



**Ohio Bureau of Criminal Identification & Investigation**  
**INVESTIGATIVE REPORT**



**01/16/13**

**SEARCH WARRANT FOR RECORDS**

**Summary**

In the course of the investigation of the officer involved shooting on November 29, 2012, it was learned that the occupants of the subject vehicle had been staying at shelters under the auspices of the Alcohol, Drug Addiction & Mental Health Services Board of Cuyahoga County (MHS). Investigators contacted MHS for assistance in this investigation. Brief information was given since MHS operates under the Health Insurance Portability and Accountability Act (HIPAA) guidelines. As such, information could not be released without judicial authority.

**Details**

SA Saraya met with Assistant Cuyahoga County Prosecutor Mary McGrath and worked on an affidavit and search warrant. Information learned during the investigation provided substantial information on Timothy Russell. This information was put forward in the affidavit.

On Tuesday, January 15, 2013, SA Saraya met with Cuyahoga County Common Pleas Judge Brian Corrigan who reviewed the affidavit and warrant. Judge Corrigan approved and signed the warrant.

SA Saraya traveled to the MHS offices on Payne Ave. and served the warrant on the Director of Quality Improvement, Karen Madzia. Madzia had photocopied the whole file that was maintained on Russell. The information contained referred to an incident in 2010, his recent admission to North Point Transitional Housing, and his autopsy report.

Madzia was given a copy of the warrant and a signed receipt for the documentation.

On Wednesday, January 16, 2013 SA Saraya made the return to Judge Corrigan and filed the paperwork in the Cuyahoga County Clerk's Office (see attachment).

<b>File Number: SI-18-12-82-1493</b>	<b>File Title: Timothy R. Russell (S) Malissa A. Williams (S)</b>
<b>Case Agent: Mark Kollar</b>	<b>Authoring Agent: John Saraya</b> <i>JS</i>
<b>Date of Report: 1/16/13</b>	<b>Exhibit #: N/A</b>
<b>Investigative Activity: Document Search Warrant</b>	<b>Supervisor Approval: Dennis Sweet</b> <i>Dennis Sweet DCU</i>

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IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO  
CRIMINAL DIVISION

IN THE MATTER OF:

2013 JAN 16, A 11: 26

CR

CLERK OF COURTS  
CUYAHOGA COUNTY

CASE NO.

570739

SEARCH WARRANT,  
AFFIDAVIT, AND RETURN:

MEDICAL RECORDS )  
1744 PAYNE AVENUE )  
CITY OF CLEVELAND )  
CUYAHOGA COUNTY, OHIO )

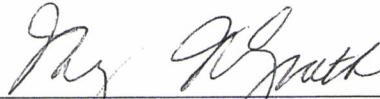
MOTION TO SEAL SEARCH  
WARRANT, AFFIDAVIT, AND  
RETURN

Now comes Timothy J. McGinty, Prosecuting Attorney of Cuyahoga County, Ohio, by and through his undersigned assistant, and respectfully requests this Honorable Court for an ORDER sealing the search warrant, affidavit attached to and incorporated with the search warrant executed on January 16<sup>TH</sup>, 2013, and return, sought and obtained by Special Agent John Saraya of the Ohio Bureau of Criminal Identification and Investigation.

The reasons for the Prosecutor's motion are set out more fully in the attached Brief, incorporated by reference herein.

Respectfully submitted,

**TIMOTHY J. McGINTY**  
**CUYAHOGA COUNTY PROSECUTOR**



**MARY H. McGRATH (#0041381)**

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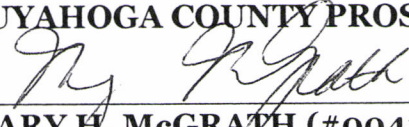
**BRIEF**

Special Agent John Saraya of the Ohio Bureau of Criminal Identification and Investigation, affiant in the above-described search warrant, has informed the Cuyahoga County Prosecutor's Office that he executed the above-described search warrant on January 16<sup>th</sup>, 2013. The warrant for Timothy Russell's records maintained by Mental Health Services was requested in the course of an investigation into a police pursuit and officer-involved shooting on November 29, 2012, that ended in Russell's death. As a result of the information in the search warrant, affidavit, and return, and other information collected, BCI&I and other agencies are conducting an investigation into these events. The release of information regarding the activities of BCI&I relative to their investigation could compromise the investigation and would reveal Timothy Russell's personal information to the public. For these reasons, it is therefore necessary to seal the search warrant and affidavit.

In the interest of justice, to protect the integrity of the on-going investigation, and to protect the personal information of Timothy Russell, the undersigned, on behalf of the State of Ohio, respectfully requests this Honorable Court grant this Motion to Seal Search Warrant, Affidavit, and Return in the above-captioned matter until further order of the Court, i.e., until such time as the Court determines it may be unsealed.

Respectfully submitted,

**TIMOTHY J. McGINTY**  
**CUYAHOGA COUNTY PROSECUTOR**

  
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**MARY H. McGRATH (#0041381)**  
Assistant Prosecuting Attorney  
1200 Ontario Street, 8<sup>th</sup> Floor  
Cleveland, Ohio 44113  
(216) 443-7800

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO  
CRIMINAL DIVISION

IN THE MATTER OF: )

CASE NO. <sup>CR</sup> 570739

SEARCH WARRANT, )  
AFFIDAVIT, AND RETURN:

MEDICAL RECORDS )

ORDER

1744 PAYNE AVENUE )

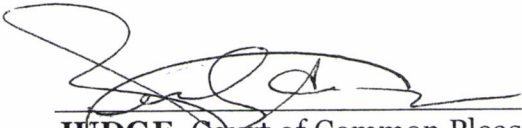
CITY OF CLEVELAND )

CUYAHOGA COUNTY, OHIO

This Court finds that Special Agent John Saraya of the Ohio Bureau of Criminal Identification and Investigation made an application for a search warrant which he executed on January 16, 2013 and has completed a search warrant return of the records recovered therein. This Court further finds that Special Agent John Saraya and the Cuyahoga County Prosecutor's Office have provided this Court with sufficient information to support an order sealing the search warrant, affidavit, and return to protect an on-going investigation, and the personal information of Timothy Russell, who is the subject of the records.

**THEREFORE, IT IS THE ORDER OF THE COURT** that the search warrant, affidavit, and return **NOT BE ISSUED TO ANY PERSON** except the Prosecuting Attorney of Cuyahoga County or his agents. **THE SEARCH WARRANT, AFFIDAVIT, AND RETURN DESCRIBED HEREIN SHALL BE SO SEALED AND THE ISSUANCE OF COPIES SO PROHIBITED**, until such time that, by petition to this Court, an interested party can demonstrate that the interests of justice require the change of this **ORDER**.

1-16-2013  
DATE

  
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JUDGE, Court of Common Pleas  
Cuyahoga County, Ohio