

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



**AGENCIES: OHIO DEPARTMENT OF REHABILITATION AND CORRECTION
OHIO DEPARTMENT OF PUBLIC SAFETY -
DIVISION OF OHIO STATE HIGHWAY PATROL
FILE ID NO.: 2011-111
DATE OF REPORT: FEBRUARY 8, 2012**

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

“Safeguarding integrity in state government”

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OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2011-111

SUBJECT NAMES AND AGENCIES: Scott Thompson, Institution Investigator, Ohio Department of Rehabilitation and Correction;
William Card, Maintenance Worker, Ohio Department of Rehabilitation and Correction;
Jim Schlotterbeck, Trooper, Ohio Department of Public Safety – Division of Ohio State Highway Patrol.

BASIS FOR INVESTIGATION: Referral

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

INITIATED: June 2, 2011

DATE OF REPORT: February 8, 2012

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On June 2, 2011, the Office of the Ohio Inspector General (OIG) received a complaint from the Director of the Ohio Department of Rehabilitation and Correction (ODRC). The complainant alleged that the ODRC Enforcement Unit exceeded their authority on May 27, 2011, by detaining four suspects. Among those detained was a Pickaway Correctional Institute (PCI) maintenance worker who was handcuffed on private property by armed members of the ODRC Enforcement Unit. The Director added that the ODRC Enforcement Unit seized marijuana, cell phones, tobacco, and \$500, and also stated that an Ohio State Highway Patrol (OSHP) trooper provided guidance concerning this matter.

BACKGROUND

Ohio Department of Rehabilitation and Correction

The Ohio Department of Rehabilitation and Correction's (ODRC) authority is granted by Ohio Revised Code (ORC) §5120.01. There are several divisions in ODRC, including the Office of Prisons and the Division of Parole and Community Services. The ODRC Office of Prisons houses the state's prison population in 28 facilities and institutions, and oversees Security Threat Groups. Within the Security Threat Groups, the ODRC Enforcement Unit conducts investigations and gathers intelligence. Under the Division of Parole and Community Services, the ODRC Adult Parole Authority monitors offenders who have been released from custody of the court.

Each ODRC facility is assigned an institution investigator who reports directly to the warden, and whose responsibilities include:

- Investigating serious violations of administrative rules.
- Controlling the Inmate Telephone Monitoring System and initiating investigations based on information received.
- Serving as the liaison between the institution and the Ohio State Highway Patrol, and other law enforcement agencies.
- Participating in joint investigations or operations with other agencies.

While they do not have arrest authority, institution investigators are permitted to detain those suspected of criminal activity and administrative violations on prison grounds. OSHP officers can arrest individuals suspected of criminal activity on ODRC property.

ODRC Adult Parole Authority

The ODRC Adult Parole Authority possesses its authority under ORC §5149, is responsible for the release and supervision of adult felony inmates who have been released from prison, and assists the court system with felony offenders. ORC §5149.05 allows ODRC Adult Parole Authority officers to carry firearms, and ORC §2967.15 permits ODRC Adult Parole Authority officers to arrest without a warrant if the officer has reasonable cause to believe that an individual has violated or is violating a court's condition of his or her release.

ODRC Enforcement Unit

As part of the Security Threat Groups, the ODRC Enforcement Unit is responsible for conducting investigations and gathering intelligence to deter the conveyance of drugs and other contraband into ODRC facilities and institutions. The ODRC Enforcement Unit is comprised of 10 members, including six Adult Parole Authority officers, a correction officer, a Security Threat Group Intelligence coordinator, an ODRC Enforcement Unit supervisor, and an additional management-level employee. The 10 members of the ODRC Enforcement Unit retain the authority given to them by virtue of their positions. The limited jurisdiction of ODRC employees necessitates an ongoing partnership with local law enforcement and the Ohio State Highway Patrol.

Ohio State Highway Patrol

ORC §5503.02 sets forth that OSHP conducts investigations of criminal activity on state-owned and leased property throughout Ohio, including ODRC facilities and institutions. OSHP plainclothes investigators are assigned to specific ODRC facilities and work closely with ODRC institution investigators concerning criminal activity. The plainclothes investigators conduct criminal investigations within the jurisdiction of OSHP; but do not investigate administrative issues. OSHP personnel accept custody of those detainees who have engaged in criminal activity

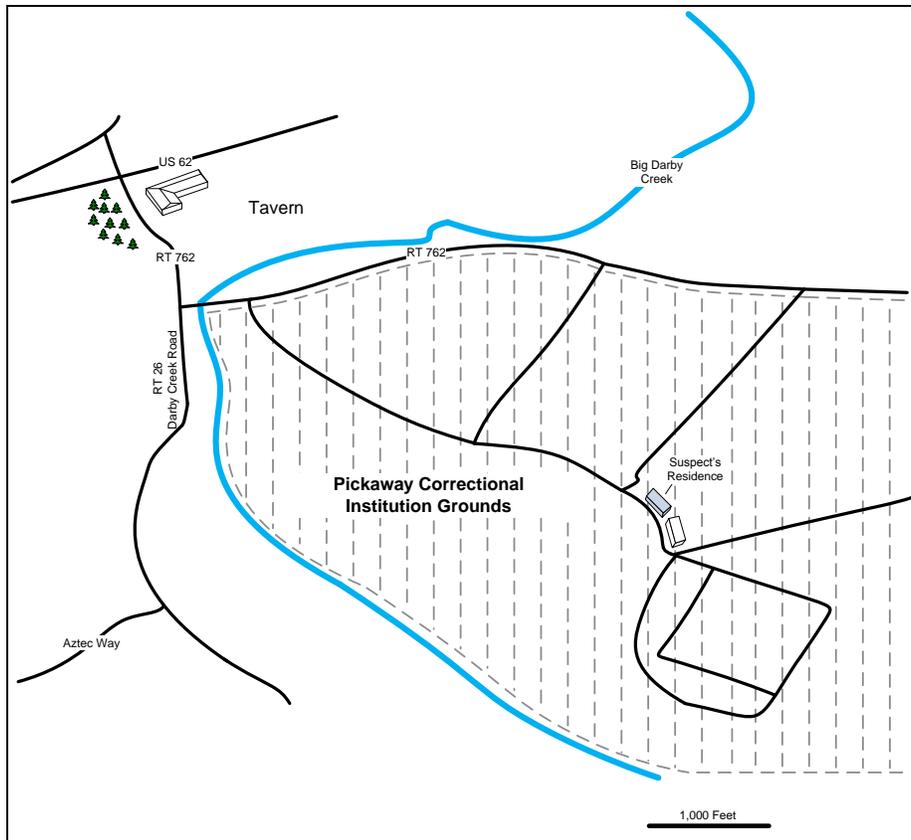
from the institution investigator and transport them to a local detention facility to await further criminal proceedings.

Contraband within the Prison System

At the request of the Office of the Ohio Inspector General, ODRC provided an impact analysis on the effects of contraband within the prison system. According to ODRC, one pound of marijuana, which has a street value of approximately \$2,400, sells for between \$24,000-\$40,000 inside an ODRC institution. Per ORC §2921.36, the conveyance of drugs, including marijuana, onto prison grounds is a felony. Additionally, prisoners are not permitted to have cellphones in ODRC institutions. Because all inmate telephone calls are monitored and recorded, a cell phone within the institution can sell for \$300-\$500 and telephone time for \$3-\$7 per minute. Likewise, inmates are prohibited from possessing any type of currency. Finally, since March 2009, tobacco has been prohibited from ODRC facilities. A pound of bulk tobacco retails for \$19, but sells for approximately \$8,400-\$9,900 inside of an ODRC institution.

INVESTIGATIVE SUMMARY

The Office of the Ohio Inspector General opened an investigation to determine whether the ODRC Enforcement Unit exceeded its authority when four suspects were detained on private property. In April 2011, members of the ODRC Enforcement Unit received information from an informant implicating William Card, a Pickaway Correctional Institute (PCI) maintenance employee in the conveyance of contraband into the institution. The informant, after being found in possession of contraband, told the ODRC Enforcement Unit that he received it from Inmate X, who received it from “the painter.” The ODRC Enforcement Unit believed Card was involved in the conveyance of contraband into PCI because he was a painter who supervised Inmate X. The ODRC Enforcement Unit suspected that Card delivered the contraband to Inmate X after meeting with Inmate X’s girlfriend. The following diagram shows the location of Card’s residence, a state-owned property, located on PCI grounds.



PCI Institution Investigator Scott Thompson initiated an investigation in April 2011 and, assisted by the ODRC Enforcement Unit, began monitoring Inmate X's telephone calls.

From April 1, 2011-May 26, 2011, ODRC Enforcement Unit members listened to approximately 130 telephone calls totaling approximately 29 hours between Inmate X and his girlfriend. The number, frequency, and content of the calls between Inmate X and his girlfriend convinced Thompson and members of the ODRC Enforcement Unit of a plan to convey contraband into the institution. On May 25, 2011, at 3:00 p.m., Thompson emailed his action plan to Warden Brian Cook and proposed a surveillance operation for May 27, 2011. It stated in part,

I don't know if the patrol is on board yet because I feel it's mostly administrative at this time. If the Patrol is not we are going to follow the female that's in Springfield and plus sit on Bill. Bill is off on Friday. If the Patrol pulls off and they meet I am going to get pictures on them meeting and then confront him about it. I am not going to ask any questions that would jeopardize any admin case ...¹

¹ "Admin case" refers to an administrative case.

On May 26, 2011, at 9:45 a.m., Warden Cook responded by email instructing Thompson to proceed with his action plan and to keep him informed. (**Exhibit 1**) In addition to communicating with Warden Cook, Thompson also kept Trooper Jim Schlotterbeck, the OSHP plainclothes investigator assigned to the Pickaway Correctional Institute, apprised of the developments of the operation.

Thompson and Trooper Schlotterbeck acknowledged speaking multiple times a day, as evidenced by telephone records from May 12, 2011 to May 27, 2011, which identified a total of 94 phone calls between the two. During an interview with the Office of the Ohio Inspector General, Thompson said, “anything that’s going on, he knows about it because I don’t like surprises and I don’t want surprises on me.”

On May 27, 2011, Thompson and four members of the ODRC Enforcement Unit conducted surveillance on Card and Inmate X’s girlfriend. Participants in the operation are listed below:

May 27, 2011 Operations Team		
Name	Position	Armed
Scott Thompson	PCI Institution Investigator	No
Scott Filicky	APA Parole Officer assigned to the Enforcement Unit	Yes
Mark Herubin	APA Parole Officer assigned to the Enforcement Unit	Yes
Kevin Molinatto	ODRC Correction Officer assigned to the Enforcement Unit	No
D.J. Norris	APA Parole Officer who serves as Enforcement Unit Supervisor	Yes

Thompson and ODRC Enforcement Unit members Norris and Herubin began their surveillance at approximately 7:00 a.m. in Springfield, Ohio. They followed Inmate X’s girlfriend, who was traveling with two additional female passengers. Thompson and Norris drove together, while Herubin drove separately. At approximately 8:45 a.m., ODRC Enforcement Unit members Filicky and Molinatto, driving separate vehicles, followed Card from his residence on PCI grounds. Card was on a scheduled vacation day on May 27, 2011. At approximately 9:00 a.m., the surveillance team followed their respective suspects until the suspects arrived in a private property parking lot off PCI grounds. Card backed his personal car up to a guardrail that

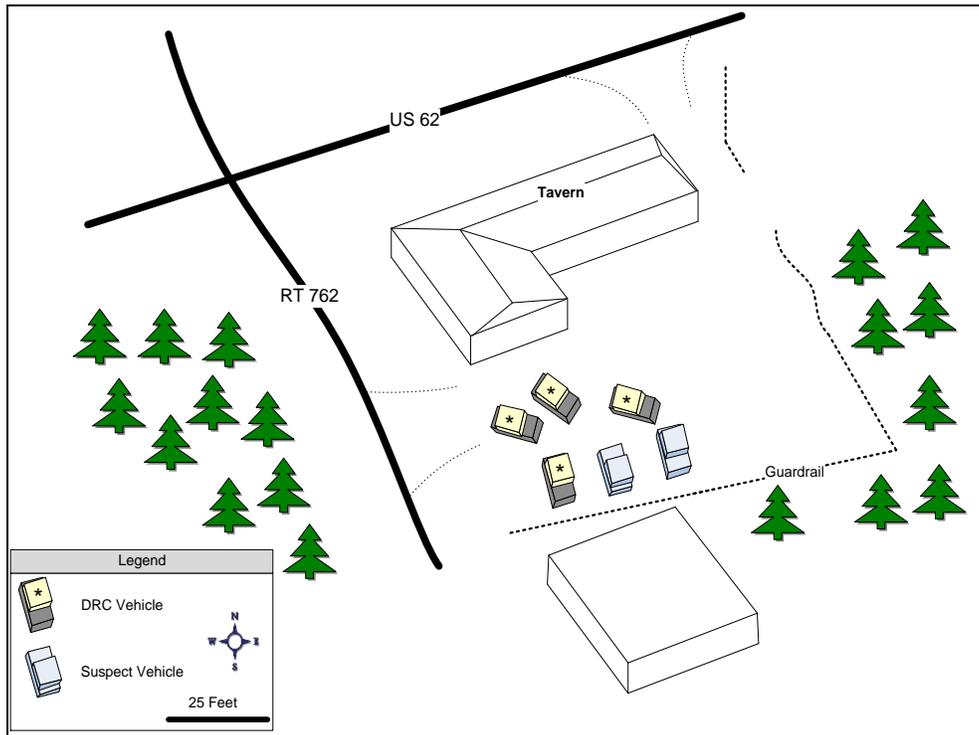
surrounded the private parking lot, while Inmate X's girlfriend pulled her car forward to the same guardrail, 10-15 feet to his left.

In interviews with the Office of the Ohio Inspector General, members of the ODRC Enforcement Unit recalled observing the following while they were in the immediate vicinity of the tavern:

- Norris watched Card exit his vehicle empty-handed and walk toward Inmate X's girlfriend's car, then return immediately to his vehicle with a blue bag.
- Thompson observed that Card walked quickly to Inmate X's girlfriend's car empty-handed, and returned with a blue bag.
- Herubin watched Card approach Inmate X's girlfriend's car where he was handed a blue bag.

After the ODRC Enforcement Unit believed the exchange of contraband occurred, they blocked both suspects' vehicles.

Pictures taken from the scene by Thompson (**Exhibit 2**) and statements made in interviews with the Office of the Ohio Inspector General were used to recreate the relative position of the vehicles as shown in the following diagram.



Upon exiting their vehicles, the surveillance teams approached and Thompson ordered Card to the ground face-down. The female suspects were ordered from their vehicle, instructed to produce identification, and seated on the guardrail by their vehicle until they were released by a member of the team.

Having detained the suspects, Thompson called Schlotterbeck and requested the Ohio State Highway Patrol respond. Based on the interviews of both Thompson and Schlotterbeck, Schlotterbeck instructed Thompson to open the blue bag and report back on its content. Based on Thompson's written report, the seized items consisted of: approximately 95 Black & Mild cigars, two cell phones with chargers, approximately one pound of marijuana, approximately three pounds of tobacco, and \$500 cash. **(Exhibit 3)** After the Enforcement Unit located marijuana, Thompson ordered Card to be handcuffed.

Thompson's pictures revealed the trunk and doors of the female suspects' car were open. However, during a June 20, 2011, interview, Inmate X's girlfriend said her car was not searched and she believed one of the officers asked her to open the trunk. One of her passengers also said Inmate X's girlfriend opened the trunk to get her driver's license.

Beginning at 9:05 a.m., and continuing throughout the day until 6:25 p.m., Thompson and Schlotterbeck were in communication via telephone. A review of telephone records revealed a total of 30 calls, lasting approximately 50 minutes.

During the suspects' approximate one hour detainment by the ODRC Enforcement Unit, a Pickaway County deputy happened to be driving by and stopped to offer assistance. Thompson told the deputy OSHP was on the way. Thompson believed local law enforcement would not be necessary to affect an arrest as he expected OSHP to arrive at the scene to take custody of the suspects and contraband. Meanwhile, Schlotterbeck consulted with his superiors regarding the incident, and by telephone he informed Thompson that OSHP would not take custody of the suspects, but would accept the contraband. As OSHP refused to take custody of the suspects, Thompson ordered them released.

The female suspects interviewed stated they were held at gunpoint, and as three members of the ODRC Enforcement Unit were armed during the operation, it became necessary to determine what part the use of firearms played in the detainment of the suspects. By virtue of their positions as Adult Parole Authority officers, Norris, Herubin, and Filicky were armed. At the time the female suspects were detained, Filicky stated his hand was on his weapon at the “holster ready”² position. The three armed members of the ODRC Enforcement Unit denied drawing their weapons. Both Thompson and Molinatto said they never saw any weapons drawn during the operation. It could not be determined whether weapons were drawn.

In interviews conducted by the Office of the Ohio Inspector General, all ODRC Enforcement Unit members agreed Thompson coordinated and directed the May 27 surveillance operation. ODRC Enforcement Unit supervisor D.J. Norris said Thompson informed them OSHP was not actively working the case because it was unclear whether the operation was criminal or administrative. During the pre-surveillance briefing, Thompson informed the operations team that Trooper Schlotterbeck told him that if anything criminal in nature happened, to detain the suspects, to call him (Schlotterbeck), and he would come down.

During his June 6, 2011, interview with the Office of the Ohio Inspector General, Schlotterbeck acknowledged he was not part of this operation. He stated, “Now, I will say this, looking back on it and speaking with my Lieutenant, [...] my priority should have been that day and I should have been out there with them, after how everything transgressed – transpired.”

Thompson provided the Office of the Ohio Inspector General a copy of his June 7 report to Warden Cook which recalled that on May 26, 2011, Thompson believed the case was administrative but could not rule out anything criminal in nature. **(Exhibit 3)** Thompson relayed this to Schlotterbeck, but was told there wasn’t enough to go off of. If it turned out to be Card and if they met and anything that looked to be criminal in nature happened, Schlotterbeck said to detain them, call him, and he would come down.

² “Holster ready” is where an officer’s body is bladed (angled), his or her hand is on the holstered weapon, and he or she is prepared to draw.

Had Schlotterbeck not instructed Thompson to detain Card and the female suspects, Thompson said he would have just taken pictures and instructed Card to report to the personnel office the next morning. The Office of the Ohio Inspector General asked Thompson why he would not have confronted Card, and Thompson replied, “because I wasn’t authorized to.”

In an interview with the Office of the Ohio Inspector General, Thompson was asked specifically what transpired between May 25 when he emailed Warden Cook that only pictures would be taken, and the actual detention of four suspects on May 27. Thompson reiterated his telephone conversation with Schlotterbeck on May 26 led him to believe OSHP would assist. As a result of that conversation, Thompson believed that when Card “... got out of his car and went over there and came back with that big blue bag, then I felt there was enough there that we needed to stop him and get – do what Trooper Schlotterbeck told me to do.”

Schlotterbeck was asked about the call, said he did not remember, and stated if “Thompson said I did, I must have.” A review of Thompson’s telephone records revealed 58 calls between him and Schlotterbeck between May 23 and May 27, 2011, totaling 2 hours and 25 minutes.

During interviews with the Office of the Ohio Inspector General, Schlotterbeck and Thompson lacked a clear understanding of the ODRC Enforcement Unit’s jurisdiction. When Schlotterbeck was asked about ODRC Enforcement Unit’s jurisdiction and authority, he stated, “I had no idea what their authority was – uhm – outside of parole. I mean I didn’t know if they did or did not have any arrest powers or detainment powers outside of – uhm – their powers – uh – with parolees’ provision.” Similarly, Thompson was asked about the authority and jurisdiction of the ODRC Enforcement Unit, and replied, “that I’m not sure of.” However, in Thompson’s interview he recalled conducting surveillance and apprehending someone in the process of leaving state grounds. Through interviews, it was evident that Thompson understood where his authority lied – within the grounds of the state prison.

CONCLUSION

In April 2011, Scott Thompson, institution investigator at the Pickaway Correctional Institute (PCI), and the ODRC Enforcement Unit began monitoring the telephone activities of Inmate X after receiving information from a confidential source that a PCI employee was involved in the conveyance of contraband, a violation of ORC §2921.36. The ODRC Enforcement Unit was able to connect the suspects, including Inmate X, Inmate X's girlfriend, and William Card, a maintenance worker who supervised Inmate X, in a conspiracy to convey contraband into the institution.

The 10 members of the ODRC Enforcement Unit retain the authority given by virtue of their positions. For instance, ODRC Adult Parole Authority officers have the power to arrest individuals in violation of a condition of their release. On the other hand, institution investigators do not have arrest authority and can only detain those suspected of a criminal activity on prison grounds. No member of the ODRC Enforcement Unit gained additional authority or jurisdiction as a result of their assignment to the unit. In the event of a criminal violation on state grounds, the ODRC Enforcement Unit relies on the Ohio State Highway Patrol to take suspects into custody.

Convinced of a plan to convey contraband into PCI, Thompson emailed his action plan to Warden Cook on May 25, 2011, and informed him surveillance would be conducted on the suspects. He stated that should OSHP not be a part of the operation, and the exchange occur between Card and Inmate X's girlfriend, Thompson would only photograph them.

Two days later on May 27, 2011, at the direction of Thompson, surveillance began in multiple locations on and off state property. One surveillance team began approximately 40 miles away in Springfield, Ohio, and a second team on PCI grounds. When the suspects converged and the exchange occurred on private property, Thompson and the ODRC Enforcement Unit blocked and ordered them from their vehicles; handcuffed Card; detained the female suspects; and confiscated the contraband. When asked why he varied from his action plan of May 25, 2011, Thompson stated he talked to Schlotterbeck on May 26, 2011, and was told to detain the suspects should anything criminal present itself. However, as the incident occurred on private property,

Thompson acted outside of his authority when he and the members of the ODRC Enforcement Unit detained four suspects.

Based on the intelligence gathered, it was evident the exchange may occur off prison grounds. Intelligence gathered on Card should have led Thompson, Schlotterbeck, and members of the Enforcement Unit to believe Card might have made the exchange off institution property.

Had Thompson carried out his original plan to only photograph the conveyance of contraband, or had the ODRC Enforcement Unit followed Card back to the prison grounds before detaining him, the unit would have acted within its jurisdiction and could have called OSHP to affect an arrest.

Accordingly, we have reasonable cause to believe a wrongful act occurred in this instance.

Based on Card's role in the attempt to convey contraband, we have reasonable cause to believe a wrongful act occurred. William Card separated his employment with the state of Ohio effective August 1, 2011.

Accordingly, we have reasonable cause to believe a wrongful act occurred in this instance.

Schlotterbeck's assignment to PCI as a plainclothes investigator necessitates that he work closely with ODRC institution investigators concerning criminal activity. This was evidenced by the frequency of communication between Thompson and Schlotterbeck and information gathered in interviews with the Office of the Ohio Inspector General. Based on the intelligence that had been gathered and developed preceding the interception of contraband, and based on his role as a plainclothes investigator assigned to PCI, Schlotterbeck should have taken a more direct role in the operation.

Accordingly, we have reasonable cause to believe an omission occurred in this instance.

REFERRAL

The Office of the Ohio Inspector General referred this report to the local prosecutor.

RECOMMENDATION

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

1. Review the actions of the involved employees and determine if their conduct warrants further administrative action.
2. Review existing policies and procedures with members of the ODRC Enforcement Unit and develop unit-specific policies for the ODRC Enforcement Unit that address its authority, including jurisdictional boundaries. Employees should read, acknowledge, and sign the existing policies of the agency and their department. New and revised policies should also be read, acknowledged, and signed.

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

1. Review the actions of the involved employees and determine if their conduct warrants further administrative action.
2. Ensure that individuals assigned to ODRC institutions understand the jurisdictional boundaries and the authority of those with whom they work closely and rely on for intelligence related to possible criminal activity.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Department of Rehabilitation and
Correction
Ohio Department of Public Safety –
Division of Ohio State Highway Patrol**

FILE ID #: 2011-111

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 be "Jill Jones", written in a cursive style.

**Jill Jones
KEEPER OF RECORDS**

**CERTIFIED
February 8, 2012**

MAILING ADDRESS

OFFICE OF THE INSPECTOR GENERAL
JAMES A. RHODES STATE OFFICE TOWER
30 EAST BROAD STREET – SUITE 2940
COLUMBUS, OH 43215-3414

TELEPHONE

(614) 644-9110

IN STATE TOLL- FREE

(800) 686-1525

FAX

(614) 644-9504

E-MAIL

OIG_WATCHDOG@OIG.STATE.OH.US

INTERNET

WATCHDOG.OHIO.GOV