



State of Ohio
Office of the Inspector General

THOMAS P. CHARLES, Inspector General

REPORT OF INVESTIGATION

FILE ID NUMBER: 2009234

AGENCY: Ohio Department of Public Safety,
Ohio State Highway Patrol

BASIS FOR INVESTIGATION: Governor's Office Request

ALLEGATIONS: Failure to Act in a Timely Manner;
Mismanagement

INITIATED: July 15, 2009

DATE OF REPORT: August 7, 2009

EXECUTIVE SUMMARY

FILE ID NO. 2009234

On June 28, 2009, two off-duty law enforcement officers, the Ohio State Highway Patrol's Trooper Jason Highsmith and Officer Christopher Thomas of the Gahanna Division of Police, were riding their motorcycles on Interstate 70 near Buckeye Lake. Traveling at speeds in excess of 140 miles per hour, the two were pulled over after being observed by an air speed check. The two troopers who stopped the speeding motorcyclists chose not to issue citations to their fellow officers.

Unfortunately, a decision to cite the two officers was not made immediately. Instead, for several days, Highway Patrol administrators at various management levels discussed the issue and the possibility of union contract ramifications for ordering citations to be issued. Consequently, Trooper Highsmith was not served a ticket until July 2, 2009, which was four days after the incident occurred. Officer Thomas' citation was served on July 6, 2009, eight days after the violation occurred.

Because of the speeds involved, the incident became news shortly after the tickets were filed in Licking County Municipal Court. When the media reported that the tickets were filed days after the traffic stop, the general public became suspicious and raised a cry about unequal treatment of the officers and the motoring public. Claims of a potential cover-up were made by a number of sources.

In light of the great public interest generated by the media stories, the Governor's Office requested that the Office of the Inspector General conduct an investigation into the reasons behind the delayed issuance of the traffic citations. Specifically, the Inspector General's Office was asked to determine whether the Highway Patrol engaged in an attempt to cover up the actions of all of its personnel involved in the incident and to determine whether the tickets finally received by Trooper Highsmith and Officer Thomas were only issued after the media made the story public.

We found that no cover-up of the off-duty officers' action was ever undertaken. The delays were the result of inaction and indecision by Ohio State Highway Patrol personnel. Consequently, we found that acts of omission occurred in this instance.

Similarly, the media attention afforded Trooper Highsmith and Officer Thomas had no bearing on whether or not traffic tickets were issued in this case. The media's focus on the two officers came from Highsmith's and Thomas' actions and their decisions to travel at more than double the posted speed limit. Since all of the media scrutiny occurred after the tickets were served on the two individuals, we conclude that the media played no role in the Ohio State Highway Patrol's decision making process.

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I. BASIS FOR INVESTIGATION

During the afternoon of Sunday, June 28, 2009, troopers from the Ohio State Highway Patrol's ("OSP" or "Patrol") Granville Post and its Aviation Unit were conducting a traffic law enforcement detail along Interstate 70 in Licking County, Ohio. At approximately 4:28 p.m. OSP pilot Trooper ("Tpr.") Christopher Hasty observed two motorcycles traveling at what appeared to be an excessive rate of speed. Hasty clocked the speed of the motorcycles at 147 and 149 miles per hour, respectively. A third motorcycle was observed traveling along with the others; however, the pilot was unable to obtain a separate check of that motorcycle's speed.

Tpr. Hasty radioed the air speed check information to the waiting ground units. Trooper Bryan Lee signaled for the motorcyclists to pull over. Once the two came to a stop, Tpr. Lee approached the riders. After discussion with the pair, identified as OSP's Tpr. Jason Highsmith and Gahanna Division of Police Officer Christopher Thomas, Tpr. Lee chose not to issue citations for the speeding violations. Most of the traffic stop and the roadside discussions were captured by the in-car video recording system in Tpr. Lee's patrol cruiser.

Four days after the incident, Tpr. Highsmith was issued a citation for speeding; a similar ticket was issued to Officer Thomas on July 6, 2009 -- eight days after the traffic stop. Both tickets were filed with the Licking County Municipal Court on July 6, 2009.

Because of the high speeds involved and because of the lapse in time from the stop of the two off-duty officers until the citations were filed, there was a public outcry about professional courtesy and the potential cover-up of the two officers' misdeeds. Both OSP and the Gahanna Division of Police received numerous e-mails and letters from the public. The various media outlets all ran stories about the incident; the in-car video was shown repeatedly on nearly every central Ohio television station.

After learning of Tpr. Lee's initial decision not to cite his colleagues, the Patrol began administrative investigations into the actions of its personnel. The Gahanna Division of Police

started a similar inquiry pertaining to its officer. Meanwhile, the media persisted in raising questions about whether the entire situation had been mismanaged and/or inappropriately handled by OSP officers at all levels. The public, too, continued to echo concerns about the perception of disparate treatment between the average motorists and the two law enforcement officers involved in the June 28, 2009, incident.

On July 15, 2009, the Governor's Office requested that the Office of the Inspector General ("OIG") open an investigation. Specifically, the OIG was asked to inquire into two issues: 1) Was the delay between the traffic stops of Tpr. Highsmith and Officer Thomas and the issuance of the citations the result of some attempt at a cover-up by OSP; and 2) Were the citations only issued after the incident gained wide-spread media and public attention?

II. ACTION TAKEN IN FURTHERANCE OF INVESTIGATION

We gathered information and documents about the air speed check of Tpr. Highsmith and Officer Thomas. OSP personnel from the OSP's Granville Post, District Headquarters and the agency's General Headquarters were interviewed. We reviewed pertinent sections of the Ohio Revised Code, OSP policies, procedures and work rules, and sections of two bargaining unit contracts affecting the operations of the Ohio State Highway Patrol.

III. DISCUSSION

Background Information

In 1933, the Ohio General Assembly passed House Bill 270 and created the State Highway Patrol -- Ohio's first statewide policing agency. At its inception, the Patrol was charged with securing the safety of those traveling on the state's highways and roads. In order to fulfill its duty, the Patrol was given the authority to enforce laws pertaining to the operation and licensing of vehicles. In addition, the goal of the first Patrol administration was to ". . . create a policing

agency that would treat everyone fairly and equally, and not let influence or affluence allow some people better treatment than others.”¹

Today, the duties of the Highway Patrol have expanded. However, according to Ohio Revised Code section 5503.02 (A), one of the paramount duties for OSP troopers remains the “[enforcement] on all roads and highways, . . .[of] the laws relating to the operation and use of vehicles on the highways . . .” Included in those laws are the speed regulations and speed limits set out in Ohio Revised Code section 4511.21.

According to various publications produced by the OSP, its missions and goals have changed little from those of its early days. Specifically, “[t]he Ohio State Highway Patrol is an internationally accredited agency whose mission is to protect life and property, promote traffic safety and provide professional public safety services with respect, compassion, and unbiased professionalism.”

So that the Patrol can adequately complete its statutorily assigned duties and serve the entire state, it maintains a complement of approximately 1,400 uniformed officers. The uniformed force is supplemented by support staff and civilian specialists, as well as a volunteer auxiliary force.

Management and oversight for all OSP field operations is centered in Columbus, Ohio, at Patrol General Headquarters. Thereafter, the state is divided into 10 districts. Each district has a District Headquarters, which oversees OSP operations within its area of responsibility. Post commanders from each of the OSP posts within the respective districts report to their District commanders. Post commanders are responsible for the daily operations of both civilian and uniformed personnel at their assigned Patrol post.

In this case, Lieutenant (“Lt.”) Lawrence Roseboro serves as the Post Commander of the Granville Post, which is one of the six posts comprising the Columbus District or District Six

¹ From a history book prepared for the Patrol’s 75th anniversary. Although now out of print, the book may be viewed on the State Patrol website, statepatrol.ohio.gov, at the Historical, Virtual Museum links.

("D-6").² D-6 encompasses nine counties, with a total population of 1,819,462 residents and more than 1.8 million registered vehicles. This district contains nearly 2,000 miles of highways, including a portion of Interstate 70, a major east-west, cross-country route. The posted speed limit for the approximately 32 miles of Interstate 70 served by the Granville Post is 65 miles per hour.

OSP field operations are assisted by the various specialized units established by the Patrol. Troopers with certain skill sets and who have completed additional training may be assigned to one of these units. All of the specialized units are designed to support the OSP in the execution of its statutory duties.

Perhaps one of the oldest of the specialized units is the Motorcycle Unit. All of the officers in the inaugural OSP class were assigned motorcycles. In 1953, the use of motorcycles for enforcement purposes was discontinued by the Patrol. However, in 2006, the Motorcycle Unit was reinstated in response to Ohio's growing number of motorcyclists and motorcycle crashes. Sixteen officers, including Tpr. Jason Highsmith, are assigned to this enforcement unit.³ Troopers working in the Motorcycle Unit are also tasked with providing safety talks to those in the motorcycling community. They are likewise involved in concentrated enforcement efforts that focus on motorcyclists who are not properly licensed or who operate their motorcycles aggressively or in a manner that may lead to traffic crashes or even fatalities.⁴

One of the other specialized units providing traffic law enforcement for OSP is the Aviation Section. Patrol pilots are able to observe vehicles traveling through a pre-plotted one mile stretch of road. The mile is physically marked in quarter-mile increments, permitting the pilots to "clock", or time, the vehicles as they pass from segment to segment. The pilot uses a stopwatch to determine how long it takes the vehicles to travel from one marked quarter mile to

² The other five posts are located in Delaware, Lancaster, West Jefferson, Mt. Gilead and Circleville. General Headquarters is also located within D-6.

³ As a result of his actions in this case, Tpr. Highsmith was removed from the Motorcycle Unit on July 9, 2009. He is currently assigned to the Delaware Post.

⁴ We noted that on June 22, 2009, just six days before the traffic stop in this case, OSP issued a media release about the rise in motorcycle speed violations. A copy of the media release is attached as an exhibit.

the next. Applying a time-distance mathematical equation, the pilot is able to calculate the speeds of the various vehicles. Information about vehicles traveling at higher than posted speeds is radioed to troopers on the ground who then stop the violators, identify the drivers, and, as deemed necessary, take enforcement action by issuing a ticket or citation.⁵

Allegation 1: Ohio State Highway Patrol administrators failed to take appropriate enforcement action in a timely manner after a trooper and local police officer were clocked at high speeds in an air speed zone.

We began our investigation by looking at the actual traffic stop of Tpr. Highsmith and Officer Thomas. To that end, we reviewed the pilot's records, listened to the recorded pilot to ground communications and watched the in-car video of the roadside interaction between Tpr. Lee and the two motorcyclists. In addition, we read the electronic messages sent between Tpr. Lee and at least one other OSP unit who was aware of the extreme speeds of the two motorcyclists.

The pilot, Tpr. Hasty, followed appropriate procedures in this instance. After clocking the two motorcycles through the established air speed zone, he radioed the waiting ground units, just as he had been doing throughout the afternoon.⁶ He monitored the two motorcycles, radioing information that the two had switched positions on the road so that whichever trooper finally stopped the pair would know specifically which had been clocked at 147 miles per hour and which had been clocked at 149.

Tpr. Hasty did not hesitate to relay his concerns about the speeds of the two to the Granville Patrol officers. He began by indicating that he had "a couple of motorcycles that look like

⁵ According to Rule 3 of the *Ohio Traffic Rules*, in traffic cases, law enforcement officers are required to use a complaint or citation known as the "Ohio Uniform Traffic Ticket." OSP refers to this as an "HP-7" or a "7".

⁶ Our review of OSP records revealed that as a result of the June 28, 2009, air speed check in Licking County, 23 citations were issued at the time vehicles were stopped. Tpr. Lee was responsible for issuing six of those tickets. Tpr. Wilson wrote five of the 23 issued on June 28, 2009.

bullets comin' at ya' [*sic*]." Tpr. Hasty further related that the speeds were "the highest [he'd] seen," and that "they scared [him]. . . flying up on traffic."⁷

All three of the Granville troopers assigned to the afternoon shift and their supervisor, Sergeant ("Sgt.") Russell Pasqualetti, who was also working the air speed check, heard the pilot's radio traffic. In response, Tpr. Lee indicated that he would "flag", or stop, the two speeding motorcyclists. Tpr. Wilson assisted Tpr. Lee by contacting the third rider who had voluntarily pulled over when his acquaintances were officially stopped. Tpr. Wilson backed his patrol car to the site where Tpr. Lee had the other motorcycles pulled over. Tpr. Wilson stood by as Tpr. Lee made contact with the pair along the roadside.

Almost immediately, Lee identified one of the motorcyclists as Tpr. Highsmith, a former instructor at the Patrol Academy. Tpr. Wilson also recognized Highsmith. Conversation recorded by the in-car video indicates that Tpr. Highsmith stated the two riders "had badges and guns" with them, telling Tpr. Lee and Tpr. Wilson that both were law enforcement officers.

Despite Highsmith's attempts to influence the troopers' decisions about issuing citations, at this point either Tpr. Lee or Tpr. Wilson should have properly confronted the two off-duty officers about their excessive speeds and issued the appropriate citations. Both troopers had sufficient information to take action and to fulfill their statutory obligations to enforce the traffic laws. And, as the more senior officer on site, Tpr. Wilson could have encouraged Tpr. Lee to make a more reasonable decision or he could have contacted Sgt. Pasqualetti and requested that the supervisor come to the location of the stop. Instead, Tpr. Wilson chose to leave the scene of the stop.

A review of the in-car video makes it clear that Tpr. Highsmith was pressuring Tpr. Lee to let him and Officer Thomas go. Certainly, this put Tpr. Lee on the spot and it probably led to the trooper's decision to take no enforcement action. However, Tpr. Lee should have contacted his

⁷ To his credit Tpr. Hasty honestly indicated that he observed a third motorcycle that ". . . caught up" to the other two. However, the pilot was unable to obtain a clock on the third vehicle, and therefore, did not have sufficient evidence for a citation or even a stop of that motorcycle.

supervisor, Sgt. Pasqualetti, who was only a mile away. The sergeant could then have written the speeding tickets and taken the burden off the younger troopers.⁸ Instead, Tpr. Lee chose to let the two go on their way.

Both Tpr. Wilson and Tpr. Lee used extremely poor judgment in this instance. Given the outrageously high rates of speed involved, there was no acceptable rationale for not issuing citations. The excuse proffered by Tpr. Lee when questioned by his supervisors that Officer Thomas and Tpr. Highsmith were “friendlies”, or fellow officers, and, therefore, should not have been cited, carries no weight. The speeds were simply too extreme for any reasonable officer to ignore. The citations should have been issued at the roadside, just as they were for all the other motorists ticketed that day.

We are not suggesting that law enforcement officers should be stripped of all discretion in the course of doing their jobs and enforcing the law. There is, most assuredly, a time and place and a totality of the circumstances that would warrant a decision to not issue a ticket. The officer at the scene is in the best position to evaluate the facts and make a reasonable and common sense choice about whom to warn and release and whom to cite. But with the freedom of discretion comes the duty to act responsibly.⁹

Later on June 28, 2009, after the air speed detail was finished, Tprs. Wilson and Lee went back to the Granville Post. Sgt. Pasqualetti asked to see the HP-7s for the motorcyclists, since clocked speeds of 147 and 149 miles per hour were extremely rare. (No officer we interviewed had ever written a ticket or pulled over anyone traveling at those sorts of speeds.) According to Sgt. Pasqualetti, Tpr. Lee advised that there was a problem and he was unable to produce the tickets.

Sgt. Pasqualetti then inquired further and learned from Tpr. Lee and Tpr. Wilson that the tickets were not issued at the roadside. Again, according to the sergeant, the troopers indicated that they chose not to write the citations because the other parties involved were “friendlies”. Prior to that

⁸ In the recorded roadside conversation Tpr. Wilson mentions that Sgt. Pasqualetti was nearby.

⁹ According to *The American Heritage College Dictionary* (Fourth Edition, 2004), the word “discretion” means the “ability or power to decide responsibly.”

discussion, Sgt. Pasqualetti had no indication that the troopers had not taken any enforcement action. Upset with the decisions made by Tpr. Lee and Tpr. Wilson, Sgt. Pasqualetti discerned the names of the officers who were speeding and told his troopers that he would have to notify Post Commander Roseboro. “Why,” he asked Tpr. Lee and Tpr. Wilson, “didn’t you call me? I would have written the tickets myself.”

The sergeant also told us that he continued his discussion with Tpr. Lee and Tpr. Wilson, asking them whether this was an ethical breach. How could they justify citing the next person for speeds “in the 80s” when they didn’t cite someone going almost 150? In that same discussion Sgt. Pasqualetti reiterated that the speeds at which the two off-duty officers were traveling were “outrageous,” and “. . . he wasn’t going to let it go.” The sergeant stated that he told the two troopers “. . .[he] didn’t care if it was Governor Strickland and Director [of Public Safety] Guzman on those motorcycles. . .”, tickets should have been written.

Approximately two hours after Tpr. Highsmith and Officer Thomas were clocked in the air speed zone, Sgt. Pasqualetti contacted his post commander, Lt. Roseboro. After receiving a full report on the incident from Sgt. Pasqualetti, Lt. Roseboro determined that since the incident was over, there was nothing to do but contact the D-6 Duty Officer,¹⁰ Staff Lieutenant (“S/Lt.”) Mike Black. Lt. Roseboro indicated that he felt everyone just needed to move forward.

We asked Lt. Roseboro whether he felt comfortable making the decision to have Tpr. Lee issue citations to both Tpr. Highsmith and Officer Thomas for the speeding violation. Lt. Roseboro responded that he did not; he didn’t like to “second guess his guys.” He added to his response, indicating that in situations where one of the officers assigned to his post had already decided to let someone go with a warning, he would “stand by” that decision, so long as the officer was “within the law and his discretion.” When asked whether speeds of 147 and 149 miles per hour were deserving of the use of officer discretion, Lt. Roseboro’s response was noncommittal.

¹⁰ The duty officer is the on-call officer for the district. That individual is charged with receiving notification of critical or unusual incidents occurring in the district. He or she can make necessary decisions regarding operations, personnel, and other critical matters.

Shortly after the phone call from Sgt. Pasqualetti ended, Lt. Roseboro contacted S/Lt. Mike Black. Once more, all the details about Highsmith's and Thomas' speeding violations were passed up the chain of command. S/Lt. Black was made aware of the fact that no enforcement action was taken at the time of the stop.

Although S/Lt. Black, as the D-6 duty officer, had the authority to make the decision on issuing traffic citations for both Highsmith and Thomas, he did not do so. Instead, S/Lt. Black made a phone call to the district commander, Captain Arthur Combest. During that call S/Lt. Black repeated all of the specifics about the high speeds, the individuals involved in the unusual incident, and the fact that citations had not been issued.

By 10:00 p.m. on June 28, 2009, both the shift supervisor and the Granville Post Commander were notified of the air speed check that had occurred earlier that day, the identities of the persons involved in the entire situation, and the lack of enforcement action. By 10:00 p.m. on June 28 the decision to cite the violators should have been made. Ideally, either Tpr. Lee or Tpr. Wilson would have written the tickets at the roadside. If those two were unsure of or uncomfortable with ticketing their colleagues, they should have called their sergeant to the scene. As the troopers' immediate supervisor, the sergeant could have provided appropriate advice or simply have written the traffic tickets himself. Finally, when the post commander learned of the incident, he could have requested that either his sergeant or one of his two troopers prepare the HP-7s. The entire matter could have been decided without involving anyone else in the OSP management hierarchy.

Likewise, by 10:00 p.m. on June 28, 2009, the district duty officer had been notified of the incident. Given the facts that the speeds clocked were extreme and that OSP personnel were involved on both sides of the situation, Lt. Roseboro's decision to contact S/Lt. Black was justified. However, the staff lieutenant also elected to pass on making any decision to have citations issued to the two off-duty speeding officers.

On Monday morning, June 29, 2009, Captain Combest eventually reached Major Christopher Minter¹¹ and apprised him of the Granville post incident. According to Major Minter, he allowed Captain Combest to go through all the details of the Highsmith/Thomas stop. Then, Minter related, he told Captain Combest that “There will be 7s. We will issue the tickets or we will go the next step further.” According to Major Minter, he had made a decision; the traffic citations should now be prepared and served on Tpr. Highsmith and Officer Thomas.

Whether or not any decision about issuing citations was either made or directly communicated on June 29, 2009, all action that might have come from such a decision was waylaid when the matter of the labor contracts was raised by Captain Combest. The State of Ohio is a party to two union contracts: one, with the Ohio State Troopers Association, Inc., Unit 1, affecting OSP troopers; and the other with the Ohio State Troopers Association, Inc., Unit 15, affecting the agency’s sergeants. Each contract contains an Article 66, which is titled “Miscellaneous”. The pertinent sub-sections of each Article 66 are as follows:

From the Unit 1 contract --

“66.01 Arrests

No troopers will be ordered to make arrests.”

and, from the Unit 15 contract --

“66.01 Arrests

No Sergeants will be ordered to make arrests.”

According to both Captain Combest and Major Minter, it was agreed that Major Daniel Kolcum, who oversees Human Resources from the OSP, should be consulted; Major Kolcum most frequently dealt with the labor contracts and would be the one best suited to provide information about whether Tpr. Lee could be directed to issue a citation to Tpr. Highsmith and what could be

¹¹ Major Minter is the head of Field Operations for the OSP. Assigned to General Headquarters, all district commanders report to Major Minter.

done if Tpr. Lee refused to comply with that direction.¹² There was no discussion about issuing a ticket to Officer Thomas.

After a series of conversations about the application of the contract language, D-6 and General Headquarters senior staff arrived at a consensus. First, they decided the focus of any action would be Tpr. Highsmith. Second, according to Captain Combest, the best decision for the Patrol required input from OSP senior staff. Finally, it was believed by all involved -- Major Kolcum, Major Minter and Captain Combest -- that Tpr. Lee, under Section 66.01 of the contract, could not be compelled or ordered to write and serve a speeding ticket to Tpr. Highsmith.¹³ Major Kolcum did not consider the contract to be a significant issue. Again, there was no mention of what was to be done regarding Officer Thomas.

Consequently, there was no affirmative decision made about whether a citation could be issued on Monday, June 29, 2009. Instead, it was agreed that Captain Combest would gather information about the traffic stop and that he would arrange a time to meet with Tpr. Lee to suggest what might have been done differently at the time of the stop.¹⁴

Subsequently, it was learned that Tpr. Lee was unavailable for the next two days as he was on pre-scheduled time off. Any discussion with him would necessarily be postponed. Major Minter was slated to be out of the office on Tuesday. Other scheduling issues prevented any final decision regarding the matter on June 30, 2009.

On Wednesday, July 1, 2009, a senior staff meeting was convened to discuss the matter and the ramifications of the contract language. Lieutenant Colonel William Costas was back at General Headquarters following several days of vacation; Major Minter made Lt. Colonel Costas aware

¹² We note that there is a legal definition for the term "arrest". *See, e.g., State v. Barker* (1978), 53 Ohio St. 2d 135. That legal definition does not include any reference to the issuance of a traffic ticket. Further, pursuant to Ohio Revised Code section 2935.25, troopers and other law enforcement officers may only issue citations for minor misdemeanor violations like speeding.

¹³ Ohio Revised Code section 5503.02 (D) (1) states that "no state official shall command, order, or direct any state highway patrol trooper to perform any duty that is not authorized by law."

¹⁴ We note that at no time was Tpr. Lee ever asked or ordered to write the citation. Tpr. Lee never mentioned the labor contract or that there was a potential violation of Section 66.01.

of the Highsmith incident, including the fact that no citation had yet been issued. Lt. Colonel Costas told us that once he learned of the others' failure to act, he made a decision about issuing a citation.

Lt. Colonel Costas stated that he told Major Minter that “. . . since you brought [the situation] to my attention you lost all ability to make the decision yourself.” When Minter mentioned the labor contract provisions, Lt. Colonel Costas reportedly told the Major that regardless of the contract, the trooper was still required to fulfill his duties. The trooper should be given the opportunity to do the right thing and issue the citations. Overall, Lt. Colonel Costas seemed somewhat surprised that it had taken so long and had gotten to the level of General Headquarters before a decision to issue tickets could or would be made.

The result of Lt. Colonel Costas' directive was that Tpr. Lee, Tpr. Highsmith and Captain Combest met at District Headquarters on Thursday, July 2, 2009 -- four days after the speeding incident occurred. At approximately 9:45 a.m., Tpr. Lee served Tpr. Highsmith a traffic citation for speeding, a violation of Ohio Revised Code section 4511.21.

Nonetheless, the matter of what to do about Officer Thomas remained. We contacted Deputy Chief Ken Bell of the Gahanna Division of Police in order to determine when he was first made aware of his officer's involvement in the June 28, 2009, incident. Deputy Chief Bell indicated that he first heard about the traffic stop on Wednesday, July 1, 2009. Officer Thomas had called his department to inform his supervisor that OSP would be giving him a courtesy call about the incident.

Deputy Chief Bell related that he had, in fact, found a voicemail message on his office phone from Captain Combest that same day. Deputy Chief Bell stated that he returned the call to Captain Combest and learned that the only reason that the call was made from OSP to the Gahanna Division of Police was because Tpr. Highsmith was going to be cited for the violation. According to Deputy Chief Bell, he first requested that Officer Thomas also receive a citation

out of the June 28th incident. When Captain Combest hesitated, the Deputy Chief insisted that a ticket would be prepared and served on his officer, just as it had been on Tpr. Highsmith.

Thereafter, arrangements were made for Officer Thomas' ticket to be delivered to the Gahanna Division of Police. Post Commander Roseboro brought the ticket to that location on July 6, 2009, and personally served Officer Thomas with his speeding ticket --eight days after the alleged offense occurred.

Our investigation did not reveal any evidence of any attempt by OSP personnel to cover up the Tpr. Highsmith-Officer Thomas incident, no matter how egregious the conduct of those two law enforcement officers might have been. Instead, it appears to us that the entire delay in issuing the citations came as the result of both a failure by individuals to perform their statutory obligations and by over-analysis of the situation. We agree with Colonel Costas and his surprise that the matter went to OSP General Headquarters before a decision was made. Further, we are equally surprised that the Gahanna Division of Police Deputy Chief had to insist that his officer receive treatment equal to that of Tpr. Highsmith and any other member of the motoring public who violated the law.

The OIG is not involved with any OSP administrative investigation that may or may not be undertaken. However, we believe that the actions of some of the OSP personnel involved may not comport with the agency's internal policy and code of ethics or with the stated mission of the Ohio State Highway Patrol to treat everyone with "unbiased professionalism."

Moreover, we cannot discount the fact that in the case of Tpr. Highsmith, the decision to issue his citation took four days longer than it should have; the decision to cite Officer Thomas was equally delayed. There is no evidence that either delay was occasioned by some sort of attempt to hide the two officers' misconduct. However, the failure to make a prompt decision provided

the general public with the impression that the OSP personnel were reluctant to ticket fellow law enforcement officers.

Accordingly, we find that acts of omission occurred in this instance.

Allegation 2: Citations were issued to Tpr. Highsmith and Officer Thomas only after the violations were exposed by the media.

On Thursday, July 2, 2009, Tpr. Jason Highsmith was served a citation alleging that he operated a motorcycle at a speed of 147 miles per hour in a posted 65 mile per hour zone on June 28, 2009. That citation was filed with the Licking County Municipal Court on July 6, 2009.

Officer Christopher Thomas received his citation for speeding on July 6, 2009. That ticket alleged that Thomas was operating a motorcycle at a speed of 149 miles per hour in a posted 65 mile per hour zone on June 28, 2009. Thomas' citation was filed in Licking County Municipal Court on July 6, 2009.

The first media article about Tpr. Highsmith's and Officer Thomas' violations appeared in the *Newark Advocate* three days after the tickets were filed with the municipal court. Prior to the creation of that public record, there were no media inquiries made to the OSP or stories about the incident. However, once the story was released by the local newspaper on July 9, 2009, it was quickly picked up by all central Ohio media outlets, whether print media, radio or television formats.

The tickets were issued prior to the first media report. Therefore, the media exposure did not prompt OSP's decision making process in this matter. We find nothing to substantiate this allegation.

Accordingly, we find that no acts of wrongdoing or omission occurred in this instance.

IV. CONCLUSION

From our investigation we were able to determine that no Ohio State Highway Patrol official or officer engaged in any activity that was intended to absolve one of their colleagues or any other law enforcement officer from the obligation to comply with the law. Likewise, no OSP personnel attempted to cover up Officer Thomas' and Tpr. Highsmith's speeding violations. Instead, we found that OSP administrators, at various levels of the organization, failed to make timely and appropriate decisions about enforcement action and whether the two off-duty officers should have received traffic citations. The decision to take enforcement action should have been made at the Patrol post level the day of the incident.

As a result of the delayed decision making, it appeared that the tickets were written only after the entire speeding incident received extensive media coverage. However, we determined that the first media story appeared after Officer Thomas and Tpr. Highsmith had been served their tickets and the citations had been filed in the municipal court. Therefore, we were able to conclude that the extensive media attention played no part in the decision to cite the two officers for their speeding violations.

EXHIBITS

Ohio State Highway Patrol

Media Release

General Headquarters • Columbus, Ohio



For Immediate Release: June 22, 2009

Contact: Lt. Tony Bradshaw or Sgt. Karla Taulbee (614) 752-2792

Patrol seeing a rise in motorcycle violations

Statistical recap shows speed violations up 25 percent - license/endorsement violations up 32 percent

COLUMBUS – A statistical recap released today by Ohio State Highway Patrol shows an alarming trend: motorcyclists are riding faster and without proper licensing or endorsements.

During 2006 -2008 troopers issued 8,070 citations to motorcyclists. Forty-three percent of these citations were for speed, with an increase of 25 percent in 2008 from 2006. One in five of the citations were for a license/endorsement violation, with an increase of 32 percent of these violations in 2008 over 2006. Overall, troopers handed out 34 percent more citations to motorcyclists in 2008 than in 2006.

"In 2008, there were 215 motorcycle-related fatalities on Ohio roadways," Colonel Richard H. Collins, Patrol superintendent said. "This is the highest number of annual motorcycle fatalities in the 25 years for which data is available. Motorcyclists need to ride trained, ride licensed, ride sober and follow the proper speed limit to help prevent these tragedies from occurring on Ohio roadways."

Citations issued by state troopers for older age groups are on the rise as well. Citations given to 46-55 year olds rose by 43 percent and citations given to 56-65 year olds rose by 73 percent from 2006 to 2008.

To view a copy of the entire statistical recap, visit <http://www.statepatrol.ohio.gov>

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