

STATE OF OHIO  
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF  
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF TRANSPORTATION  
FILE ID NO.: 2019-CA00034  
DATE OF REPORT: OCTOBER 6, 2020

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

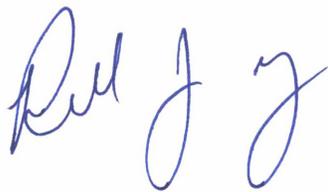
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Randall J. Meyer  
Ohio Inspector General



STATE OF OHIO

# OFFICE OF THE INSPECTOR GENERAL

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RANDALL J. MEYER, INSPECTOR GENERAL

## REPORT OF INVESTIGATION

**FILE ID NUMBER:** 2019-CA00034

**SUBJECT:** Robert Bradley Cummins

**POSITION:** Highway Technician 3CM

**AGENCY:** Ohio Department of Transportation

**BASIS FOR INVESTIGATION:** Agency Referral

**ALLEGATIONS:** Misuse or Abuse of State Property or Equipment;  
Failure to Comply with State or Department Rules,  
Procedures, or Policies

**INITIATED:** September 13, 2019

**DATE OF REPORT:** October 6, 2020

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

On September 12, 2019, the Office of the Ohio Inspector General received a referral from the Ohio Department of Transportation (ODOT) alleging that Highway Technician 3 Construction Management (CM) Robert “Brad” Cummins used his position as an ODOT employee to secure the use of a state-owned bucket truck to trim trees at the Logan County fairgrounds on August 17, 2019, where he is a member of the Logan County Fair Board. Other ODOT employees along with Cummins identified in the initial complaint were District 7 Equipment Manager/Roadway Service Manager Duane Byers, District 7 Transportation Manager 3 Scott Platfoot, District 7 Transportation Administrator for the Logan County Garage Tim Little, and ODOT Highway Technician Equipment Specialist Scott Heath.

## **BACKGROUND**

The Ohio Department of Transportation (ODOT) is responsible for planning, building, inspecting and maintaining a safe, efficient, and accessible transportation system that integrates Ohio highways, rail systems, aviation and water networks. The department also helps coordinate and develop Ohio’s public transportation and aviation programs which include public transit systems, mobility management program grantees, specialized transportation programs and other public-use airports and heliports.<sup>1</sup>

The Ohio General Assembly enacted Ohio Revised Code (ORC) §121.51, effective July 3, 2007, which created the deputy inspector general for the Ohio Department of Transportation. The statute designated this deputy inspector general “... shall investigate all wrongful acts or omissions that have been committed or are being committed by the employees of the department” and provides the deputy inspector general the same powers and duties regarding matters concerning the department as those specified in sections 121.42, 121.43, and 121.45 of the Ohio Revised Code for matters involving ODOT.

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<sup>1</sup> Source: Biennial budget documents.

## **APPLICABLE RULES, POLICIES AND PROCEDURES**

Ohio Revised Code (ORC) §102.03(D) states:

No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

The Ohio Ethics Commission (OEC) issues advisory opinions which elaborate on the interpretation of the Ohio Revised Code. OEC Advisory Opinion 96-004, interpreting ORC §102.03(D), prohibits a public official or employee who engages in private outside employment or business activity from:

(g) using his public position or authority in any other way to secure a benefit for his outside employer or private business.

ODOT Policy 17-015(P) *Work Rules and Discipline*:

Neglect of Duty:

H. Failure to follow policies or procedures of the Director, Districts or offices.

1. Failure of Good Behavior:

E. Unauthorized/misuse of State equipment or vehicle or property.

I. Any act that may discredit, embarrass, undermine or interfere with the mission of the Agency, including, but not limited to, that appearing on social media.

8. Violation of Ohio Ethics Laws and related statutes O.R.C. Chapter 102 and sections 2921.42, 2921.43.

ODOT Policy 220-006 (SP) *Employee Health and Safety Standard Operating Procedures*:

II. Authorized and Unauthorized Use of State Vehicles or Equipment:

State owned vehicles are authorized for use in the performance of all essential travel duties related to the completion of state business only. They are not authorized for personal trips (e.g., pickup lunch, shopping, etc.) unrelated to state

business ... When in doubt, the decision must be based on whether the vehicle's use will serve the interest of the State, rather than the driver.

Unauthorized Use:

- Any use for personal purpose, other than commuting which has been authorized as specified in Authorized use.

XXXII. Pre-Trip Inspections and Use of Red Tags

“Pre-Trip Inspections” or other appropriate pre-trip inspection forms shall be completed at the beginning of the work shift or before a state-owned vehicle is driven.

- EM78 for CDL Fleet Vehicles
- EM-78HE for Heavy Equipment Pre-Trip Inspection

ODOT Policy 233-002 (SP) *Standard Procedure for Vehicle Use:*

II. Unauthorized use of ODOT vehicles:

Any use for personal purposes, other than commuting as specified in “authorized use”.

## ODOT District 7

ODOT divides the State of Ohio into 12 districts. ODOT District 7 consists of nine counties: Auglaize, Champaign, Clark, Darke, Logan, Mercer, Miami, Montgomery, and Shelby. The image below shows the jurisdictions that each of the ODOT districts covers.



## INVESTIGATIVE SUMMARY

On Saturday, August 17, 2019, ODOT Highway Technician 3CM Robert “Brad” Cummins trimmed trees at the Logan County fairgrounds using a state-owned bucket truck<sup>2</sup> he had obtained from the ODOT District 7 garage in Bellefontaine, Ohio. The ODOT bucket truck had been previously transported 25 miles to Bellefontaine from the District 7 headquarters located in Sidney, Ohio. ODOT labor relations became aware of Cummins’ use of the ODOT bucket truck from pictures posted on the Logan County fairground’s Facebook page, which were reported to District 7 Deputy Director Randy Chevalley. In one of the photos of the ODOT bucket truck posted on Facebook, it was noted that the ODOT zephyr emblem was covered on the truck, but the state license plate was not. ODOT Highway Technician Equipment Specialist Scott Heath allegedly assisted Cummins on August 17, 2019, at the Logan County fairgrounds trimming trees with the ODOT bucket truck.

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<sup>2</sup> A truck with an extendable pole, or hydraulic boom, with a bucket on the end used to raise workers to elevated and inaccessible areas.

## INTERVIEWS

### *Barns Interview*

On April 1, 2020, the Office of the Ohio Inspector General interviewed Christie Barns, Logan County Fair Board and Agricultural Society president. Barns oversees the fair board, the operations of the office and personnel, and the coordination of the annual Logan County fair. Barns explained to investigators that the fair board had undertaken the construction of a new building at the fairgrounds. Barns stated,

The fairgrounds are very old, we have big trees on the fairgrounds ... some trees had to be cut down in order to ... put up this building and of course limbs were getting into some [power] lines, so some needed to be trimmed ...

When asked how Cummins, who was a member of the fair board, came to be involved in trimming/cutting the trees on August 17, 2019, Barns stated that during one of the fair board member meetings prior to the date of the incident, “Brad simply mentioned, ‘I think I can do something to help with getting those trees down ... I think I can make that happen ...’.”

Barns confirmed to investigators that the Logan County Fair Board/Agricultural Society does not have any equipment sharing agreements with ODOT or any other state agency or municipality.

ODOT labor relations reported that they became aware of Cummins’ use of the ODOT bucket truck to trim/cut trees for the Logan County fairgrounds from pictures posted on the fairground’s Facebook page. The Facebook post showed two bucket trucks, one of them having an ODOT license plate with the ODOT zephyr emblem covered (pictured below). Barns confirmed to investigators that there were two separate bucket trucks at the fairgrounds on the day of the incident, August 17, 2019. Barns noted that one of the trucks was “the one Brad brought ... ,” which was the ODOT bucket truck, and that the second truck was an electrician’s bucket truck who had been hired to work at the fairground. Barns claimed she was just arriving at the fairgrounds on the morning of August 17, 2019, when Cummins and Heath were “putting a pizza box” over the zephyr emblem, stating “they felt that’s what was most appropriate to do in this situation.” Investigators asked Barns to clarify that it “wasn’t specifically you that asked him to cover it up?” Barns confirmed by responding, “No.”



When asked if Cummins and Heath were compensated by the Logan County Fair Board for the services they performed with the ODOT bucket truck at the Logan County fairgrounds, Barns responded, “No.” When investigators asked Barns if August 17, 2019, was the first time ODOT had performed work at the Logan County fairgrounds, Barns claimed that she “did not know ... things happen there that I’m not always aware of ... we just all take responsibility for fixing and doing things that need to be done without necessarily getting full board approval.”

#### *Cummins Interview*

The Office of the Ohio Inspector General conducted two separate in-person interviews with Logan County Highway Technician 3CM Robert “Brad” Cummins. The first interview was conducted on October 10, 2019, and the second interview occurred on December 12, 2019.

Cummins has been employed by ODOT for approximately 12 years. Records provided by ODOT showed that Cummins has received and acknowledged the required annual ethics training since 2011. Cummins told investigators that he had been a member of the Logan County Fair Board for four years and that ODOT was aware of his involvement on the board from “just talking about it.”

Cummins stated to investigators that he had stopped at the office of District 7 Equipment Manager Duane Byers while Byers was having a meeting with District 7 Highway Management Administrator Scott Kasler, and that he (Cummins) asked Byers for permission to use the ODOT bucket truck to trim/cut trees at the Logan County fairgrounds. Byers told Cummins that since

the fairgrounds is located in Logan County, he would need to obtain approval from District 7 Highway Management Administrator Tim Little. Cummins stated,

... Duane said he would have to call Tim, Tim said it was ok, because you know, that's Tim's county, so he called Tim, Tim said it was ok. Then he called 'Opie' (Scott Platfoot), he said it was ok, so then Duane got back with me, we set up a time, set up a date ... .

When investigators asked Cummins to explain how he coordinated having the ODOT bucket truck delivered to the Logan County garage from District 7 headquarters in Sidney, Ohio, Cummins stated,

Duane told me, he said, 'we'll take it to the Logan County garage, you can go there Saturday morning, pick it up, take it to the fairgrounds, use it, take it back to the Logan County garage, park it, lock it up ...'.

Investigators asked Cummins to identify who specifically told him he was permitted to use the ODOT bucket truck at the Logan County fairgrounds. Cummins replied, "That would be Duane." Cummins was also asked if he was aware of any agreement concerning equipment sharing, written or other, that existed between the Logan County Fair Board and ODOT. Cummins stated, "I don't know, I have no idea."

Cummins identified to investigators Highway Technician Equipment Specialist Scott Heath as the other ODOT employee who had helped him trim/cut trees with the ODOT bucket truck on August 17, 2019, at the Logan County fairgrounds. In addition to the use of the ODOT bucket truck for non-state related work, investigators learned that Cummins also used his ODOT work gear while operating the bucket truck on August 17, 2019. Cummins told investigators, "... we wore our ODOT safety stuff, harness, hardhats, just like we would if we was here working."

Investigators asked Cummins if he was compensated by the fair board to remove the trees. Cummins replied, "No." Additionally, Cummins was asked if he was operating the ODOT bucket truck on August 17, 2019, during hours he was being paid to work for ODOT. Cummins again replied, "No."

Investigators asked Cummins why the ODOT zephyr emblem was covered on the ODOT bucket truck. Cummins replied,

I covered it up because the President of the fair board asked me to do it because they had backlash in the past from local contractors, like local tree cutters. If a local tree cutter saw ODOT in there, ODOT could experience backlash from taking local business away from local contractors, like, ODOT is in there for free taking money away from us ... .

Investigators asked Cummins if he had ever asked ODOT previously to use equipment for something other than ODOT-related work. Cummins replied, “Yes, I asked three years ago ... it was a skid loader with a brush head on it and I went and asked, they told me no and that was it.”

Investigators reviewed Cummins’ and Heath’s timecards and confirmed that they were not compensated by the State of Ohio on August 17, 2019, for trimming trees at the Logan County fairgrounds.

#### *Chevalley Interview*

On June 19, 2020, investigators conducted a telephone interview with ODOT District 7 Deputy Director Randy Chevalley. Chevalley told investigators that he became aware of Cummins’ use of the ODOT bucket truck at the fairgrounds from a picture “somebody posted on Facebook.” Investigators asked Chevalley about the agreements ODOT may have for its services with other public entities. Chevalley explained that if ODOT was working with another entity, it would normally be a county engineer and/or another entity that performed similar work as ODOT. Chevalley told investigators that these entities often do not have the equipment needed to complete certain projects so their county engineers reach out to ODOT to request the use of ODOT equipment. In return, ODOT also reaches out to the county engineers to request the use of their county-owned equipment. Chevalley explained that it is a “hand-shake” type of agreement to encourage building a working relationship with ODOT’s local partners and added that, “... the agreement is very rarely written ... .”

Chevalley confirmed ODOT's position of sharing equipment with fair boards:

We do not do fair boards ... they don't do roadwork so there's nothing they can trade for us ... we like to help people out, but fair boards is a stretch ... they're not a county engineer that has a piece of equipment that we might need.

Regarding the matter of Cummins covering up the ODOT zephyr emblem on the bucket truck, Chevalley told investigators,

If we help out a fair or a county engineer or the city of Bellefontaine, we want to be proud that ODOT was a part of that ... I can't believe someone would take a piece of equipment and not be on the clock and not be proud that they're doing this and covering the zephyr ... we want to be proud of helping out whomever we're helping out.

#### *Kasler Interview*

On October 10, 2019, the Office of the Ohio Inspector General interviewed ODOT District 7 Highway Management Administrator Scott Kasler. Kasler oversees all nine counties that comprise ODOT District 7, and he has held that position since 2010. Investigators asked Kasler about Cummins' use of the ODOT bucket truck to trim/cut trees on August 17, 2019, at the Logan County fairgrounds. Kasler said that he had received a picture via text message from an ODOT labor relations officer of the ODOT bucket truck in use while off ODOT property. Investigators asked Kasler how he had reacted when he saw the picture. Kasler explained that he, "... talked to Duane [Byers] about it to see if he knew anything ... He couldn't recall anything about any ... he didn't know any more than I did about it."

Investigators asked Kasler about the meeting he had with Byers at Byers' District 7 office on the day Cummins stopped by to request permission to use the bucket truck at the Logan County fairgrounds. Kasler responded,

... several months ago, I had a meeting with Duane about another topic. Brad came in, in the middle of the meeting and asked us about using ... someone in Logan County wanted to use a piece of equipment. I can't tell you what piece of equipment it was ... What I remember telling Brad is that any equipment sharing should go through the transportation administrator.

Kasler confirmed to investigators that the Logan County manager/transportation administrator for the ODOT District 7 garage was Tim Little.

Investigators asked Kasler to explain ODOT's use of agreements when sharing equipment with other agencies or entities, and whether the agreements are written or verbal. Kasler replied, "No, there's no written to my knowledge." Investigators asked Kasler if he gave Cummins permission to use the ODOT bucket truck to trim/cut trees at the Logan County fairgrounds. Kasler replied, "No." Kasler was asked if he had the authority to deny Cummins' requests. Kasler replied, "Sure, yea." Investigators then asked Kasler if he knew who gave Cummins permission to use the ODOT bucket truck at the Logan County fairgrounds. Kasler replied, "No."

#### *Little Interview*

On October 10, 2019, the Office of the Ohio Inspector General interviewed Tim Little, ODOT District 7 transportation administrator for the Logan County garage. Little's job duties include planning and budgeting for the Logan County garage, as well as overseeing the garage's day-to-day operations. Little was asked what he knew about Cummins' use of the ODOT bucket truck to trim/cut trees at the Logan County fairgrounds on August 17, 2019. Little stated that when Cummins asked him for use of the bucket truck at the fairgrounds, he denied Cummins permission to use the equipment. Little stated,

... That piece of equipment would have had to come from Duane Byers and Scott Platfoot. That's their inventoried piece of equipment. I would not have given, and I did not give Brad the okay to use that piece of equipment. Not at any time did I say, 'yea, go ahead and use it.' It's not our inventoried piece of equipment. And not one time did I ever tell Brad it was okay for him to go do what he did ... .

Investigators asked Little if he knew why the ODOT zephyr emblem was covered up in the photos posted on Facebook. Little replied, "No." When asked about equipment sharing agreements between ODOT and other entities, Little explained that,

... any municipalities outside of ODOT, we can work together, but it's done on a professional level ... I'd be involved, knowing it's our equipment, where it's going, what it's going for and to make sure the proper steps are taken care of.

Little continued, "This is the first situation that seemed off the record ... it just seems like something wasn't done in the right steps ... I've never signed anything, there's nothing written and I've never spoken with anyone from the fairgrounds ... ."

However, in ODOT's initial complaint that was referred to the Office of the Ohio Inspector General, Little wrote in an email to the ODOT Office of Investigative Services that he had advised Cummins to leave work early on Friday, August 16, 2019, so he would have ODOT work hours to use on the following day, Saturday, August 17, 2019, since he knew Cummins was going to use the bucket truck to trim trees at the Logan County fairgrounds. Little told the ODOT investigators that he had said to Cummins,

... if you don't have a busy day today to clock out now, that way it'll give you time to use for tomorrow to clock in and be on the clock while you're operating that piece of equipment, because I don't know how ODOT would look at that, you being off the clock and operating the equipment on your own time ... you're operating the equipment ... you would need to be tied to it ... .

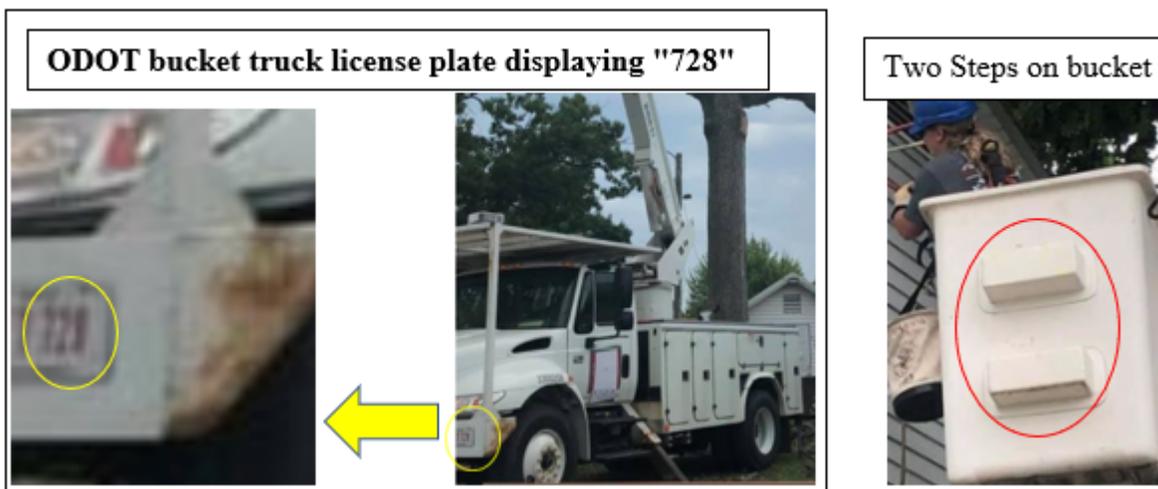
#### *Platfoot Interview*

On October 8, 2019, investigators interviewed Transportation Manager 3 Scott Platfoot, from the ODOT District 7 roadway department. Platfoot has been in his current position for eight years and reports to District 7 Equipment Manager Duane Byers. His job duties include scheduling the heavy equipment that is used by the nine counties in District 7 for the special projects department. Investigators asked Platfoot about permissions and authorizations for use of ODOT equipment and how he schedules ODOT equipment for use on special projects. Platfoot replied,

... some of the heavy equipment, all counties in our district does not have them ... So when it comes to the bucket trucks ... if they have a project that needs that equipment ran, they call me, we schedule it, I assign it, we go do it.

Investigators asked Platfoot about Cummins' use of the ODOT bucket truck on August 17, 2019. Platfoot stated that, at the request of Byers, he had the ODOT bucket truck transported to the Logan County ODOT facility in Bellefontaine. Platfoot noted, "... my boss Duane Byers said to have this truck available for Brad Cummins and Scott Heath to use at the Logan County fairgrounds on this date ... I did what I was told ... ."

Investigators showed Platfoot photos of the bucket truck that were originally posted on the Logan County fairground's Facebook page which were provided during the initial complaint. Platfoot identified the bucket truck belonging to ODOT, noting, "Yea, that's the license plate, 728, that's the truck." Platfoot confirmed the second bucket truck did not belong to ODOT and stated, "No, that's got two steps on the bucket, that's not ours and that's not one of our employees either."



When asked about the zephyr emblem being covered, Platfoot replied, "I have no idea why it's covered up. I can tell you this, it wasn't covered up when we delivered it. And it wasn't covered up when we picked it up."

#### *Heath Interview*

On October 10, 2019, investigators interviewed ODOT District 7 Highway Technician Equipment Specialist Scott Heath. Heath's job duties include servicing all nine counties in District 7 in specialized equipment operations. Heath has been in his current position for nine years.

Investigators questioned Heath about his and Cummins' use of the ODOT bucket truck on August 17, 2019. Heath explained that Cummins asked him for his help to cut down trees at the Logan County fairgrounds. Investigators asked Heath if he knew who at ODOT authorized the use of the ODOT bucket truck at the fairgrounds. Heath replied,

I don't know. I got asked to show up at a certain day, so I did. And Brad said he had the OK from the managers to do so. I said cool ... I don't mind helping out ... I think it was great that the management here allowed us the use of the bucket truck for that purpose.

Investigators asked Heath if he knew who at ODOT had the authority to permit use of the bucket truck at the fairgrounds. Heath replied, "... it would have had to have been run through Scott Platfoot or probably Duane, or maybe Tim Little. That's the chain of command I would go through."

Investigators asked Heath if he was compensated by Cummins or by the State of Ohio for his assistance with trimming trees at the fairgrounds. Heath responded that he was neither compensated by Cummins nor by the state. Heath was asked if he knew who covered the ODOT zephyr emblem on the bucket truck. Heath responded, "No, I do not. When I showed up, it was on there."

#### *Byers Interview*

The Office of the Ohio Inspector General conducted two in-person interviews with District 7 Equipment Manager/Roadway Service Manager Duane Byers. The first interview was conducted on October 8, 2019, and the second on December 12, 2019. Byers has been a District 7 equipment manager since 2010 and a District 7 roadway service manager "for a year and a half." As District 7's equipment manager, Byers explained, "I oversee all 1,500 plus pieces of equipment for District 7." Investigators asked Byers if state employees would be required to obtain his permission, as the equipment manager, to use District 7's equipment. Byers said that if an ODOT county manager or ODOT county administrator has a project they are working on, they do not always call him for permission to use the ODOT equipment. Byers noted that although he is responsible for the inventoried equipment, he does not manage the day-to-day use of the equipment. When asked to explain ODOT's policy on the use of ODOT equipment for

non-state work, Byers responded, “We don’t let that happen ... [they] are very good about making sure it’s for ODOT work.”

Investigators asked Byers about Cummins’ use of the ODOT bucket truck on August 17, 2019. Byers stated that, “I didn’t know he had taken it and used it until Randy had sent me pictures.” The following is the email Byers received from District 7 Deputy Director Randy Chevalley, followed by Byers’ response:

<Image-4.jpeg>  
Duane,  
  
We rec’d this picture of our bucket truck assumed to be on Logan County fairgrounds property on Saturday Aug 17th.  
Note the plate not covered yet the zephyr is. ?? Check into and report back. Randy C.

**From:** Byers, Duane  
**Sent:** Monday, September 9, 2019 9:43 PM  
**To:** Chevalley, Randy <[Randy.Chevalley@dot.ohio.gov](mailto:Randy.Chevalley@dot.ohio.gov)>  
**Cc:** Kasler, Scott <[Scott.Kasler@dot.ohio.gov](mailto:Scott.Kasler@dot.ohio.gov)>  
**Subject:** Re: ODOT Vehicle  
  
Randy, the Logan County fairboard reached out to Tim to see if we could help them cut a tree. I don’t know why they covered the Zephyr on the truck. It was all known. Brad Cummins operated the truck. Hope that helps. Thanks Duane

Investigators asked Byers to explain why in his email to Chevalley he noted that Cummins operated the bucket truck, however, when speaking to investigators who asked if he knew who operated the bucket truck, he stated, “I do not. I’m assuming Cummins, but I can’t tell you that for sure.” Byers responded, “Maybe I shouldn’t have worded it that way. I assumed he operated the truck.”

Byers stated that “back in July,” he was in his office meeting with his supervisor, Highway Management Administrator Scott Kasler, when Cummins stopped by requesting the use of the bucket truck to cut trees at the Logan County fairground. Byers said Kasler told Cummins to ask ODOT’s Logan County Administrator Tim Little because Logan County was in Little’s jurisdiction and Little would be aware of any equipment sharing agreements ODOT may have with the Logan County fairgrounds. Byers noted that Kasler mentioned to him that if ODOT had

any agreements with the Logan County fairgrounds, Little would be the staff member to call to confirm the use of the bucket truck.

Byers told investigators that Kasler instructed him to call Little, and “tell him that Brad talked to us, that way it doesn’t look like mom against dad.” Byers stated that he called Little and told him that Brad was “... wanting to borrow a bucket truck and ... Scott (Kasler) diverted it to you so he (Cummins) should be coming to ask you about a bucket truck.” Byers said that after he made that phone call, he heard nothing more from Little about the bucket truck.

As indicated in his email, Byers said he did not know why the ODOT zephyr emblem was covered on the bucket truck. Investigators also asked Byers if he was aware of any agreements that ODOT had with the Logan County fairgrounds. Byers stated, “We don’t know that ...” but explained that ODOT’s Logan County transportation administrator for District 7 would be aware of any agreements between the Logan County Fair Board and the ODOT Logan County garage. Byers stated that Tim Little was the ODOT Logan County transportation administrator for District 7.

Byers confirmed to investigators that permission to use the bucket truck at the Logan County fairground would need to be obtained from ODOT Logan County Transportation Administrator Tim Little. Byers stated, “Yes, with him being in the county and what Kasler told him to do, yes ... go to Tim Little to get permission.”

#### *Post Interview Follow-up*

After the conclusion of the in-person interviews, investigators conducted follow-up telephone interviews with Platfoot and Byers on May 22, 2020, to request a copy of the ODOT EM-78 Pre-Trip Inspection report that should have been submitted by Cummins as required by ODOT policy for use of the bucket truck on August 17, 2019. Platfoot and Byers were unable to provide this information, as there were no EM-78 Pre-Trip Inspection reports completed for use of the bucket truck during the time period in question. Byers stated in an email on June 1, 2020:

The EM-78's should be filled out on a piece of equipment each day it is used, starting when you get in it and do your 10 minute check and completed when you return to the garage at the end of the day.

On May 22, 2020, investigators conducted a follow-up telephone interview with Cummins, asking if he had completed and submitted per ODOT policy the EM-78 Pre-Trip Inspection report form for use of the bucket truck on August 17, 2019. Cummins stated, "I didn't fill out any paperwork because I wasn't on the clock ... ."

### **CONCLUSION**

On September 12, 2019, the Office of the Ohio Inspector General received a referral from the Ohio Department of Transportation (ODOT) alleging that Highway Technician 3CM Robert "Brad" Cummins used his position as an ODOT employee to secure the use of a state-owned bucket truck on August 17, 2019, to trim trees at the Logan County fairgrounds, where he served as an active member of the Logan County Fair Board.

The Office of the Ohio Inspector General conducted in-person interviews and follow-up telephone interviews with relevant ODOT employees and the president of the Logan County Fair Board/Agricultural Society, and determined:

- Due to the lack of communication between those at ODOT who were in positions of authority and those who had control over access to the ODOT bucket truck, Cummins was able to obtain the use of the bucket truck on August 17, 2019, for his personal interests at the Logan County fairgrounds where Cummins is a member of the Logan County Fair Board.
- This incident was not Cummins' first attempt to utilize ODOT equipment for non-state work related purposes during his employment with ODOT.
- Cummins did not submit the required EM-78 Pre-Trip Inspection report for use of the ODOT bucket truck, stating that his reason for not following the required ODOT policy was that he "wasn't on the clock." By failing to submit the EM-78 Pre-Trip Inspection

report and operating the bucket truck while not on state time, Cummins' actions raised exposure to liability had an accident occurred.

- Byers exercised poor judgement in permitting the bucket truck to be removed from the ODOT District 7 garage in Sidney, Ohio, knowing that the bucket truck was to be used for Cummins personal interests at the Logan County fairgrounds where Cummins is a member of the Logan County Fair Board.
- The Ohio Department of Transportation does not have a verbal or written agreement for equipment sharing with the Logan County fairgrounds, as the fairgrounds does not have anything of equal value to offer for use by ODOT in order to establish a working relationship agreement.

**Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.**

### **RECOMMENDATION(S)**

The Office of the Ohio Inspector General makes the following recommendations and asks that the director of the Ohio Department of Transportation respond within 60 days with a plan detailing how these recommendations will be implemented. ODOT should:

1. Review the conduct of ODOT employees Robert "Brad" Cummins and Duane Byers to determine if administrative action is warranted.
2. Consider Cummins' position at the Ohio Department of Transportation and his position as a member of the Logan County Fair Board and evaluate if the two positions are compatible or pose a conflict of interest in the State of Ohio.
3. Ensure that ODOT employees are educated on the permissible and impermissible use of state-owned vehicles and equipment.

4. Consider developing guidance that clarifies the sharing of ODOT equipment between ODOT and other ODOT agencies, counties, townships and municipalities, and other public entities. This clarification should include the development of a written agreement that is signed by both parties entering into the agreement. This agreement should outline the type of equipment required; an understanding of the liability of the equipment for both parties involved; the nature of the work to be performed; the timeframe in which the ODOT equipment will be used; and authorization by the ODOT transportation administrator, the deputy director of the ODOT district where the work is to be performed, and the authorization of the outside entity's highest management.
  
5. Consider enforcing the use of ODOT's EM-78 and EM-78/SF Pre-Trip Inspection forms. The required forms should be completed by the ODOT employee who is operating the equipment, and submitted to ODOT management along with the keys to the vehicle upon its return in order to track hours, mileage, and location of the vehicle at all times.

**REFERRAL(S)**

The Office of the Ohio Inspector General has provided this report of investigation to the City of Sidney Prosecuting Attorney for consideration.



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Department of Transportation**

**FILE ID #: 2019-CA00034**

**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.**

**Jill Jones  
KEEPER OF RECORDS**

**CERTIFIED  
October 6, 2020**

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