

**OFFICE OF SPECIAL COUNSEL
Investigator's Report**



Attorney General Case No. 16-0004

DATE: June 14, 2017

Custody	DEFENDANT'S NAME	Age	Sex	Race	D.O.B.	SID
NIC	EDEN VICTORIA WELLS 2723 CRANBROOK RD, ANN ARBOR, MI 48104-6515	54	F	W	01/10/63	

Offenses

COUNT 1 – OBSTRUCTION OF JUSTICE

Did commit the common law offense of obstruction of justice by knowingly providing false testimony to a Special Agent and by threatening to withhold funding for the Flint Area Community Health and Environment Partnership if the partnership did not cease its investigation into the source of the Legionnaires’ Disease outbreak in Genesee County, Michigan; contrary to MCL 750.505.

FELONY: 5 Years or \$10,000.

COUNT 2 – LYING TO A PEACE OFFICER – INVESTIGATING A CRIME WITH A PENALTY GREATER THAN 4 YEARS

after being informed by Special Counsel Todd Flood, in the presence of Special Agent Arthur Wimmer, that they were conducting a criminal investigation, did knowingly and willfully make a statement or statements to the officer that he or she knew was false or misleading regarding the following material fact or facts relating to the investigation: the date she knew of the Legionnaires’ Disease outbreak in Genesee County, Michigan, and the officer was conducting a criminal investigation regarding involuntary manslaughter; contrary to MCL 750.479c(2)(c). [750.470C2C].

HIGH COURT MISDEMEANOR: 2 Years and/or \$5,000.00

Place of Offense: CITY OF FLINT, MICHIGAN		Date: MARCH 2015 TO PRESENT		Date of Complaint 06/14/17	
Complainant's Name JEFF SEIPENKO	Full Address SPECIAL AGENT	Age	Sex	Race	Phone No.
Person to Sign Complaint INFORMATION AND BELIEF			Reviewing Attorney & Bar No. SPECIAL ASSISTANT ATTORNEY GENERAL TODD FLOOD, P58555		

SPECIAL AGENT JEFFREY SEIPENKO
MICHIGAN ATTORNEY GENERAL

SPECIAL ASSISTANT ATTORNEY GENERAL
TODD FLOOD, P# 58555

PROBABLE CAUSE STATEMENT

I, Jeff Seipenko, a Special Agent assigned to the OFFICE OF SPECIAL COUNSEL, MICHIGAN DEPARTMENT OF ATTORNEY GENERAL, in support of this probable cause statement, state the following:

On April 12, 2016, Defendant WELLS provided a statement to the Office of Special Counsel and Special Agent Arthur Wimmer pursuant to an agreement. The agreement stated that the Office of Special Counsel would not use Defendant WELLS' statements as evidence against her, provided she made no false statements. Defendant WELLS testified that she had no knowledge of the Genesee County Legionnaires' Disease outbreak until late September or early October of 2015. Contrary to her testimony, Defendant WELLS knew about the outbreak as early as March 2015. Defendant WELLS knowingly provided false information to Special Agent Arthur Wimmer during the course of the Flint Water Criminal Investigation. Additionally, Defendant WELLS threatened a team of independent researchers who were studying the source of the Legionnaires' Disease outbreak in Flint, Michigan.

INTRODUCTION

1. On April 25, 2014, Flint's drinking water source was switched from pre-treated water received from the Detroit Water and Sewerage Department ("DWSD") to raw, untreated water from the Flint River. Flint's new water source was to be treated and distributed throughout the drinking water system by the Flint Water Treatment Plant ("FWTP"). Within one month of the water source switch, officials at the local, state, and federal level began receiving complaints about Flint's water. These complaints included, among other things, reports of about severe discoloration, foul odor, and the onset of skin rashes.
2. By October 2014, Genesee County recorded 30 cases of Legionnaires' Disease for the previous six (6) months, while, in previous years, Genesee County recorded between two (2) and nine (9) cases of Legionnaires' Disease per year. Numerous witnesses have testified the record number of Legionnaires' Disease cases is defined as an outbreak of the disease.
3. By March 2015, a witness informed Defendant WELLS of the Legionnaires' Disease outbreak in Genesee County.
4. Defendant WELLS became the Chief Medical Executive of the State of Michigan in May of 2015 but did not inform the public of the Legionnaires' Disease outbreak until January 2016.
5. In January 2016, the Michigan Department of Health and Human Services ("MDHHS") engaged Dr. Shawn McElmurry to conduct an independent study into whether Flint's switch in drinking water source caused the Legionnaires' Disease outbreak. In 2016 and 2017, Defendant WELLS attempted, on several occasions, to limit the scope of Dr. McElmurry's research in order to prevent Dr. McElmurry from finding a connection between Flint's drinking water source and the Legionnaires' Disease outbreak.
6. On April 12, 2016, Defendant WELLS provided a statement to the Office of Special Counsel under an agreement. Special Agent of the Michigan Department of Attorney General, Arthur Wimmer was present for Defendant WELLS' statement.
7. Defendant WELLS lied to Special Agent Arthur Wimmer by testifying that she first learned about Genesee County's Legionnaires' Disease outbreak in late September or early October of 2015.

CHIEF MEDICAL EXECUTIVE DUTIES

8. Pursuant to MCL 333.2202, if the Director of the MDHHS “is not a physician, the director shall designate a physician as chief medical executive of the department. The chief medical executive shall be a full-time employee and shall be responsible to the director for the medical content of policies and programs.”
9. Nick Lyon assumed his position as Director of the MDHHS in September 2014. Director Lyon is not a physician.

CHRONOLOGY

10. **Jim Sygo**, Deputy Director at the Michigan Department of Environmental Quality (“MDEQ”), will testify that he spoke with Defendant WELLS in March of 2015 and advised her that there was a Legionnaires’ Disease outbreak in Genesee County. Defendant WELLS said that she would follow-up and see if the MDHHS could look into the issue. Jim Sygo will testify that he never heard back from Defendant WELLS.
11. **Jay Fiedler** Manager of the Surveillance and Infectious Disease Epidemiology Section of the MDHHS, will testify that beginning in May of 2015, he talked with Defendant WELLS, whose office was on the same floor and in close proximity to him, on a daily basis. He would not hold any information back from her about legionella in Genesee County or any other matter concerning communicable diseases that were at issue at that time.
12. Evidence secured by the Office of Special Counsel will show that on August 4, 2015, Sue Moran, Deputy Director of the MDHHS, she forwarded Defendant WELLS an email in anticipation of Defendant WELLS’ upcoming interview regarding immunizations on the local ABC 12 (WJRT Flint, Michigan) network. The email informed Defendant WELLS that ABC recently became aware of a Legionnaire’s patient in Flint who may have died. Defendant WELLS thanked Sue Moran for the information and stated she would let Sue Moran know if there were any questions about the Legionnaires’ patient.
13. **Corinne Miller**, former State Epidemiologist and Director of the Bureau Epidemiology for the State of Michigan, will testify that following the above mentioned ABC interview, Defendant WELLS emailed her and Jay Fiedler assuring them that ABC did not ask about legionella.
14. **Linda Dykema**, Director of the Division of Environmental Health at the MDHHS, will testify that on September 28, 2015, in response to Dr. Mona Hanna-Attisha’s lead results, MDHHS Director Nick Lyon asked his staff, including Defendant WELLS, for “an analysis of the Virginia Tech/Hurley data and their conclusions.” Nick Lyon continued, “I would like to make a strong statement with a demonstration of proof that the lead blood levels seen are not out of the ordinary and are attributable to seasonal fluctuations.”
15. **Mark Valacak**, Health Officer at the Genesee County Health Department (“GCHD”), will testify that at the end of November 2015, the GCHD was drafting a press release regarding the Legionnaires’ Disease outbreak. Defendant WELLS and MDHHS Deputy Director Sue Moran scheduled a call to take place December 1, 2015 with Mark Valacak after discovering the GCHD was drafting the above mentioned press release. On December 1, 2015, Defendant WELLS instructed Mark Valacak not to publish the press release and instead, the MDHHS and GCHD would issue one together. On the call, Defendant WELLS stated to Mark Valacak, “I thought we were on the same team.” Defendant WELLS never contacted the GCHD to issue a joint press release.

16. **Shawn McElmurry** will testify that in January of 2016 he was contacted by Harvey Hollins III of Governor Snyder's office and was asked to conduct research into whether Flint's switch in water source caused the Legionnaires' Disease outbreak. The research project came to be known as the "Flint Area Community Health and Environmental Partnership" or "FACHEP". Shawn McElmurry will also testify that on August 12, 2016, he wrote in an email to colleagues Paul Kilgore, Marcus Zervos and others and informed them that Defendant WELLS did not want the FACHEP team to sample Flint resident's filters; that this may be a red line. In a February 2017 meeting with Shawn McElmurry, Nick Lyon, and Defendant WELLS, Shawn McElmurry was directed to stop his retrospective analysis because it "proved problematic."
17. **Dr. Marcus Zervos**, FACHEP research team member, will testify that he emailed Defendant Wells on March 3, 2017 regarding her efforts to intimidate and obstruct his investigation. Specifically, Dr. Marcus Zervos was concerned with Defendant WELLS' objection to FACHEP informing the public and Flint's Mayor of their research findings and implications. Dr. Marcus Zervos will testify that Defendant WELLS threatened FACHEP's funding and mandated that the research team stop the retrospective epidemiologic component of their study.

CONCLUSION

The investigation has shown that Defendant WELLS knew that Special Agent Arthur Wimmer was conducting a criminal investigation into the Flint Water Crisis. When questioned about her knowledge of the Legionnaires' Disease outbreak in Genesee County, Defendant WELLS falsely stated that she first became aware of the outbreak in September or early October 2015. Witnesses will testify that contrary to Defendant WELLS' statement, she knew about the Legionnaires' Disease outbreak in March of 2015. Additionally, Defendant WELLS threatened a team of independent researchers who were studying the source of the Legionnaires' Disease outbreak in Genesee County, Michigan.

OFFICE OF SPECIAL COUNSEL



RECOMMENDATIONS

IN CUSTODY: NO	FLINT WATER INVESTIGATION	Date: 06/14/2017	<input type="checkbox"/> Further Investigation Ordered <input type="checkbox"/> Further Investigation Completed		
I RECOMMEND THE ISSUING OF A WARRANT AGAINST:		MISDEMEANOR			
FELONY					
DEFENDANT'S NAME	Age	Sex	Race	D.O.B	SID NO
EDEN VICTORIA WELLS 2723 CRANBROOK RD, ANN ARBOR, MI 48104-6515	54	F	W	01/10/63	N/A
<p>COUNT 1 – OBSTRUCTION OF JUSTICE Did commit the common law offense of obstruction of justice by knowingly providing false testimony to a Special Agent and by threatening to withhold funding for the Flint Area Community Health and Environment Partnership if the partnership did not cease its investigation into the source of the Legionnaires' Disease outbreak in Genesee County, Michigan; contrary to MCL 750.505. FELONY: 5 Years or \$10,000.</p> <p>COUNT 2 – LYING TO A PEACE OFFICER – INVESTIGATING A CRIME WITH A PENALTY GREATER THAN 4 YEARS after being informed by Special Counsel Todd Flood, in the presence of Special Agent Arthur Wimmer, that they were conducting a criminal investigation, did knowingly and willfully make a statement or statements to the officer that he or she knew was false or misleading regarding the following material fact or facts relating to the investigation: the date she knew of the Legionnaires' Disease outbreak in Genesee County, Michigan, and the officer was conducting a criminal investigation regarding involuntary manslaughter; contrary to MCL 750.479c(2)(c). [750.470C2C]. HIGH COURT MISDEMEANOR: 2 Years and/or \$5,000.00</p>					
Date Completed: 06/14/2017			Signed: SPECIAL ASSISTANT ATTORNEY GENERAL TODD FLOOD, P# 58555		

**OFFICE OF SPECIAL COUNSEL
WITNESS LIST**

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

**Case No.
Hon.**

vs.

EDEN VICTORIA WELLS

Defendant(s).

_____ /

The names and residences of the witnesses for the People in the above-entitled cause are listed below. The witnesses the people intend to produce at trial, pursuant to MCLA 767.40a(3), are designated by an "X" in the boxes to the left.

	Last Name	First Name	RESIDENCES (List next leave/furlough dates for all police witness) (List phone numbers for all civilian witness)
	Dykema	Linda	
	Fiedler	Jay	
	McElmurry	Shawn	
	Miller	Corinne	
	Sygo	Jim	
	Valacak	Mark	
	Wimmer	Arthur	
	Zervos	Marc	

Officer in charge of case
OIC Telephone Number
SAAG

_____ Date: _____
SAAG

_____ Date: _____
Trial SAAG

67th 7th STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	INFORMATION FELONY	CASE NO. DISTRICT CIRCUIT
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District Court ORI: MI-

Circuit Court ORI: MI-

Defendant's name and address				Victim or complainant	
THE PEOPLE OF THE STATE OF MICHIGAN v EDEN VICTORIA WELLS 2723 CRANBROOK RD., ANN ARBOR, MI, 48104				J. Seipenko	
Codefendant(s) (if known)				Complaining witness	
				J. Seipenko	
				Date: On or about	
				March 2015 - present	
City/Twp./Village	County in Michigan	Defendant TCN	Defendant CTN	Defendant SID	Defendant DOB
Flint	Genesee				01/10/1963
Police agency report no.	Charge			Maximum penalty	
16-0004	Obstruction of Justice, Lying to a Peace Officer			5 years	
<input type="checkbox"/> A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.		<input type="checkbox"/> Oper./Chauf. <input type="checkbox"/> CDL	Vehicle Type	Defendant DLN	

Witnesses

STATE OF MICHIGAN, COUNTY OF GENESEE _____ .

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: The prosecuting attorney for this county appears before the court and informs the court that on the date and at the location described, the defendant:

COUNT 1 – OBSTRUCTION OF JUSTICE

Did commit the common law offense of obstruction of justice by knowingly providing false testimony to a Special Agent and by threatening to withhold funding for the Flint Area Community Health and Environment Partnership if the partnership did not cease its investigation into the source of the Legionnaires’ Disease outbreak in Genesee County, Michigan; contrary to MCL 750.505.
FELONY: 5 Years or \$10,000.

COUNT 2 – LYING TO A PEACE OFFICER – INVESTIGATING A CRIME WITH A PENALTY GREATER THAN 4 YEARS
after being informed by Special Counsel Todd Flood, in the presence of Special Agent Arthur Wimmer, that they were conducting a criminal investigation, did knowingly and willfully make a statement or statements to the officer that he or she knew was false or misleading regarding the following material fact or facts relating to the investigation: the date she knew of the Legionnaires’ Disease outbreak in Genesee County, Michigan, and the officer was conducting a criminal investigation regarding involuntary manslaughter; contrary to MCL 750.479c(2)(c). [750.470C2C].
HIGH COURT MISDEMEANOR: 2 Years and/or \$5,000.00

and against the peace and dignity of the State of Michigan.

Prosecuting Attorney

By: _____

Date

STATE OF MICHIGAN 67th JUDICIAL DISTRICT 7th JUDICIAL CIRCUIT	COMPLAINT FELONY	CASE NO. DISTRICT CIRCUIT
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District Court ORI: MI-

Circuit Court ORI: MI-

Defendant's name and address				Victim or complainant	
THE PEOPLE OF THE STATE OF MICHIGAN v EDEN VICTORIA WELLS 2723 CRANBROOK RD., ANN ARBOR, MI, 48104				J. Seipenko	
Codefendant(s) (if known)				Complaining witness	
				J. Seipenko	
				Date: On or about	
				March 2015 - present	
City/Twp./Village	County in Michigan	Defendant TCN	Defendant CTN	Defendant SID	Defendant DOB
Flint	Genesee				01/10/1963
Police agency report no.	Charge	Maximum penalty		Defendant DLN	
16-0004	Obstruction of Justice, Lying to a Peace Officer	5 years			
<input type="checkbox"/> A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.		<input type="checkbox"/> Oper./Chauf. <input type="checkbox"/> CDL	Vehicle Type		

Witnesses

STATE OF MICHIGAN, COUNTY OF GENESEE .

The complaining witness says that on the date and at the location described, the defendant, contrary to law,

COUNT 1 – OBSTRUCTION OF JUSTICE

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HIGH COURT MISDEMEANOR: 2 Years and/or \$5,000.00

The complaining witness asks that defendant be apprehended and dealt with according to law.

Warrant authorized on _____ by: <small>Date</small>
_____ Prosecuting official
<input type="checkbox"/> Security for costs posted

Complaining witness signature

Subscribed and sworn to before me on _____ .
Date

Judge/Magistrate/Clerk Bar no.

67th 7th STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	WARRANT FELONY	CASE NO. DISTRICT CIRCUIT
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District Court ORI: MI-

Circuit Court ORI: MI-

Defendant's name and address				Victim or complainant	
THE PEOPLE OF THE STATE OF MICHIGAN v EDEN VICTORIA WELLS 2723 CRANBROOK RD., ANN ARBOR, MI, 48104				J. Seipenko	
Codefendant(s) (if known)				Complaining witness	
				J. Seipenko	
				Date: On or about	
				March 2015 - present	
City/Twp./Village	County in Michigan	Defendant TCN	Defendant CTN	Defendant SID	Defendant DOB
Flint	Genesee				01/10/1963
Police agency report no.	Charge	Maximum penalty		Defendant DLN	
16-0004	Obstruction of Justice, Lying to a Peace Officer	5 years			
<input type="checkbox"/> A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.		<input type="checkbox"/> Oper./Chauf.	Vehicle Type		
		<input type="checkbox"/> CDL			

Witnesses

STATE OF MICHIGAN, COUNTY OF GENESEE

To any peace officer or court officer authorized to make arrest: The complaining witness has filed a sworn complaint in this court stating that on the date and the location described, the defendant, contrary to law,

COUNT 1 – OBSTRUCTION OF JUSTICE

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COUNT 2 – LYING TO A PEACE OFFICER – INVESTIGATING A CRIME WITH A PENALTY GREATER THAN 4 YEARS
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HIGH COURT MISDEMEANOR: 2 Years and/or \$5,000.00

Upon examination of the complaining witness, I find that the offense charged was committed and that there is probable cause to believe that defendant committed the offense. THEREFORE, IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN,

- a. I order you to arrest and bring defendant before the _____ District Court immediately.
- b. I order you to bring defendant before the _____ District Court.

Date

Judge/Magistrate

Bar no.

See return on reverse side.

RETURN

As ordered in this warrant, the defendant was arrested on _____ at _____
Date Time

at _____
Place of arrest

Date

Peace officer

67th 7th STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	BINDOVER/TRANSFER AFTER PRELIMINARY EXAMINATION FELONY	CASE NO. DISTRICT CIRCUIT
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District Court ORI: MI-

Circuit Court ORI: MI-

Defendant's name and address THE PEOPLE OF THE STATE OF MICHIGAN v EDEN VICTORIA WELLS 2723 CRANBROOK RD., ANN ARBOR, MI, 48104				Victim or complainant J. Seipenko Complaining witness J. Seipenko	
Codefendant(s) (if known)				Date: On or about March 2015 - present	
City/Twp./Village Flint	County in Michigan Genesee	Defendant TCN	Defendant CTN	Defendant SID	Defendant DOB 01/10/1963
Police agency report no. 16-0004	Charge Obstruction of Justice, Lying to a Peace Officer		Maximum penalty 5 years		
<input type="checkbox"/> A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.		<input type="checkbox"/> Oper./Chauf. <input type="checkbox"/> CDL	Vehicle Type	Defendant DLN	

Date: _____ District judge: _____

Reporter/Recorder	Cert.no.	Represented by counsel	Bar no.
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EXAMINATION WAIVER

1. I, the defendant, understand:
 - a. I have a right to employ an attorney.
 - b. I may request a court-appointed attorney if I am financially unable to employ one.
 - c. I have a right to a preliminary examination where it must be shown that a crime was committed and probable cause exists to charge me with the crime.
2. I voluntarily waive my right to a preliminary examination and understand that I will be bound over to circuit court on the charges in the complaint and warrant (or as amended).

Defendant attorney _____ Bar no. _____ Defendant _____

I consent to this waiver: _____ Prosecuting attorney _____ Bar no. _____

ADULT BINDOVER

3. Examination was waived on _____ .
Date _____
4. Examination was held on _____ and it was found that probable cause exists to believe both that an offense not cognizable by the district court has been committed and that the defendant committed the offense.
5. The defendant is bound over to circuit court to appear on _____ at _____ .
Date _____ Time _____
- on the charge(s) in the complaint.
- on the amended charge(s) of _____
- _____ MCL/PACC Code _____
6. Bond is set in the amount of \$ _____ . Type of bond: _____ Posted

_____ Date _____ Judge _____ Bar no. _____

Certification of transmittal and bindover/transfer for juvenile are printed on other side.

JUVENILE BINDOVER/TRANSER

- 3. Examination was waived on _____ .
Date
- 4. Examination was held on _____ and it was found that
Date
 - there is probable cause that a life offense occurred and there is probable cause that the juvenile committed the life offense.
 - there is no probable cause that a life offense occurred or there is no probable cause that the juvenile committed the life offense, but some other offense occurred that if committed by an adult would constitute a crime, and there is probable cause to believe the juvenile committed that offense.
- 5. The juvenile is bound over to circuit court criminal division to appear on _____ at _____ .
Date Time
 - on the charge(s) in the complaint.
 - on the amended charge(s) of _____
 - _____ MCL/PACC Code _____ .
- 6. This case is transferred to the family division of the circuit court for further proceedings
 - immediately.
 - on _____ at _____ .
Date Time
- 7. Bond is set in the amount of \$ _____ . Type of bond: _____ Posted

Date

Judge Bar no.

MCL 766.14(2), MCR 6.911

CERTIFICATION

I certify that on this date I have transmitted to the _____ circuit court criminal division the prosecutor's authorization for a warrant application, the complaint, a copy of the register of actions, and any recognizances received.

Date

Court clerk

Note: Send a copy of this bindover to the Michigan State Police Criminal Justice Information Center.