

Marion County Sheriff, Jeff Soyez, who also received the email from Mr. Meyers, later discussed his reaction to the email with CBI investigators. Sheriff Soyez said he had not planned on taking any action in response to the email. He knew that Ms. Newell lived in Marion but he could not recall ever having seen her drive. Sheriff Soyez explained that Mr. Meyer's suggestion in the email that local law enforcement had been looking the other way with respect to Ms. Newell's driving privileges did not concern him as he knew law enforcement did not run driving records randomly on citizens.

The email from Mr. Meyer to Chief Cody and Sheriff Soyez sent on Friday, August 4, 2023, at 6:52 p.m., reads,

Gentlemen,

This note is to alert you to a document the newspaper officer received this week from a source.

The document purports to be a letter, sent by the Department of Motor Vehicle and dated Aug. 1, 2023, to a Marion businesswoman who recently has been in the news. It lists her current address and contains information about her needing to complete additional steps before DMV can reactive her driver's license . . .

We initially were concerned whether the letter was accurate and, if so, whether it was obtained legally. Our lawyer's advice was that the information most likely would be available as public records and, there, it would not be illegal for us to possess the document, depending on how our source obtained it.

Our checks with DMV reveal that anyone could obtained the document if he or she possessed the recipient's Kansas Identification card number, name and date of birth. Our source, who has persona and family history with law enforcement, implied that she obtained the document because of "connections." If it had been provided by someone in law enforcement or obtained by intercepting mail, the document might have been obtained illegally—which is why I am notifying you. We believe, however, that the document was provided by the soon-to-be-former spouse of the businesswoman, who apparently has been contesting awarding of vehicles to her during their ongoing divorce.

We obviously are concerned how someone could escape detection as having an expired or suspended license for nearly a quarter of a century and might pursue a news story in that regard. However, we have no desire to invade the privacy of any individual, especially if this is merely squabbling during a divorce, and probably will pass on writing that story.

Still, there is one other reason why I mention all of this to you. Our source contends that local law enforcement officers are fully aware of that she – and, perhaps, [another family member] --have been driving for some time without active, valid licenses. This is the sort of unsubstantiated rumor we routinely hear but typically do not follow up on unless there is a higher degree of credibility behind it. However, given the remote possibility that the document might have come from someone in the law enforcement community who might have passed it on to our source, I wanted to make sure you were aware of the situation.

Because of the confidential nature of our source and privacy expectations of the individual targeted, I am not comfortable sharing additional information unless you inform me that you have cause to believe some crime or misbehavior might have occurred and additional information we might be able to provide could assist in any investigation.”

Monday August 7, 2023

At 6:10 a.m. on Monday August 7, 2023, Chief Cody read the email sent to him by Eric Meyer the previous Friday. In response, Chief Cody contacted Brogan Jones, Marion City Administrator.

Mr. Jones was interviewed by CBI agents, Zamora and Struwe. According to Mr. Jones, Chief Cody came into his office first thing on August 7, 2023 to discuss a copy of a driving record that he had been sent by Eric Meyer of the Marion County Record. Chief Cody told Mr. Jones he intended to conduct an internal investigation to see if one of his officers ran the driving record.

At 10:29 a.m., Kari Newell, received a text from by Marion council member, Zach Collett, that her driving record had been shared to the city council and that “Ruth Herbel is trying to say that we should not issue you a liquor license due to this.”

At 11:35 a.m. Ruth Herbel emails Brogan Jones to express concern about the issuance of a liquor license to Ms. Newell. The email cites to city codes and Kansas Statutes.

Mr. Jones told CBI Agent Zamora that he subsequently forwarded the email to the other city council members because Mayor Mayfield had previously told him that if Mrs.

Herbel “sends you anything you need to forward it to the entire council.” Mr. Jones told investigators he did not think the city council or the city had the final authority to disapprove a liquor license, but he thought that Mrs. Herbel thought the city had a legitimate interest in reviewing Ms. Newell’s driving record as part of her application for the liquor/caterer’s license. Mrs. Herbel has added in an email to Mr. Jones at 12:11 p.m. on August 5, 2024, that she felt “we probably should approach this with caution.”

Mr. Jones also informed Chief Cody he had received the e-mail from Mrs. Herbel, Chief Cody told Mr. Jones he would need all the e-mails—a request with which Mr. Jones later complied. Mr. Jones stated that Chief Cody’s investigation moved fairly quickly from a suspected mail theft to illegal access by way of a computer.

Phyllis Zorn told CBI Agents that on Monday, August 7th, she was at the courthouse covering a county commission session when she was approached by Chief Cody. She described the interaction as follows,

“Cody comes in the door and rushes over to me, looking very flustered and he tells me that someone in my office, he doesn’t think it was me, he suspects either Deb Gruver or Eric [Meyer] had sent that document to Ruth Herbel who was trying to use it to hurt Kari Newell. I looked, I’m sure very confused, I said, I’m sure no one in my office would do that and he said, well someone did, cause she’s trying to hurt Kari with it . . . He said, now I’m ‘gonna have to investigate.”

Kari Newell was interviewed by the KBI on September 6, 2023 and September 26, 2023 and again by CBI agents on December 7, 2023. She told investigators that she was in divorce court when she received a call from Chief Cody. She could not answer the call because she was in court, but she received a text message from Chief Cody that said “call me.” Ms. Newell stepped out of court and called Chief Cody. He told her that he thought someone had stolen her mail because the newspaper is in possession of a document that had been mailed to her. Ms. Newell had also been contacted by someone at her work who

told her the police had come by looking for her because they believed she had been the victim of a crime.

Ms. Newell was able to locate her driving record that KDOR had sent her. She informed Chief Cody that she had the original document. Chief Cody later told her that he had done a KDOR “drop” (she did not know what that phrase meant) to see who had been accessing her information. He told her Phyllis Zorn had searched her driving record and three minutes later someone else had as well.

Marion Police Officer Zach Hudlin was interviewed by CBI investigators. Officer Hudlin told them that Chief Cody asked him to assist in the investigation, because, according to Officer Hudlin, Chief Cody “didn’t a hundred percent know Kansas Law, so he was relying on me to figure out what the crimes were involved potentially . . .”

At approximately 2:30 p.m. on August 7, 2023, Officer Hudlin called the Kansas Department of Revenue (KDOR) to inquire as to how access had been gained to Ms. Newell’s driving record. A representative from KDOR spoke to Officer Hudlin. The call was recorded. The representative explained to Officer Hudlin that the system had an issue that KDOR was “trying to fix.” The issue, she explained, was that “anybody can pull it up.” She added, “We didn’t realize how unsecure it was.”

Officer Hudlin told CBI investigators that he believed Ms. Newell’s driving record “was not a public record, that um, basically, the public was able to access it but it was a loophole in their system, that all you had to do was input the correct address for the, um, so they, they just had to put in my correct address and they can get my driving record.”

The KDOR employee explained to Officer Hudlin that someone used the name Phyllis Zorn to access the KDOR web page on August 4, 2023. The KDOR representative was also able to determine that three minutes later, someone using the name Kari Newell

accessed the KDOR web page and again accessed Ms. Newell's driving record. Chief Cody later learned from Ms. Newell that she denied having entered her own name in the KDOR website recently, "so then we had just assumed, basically, that it, where that led to is that someone put in Kari's information," according to Officer Hudlin.

A transcript of Officer Hudlin's phone call with the KDOR representative is as follows:

KDOR Representative: . . . So, um, so how did you get the testing letter?

Officer Zach Hudlin: Um, so we received a copy of it from our local newspaper –

KDOR Representative: Okay.

Officer Zach Hudlin: – who got it from what they're saying is a confidential source. Um, so since that time, while I was on hold with him, um, I mean, I can get a copy of the letter. I just put the boxes thing. I'm doing it for, you know, legal reasons, and it will spit out a copy of that letter.

KDOR Representative: Right.

Officer Zach Hudlin: Um, so, uh, I guess really what I'm asking is I want to know if somebody else has done what I just did and asked for a copy of that letter. They just had all of her personal information.

KDOR Representative: It would appear that way. Um, 'cause, yeah, I have, 'cause what happen is, so when you, so if you just requested to view the documents, I will actually be able to see that in the morning as you put your name on there. Um, even if you put it as her name, it still comes through. Um, but it looks, does, uh, Phyllis ring a bell to you?

Officer Zach Hudlin: Yeah, what's the last name?

KDOR Representative: It's . . . Zorn.

Officer Zach Hudlin: Yep, okay. And so that person filled out this same form that I just did –

KDOR Representative: Yep.

Officer Zach Hudlin: – and clicked I'm doing this legally, and they were able to get a copy of this letter?

KDOR Representative: Yes.

Officer Zach Hudlin: Okay, and that, do you know the date when that was done?

KDOR Representative: Um, let's see. It shows up in the morning, so it would have been done Friday.

Officer Zach Hudlin: Okay.

KDOR Representative: Um, I don't know about what time on Friday 'cause it's just a batch that hits at 7:00 in the morning, and it throws all of the, um, throws all those kinds of documents that I can check into, well, everybody can check on our end, but it just throws those over there so we can see who's accessing the records, but if Phyllis does not work for PD, um, I –

Officer Zach Hudlin: No.

KDOR Representative: – would imagine she probably works for the newspaper.

Officer Zach Hudlin: Probably.

KDOR Representative: Um, so that's –

Officer Zach Hudlin: So –

KDOR Representative: – a little –

Officer Zach Hudlin: – but she is the only one other than me, which I guess you'll know about tomorrow morning?

KDOR Representative: Mm hmm.

Officer Zach Hudlin: Um, that has filled that out and, and requested those documents?

KDOR Representative: Well, uh, and the weird thing is, is I have that name on there on August 4th, and then the driver herself did it, it looks like 3 minutes after on August 4th.

Officer Zach Hudlin: Okay.

KDOR Representative: So –

Officer Zach Hudlin: And so where, wh, where are you getting, uh, I mean, uh, how do, how are you getting the name that actually ran it versus who they're running it as?

KDOR Representative: So when you –

Officer Zach Hudlin: So, like –

KDOR Representative: – go –

Officer Zach Hudlin: – tomorrow morning, it will tell you that, I, I'm guessing, that Zach Hudlin ran it? But, uh, wh, wh, where is, where is that information coming from?

KDOR Representative: Um –

Officer Zach Hudlin: Sorry –

KDOR Representative: – as long as –

Officer Zach Hudlin: – just a second. Dispatch is –

A Marion Dispatch interrupts Officer Hudlin

Officer Zach Hudlin: 10-4. Okay. Sorry about that.

KDOR Representative: That's okay. Um, so when you are on the page that asks for the address –

Officer Zach Hudlin: Yes.

KDOR Representative: – and you go down, down to the bottom, and it says signature or whatever it is, if you type in your name, then it will come through that you were the one requested it, requesting it. However, if someone has her information, and they sign it as her, it shows up as her being the one who ran it, so I guess, I guess what I'm saying is on the 3 minutes after this Phyllis lady ran it, I don't actually know if it was Kari or not that ran her own record.

Officer Zach Hudlin: Okay.

KDOR Representative: Um, I'm –

Officer Zach Hudlin: Okay, so –

KDOR Representative: – actually, we're currently working on this because, um, yeah, there's, I mean, honestly, if anybody has your address as it appears on your driver's license, they can access all of your documents in your file, um, which we don't, we don't want. Um –

Officer Zach Hudlin: Yeah.

KDOR Representative: so -

Officer Zach Hudlin: Okay, so I misunderstood then when I filled, uh, that part of

that, uh, um, the requester's information.

KDOR Representative: Mm hmm.

Officer Zach Hudlin: I, I breezed past that, and so I put in Kari's information there and then clicked okay, and that's what spit out this document, so the person, so you're saying that someone put in that other name –

KDOR Representative: Mm hmm.

Officer Zach Hudlin: – and requested this information, and it still spit it out –

KDOR Representative: Mm hmm.

Officer Zach Hudlin: – because she had all the right answers?

KDOR Representative: Yep.

Officer Zach Hudlin: Okay.

KDOR Representative: So yeah, we are, I'm, uh, actually, uh, I think it's next week I have a meeting on this whole driver's license status check because it's, um, I guess until we started diving into it, we didn't really realize how unsecure it was. Um –

Officer Zach Hudlin: Yeah.

KDOR Representative: – being, being that, I mean, like I said, if you have her address, which if you guys got the letter, you have her address, name, and all of the answers, so anybody can pull it up. Um, so yeah, we actually have meetings coming up on that do make it a little bit more secure, um, so not everybody can access someone's documents, 'cause yeah.

Officer Zach Hudlin: Yeah. Okay.

KDOR Representative: So that is the name that shows up under the requester's name on the one that happened on 8/4. Um, and –

Officer Zach Hudlin: Okay.

KDOR Representative: – yeah, actually doesn't work for PD. I would assume that she probably works for the newspaper.

Officer Zach Hudlin: Correct. Um, and so my last question.

KDOR Representative: Mm hmm.

Officer Zach Hudlin: Um, so that's what was filled out in that form. Do you have any records of, like, it's in the IP address that requested it? It's just whatever they chose to put in there?

KDOR Representative: Correct.

Officer Zach Hudlin: Okay.

KDOR Representative: As of right now, yes.

Officer Zach Hudlin: Yeah. All right. That, uh, that answers everything. That, that gives me lots to go on.

KDOR Representative: Perfect. I'm so sorry if that, uh, I'm so sorry if it's not a, not, not what, not a good answer.

Officer Zach Hudlin: No, thi, uh, I mean, uh, it, uh, definitely an answer that will create work. So I, I'm a little happy, a little sad that I recognized the name 'cause it's gonna, yeah, it, it's definitely gonna make more work.

KDOR Representative: Yeah.

Officer Zach Hudlin: But that's all right. We got an answer, and that's what I was looking for.

KDOR Representative: Good deal. All right, well –

Officer Zach Hudlin: All right.

KDOR Representative: – yeah.

Officer Zach Hudlin: Thank you very much.

From this conversation, Officer Hudlin said he concluded, “that it’s not a public record, here’s who accessed it and then, uh, went from there.” Officer Hudlin also sent Chief Cody a series of emails memorializing his conclusion(s):

1. Email sent at 2:02 p.m. – listing potential criminal statutes: 21-5909, witness intimidation; 21-6101, Breach of Privacy; 21-6107 Identity Theft; 21-6424 Unlawful use of Communication Facility; and 21-6002 Official Misconduct.
2. Email sent at 2:07 p.m. – containing link to KDOR.
3. Email sent at 2:07 p.m. - containing details of Ms. Newell’s driving record.

Two days later, Officer Hudlin followed up with an additional email to Chief Cody on August 9, 2023, at 8:31 a.m. in which he cited additional criminal statutes:

“Eric: 21-5904, interference with law enforcement; 21-5302 Conspiracy;
Ruth: 21-5919, Performance of an unauthorized official act.”

Officer Hudlin also captured an image of 13 options – “A” through “M” – from the KDOR website (see below). Note that §(c) appeared to be checked in the image Officer Hudlin sent to Chief Cody. This image was provided to Chief Cody by Officer Hudlin at 2:07 p.m. on August 7, 2023:

Verification of your eligibility to receive the requested records.

Please review the exceptions listed below, and select the code that corresponds with your request(s).

- A. I am requesting my own record.
- B. I have written consent from the individual to whom the requested information pertains to obtain records on their behalf.
- C. I work for or am acting on the behalf of a government agency and am requesting this information to fulfill the functions of that agency.
- D. I am requesting this information in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles, motor vehicle parts and dealers, motor vehicle market research activities, including survey research, and removal of non-owner records from the original owner records of motor vehicle manufacturers.
- E. I am an employee, agent or contractor of a legitimate business. I am requesting record information in order to verify the accuracy of personal information submitted by the individual in question. If the information I have is incorrect, I am requesting to obtain corrected information. This information will be used to pursue legal remedies against or recover on a debt or security interest against the individual in question.
- F. I am going to use this information in connection with a civil, criminal, administrative, or arbitral proceeding in a Federal, State, or local court or agency or before a self-regulatory body. This may include the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.
- G. I am involved in a research project to produce statistical reports. The personal information obtained will not be published, redisclosed or used to contact the individual in question.
- H. I am an agent, employee or contractor for an insurer, an insurance support organization or I am self-insured. The information requested will be used in connection with a claims investigation, anti-fraud activities, rating or underwriting.
- I. I am requesting record information to provide notice to owners of towed or impounded vehicles.
- J. I work for a licensed private investigative agency or a licensed security service.
- K. I am an employer or an agent or insurer working on the behalf of an employer of licensed commercial drivers. I am requesting records information in order to obtain or verify information relating to a holder of a commercial driver's license.
- L. I am requesting records of individuals who have given the state the express consent to release personal information by "opting in" their records.
- M. I will use the information requested in a manner that is specifically authorized by Kansas law and is related to the operation of a motor vehicle or public safety.

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Officer Hudlin told the CBI Agents that after his phone call to KDOR, he explained to Chief Cody that anyone could have used any name and been able to access the KDOR site. Officer Hudlin told the CBI Agents at that point he felt, “Um, yeah, so at that point, we knew then that, um, we had a council member involved, we had, potentially, the newspaper or what, we potentially had the council member, a newspaper, um, and so it was something way bigger than somebody grabbing a letter out of the mail.” Chief Cody then contacted the Kansas Bureau of Investigation (KBI).

Chief Cody later told Ms. Newell that her ex-husband Ryan Newell, Pam Maag, Phyllis Zorn and potentially Ruth Herbel had accessed her driving record.

According to Ms. Newell, Chief Cody told her he had contacted KDOR and they were able to get him “a list of anybody that had accessed my file.” Ms. Newell asked Chief Cody how they would have been able to access her file. Chief Cody responded that they would have utilized her full name, address, driver’s license number and date of birth, which led her to believe her ex-husband was “behind it.” Chief Cody told her she had been the victim of “identity theft, abuse of power and computer crimes, because it had been sent out to various people.”

The night of Monday, August 7, 2023, the Marion City Council’s regularly scheduled meeting was held. The meeting was video and audio recorded. Ms. Newell spoke during the public comment portion of the evening and accused both Ruth Herbel and the Marion County Record of illegally accessing her driving record.

Eric Meyer, Editor of the Marion County Record, also addressed the council. He acknowledged having been sent a copy of Ms. Newell’s driving record but did not provide the name of the source.

The Pending Liquor License

The issue of the pending liquor license bears specific explanation.

In Kansas, the decision to grant or deny an application for a liquor license is controlled by the Kansas Liquor Control Act, K.S.A. 41-101, et seq. K.S.A. 41-311 defines the conditions under which an applicant is prohibited from obtaining a license to sell or distribute alcoholic beverages.

The Kansas Liquor Control Act, K.S.A. 41-101 *et seq.*, prohibits a person from manufacturing, distributing or selling alcoholic liquor or cereal malt beverages without a

state license.

K.S.A. 41-208 provides, as follows:

“The power to regulate all phases of the control of the manufacture, distribution, sale, possession, transportation and traffic in alcoholic liquor and the manufacture of beer regardless of its alcoholic content, except as specifically delegated in this act, is hereby vested exclusively in the state and shall be exercised as provided in this act. *No city shall enact any ordinance in conflict with or contrary to the provisions of this act . . .*

The Club and Drinking Establishment Act, K.S.A. 41-2601 et seq., uniformly applies to all cities in counties which elect to come under the Act.

The validity of a city license can be a requisite for State-issued licenses and renewals under K.A.R. 14-13-2(d)(1) and K.A.R. 14-13-4.

The city of Marion had several relevant city ordinances, including:

3-501. License Required

It shall be unlawful for any person granted a drinking establishment license by the State of Kansas to sell or serve any alcoholic authorized by such license within the city without first obtaining a city license from the city clerk.

• (Ord. 1248; Code 2014)

3-502. License fee.

There is hereby levied an biennial licensing fee in the amount of \$500.00 on each drinking establishment located in the city which was a drinking establishment license issued by the state director of alcoholic beverage control.

Liquor and Beer control statutes and regulations make it explicit that, to receive a state license, the necessary city/municipal occupation or license taxes must be paid. K.S.A. 41-310(j)(1). Additionally, a city’s authority to approve and issue a license goes beyond the authority to require payment of fees and includes issues like zoning. See also K.S.A. 41-318 (advisory).

The State is the primary licensing authority for alcoholic liquor/beer manufacturing, distributing, or retail selling. K.S.A. 41-208. A municipality may regulate

the manufacture, distribution, sale (license) in alcoholic liquor and beer if the city's regulation does not conflict with the State. See K.S.A. 4-310; See *Leavenworth Club Owner's Association v. City of Atchison*, 208 Kan. 318 (1971), "[W]here a municipal ordinance merely enlarges on the provisions of the statute by requiring more than is required by the statute, there is no conflict between the two unless the legislature has limited the requirements for all cases to its own prescription."; and Kan. Atty. Gen. Op. No. 96-55).

Given this legal framework, the city of Marion had the power to vote on Ms. Newell's application for a liquor license within the parameters of the city of Marion's ordinances regarding fees and zoning.

The balance of factual synopsis of Monday, August 7, 2023

Councilman Zach Collet made a motion to approve Ms. Newell's request for the liquor/caterer's license. Mrs. Herbel opposed. The motion carried 4-1.

Mr. Meyer told CBI investigators that after the city council meeting, he received a phone call from Kari Newell. Mr. Meyer said that Ms. Newell said that Chief Cody had called her to tell her she had been the victim of a crime:

“. . . what he [Chief Cody] told her was somebody from the Record had gone over and stolen her email, or stolen her postal mail out of her mailbox and taken that mail and given it to Ruth Herbel and that Ruth Herbel then posted it all over the internet.”

Mr. Meyers added that during this phone call, Ms. Newell also told him that she believed the Marion County Record received the information from Pam Maag, and that Mrs. Maag had “probably” gotten it from her ex-husband, Ryan Newell. Ms. Newell shared with him her belief that Mrs. Maag had also provided a copy to Ruth Herbel.

Ms. Newell threatened to sue Mr. Meyer. Mr. Meyer said he responded that she would lose and he'd end up owning her restaurant. Mr. Meyer told Ms. Newell that he did

not intend to run a story about her driving record as it was “personal crap” and he did not care about 10-year-old information. However, the allegations she made at the city council meeting would be run as a story. Mr. Meyer said he did not hear anything further about the issue until the execution of the warrants on August 11, 2023.

Ms. Newell told investigators that Chief Cody told her that he had confirmed with the KDOR that Ryan Newell, Pam Maag, Ruth Herbal and Phyllis Zorn had each accessed Ms. Newell’s driving record through the KDOR website. In fact, there is no evidence that Ruth Herbel attempted to access the KDOR website.

At 6:49 p.m., Chief Cody texted County Attorney Ensey that Ms. Newell wanted to pursue “misuse of office through the AG’s Office considering what happened at the council meeting.”

Tuesday, August 8, 2023

Chief Cody generated an “incident report” dated August 8, 2023, detailing the maturation of the investigation. This report provides insight into the rationale and conclusions Chief Cody had reached four days before the warrants were executed.

According to that report, Chief Cody read Mr. Meyer’s email on August 7th. The balance of Cody’s report reads as follows:

After reading the email on Monday August 7, 2023 at or around 0610 hours, I then contacted Marion City Administrator, Brogan Jones, and told him that an internal investigation should be conducted. Brogan stated he was aware of the Department of Revenue Record (DOR record) because City Council member, Ruth Herbel, sent him a screenshot via email (Suspect Email 2a) of the DOR record belonging to Kari Newell. Ruth states in the email that she received the DOR record from Pam Maag. Brogan stated Ruth wanted to deny the renewal of Kari's liquor/caterers' license based on the DOR record and that the license was on the City Council Agenda for a meeting the same afternoon. I asked that he forward those emails so that I can continue my investigation.

Later that morning I received the emails, I saw that it contained a screenshot (Suspect Email 2b) with a DOR record addressed to the victim, Kari Newell. I then contacted Kari, she stated she did not know how someone was able to access her mail and she gave no one permission to obtain, access, or open her private mail.

My investigation revealed the letter was not stolen from her mailbox, rather it was downloaded directly from the Department of Revenue. The Department of Revenue advised the individuals who downloaded the information were Phyllis Zorn and Kari Newell (three minutes after Phyllis Zorn downloaded the information). Downloading the document involved either impersonating the victim or lying about the reasons why the record was being sought.

I again contacted the victim, she stated that she did not download or authorize anyone to download any information from the Department of Revenue and someone obviously stole her identity.

On Wednesday August 9, 2023 Kari provided me with a written statement of the events since we last spoke (Victim Statement 1a). In the statement she says that on a phone call from 08/07/2023 at or around 1901 hours Eric Meyer admitted to her that his employee downloaded the private DOR record information and he knew it to be illegal. She stated Eric then threatened her "if you pursue anything I will print the story and will continue to use anything I can to come at you. I will own your restaurant". She further stated this was contrary to what he announced at the City Council Meeting on 08/07/2023 (Suspect Video 1a).

Phyllis Zorn obtained and possessed personal identifying information and document containing the same belonging to another person with the intent to to subject that person to economic or bodily harm. KSA 21-6107

Phyllis Zorn supplied information that she knows to be false in order to obtain a document containing the victim's personal identifying information. KSA 21-6107

Phyllis Zorn Intercepted, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication; KSA 21-6101

Phyllis Zorn knowingly or intentionally used a communication facility facilitating the commission of a felony and facilitated a conspiracy to commit, a felony KSA 21-6424

Phyllis Zorn acquired property under false pretenses by using the electronic communication of the internet and knowingly devised or participated in a scheme to defraud someone by using false or fraudulent pretenses and representations. Federal Statute 18 U.S.C. 1343

Phyllis Zorn knowingly obtained and disclosed personal information, from a motor vehicle record. 18 U. S Code 2722 A

Phyllis Zorn made false representation to obtain personal information from an individual's motor vehicle record. 18 U.S. Code 2722 B

Eric Meyer obtained and possessed personal identifying information and document containing the same belonging to another person with the intent to to subject that person to economic or bodily harm. KSA 21-6107

Eric Meyer intimidated a victim with an intent to vex, annoy, harm or injure her and to prevent her from making a report to law enforcement or causing a civil action to be filed. KSA 21-5909 a.A.

Eric Meyer knowingly supplied such information that is false and intending to influence, impede or obstruct such officer's or agency's duty; KSA 21-5904

Eric Meyer conspired and assisted in committing of a crime. KSA 21-5302

Eric Meyer knowingly obtained and disclosed personal information, from a motor vehicle record. 18 U. S Code 2722 A

At 8:37 a.m. on Tuesday, August 8, 2023, the morning after the city council meeting, Chief Cody sent an email to Joel Ensey, Marion County Attorney, titled, "Crimes?" in which he explained his conclusion that certain crimes had been committed regarding the possession and dissemination of Ms. Newell's driving record. Chief Cody then forwarded the same email to Det. Christner at 9:54 a.m.

In his email to Mr. Ensey, Chief Cody included an image of Ms. Newell's driving record in the second of three pages of the email, which is redacted herein:

Joel,

Driver's license information in Kansas, like in many other states, is generally considered private and confidential. Access to such information is typically restricted and not available to the general public or the press without proper authorization or a legitimate reason. The Driver Privacy Protection Act (DPPA) is a federal law that regulates the release of personal information from driver's license and motor vehicle records.

The Driver Privacy Protection Act (DPPA) is a federal law enacted in 1994 in the United States to protect the personal and private information of individuals held in state Department of Motor Vehicles (DMV) records. The DPPA establishes guidelines and restrictions on the release, use, and disclosure of personal information collected by DMVs, including driver's license and motor vehicle records. Its primary aim is to prevent the unauthorized access and misuse of this sensitive information.

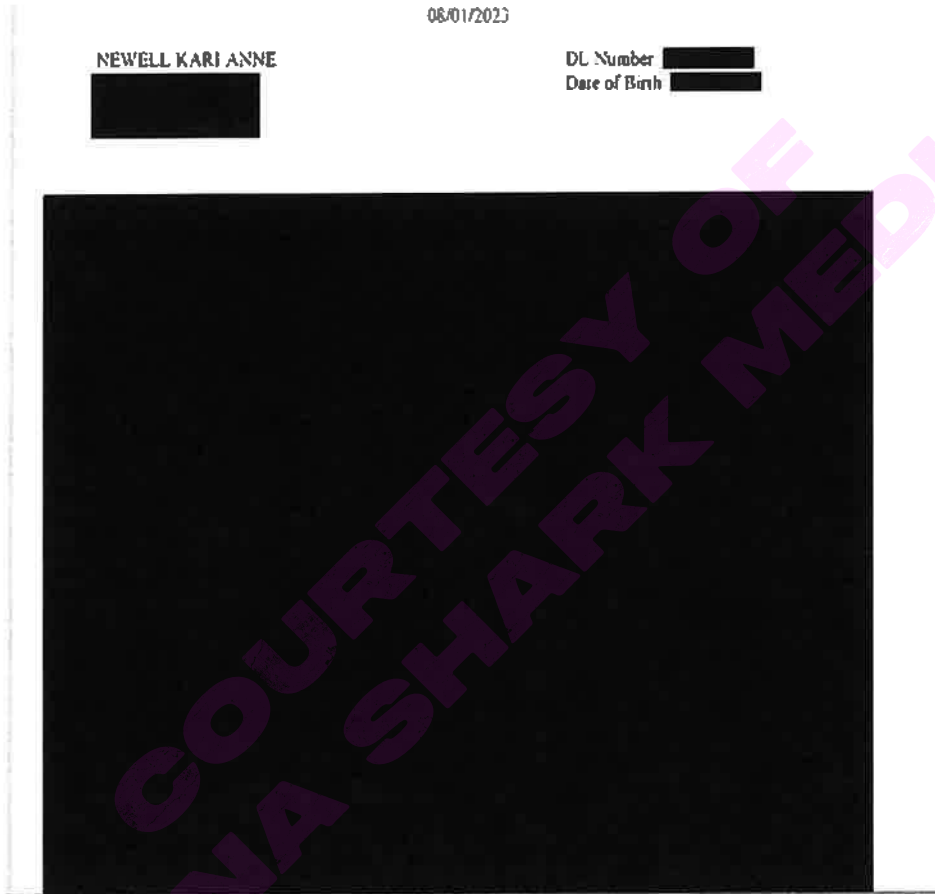
Key points and provisions of the DPPA include:

- **Protected Information:** The DPPA covers a wide range of personal information, including an individual's name, address, phone number, Social Security number, driver's license number, photograph, and other identifying details.
- **Permissible Uses:** The DPPA outlines specific permissible uses for driver's license and motor vehicle records. These include uses related to law enforcement, government agencies, private investigators, insurance companies, employment verification, and certain legal proceedings.
- **Prohibited Uses:** The DPPA restricts the use of personal information for marketing or solicitation purposes without the individual's explicit consent. It also prohibits the sale of personal information for commercial purposes.
- **Penalties:** Violations of the DPPA can result in civil penalties, including monetary fines. Individuals who are found to have willfully obtained, disclosed, or used personal information in violation of the DPPA may be subject to legal action.
- **Exemptions:** There are certain exemptions to the DPPA, allowing for the release of personal information for legitimate purposes such as law enforcement investigations, court proceedings, and government functions.
- **State Implementation:** While the DPPA is a federal law, states have the flexibility to implement their own laws and regulations that provide additional privacy protections or restrictions on the release of personal information from DMV records.
- **Enforcement and Oversight:** The enforcement of the DPPA is carried out by federal and state authorities. Individuals who believe their privacy rights under the DPPA have been violated can seek legal remedies.

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The issues I run into are as follows:

A City Council Member shared the following through social media and then sent a copy by email to the City Administrator to deny the person on the letter a liquor license based upon being a suspended driver.



The City Administrator sent it to me to investigate whether a crime occurred.

Sharing a DPPA (Driver Privacy Protection Act) protected document, such as a DMV record, by email or social media without proper authorization or a legitimate reason could potentially constitute a violation

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of the DPPA itself. This could potentially lead to charges related to unauthorized disclosure of private information, privacy breaches, identity theft, or other cybercrime-related offenses.

I understand the DPPA is a federal law in the United States that governs the release and use of personal information obtained from DMV records. Violating the DPPA by sharing protected information without proper authorization could have serious legal consequences, including fines and penalties.

The Police Department initially believed this to be a mail theft situation. After further investigation it was revealed the DOR record could be obtained online due to "a hole in the system, we are currently working on". DOR confirms this was only downloaded by a reporter working for the Marion Record. This would require falsely clicking on the reason for download on the DOR website. The reasoning for downloading another person's DOR record are as follows

Verification of your eligibility to receive the requested records:

Please review the exceptions listed below and select the code that corresponds with your request:

- A I am requesting my own record
- B I have written consent from the individual to whom the requested information pertains, to obtain records on their behalf
- C I work for or am acting on the behalf of a government agency and am requesting this information to fulfill the functions of that agency
- D I am requesting this information in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls or adverse motor vehicle market research activities including survey research and removal of non-owner records from the original owner records of motor vehicle manufacturers
- E I am an employee, agent or contractor of a legitimate business. I am requesting record information in order to verify the accuracy of personal information submitted by the individual in question. This information will be used to pursue legal remedies against or recover on a debt or security interest against the individual in question.
- F I am going to use this information in connection with a civil, criminal, administrative, or arbitral proceeding in a Federal, State, or local court or agency or before a self-regulatory body, litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.
- G I am involved in a research project to produce statistical reports. The personal information obtained will not be published, redisclosed or used to contact the individual in question.
- H I am an agent, employee or contractor for an insurer, an insurance support organization or I am self-insured. The information requested will be used in connection with a claims investigation.
- I I am requesting record information to provide notice to owners of towed or impounded vehicles.
- J I work for a licensed private investigative agency or a licensed security service.
- K I am an employer or an agent or insurer working on the behalf of an employer of licensed commercial drivers. I am requesting records information in order to obtain or verify information.
- L I am requesting records of individuals who have given the state the express consent to release personal information by "opting in" their records.
- M I will use the information requested in a manner that is specifically authorized by Kansas law and is related to the operation of a motor vehicle or public safety.

Obtaining a DMV (Department of Motor Vehicles) report by falsely clicking on a reason for download, especially if done with the intent to deceive or defraud, could potentially be considered a form of wire fraud. Wire fraud involves the use of electronic communication, such as the internet or email, to intentionally deceive someone for financial gain or to cause harm. Falsely obtaining sensitive information, including DMV records, through deceptive means could fall under the definition of wire fraud.

Utilizing a DPPA (Driver Privacy Protection Act) protected document, such as a DMV record, to attempt to deny a liquor license by a councilperson could potentially be seen as an abuse of office or abuse of power. The DPPA is designed to protect individuals' private and sensitive information, and using such information for purposes beyond its intended scope, especially for personal or inappropriate reasons, could be considered an abuse of power.

Abuse of office generally refers to the misuse of one's position or authority for personal gain, to inflict harm, or to act against the public interest. In this context, if a councilperson is using protected information from a DMV record to unfairly deny a liquor license without a legitimate or justifiable reason, it could raise ethical and legal concerns.

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The third page of Chief Cody's email to Mr. Ensey contains the following conclusions:

"The Police Department initially believed this to be a mail theft situation. After further investigation it was revealed the DOR record could be obtained online due to 'a hole in the system, we are currently working on'. KDOR confirms this was only downloaded by a reporter working for the Marion Record. This would require falsely clicking on the reason for download on the DOR website. The reasoning for downloading another person's KDOR record are as follows."

The KDOR employee did tell Officer Hudlin that a person identifying themselves as "Phyllis Zorn" downloaded Ms. Newell's driving record, followed three minutes later by someone identified as "Kari Newell." The KDOR representative did not, however, offer a definitive conclusion that the same person signed in as both names.

Attached to Chief Cody's email to Mr. Ensey was a list of the 13 verification options on the KDOR website that Chief Cody had been provided by Officer Hudlin. Chief Cody's email to Mr. Ensey continued:

"Obtaining DMV (Department of Motor Vehicles) report by falsely clicking on a reason for download, especially if done with the intent to deceive or defraud, could potentially be considered a form of wire fraud.¹" In fact, there is no "wire fraud" statute under Kansas law.

The email continued,

"Utilizing a DPPA (Driver Privacy Protection Act) protected document, such as a DMV record, to attempt to deny a liquor license by a council person could potentially be seen as an abuse of office or abuse of power. DPAA is designed to protect individuals private and sensitive information and using such information for purposes beyond its intended scope, especially for personal or inappropriate reasons, could be considered an abuse of power."

¹ On Chief Cody's Body worn camera the allegation of "wire fraud" was something that Chief Cody repeated to Ruth Herbel when he interviewed her in her home on August 11, 2023 at 10:52 a.m., during the execution of the search warrant on her home.

Finally the next paragraph, Chief Cody ends his analysis with the following,

“Abuse of office generally refers to the misuse of one’s position or authority for person gain, to inflict harm, or to act against the public interest. In this context, if a councilperson is using protected information from a DMV record to unfairly deny a liquor license without a legitimate or justifiable reason, it could raise ethical and legal concerns.”

As set forth above, K.S.A. 22-2502, the Kansas statute controlling the issuance of search warrants, states:

“(a) A search warrant shall be issued only upon the oral or written statement, including those conveyed or received by electronic communication, of any person under oath or affirmation which states facts sufficient to show *probable cause* (emphasis added) that a crime has been, is being or is about to be committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized.”

The probable cause standard has long been defined by the appellate courts of Kansas as follows:

“Probable cause is the reasonable belief that a specific crime has been committed and that the defendant committed the crime. Probable cause exists where the facts and circumstances within the arresting officers’ knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed.

When determining whether probable cause exists, an appellate court considers the totality of the circumstances, including all of the information in the officer’s possession, fair inferences therefrom, and any other relevant facts, even if they may not be admissible on the issue of guilt. *State v. Abbott*, 277 Kan. 161, Syl. ¶¶ 2–3, 83 P.3d 794 (2004).”

State v. Ramirez, 278 Kan. 402, 408 (2004).

Later, during the morning of August 8, 2023, Chief Cody forwarded the email he had sent to County Attorney Ensey, on to KBI Agent Todd Leeds, at 9:12 a.m. Agent Leeds, responded to Chief Cody’s request for assistance at 10:03 a.m., writing that his supervisor, Special Agent in Charge (SAC) Bethany Popejoy, was out of the office this morning but he expected her back that afternoon. Agent Leeds cc’d SAC Popejoy in this response.

At 11:19 a.m., Chief Cody forwarded to SAC Popejoy the document he had sent to Mr. Ensey.

SAC Popejoy told investigators that she later spoke to Chief Cody. SAC Popejoy described that conversation to investigators,

“...and I said we'll work this together, and this is on the 8th that, that he's telling me this. I said okay and, um, you know, he, very insistent. I said okay, well, I'll send Todd [Leeds], I'll send Todd, I'll send Todd; we'll go from there.”

SAC Popejoy then contacted KBI Agent Todd Leeds, who was stationed in Wichita, Kansas, approximately 60 miles south of Marion, and instructed him to check out the allegation, “because on the surface it looked bad.”

At 3:51 p.m. on August 8, 2023, Marion County Sheriff's Department Detective Aaron Christner sent Chief Cody the following email:

Chief Cody,

I was able to get a preservation made on Ms. Herbel's email account. However on the Marion record domain is hosted by a small hosing company out of Wisconsin. I can send a preservation request letter, but there is no legal authority behind such request and they may notify the Marion Record if I do so. My advice is if you have the PC for a search warrant is that we just write that and skip a preservation. I am unable to do a yahoo preservation as of yet, as I do not have the token with me to sign in. As for the city of Marion, do you believe the Mr. Jones will delete the email?

Let me know if you have any questions. Thank you.

Wednesday, August 9, 2023

Marion County Attorney Joel Ensey later told investigators that on August 9, 2023, Chief Cody sent him,

“a message at 5:21 in the morning. ‘Good morning. Call me when you can this morning. KBI will be lead in the investigation. I sent them a brief, and they are sending out investigators. Other charges are coming with this as well. I want to keep you in the loop.’ Um ‘it appears larger than when I looked at it first.’ So that was on, on the 9th.”

At 8:31 a.m., Officer Hudlin sent an email to Chief Cody in which he references criminal statutes and identified suspects:

“Eric: 21-5904, interference with law enforcement; 21-5302 Conspiracy;
Ruth: 21-5919, Performance of an unauthorized official act.”

The Marion County Record published an article entitled “Restauranteur accuses paper, councilwoman,” detailing the allegations made by Ms. Newell at the council meeting held Monday, August 7, 2023. The article repeated the claims Ms. Newell had made that the Marion County Record had illegally obtained her driving record. In the article, written by Eric Meyer, he explained that the paper had been sent the driving record by “a source.” Mr. Meyer wrote, “After verifying that the information was accurate and had been obtained, as the source claimed, from a public website, the Record decided not to publish it.”

Officer Hudlin informed CBI agents that on August 9th, there was a meeting of Marion law enforcement officers and Special Agent Todd Leeds of the Kansas Bureau of Investigation during which Agent Leeds was provided paper copies of documents pertaining to the investigation. At that point, Officer Hudlin recalled that the warrants had been prepared for the home of Ruth Herbel, Pam Maag and the Marion County Record. The warrant for Eric Meyer’s house had not yet been finalized. Officer Hudlin described his involvement in the preparation of the search warrants as reviewing the drafts prepared by Officer Aaron Christner and Chief Cody for grammatical errors and to review the facts for potential criminal acts.

Agent Leeds’s typed report detailing the meeting on the 9th reads as follows:

SA LEEDS told CODY he would review this information, speak with the county attorney regarding this case, and get back with him once he understood the case better.

SA LEEDS told CODY he didn't see any issues with sending out preservation letters to Facebook messenger, and the involved internet service providers in order

to secure the data for this investigation.

SA LEEDS told CODY he would need to speak with members of the KBI Computer Crimes Unit (CCU) on exactly how to proceed with this investigation. SA LEEDS told CODY he would be in touch with him the following week. CODY thanked SA LEEDS for his assistance in this investigation, and gave SA LEEDS one of his MPD business cards.

Agent Leeds produced a document entitled "Memorandum of Record," dated September 19, 2023. In this document, Agent Leeds described his meeting in Marion on Wednesday August 9, 2023, with Marion law enforcement. After Chief Cody had provided an overview of the status of the investigation, Agent Leeds wrote that he told Chief Cody he (Agent Leeds) "would review this information and speak with the county attorney regarding this case. [Agent Leeds] told Cody he would get back with him the following week once he understood the case better."

Agent Leeds's memorandum report also contained the following:

"[A]t no point during this meeting, or in any subsequent meeting or contact, with MPD Chief of Police Chief Gideon Cody did SA Leeds recommend or allude to in any way that any law enforcement officer should apply for any search warrants to further this investigation."

Agent Leeds told CBI investigators in November of 2023 that he had specifically told Chief Cody and Sheriff Soyez that he,

". . . would review the information Chief Cody had provided him in this case, and that he would get back with Cody the following week once he had spoken to the KBI Computer Crimes Unit to discuss the best course of action for this investigation."

When interviewed by CBI investigators in November of 2023, Agent Leeds was specifically asked whether he and Chief Cody had discussed search warrants at the meeting on the 9th. Agent Leeds's response was as follows:

"No. The only thing they talked about, you should definitely interview Jeff Soyez, being the office. But he's like, wait the best course of action is you should probably do some preservation letters. I'm like, yeah, preservation letters sound good. Uh, do some preservation letters m and um, yeah, and

that was it. We did not talk at all about search warrants. I told him I was 'gonna have to get back with him the following week, um about the case."

Similarly, KBI SAC Popejoy told investigators that after the meeting on the 9th (which she did not attend), she had spoken to Agent Leeds and Agent Leeds told her, "I think we've got a problem." However, Agent Leeds was scheduled to be out of the office on funeral leave, so he "made arrangements" and told SAC Popejoy, "I'm 'gonna go back next week and, um, you know, we'll, we'll dig into this a little bit further."

Marion County Sheriff Soyez, was interviewed by CBI agents on November 16, 2023. He recalled first becoming aware of the investigation when Chief Cody told him that he (Chief Cody) was investigating the illegal possession of a driving record. Sheriff Soyez recalled that Chief Cody initially assumed the records had been stolen from Ms. Newell's mail, then later concluded the records had been accessed by the Marion newspaper using the "the protected part of" the KDOR website. Chief Cody also shared with Sheriff Soyez his belief that a city council member had engaged in what Chief Cody referred to as "city corruption" as well.

Sheriff Soyez told the CBI agents that during the meeting of law enforcement officers in Marion on August 9th, Chief Cody "presented his entire case" to KBI Agent Leeds. Sheriff Soyez said that Agent Leeds "looked it over, um and said I think, he, he said, well, give me the entire case. I'll let you, uh, um basically run with it, but I wanna review, you know."

Detective Christner told CBI investigators that Agent Leeds said "something about once its online, it's there forever, and I wasn't gonna argue with him at that point although I disagreed. After he left, I'd I made that clear that I didn't agree with what he said, based on my experience, um, and training in digital evidence."

At 1:10 p.m. on August 9, 2023, Detective Christner sent a “preservation letter” to internet provider, Cyberlink, for Eric Meyer’s and Phyllis Zorn’s email accounts, which read,

“The below listed accounts are the subject of an ongoing criminal investigation at this agency, and it is requested pursuant to 18 U.S.C. § 2703(f) that records associated with said accounts be preserved pending the issuance of a search warrant or other legal process seeking disclosure of such information.”

Preservation letters are routinely sent by law enforcement agents to internet providers, communications companies and web sites to preserve material associated with a specific date, time or user. The letters are sent to request that the company maintain the requested material and ensure it is not deleted as part of the company’s normal retention or archiving deadlines or by the intentional act of a third party. Companies typically honor these requests for up to 30 days in order to give law enforcement agencies time to continue their investigation and pursue the issuance of search warrants or subpoenas for the requested information.

After the meeting of local officers on the 9th, Sheriff Soyez said he stopped by County Attorney Joel Ensey’s office the same day. Sheriff Soyez told the Agents, “I told Joel Ensey, I said, here’s the deal. You’re getting ready to get a big, old, nasty, hairy case dropped in your lap. I would suggest you hire a special prosecutor and just stay away from this entire case.” Sheriff Soyez said Mr. Ensey responded that he would look into it.

Marion County Attorney Joel Ensey was also interviewed by CBI Agents on November 16th, 2023. Mr. Ensey told investigators that he normally reviews all search warrants before they go to a judge. However, in this situation, he did not review the applications (affidavits) and warrants that he first learned about from either Sheriff Soyez or Chief Cody. According to Mr. Ensey, on Wednesday, August 9th, 2023, around 4:00 p.m., he ran into Agent Leeds after court. According to Mr. Ensey, when he learned there

had been a meeting that day, he and Agent Leeds had the following brief discussion,

“I don’t know what we’ve what exactly we’ve got, . . . what exactly crime we’ve got going on here. And Todd was like, ‘yeah, I’ll get, I’ll get this to the computer people.’ He’s like, ‘I’m not a, I don’t do paper crimes.’ He’s like, ‘that’s not my forte, but you know, we’ll get it to our people,’ and he’s like, ‘We’ll bring you something,’ it’s like, ‘all right.’”

Mr. Ensey left the conversation with the understanding that the K.B.I. was taking the case, and they would be looking into the matter. Mr. Ensey was out of the office on Thursday, August 10th on a personal matter.

Sometime after the Wednesday morning law enforcement meeting, Ms. Newell recalled that Chief Cody told her, he was “launching an investigation.” He told her,

“then he, you know let me know now KBI’s involved, this is going places, this is a bigger deal than you realize, um, in the beginning it was kind of one of those you know, I can’t, I can’t force you to file charges if you don’t want to, and I was like I’m not really wanting to get in all that stink, and then it came back, well now that we’ve determined a crime was committed, um, we’re pursuing it, we’re investigating it, whether, you know, it’s, I don’t need your police report and then within days it was I need an account of what happened.”

(Former) Marion Police Officer Johnathan Benavidez was interviewed in November of 2023. He had been hired by the Marion Police Department in late July of 2023 on a “provisional” certificate in anticipation of attending and completing the next law enforcement training course at the Kansas Law Enforcement Training Center. At the time of the execution of the warrants on August 11, 2023, Officer Benavidez had not been to law enforcement training.

Officer Benavidez was directed by Officer Hudlin to collect a handwritten statement from Kari Newell on August 9, 2023. He was provided a manila envelope in which to place the statement. He watched Ms. Newell place her handwritten statement into the envelope and seal it shut. He said he took the envelope back to Officer Hudlin.

CBI Investigators asked Officer Hudlin about Ms. Newell's written statement. Officer Hudlin confirmed that he gave Officer Benavidez a manila envelope and that, after going to Ms. Newell's shop, Officer Benavidez returned with the envelope and handed it to Officer Hudlin. Officer Hudlin said he made photocopies of Ms. Newell's letter before turning it in as evidence. A PDF of the letter was created when it was scanned into evidence on August 9, 2023, at 9:05 a.m.

Ms. Newell told CBI investigators that she prepared the written statement which she placed in a manila envelope for Officer Benavidez.

Ms. Newell later called Chief Cody to ask for a copy of the statement. He told her he could not provide one explaining, "Once you've turned it in, it's evidence." Later, when the copies of the investigation were released publicly, she told CBI investigators she believed the first portion of her statement was missing, "all the way from [Chief Cody] calling me when I was at the courthouse with times, the exact time the call was received, the exact time [the person from work] messaged me, I mean all the details. I'm very, very detailed in that stuff, all the way up until, about the council meeting."

When Officer Hudlin was later made aware that Ms. Newell alleged the first two pages of her report (the front and back of the cover page) were missing, Officer Hudlin said they tore the office apart looking for the alleged additional page and found nothing.

At 3:56 p.m. on August 9, 2023, Detective Christner sent an email to Chief Cody with a draft for the search warrant application for the Marion Record as an attachment. Detective Christner wrote in the body of the email,

"I attached a draft for a SW. I am not comfortable swearing to an affidavit that I did not do the investigation on. I left my training and experience in red so you can change it to yours. Let me know what you think."

Thursday August 10, 2023

At 7:31 a.m., Chief Cody sent a draft of a search warrant affidavit for “Eric Meyer’s Place of Business” to Detective Christner.

Sheriff Soyez told CBI investigators that on August 10th, Chief Cody informed him he planned to apply for the warrants and wanted support. Sheriff Soyez contacted three of his deputies, Sergeant Matt Regier, Aaron Christner and Steven Janzen, and told them they could help or they were free to decline the request. The deputies agreed to assist. However, Sheriff Soyez said he gave them strict instructions that they were to stand by only, as he did not want any of his employees collecting evidence or participating actively in the execution of the search warrants. Sheriff Soyez clarified that Sheriff’s Det. Christner was specifically allowed to assist the Marion County Police Department with the warrants because of his specialized training in computer forensics.

Sheriff Soyez told investigators that Chief Cody said he had spoken to KBI SAC Popejoy and she had told Chief Cody, “that uh, everything looked good, um, to keep going forward. And, didn’t say like keep going forward with the search warrant. They just said keep on with the investigation.”

Several e-mail communications between KBI Agent Leeds, Chief Cody and Officer Hudlin occurred on August 10, 2024. Emails were also sent by Chief Cody to Marion County Attorney, Joel Ensey, who was out of town. Detective Christner and Officer Hudlin also exchanged texts messages and emails throughout the morning.

At 10:08 a.m., August 10, 2024, Agent Leeds emailed Chief Cody asking Chief Cody to send him the “cell phone numbers, Facebook account names, and any email addresses” for Ms. Newell, Mr. Meyer, Mrs. Herbel, Ms. Zorn, and Mrs. Maag. There was no responsive email from Chief Cody.

At 10:28 a.m. Officer Hudlin texted Detective Christner, "I just sent you the completed search warrants. Detective Christner responded, "Got it." At 10:36, Officer Hudlin texted, "Just sent the one for Maag."

At 10:31 a.m., August 10, 2024, Agent Leeds requested Chief Cody email him a copy of Kari Newell's witness statement, as well as information relating to emails between Ruth Herbel and Brogan Jones. There was no responsive email from Chief Cody.

At 11:24 a.m., August 10, 2024, Chief Cody sent an email to County Attorney Ensey. The email was entitled, "Karie Newell Identity Theft Case Search Warrant Application [the address of the Marion County Record]." An attachment contained a search warrant application for the Marion County Record signed "Chief Gideon Cody."

At 11:26 a.m., August 10, 2024, Chief Cody sent a second email to County Attorney Ensey. The email was entitled, "Karie Newell Identity Theft Search Warrant Application [the address of Pamela Maag]." An attachment contained a search warrant application signed by Chief Cody. The signatures are difficult to discern.

At 11:27 a.m. Chief Cody sent a third email to County Attorney Ensey. The email was entitled, "Karie Newell Identity Theft Search Warrant Application [the address of Ruth Herbel]." An attachment contained a search warrant application signed "Chief Gideon Cody."

At 11:28 a.m. Agent Leeds emailed Chief Cody the following: "*Chief Cody, I have opened up case number for KBI 23-533 for the State.*" There was no response from Chief Cody to Agent Leeds.

At 11:35 a.m. Chief Cody forwarded to Officer Hudlin the email Agent Leeds had sent to Chief Cody regarding Agent Leeds having opened case number KBI 23-533. There was no response from Officer Hudlin to Agent Leeds.

At 11:48 a.m. Officer Hudlin emailed Agent Leeds and Cc'd Chief Cody.

The title of the email was Case File Documents KBI 23-533. Attachment: 23-108. The email read,

“this is everything we have currently for our case. I've reached out to KDOR Office of Special Investigations but haven't been able to get ahold of anyone yet. If you have a contact with KDOR OSI that you could either share with me or give them our information that would be helpful. Please let us know if there is anything else you need from us or would like to see us do so that we can build the best case possible. My cell number is 316-██████████, feel free to call or text and I will help in any way possible.”

According to legal representation for the KBI, Agent Todd Leeds did not receive this email due to the formatting of the attachments.

At 1:45 p.m. Officer Hudlin sent Agent Leeds emails captioned, “Additional SW for Eric Meyer's Residence.” The search warrant generated for Mr. Meyer's residence was attached. There was no text communicated in the body of the email.

Officer Hudlin sent Chief Cody the following text at 3:18 p.m. on the 10th:

Me, Cody - 8/10/2023

Me 8/10/2023,
3:18 PM

I sent the search warrants for Eric and Ruth to Aaron. Both look good. I added the property description for Ruth.

At 5:27 p.m. Agent Leeds responded to Officer Hudlin's earlier email, “Thank you, Did you guys execute this today? – Todd.”

At 5:57 p.m. Officer Hudlin responded, “No. My understanding is that the county attorney wasn't in the office today. Do you know anyone with the DOR that may be able to help us out? I've called multiple times but can't get anyone with investigations on the phone, Zach.”

The next day, on August 11, at 9:09 a.m., Officer Hudlin sent the following email to Agent Leeds: "All 4 search warrants are in the judges' hands. Should be signed any minute."

According to Agent Leeds, when he saw the email from Officer Hudlin the night of Thursday, August 10th, 2023, with search warrants attached, the email had no text, commentary or explanation in the body of the email. Agent Leeds was not sure why Officer Hudlin had sent him the search warrants. He acknowledged that, with the funeral he was to attend the next day and family members arriving from out of town, he did not read the search warrants in depth. Agent Leeds did send a response asking only if the warrants had been served.

When asked by CBI Agents why he did not follow up to ask anyone in Marion why the warrant had been prepared, Agent Leeds acknowledged, "I should have."

Friday, August 11, 2023

On Friday, August 11th at approximately 7:00 a.m., Marion County Attorney Ensey arrived back at work. He had roughly 20 cases scheduled on the criminal docket that day and between six and eight preliminary hearings scheduled. Mr. Ensey is the only prosecutor employed by the Marion County Attorney's office.

He opened his e-mails and glanced at the search warrants submitted by Chief Cody, but did not have time to review the warrants as he said he needed to devote his attention to preparing for his preliminary hearings that day. Karen Hurt, Mr. Ensey's assistant, received a call from Chief Cody saying that he had a team ready to go and wanted to know where the search warrants were. Mr. Ensey responded that he was not aware that Chief Cody intended to serve the warrants that morning. Mr. Ensey recalled making a brash comment, which he said was out of character for him to make in the office, "I don't know

why the f--- we're in such a f--- hurry for this thing." According to Mr. Ensey, Ms. Hurt responded by asking "Well, do you want me to just take it up to the judge." Mr. Ensey responded, "that's fine' I go, 'She. You can let her make the determination.' So I, don't remember if I gave the search warrant to Karen or Karen printed it off or how, how it went, but she ended up taking it up to the judge and judge reviewed them."

According to Ms. Hurt, who was interviewed December 7, 2023, by CBI agents, the morning the warrants were signed, Chief Cody called and was "kind of forceful."

"He said I need to talk to Joel. I said, well, he's getting ready for court, okay. And he said, 'Well I need the search warrants,' and so I said 'Well, I don't know what search warrants you're talking about,' and he goes 'Well, I have men that are standing by waiting,' and I go, okay, . . . Obviously it's something that's very important to him. I'm not privy to it, so I'm, not, okay. I said, hang on a minute. I go into Joel, Joel is very flustered, . . . so I said Joel, Cody is on the phone. Chief Cody. He wants some search warrant, and Joel flails his arms up like this. He goes, well, ugh I didn't know it was a f--n hurry, you know, and he starts-and said I don't, I don't know."

Ms. Hurt said she asked Mr. Ensey if he wanted her to take the documents to the judge to which Mr. Ensey responded, "I guess" and handed the documents to her. Ms. Hurt did not look at the warrants but got back on the phone with Chief Cody and told him she was taking the warrants over to the judge. Ms. Hurt did not see Cody in person or talk to him again.

Four warrants were submitted to District Magistrate Judge, Laura Viar, at the Marion County Courthouse regarding the following locations in Marion, Kansas:

1. The Marion County Record Newspaper offices;
2. The home of Eric Meyer and his mother, Joanne Meyer;
3. The home of Ruth Herbel;
4. The home of Pam Maag.

On December 12, 2023, Anita Svoboda, the Administrative Aide to District Judge Susan C. Robson, responded by email to CBI Agent Zamora's questions regarding when the warrants were presented to the Judge. Ms. Svoboda responded,