenant M.J. Hamilton, the Lebanon Post Commander, had contacted our investigative unit at Cincinnati Operations to respond to the scene, and Lieutenant Hamilton arrived on scene as well.

I initiated a crash investigation, and spoke to the other units that were involved in the pursuit. Detective Tim Vogel and Lieutenant Paul Phillips from the Madeira Police Department were the primary and secondary units from about the 11 mile marker. Deputy Mike Stemmerding from the Hamilton County Sheriff's Office was also in the area, and assisted with the pursuit. The crash investigation revealed that the suspect had traveled off the right side of the roadway, struck a guardrail, traveled back onto the roadway and came to rest in the left lane. See crash report number 83-0095-31.

Trooper J.R. Griffith and Trooper D. Griffith arrived on scene and processed the vehicle. A loaded handgun was in plain view on the passenger floor board. The owner of the vehicle was still under investigation at the time. There was no rear license plate on the vehicle. There was a front license plate that was expired and a temporary tag inside the vehicle. The Lebanon Dispatch Center advised that another individual had called and advised that his vehicle had been struck by the suspect during the pursuit. See crash report 83-0095-31

The scene was cleared and I responded to University of Cincinnati Hospital, where I met with Trooper Harvey and Trooper J. R. Griffith and Trooper D. Griffith. The suspect was photographed, and an attempt was made to obtain a statement from the suspect by Trooper J.R. Griffith. The statement has been summarized by Trooper Griffith, and included in the case report. I left the hospital after talking with Trooper Harvey and explaining that once the suspect was released, that he would be transported to the Warren County Jail.

I obtained written statements from Detective Vogel and Lieutenant Phillips from the Madeira Police Department. They advised that the suspect was swerving across several lanes of the Interstate at a high rate of speed when he struck a guardrail. Their statements have been included in with the case report. I spoke with Deputy Stemmerding, and he advised that he did not see the suspect crash. He advised that he assisted at the scene, as the suspect was taken into custody.

I reviewed both the in-car video of Trooper Harvey and Trooper Perrin, and compared it to their investigative notes.

Thursday, January 29, 2015 11:29 1006 Tpr. Harvey, Laura M

On 01/29/15, Sergeant C. E. O'Bryon and Trooper L. M. Harvey test fired the firearm. We used a blank round and found the fire are to be functional.

Thursday, February 05, 2015 08:00 1006 Tpr. Harvey, Laura M

Case set for Grand Jury on 02/20/15 at 8:45AM. February 2015 follow-up.

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<p>March 2015 follow-up. Grand Jury was set on 02/20/15 - Indictment was filed on 02/23/15. On 02/25/2015 the court appointed an Attorney and an arraignment entry was filed. A bond order was filed - \$100,000 cash or surety. The court entered a demand for discovery on 02/27/15 (into online case file), as well as a motion for bill of particulars. A pre-trial hearing/scheduling conference is set for 1:30 PM on 03/26/15. Warren Court Clerk Of Courts case number 15CR30699.</p>		

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