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Rather than fix, state cops nix radar flaws

Memos detail cover-up

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PENNSYLVANIA STATE POLICE rejected a simple, free repair to error-prone radar guns last year, fearing the public would find out and challenge speeding tickets, according to newly released state police internal memos.

Rather than fix radar guns that a state police commander said "are consistently malfunctioning or not functioning at all," top brass rejected the radar manufacturer's offer of 600 portable battery packs and decided to keep the problems secret, the documents say, apparently hoping that innocent motorists nailed with speeding fines wouldn't find out.

"The corrective action needs to be accomplished efficiently, quickly and with discretion," wrote Maj. Kathryn Douth, then-commander of the state police Bureau of Patrol, in a June 12, 2003, memo to Lt. Col. Ralph Periandi, the state police second-in-command. "Obviously, the department cannot risk sending a message that these radar devices are inaccurate, while recalling them for modifications."

The state police supervisor of enforcement programs wrote in February 2004 that the department risked "sending a mixed message" if it fixed the guns. Further, wrote Sgt. Martin Henry, if word about the radar problems leaked, it "could result in losing all speeding citations made with the Decatur Genesis handheld model and the reversal of previous convictions for speeding."

State police have been trying to quiet the radar scandal since the *Daily News* first wrote about the defective guns in March.

The newspaper reported that Timothy Shingara, a state police radar expert, testified during an accused speeder's September 2003 trial that state troopers repeatedly complained that their Genesis radar guns often gave phantom readings, wrongly clocking slow-moving cars and even roadside rocks at 70 mph or more.

Rather than acknowledge what the newly released memos show were months of concern about radar inaccuracies, State Police Commissioner Jeffrey Miller called the *Daily News* article "inaccurate and misleading" and denied any problems. Decatur Electronics, which makes the Genesis radar guns, also criticized the story.

Both said the radar gun has an electronic "internal override" that corrects phantom readings when the gun is pointed at a moving car. However, the documents include reports from troopers complaining of phantom readings while the gun was pointed at moving vehicles.

State police spokesman Jack Lewis this week continued to insist that state cops aren't writing tickets based on faulty equipment.

"All of the state police radar equipment is and has been working properly," he said in an e-mail response to questions.

The state police documents were among hundreds released last month in response to a lawsuit filed by Shingara, who contends he was wrongly disciplined after publicly testifying about the defective guns.

The radar expert's lawyer, Don Bailey, said the documents prove the state police tried to cover up the malfunctioning radar, which he said should be investigated as a crime.

"They know they could be subjected to thousands of lawsuits and they deserve to be, because thousands of Pennsylvanians undoubtedly have been unjustly convicted based on this faulty equipment they knew about," said Bailey.

"This is criminal," he added. "There needs to be a federal grand jury investigation of what they did because they are intentionally letting people be convicted that didn't break the law. And they're letting troopers innocently testify to judges that this equipment works properly."

Last month, the state police released an \$18,000, taxpayer-funded University of Pittsburgh evaluation of the radar guns. State Police Commissioner Miller said the study supports his contention that the radar works fine.

State authorities, including Gov. Rendell, refuse to release the state inspector general's recent report on whether state police tried to cover up the radar malfunctions.

Meanwhile, in the months since the original *Daily News* story about the radar scandal, motorists across the state have begun to challenge speeding tickets.

A Lancaster lawyer who represented a man accused of going 72 mph in a 50 mph speed zone subpoenaed Mark Wrightstone, Shingara's former boss, last month. After a state police lawyer appeared at the trial to fight the subpoena, the prosecutor dropped the man's speeding charge and the subpoena was dismissed, said the accused speeder's lawyer, Chris Patterson.

An Allentown lawyer who represents a man accused of speeding and drunken driving has subpoenaed Shingara for a court

hearing on Friday. Lawyer Jason Jenkins said, "I'm asking the judge to throw out the DUI results because the officer said the only reason he pulled him over was because of speeding."

The prosecutor has already approached him about withdrawing the speeding charges, Jenkins said.

Michael Gozdiskowski, a Wyoming County resident who was ticketed in September for going 71 in a 55 mph zone, said he's hiring a lawyer to fight his ticket because his pickup truck can't go that fast.

"It's not the money. It's not even the personal issues for me," said Gozdiskowski, 21, whose hearing will be next February. "It's more of the whole system just failing and they're still using it. They should either just fix it or just junk the whole radar unit itself."

State police spokesman Lewis said he is unaware of any cases in which prosecutors have dropped speeding charges because of concerns about radar accuracy.

The Genesis radar guns - widely used by cops across the nation - appear only to malfunction when plugged into the cigarette lighter in 2003 or 2004 Ford Crown Victoria police cars, according to experts who have studied the problem for the state police.

State police experts, the gun manufacturer and four outside consultants concluded that electrical noise from the Crown Victoria's alternator causes the radar guns to give false speed readings, according to state police documents.

The University of Pittsburgh study discounts the alternator theory, even though they did not test the alternator when it was in a patrol car. Using a Genesis radar gun, the Pitt researchers clocked a stationary cell phone at 87 mph and a watch at 113 mph. The researchers maintain that the radar gun wouldn't give false readings when pointed at a moving car - but never actually tested it on a moving car.

Decatur Electronics spokesman Chad Mitchell declined to comment. Lewis, the state police spokesman, steadfastly defends the radar gun.

"The bottom line is that the state police radar that you have questioned in the past has been tested by a reputable, independent agency and has been found to work properly," Lewis wrote in an e-mail.

The 572 Genesis radar guns that the state police bought in 1997 also had an earlier problem that cops covered up, according to the newly released memos.

State police also have 250 Kustom Falcon radar units that work fine, the records show.

In 1999, troopers began reporting phantom speed readings from the Genesis guns when their patrol cars were idling fast, according to the memos. Shingara, the state police radar expert now suing the agency, and Decatur Electronics technicians discovered that an inexpensive electronic filter would fix the problem. Decatur offered to install the filter for free.

Lt. Gerald Roberts, assistant director of the state police Patrol Services Division, argued in a February 1999 memo to his boss that the radar guns should be fixed one at a time during routine service to keep the problems secret.

"If the radar sets were all recalled at once under the announcement of a problem, the inappropriate media attention would cause undue concern to the public and could potentially undermine our speed enforcement efforts for the past year," wrote Roberts.

Eighteen months later, Roberts expressed concern that 66 radar guns still hadn't been fixed.

"If the public were to find out about the problem it could seriously jeopardize all prosecutions for the past two years," said his Oct. 12, 2000, memo to Cynthia Transue, who is now a deputy state police commissioner.

In October 2002, troopers began registering fresh complaints about phantom speed readings with Genesis guns, according to the memos.

"It has been reported that the Genesis handheld model radar sets are consistently malfunctioning or not functioning at all," wrote Maj. Douth, then director of the Bureau of Patrol, in a May 14, 2003, memo.

Teams of experts, first suspecting interference from new Motorola computer equipment in police cars, began studying the radar problem. By July 2003, experts from Decatur Electronics fingered the 2003 Crown Victoria alternator as the source of electronic interference causing the phantom radar readings.

State police experts studied an array of possible fixes, ultimately deciding that portable battery packs that didn't require the radar guns to be plugged into the police car cigarette lighters were the best solution, according to the memos. Decatur Electronics offered state police 600 battery packs for free, but cops rejected the offer, according to the documents.

Meanwhile, in September 2003, an accused speeder hired a lawyer, appealed his speeding ticket and subpoenaed radar expert Shingara to testify in court. The day the expert was supposed to publicly testify about the defective radar guns, Lt. Col. Periandi ordered the Genesis guns taken out of service. The day after Shingara testified, he ordered them back in service but said they were not to be used in 2003 or 2004 Ford Crown Victorias, the memos said.

On Dec. 12, 2003, apparently concerned that the *Daily News* was working on a story about the radar guns, state cop brass removed all restrictions on use of the Genesis radar guns, documents show. A public notice appeared on the state police Internet site three days later announcing that tests on the radar guns showed they worked fine.

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