



Bruins 3, Penguins 4, Final

State Police destroyed key records in OT probe

By [Matt Rocheleau](#) Globe Staff, Updated May 14, 2019, 10:10 a.m.



JESSICA RINALDI/GLOBE STAFF/FILE/GLOBE STAFF

A year into an internal audit of overtime abuse, the Massachusetts State Police destroyed years-old traffic citation records, key evidence that federal prosecutors now say prevents them from examining how far back the payroll scandal

extends.

The State Police acknowledged last week in response to questions from the Globe that the agency got rid of the citations in January 2018. At that time, agency spokesman David Procopio said, the department's own probe had only considered 2016 misconduct and the department was unaware of any criminal investigations.

The destruction of documents from 2014 was part of a routine annual process and "would not and did not raise any red flags," Procopio said.

However, troopers' payroll and citation records had been under broad scrutiny at the time. The records were disposed of a full year into the department's own audit, months after leaders eliminated overtime programs tied to the scheme and weeks after media reports highlighted potential fraud in such documents.

"Wow. I'm dumbfounded about hearing this," said former state inspector general Gregory Sullivan. "This is blatant, outrageous, and worse than the underlying crime. It's 10 times more serious."

The latest revelations mark another [setback](#) for the state's largest law enforcement agency, which was previously [rebuked](#) by US attorney Andrew E. Lelling for trying repeatedly to destroy decades of payroll, attendance, and personnel documents, despite numerous active investigations.

The destruction of records became a flash point [in federal court earlier this month](#), when US District Judge Mark Wolf pressed prosecutors on why they hadn't gone back further to examine the breadth of the fraud.

"It appears that there's strong circumstantial evidence of a conspiracy or a RICO conspiracy," Wolf said.

Assistant US Attorney Mark Grady said that while troopers have only been charged with fraud dating back to 2015, the overtime programs they abused go back more than a decade, and it was “possible” the fraud did, too.

But Grady said the State Police told federal investigators that “the overwhelming majority of records from prior to January 2015 had been destroyed.”

Prosecutors have relied on traffic citations to show troopers submitted fraudulent paperwork in order to collect overtime and cover up for not working patrol shifts.

Eight troopers have since pleaded guilty to federal embezzlement charges. The agency has accused another 38 troopers in the scheme, two of whom have pleaded not guilty to charges brought by state Attorney General Maura Healey.

Federal authorities, state prosecutors, and the State Police are conducting ongoing investigations.

Governor Charlie Baker has previously [called](#) the overtime scheme a “conspiracy” that “goes back a long time,” even before his administration took office in 2015.

Last June, after the State Police broadened their audit to review 2015 records, Baker said: “If we find some of the violations there, we’ll look back into 2014,” adding, “we’re going to continue to go back into previous years and review those records.”

It appears Baker did not know pertinent citation records had already been destroyed.

Aides for Baker did not respond to multiple requests for comments made over the course of a week. Officials for Lelling and Healey declined to comment.

On Tuesday afternoon, hours after this story was published online, Baker responded to press inquiries in a State House hallway and deflected a question about the agency's destruction of records.

Baker said that the State Police did "the most important thing" by ending the overtime programs and disbanding the unit at the heart of the fraud allegations.

Baker added: "They're cooperating with the AG. They're cooperating with the US attorney. If there's information that either of those operations need, I'm sure they'll make it available to them."

A Baker aide then ended the brief session with the press.

The State Police abided by state rules and department policy that require citations be kept for at least three years.

However, the department appeared to have violated state rules that require agencies request and gain approval from a [seven-member Records Conservation Board](#), before disposing of the documents in January 2018. The board signs off on whether agencies can destroy the last remaining copies of many public records, including citations.

Had the State Police sought approval, someone from the department would have had to sign a form with the board to "certify" that the records "are not the subject of any litigation hold or pending or actual audit or investigation."

Board officials said the State Police haven't sought approval to destroy citations since the summer of 2014, when it was granted permission to get rid of citations issued from 2003 through 2010, records show.

Procopio did not respond to repeated requests for comment about why the department did not seek approval from the Records Conservation Board.

Jenny Hedderman, chair of the records board and the state's deputy comptroller, declined to comment on the State Police actions, saying "members are prohibited from discussing the destruction of specific records outside the purview of a regularly scheduled board meeting." The board is scheduled to meet next on June 5, she said.

Failing to retain records can trigger penalties under a [statute](#) that imposes either a fine of between \$10 and \$500, up to a year in prison, or both, Hedderman added.

And she said that "early destruction of records might trigger additional actions for lack of access to public records" under a separate [statute](#) that can lead agencies to be fined between \$1,000 and \$5,000.

Sullivan, the former state inspector general, said Healey should investigate the destruction of citations as a criminal matter, separate from the overtime probe.

He said an investigation could "determine who made this decision up the chain of command and those individuals should be prosecuted."

"It's routine practice of criminals to destroy records — that's the only thing that's routine about this," said Sullivan, who now works for the Pioneer Institute, a Boston think tank. "It's not routine for investigators of a police department to destroy records during an investigation."

The State Police began their internal probe into overtime abuse in early 2017.

Within just a few months, they found enough problems to eliminate a pair of years-old overtime programs and to [suspend](#) without pay at least one trooper, who, [WCVB reported](#), faced allegations he altered traffic citations to make it appear he was working.

In October 2017, the television station [reported](#) it had found discrepancies with overtime and citation records for five more troopers. In November 2017, newly appointed Colonel Kerry Gilpin expanded the internal probe into overtime abuse.

Two months later, the years-old citation documents were destroyed. The destruction occurred the same month the State Police [announced](#) they would work with Healey's office to further investigate the no-show shifts.

The US attorney's office has said the State Police were aware of the federal investigation "since at least February 2018." The department began preserving records a month later, Procopio said. He declined to say why records weren't preserved before then.

Matt Rocheleau can be reached at matthew.rocheleau@globe.com. Follow him on Twitter [@mrochele](https://twitter.com/mrochele)

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