



Mercer County Sheriff's Office

JEFF GREY
SHERIFF

4835 State Route 29
Celina, OH 45822

Phone: (419) 586-7724
Fax: (419) 586-2234

www.mercercountysheriff.org

TO: Ohio State Highway Patrol Mission Review Task Force

FROM: Mercer County Sheriff Jeff Grey

DATE: June 8, 2010

The Task Force was set up to review the operations and functions of the State Highway Patrol as they relate to all other police entities in this state. The Task Force is to identify services of the State Highway Patrol that overlap with those of other police entities, opportunities to focus or consolidate current operations, and ways to improve operational efficiency.

The legislature must also set the priorities for the state. For example, while the Mission Review Task Force is not necessarily about money, money is the driving force behind the inquiry as all levels of government try to improve services to our citizens with less money. The intriguing thing is the legislature's belief that funding the Sheriff's Offices and Police Departments of the state is solely a local responsibility while the state legislature dictates the rules. For example, registering sex offenders, holding inmates for state highway patrol, the parole authority, etc, are losing propositions for Sheriff's Offices. However, when the Ohio State Highway Patrol has a funding shortfall, the legislature finds a way to fund it. A recent example is the late fees on license plates and driver's licenses. That fee generated \$6.2 million in three months. But when there is an increase in requirements to register sex offenders or an increase in arrests and incarcerations by OSHP, or municipal police or parole officers, sheriffs must dedicate more manpower and resources which cost county government. The law is written by the Ohio Legislature, not local government and no money comes with it. So, the obvious priority of the legislature is to fund the Ohio State Highway Patrol so they can write speeding tickets, not to fund the important role of registering sex offenders and tracking them or to fund jails and prisons to hold offenders. That is secondary. Even the Ohio Prison System is inadequately funded, but the legislature continues to find ways to fund operations of the OSHP that are, at a minimum, questionable responsibilities of the patrol. The sad issue is that it is the funding inequity that causes much of the divide between many Ohio Sheriffs, police departments, and the Ohio State Highway Patrol.

Now let's talk about the overlaps the Mission Review Task Force is supposed to identify. They seem pretty obvious to me. Traffic enforcement and crash investigation is an overlap. Police Departments and Sheriff's Offices also do traffic enforcement and investigate crashes. There certainly is enough work in this area for everyone, but traffic enforcement and crash investigation is the primary function of the patrol, that is where their focus should be.

There are few Appellate Court Cases that deal with the jurisdiction of the Ohio State Highway Patrol, but one split court case is State of Ohio vs. Phillips, 1995 Ohio App. LEXIS 290 (Ct. Appeals, 4th Appellate District, Athens County). It is interesting that no one has challenged this to the Ohio Supreme Court, but then again, who is going to spend the thousands of dollars to appeal a \$100 speeding ticket?

In this case, the dissent was strong, and, in my view, compelling. The dissent focused on the words, "streets" and "highways." The judge pointed out that "in common usage, there is a difference between the word "street" and the words "roads and highways." He suggested that if the Ohio Legislature intended for the Ohio State Highway Patrol to have jurisdiction on every public thoroughfare, why didn't the legislature use language like: "all public thoroughfares" or "all streets, alleys, lanes, avenues, boulevards, courts, thoroughfares, roads, highways, expressways, freeways, turnpikes, etc." The legislature's intent to include "any and all" would be clear from that language. He suggested it is not unreasonable to assume the legislature did NOT intend to allot total jurisdiction to the highway patrol. If the legislature intended for OSHP to have such broad authority, they would have used words to indicate that intent.

It is interesting that ORC 5503.02(0)(1), "the powers and duties conferred on the patrol are supplementary to, and in no way a limitation on, the powers and duties of sheriffs or other peace officers of the state." There is no language similar to this in sheriff's duties or police duties, so it appears obvious that the legislature intended to limit the patrol's responsibility and jurisdiction.

Although sometimes I wonder why we have the highway patrol, they do serve a useful purpose. At the April 4, Mission Task Force meeting the Cincinnati Police Chief described the quick response of the patrol to get troopers to Cincinnati for the riots that were taking place. Many Sheriffs and even our association would argue that Sheriff's deputies could have been dispatched with the same result. I doubt that. While we certainly have mutual aid written into ORC 311.07, we could not have coordinated that response as quickly and professionally as the patrol. This is not to degrade sheriffs, but there are 88 of us and 88 different ways of doing things, in that situation, Cincinnati needed help and they needed it immediately. With the patrol under the leadership of one person, the Colonel, they can mobilize much more quickly and send troopers who are currently on duty from across the state; because they feel they do not have responsibility to respond to anything locally. Sheriffs could not have sent all deputies on duty and left their county unprotected.

Frequently sheriffs are told there is not a trooper available to handle a crash, but sheriffs must respond because we are held accountable by our citizens, a lack of response is unacceptable for us. Some troopers call that politics, I call it Democracy, and Sheriffs know who they work for. I think President Lincoln said in his Gettysburg address during the Civil War, "a government of the people, by the people and for the people shall not perish." Sheriffs are an elected government representative for law enforcement, who lives in the community, he is one of the people that has community ties and is accountable and answerable to the people.

When I hear that the patrol should be totally independent of any elected official regulation, my stomach turns. The people of the State of Ohio do not want special favors, they just want treated fairly and the way they ensure they are treated fairly is to have every government employee answer to an elected official. That elected official is responsible to ensure that the government employees do their job fairly, with honesty and integrity. If not, the government official will be removed in the next election. I hate to break it to this task force, but more appointed employees of government get fired, indicted, sent to jail, than the elected government officials. Before we cast a stone at those who are elected, let's take a look at government as a whole...how can we do it better? How can we assist our citizens? Law enforcement and the citizen should not be enemies, we should be partners. Law enforcement agencies should not be enemies, we should work together to provide for the safety of those we serve, but to do that, each law enforcement entity must stay in the limits of the power conferred upon them by the legislature. Like it or not, under current law, the Sheriff is the chief law enforcement officer of the county not the Colonel.

Now I want to turn to some specific incidents in my county since the only testimony for the Mission Review Task Force was glowing reports of how "great" OSHP is. To give you background, I have been sheriff for 9 ½ years and I was Chief Deputy for 6 years and chief of police of a very small town (2 person police department) for 4 years. During my 9 ½ years as sheriff I have seen the patrol go through four Colonels, all promised to "fix" the issues. My county is served by a post that covers Mercer and Auglaize Counties. I have worked with 3 different post commanders; all have assured me problems would be resolved.

Within the first 4 months of being sheriff I had lunch with the Post Lieutenant and the District Captain to discuss traffic crashes. They wanted the Sheriff's Office to allow OSHP to handle all fatal traffic crashes and to hold the scene till OSHP could arrive. I explained that I had competent deputies including deputies who were trained in traffic crash investigation/reconstruction at Northwestern University Center for Public Safety, formerly the Traffic Institute and that I would only give them the fatal crashes if they were willing to investigate all crashes as ORC 5503.02 mandates.

The response was, we have a trooper in Mercer County 75% of the time, and we feel that is pretty good. I told them that was unacceptable, the taxpayers of Mercer County pay 100% of their taxes, not 75%. Also, that meant deputies had to do the OSHP's job 25% of the time. If deputies are going to do it 25% of the time, we will do it all. In fact, ORC 5503.02 states, "State highway patrol troopers shall investigate and report all motor vehicle accidents on all roads and highways outside of municipal corporations." Shall is a pretty big word in that sentence, I am still at a loss to understand how they can say, "no." But they can, because they answer to no one. Remember, we talked about being accountable to an elected official who is accountable to the public?

In fact, we have had incidents where we have asked the patrol to handle a crash because our units were tied up on crimes; they declined because no one was available. In a recent incident, a deputy was going to a crash that OSHP declined to handle, then the deputy past an OSHP trooper heading the

opposite direction; later it was learned the trooper was meeting with a municipal officer for his meal break.

Possibly a better example is a crash that occurred on State Route 49 at the intersection of State Route 707. Yes, two state routes, but no trooper available. When deputies arrived they found the two suspects had fled into a cornfield. It was August so the corn was high. We were able to get assistance all day from the Indiana State Police who sent a helicopter, the Adams County, IN, Sheriff, the Van Wert County Sheriff, but no OSHP. By the way, the suspects were fugitives who escaped from Michigan and were driving a stolen car.

I bring these two incidents up because if we have a fatal traffic crash, we will have 2-4 troopers show up at the scene to see if they can assist. Troopers are nowhere to be found for non dramatic crashes, in snow storms when cars are sliding off the roads or for our 150-200 car-deer crashes that occur each year.

This is where we lead up to, is it necessary for OSHP to have an SRT team? An academy? And many other functions that they do that is not traffic related? My belief is that Troopers are being assigned to functions that certainly are not part of their mandatory duties and this limits their ability to fulfill their traffic enforcement mission and function. SRT is important, but they can get the services from a Sheriff's Office or Police Department that has one, when they need it. The academy is important, but they can get their training at OPOTA like the rest of us. It appears that they don't want any assistance from anyone else, but want to force themselves on everyone else. That is not a reflection on troopers; it is a reflection on leadership.

Governor Taft came to Mercer County a couple of years ago to sign a bill into law at the Mercer County Courthouse. It was a bill sponsored by our local state representative. I was called about 24 hours prior the Governor coming by a member of the Republican Central Committee and my state representative to see if I would be there. Of course, that was a political call as I am a Republican, had I been Democrat the call wouldn't have come since the governor and state representative were Republicans. The highway patrol's executive protection team didn't even make a courtesy call. I find that quite interesting since ORC 311.07A states that "Under the direction and control of the board of county commissioners, such sheriff shall have charge of the court house." The governor is coming to the courthouse that I am responsible for, and the highway patrol didn't even call. Amazing. Even the United States Secret Service coordinates with local law enforcement when the President is going to be in someone's jurisdiction. You wonder why we have turf battles. The patrol is responsible for the security of the Governor, even in the Mercer County Courthouse, but I am responsible for the courthouse, even if troopers are there with the Governor. Shouldn't we have worked together, since under ORC 5503.02(D)(1) OSHP "are supplementary to, and in no way a limitation on, the powers and duties of sheriffs or other peace officers of the state." I believe we both had responsibilities that day that should have been coordinated, but had it not been for the politics that many troopers complain of, I would not have known the Governor was even coming to the courthouse.

The Mission Review Task Force has a big responsibility. I hope that each member can get beyond their personal bias, especially when so many members of the task force are connected by retirement, regulation, family members employment with the patrol or are even current employees of the patrol. This makes objectivity very difficult and gives the appearance of partiality. This Task Force needs to make recommendations to the legislature that will help in removing the "turf" battles so common now.

The legislature needs to ensure adequate funding for OSHP, Municipal Police Departments, and Sheriffs. This is a state issue since the state legislates what each of us do. The law enforcement agencies need to look for ways to be more efficient, the taxpayers pay enough, and are fed up with taxes, and rightfully so. This is about public service, not about how much money we spend or how much money we make. If we are in it for the money, we fail our citizens. We need troopers, officers, and deputies that have their heart in the right place; we are servants of the people, not the other way around. We need to make a reasonable living, but if we want to get rich off the taxpayer, that is wrong. The highway patrol, police departments and sheriff's offices need to look inside at ways to cut expenses without hurting service. We need to find ways to work together and check our egos at the door. Instead of what is best for the highway patrol or the police department or the sheriff's Office, how about what is best for our citizens?

Respectfully submitted,



Jeff Grey
Mercer County Sheriff

