

**Mahoning County Sheriff's Office
Internal Investigation**

**Investigated By:
Summit County Sheriff's Office
June 07, 2013**

SUMMIT COUNTY SHERIFF'S OFFICE
SHERIFF STEVE BARRY
CONFIDENTIAL INVESTIGATION

INCIDENT REPORT NO.
Internal Investigation

FROM: Lieutenant Joseph L. Rusov DATE OF INCIDENT: May 26, 2013
TO: Sheriff Steve Barry and Sheriff Jerry Greene DATE INVESTIGATED: June 07, 2013
SUBJECT: Mahoning County Sheriff's Office ARRESTS: _____
PLACE OF OCCURRENCE: _____

SYNOPSIS:

On Monday June 03, 2013, Sheriff Steve Barry contacted Lieutenant Rusov regarding a telephone call he received from Mahoning County Sheriff Jerry Greene. Sheriff Greene stated there was an incident during Memorial Day weekend that involved deputies from his department and asked if the Summit County Sheriff's Office would conduct an investigation regarding the incident. The incident involved his personnel and Mahoning County Auditor Michael Sciortino during a traffic stop.

On June 03, 2013, I contacted Sheriff Greene and advised him that Detective Joseph Storad will be assisting with the investigation regarding the incident. Sheriff Greene advised Lieutenant Rusov the liaison between the two departments would be Major William Cappabianca.

On June 04, 2013 at approximately 0830 hours, Detective Joseph Storad and Lieutenant Joseph Rusov met with Major William Cappabianca at the McDonald's Restaurant at State Route 76 and Route 44, in Mahoning County. Major Cappabianca then briefed us about the incident. The incident occurred on May 26, 2013, at approximately 2300 hours. According to the Major, Mahoning County Sheriff's Sergeant James Touville performed a traffic stop on said date and time and the operator of the stopped vehicle was identified as the Mahoning County Auditor, Mr. Michael Sciortino. After the traffic stop was executed, Mr. Sciortino was physically detained for OVI (operating vehicle intoxicated) and several members of the Mahoning County Sheriff's Office became involved in the incident. This included Commander Thomas J. Assion, Major Jeffrey Allen, Lieutenant Stephen McGear, and Deputy Michael R. Hunchuck. Apparently a Canfield Police Officer, identified during the investigation as Officer Matthew J. Bartolec, also was present at the traffic stop. We advised Major Cappabianca we intended to interview all of these people and the major stated he would schedule the interviews to be held on Friday June 07, 2013.

BY: LT J.L. RUSOV 1-21 DATE: 6/28/13
LEO J. STORAD 0247 6/28/13

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

ACTION TAKEN:

On June 07, 2013 at approximately 0933 hours, Summit County Sheriff's Office Lieutenant Joseph Rusov and Detective Joseph Storad conducted an interview with Sergeant James L. Touville Jr. of the Mahoning County Sheriff's Office at the Mahoning County Sheriff's located at 110 Fifth Avenue in the City of Youngstown, Ohio. Ohio Labor Council Representative Charles Wilson was present for the interview. Mahoning County Sheriff's Office Fraternal Order of Police Union Representative Lieutenant Dave Stewart was also present for the interview. James Touville was given Garrity Warning for this Internal Investigation. Sgt. Touville agreed to the interview and provided the following statement.

INTERVIEWED:

Sergeant James L. Touville Jr.
Mahoning County Sheriff's Office
110 Fifth Avenue
Youngstown, Ohio 44503

Sergeant Touville stated he has been employed by the Mahoning County Sheriff's Office for approximately 14 years. He stated prior to being hired full time with the Mahoning County Sheriff's Office, he worked for the Springfield Township Police Department for approximately 11 years as a part time Police Officer. Sergeant Touville had worked in the Corrections Division of the Mahoning County Sheriff's Office for approximately 12 years. James Touville is currently assigned to the Patrol Division and has attained the rank of Sergeant. His duties include supervision over patrol Deputies, calls for service, and upholding the laws of the State of Ohio. Sergeant Touville is assigned third shift (the hours of 2200 to 0600) and has been in this assignment for approximately the past 2 years.

Sergeant Touville stated he is Ohio Peace Officer Training Academy (OPOTA) certified and has numerous certificates and has completed various hours for continued education for law enforcement through his career. He stated he has received Alcohol Detection and Prosecution Training (ADAPT) and is a Senior BAC machine operator but his current certification for operating the BAC machine has expired. A senior BAC operator is the person who not only administers breath test to impaired individuals, but also performs calibration checks of the machine.

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

On May 26, 2013 Sergeant Touville stated he was working his normal shift in the Patrol Division. At approximately 2300 hours, he stated he was assisting his Deputies at a domestic altercation at a residence. While at the residence, Sergeant Touville stated he received a call for service on his portable radio from the dispatch center. The call for service is dispatched at 23:13.27 hours per the Mahoning County Sheriff's Office Radio Room CAD (Computer Aided Dispatch) report. The dispatcher reports to Sergeant Touville, a 911 call from an employee at the Wendy's Restaurant located at 4161 Boardman Canfield Road in the Township of Canfield. The information dispatched was, a Black Buick, bearing license plate FFM4099, in the drive thru with the male driver falling asleep, known as a signal 38. Dispatch then advised that the gentleman is in the parking lot sleeping now. A signal 38 is a code for an intoxicated person through the Mahoning County Sheriff's Office. Sergeant Touville cleared the domestic call and advised radio he was enroute to Wendy's at 23:13.27 hours per the radio room CAD report. While on the way to the call, Sergeant Touville states he runs the license plate on the computer in his patrol unit. Sergeant Touville states after reading the information on his computer, he becomes aware the owner of the vehicle at Wendy's being Mr. Michael Sciortino, who he knows is the Mahoning County Auditor.

At 23:21.10 hours, Sergeant Touville is on scene per the radio room CAD report. Sergeant Touville states upon entering the parking lot the black Buick was leaving. Sergeant Touville states he observed the girl employees indicate this is the vehicle in question by them pointing at this now exiting vehicle. Sergeant Touville proceeded to follow the vehicle and states he observed the vehicle roll through a posted stop sign near Wendy's Restaurant. Sergeant Touville states he continues to follow the vehicle on State Route 224 and observes the vehicle cross the yellow center line and the right white edge line slightly in a swaying manner. The distance from Wendy's Restaurant to the location of the stop is approximately five tenths of a mile.)

State Route 224 is an East and West roadway. The roadway has 5 lanes, 2 eastbound lanes separated by white hash marks, 2 westbound lanes also separated by white hash marks with a center turn lane utilized for both east and west traffic with a solid yellow line.

(At 23:25.35 hours, Sergeant Touville advises radio room he is conducting a traffic stop on the listed vehicle from Wendy's, bearing Ohio registration FFM4099, on State Route 224 at Raccoon Road. Sergeant Touville approached the driver's side of the stopped vehicle. He states he asked the driver, now verified to be Michael Sciortino, for his driver's license and engages him in conversation. He states he does not detect the odor of an alcoholic beverage from Mr. Sciortino, but does observe a slurred to mush mouth speech from him as he speaks. Mr. Sciortino fumbled to retrieve his license.)

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

(He states Mr. Sciortino doesn't answer the question when asked if had been drinking but only shrugs his shoulder as if he had not. Sergeant Touville states he returns back to his patrol unit and runs his driver's license on his in car computer and notices an on duty Canfield Police Officer on scene.)

Sergeant Touville then returns back to the vehicle still containing Mr. Sciortino and Sergeant Touville notices an EKG (Electro cardiogram) printout on the middle console of the vehicle. Sergeant Touville states he engaged in conversation again with the Mr. Sciortino and again asked if he had anything to drink. (At this time Mr. Sciortino replies he had 1 or 2 drinks. Sergeant Touville stated he asks Mr. Sciortino to submit to field sobriety tests, at which time he voluntarily complies with the tests.)

Standardized field sobriety tests (SFST) are a battery of tests systematically administered and evaluated in a standardized manner to obtain validated indicators of impairment and establish probable cause for arrest. The SFST is comprised of three tests: Horizontal Gaze Nystagmus (HGN), Walk and Turn, and One Leg Stand.

Horizontal Gaze Nystagmus is an involuntary jerking of the eye. Through a series of tests, the trained officer looks for three cues in each eye:

1. Lack of smooth pursuit
2. Distinct and sustained Nystagmus at maximum deviation
3. Onset of Nystagmus prior to 45 degrees.

People will exhibit Nystagmus in the eye when intoxicated, and as people become more intoxicated, the onset of Nystagmus, or jerking, occurs after fewer degrees of lateral deviation, and the jerking at more extreme angles becomes more distinct. The (HGN) has a total of 6 cues (3 in each eye). Standardized field sobriety test accuracy (HGN) with 4 cues for a BAC level of .100 is 77%. For a BAC level for the State of Ohio .080 is 88%.

Sergeant Touville states he performs the HGN test on Mr. Sciortino in front of his vehicle having Mr. Sciortino stand facing away from the flashing overhead lights of the patrol vehicle. Sergeant Touville states out of the 6 possible cues of the test, Mr. Sciortino exhibits 4 cues. Mr. Sciortino exhibits lack of smooth pursuit and Nystagmus at maximum deviation in both eyes. Mr. Sciortino did not exhibit Nystagmus prior to 45 degrees in either eye. Sergeant Touville stated he did not check vertical Nystagmus. Sergeant Touville stated at no time of this test did Mr. Sciortino state he had any medical problems that would prohibit him in performing the test as instructed.

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO.:

SUBJECT

The second SFST test is the Walk and Turn test. This test is a divided attention test that requires the subject to take nine steps, heel-to-toe, along a straight line. After taking nine steps the subject must turn on one foot and return in the same manner. The subject is required to follow directions and watch the demonstration of the test by the officer. The officer looks for eight cues:

1. Subject cannot balance while listening to the instructions
2. Starts before the instructions are finished
3. Stops while walking
4. Does not touch heel-to-toe
5. Steps off the line
6. Uses arms to balance
7. Improper turn
8. Incorrect number of step

(Sergeant Touville states he gives instruction and demonstrates the test to Mr. Sciortino. He states Mr. Sciortino failed miserably on the performance of this test. He states Mr. Sciortino starts the test by walking backwards. Mr. Sciortino was wobbly, could not touch heel-to-toe, actually could not perform as instructed, and finished the test. Sergeant Touville stated Mr. Sciortino exhibited all 8 cues.) Standardized Field Sobriety test accuracy for Walk and turn with 2 or more cues for a BAC level of .100 is 68% and for a BAC level of .080 is 79%.

Sergeant Touville stated, again, at no time during this test did Mr. Sciortino state he had any medical problems that would prohibit him from performing the test as instructed.

The third SFST test is the One Leg Stand test. This test is another divided attention test which requires the subject to stand on one foot while holding the other approximately six inches off the ground and count aloud by thousands until told to stop. The officer demonstrates the test and times the subject for 30 seconds. There are four indicators of impairment on this test:

1. Sways while balancing
2. Uses arms for balance
3. Hopping
4. Putting foot down

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

Sergeant Touville states he gave instructions and demonstrated the test to Mr. Sciortino. He states Mr. Sciortino drops his foot to the ground two separate times to maintain balance. He did count from 1 to 30 by thousands. Sergeant Touville stated he did not utilize his watch for this test so it is unknown if the test took the required 30 seconds. Sergeant Touville stated Mr. Sciortino exhibited 2 of the 4 cues. Standardized Field Sobriety test accuracy for the One Leg Stand with 2 or more cues for a BAC level of .100 is 65% and for a BAC level of .080 is 83%.

Sergeant Touville said at no time during this particular test did Mr. Sciortino state he had any medical problems that would prohibit him in performing the test as instructed.

Combined with the Horizontal Gaze Nystagmus and the Walk and turn Standardized Field Sobriety with the minimum cues given for each test for a BAC level of .100 is 80% and for a level of .080 is **91%**. Mr. Sciortino exhibited a higher number of cues than the minimum on the Field Sobriety tests.

Sergeant Touville stated he placed Mr. Sciortino under arrest for Operating a Vehicle While Intoxicated and placed him in handcuffs. He stated he placed him in the rear seat of his patrol unit. He said he advised his radio dispatcher through his portable radio that he had a signal 47. Per Radio Room CAD report this occurred at 23:37.34 hours. A signal 47 for the Mahoning County Sheriff's Office is person which has been arrested. Sergeant Touville stated he could articulate the reason for arresting Mr. Sciortino for OVI (Operating Vehicle Intoxicated) due to the traffic violation and his performance on the field sobriety tests but was concerned of arresting a county official and having him possibly test under the legal limit. Sergeant Touville stated Mr. Sciortino never, at any portion of the stop, during the performance of field sobriety tests, or after being placed under arrest for Operating a Vehicle Intoxicated advise him that he (Sciortino) had any medical problem(s) that would cause or effect his driving at the time of the traffic stop. ✓

Sergeant Touville states after securing Mr. Sciortino in his patrol car he advises Deputy Michael Hunchuck, who is now on scene, to inventory the vehicle for a tow. Per Radio room CAD report, Deputy Hunchuck arrived on scene at 23:39.24 hours. Sergeant Touville states he contacted Lt. Stephan McGeary, his superior in the patrol division, via telephone. Sergeant Touville said he advised Lieutenant McGeary that he had placed Michael Sciortino under arrest for OVI. Sergeant Touville stated he had Deputy Hunchuck take photographs of the interior of Mr. Sciortino's vehicle. Sergeant Touville said he noticed a Wendy's bag containing food products on the passenger's seat, U.S paper currency on the floorboard and strewn throughout the vehicle. There were no medication bottles or contraband found inside the vehicle.)

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

[Sergeant Touville stated he received a telephone call from Major Allen while still at the scene of the traffic stop. Major Allen is the Commander of the patrol division. Major Allen was inquiring details, but was cut short of gathering details because Sergeant Touville advised him Commander Assion was calling his cell phone. Sergeant Touville was advised by Major Allen to take Commander Assion's phone call. Sergeant Touville stated Commander Assion asked many questions and wanted to come and pick up Mr. Sciortino from the scene. Commander Assion asked if there was another option other than arresting Mr. Sciortino for OVI. Sergeant Touville advised Commander Assion that he placed Mr. Sciortino under arrest for OVI and Mr. Sciortino was in handcuffs. Sergeant Touville stated Commander Assion stated he could be on scene within 20 minutes to take Mr. Sciortino home. Sergeant Touville stated in his mind he would suffer back lash from the department the next day for arresting a County Official and or having that County Official possibly testing under the BAC legal limit. Sergeant Touville stated he took the option of turning Mr. Sciortino over to Commander Assion and did not process Mr. Sciortino for an OVI. Sergeant Touville un-arrested Mr. Sciortino and issued a citation for a Marked Lane violation 4511.33 of Ohio Revised Code on ticket #38924.]

[At Approximately 2357 hours (time estimated by Sergeant Touville) stated Commander Assion arrived on scene and took custody of Mr. Sciortino's vehicle and drove Mr. Sciortino to Mr. Sciortino's residence.] Sergeant Touville stated he cleared the call and does not make notification to his Superiors to advise them of the outcome of the event. Sergeant Touville stated Commander Assion made contact via telephone a few days later and advised him that the incident is being looked into by media and he apologized for putting him in this situation. At approximately 1046 hours, the interview with Sergeant Touville was concluded.

On June 07, 2013 at approximately 1150, hours I met and interviewed Deputy Michael Hunchuck from the Mahoning County Sheriff's Office at the Mahoning County Sheriff's located at 110 Fifth Avenue in the City of Youngstown, Ohio, regarding an incident he was involved in on May 26, 2013. Also present for this interview were Detective Joseph Stora from the Summit County Sheriff's Office, and Mr. Charles Wilson from the Ohio Labor Council. The interview was conducted at the Mahoning County Sheriff's Office. Prior to the interview Deputy Hunchuck was advised of his Garrity Rights. Deputy Hunchuck provided the following information.

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

INTERVIEWED:

Deputy Michael Hunchuck
Mahoning County Sheriff's Office
110 Fifth Ave
Youngstown, Ohio 44503

Deputy Hunchuck has been employed with the Mahoning County Sheriff's Office since 1997. He is currently assigned to the Patrol Division and works the midnight shift. His working hours are from 2200 hours to 0600 hours. His primary patrol assignment is in Canfield Township. Deputy Hunchuck was working his regular shift on May 26, 2013. Deputy Hunchuck provided the following information.

Approximately 2300 hours, Deputy Hunchuck, Deputy Harris and Sergeant Touville were at a Domestic Violence call at Fox Den Trail in Canfield, Ohio. At Approximately 2313 Deputy Hunchuck heard a call from dispatching center of an intoxicated person at Wendy's. Sergeant Touville left the scene and drove towards Wendy's located at 4161 Boardman-Canfield Road Canfield Township, Ohio. Deputy Hunchuck remained on the scene at the domestic call to finish his paperwork and process an arrest. He finished his paperwork and released the prisoner to Deputy Harris. Minutes later, Deputy Hunchuck was advised by the dispatching center that Sergeant Touville wanted him to assist him at the location of his traffic stop but wasn't notified why Sergeant Touville needed assistance. Deputy Hunchuck cleared the domestic scene at approximately 2337 hours and drove to Sergeant Touville's location at U.S. 224 and South Raccoon Road. He arrived at approximately 2339 hours.

When he arrived he noticed Sergeant Touville had a black Buick stopped at South Raccoon Road and West State Route 224 on the right shoulder of the road. He pulled his patrol car in the traffic lane next to the black Buick on State Route 224 and activated his overhead lights. He got out of his unit and walked to Sergeant Touville's unit. He asked Sergeant Touville what he had. Sergeant Touville told him he had Mahoning County Auditor Michael Sciortino and was going to take him to the Canfield Police Department for a Breath Alcohol Test (BAC).

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

Sergeant Touville asked Deputy Hunchuck to take pictures and inventory Mr. Sciortino's car. While taking the pictures, Deputy Hunchuck noticed there was a lot of cash on the floor of the vehicle and a lot cash and credit cards throughout the interior of the car. He also noticed there was a bag of Wendy's food and soft drinks on the passenger seat and a hamburger on the floor. He did not see any open containers of an alcoholic beverage or any empty beer cans or bottles in the car. After he finished taking the pictures he went back to his patrol unit.

A few minutes later an Ohio State Highway Patrol Trooper pulled up and parked his car in the turn lane. Deputy Hunchuck got out of his car and walked up to the trooper. The trooper asked him what they had. Deputy Hunchuck only told the trooper that Sergeant Touville had a traffic stop and did not need assistance from the trooper.

Deputy Hunchuck talked with the trooper for approximately five minutes and then the trooper left. Deputy Hunchuck returned to his patrol unit to catch up on his paperwork from his previous call.

While he was in the car he received a telephone call from Deputy Harris. Deputy Harris wanted to know where he was so he could return his handcuffs to him from the domestic arrest. Deputy Harris arrived on scene a short time later and gave Deputy Hunchuck his handcuffs. Shortly after Deputy Harris arrived, Deputy Hunchuck was told by Sergeant Touville to telephone the Canfield Police Department to cancel the BAC test because Sciortino had a medical issue. Deputy Hunchuck called the Canfield Police Department and advised them to cancel the BAC Test. Minutes before Deputy Hunchuck cleared the scene; Commander T.J. Assion arrived at the scene and was accompanied by his girl friend. Commander Assion got out of his car and approached Deputy Hunchuck, said hello and shook his hand. After he spoke with Commander Assion, Deputy Hunchuck walked over to Commander Assion's car and talked with the commander's girlfriend who was seated in the driver's seat. Commander Assion then walked up to Sergeant Touville's vehicle.

Deputy Hunchuck said he couldn't hear any of the conversation Commander Assion and Sergeant Touville were having. Deputy Hunchuck stayed at Commander Assion's car and talked to his girlfriend about what plans they had for Memorial Day weekend. Deputy Hunchuck then noticed that Commander Assion and Michael Sciortino drive away in Sciortino's car. Deputy Hunchuck never saw Michael Sciortino get out of Sergeant Touville's car and didn't see if he was handcuffed.

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

Deputy Hunchuck ended his conversation with Commander Assion's girlfriend and she then drove off. Sergeant Touville didn't tell Deputy Hunchuck why Commander Assion and Sciortino left in Sciortino's car. Deputy Hunchuck and Sergeant Touville cleared the scene and left to get a cup of coffee.

I asked Deputy Hunchuck if he saw Mr. Sciortino, and did he know if he was handcuffed. Deputy Hunchuck said he didn't see Mr. Sciortino in the back of Sergeant Touville's unit and didn't know if he was handcuffed. I asked Deputy Hunchuck if it was the policy of the Mahoning County Sheriffs Office to handcuff anyone who was under arrest. Deputy Hunchuck stated it was the policy of the sheriff's office that all persons arrested will be handcuffed. **This concluded the interview.**

On June 07, 2013 at approximately 1342, hours I met and interviewed Major Jeffery Allen from the Mahoning County Sheriff's Office at the Mahoning County Sheriff's located at 110 Fifth Avenue in the City of Youngstown, Ohio, regarding the incident on May 26, 2013. Also present for the interview was Detective Joseph Storar from the Summit County Sheriff's Office. The interview was conducted at the Mahoning County Sheriff's Office. Prior to the interview Major Allen was advised of his Garrity Rights and advised he was permitted to talk with us even though he previously signed an agreement through Sheriff Greene stating he is not permitted to discuss this pending investigation with anyone. Major Allen provided the following information.

INTERVIEWED:

Major Jeffery Allen
Mahoning County Sheriff's Office
110 Fifth Ave
Youngstown, Ohio 44503

Major Allen has been employed with the Mahoning County Sheriff's Office for approximately 20 years. He is currently the Major in charge of Field Operations. He was promoted to the rank of Major on January 07, 2013. He commands the Patrol Davison, Common Pleas Court, The Juvenile Justice Center, Mahoning County Sheriff's Office Detective Bureau and Task Forces. His normal working hours are Monday through Friday from 700 AM to 300 PM.

Major Allen has known Michael Sciortino since high school and graduated with him in 1988. The last time he talked to Sciortino was a day or two after the incident. Major Allen received a phone call from Sciortino, who wanted to say thanks.)

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

(Major Allen told Sciortino he didn't know what happened that night but told Sciortino he should take this as learning experience, and stated the phone conversation only lasted approximately 20 seconds. I asked Major Allen what Sciortino thanked him about.)

(Major Allen assumed Sciortino thanked him because his department apparently pulled him over and he received only a traffic citation for what he thought might have been an OVI arrest. I asked Major Allen if he has talked or emailed Sciortino since May 28, 2013. Major Allen said he has not.)

I asked Major Allen if he has ever been out socially with Mr. Sciortino. Major Allen replied he has not. Major Allen has not been out socially with Sciortino since high school. He has seen him on occasions and been at the same bar, but has never directly gone out with him. Major Allen also has never been to his home for any reason and doesn't even know where Sciortino lived.

Continuing with the interview, Major Allen said he received a phone call around 2325 hours from Lieutenant McGeary of the Mahoning County Sheriff's Office. (Lieutenant McGeary called to advise him that his deputies were out with Sciortino on a possible Driving Under the Influence (D.U.I.) traffic stop. He told Lieutenant McGeary that he couldn't touch it. Major Allen's definition of he couldn't touch it was because it was common knowledge that he and Sciortino grew up together and work in the county together. Because of the relationship he had with Sciortino over the years Major Allen didn't want to get involved. Major Allen made the decision not get involved more from a supervisory role, rather than as a friend.)

(After he talked to Lieutenant Mcgreay he made a telephone call to Commander T. J. Assion. He told Commander Assion that Sciortino was pulled over for a possible D.U.I. Major Allen couldn't recall what Commander Assion asked him and only remembered Commander Assion asking him why. Major Allen told Commander Assion that Sciortino was out with Sergeant Touville and didn't know the location of Sergeant Touville and Sciortino. After he finished his conversation with Commander Assion he called Sergeant Touville.

He asked Sergeant Touville the location of his traffic stop and to get the "Scoop". The conversation lasted for approximately one minute when Sergeant Touville received a telephone call from Commander Assion. Sergeant Touville told Major Allen that Commander Assion was calling him and needed to hang up. Sergeant Touville and Major Allen ended their conversation.)

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :

SUBJECT

Major Allen was asked the following: If one of his deputies conducted a traffic stop on a driver of a motor vehicle because the deputy believed the driver was impaired. The deputy then conducted several field sobriety tests and the person performed poorly on those tests. The person was then handcuffed and placed in the back of the cruiser.

Then he called another deputy to do an inventory of the vehicle. Would he consider this an O.V.I. (Operating a Motor Vehicle while Intoxicated) arrest according to your policy? Major Allen said, "Yes".

Later in the week Major Allen contacted Sergeant Touville and gave him an order. He told Sergeant Touville, "From now on, no matter who he pulled over, he was no longer allowed to call up rank. The next time he is to do what he had to do. When Sergeant Touville starts putting it up the chain of command, he was putting people in the line of fire. Next time anything like this ever happened again, and if it would cause a frenzy, he was supposed to telephone his supervisors when he is finished with the call". Major Allen said the order also applied to all of the deputies in the Patrol Division. Detective Storad asked Major Allen if he ever found out what happened that night. Major Allen stated he knew that Sciortino was taken home by Commander Assion, but doesn't know why Commander Assion gave him a ride home because he didn't want to get involved. **This concluded the interview.**

On June 07, 2013 at approximately 1113 hours, Summit County Sheriff's Office Lieutenant Rusov and Detective Joseph Storad interviewed Lieutenant Stephen McGeary from the Mahoning County Sheriff's Office at the Mahoning County Sheriff's located at 110 Fifth Avenue in the City of Youngstown, Ohio. Also present for the interview were, Charles Wilson from the Ohio Labor Council and Lieutenant Stewart from the Mahoning County Sheriff's Office. The interview was conducted at the Mahoning County Sheriff's Office. Prior to the interview Lieutenant McGeary was advised of his Garrity Rights. Lieutenant McGeary provided the following information.

INTERVIEWED:

Lieutenant Stephen McGeary
Mahoning County Sheriff's Office
110 Fifth Ave
Youngstown, Ohio 44503

Lieutenant McGeary has been employed with the Mahoning County Sheriff's Office since 1985, initially as a Reserve Deputy and became a full-time deputy in July 1991. Lieutenant McGeary is currently assigned to the Field Operations Division.

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

The division incorporates Patrol, Court House Security, Convey, and the Detective Bureau. Stephen McGeary was promoted to Lieutenant in January 2010.

I asked Lieutenant McGeary if he was working on May 26, 2013. Lieutenant McGeary was not working that day because it was his day off. Lieutenant McGeary was at home in bed when at approximately 1130 PM he received a telephone call from Sergeant Touville.

Sergeant Touville called Lieutenant McGeary to advise him that he had traffic stopped elected County Official Michael Sciortino.

Lieutenant McGeary asked Sergeant Touville why he traffic stopped Sciortino. Sergeant Touville told him he was dispatched to the Wendy's Restaurant located at State Route 224 in Canfield Township because it was reported by the employees that some one was drunk in the parking lot. Sergeant Touville told Lieutenant McGeary he was probably going to process him for O.V.I. Lieutenant McGeary told Sergeant Touville to "Do what he had to do". Sergeant Touville then told Lieutenant McGeary he was going to process him for the O.V.I. and just wanted to advise him because it was Michael Sciortino. After Lieutenant McGeary talked to Sergeant Touville he telephoned his Commander Major Jeffery Allen.

He told Major Allen that Sergeant Touville had Michael Sciortino on a traffic stop and was probably going to process him for Operating a Vehicle while Intoxicated. Lieutenant McGeary thought since it was a high profile arrest; he thought he should tell Major Allen about the incident. Major Allen told Lieutenant McGeary that he couldn't get involved with the incident and hung up. Lieutenant McGeary went back to bed. **This concluded the interview.**

On June 10, 2013 at approximately 0930 PM, Summit County Sheriff's Office Lieutenant Joseph Rusov and Detective Joseph Storad interviewed Wendy's employee Christina Fortini at the Wendy's Restaurant located on State Route 224 in the Township of Canfield, Ohio. Also present for the interview was Wendy's District Manger, Eric Snyder.

INTERVIEWED

Christina Fortini
Wendy's Restaurant
4161 Boardman Canfield Road
Canfield Township, Ohio
330-702-0581

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

I advised Christina the Summit County Sheriff's Office was conducting an investigation for the Mahoning County Sheriff's Office regarding an incident that occurred on May 26, 2013 at approximately 2300 hours. Christina stated she arrived at work approximately 4:00 PM. She was scheduled to work until 11:00 PM but stayed at work after her shift for approximately 30 minutes because she thought the police would come to Wendy's to ask her about the incident.

Approximately 10:00 PM she was closing the dining room and also helping the other employees in the drive-thru. At approximately 1100 PM Christina was working the window and heard through her headset an order of three large combo orders, three big drinks, three sandwiches and three big fries. She got the order ready and placed the order in a soft drink carrier. Christina didn't hear the person later identified as Mr. Sciortino place the order, but she was told through her headset by Cheyenne what he ordered. She bagged the order and placed it by the drive thru window. She observed the black Buick pull up to the window. She described the driver as a man in to be in his mid forties. She said hello to him and asked him if he wanted a carrier for the drinks. The male driver just looked at her and said nothing. Christina said his mouth was hung open and his face was very red and he looked "out of it". Christina attempted to have a conversation with this driver but it looked like he couldn't talk.)

(Christina could not smell an odor of an alcoholic based beverage coming form his person or from the car. The customer didn't say anything to her, so she took a large drink out of the carrier and handed it to him. The man attempted to put the drink down on the passenger seat but spilled it. Christina said normally if a person spilled a drink in their car they would ask her for napkins. Christina thought it looked like an expensive car and the male acted like it was nothing. Christina thought it was a "little weird" since this guy just spilled a large drink in his car and didn't ask her for any napkins to clean it up. When she handed him his first order he just looked at her and said nothing. While she was handing him the rest of his order another employee Cheyenne told her that there was something wrong with this guy. Christina then made a comment to the manager in her headset that there was something wrong with this guy or he is drunk. They both agreed they should call the police because they didn't want him to hurt himself or another driver. The manager told Christina to get his license plate number so they could call the police.)

(He proceeded to leave the drive-thru but stopped in the drive-thru lane by the side door for approximately ten minutes. The subject then drove his car to the other side of the building and parked his car in the middle of the parking lot, not in a designated parking space, and shut his car off.)

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

Christina now obviously thought there was something wrong with this guy because he couldn't even pull his car into a parking space and just parked his car in the middle of the lot. Approximately 20 minutes later this same driver turned his lights back on and began to turn left out of the lot. Christina thought the police wouldn't get there on time before he left.

A Sheriff's cruiser then arrived and got behind the black Buick and followed the vehicle around the building approximately two times. The Buick left the parking lot behind the building and turned right at the stop sign. The vehicle then made a right turn and drove towards the traffic light at State Route 224 with the Sheriff's cruiser behind him. Both vehicles then made a right turn on State Route 224.

Christina watched them from inside the building drive by the Wendy's towards the Auto Zone Store and then lost sight of them. Christina then noticed the Buick and the Sheriff's cruiser were on the road directly behind Wendy's. She saw them make a right turn again at the stop sign and drive towards the traffic light. They went to the traffic light and made a left turn. Christina then lost sight of them. A few minutes later, Christina left work and drove home. On her way home she noticed the officer had the vehicle pulled over at State Route 224 and Raccoon road. **This concluded the interview.**

On June 10, 2013 at approximately 1000 PM, Summit County Sheriff's Office Lieutenant Joseph Rusov and Detective Joseph Storad interviewed Wendy's employee Cheyenne Craig at the Wendy's Restaurant located on State Route 224 in the Township of Canfield, Ohio. Also present for the interview was Wendy's District Manger, Eric Snyder.

INTERVIEWED

Cheyenne Craig
Wendy's Restaurant
4161 Boardman Canfield Road
Canfield Township, Ohio
330-702-0581

I advised Cheyenne that we were from the Summit County Sheriff's Office and were conducting an investigation for the Mahoning County Sheriff's Office regarding an incident that occurred on May 26, 2013 at approximately 11:00 PM.

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

Cheyenne stated she worked from 4:00 PM until 2:00 AM. Cheyenne was working the drive-thru window that took the orders and collected the payment for said orders. At approximately 11:00 PM, an intoxicated person driving a black Buick or Mazda placed an order. The man sounded normal but when he approached her window she said he looked drunk. She first noticed "His eyes were all messed up", and he was not making any eye contact with her because his eyes were almost closed. She didn't know if his eyes were bloodshot. She asked the man later identified as Mr. Sciortino for his money and he gave it to her. Cheyenne stated she did not have direct conversation between the two of them. Cheyenne couldn't smell the odor of an alcoholic beverage coming from his car. She took his money and gave him his change back. I asked Cheyenne how she could tell he was intoxicated. Cheyenne said, "I could tell by the way he was acting and how he fumbled with his money and just threw it in my hand". Cheyenne said this was the first time she had a highly intoxicated person at the drive thru at Wendy's.)

Cheyenne is 19-years old and she stated this isn't the first time she has seen an intoxicated person. She has been to some parties and been around people that have been drinking and were intoxicated. Cheyenne said the driver of this black vehicle exhibited many characteristics of a person who was intoxicated.

After she gave this customer his money he drove his car to the next window. Cheyenne left her window and went up to help Christina with the order. Cheyenne had no further conversation with the male customer. When Cheyenne got to Christina's window she noticed that Christina handed this person a Coke and watched him spill it all over his seat.)

After this male got the rest of his order he left the drive-thru and stopped in the middle of the parking lot. Cheyenne was then told by her Manager, Aubrey, to call 911.

At approximately 2307 hours, Cheyenne called 911 and told the operator she believed there was an intoxicated man in the drive-thru and he was sleeping. She gave the operator the license plate number and what kind of car he was driving. The operator told Cheyenne they would send someone out.

(Cheyenne and Christina left their work stations and walked to the front of the store. They watched the vehicle through the glass window and saw the operator shut off his car and the vehicle's lights were shut off as well. They also noticed the driver's head was slumped forward and he appeared to be asleep. Cheyenne said the man appeared to be asleep for approximately 15-20 minutes before the police arrived.)

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :

SUBJECT

The Sheriff's deputy arrived in a SUV (Sport Utility Vehicle) and followed the black vehicle around the store a couple of times. The two vehicles then left the lot and drove past the Wendy's on State Route 224 towards the Auto Zone Store. A couple of minutes later Cheyenne observed the two vehicles on the road behind the Wendy's make a right turn at the stop sign, then a left on State Route 224. **This concluded the interview.**

On June 10, 2013 at approximately 1000 PM, Summit County Sheriff's Office Lieutenant Joseph Rusov and Detective Joseph Storad interviewed Wendy's employee Aubrey Snyder at the Wendy's Restaurant located on State Route 224 in the Township of Canfield, Ohio. Also present for the interview was Wendy's District Manger, Eric Snyder

Interviewed:

Aubrey Snyder
Manager
Wendy's Restaurant
4161 Boardman Canfield Road
Canfield Township, Ohio,
330-702-0581

I advised Aubrey that The Summit County Sheriff's Office was conducting an investigation for the Mahoning County Sheriff's Office regarding an incident that occurred on May 26, 2013 at approximately 1100 PM.

Aubrey stated she worked on May 26, 2013 from 4:00 PM until 2:00 AM. At approximately 11:00 pm, Aubrey stated Christina notified her through her headset that there was a very drunk man in the cash and order drive-thru and asked her to come to the drive-thru window. Christina told Aubrey that the man was slurring his words and spilled a drink in his car. (Aubrey heard him place his order and also heard that his words where slurred. When she got to the window, she noticed the man was falling a sleep and couldn't keep his eyes open. She couldn't detect and odor of an alcoholic based beverage because she wasn't that close to him. She noticed his face looked flushed and looked "Out of it". Aubrey then told Cheyenne to go towards the back by her window and get the license plate number and call the police. After she told Cheyenne to call the police she noticed the man was "Dozing in and out and couldn't keep his eyes open in the drive-thru". After getting his food order, he pulled up to the side where the exit door was located. He stayed there for a couple of minutes and drove off.) Aubrey thought he left but was told by another employee he drove to the other side of the building, parked his car in the middle of the lot, shut his car off and fell asleep.

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

Since they didn't have any customers at the time, Aubrey, Christina and Cheyenne went out to the dining room area and looked out through the door window. When they looked out towards him, they noticed he appeared passed out. Aubrey, Christina and Cheyenne stood at the door watching him for the entire time until the Sheriff arrived approximately 15-20 minutes later.

She noticed when the sheriff arrived the man drove off. Aubrey, Christiana and Cheyenne were inside the building pointing their fingers at the car trying to notify the sheriff that this was the guy. The man drove around the building but the sheriff didn't get behind him. They drove around the building a few times. The sheriff was on one side of the building and the other man was the opposite side of the building. Aubrey said to herself that the sheriff wasn't going to catch this guy.

She then noticed at the rear of the building the sheriff was behind the vehicle. They left the property and then made a right turn at State Route 224. They both drove by the restaurant towards the Auto Zone Store. A short time later Aubrey noticed the sheriff and the man where at the light again in front of Wendy's. This time the Sheriff and the driver made a left turn and drove off.

Detective Storad asked Aubrey if she had ever been around an intoxicated person at parties. Aubrey said it was her first instinct that this man was drunk. Aubrey said she knew what a drunken person looked like and what a highly intoxicated person looked like. Aubrey said there was a difference between a person that was tired or drunk. (Aubrey viewed this guy as some one that shouldn't be on the road because he was drunk.) **This concluded the interview.**

On June 12, 2013 at approximately 0909 hours, Summit County Sheriff's Office Lieutenant Joseph Rusov and Detective Joseph Storad conducted an interview with Matthew Bartolec of the Canfield Police Department at the Canfield Police Department located at 104 Lisbon Street in the City of Canfield, Ohio. Canfield Police Union Representative Patrolman Dean Vrancic was present for the interview. Matthew Bartolec was given Garrity Warning for this internal investigation. Officer Bartolec agreed to the interview and provided the following statement.

Interviewed

Officer Matthew J. Bartolec
Canfield Police Department
104 Lisbon Street
Canfield, Ohio 44406

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

Officer Bartolec stated he is currently employed by the Canfield Police Department and has been for approximately 5 years, under full time status for 3 years. Officer Bartolec stated he is Ohio Peace Officer Training Academy (OPOTA) certified. He is also an Officer with the Task Force for Violent Crimes. He stated he works third shift (the hours of 2300 hours to 0700) and has worked this shift for approximately 3 years.

On May 26, 2013 Officer Bartolec stated he was working his normal shift in the Patrol Division. At approximately 2310 hours, he heard the scanner in his patrol unit of a possible intoxicated driver passed out in the drive thru of Wendy's Restaurant located at 4161 Boardman Canfield Road in the Township of Canfield. Officer Bartolec stated the Mahoning County Sheriff's Office patrols that area.

He stated while in the area, he observed a Mahoning County Sheriff's Office vehicle had the vehicle which was broadcast earlier, on a traffic stop on State Route 224 west bound near Raccoon Road.

At approximately 23:28.17 hours, Officer Bartolec advised his radio room that he would be out with Mahoning County Sheriff's Office patrol unit on a traffic stop at the listed location per the Canfield Radio Room CAD report.

Officer Bartolec stated he pulled behind the Sheriff's Office patrol unit, activated his emergency overhead lights and exited his patrol unit. He stated he stood in front of his patrol unit near the passenger's front of the Sheriff's patrol unit and observed Sergeant Touville speaking to the driver through the driver's side window of the car which was stopped.

Officer Bartolec stated his patrol unit is equipped with a video dash recording unit which records both audio and visually. The visual recorder is activated when the emergency lights are activated. The audio recorder is manually activated by the Officer. He stated he learned after this traffic stop that his audio recorder was not activated.

He stated Sergeant Touville walked back to him and stated the driver of the vehicle was the County Auditor Michael Sciortino, but he could not detect an odor of an alcoholic beverage upon his breath. He stated it might be something medically wrong, but was going to have Mr. Sciortino perform standard Field sobriety tests. He stated he observed Sergeant Touville conduct the field sobriety tests. Officer Bartolec stated he walked to his cruiser to retrieve a portable breath device, while Mr. Sciortino was finishing the second field sobriety test which was the walk and turn test. Officer Bartolec stated upon his return, Mr. Sciortino was finishing the One Leg Stand test.

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

He stated he observed Sergeant Touville have Mr. Sciortino turn around and Sergeant Touville placed handcuffs on him.

(Officer Bartolec stated he did not observe the Horizontal Gaze Nystagmus test, but did observe the Walk and turn test. He stated Mr. Sciortino performed poorly on that test and that was the reason he went to retrieve the portable breath device.) He stated he did not retrieve the portable breath device because of the belief of a medical problem with Mr. Sciortino, but his belief that Mr. Sciortino was intoxicated. (The portable breath device was not utilized.) He stated Sergeant Touville while escorting Mr. Sciortino to his cruiser in handcuffs, asked if he was available to run a breath test at his station. Officer Bartolec was granted permission by Sergeant Conrad to assist the Sheriff's Office in operating the breath test machine at the Canfield Police Station. Mr. Sciortino was secured in the rear seat of Sergeant Touville's cruiser.

Sergeant Touville advised Officer Bartolec, he would transport Mr. Sciortino to the Canfield Police Department after towing the vehicle. (Officer Bartolec stated he believed through his training and experience and his observation that Mr. Sciortino was Under the Influence Alcohol and or Drugs.)

At approximately 23:39.00 hours, Officer Bartolec clears the scene per the Canfield Police Department CAD report. Officer Bartolec stated he learned approximately 20 to 30 minutes later through his radio room that the Sheriff's Office was not going to utilize their breath machine because they deemed it to be a medical problem rather than an intoxicated person. **The interview was concluded.**

(**On June 07, 2013** at approximately 1427 hours, Summit County Sheriff's Office Lieutenant Joseph Rusov and Detective Joseph Storad conducted an interview with Commander Thomas J. Assion. Commander Assion's interview is not included within this report because of the follow up interview conducted on July 02, 2013. The finding of both interviews will be forwarded on a later date.)

(On May 31, 2013 Federal Bureau of Investigation Agents, Deane Hassman and Thomas A. Donnelly conducted an interview with Mahoning County Auditor Michael Sciortino regarding the incident on May 26, 2013 that involved him and personnel from the Mahoning County Sheriff's Office. The typed interview is attached to this report.)

CONFIDENTIAL INVESTIGATION - CONTINUED

INCIDENT REPORT NO. :
SUBJECT

Conclusion:

Through this investigation, Summit County Sheriff's Office Investigators have determined through witness interviews that a male, identified as Mahoning County Auditor Michael Sciortino, certainly appeared to be operating a motor vehicle while impaired on May 26, 2013. This conclusion is based on the following: the actions and appearance of Mr. Sciortino witnessed by the employees of Wendy's, Sergeant Touville's observance of Mr. Sciortino's driving habits and subsequent failed performances on the field sobriety tests. Mr. Sciortino's admittance to consuming one or two alcoholic beverages. Mr. Sciortino was, by all appearances appropriately arrested for Operating a Motor Vehicle while Intoxicated by all known information at the time of the traffic stop. During the traffic stop process, Mahoning County Sheriff's Office Commander Thomas J. Assion arrived on the scene and met with Sergeant Touville. They agreed on a decision to cease the normal arrest procedure and subsequently release County Auditor Michael Sciortino because it was deemed to be a medical problem and Commander Assion would take him home. At no time does Sergeant Touville or Commander Assion seek medical treatment for Mr. Sciortino, nor does Mr. Sciortino make any request for medical attention during the traffic stop, during his field sobriety tests and/or after his arrest. Mr. Sciortino was then released to the custody of Commander Assion and taken to his residence. It is also apparent that several supervisory personnel of the Mahoning County Sheriff's Office became involved or indicated an interest in this particular traffic stop and subsequent disposition.

BY LT J.L. Busin L-21 DATE: 6-28-13
Det Qh ST 20247 6-28-13