

LICKING COUNTY MUNICIPAL COURT

40 West Main Street
Newark City Building
Newark, Ohio 43055
lcmunicipalcourt.com

Administrative/Presiding Judge
Michael F. Higgins
740.670.7850

Judge
David N. Stansbury
740.670.7840

May 18, 2017

All Listed Media Outlets:

The following is a timeline promised as it relates to the Hartless cases.


JUDGE MICHAEL F. HIGGINS

LICKING COUNTY MUNICIPAL COURT

DEPARTMENT OF ADULT PROBATION

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Newark, Ohio 43055
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LICKING COUNTY
MUNICIPAL COURT

2017 MAY 18 PM 1:06

NEWARK, OHIO
MARCIA J. PHELPS
CLERK

Judge Michael F. Higgins



Judge David Stansbury

Kevin K. Saad
Director

INVESTIGATIVE REPORT

Offender/Case Numbers: Thomas Hartless 16CRB02606, 17CRB00090, and 17CRB00422
Victims: Marlina Medrano, Kirkersville Police Chief Steven Eric Disario, and Cindy Krantz
Investigator: Kevin Saad, Director Licking County Municipal Court Adult Probation Department
Investigation Completed: 5/18/17

Purpose:

The purpose of this report is to determine if any policy/procedures/processes were not followed by probation officers when dealing with Mr. Hartless from March 23, 2017 to May 12, 2017.

Early Jail Release Process:

Prior to creating a timeline of events I would like to explain the Licking County Municipal Court's offender early release process from the Licking County Justice Center. This process has been in existence since 2010. Thousands of offenders have been subjected to this process from 2010 to 2017. This process has been effective in the past when determining who should be released early from the Licking County Justice Center. It is not treatment effective or practical for our Court to keep all offenders incarcerated at the Licking County Justice Center for their entire jail term (s) especially when probation officers are in the business of trying to change offender behavior and reduce recidivism. Jails are typically not prosocial or habilitating environments, so early release is necessary for a lot of offenders to start the rebuilding process. Probation officers cannot assist offenders with changing their behavior (i.e., rebuilding) when they are incarcerated. This type of change typically occurs in a community supervision setting with a probation officer. It has been uncommon for our Court over the past seven years for early releases to be done on those offenders who have had violent backgrounds in the past. The following is a detailed description of the Licking County Municipal Court offender early release process:

- 1) Immediately after an offender is sentenced to 30 or more days in jail by a Licking County Municipal Court Judge, his or her name is forwarded to the Senior Probation Officer.

- 2) The Senior Probation Officer inputs the name of the offender on a spreadsheet.
- 3) The Senior Probation Officer assigns each offender to a probation officer.
- 4) The Senior Probation Officer sends the offender names to the assigned probation officer.
- 5) Once the probation officer receives the offender names from the Senior Probation Officer, he or she travels to the jail to complete an interview. A 30 + Jail Day Report was created by the former Probation Department Director several years ago for probation officers to use as a guide when conducting their interviews at the jail. It is a four page document that includes questions about an offender's background (i.e., alcohol/drug usage, attempted treatment, mental health issues, medications, doctor's information, employment, disability, and education). It also includes the old Ohio CCA Risk Assessment. This form identifies the offender's risk and the offender's needs. There is also a probation officer recommendation section in the document and a section where the probation officer would write a brief description of the current offense (In order to write the description the probation officer would have to read the offense report regarding the offender's current offense). This is the preferred interview guide, but on occasion probation officers develop and ask their own interview questions based on their knowledge of the case, past work experience, training, and education.
- 6) As soon as the probation officer completes the interview, he or she forwards the recommendation to the Senior Probation Officer.
- 7) The recommendation is typed directly into the Senior Probation Officer's spreadsheet.
- 8) The Senior Probation Officer submits the updated spreadsheet via e-mail to both Licking County Municipal Court Judges every two weeks for review.
- 9) The judges could initiate an early release themselves via a judgment entry after reviewing the spreadsheet or the Senior Probation Officer could initiate an early release via judgment entry before or after one or both judges review the spreadsheet. All judgment entries are signed by one of the judges prior to an offender being released early.
- 10) From 2010 to April 11, 2017 the judges, the Senior Probation Officer, and the Director relied heavily upon the probation officer recommendation regarding early releases due to steps one through nine mentioned above.

Timeline of Events:

The following will be a list of chronological events that transpired from 12/5/2016 to 5/12/2017:

- **12/5/16:** Thomas Hartless committed domestic violence against victim Marlina Medrano.
- **12/19/16:** a warrant was issued for Mr. Hartless. The case number assigned to the 12/5/16 domestic violence incident was 16CRB02606 (Misdemeanor of the first degree).
- **1/6/17:** Mr. Hartless appeared for his initial arraignment hearing regarding case number 16CRB02606. Mr. Hartless pleaded not guilty to the charge. Judge Stansbury released him on an Own Recognizance Bond. He also ordered as conditions of the bond to have no violent contact with Marlina Medrano and he ordered Mr. Hartless to take all medications as prescribed.

- **1/14/17:** Mr. Hartless committed domestic violence against victim Marlina Medrano. Mr. Hartless was arrested on 1/14/17 regarding the second domestic violence incident.
- **1/14/17:** After the second domestic violence incident, Mr. Hartless was in direct violation of the bond condition on case number 16CRB02606 which states, "To have no violent contact with Marlina Medrano."
- **1/17/17:** Mr. Hartless appeared for his initial arraignment hearing regarding the second domestic violence incident. The case number assigned to the 1/14/17 domestic violence incident was 17CRB00090 (Misdemeanor of the first degree). Mr. Hartless entered a not guilty plea to this particular charge. Judge Stansbury set a \$5,000.00 cash/surety bond. He also ordered the following conditions of bond: no alcohol or drug usage and no contact with Marlina Medrano.
- **1/17/17:** AA Craven Bonding Company posted Mr. Hartless's Bond on case number 17CRB00090.
- **1/17/17:** an ex-parte civil protection order was granted. Ms. Medrano was the petitioner and Mr. Hartless was the respondent. There was a notice about firearms and other deadly weapons included in this protection order.
- **1/26/17:** Prior to the second stage protection order hearing on 1/26/2017 Ms. Medrano made an oral motion to dismiss the petition. Judge Frost terminated the protection order that was granted on 1/17/17 based on the oral motion on 1/26/2017.
- **3/6/17:** Mr. Hartless committed domestic violence and criminal damaging against victim Marlina Medrano.
- **3/6/17:** After the third domestic violence incident, Mr. Hartless was in direct violation of the bond conditions regarding case numbers 16CRB02606 and 17CRB00090 based on the no violent contact order and the no contact order with Marlina Medrano.
- **3/7/17:** A warrant was issued for Mr. Hartless's arrest for domestic violence and criminal damaging. The domestic violence offense was a misdemeanor of the first degree and the criminal damaging offense was a misdemeanor of the second degree. The case number assigned to these offenses was 17CRB00422.
- **3/7/17:** An ex-parte civil protection order was issued. The petitioner was Marlina Medrano and the respondent was Thomas Hartless. There was a notice about firearms and other deadly weapons included in the protection order.
- **3/23/17:** Marlina Medrano submitted a hand written letter to the Court. The letter was filed stamped on 3/23/17. However, Ms. Medrano had written the date of 2/23/17 on the letter. She stated the following in the letter, "I never intended Tom to be jailed for his actions." She also stated, "I am most confident we can and will overcome our struggles and relieve stress between us." She further stated, "First and foremost I want the Court to know that I have always intended to work with and help Tom with this anger issue and accompany him through this transition."
- **3/23/17:** Mr. Hartless reported to the Licking County Municipal Court for a Pre-Trial Conference at 8:30 a.m. Mr. Hartless was sentenced by Judge Michael Higgins on all charges relating to case numbers 16CRB02606, 17CRB00090, and 17CRB00422. All jail sentences ordered by Judge Higgins on this date were to run concurrent with one another. 180 days were imposed, 90 days were suspended, and Mr. Hartless was ordered to be under probation supervision for two years after he served 90 days in jail. Judge Higgins also ordered for Mr. Hartless to attend the Woodlands Batterer's Group.

- **4/5/17:** Pursuit to the Licking County Municipal Court offender early release from jail process the Senior Probation Officer assigned Mr. Hartless to one of the intensive supervision probation (ISP) officers to be interviewed for possible early release from the jail. The Senior Probation Officer sent the ISP Officer the spreadsheet with Mr. Hartless's name on it. The ISP Officer was required to have a recommendation to the Senior Probation Officer by 4/12/17.
- **4/7/17:** A second stage protection order hearing was scheduled for 4/7/2017. Prior to the hearing Ms. Medrano moved to dismiss the petition and at the hearing she reiterated her wish to dismiss. Judge Frost terminated the protection order on 4/10/2017.
- **4/7/17:** The ISP Officer sent a response to the Senior Probation Officer. The response regarding Mr. Hartless stated, "Release to general unit probation for assessment."
- **4/11/17:** Judge Higgins signed an early release entry that was prepared for him by the Senior Probation Officer based on the ISP Officer's recommendation. The entry referenced all three case numbers regarding Mr. Hartless at the top. The entry stated, "The defendant is to be released from the Licking County Justice Center Wednesday April 12, 2017 at 9:00 a.m. The balance of the jail is suspended and the defendant is placed on probation for one year. The terms of probation are to be set by the Licking County Municipal Court Adult Probation Department. The defendant is to report to the Licking County Municipal Court Adult Probation Department, 40 West Main Street, Newark, Ohio immediately upon release from jail."
- **4/12/17:** The Senior Probation Officer submitted the completed updated early release from jail spreadsheet to both judges at 4:24 p.m. Mr. Hartless's name was not on this list because Judge Higgins had already signed the jail release entry pertaining to Mr. Hartless.
- **4/12/17:** Mr. Hartless reported into the Probation Department upon his release from jail. The Secretary II. scheduled him to attend a probation intake appointment with the ISP Officer on 5/1/17 at 10 a.m.
- **5/1/17:** Mr. Hartless showed up for his probation intake appointment with the ISP Officer. The ISP Officer went over all standard terms of probation with Mr. Hartless and one additional term that the ISP Officer chose to impose (The additional term was no weapons). The ISP Officer failed to impose the term regarding Mr. Hartless attending the Woodland's Batterer's group. This would have been a mandatory term for the ISP Officer to order since Judge Higgins had already ordered it back on 3/23/17. Mr. Hartless initialed by all the terms and he signed the document. The ISP Officer also completed an Ohio Risk Assessment System (ORAS) – Community Supervision Tool (CST) with Mr. Hartless. The ORAS-CST score was a 15 which indicated moderate risk. The ISP Officer had the option to complete a professional override on the ORAS-CST based on collateral information such as violent tendencies, past criminal history, nature and circumstances of the offense, etc. The ISP Officer chose not to complete a professional override on Mr. Hartless. The ISP Officer failed to complete the University of Rhode Island Change Assessment (URICA) which is mandatory at intake per the Licking County Municipal Court Adult Probation Department Building Rapport/Changing Offender Behavior Manual. This assessment is a responsivity assessment. It basically gauges an offender's readiness to change. The assessment determines where an offender currently is in the Stages of Change Model. The ISP Officer had the ability to impose any and all terms pertaining to Mr. Hartless's cases since Judge Higgins stated on the entry that terms of

probation were to be set by the Probation Department (A list of terms may be found on attachment F located in the Court's Journal Book Docket 29, Page 43). Prior to Mr. Hartless leaving the Probation Department, he was given an appointment time to return to see a general unit probation officer on 5/30/17 10 a.m.

- **5/4/17:** Marlina Medrano made an official domestic violence complaint with the Licking County Sheriff's Office. The suspect was Thomas Hartless. She made the complaint while at work in Kirkersville, Ohio. A Deputy Sheriff completed the report.
- **5/5/17:** Marlina Medrano made an official domestic violence complaint with the Newark Police Department. She had to make an additional complaint with the Newark Police Department since the incident reported to the Licking County Deputy Sheriff on 5/4/17 occurred in the City limits of Newark, Ohio.
- **5/5/17:** Magistrate Rickrich from the Licking County Domestic Relations Court granted an ex-parte civil protection order. The petitioner was Marlina Medrano and the respondent was Thomas Hartless. The Magistrate ordered that the respondent turn over all deadly weapons and concealed carry license in the respondent's possession to the law enforcement agency that serves the respondent with this order. According to the Licking County Sheriff's Office Civil Division, service of this protection order was attempted one time at 328 Oakland Avenue Utica, Ohio on 5/8/17. Service was unsuccessful due to Mr. Hartless no longer living at the above mentioned address.
- **5/5/17:** A general unit probation officer received a telephone call from Marlina Medrano. Ms. Medrano informed the Probation Officer of the protection order, the new domestic violence incident, and the new police report. After the Probation Officer hung up with Ms. Medrano, the Probation Officer attempted to contact Mr. Hartless over the telephone. The phone contact was unsuccessful. The Probation Officer staffed Mr. Hartless's case with the Senior Probation Officer. The Senior Probation Officer advised the Probation Officer to file an affidavit for warrant if Mr. Hartless does not show up for his next office contact appointment. A new incident report including violence technically was a violation of probation due to Standard Terms of Probation # 3. This term states, "You must report to the Adult Probation Department Office as instructed by any of the Adult Probation Department personnel, and while you are on probation you are to conduct yourself appropriately at all times and answer truthfully all questions asked by Adult Probation personnel." Mr. Hartless did not conduct himself appropriately per a Licking County Sheriff's Office report (Completed on 5/4/17) and per a Newark Police Department report (Completed on 5/5/17).
- **5/8/17:** I sent via e-mail on this date at 1:19 p.m. the Newark Police Department Daily Report to all of the Probation Department staff. Included in this report was the new domestic violence incident between Ms. Medrano and Mr. Hartless. The Supervising Probation Officer was already aware of this information.
- **5/10/17:** An ISP officer attempted to make contact with Mr. Hartless again over the telephone. The phone contact was unsuccessful. That same probation officer mailed a letter to Mr. Hartless ordering him to report to the Licking County Municipal Court Adult Probation Department within five business days after the receipt of the letter.
- **5/12/17:** Mr. Hartless killed the three victims and himself at the Pine Kirk Care Center.
- **5/12/17:** I asked the ISP Officer why additional terms were not ordered. The ISP Officer responded by saying, "The Court did not impose any terms." It is common knowledge at the Licking County Municipal Court Adult Probation Department that the Court relies

heavily upon the Probation Officers who work for its Probation Department to use their education, training, work experiences, and knowledge of the case to determine appropriate terms of probation. This has been a common practice for the Licking County Municipal Court Judges and the Licking County Municipal Court Adult Probation Department for the past several years and it has been effective.

- **5/12/17:** I asked the ISP Officer for a copy of the 30 + Jail Day Report regarding Mr. Hartless. The ISP Officer did not use the 30 + Jail Day Report. Instead the ISP Officer took notes on a piece of notebook paper.
- **5/17/17:** I had a conversation with the General Unit Probation Officer regarding the phone conversation that took place with Marlina Medrano back on 5/5/17. I asked the Officer what information if any she gave Ms. Medrano to try to stay safe. The Officer responded by saying, "I advised her to call the police if Mr. Hartless attempts to contact her." The Officer also informed me that she informed Ms. Medrano to bring in a copy of the protection order. According to the Officer, Ms. Medrano did bring in a copy of the protection order on 5/5/17. It is common for probation officers to discuss community resource options such as the Center for New Beginnings Shelter and Services with domestic violence victims when they report abuse. The Center for New Beginnings Shelter and Services was not discussed with Ms. Medrano. I asked the Probation Officer why she did not make a home contact on Mr. Hartless after receiving the new information from Ms. Medrano on 5/5/17 since it was technically a violation of Standard Terms of Probation # 3. The Probation Officer informed me that she did not have a good address on Mr. Hartless. The Probation Officer further stated that Ms. Medrano advised that Mr. Hartless was not staying with her at 116 Westmoor Avenue Newark, Ohio and that she did not know his whereabouts. The unknown whereabouts was the Probation Officers main reason for not attempting a home contact. The Probation Software System and the Court Computer System both listed an address of 328 Oakland Avenue Utica, Ohio for Mr. Hartless.
- **5/17/17:** I asked the ISP Officer who interviewed Mr. Hartless at the jail for early release to describe to the best of his ability why he recommended early release. The ISP Officer informed me that the letter that was submitted by Ms. Medrano and file stamped on the same day that she went to Court (3/23/17) weighed heavily on his decision to recommend early release. Other early release factors for the ISP Officer were the last violent offense committed by Mr. Hartless was back in 2009 according to a criminal history review on the Court's computer system and on a Law Enforcement Automated Data System (LEADS) printout, it is not uncommon for probation officers to supervise offenders with violent past criminal histories, no alcohol/drug issues were present at the time of the interview, transportation would not have been a barrier since Mr. Hartless possessed a valid driver license, self-report of medication compliance, Mr. Hartless was polite, coherent, and not in a mental health crisis during the interview (The ISP Officer is a trained Crisis Intervention Team Member in Licking County, this means that he has specialized training in dealing with the mentally ill population). After the ISP Officer stated the above, I asked him if he read all three domestic violence incident reports pertaining to Mr. Hartless's three domestic violence convictions. The ISP Officer responded by saying, "I read two out of the three reports." I then asked him if he reviewed all three Court files. He responded by saying, "I did not review any of the Court files." For officer convenience all documents in each Court file had been scanned into the

Court's computer system. This means that the ISP Officer could have reviewed all Court file documents from a Probation Department office computer. In order for an officer to truly have a good understanding of the nature and circumstances of an offender's crimes he or she would have to review Court file documents.

Investigation Findings:

After thorough review of the facts pertaining to the release and supervision of Mr. Hartless, I identified the following areas of concern:

- There wasn't any checks and balances in place regarding the early jail release process. The Probation Officer's recommendation was reviewed by the Senior Probation Officer in order to place it on the spreadsheet, but not for approval purposes.
- The weight of an early release should not have solely fell upon the recommendation of the interviewing Probation Officer as it did in this case.
- The 30 + Jail Day Report was a preferred guide not a mandatory one.
- The entry of release was signed without having a formal hearing on the matter of release.
- A no violent contact order or a no contact order with the victim was not ordered by the Judge or the ISP Probation Officer.
- No input from Ms. Medrano was sought by the ISP Officer closer to the time of the early release interview with Mr. Hartless.
- The ISP Officer did not read all three incident reports pertaining to Mr. Hartless's domestic violence incidents nor was any Court documents reviewed except for two incident reports and the LEADS printout.
- During the probation intake appointment the ISP Officer did not impose additional terms except for no weapons when the officer had the authority to do so. The ISP Officer did not complete the URICA assessment.
- The ISP Officer chose not to do a professional override on the ORAS-CST even though there was sufficient collateral information to support an override.
- The loss of the miscellaneous jail interview notes.
- The failure to attempt a home contact on Mr. Hartless after the General Unit Probation Officer was made aware by Ms. Medrano over the telephone that he assaulted her again. This would have been a violation of Standard Terms of Probation # 3.
- The failure of the General Unit Probation Officer to give community resource information to Ms. Medrano on 5/5/17 that could have helped her stay safe (i.e., the Center for New Beginnings Shelter and Services).
- The failure of the General Unit Probation Officer to search the Court's computer system for a last known address after Ms. Medrano informed the Officer that she did not know Mr. Hartless's whereabouts.

Immediate Responses to Findings:

After review of all the areas of concern, the Court immediately implemented a three tier checks and balances system on 5/17/17 regarding offenders being released early from the jail. The first tier would be probation officer review of the entire case plus a thorough interview at the jail with the offender, the second tier would be the Senior Probation Officer or Director review of the entire case and the interview packet, and the third tier would be the presiding judge review of the case and the interview packet during a formal early release hearing. Effective 5/17/17 all offenders being considered for possible early release will be subjected to this three tier checks and balances process.

An in-depth jail interview packet was developed by the Senior Probation Officer and one of our ISP officer's over the past few days. Effective 5/19/17 it would be mandatory for all Licking County Municipal Court probation officers to use this packet when determining early release for incarcerated offenders. A request for early release/sentence review hearing form was also developed by the Senior Probation Officer. Effective 5/19/17 it would be mandatory for the Senior Probation or designee to submit the form to the Court along with the case file.

Future Responses to Findings:

The Court and its Probation Department will work diligently to implement the following standards when dealing with domestic violence cases:

- Administer a lethality risk assessment on all victims of Licking County Municipal Court domestic violence cases if the offenders are eligible for early release. This would be done prior to release from the jail. If the offender is not incarcerated the assessment would be administered prior to the probation intake appointment.
- Administer a Domestic Violence Inventory (DVI) on all domestic violence offenders placed under probation supervision with the Licking County Municipal Court Adult Probation Department prior to early release from the jail or at the probation intake appointment.
- All domestic violence cases would have a no violent contact order or a no contact order with the victim in the case imposed by the Court or the Court's Probation Department.
- All offenders placed under probation supervision with the Licking County Municipal Court Adult Probation Department for domestic violence would be ordered to complete a domestic violence treatment program. They would also be ordered not to possess weapons.
- Within 7 days after the initial probation intake appointment the supervising probation officer would complete a home contact on the offender to specifically search for weapons. If weapons were found, they would be confiscated and referred to the City of Newark Law Director's Office.
- Mandatory for all domestic violence offenders placed under probation supervision with the Licking County Municipal Court Adult Probation Department to wear a GPS monitoring device in appropriate circumstances.
- A community resources letter would be prepared by the Probation Department secretarial staff on every victim in domestic violence cases where the offenders were placed under

probation supervision with the Licking County Municipal Court Adult Probation Department. These letters would list community agencies that may be able to help them. These letters would be mailed to the victims within 15 days after the offender is placed under probation supervision.

- Continued training would be provided to the Licking County Municipal Court Adult Probation Officers regarding policies/procedures/processes of the department and the Court, regarding the ORAS-CST, and regarding the Court's computer system.
- The Licking County Municipal Court Adult Probation Officers would be required to perform home contacts on all offenders under probation supervision if they receive a complaint of violence.

Sincerely,



Kevin Saad, CCM

Director

Licking County Municipal Court Adult Probation Department