



State of Ohio  
**Office of the Inspector General**

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THOMAS P. CHARLES, Inspector General

## REPORT OF INVESTIGATION

**FILE ID NUMBER:** 2008097

**AGENCY:** Ohio Department of Public Safety – Ohio State Highway Patrol

**BASIS FOR INVESTIGATION:** Agency Referral

**ALLEGATION:** Cheating by State Troopers on a State-Administered Exam

**INITIATED:** April 9, 2008

**DATE OF REPORT:** July 16, 2008

## EXECUTIVE SUMMARY

File ID No. 2008097

On April 9, 2008, the Ohio Department of Public Safety notified the Office of Inspector General (“OIG”) of an alleged cheating incident at the Ohio State Highway Patrol’s (“OSHP”) Canton Post on April 4, 2008. The alleged incident occurred during a permit renewal exam administered by the Ohio Department of Health, Bureau of Alcohol and Drug Testing (“BADT”). Law enforcement personnel statewide must hold a valid permit to operate breath testing instruments which measure the level of alcohol in the body. Permit holders must renew their permit each year by passing the renewal exam. We determined that Trooper (“Tpr.”) Anthony Maroon made copies of his answer sheet during a renewal exam taken on March 2, 2007, and shared them with others during the exam on April 4, 2008. We found evidence to confirm that cheating occurred during the exam on April 4, 2008, and during five other renewal exams occurring on March 2, 2007, April 18, 2007, August 31, 2007, October 25, 2007, and on April 2, 2008.

During the course of this investigation, we focused on determining whether any permit holders received copies of the answer sheet, utilized it during a renewal exam, or shared copies with anyone else. Based on our investigation, we concluded that Tpr. Maroon shared copies of his answer sheet with other permit holders between the time period of March 2, 2007 and April 4, 2008. Furthermore, based on the analysis of over 22,000 renewal exam answer sheets completed statewide between March 2, 2006 and April 4, 2008, along with information obtained from numerous interviews, we concluded that five permit holders utilized a copy of Tpr. Maroon’s answer sheet during their exam. All five individuals are assigned to the Canton Patrol Post. We also found one of those individuals used it on two occasions: on April 18, 2007 and again on April 2, 2008. Additionally, we did not find any evidence of similar incidents of inappropriate testing materials being used statewide.

Within the same week this investigation was launched, BADT informed us that they discovered another incident of possible cheating involving two local law enforcement agencies in southwest Ohio – Montgomery P.D. and Blue Ash P.D. We subsequently determined that the incident involving those departments was unrelated to the incident at the Canton Post. Both

Montgomery P.D. and Blue Ash P.D. are conducting independent internal administrative investigations and plan to make their findings available to this office, as well as to BADT, when completed. However, since this office does not have jurisdiction over local police departments, we will not include the results of those independent investigations with our case.

During the course of this investigation, we received information that the testing environment during the renewal exam on April 4, 2008, was not adequately monitored by the testing inspector. As a result, the OIG initiated a review of the BADT's testing procedures. We interviewed all five testing inspectors who are responsible for administering renewal exams statewide. We found that there are no written, standardized procedures addressing how inspectors should administer exams. For example, the inspector who administered the exam on April 4, 2008, pointed out questions to test takers that were answered incorrectly and gave them an opportunity to change their answers. We did not find that the other inspectors provided such guidance.

One factor we believe contributed to the cheating incident on April 4, 2008, was the lack of leadership demonstrated by the five OSHP sergeants who took the exam that day. All of them, in varying degrees, had knowledge that Tpr. Maroon had a copy of the answer sheet before the exam started, yet failed to intervene. Three of the sergeants were present in the exam room when Tpr. Maroon openly distributed copies of the answer sheet to other test takers. The other two sergeants received a copy of the answer sheet from Tpr. Maroon before they walked into the room to take the exam. We found that all five sergeants exercised poor judgment and did not demonstrate appropriate supervision over subordinates who openly engaged in conduct unbecoming a law enforcement officer.

We make several recommendations in this report based on the findings contained herein. We are also forwarding a copy of this report to the Ohio Department of Health—Bureau of Alcohol and Drug Testing, City of Canton Law Director, and the City of Massillon Law Director for appropriate action.

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## **I. BASIS FOR INVESTIGATION**

On April 9, 2008, the Ohio Department of Public Safety requested the Office of the Inspector General (“OIG”) investigate allegations of cheating during a state-administered Breath Alcohol Certification Renewal Exam<sup>1</sup> at the Canton Ohio State Highway Patrol (“OSHP”) Post. This incident occurred on April 4, 2008. We also investigated one other allegation related to the integrity of testing procedures used by the Ohio Department of Health (“ODH”) – Bureau of Alcohol and Drug Testing (“BADT”), on our own initiative, pursuant to section 121.42(A) of the Ohio Revised Code.

## **II. ACTION TAKEN IN FURTHERANCE OF INVESTIGATION**

We conducted sworn interviews of all OSHP permit holders who took the exam in question on April 4, 2008. We also interviewed other permit holders who were either identified or implicated as having information relevant to the events which led up to the cheating incident that occurred on April 4, 2008. We surveyed permit holders from a representative sampling of law enforcement agencies at the city, county, and state levels to determine if this incident was unique to the Canton post. We also took action to determine whether there were other incidents of cheating on the renewal test. We examined the testing procedures BADT followed during the administration of renewal tests. We also reviewed testing material from over 22,000 permit renewal exams to identify individuals who may have used Tpr. Maroon’s answer sheet during other relevant time periods during which renewal exams were administered. Additionally, we reviewed other state and private records.

## **III. DISCUSSION**

### **Bureau of Alcohol and Drug Testing Program**

The Ohio Department of Health, Bureau of Alcohol and Drug Testing administers the Alcohol/Drug Testing Approval and Permit Program (“Program”) pursuant to sections 3701.13 and 3701.143 of the Ohio Revised Code and 3701-53-01 through 3701-53-10 of the Ohio

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<sup>1</sup> Unless otherwise noted, the terms “Test,” “Exam,” and “Renewal Exam” will be used to refer to the Breath Alcohol Recertification Exam.

Administrative Code.<sup>2</sup> Chief among BADT's functions is the issuance and renewal of permits for qualified personnel for breath and blood testing for alcohol. Personnel who meet the minimum qualifications set forth under the administrative rules use approved techniques to determine the concentration of alcohol in blood, urine, or breath. The alleged cheating incident investigated by the OIG involved an exam related to the operation of a breath alcohol testing instrument by the OSHP, more commonly referred to as a "BAC DataMaster™."<sup>3</sup>

Since the program began in 1968, law enforcement personnel must hold a valid permit in order to operate an ODH-approved evidential breath testing instrument. First-time permit applicants are required to attend a two-day basic training course and pass both a written examination and a proficiency examination. Successful applicants then receive a permit which is valid for one year. Each permit holder must renew his/her permit each year by passing both a written examination and proficiency examination, which are administered by a BADT field inspector. The permit holder may take the renewal exam up to six months prior to the permit's expiration date. Should the permit holder fail the test, they are permitted to retake it. There are two types of permits to operate a BAC DataMaster™ – Operator or Senior Operator.<sup>4</sup>

### **Renewal Exam Testing Procedures – Overview & Terminology**

Currently, there are five BADT Breath Testing Inspectors employed by ODH who travel statewide to administer renewal examinations for permit holders. The exams are administered on-site<sup>5</sup> at various law enforcement agencies, such as police departments, sheriffs' departments and highway patrol posts.<sup>6</sup> BADT provides advance notice to testing sites about upcoming permit renewal exams and inspections.

The renewal exam consists of two parts. Part one is a written exam consisting of fifty multiple-choice questions. Part two is a proficiency test in which each permit holder

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<sup>2</sup> Pursuant to Ohio Revised Code section 3701.044, test materials, examinations, and evaluation tools for the renewal test are not public records for the purpose of section 149.43 of the Revised Code.

<sup>3</sup> The BAC DataMaster™ is one of three types of breath analyzing instruments approved for law enforcement by BADT.

<sup>4</sup> Between March 2, 2007 and April 4, 2008, BADT issued 10,176 permit renewals statewide; 8,596 were Senior Operator permit renewals and 1,580 were Operator permit renewals.

<sup>5</sup> Between March 2, 2007 and April 4, 2008, there were 592 testing sites and 1,814 testing sessions administered statewide.

<sup>6</sup> Between March 2, 2007 and April 4, 2008, BADT administered the renewal exam to 1,283 permit holders employed by OSHP.

demonstrates his/her ability to operate a breath testing instrument in a simulation. In preparation for the written exam, the testing inspector distributes a green-colored Scantron® answer sheet.<sup>7</sup> Permit holders receive instructions on completing their answer sheets and fill in their demographic information. A twenty-two page test booklet containing 50 multiple-choice questions and a unique identification number is distributed to each permit holder. The following official instructions appear on page one:

1. This examination contains 50 multiple-choice questions;
2. You will have a one (1) hour time limit;
3. You may NOT use study materials during the exam;
4. You may NOT ask questions of any person other than the State Examiner;
5. Place no markings in this examination book;
6. Report any marks found to the State Examiner;
7. Fill out the application/examination completely – failure to do so may result in examination not being processed;
8. Begin working with question #1 on page #2. Follow the appropriate instructions in the booklet until you have completed the exam;
9. Permits will NOT be renewed unless the proficiency test is done concurrently.

Each question is followed by five answer choices, labeled “A” through “E.” Answers to the questions are recorded on the answer sheet with a number two pencil. Upon completion of the written exam, permit holders return their exam books and answer sheets to the testing inspector and begin the proficiency part of the test. The answer sheets are subsequently returned to BADT and electronically scanned for grading.

Because the written exam must be electronically graded, permit holders are notified of the results of the written exam at a later date. BADT issues a “Pass” or “Fail” score for the written test. The proficiency test is typically administered in the room where the test site organization’s breath testing instrument is located. Depending on the physical layout of the test site, this location may not always be in the same room where the written exam was administered. Permit holders are informed immediately if they successfully passed their proficiency exam.

BADT distributes an official study guide to all law enforcement agencies to assist permit holders in preparation for the renewal exam. It was universally acknowledged by all permit

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<sup>7</sup> The answer sheet is manufactured by Scantron Corporation.

holders we interviewed that the renewal exam is not a difficult test to pass. Statistical data we obtained from BADT regarding the pass/fail rate support this premise. Between March 2, 2007 and April 4, 2008, BADT reports there were 74 permit renewal failures among 10,176 permit renewal exams administered. Between March 2, 2006 and March 1, 2007, there were 126 permit renewal failures out of 9,455 renewal exams administered during that time period. The failure rate for each twelve-month time period is significantly less than one percent.

### **Allegation 1: Ohio State Highway Patrol personnel cheated on a state exam.**

#### **Overview of Events**

On April 4, 2008, Craig Yanni, a breath testing inspector for BADT, was scheduled to administer a renewal examination at the OSHP Canton Patrol Post (4710 Shuffel Road; North Canton, Ohio) at 9:00 a.m. Fifteen law enforcement officers – thirteen OSHP officers and two Jackson Township Police Department officers – took the exam.

The written exam was administered in the largest room at the post, commonly referred to as the “Troopers’ Room.”<sup>8</sup> During the exam, Inspector Yanni noticed Tpr. Dave Blubaugh recording answers on his answer sheet very quickly, *i.e.*, without viewing questions in the exam booklet. Yanni then noticed that Tpr. Blubaugh had a reduced photocopy (approximately 2”x 3” in size) of an answer sheet with the answers already filled in. Yanni confiscated the miniature-sized answer sheet, the test booklet, and Tpr. Blubaugh’s answer sheet, and told him that he would not continue his testing at that time. Initially, Tpr. Blubaugh told Yanni that the answer sheet belonged to him. Later, Yanni also discovered a full-size copy of the answer sheet laying on Sgt. William Bower’s desk while they were talking about the incident. This discovery was followed by Tpr. Maroon approaching Yanni and telling him that the answer sheet belonged to him (Tpr. Maroon), and that he copied it from the year before. Tpr. Maroon also told Yanni that there were “a lot more” people in the Troopers’ Room who had a photocopy of his answer sheet. Yanni went to the Troopers’ Room and asked whether anybody had any copies of the answer sheet. He received a copy from two other troopers. Prior to leaving the Post, Yanni contacted

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<sup>8</sup> The Troopers’ Room is approximately 24’ x 30’ and is a multi-purpose work room. The room was configured with computers, mailboxes, file cabinets, bulletin boards, and a copy machine positioned along the exterior walls. On the day of the exam, the room was also configured with two rows of rectangular-shaped tables positioned in the center for permit holders to sit and complete the written exam.

his immediate supervisor at BADT and reported the incident.<sup>9</sup> BADT invalidated all renewal tests taken that day at the Canton Post.

Our investigation determined that the answer sheet Tpr. Maroon distributed to other test takers immediately prior to the exam on April 4, 2008, was copied during a renewal exam at the Canton Post on March 2, 2007, when the inspector (also Yanni) was not in the room. Five people took the exam on March 2, 2007, including Tpr. Maroon and Tpr. Justin Smith. We found that it was a common practice during renewal exams administered by Inspector Yanni for test takers to talk and share answers to test questions when he left the exam room. We found that Tpr. Maroon and Tpr. Justin Smith had identical answers on their answer sheets for the March 2, 2007, exam. Notwithstanding the fact that neither Tpr. Smith nor Tpr. Maroon could explain how they ended up with the same wrong answers, we could conclude that the same wrong answers were repeated by other test takers after Tpr. Maroon copied his answer sheet. Tpr. Maroon used the copier located in the Troopers' Room after the test takers and the inspector left for the proficiency exam.

Tprs. Todd Bradic, Shawn Milburn, and Sharon Papineau all admitted that they received a copy of the answer sheet from Tpr. Maroon. In addition, Tprs. Bradic and Milburn admitted to utilizing the answer sheet during their renewal exams. Tpr. Milburn admitted to utilizing the answer sheet during a subsequent renewal exam on August 31, 2007. Tpr. Bradic admitted to utilizing the answer sheet for two subsequent renewal exams, one on April 18, 2007 and the other on April 2, 2008. Tpr. Tara Worner stated that she only received an official BADT Study Guide from Tpr. Maroon on or about March 2, 2007. She admitted that additional pages were attached underneath the study guide; however, she claims that she did not review those pages. She stated that she immediately discarded the study guide in the trash since she already had a copy of those documents. Tpr. Maroon stated that he only provided Tpr. Worner with a copy of his answer sheet and told her how he obtained it.

We asked BADT whether their test data could assist us in resolving whether Tpr. Maroon's answer sheet was used by Tpr. Worner or others. BADT indicated that the answer pattern on Tpr. Maroon's answer sheet for March 2, 2007, was very unique. They noted that out

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<sup>9</sup> BADT promptly reported this incident to the Jackson Township P.D. ("JTPD"). JTPD advised us that they will conduct their own internal investigation involving the incident at the conclusion of the OIG investigation. A copy of this report will be forwarded to their department chief. Due to the pending status of their investigation, we will not identify the two officers who were present on April 4, 2008.

of the fifty multiple-choice questions for Senior Operators, Tpr. Maroon only missed two questions – number 30 and number 47. BADT stated these are not commonly missed questions. Furthermore, the incorrect answers chosen for both questions were the same, *i.e.*, answer “B”, which, according to BADT, would be answers any senior operator would and should recognize as incorrect. Given the unique pattern of these two wrong answers, BADT was confident that anyone who had the same pattern on or after March 2, 2007, was probably in possession of the answer sheet.

Based on the analysis by the OIG and BADT of over 22,000 answer sheets completed by all test takers statewide between March 2, 2006 and April 4, 2008, the same sequence of answers only appeared six times. All six instances occurred on or after March 2, 2007, and only involved tests linked to individuals assigned to the Canton Post. The first and second instances occurred on the March 2, 2007, exams for Tpr. Maroon and Tpr. Smith. It appeared a third time on the April 18, 2007, exam for Tpr. Todd Bradic. The pattern occurred a fourth time on the August 31, 2007, exam for Tpr. Shawn Milburn. It appeared, yet again, a fifth time on the October 25, 2007, exam for Tpr. Tara Worner. And we found the answer pattern appearing the sixth and final time on April 2, 2008, for Tpr. Bradic.

The results of this analysis are compelling and show three things. First, they are completely consistent with the sworn statements of Tprs. Bradic and Milburn, who both admitted to receiving the answer sheet on March 2, 2007, and to utilizing it during subsequent exams. Second, the results corroborate both Tpr. Maroon’s assertion that he gave Tpr. Worner a copy of his answer sheet on March 2, 2007, as well as the statements of other witnesses who place Tpr. Worner in the room at the time Tpr. Maroon distributed the copies. And third, according to BADT, the results would strongly indicate that Tpr. Worner also used the answer sheet during her October 25, 2007, renewal exam since her answer pattern is identical to the unique pattern found on Tpr. Maroon’s answer sheet. In light of Tpr. Worner’s denial, we have reasonable cause to believe that she was being less than truthful when answering our questions during this investigation.

After making copies of his answer sheet and providing it to Tprs. Bradic, Milburn, Papineau, and Worner, Tpr. Maroon kept his copy in the pocket of his uniform winter coat. It remained in his coat pocket until on or about late February/early March 2008. During the

investigation, OSHP notified us that Tpr. Dan Laubacher reported that he, too, was in possession of test-related information. In an interview, Tpr. Laubacher told us that Tpr. Maroon gave him the answers from his answer sheet copied on March 2, 2007. We determined that some time during the Fall 2007, Tpr. Laubacher first learned from Tpr. Maroon that Tpr. Maroon had a copy of the answer sheet to the exam. Tpr. Laubacher did not follow up with him until Tpr. Laubacher was preparing to take his March 4, 2008, exam. Tpr. Laubacher did not study for the exam and felt unprepared to take it. Consequently, he called Tpr. Maroon and asked if he still had the copy. Tpr. Maroon eventually retrieved the answer sheet and read the answers to Tpr. Laubacher over the telephone. Tpr. Laubacher acknowledged that he wrote them down on a 3"x 5" card. He took the card with him when he walked into the exam room at the Ashland Patrol Post, but claimed he did not take it out of his pocket during the entire exam. A review of his test answers did not indicate the same unique answer pattern that appears on Tpr. Maroon's answer sheet copied on March 2, 2007. Additionally, we have no reason to believe that Tpr. Laubacher shared the index card or information it contained with anyone else, or to doubt his assertion that he destroyed it in the shredder at the Canton Post the next day.

Tpr. Maroon stated that on or about April 2, 2008, he offered to provide a copy of the answer sheet to Sgt. William Bower at the Canton Post. According to Tpr. Maroon, Sgt. Bower willingly solicited him for the answer sheet on April 2 and again on April 3, 2008. In support of Tpr. Maroon's assertion, he produced phone records indicating an eight-minute telephone call to Sgt. Bower's telephone number on April 3, 2008. Sgt. Bower denies any discussion regarding the answer sheet. We were unable to substantiate either party's version of events. Ultimately, Sgt. Bower admitted that Tpr. Maroon gave him a copy of the official BADT Study Guide and the answer sheet before the exam started.

Tpr. Maroon also had a conversation with Sgt. Mark McDonald on April 3, 2008, offering to provide him with a copy of his answer sheet and a copy of the official BADT study guide. Sgt. McDonald told Tpr. Maroon that he only wanted the official study guide and disregarded Tpr. Maroon's offer regarding the answer sheet.

On the morning of April 4, 2008, Tpr. Maroon gave a copy of his study guide and answer sheet to Sgt. Bower and Sgt. McDonald prior to the exam, which was scheduled to occur at 9:00 a.m. Tpr. Maroon walked into the Troopers' Room, went to the copy machine, and made several

copies at a forty percent reduced size of the original when he heard some people indicating that they did not have time to study for the exam. Tpr. Maroon stated he gave a copy of his answer sheet to eleven out of the fifteen people who took the exam. We noted many discrepancies in testimony as to who actually received a copy of the answer sheet and what they did with it once they received it. Most people stated that they did not know what Tpr. Maroon was handing them until after they had an opportunity to look at it. Versions varied widely as to what people did with the answer sheet once they received it – tossed it back on the table, gave it back to Tpr. Maroon, placed it under books or other papers laying on the table, folded it up and placed it in their pocket, or left it out in plain view on the table. No one disputes that Tpr. Maroon made and distributed copies of his answer sheet in plain view of everyone; some copies were handed directly to people as they entered the room, while other copies were tossed out on the table in front of people.

In light of these discrepancies, we believe it would not be fair to make a determination of individual wrongdoing regarding the incident on April 4, 2008, based solely on someone's receipt of the answer sheet, unless he/she was a sergeant. We believe sergeants are held to a higher degree of expectation for taking appropriate action against misconduct. And in this case, misconduct was either brought to the sergeants' attention or committed directly in front of them in the Troopers' Room. Consequently, we make the following distinctions in determining whether someone taking the exam on April 4, 2008, committed a wrongful act or omission: specifically, we must ask the applicable questions about each individual's actions:

### **Category 1 – Applies to OSHP Troopers**

Is there reasonable cause to believe that the trooper:

- utilized the answer sheet during the exam?
- shared or exchanged answers with others during the exam?

### **Category 2 – Applies to OSHP Sergeants**

Is there reasonable cause to believe that the sergeant:

- had knowledge that Tpr. Maroon possessed inappropriate test materials prior to the exam starting and failed to take appropriate action?

- observed Tpr. Maroon distributing inappropriate test materials to others and failed to take appropriate action?
- received a copy of inappropriate test materials in the Troopers’ Room prior to the exam starting and failed to take appropriate action?
- utilized a copy of the answer sheet during the exam?

We determined that Tpr. Maroon provided a copy of the answer sheet to ten out of the thirteen OSHP permit holders who took the exam and to only one of the two officers from Jackson Township P.D. Using this analysis for Category 1, involving troopers, we found that the following individuals utilized the answer sheet during the exam on April 4, 2008: Tpr. Anthony Maroon and Tpr. David Blubaugh. Applying the Category 2 analysis for sergeants, we found that the following individuals had knowledge that Tpr. Maroon possessed inappropriate test materials prior to the April 4, 2008, exam and failed to take appropriate action: Sgt. William Bower and Sgt. Mark McDonald. The following sergeants received a copy of inappropriate test materials in the Troopers’ Room prior to the exam, observed Tpr. Maroon distributing inappropriate test materials to others, and failed to take appropriate action: Sgt. Pamela Gowen, Sgt. Terry Helton, and Sgt. John Hromiak.

In summary, out of the thirteen OSHP permit holders who took the exam on April 4, 2008, we have reasonable cause to believe that the following eight individuals from OSHP committed wrongful acts or omissions related to this incident, which will be delineated more fully under “Specific Findings”:

<b>Name (Alphabetical Order)</b>	<b>Rank</b>	<b>Agency/Post Assignment</b>	<b>Date of Hire</b>	<b>Date Permit Expires</b>
1. Dave Blubaugh	Trooper	OSP – Canton Post	09/13/00	07/03/08
2. William Bower	Sergeant	OSP – Canton Post	05/13/91	05/11/08
3. Pamela Gowen	Sergeant	OSP – Canton Post	01/13/92	05/25/08
4. Terry Helton	Sergeant	OSP – District 3 HQ	01/17/90	04/26/08
5. William Hoberg	Trooper	OSP – Canton Post	01/11/93	09/24/08
6. John Hromiak	Sergeant	OSP – Wooster Post	05/16/90	05/12/08
7. Anthony Maroon	Trooper	OSP – Canton Post	02/03/97	07/15/08
8. Mark McDonald	Sergeant	OSP – Canton Post	11/10/82	04/08/08

There is no reasonable cause to believe that the other OSHP test takers on April 4, 2008, committed a wrongful act or omission in this instance.

### **Failure of OSHP Canton Post Leadership in This Matter**

As previously noted, five sergeants took the test on April 4, 2008 – Sgt. William Bower, Sgt. Pamela Gowen, Sgt. Terry Helton, Sgt. John Hromiak, and Sgt. Mark McDonald. We determined that all five of these sergeants, at varying points of time before the test began, were aware that Tpr. Maroon was in possession of and distributing copies of unauthorized testing materials. Further, all five sergeants took no action to confront, challenge, and terminate Tpr. Maroon's inappropriate conduct on April 4, 2008.

Indeed, we believe that the sergeants' collective and individual inaction allowed Tpr. Maroon to feel comfortable enough to carry out this scheme in front of everyone, regardless of rank, and without regard to any consideration of the consequences. It is our determination that the sergeants' failure to properly intercede with regard to Tpr. Maroon's conduct represented a breakdown of leadership. Ultimately, all of the sergeants involved in this incident used poor judgment. They all failed to use their senior rank, experience, or direct supervisory authority to abate this unacceptable conduct, committed not only by Tpr. Maroon, but by other subordinates who received the answer sheet. Perhaps just as troubling is the fact that there were three sergeants in the room on April 4, 2008, when Tpr. Maroon was passing out copies of his answer sheet.

Here, we must single out the actions of one sergeant – Pamela Gowen – in particular. If there was one sergeant in the Troopers' Room who should have addressed Tpr. Maroon's conduct, it is Sgt. Gowen. At the time of this incident, Tpr. Maroon reported directly to Sgt. Gowen within his chain-of-command. Although Sgts. Helton and Hromiak had equal rank with Sgt. Gowen and should have confronted Tpr. Maroon, both of those sergeants are assigned to other posts and did not directly supervise him. They were present that day to simply take the exam and leave. This means Sgt. Gowen was the only sergeant in the Troopers' Room who had a direct supervisory relationship over Tpr. Maroon when he started to distribute copies of the answer sheet. Sgt. Gowen estimated that she was in the Troopers' Room a full fifteen to twenty minutes while Tpr. Maroon openly copied and distributed his answer sheet. Prior to distributing

the answer sheet, Tpr. Maroon spent time cutting each reduced answer sheet from a full size piece of paper in the presence of Sgt. Gowen.

Instead, we found evidence to suggest that Sgt. Gowen facilitated Tpr. Maroon's inappropriate behavior in the Troopers' Room. One trooper stated that when he walked in the room, he told Sgt. Gowen that he did not have time to study for the exam. She reportedly told this trooper to see Tpr. Maroon because he had something that could help the trooper out with the test, referring to the answer sheet.

All of the sergeants recognized, in hindsight, that they should have spoken up and that their inaction was unacceptable. It is also our determination that there was sufficient time and opportunity for all of the sergeants to bring this matter to the attention of Inspector Yanni, or up through their chain-of-command, prior to the administration of the exam.

We make the following findings regarding this matter in order to discern each person's conduct and degree of culpability:

### **Specific Findings**

#### **Tpr. Anthony Maroon**

- Tpr. Anthony Maroon and Tpr. Justin Smith had identical answers on their answer sheets for the renewal exam on March 2, 2007. Tpr. Maroon and Tpr. Smith shared answers and/or copied off each other's exam.
- Tpr. Maroon admitted that he made a copy of his completed answer sheet on March 2, 2007.
- Tpr. Maroon admitted to providing a copy to Tpr. Todd Bradic and Tpr. Tara Worner on March 2, 2007.
- Although Tpr. Maroon does not specifically recall providing a copy to others on that date, he admitted that it is possible he provided a copy to Tpr. Sharon Papineau and Tpr. Shawn Milburn on March 2, 2007.
- Tpr. Maroon admitted that he repeated the answers from his answer sheet over the telephone to Tpr. Dan Laubacher on or about February 25, 2008.
- Tpr. Maroon provided a copy of his answer sheet to Sgt. William Bower and Sgt. Mark McDonald on April 4, 2008.

- Tpr. Maroon provided copies of his answer sheet to multiple individuals in the Troopers' Room prior to the exam starting on April 4, 2008, and in so doing, facilitated an atmosphere for mass cheating.
- Tpr. Maroon admitted that he utilized a copy of his answer sheet during the exam on April 4, 2008.
- Tpr. Maroon admitted to exchanging answers with Tpr. William Hoberg during the exam on April 4, 2008. This admission is supported by the fact that they had the same answers on their answer sheet.

**Tpr. Dave Blubaugh**

- Tpr. Blubaugh was found to be in possession of inappropriate testing material (Tpr. Maroon's reduced answer sheet) during his renewal exam on April 4, 2008.
- Tpr. Blubaugh later admitted to receiving the answer sheet from Tpr. Maroon (when he was passing them out in the Troopers' Room) and then using the answer sheet to cheat during his renewal exam on April 4, 2008.
- Tpr. Blubaugh provided untruthful statements to Inspector Yanni regarding the source of the answer sheet. He told Yanni that the answer sheet belonged to him and was copied during one of his previous exams.

**Tpr. Todd Bradic**

- Tpr. Todd Bradic admitted to receiving a copy of the answer sheet from Tpr. Maroon on March 2, 2007.
- Tpr. Bradic admitted to using information from the answer sheet to cheat during his renewal exams on April 18, 2007 and April 2, 2008.

**Sgt. Pamela Gowen**

- Sgt. Pamela Gowen admitted to receiving a copy of the answer sheet from Tpr. Maroon on April 4, 2008.

- Sgt. Gowen witnessed Tpr. Maroon making copies of the answer sheet and distributing it to other test takers in the Troopers' Room a full fifteen to twenty minutes prior to the exam.
- Sgt. Gowen was Tpr. Maroon's immediate supervisor on April 4, 2008, and failed to take appropriate steps to address his conduct or that of other subordinates she witnessed receiving the answer sheet.
- Sgt. Gowen facilitated Tpr. Maroon's misconduct in the Troopers' Room on April 4, 2008, by telling a trooper to see Tpr. Maroon for a copy of the answer sheet.
- We found no evidence to substantiate that Sgt. Gowen cheated during the exam on April 4, 2008.

**Tpr. Shawn Milburn**

- Tpr. Shawn Milburn admitted to receiving a copy of the answer sheet on or about March 2, 2007, from either Tpr. Maroon or Tpr. Bradic.
- Tpr. Milburn admitted to using the answer sheet to cheat during his renewal exam on August 31, 2007.
- Tpr. Milburn's answer sheet for the August 31, 2007, exam is an exact match to the answer sheet Tpr. Maroon copied on March 2, 2007.

**Tpr. Tara Worner**

- Tpr. Tara Worner received a copy of Tpr. Maroon's answer sheet on March 2, 2007.
- Tpr. Worner utilized the answer sheet to cheat during her renewal exam on October 25, 2007.
- Tpr. Worner's answers on the October 25, 2007, exam are an exact match to the answer sheet Tpr. Maroon copied on March 2, 2007.
- Tpr. Worner was less than truthful with OIG investigators regarding her receipt and use of Tpr. Maroon's answer sheet.

**Tpr. William Hoberg**

- Tpr. William Hoberg admitted that he received a copy of the answer sheet from Tpr. Maroon on April 4, 2008, before the renewal exam.
- Tpr. Hoberg admitted that he placed the answer sheet in his pocket and took it out during the exam.
- Tpr. Hoberg cheated on his April 4, 2008, renewal exam, in that he exchanged answers with Tpr. Maroon during the test.
- Tpr. Hoberg acknowledged possession of the answer sheet he received from Tpr. Maroon when he turned it over to Inspector Yanni, at Yanni's request.

**Sgt. Terry Helton**

- Sgt. Terry Helton admitted that he received a copy of the answer sheet from Tpr. Maroon on April 4, 2008, before the renewal exam.
- Sgt. Helton did not take appropriate steps to address Tpr. Maroon's conduct, or that of other subordinates he witnessed receiving the answer sheet on April 4, 2008.
- Sgt. Helton did not take appropriate action to notify his chain-of-command about Tpr. Maroon's conduct prior to the exam starting.
- We found no evidence that Sgt. Helton cheated during the exam on April 4, 2008.

**Sgt. John Hromiak**

- Sgt. John Hromiak admitted that he received a copy of the answer sheet from Tpr. Maroon on April 4, 2008, before the renewal exam.
- Sgt. Hromiak did not take appropriate steps to address Tpr. Maroon's conduct or that of other subordinates he witnessed receiving the answer sheet on April 4, 2008.
- Sgt. Hromiak did not take appropriate action to notify his chain-of-command about Tpr. Maroon's conduct prior to the exam starting.
- We found no evidence that Sgt. Hromiak cheated during the exam on April 4, 2008.

**Sgt. William Bower**

- Sgt. Bower admitted that Tpr. Maroon gave him a copy of the BADT Official Study Guide and a copy of the answer sheet on April 4, 2008, prior to walking into the Troopers' Room to take his exam.
- Sgt. Bower failed to take appropriate steps to address Tpr. Maroon's conduct, or report the incident up through his chain-of-command, prior to the administration of the exam on April 4, 2008.
- We found no evidence that Sgt. Bower cheated during the exam on April 4, 2008.

**Sgt. Mark McDonald**

- Sgt. Mark McDonald had knowledge one day prior to the renewal exam that Tpr. Maroon possessed a copy of an answer sheet from a previous renewal exam.
- Sgt. McDonald admitted that Tpr. Maroon gave him a copy of the BADT Official Study Guide and a copy of the answer sheet on April 4, 2008, prior to the exam starting.
- Sgt. McDonald failed to take appropriate steps to address Tpr. Maroon's conduct, or notify his chain-of-command, prior to April 4, 2008.
- We found no evidence that Sgt. McDonald cheated during the exam on April 4, 2008.

**Tpr. Dan Laubacher**

- Tpr. Dan Laubacher admitted to soliciting Tpr. Maroon for a copy of the answer sheet during a telephone conversation on or about February 25, 2007.
- Tpr. Laubacher admitted to writing the answers down on a 3"x 5" index card and taking the card with him into the exam room during a renewal test on March 4, 2008.
- There is no evidence that Tpr. Laubacher used the answer sheet during his exam.

### Summary of Misconduct

	<b>Name</b>	<b>Misconduct</b>	<b>How Proven</b>	<b>Date</b>
1.	Tpr. Anthony Maroon	<b>Cheated (used Tpr. Maroon's answer sheet)</b>	<b>Admitted &amp; BADT analysis</b>	<b>April 4, 2008</b>
2.	Tpr. Dave Blubaugh	<b>Cheated (used Tpr. Maroon's answer sheet)</b>	<b>Admitted &amp; BADT analysis</b>	<b>April 4, 2008</b>
3.	Tpr. Todd Bradic	<b>Cheated (used Tpr. Maroon's answer sheet)</b>	<b>Admitted &amp; BADT analysis</b>	<b>April 18, 2007 &amp; April 2, 2008</b>
4.	Tpr. Shawn Milburn	<b>Cheated (used Tpr. Maroon's answer sheet)</b>	<b>Admitted &amp; BADT analysis</b>	<b>August 31, 2007</b>
5.	Tpr. Tara Worner	<b>Cheated (used Tpr. Maroon's answer sheet)</b>	<b>Tpr. Maroon &amp; BADT analysis</b>	<b>October 25, 2007</b>
6.	Tpr. William Hoberg	<b>Cheated (exchanged information)</b>	<b>Tpr. Maroon &amp; BADT analysis</b>	<b>April 4, 2008</b>
7.	Tpr. Dan Laubacher	<b>Solicited (asked for &amp; received exam answers from Tpr. Maroon)</b>	<b>Admitted &amp; Witness Statement</b>	<b>February 25, 2008</b>
8.	Sgt. Pamela Gowen	<b>Failed to intervene</b>	<b>Admitted &amp; Witness Statements</b>	<b>April 4, 2008</b>
9.	Sgt. William Bower	<b>Failed to intervene</b>	<b>Witness Statements</b>	<b>April 4, 2008</b>
10.	Sgt. Mark McDonald	<b>Failed to intervene</b>	<b>Admitted &amp; Witness Statements</b>	<b>April 3, 2008 &amp; April 4, 2008</b>
11.	Sgt. Terry Helton	<b>Failed to intervene</b>	<b>Admitted &amp; Witness Statements</b>	<b>April 4, 2008</b>
12.	Sgt. John Hromiak	<b>Failed to intervene</b>	<b>Admitted &amp; Witness Statements</b>	<b>April 4, 2008</b>

**Based on the above discussion and findings regarding allegation one, we find reasonable cause to believe that wrongful acts or omissions occurred.**

During the same week this investigation was launched, BADT informed us that they discovered another incident of alleged cheating involving two local law enforcement agencies in southwest Ohio – Montgomery P.D. and Blue Ash P.D. We subsequently determined that the alleged incident involving those departments was unrelated to the incident at the Canton Post. Both Montgomery P.D. and Blue Ash P.D. are conducting independent internal administrative

investigations and plan to make their findings available to this office, as well as to BADT, when completed.

**Allegation 2: Ohio Department of Health, Bureau of Alcohol and Drug Testing had inadequate testing procedures.**

**Testing Environment**

During this investigation, we received information from several of the permit holders that we interviewed who suggested that the renewal exams were poorly monitored by some testing inspectors. As a result, we initiated a review of BADT's testing procedures. We surveyed a sampling of permit holders from state, county, and city law enforcement departments to review how breath testing inspectors administer the renewal exams. In addition, we interviewed the five breath testing inspectors responsible for administering renewal exams statewide, their immediate supervisor, and the bureau chief for BADT.

We found that at the time this cheating incident occurred on April 4, 2008, there were no written testing procedures for BADT inspectors to follow when administering the tests. Each inspector relied upon the instructions in the front of the test booklets as a guide to administering the tests. ODH management explained that there had been a reluctance to place protocols in writing because of the inspectors' need for flexibility in dealing with the uniqueness of each testing site.

Witnesses also related that Yanni left the testing area for brief periods of time, which allowed Tpr. Maroon the opportunity to photocopy his answer sheet during his March 2, 2007 exam, and to permit those test takers so inclined to share and exchange information about answers to test questions. Yanni acknowledged that he, at times, left the test takers unattended. He explained that these absences were frequently necessary because the facilities often had their breath testing equipment located in a different room. He would have to leave the area to prepare equipment for the proficiency phase of the renewal exams. Witnesses further stated that Yanni routinely pointed out questions during renewal exams that they answered incorrectly; however, there is no indication that Yanni provided the correct answers to test takers.

We believe that Yanni's absences from the testing area contributed to some test takers' impressions that the test was not well controlled. **Accordingly, there is reasonable cause to believe that a wrongful act or omission occurred in these instances.**

#### **Changes to exam – Current Status**

When BADT discovered an apparent incident of cheating at the Montgomery P.D. on April 9, 2008, it suspended all test taking statewide. All renewal exam books were recalled, inventoried, and accounted for. BADT then revised the renewal exam test book.

BADT immediately instituted changes for their testing procedures. All inspectors are now required to begin the exam at the scheduled times and any test taker arriving late must reschedule his/her exam. Inspectors are not to leave test takers unattended for any reason during the written examination or proficiency examination. Following the implementation of these improved test taking controls, statewide permit renewal exams resumed on April 16, 2008.

#### **IV. CONCLUSION**

The incidents of cheating and lapses of leadership identified in this investigation were limited to a number of OSHP personnel assigned to the Canton Post, and are not representative of the professionalism and leadership demonstrated by the other 1,400 officers employed by the OSHP. This investigation revealed instances of cheating on a state-administered exam on five occasions, by law enforcement personnel employed by the Ohio State Highway Patrol assigned to the Canton Post. Our investigation further revealed that the cheating was not only blatant, but occurred in the presence of superior ranking officers who took no appropriate action. Moreover, we learned of additional incidents of alleged cheating involving personnel from three other police agencies – Jackson Township P.D., Montgomery P.D., and Blue Ash P.D., which will be investigated by those departments. This is not solely about cheating on a test that admittedly the vast majority of law enforcement officers can pass, it is about the public's expectation that public safety officials should maintain the highest levels of integrity at all times.

Cheating, no matter the circumstances, has no place in a law enforcement agency. It cannot be tolerated, encouraged, or condoned. It must be promptly dealt with by agency management. Unfortunately, leadership at the Canton Post failed to take appropriate action. While some may dispute who knew what and when, no one can dispute that all of the sergeants

involved in this incident knew that Tpr. Maroon had a copy of an answer sheet and none of them acted on that known fact.

Lastly, we question whether there is a continuing need to administer written examinations altogether. Over the past two years, the failure rate is less than one half of one percent. Additionally, Ohio Administrative Code (“OAC”) section 3701-53-09 does not require written testing of permit holders, but rather states that permit holders shall complete proficiency examinations. Pursuant to OAC section 3701-53-07, permit holders must demonstrate that he or she can properly care for, maintain, perform instrument checks, and operate evidential breath testing instruments. When we consider the actual costs incurred by the state to administer the written examination and the costs to law enforcement agencies statewide, we believe an assessment of the continued need to administer the written test is in order. Moreover, the loss of time officers incur when taking the written examination equates to loss of time the officers could have been spending on patrol enforcing laws. If the Department of Health finds justification to continue administering a written examination, we recommend that it return to the policy of administering an exam to permit holders every two years.

## **V. RECOMMENDATIONS**

Based on our findings, we make the following recommendations and request the Ohio Department of Public Safety – Ohio State Highway Patrol and the Ohio Department of Health (“ODH”) respond to this office within the next sixty days with a plan of action as to how the recommendations will be implemented:

### **Department of Public Safety – Ohio State Highway Patrol**

1. The Ohio State Highway Patrol should take appropriate administrative action against any permit holder addressed in this report who committed misconduct.

### **Ohio Department of Health**

1. ODH should establish a formal, written protocol for the administration of the operator/senior operator certification process. All inspectors administering the

operator/senior operator certification exams should be trained in, and adhere to, the established testing protocol.

2. ODH should review and reassess the need for a written examination for individuals renewing operator/senior operator permits. We recommend that renewing permit holders complete a performance-based, or practical, exam that will demonstrate the permit holders' respective abilities to properly operate and/or maintain and check the calibration of the evidential breath testing instrument(s) for which they are certified.
3. If, after their review, ODH finds justification to continue a written examination for individuals renewing operator/senior operator permits, we recommend that the written and proficiency tests only be administered every two years, instead of annually. This will require a rules change, as well, and appropriate notification.
4. ODH should ensure that all written certification examinations are monitored and proctored at all times.
5. ODH, in conjunction with the Department of Public Safety, should proceed with the approval and implementation of the portable breath testing instrument pilot project that resulted from the 2004 "Impaired Driving Task Force" and subsequent committee and agency evaluations. The rules changes necessary for implementation of the pilot project and the eventual statewide use of the portable instrument should be undertaken as well.

## **VI. REFERRALS**

A copy of this report of investigation will be submitted to the following entities:

- Ohio Department of Health – Bureau of Alcohol and Drug Testing
- City of Canton Law Director's Office
- City of Massillon Law Director's Office