



500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM

Date: March 2, 2021

To: Mayor and Troy City Council Members

From: Lori Grigg Bluhm, City Attorney
Julie Quinlan Dufrane, Assistant City Attorney

Subject: Steven Gillman v. City of Troy



The City has been served with the attached lawsuit, alleging that the City violated the Freedom of Information Act. Plaintiff Gillman's November 2020 Freedom of Information Act request was denied, citing the pending investigation exemption. A very similar request from another attorney was similarly recently denied, since as of today's date, there is still a pending investigation.

Mr. Gillman is seeking punitive damages in addition to a release of the requested information. The case has been assigned to Oakland County Circuit Court Judge Daniel P. O'Brien. A proposed resolution, authorizing our office to defend the City's interests in this matter is included in the agenda packet for your consideration.

This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling Visit

Approved, SCAO

1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

www.oakgov.com/efiling

STATE OF MICHIGAN		SUMMONS	CASE NO.
6th	JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE		2021-185850-CZ

Court address: 1200 N Telegraph Rd, Pontiac, MI 48340
 Court telephone no.:

Plaintiff's name(s), address(es), and telephone no(s).
 STEVEN GILLMAN, Individually and as Personal Representative of the Estate of Megan Ann Miller, Deceased

Defendant's name(s), address(es), and telephone no(s).
 City of Troy

v

Plaintiff's attorney, bar no., address, and telephone no.
 David Shiener (P78608)
 Johnson Law, PLC
 535 Griswold, Suite 2632
 313-324-8300

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (form MC 21) listing those cases.
- It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
 - MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
 - There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
 - A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in this court, _____ Court, where it was given case number _____ and assigned to Judge _____.
- The action remains is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date 2/10/2021	Expiration date* 05/12/2021	Court clerk Lisa Brown
-------------------------	--------------------------------	---------------------------

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

FILED Received for Filing Oakland County Clerk 2/10/2021 9:31 AM

PROOF OF SERVICE

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

<input type="checkbox"/> OFFICER CERTIFICATE I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)	OR	<input type="checkbox"/> AFFIDAVIT OF PROCESS SERVER Being first duly sworn, I state that I am a legally competent adult, and I am not a party or an officer of a corporate party (MCR 2.103[A]), and that: (notarization required)
--	----	---

- I served personally a copy of the summons and complaint,
 I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,

together with _____
List all documents served with the summons and complaint
 _____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare under the penalties of perjury that this proof of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee		Signature
\$		\$		_____
Incorrect address fee	Miles traveled	Fee	TOTAL FEE	Name (type or print)
\$		\$	\$	_____
				Title

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____ Attachments
 _____ on _____
Day, date, time
 _____ on behalf of _____
 Signature

This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling visit www.oakgov.com/efiling.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

STEVEN GILLMAN, *Individually and as
Personal Representative of the Estate of
Megan Ann Miller, Deceased,*

Plaintiff,

v

CITY OF TROY,

Defendant.

2021-185850-CZ

JUDGE DANIEL P. O'BRIEN

Case No. 20- -CZ
Hon.

DAVID S. SHIENER (P78608)
JOHNSON LAW, PLC
Attorneys for Plaintiff
535 Griswold, Suite 2632
Detroit, Michigan 48226
(313) 324-8300
dshiener@venjohnsonlaw.com

PLAINTIFF'S COMPLAINT

The undersigned hereby certifies that there is no other action pending in this Court or any other court between the same parties arising from the same transaction or occurrence, nor has such an action been dismissed after being assigned to a judge.

David S. Shiener
DAVID S. SHIENER

FILED Received for Filing Oakland County Clerk 1/20/2021 9:48 AM

'21 FEB 19 PM 4:27

NOW COMES Plaintiff STEVEN GILLMAN, by and through his attorneys, JOHNSON LAW, PLC, and for his Complaint against the above-named Defendant, states as follows:

PARTIES, JURISDICTION, AND VENUE

1. This is a claim brought pursuant to MCL 15.240 to compel a public body's disclosure of public records.

2. Plaintiff Steven Gillman was at all times relevant to this cause of action a resident of the City of Troy, County of Oakland, State of Michigan.

3. Plaintiff Steven Gillman was at all times relevant to this cause of action duly appointed and qualified as the Personal Representative of the Estate of Megan Ann Miller, deceased.

4. Defendant City of Troy ("Troy") was at all times relevant to this cause of action a public body with its principal place of business in the City of Troy, County of Oakland, State of Michigan.

5. Jurisdiction is proper in this Court pursuant to MCL 15.240(1)(b).

6. Venue is proper in this Court pursuant to MCL 15.240(4), which sets forth that "[v]enue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action."

COMMON ALLEGATIONS

7. Plaintiff re-alleges and reincorporates each and every preceding paragraph as if fully set forth herein.

8. On or around February 26, 2020, Plaintiff married Megan Ann Miller.

9. On or around July 16, 2020, Megan Ann Miller was apprehended by officers from the Troy Police Department in connection with an investigation into the death of an infant daughter that Plaintiff and Megan Ann Miller shared.

10. Upon information and belief, Megan Ann Miller was detained at the Troy Police Department after being apprehended by officers from the Troy Police Department.

11. Upon information and belief, Megan Ann Miller remained in detention at the Troy Police Department until on or about July 19, 2020.

12. Upon information and belief, Megan Ann Miller on July 19, 2020 was emergently transported from the Troy Police Department to Beaumont Hospital – Troy.

13. Megan Ann Miller was pronounced dead at approximately 4:15 p.m. at Beaumont Hospital – Troy.

14. An autopsy that was performed on July 20, 2020 revealed that Megan Ann Miller died of Fentanyl intoxication.

15. Plaintiff on November 10, 2020 was appointed and qualified as the Personal Representative of the Estate of Megan Ann Miller. (**Exhibit 1**, Letters of Authority for Personal Representative).

16. Plaintiff on December 4, 2020 sent to Defendant Troy a request for public records pursuant to the Freedom of Information Act (“FOIA”), MCL 15.231 *et seq.* (**Exhibit 2**, December 4, 2020 FOIA Request).

17. In particular, Plaintiff by the December 4, 2020 FOIA Request requested from Defendant Troy the following:

Original full and complete file of any and all inmate records pertaining to Megan Ann Miller, D.O.B. December 6, 1984, including, but not limited to, all files, file folders, memorandum, intake records, booking records, medical records, nursing notes,

progress notes, physician notes, mental health notes and probation records, as well as the complete investigation file generated with respect to the incident that occurred on or about July 16, 2020 to July 19, 2020, including but not limited to investigation record(s), reports, memorandums, Use of Force Reports, 911 computer aided dispatch printouts and audio recordings, witness statements, officer statements, photographs, drawings, diagrams, video recordings, audio recordings (including but not limited to audio recordings of all phone calls to and from the Troy Police Department and shift commander phones), security camera video recordings, scout car video recordings, officer/scout car audio recordings, dispatch audio recordings, dispatch logs (whether computerized or handwritten), EMS run sheets, medical reports, autopsy reports, notes, video/audio surveillance of the cell(s) and unit(s) that Megan Ann Miller was housed in from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020, all correctional officer daily logs/sheets/notes and cell checklists (whether handwritten or computerized) from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020 for the unit(s) in which Megan Ann Miller was housed during those time periods, and all shift commander daily logs/sheets/notes (whether handwritten or computerized) from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020 for the unit(s) in which Megan Ann Miller was housed during those time periods.

(Id.)

18. Fully executed authorizations for the release of confidential information regarding Megan Ann Miller were provided to Defendant Troy along with the December 4, 2020 FOIA Request. *(Id.)*

19. Defendant Troy in a response dated December 9, 2020 denied in full the December 4, 2020 FOIA Request and indicated that the basis for its denial was that the records requested contained “[i]nvestigating records compiled for law enforcement purposes[,]” and their disclosure would “[i]nterfere with law enforcement proceedings.” (Exhibit 3, December 9, 2020 Denial).

**COUNT I – CLAIM TO COMPEL DISCLOSURE OF PUBLIC RECORDS PURSUANT
TO MCL 15.240(1)(b)**

20. Plaintiff re-alleges and reincorporates each and every preceding paragraph as if fully set forth herein.

21. MCR 15.231(2) sets forth as follows:

It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.

22. Defendant Troy is a “public body” as that term is defined under MCL 15.232(h).

23. Plaintiff’s December 4, 2020 FOIA Request was a request to receive “public record[s]” as that term is defined under MCL 15.232(i).

24. MCL 15.233(1) sets forth that “upon providing a public body’s FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or receive copies of the requested public record of the public body.”

25. MCL 15.235(2) sets forth as follows:

(2) Unless otherwise agreed to in writing by the person making the request, a public body shall, subject to subsection (10), respond to a request for a public record within 5 business days after the public body receives the request by doing 1 of the following:

- (a) Granting the request.
- (b) Issuing a written notice to the requesting person denying the request.
- (c) Granting the request in part and issuing a written notice to the requesting person denying the request in part.
- (d) Issuing a notice extending for not more than 10 business days the period during which the public body shall respond

to the request. A public body shall not issue more than 1 notice of extension for a particular request.

26. MCL 15.235(5) sets forth that “[a] written notice denying a request for a public record in whole or in part is a public body’s final determination to deny the request or portion of that request.”

27. MCL 15.240(1) sets forth in relevant part as follows:

1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

[...]

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body’s disclosure of the public records within 180 days after a public body’s final determination to deny a request.

28. Plaintiff in his December 4, 2020 FOIA Request provided to the FOIA Coordinator of Defendant Troy a written request that described a public record sufficiently to enable Defendant Troy to find the public record and he therefore has a right to receive a copy of the public records that he requested. (**Exhibit 2**, December 4, 2020 FOIA Request).

29. Defendant Troy by its correspondence dated December 9, 2020 denied in whole the December 4, 2020 FOIA Request, which constitutes a final determination to deny the December 4, 2020 FOIA Request. (**Exhibit 3**, December 9, 2020 Denial).

30. Defendant Troy has improperly withheld from disclosure the public records that Plaintiff requested by his December 4, 2020 FOIA Request, which records are nonexempt from disclosure under the Freedom of Information Act.

31. Defendant Troy cannot meet its burden to establish that each and every public record that Plaintiff requested by his December 4, 2020 FOIA Request is exempt from disclosure.

32. Defendant Troy has failed to adhere to the well-established principle that exemptions under the Freedom of Information Act must be interpreted narrowly.

33. Defendant Troy failed to separate the exempt and nonexempt public records that Plaintiff requested by his December 4, 2020 FOIA Request and failed to make the nonexempt public records available to Plaintiff, thereby improperly withholding from disclosure nonexempt public records.

34. The basis on which Defendant Troy denied Plaintiff's request for public records by his December 4, 2020 FOIA Request was conclusory and Defendant Troy failed to provide any facts to demonstrate how or why the disclosure of the public records that Plaintiff requested would interfere with law enforcement proceedings.

35. The disclosure of the public records that Plaintiff requested by his December 4, 2020 FOIA Request, in particular, those related to or arising out of Megan Ann Miller's detention at the Troy Police Department, any medical care or treatment she received at the Troy Police Department, and the circumstances necessitating her transport to Beaumont Hospital – Troy, would not interfere with or have a chilling effect on any law enforcement investigation.

WHEREFORE, Plaintiff Steven Gillman respectfully requests that this Honorable Court enter an Order compelling Defendant City of Troy to disclose the public records that Plaintiff Steven Gillman requested by his December 4, 2020 FOIA Request.

COUNT II – CLAIM FOR ATTORNEYS' FEES, COSTS, AND DISBURSEMENTS AND PUNITIVE DAMAGES

36. Plaintiff re-alleges and reincorporates each and every preceding paragraph as if fully set forth herein.

37. MCL 15.240(6) sets forth as follows:

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

38. MCL 15.240(7) sets forth as follows:

If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

39. As set forth above, Plaintiff in his December 4, 2020 FOIA Request provided to the FOIA Coordinator of Defendant Troy a written request that described a public record sufficiently to enable Defendant Troy to find the public record and he therefore has a right to receive a copy of the public records that he requested. (**Exhibit 2**, December 4, 2020 FOIA Request).

40. As set forth above, Defendant Troy has improperly withheld from disclosure the public records that Plaintiff requested by his December 4, 2020 FOIA Request and that are nonexempt from disclosure under the Freedom of Information Act.

41. Plaintiff is entitled pursuant to MCL 15.240(6) an award reasonable attorneys' fees, costs, and disbursements.

42. As set forth above, Defendant Troy has arbitrarily and capriciously violated the Freedom of Information Act by its refusal and delay in disclosing or providing copies of a public record.

43. Plaintiff is entitled pursuant to MCL 15.240(7) an award of punitive damages in the amount of \$1,000.00.

WHEREFORE, Plaintiff Steven Gillman respectfully requests that this Honorable Court award attorneys' fees, costs, and disbursements, in an amount that this Honorable Court deems appropriate and just under the circumstances, along with punitive damages in the amount of \$1,000.00 pursuant to MCL 15.240(7).

Respectfully submitted,

JOHNSON LAW, PLC
Attorneys for Plaintiff

By: /s/ David S. Shiener
DAVID S. SHIENER (P78608)
535 Griswold, Suite 2632
Detroit, Michigan 48226
(313) 324-8300
dshiener@venjohnsonlaw.com

Dated: January 20, 2021

EXHIBIT 1

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF OAKLAND

LETTERS OF AUTHORITY FOR
PERSONAL REPRESENTATIVE

FILE NO.

2020-397,154-DE

Estate of Megan Ann Miller

Deceased

To:

Name and address
Steven Gillman
2920 Thames
Troy, MI 48083

Telephone no.
313-598-9042

You have been appointed and qualified as personal representative(s) of the estate on November 10, 2020.
Date

You are authorized to perform all acts authorized by law unless exceptions are specified below.

Your authority is limited in the following way:

You have no authority over the estate's real estate or ownership interests in a business entity that you identified on your acceptance of appointment.

Other restrictions or limitations are:

These letters expire: November 10, 2021
Date

Handwritten signature

November 10, 2020
Date

Judge (formal proceedings)/Register Barbara P. Andruccioli (informal proceedings)

Bar no.

SEE NOTICE OF DUTIES ON SECOND PAGE

Attorney name (type or print) _____ Bar no. _____

Address _____

City, state, zip _____ Telephone no. _____

I certify that I have compared this copy with the original on file and that it is a correct copy of the original, and on this date, these letters are in full force and effect.

November 10, 2020
Date

Handwritten signature
Deputy register

Do not write below this line - For court use only

FILED November 10 2020
Handwritten signature
Deputy Register of Probate

The following provisions are mandatory reporting duties specified in Michigan law and Michigan court rules and are not the only duties required of you. See MCL 700.3701 through MCL 700.3722 for other duties. Your failure to comply may result in the court suspending your powers and appointing a special fiduciary in your place. It may also result in your removal as fiduciary.

CONTINUED ADMINISTRATION: If the estate is not settled within 1 year after the first personal representative's appointment, you must file with the court and send to each interested person a notice that the estate remains under administration, specifying the reasons for the continued administration. You must give this notice within 28 days of the first anniversary of the first personal representative's appointment and all subsequent anniversaries during which the administration remains uncompleted. If such a notice is not received, an interested person may petition the court for a hearing on the necessity for continued administration or for closure of the estate. [MCL 700.3703(4), MCL 700.3951(3), MCR 5.144, MCR 5.307, MCR 5.310]

DUTY TO COMPLETE ADMINISTRATION OF ESTATE: You must complete the administration of the estate and file appropriate closing papers with the court. Failure to do so may result in personal assessment of costs. [MCR 5.310]

CHANGE OF ADDRESS: You are required to inform the court and all interested persons of any change in your address within 7 days of the change.

Additional Duties for Supervised Administration

If this is a supervised administration, in addition to the above reporting duties, you are also required to prepare and file with this court the following written reports or information.

INVENTORY: You are required to file with the probate court an inventory of the assets of the estate within 91 days of the date your letters of authority are issued or as ordered by the court. You must send a copy of the inventory to all presumptive distributees and all other interested person who request it. The inventory must list in reasonable detail all the property owned by the decedent at the time of death. Each listed item must indicate the fair market value at the time of the decedent's death and the type and amount of any encumbrance. Where the decedent's date of death is on or after March 28, 2013, the lien amount will be deducted from the value of the real property for purposes of calculating the inventory fee under MCL 600.871(2). If the value of any item has been obtained through an appraiser, the inventory should include the appraiser's name and address with the item or items appraised by that appraiser. You must also provide the name and address of each financial institution listed on your inventory at the time the inventory is presented to the court. The address for a financial institution shall be either that of the institution's main headquarters or the branch used most frequently by the personal representative. [MCL 700.3706, MCR 5.307, MCR 5.310(E)]

ACCOUNTS: You are required to file with this court once a year, either on the anniversary date that your letters of authority were issued or on another date you choose (you must notify the court of this date) or more often if the court directs, a complete itemized accounting of your administration of the estate. This itemized accounting must show in detail all income and disbursements and the remaining property, together with the form of the property. Subsequent annual and final accountings must be filed within 56 days following the close of the accounting period. When the estate is ready for closing, you are also required to file a final account with a description of property remaining in the estate. All accounts must be served on the required persons at the same time they are filed with the court, along with proof of service.

ESTATE (OR INHERITANCE) TAX INFORMATION: You are required to submit to the court proof that no estate (or inheritance) taxes are due or that the estate (or inheritance) taxes have been paid. Note: The estate may be subject to inheritance tax.

Additional Duties for Unsupervised Administration

If this is an unsupervised administration, in addition to the above reporting duties, you are also required to prepare and provide to all interested persons the following written reports or information.

INVENTORY: You are required to prepare an inventory of the assets of the estate within 91 days from the date your letters of authority are issued and to send a copy of the inventory to all presumptive distributees and all other interested persons who request it. The inventory must list in reasonable detail all the property owned by the decedent at the time of death. Each listed item must indicate the fair market value at the time of the decedent's death and the type and amount of any encumbrance. Where the decedent's date of death is on or after March 28, 2013, the lien amount will be deducted from the value of the real property for purposes of calculating the inventory fee under MCL 600.871(2). You are also required within 91 days from the date your letters of authority are issued, to submit to the court the information necessary to calculate the probate inventory fee that you must pay to the probate court. You may use the original inventory for this purpose. [MCL 700.3076, MCR 5.307]

ESTATE (OR INHERITANCE) TAX INFORMATION: You may be required to submit to the court proof that no estate (or inheritance) taxes are due or that the estate (or inheritance) taxes have been paid. Note: The estate may be subject to inheritance tax.

EXHIBIT 2



JOHNSON LAW, PLC
ATTORNEYS AND COUNSELORS

December 4, 2020

Troy Police Department
ATTN: FOIA COORDINATOR
500 W. Big Beaver Road
Troy, MI 48084

Re: Freedom of Information Act - Request for Records
All inmate records pertaining to Megan Ann Miller, D.O.B. December 6, 1984,
and all records pertaining to her detention that occurred on or about July 16,
2020 to July 19, 2020.
Our File No: 210022

Dear Sir/Madam:

Pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., in conjunction with MCL 750.492, I hereby request the following documents:

Original full and complete file of any and all inmate records pertaining to Megan Ann Miller, D.O.B. December 6, 1984, including, but not limited to, all files, file folders, memorandum, intake records, booking records, medical records, nursing notes, progress notes, physician notes, mental health notes and probation records, as well as the complete investigation file generated with respect to the incident that occurred on or about July 16, 2020 to July 19, 2020, including but not limited to investigation record(s), reports, memorandums, Use of Force Reports, 911 computer aided dispatch printouts and audio recordings, witness statements, officer statements, photographs, drawings, diagrams, video recordings, audio recordings (including but not limited to audio recordings of all phone calls to and from the Troy Police Department and shift commander phones), security camera video recordings, scout car video recordings, officer/scout car audio recordings, dispatch audio recordings, dispatch logs (whether computerized or handwritten), EMS run sheets, medical reports, autopsy reports, notes, video/audio surveillance of the cell(s) and unit(s) that Megan Ann Miller was housed in from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020, all correctional officer daily logs/sheets/notes and cell checklists (whether handwritten or computerized) from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020 for the unit(s) in which Megan Ann Miller was housed during those time periods, and all shift commander daily logs/sheets/notes (whether handwritten or

DETROIT . FLINT . GRAND RAPIDS . NATIONWIDE

Buhl Building . 535 Griswold Street . Suite 2632 . Detroit, Michigan 48226
T. 313-324-8300 F. 313-324-8301 VENFIGHTS.COM

computerized) from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020 for the unit(s) in which Megan Ann Miller was housed during those time periods.

If for any reason you are unable or unwilling to produce such documents at this time, then consider this letter as a final request that such documents be preserved, and not destroyed, for subsequent production pursuant to subpoena, court order or other legal process.

Enclosed is a fully executed authorization for release of these records, as well as a HIPAA authorization for any medical records that you may have.

If all or any part of this request is denied, please list the specific exemptions which are being claimed to withhold information. If you determine that some portions of the requested information are exempt, I will expect, as the Act requires, that you will provide us with the non-exempt portions. I, of course, reserve the right to appeal any decision to withhold information and expect that you will list the address and office where such an appeal can be sent.

As you may know, the Michigan Freedom of Information Act permits you to reduce or waive all search and/or copying fees when release of the requested information would be in the public interest. MCL 15.234(1). I believe that this request fits that category and I, therefore, ask that you waive such fees. If this request is processed under the Privacy Act, however, I expect that no fees will be charged for locating the requested files.

The contact information of the requester and the address to which all documents should be sent are as follows:

Steven Gillman
c/o David S. Shiener
535 Griswold, Suite 2632
Detroit, Michigan 48226
(313) 324-8300
dshiener@venjohnsonlaw.com

Please note that the "requesting person" as designated in the Freedom of Information Act for purposes of this request is Steven Gillman

If you have any questions regarding this request, please contact my office and send all records and responses to this address. As provided in the Freedom of Information Act, I expect to receive a reply within five (5) working days.

JOHNSON LAW, PLC
535 Griswold Street, Suite 2632, Detroit, Michigan 48226
Telephone 313.324.8300 – Fax 313.324.8301

AUTHORIZATION FOR RELEASE OF INFORMATION

TO: City of Troy

REGARDING:

Megan Ann Miller	[REDACTED]	12-06-1984
NAME ON RECORD	SOCIAL SECURITY NUMBER	DATE OF BIRTH

I, the undersigned, hereby authorize the records custodian or the records department or the director or designee of the above named to release to Johnson Law, PLC on behalf of the requesting party any and all information requested by the accompanying subpoena or letter. I understand that this information may include but not limited to records, if any, on alcohol and drug abuse, psychology, social work, and information about HIV, AIDS, and ARC.

I, the undersigned understand that unless I expressly direct otherwise, that (a) the custodian will make the information reasonably available for inspection and copying, or (b) the custodian will deliver to Johnson Law, PLC on behalf of the requesting party, the original information or a true and exact copy of the original information accompanied by the provided Verification Statement. I also understand that I may revoke this authorization, except to the extent action has already been taken in reliance upon this authorization, at any time by sending a written revocation to the custodian of this information.

This authorization is valid for a period of 12 months after being signed or upon occurrence of the following event that relates to me or to the purpose of intended use or disclosure of information about me:

I, the undersigned, understand that the recipient of the information provided may make further disclosure of this information that may not be subject to the protections set forth in 45 CFR Parts 160 through 164.

A photocopy of this authorization shall be considered as valid as the original.

Steven Gillman
SIGNATURE

12.4.2020
DATE

PARENT/LEGAL GUARDIAN SIGNATURE
Steven Gillman, Personal Representative of the Estate of Megan Ann Miller
PERSONAL REPRESENTATIVE (DECEASED PARTY)

DATE

DATE

HIPAA Privacy Authorization
For Disclosure of Protected Health Information
Relevant to Litigation, Pending Claims or Intent to Sue

Patient's Name: Megan Ann Miller

Address: _____ Date of Birth: 12-06-1984

- 1. I make this Authorization for the purpose of copying records in connection with a lawsuit or claim to which I am a party.
2. This authorization is directed to and applies to protected health information maintained by: (Hospital, Physician, Medical provider, etc.) City of Troy

3. I hereby authorize the above, its director, administrative and clinical staff or assignees, medical information services and billing departments to release any and all medical records and information from my date of birth to the present unless specified otherwise, relating to my care and treatment including x-rays, photographs, electronic and digital files and any other records, unless I expressly direct or specify otherwise.

4. This information is to be released for copying purposes to: JOHNSON LAW, PLC

5. I understand that information used or disclosed pursuant to this authorization may be disclosed by the recipient and may no longer be protected by the Federal Privacy Rules.

6. This authorization shall be in force and in effect until the conclusion of the pending litigation or claim unless otherwise specified.

7. I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization, I must do so in writing and send it to the hospital, doctor or other custodian of medical information. I understand that the revocation will not apply to information that has already been released in response to this authorization.

8. I understand that authorizing the release of this health information is voluntary and that I need not sign this form in order to ensure health care treatment, eligibility for benefits, payment or health plan enrollment.

9. A copy of this authorization is as valid as the original.

All Pertinent Sections Of This Form Must Be Completed Before Signing

Subscribed and sworn before me this 4 day of Dec 2020
Cody Pietz Notary
Oakland County, MI
My commission expires 11-22-2022

x Steven Gillman 12.4.2020
Signature of Patient or of Personal Representative Date
Steven Gillman, Personal Representative of the Estate of Megan Ann Miller
Print Name of Patient or Personal Representative
Personal Representative of the Estate of Megan Ann Miller
Description of Personal Representative's Authority MN310 Rev510

CODY PIETZ
Notary Public, State of Michigan
County of Oakland
My Commission Expires 11-23-2022
Acting in the County of _____

EXHIBIT 3

City: Keep original and provide copy of both sides to requestor at no charge.

City of Troy
500 W Big Beaver Rd
Troy, MI 48084
Phone: (248) 524-3317

Denial Form

Public Summary available at: <http://troymi.gov/Government/Departments/CityClerk>

Response to FOIA Request Troy Police Records

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Request No.: 562 Date Received: _____ Check if received via: Email Fax
Date of This Notice: 12/9/20 Date delivered to junk/spam folder: _____

Name	Phone
Firm/Organization	Fax
Street	Email
City	State Zip

Johnson Law

535 Griswold St Ste 2632

Detroit

MI 48226

(Please Print or Type)

Date discovered in junk/spam folder: _____

Record(s) You Requested: (Listed here or see attached copy of original request) see request(attached)

Granted.

Granted in part and denied in part. Portions of your request are exempt from disclosure based on provisions set forth in the Act (see comments attached to this letter.)

Denied. (see comments attached to this letter.)

The documents you requested are enclosed.

____ There is no charge.

____ Please pay the amount of \$_____

Please pay the amount of \$ _____. Once payment is received, the documents will be mailed to you.

See notice below. Under the FOIA, Section 10 you have the right to appeal to the head of this public body or to a judicial review of the denial. Under the FOIA, Section 10a, you have the right to appeal the fee to the head of this public body.

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the City Manager or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the City has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. (See back of this form for additional information on your rights.)

Signature of FOIA Coordinator: _____

Date: 12/9/20

FREEDOM OF INFORMATION ACT (EXCERPT)

Act 442 of 1976

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015

DENIAL OF RECORDS:

Denial is based on the following provision(s) of the Freedom of Information Act. MCL 15.243, Sec. 13(1). (All that apply are checked)

- (a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
 - Name(s) telephone number(s) address(es)
 - physical characteristics driver license number(s) date(s) of birth
 - Other _____

- (b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure would do any of the following:

- (i) interfere with law enforcement proceedings.
- (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.
- (iii) Constitute an unwarranted invasion of personal privacy.
- (iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.
- (v) Disclose law enforcement investigative techniques or procedures.
- (vi) Endanger the life or physical safety of law enforcement personnel.

- (d) Records or information specifically described and exempted from disclosure by statute:
 - MCL 780.758 William Van Regenmorter Crime Victim's Rights Act
 - MCL 28.421b Firearms
 - MCL 28.214 C.J.I.S. Policy Council Act (LEIN information)
 - Statute: _____

- (l) Medical : _____

- (m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action.
- (n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety.
- (s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:
 - (i) Identify or provide a means of identifying an informant.
 - (ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
 - (v) Disclose operation instructions for law enforcement officers or agents.
 - (vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents or those who furnish information to law enforcement departments or agencies.
 - (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.
 - (ix) Disclose personnel records of law enforcement agencies.

- (w) Information or records that would disclose the social security number of any individual.
- To the best of the department's knowledge, information, and belief, under the information provided by you or by any other description reasonably known to the department, the public records do not exist within the department.

- Based on the information you provided, we are unable to locate any records pertaining to the incident you described. Please resubmit a request with additional information. The following information, if available, is suggested.
 - Specific location (i.e. city, county.)
 - Troy Police incident number
 - Names of those involved in the incident
 - Specific dates (i.e., date of incident)
 - Name of driver and their birth date or driver license number
 - Date of birth

The report you have requested has not yet been completed and filed. Please resubmit your request in 30 days.

Additional Comments:
This incident is an open, active investigation and as such, disclosure would interfere with law enforcement proceedings.



JOHNSON LAW, PLC
ATTORNEYS AND COUNSELORS

December 4, 2020

Troy Police Department
ATTN: FOIA COORDINATOR
500 W. Big Beaver Road
Troy, MI 48084

562

*Re: Freedom of Information Act - Request for Records
All inmate records pertaining to Megan Ann Miller, D.O.B. December 6, 1984,
and all records pertaining to her detention that occurred on or about July 16,
2020 to July 19, 2020.
Our File No: 210022*

Dear Sir/Madam:

Pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., in conjunction with MCL 750.492, I hereby request the following documents:

Original full and complete file of any and all inmate records pertaining to Megan Ann Miller, D.O.B. December 6, 1984, including, but not limited to, all files, file folders, memorandum, intake records, booking records, medical records, nursing notes, progress notes, physician notes, mental health notes and probation records, as well as the complete investigation file generated with respect to the incident that occurred on or about July 16, 2020 to July 19, 2020, including but not limited to investigation record(s), reports, memorandums, Use of Force Reports, 911 computer aided dispatch printouts and audio recordings, witness statements, officer statements, photographs, drawings, diagrams, video recordings, audio recordings (including but not limited to audio recordings of all phone calls to and from the Troy Police Department and shift commander phones), security camera video recordings, scout car video recordings, officer/scout car audio recordings, dispatch audio recordings, dispatch logs (whether computerized or handwritten), EMS run sheets, medical reports, autopsy reports, notes, video/audio surveillance of the cell(s) and unit(s) that Megan Ann Miller was housed in from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020, all correctional officer daily logs/sheets/notes and cell checklists (whether handwritten or computerized) from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020 for the unit(s) in which Megan Ann Miller was housed during those time periods, and all shift commander daily logs/sheets/notes (whether handwritten or

DETROIT . FLINT . GRAND RAPIDS . NATIONWIDE

computerized) from 12:01 a.m. on July 16, 2020 through 12:01 a.m. on July 20, 2020 for the unit(s) in which Megan Ann Miller was housed during those time periods.

If for any reason you are unable or unwilling to produce such documents at this time, then consider this letter as a final request that such documents be preserved, and not destroyed, for subsequent production pursuant to subpoena, court order or other legal process.

Enclosed is a fully executed authorization for release of these records, as well as a HIPAA authorization for any medical records that you may have.

If all or any part of this request is denied, please list the specific exemptions which are being claimed to withhold information. If you determine that some portions of the requested information are exempt, I will expect, as the Act requires, that you will provide us with the non-exempt portions. I, of course, reserve the right to appeal any decision to withhold information and expect that you will list the address and office where such an appeal can be sent.

As you may know, the Michigan Freedom of Information Act permits you to reduce or waive all search and/or copying fees when release of the requested information would be in the public interest. MCL 15.234(1). I believe that this request fits that category and I, therefore, ask that you waive such fees. If this request is processed under the Privacy Act, however, I expect that no fees will be charged for locating the requested files.

The contact information of the requester and the address to which all documents should be sent are as follows:

Steven Gillman
c/o David S. Shiener
535 Griswold, Suite 2632
Detroit, Michigan 48226
(313) 324-8300
dshiener@venjohnsonlaw.com

Please note that the "requesting person" as designated in the Freedom of Information Act for purposes of this request is Steven Gillman.

If you have any questions regarding this request, please contact my office and send all records and responses to this address. As provided in the Freedom of Information Act, I expect to receive a reply within five (5) working days.

RECEIVED
DEC 14 2020
By _____

'21 FEB 19 PM 4:27

Ven

JOHNSON LAW, PLC

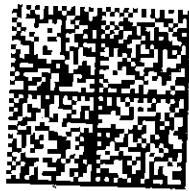
BUHL BUILDING

595 Griswold Street, Suite 2600
Detroit, Michigan 48226

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE
CERTIFIED MAIL



7015 1520 0001 1539 9553



US POSTAGE
\$ 08.25

First-Class

Mailed From 48226
02/10/2021
032A 0061811702

210022

~~City of Troy~~

c/o Troy City Clerk
500 W. Big Beaver Rd
Troy, MI 48084

'21 FEB 19 PM 3:47

RETURN RECEIPT ~~REQUIRED~~