

STATE OF OHIO  
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF  
INVESTIGATION



**AGENCY: OHIO DEPARTMENT OF NATURAL RESOURCES**  
**FILE ID NO.: 2010-416**  
**DATE OF REPORT: NOVEMBER 22, 2011**

## The Office of the Ohio Inspector General.... The State Watchdog

*“Safeguarding integrity in state government”*

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

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The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



STATE OF OHIO

# OFFICE OF THE INSPECTOR GENERAL

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RANDALL J. MEYER, INSPECTOR GENERAL

## REPORT OF INVESTIGATION

**FILE ID NUMBER:** 2010-416

**SUBJECT NAME:** Brad St. Clair

**POSITION:** Ohio Division of Wildlife Officer

**AGENCY:** Ohio Department of Natural Resources

**BASIS FOR INVESTIGATION:** Complaint

**ALLEGATIONS:** Failure to comply with state law and/or regulations

**INITIATED:** November 23, 2010

**DATE OF REPORT:** November 22, 2011

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

On November 15, 2010, the Office of the Ohio Inspector General received a copy of a complaint sent to former Governor Ted Strickland from Larry Toki, a retired Ohio Division of Wildlife officer. The complainant alleged that the Ohio Division of Wildlife sent an officer, Curt Smith, to Toki's residence to intimidate him. According to Toki, Smith wanted Toki to reveal the name of the individual who provided him with information on an Ohio Division of Wildlife investigation.

Toki's complaint led to the opening of an additional investigation by the Office of the Ohio Inspector General involving another Ohio Division of Wildlife Officer, Brad St. Clair. Toki alleged Officer St. Clair illegally confiscated and destroyed deer antlers from an individual who had legally obtained them. Toki indicated that although he didn't know the identity of the individual involved, he believed the Ohio Division of Wildlife paid the person approximately \$4,200 in compensation for the illegal confiscation and destruction of the antlers.

## **BACKGROUND**

The Ohio Department of Natural Resources (ODNR) is comprised of 11 divisions and is responsible for the development and wise use of natural resources in the state of Ohio. The Ohio Division of Wildlife is the law enforcement branch under ODNR charged with enforcing the hunting, fishing, and trapping laws in Ohio. The division also issues and regulates licenses and permits for the hunting, fishing, and trapping of all legal game in Ohio.

## **APPLICABLE STATUTES AND POLICY**

Ohio Revised Code §1531.16, which addresses the enforcement and prosecution of wildlife laws and rules, states in part, "Sheriffs, deputy sheriffs, constables, and other police officers shall enforce the laws and division rules for the taking, possession, protection, preservation, and propagation of wild animals and for this purpose shall have the power conferred upon wildlife officers." (**Exhibit 1**)

Ohio Administrative Code §1501:31-15-11(F) states, "Tagging and electronic game checking – This section applies only to persons participating in and deer checked in through the electronic game checking system as permitted by the chief of the Ohio division of wildlife:"

“(26) It shall be unlawful to possess a dead deer, or any part thereof, unless such deer, or parts thereof, are accompanied by an attached valid tag, seal, certificate of legal ownership, statement or receipt.” **(Exhibit 2)**

On June 1, 2001, the Division of Wildlife issued a directive regarding deer disposal, advising, “Unclaimed and unwanted deer that have been killed may be disposed of to any person whom the wildlife officer or investigating officer (if from an outside agency) approves. Requests for found antlers shall be handled according to Policy 10.” **(Exhibit 3)**

Ohio Division of Wildlife Policy 10 states, “We must keep in mind that from a legal perspective all antlers, regardless of size, must be treated consistently.”

1. Antlers which have been found, which have been natural sheds, may be possessed without a receipt.
2. Antlers which are attached to a deer will be receipted to any person, if there is not sufficient evidence that the deer was illegally taken. Deer antlers receipted to an individual shall be considered legally acquired.
3. Antlers which are receipted to an individual, shall be receipted with a hand receipt (Form 111). The officer for his/her records shall maintain a copy of this receipt. **(Exhibit 4)**

Ohio Division of Wildlife Policy 37 Section II. Evidence, outlining the recovery of evidence and forfeited property, states, “Items considered as evidence originate from arrest actions and/or search warrants.” **(Exhibit 5)**

### **INVESTIGATIVE SUMMARY**

On December 1, 2010, the Office of the Ohio Inspector General met with complainant Larry Toki to review his allegations. Toki alleged that on October 21, 2010, Wildlife Officer Curt Smith came to his property to interview him about how he received information on an investigation involving Wildlife Officer St. Clair and an unidentified individual. Toki refused to answer any questions from Smith and demanded he leave the property.

Toki went on to further state that St. Clair illegally confiscated antlers from an individual who had legally obtained a receipt for them. St. Clair then destroyed the antlers, which resulted in a settlement payment by ODNR to the individual.

A search of records from the Court of Claims of Ohio revealed a complaint involving ODNR filed by plaintiff Jeffrey Schultice on August 16, 2010. The complaint alleged that an Ohio Division of Wildlife officer illegally confiscated and destroyed deer antlers which Schultice legally obtained with a valid receipt. A settlement agreement and journal entry approving the settlement was filed the same day, and payment of \$5,000 was ordered to Schultice.

The Office of the Ohio Inspector General met with Jeffrey Schultice on December 6, 2010, and asked him to provide a copy of the deer carcass receipt he was issued, **(Exhibit 6)** as well as photographs of the deer and antlers. Schultice gave the following account of events:

On November 24, 2009, Schultice was bow hunting on his property in Guernsey County when he heard dogs barking and growling. Schultice went to investigate and found the dogs eating a deer carcass, and only the deer's head and front shoulders remained. An 11-point antler rack was still attached to the head of the deer. Leaving the deer carcass where it was found, Schultice returned to his house to contact a wildlife officer to report the dead deer and obtain a salvage permit or receipt for the deer antlers. Schultice made telephone calls to both Ohio Division of Wildlife officers Brad St. Clair and Roby Williams, and receiving no answers, he left voicemails asking each to return his call. Receiving no response that day, Schultice then called the Ohio Division of Wildlife District 4 Office and explained that he was trying to contact St. Clair or Williams to obtain a receipt for the deer antlers. He was told St. Clair and Williams were not working, but he could leave a message.

The following day, November 25, 2009, Schultice again made calls to St. Clair, Williams, and the Division of Wildlife District 4 Office and left messages asking for return calls. Through a friend, Schultice made telephone contact with St. Clair and explained how he found the deer and requested a receipt for the deer's antlers. Schultice said St. Clair told him issuing the receipt was not a priority, he would respond when he found time, and it could be weeks. Schultice replied that with deer gun season beginning in the next couple days, he was concerned hunters would take the antlers.

With no assurance of a response back from the Ohio Division of Wildlife, Schultice said he called the Guernsey County Sheriff's Office, and Deputy Sheriff Sgt. Jason May responded to his call. May told Schultice he spoke with Wildlife Officer Williams who authorized the

issuance of the receipt to Schultice. After viewing the deer, May issued a receipt to Schultice for the deer carcass. May then called Williams again to verify the receipt was issued. After receiving the receipt, Schultice removed the antlers from the deer carcass. Schultice took photographs of the deer before and after he removed the antlers.



Source: Jeff Schultice 11/24/09

On November 27, 2009, Schultice received a telephone call from Wildlife Officer St. Clair who wanted to come to the residence to view the deer. Schultice informed St. Clair he already received a receipt for the deer from the Guernsey County Sheriff's Office. St. Clair indicated he still wanted to come to the property to view the deer.

Schultice said that upon St. Clair's arrival, they met in his driveway. St. Clair declined Schultice's offer to view the deer carcass and only wanted to see the antlers. Schultice went through his house and into the attached garage to retrieve the antlers. St. Clair followed him into the residence and garage without being invited, took the antlers from Schultice before returning outside, and told Schultice the antlers were being confiscated because he did not like the way the antlers were obtained. St. Clair placed the antlers in his truck, and when Schultice reached for them, St. Clair threatened to arrest him. Schultice asked St. Clair for an explanation as to why he was taking the antlers, and St. Clair would only say he had a gut feeling something was wrong. Schultice told St. Clair he could show him the receipt he was issued by the Guernsey County deputy sheriff, but St. Clair was not interested in seeing it. St. Clair did not issue a citation to Schultice, but did give him a hand receipt for the antlers.

Schultice then made several calls to Ohio Division of Wildlife personnel seeking answers as to why the antlers were taken and when they would be returned. On November 30, 2009, Schultice made a call to District 4 Supervisor Tom Donley regarding the confiscation of the antlers by St. Clair. Schultice said Donley told him he would look into the incident. On December 1, 2009, Ohio Division of Wildlife Law Enforcement Supervisor Bryan Postlethwait called Schultice to inform him that he could not have the antlers back. Postlethwait told Schultice there were past cases in which individuals killed deer, waited for a period of time, and then asked for salvage permits. On January 4, 2010, Postlethwait called Schultice to advise him the antlers were destroyed.

The Office of the Ohio Inspector General obtained and reviewed email correspondence of Ohio Division of Wildlife management personnel regarding this incident. According to these records, on January 8, 2010, Trish Lanahan, ODNR Legislative Liaison, sent an email to Ohio Division of Wildlife Law Enforcement Administrator James Lehman advising him that Schultice contacted state Senator Jimmy Stewart, who then requested information about the incident. **(Exhibit 7, page 5)** Lehman emailed District 4 Manager Mark Hemming requesting additional information, and Hemming replied with the basic facts of the incident and included his opinion that, “Although Mr. Schultice received a permit from the sheriff’s office, they have the authority to issue permits for road kill deer only and not for antlers of rotten deer found in the woods.” Hemming went on to write, “After conversations with officers St. Clair, Postlethwait, and myself, we came to the conclusion the antlers were not going to be returned and were destroyed.”

Ohio Division of Wildlife Law Enforcement Administrator James Lehman emailed back to Hemming, explaining that:

1. The “Road Kill” receipts were renamed in December 1997 and are now titled “Deer Carcass Receipt.” They were modified to include additional categories.
2. Ohio Division of Wildlife Policy 10 states, “antlers, which are attached to a deer, will be receipted to any person if there is not sufficient evidence that the deer was illegally taken. Deer antlers receipted to an individual shall be considered legally acquired.”
3. Ohio Revised Code §1531.16, “Enforcement and prosecution of wildlife laws and rules” states, “Sheriffs, deputy sheriffs, constables, and other police officers shall enforce the laws and division rules for the taking, possession, protection, preservation, and

propagation of wild animals and for the purpose shall have the power conferred upon wildlife officers.”

Lehman’s email added he was concerned to find out that when the Guernsey County deputy sheriff called Wildlife Officer Roby Williams before issuing the receipt to Schultice for approval, there was no documentation from Williams suspecting wrongdoing concerning the deer. Lehman also pointed out that antlers taken from an individual must be logged in as evidence and processed according to the evidence policy. In this case, the antlers were never logged in as evidence and were destroyed without a court order.

The Office of the Ohio Inspector General obtained a copy of the Court of Claims of Ohio settlement between Jeffrey Schultice and ODNR. On January 28, 2010, the attorney for Schultice, James L. Peters, issued a letter to the Ohio Division of Wildlife citing the facts of this incident and requested compensation. On August 16, 2010, Schultice filed a complaint in the Court of Claims of Ohio for the wrongful, unlawful, and malicious confiscation and destruction of the antlers. Schultice accepted a settlement agreement with ODNR for the sum of \$5,000.

**(Exhibit 8, page 7)**

On December 9, 2010, the Office of the Ohio Inspector General interviewed Guernsey County Deputy Sheriff Sgt. Jason May regarding this incident. May said he received a phone call on November 25, 2009, from Schultice requesting assistance in obtaining a receipt for a deer carcass. Before arriving at the Schultice residence, May stated he called Wildlife Officer Roby Williams, who is assigned to Guernsey County, to make sure there was no problem in issuing a receipt to Schultice. May stated that Williams agreed it was appropriate for the deputy to issue the receipt to Schultice. May said he walked back into the wooded area of the Schultice property where the deer carcass was located, and saw that it was half eaten, rotting, with no suspicious indicators. May issued the receipt to Schultice and then contacted Williams again to advise him of what he found and that the receipt had been issued. May stated he called Wildlife Officer St. Clair several times to notify him that the deputy had taken care of the issue, but never received a

return call. May also confirmed the deer carcass was located in Guernsey County by use of his GPS<sup>1</sup> locator, and as a deputy sheriff he had the authority to issue a receipt for the deer.

On December 13, 2010, the Office of the Ohio Inspector General contacted Williams in an attempt to interview him about the incident. In response, Fraternal Order of Police of Ohio, Inc.<sup>2</sup> Chief Counsel Paul Cox said St. Clair and Williams refused to be interviewed unless they were given the Garrity warning<sup>3</sup> or ordered by one of their supervisors to cooperate. Therefore, St. Clair and Williams were not interviewed by the Office of the Ohio Inspector General.

The Ohio Inspector General's Office formally requested the Ohio Department of Natural Resources provide evidence, property logs, and records of the antlers belonging to Schultice. During a March 28, 2011, interview with Cathryn Loucas, chief counsel for the Ohio Division of Wildlife at the time of this incident, Loucas stated there were no records of the antlers being logged in as evidence or recovered property, and there was no official record of destruction or disposition of the antlers. On June 20, 2011, the Office of the Ohio Inspector General received documentation and confirmation from ODNR Office of Law Enforcement Chief Gary Obermiller that Officer St. Clair did not log the antlers into the evidence room. However, St. Clair did prepare an evidence tag, but the tag did not display a citation number or case number. The copy of the hand receipt provided by ODNR indicated the antlers were destroyed at 8:30 a.m. on December 23, 2009. **(Exhibit 9, page 3)**

According to Ohio Division of Wildlife Policy 37 Section IV. (b),

The Officer will maintain a temporary facility report of property forfeited or seized on an annual basis (January 1 through December 31). The temporary report will be submitted to the respective law enforcement supervisor by January 10<sup>th</sup> of each year. This form will be kept on the [Ohio Bureau of Criminal Identification and Investigation] property seized/forfeited form. **(Exhibit 5, page 2)**

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<sup>1</sup> A global positioning system (GPS) uses satellites in space and a receiver on the ground to establish a current location.

<sup>2</sup> The Fraternal Order of Police of Ohio, Inc. is the collective bargaining representative for Ohio Division of Wildlife officers.

<sup>3</sup> The Garrity warning applies when an employee is forced to answer questions during an internal or administrative investigation or be subject to discipline up to and including, termination. Information that violates Garrity is generally not admissible in a subsequent criminal prosecution.

The 2009 property seized/forfeited form submitted by Officer St. Clair does not list the antlers he seized from Schultice on November 27, 2009. **(Exhibit 10, page 3)**

## **CONCLUSION**

The Office of the Ohio Inspector General cannot substantiate Toki's complaint that Ohio Division of Wildlife Officer Curt Smith went to Toki's residence to intimidate him in an attempt to make him reveal the name of the person who provided information about the Schultice investigation. On the day of the incident, Toki did not answer any of Officer Smith's questions, and Smith complied with Toki's request for him to leave his residence.

However, information from this initial complaint led to an additional investigation by the Office of the Ohio Inspector General which found that Jeffrey Schultice located a dead deer on his Guernsey County property and made several attempts to obtain a receipt for the carcass from the Ohio Division of Wildlife, as required by law. Schultice then contacted the Guernsey County Sheriff's Office, and Deputy Sheriff Jason May issued the receipt. In Ohio, deputy sheriffs have the legal authority to issue permits to individuals to possess a deer carcass. Deputy May contacted Wildlife Officer Roby Williams prior to issuing the receipt for the deer and again after he had issued the receipt. Deputy May also stated he attempted to call Wildlife Officer Brad St. Clair to let him know that he issued the receipt to Schultice, but St. Clair never returned the call to May.

Schultice obtained the deer carcass in accordance with Ohio law. There was no Ohio Division of Wildlife investigation or documentation of the deer being suspiciously or illegally killed. According to email correspondence, Wildlife Officer St. Clair, without a warrant or probable cause, confiscated and destroyed the antlers. The antlers were not logged into evidence as required by policy and were destroyed without a court order. Ohio Division of Wildlife District 4 Manager Hemming, Officer St. Clair, and Law Enforcement Supervisor Postlethwait were unaware of the authority of deputy sheriffs to issue receipts for dead deer.

Upon review of the documents, photos, and witness statements, the following allegations are substantiated:

1. Ohio Division of Wildlife Officer Brad St. Clair, without cause, improperly confiscated legal property.

2. Wildlife Officer St. Clair, without cause, improperly disposed of legally obtained property.
3. Wildlife Officer St. Clair failed to record the seizure and destruction of property on the annual report as required by Ohio Division of Wildlife Policy 37.

**Accordingly, we find reasonable cause to believe wrongful acts or omissions occurred in these instances.**

### **RECOMMENDATIONS**

The Office of the Ohio Inspector General makes the following recommendations and asks the Ohio Department of Natural Resources to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Department of Natural Resources should:

1. Internally review the actions of all employees involved to determine whether their conduct warrants further administrative action or training.
2. Revise Ohio Division of Wildlife Policy 37, Evidence and Forfeited Property, to create a segregation of duties prohibiting any officer who seizes evidence or property from also being the officer who destroys or disposes of the evidence or property. The Office of the Ohio Inspector General is aware a full and comprehensive policy review is underway. ODNR should refer its revised Policy 37 to the Inspector General for comment and review.
3. Require all employees to read, acknowledge, and sign the existing policies of the agency and their department. New or revised policies should also be read, acknowledged, and signed.

### **REFERRAL**

The Office of the Ohio Inspector General forwarded a copy of this investigation to the Guernsey County Prosecutor's Office for review.



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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Department of Natural Resources**  
**FILE ID #: 2010-416**

**KEEPER OF RECORDS CERTIFICATION**

**This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.**

A handwritten signature in black ink, appearing to read "Jill Jones".

**Jill Jones**  
**KEEPER OF RECORDS**

**CERTIFIED**  
**November 22, 2011**

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