

SUMMARY MEMO
CLEVELAND POLICE DEPARTMENT

To: Janice Casteel, City Manager
Tom Rowland, Mayor
Members of the City Commission

ORIGIN OF COMPLAINT

This complaint originated when two lawyers told me they had information that Chief Wes Snyder and Lt. John Dailey had given false answers under oath in depositions related to the *Hardwick* case. Neither of these lawyers is an assistant district attorney. Both lawyers told me to contact Franklin Chancey. It was not until the investigation was underway that Mac McCain told me he was involved in this lawsuit. Mr. McCain is allowed to finish up private practice when he becomes an assistant district attorney. However, when he told me of his involvement, he insisted that he was going to withdraw from that case. I do not believe we ever mentioned it again. I do know Mr. McCain never gave me or TBI any information about this case.

As a matter of courtesy, I informed Mayor Rowland and City Manager Casteel that this investigation was imminent. Unfortunately, I have reason to believe the Mayor did not believe this to be in confidence. The rumor mill at Cleveland Police Department was in full operation before TBI ever asked the first question.

The sad part of this investigation is the stupidity of it all. I do not believe the point system was started for any evil reason, but it should make one wonder why Lt. Dailey, who is equipped with a computer which told him where every car was at any

given moment, who had radio contact with every officer, needed a point system when he only had seven or eight persons on his shift. When asked about the point system, both Lt. Dailey and Chief Snyder either gave false or misleading answers. Since a point system is not illegal in itself, why not tell the truth. The cover up is always worse than the crime.

As Judge Collier pointed out in his fine opinion in the *Hardwick* case: "however imprecise and senseless a point system is in evaluating officers, it is not a constitutional violation. The objection of this office to a point system or any type of quota system is simple: Jurors do not look favorably on any case where an officer may receive any type of benefit other than his or her salary for making arrests. No progressive police department still uses this type of tool for evaluation. In general, many police officers are as competitive as most of society and working under a point system may push officers to make stops or arrests that they should not have made.

There is no question that this system was introduced by Lt. Dailey with the support of Chief Snyder. There is also no doubt that other shift leaders objected. There appears to be no doubt that Chief Snyder ordered, through other personnel, that the program be ended in November, 2005. There is also no doubt that the point system continued until some time in 2007. There is no doubt that neither Lt. Dailey or Chief Snyder were forthcoming when asked questions under oath about its existence. The question is did Chief Snyder know it was still in use when he answered questions under oath that it did not, or when he told Joe Cate or myself that it did not exist. Judge Collier found that the point system "was at least tolerated by the chief of police." Now the

question becomes, was Lt. Dailey insubordinate, or was there some tacit agreement by Lt. Dailey and Chief Snyder, or even worse, did Chief Snyder have any idea of what Lt. Dailey was doing?

There is no question in our analysis of this investigation that more than two officers made false statements under oath. The question is whether these were material to an issue in the *Hardwick* lawsuit in light of Judge Collier's ruling. This is still under review.

As for Chief Snyder, there is no smoking gun as to the falsity of any statement under oath, but his answers if not false were certainly disingenuous. There is evidence that I believe Chief Snyder committed a crime in the incident involving Duff Brumley. I learned of that incident when Brian Smith felt caught between following the orders of a superior officer or following the law. He knew then Chief Snyder had done the wrong thing. I decided at that time not to prosecute Chief Snyder considering it was just another indication of the famous "Snyder temper". In fact, I don't think anyone would ever brought that up again had Chief Snyder apologized, but I think he finds it difficult to admit a mistake or apologize. There were other documented incidents of Chief Snyder making rash decisions which had to be withdrawn. This crime occurred when Chief Snyder ordered a summons be served on Duff Brumley for an incident which did not occur in the city limits, which he had no jurisdiction over, and which he did not witness. Another factor in not prosecuting was when Chief Snyder was told that the potential

witness had been approached to sign a non-prosecute agreement, he did not object. This indicated to me that he knew he had made a mistake.

Much has been made of my friendship with Duff Brumley. Detective Brumley became a friend when he was working in narcotics and had many occasions to seek my signature on search warrants. Detective Brumley did a marvelous job both in making cases and in preparing those cases for indictment. He has continued to earn respect by continuing to work on the triple homicide when it appears everyone else gave up. I consider the majority of officers at Cleveland Police Department are my friends--at least those who are interested in quality law enforcement.

It has been suggested that Chief Snyder violated T.C.A. 39-16-504 which makes it unlawful for any person to make a false entry in a government record. That is to say by giving false answers to questions in his deposition or interrogatories knowing that the deposition or interrogatories would be a government record. For the foregoing reasons, I choose not to seek any indictment at this time.

Interestingly enough, I have had to call for TBI investigations of McMinn County Sheriff's Office, on officers of the Sweetwater Police Department on two occasions, and on Monroe County Sheriff's Department on two occasions. In none of these investigations was my office or myself castigated in the media. During these investigations I felt completely at ease around those persons being investigated, because they seemed to realize that was my job.

I want to make my policy clear: This office will investigate any credible claim of corruption in law enforcement or government. I, personally, will do my best to shield officers who make honest mistakes, but any violation of the public trust I will not abide.

In 2006, we tried to establish a relationship with law enforcement which encouraged cooperation between agencies. This has been accomplished with every agency except Cleveland Police Department, that is a few of the upper echelon. Again, we have no problems with any of those who believe in good law enforcement, and that is the majority of Cleveland Police Department.

A few weeks ago, there was a story in the Cleveland Daily Banner with a quote from officer Tom McClain, which is not only inaccurate and misleading, but it is also dangerous to the resolution of this case. The whole story is an insult to those of us who worked diligently on this case: patrol officers from Cleveland Police Department and Bradley County Sheriff's Office, detectives from both agencies, personnel from the district attorney's office, and the drug task force. The original tip as to the identity of Clifton Mitchell was given to law enforcement by Drew Robinson who received this information from a confidential source. When Mitchell turned himself in, this office worked to get him back to Tennessee before Georgia could claim him. We were contacted by a detective from Bradley County and Cleveland Police Department who said Mitchell would talk only if a district attorney was present. This agreement was procured by detective Robert Harbison, Detective Kevin White, and Assistant District Attorney

Stephen Hatchett. The press release did not mention any agency other than Cleveland Police Department.

I have seen a copy of a letter Chief Snyder wrote to each of the victim businesses giving credit to no one except Cleveland Police Department. This letter also contained erroneous and misleading information about the agreement. This type of attitude is juvenile and does not bode well for cooperation, which citizens expect.

The silliness continued when Chief Snyder decided that he did not want the District Attorney's Office involve in the mandatory in-service training that officers must have every year. This does not injure this office, as we do not receive any pay. It is strictly something we engage in for promoting better law enforcement.

Another incident this office is concerned about involves the Project Safe Neighborhood Program sponsored by the U.S. Attorney's Office. I understand Chief Snyder was signed up to attend a seminar in Oak Ridge where those in attendance received a fine program which stressed the need for cooperation between local, state and federal agencies. One of the main topics or areas of concern is the coming gang problem. I was reminded of this when Chief Snyder effectively muzzled Ken Simpson who is our only local expert on gangs. While most of our chiefs and sheriffs in the district attended, Chief Snyder was not there. U.S. Attorney Russ Deadrick asked me if I knew why he did not attend and I could not answer.

There are other instances revealed by this investigation which concern this office and should concern all citizens. Several times officers were ordered to arrest or cite someone into court. A school resource officer was ordered to take a juvenile petition when she felt it was unjustified. Someone in the administration had received a complaint on this officer by the child's mother and this officer was ordered to take a juvenile petition against the child. Even though the order was given by George Campbell, it obviously came from someone up the ladder. When she appeared before Judge Swafford, she told him this petition was not justified and he dismissed it.

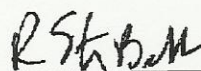
This and the Brumley incident are only examples of officers being ordered to arrest or summons defendants to court. Any time this occurs, the officer has to make oath to the facts that make up probable cause. In these types of cases, the officers must either exaggerate the facts, commit perjury, or as Brian Smith did, protect themselves by writing on the search document, "I was ordered to do this." At any rate, it forces them to violate the law and their oaths as police officers.

Then there is an Eddie Bonnet incident. This officer charged the defendant with a crime. Someone in the prior district attorney's office wrote on the warrant that it was to be dismissed because the search was bad. At some point, Bonnet wither was ordered to re-write the warrant or chose to do so. The TBI has sworn statements which differ on this. I met with Eddie Bonnet and the TBI interviewed him under oath. It appears to me that someone was after Eddie Bonnet for some reason, but I cannot ascertain who that person or persons were. I do know that he has undergone two internal investigations.

I have tried to outline the problems at Cleveland Police Department which are characterized by the incidents I have previously described. Even though there are some prosecutable violations, I choose at this time not to seek prosecution, but to commend this to the City Manager and the City Commissioners for their consideration.

This investigation report was massive containing several volumes. I have merely attempted to summarize the allegations and findings.

While the investigation is finished, I await your feedback. I could recuse myself in these matters and ask another district attorney to consider whether prosecution is warranted.



R. Steven Bebb
District Attorney General
10th Judicial District