



Fred Phillips, commissioner of the Tennessee Department of Safety.

Background checks flag 48 state troopers Governor orders probe after questions from 'Tennessean'

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The Tennessee Highway Patrol has 48 officers with charges on their record ranging from suspended driver's license issues to felonies, according to a background check of the entire department ordered by Gov. Phil Bredesen yesterday.

That's about one of every 18 officers on the force of 855.

The governor ordered the screenings in response to questions from *The Tennessean* about background checks on THP officers mentioned in a memo from the commander of the patrol.

"There is an issue for me in how the department operates," Bredesen said in response to this inquiry and others by the paper. "My reaction was, 'I'm getting expletives tired of *The Tennessean* doing our work for us. Let's go do some work.'"

The newspaper inquired this week about an Oct. 12 memo from Col. Lynn Pitts, commander of the patrol, telling officers that they would have to pass background checks to access a federal criminal database. If officers have felonies on their records, it is their responsibility to get them expunged, the memo said.

That inquiry closely followed a report by *The Tennessean* that two-thirds of officers promoted since Bredesen took office gave money to his campaign or had relatives or patrons who did.

Bredesen said yesterday that he would ask an independent law enforcement consultant to review practices at the THP, including the promotion issues.

He also ordered the Department of Personnel to review files for the remaining 807 troopers to look for non-criminal issues.

"What I'd like to come out of this all with is ... that I can look everybody — the Lord, to the public, to the press, to my wife — in the eye and say 'I've done everything I know with the data that's available over there to identify any problems and take care of it,' " Bredesen said.

The 48 officers showed up in either a driver's license records database or the National Crime Information Center database, said Jennifer Johnson, spokeswoman for the TBI, which conducted the checks at Bredesen's behest.

Some of the troopers had been charged with multiple offenses, as many as three in some cases, Johnson said.

The THP, the TBI and the governor's office declined yesterday to identify any troopers who had been charged with any crimes, or, for the most part, to detail the offenses involved. THP officials did identify two offenses, although they did not name the troopers. One was larceny; another was assault.

One reason they cited for not disclosing specifics was that they do not know the outcomes of the cases.

The NCIC information is confidential by law, and the outcome of some of the charges is not specified in the database — state officials must glean that information themselves from court officials.

State Safety Commissioner Fred Phillips, whose agency oversees the THP, was told late yesterday afternoon about the 48 troopers who had shown up in the TBI review, department spokeswoman Melissa McDonald said. Phillips said he would "take proper action of what the TBI finds ... and welcomes and supports the broadening probe" of his agency, she said.

Bredesen has also asked the TBI to work with a lawyer in the state Department of Safety to review all Internal Affairs investigations of the department dating back years to determine if any other cases require action.

"They are going to work backward to review those records to see if there are any other matters that need to be reviewed by the TBI," Bredesen said.

The idea behind expungement, the process that Pitts suggested in his memo, is that the crime is no longer public. The purpose of the process is to help rehabilitate a first offender without staining them for the rest of their life, said Nashville lawyer David Raybin. He helped author the state's expungement law.

However, the trooper's underlying conduct — the action that resulted in the charges — could be grounds for sanctioning that officer, said Raybin, who also represents the local chapter of the Fraternal Order of Police.

The governor said yesterday that he wasn't holding any individual in the department responsible for problems, but that he wanted more information.

He said he had asked TBI Director Mark Gwyn to provide a report within a week about the 48 officers in question.

The TBI has broad exemptions from the state's public-records laws, but Bredesen pledged that when Gwyn issues a report, the governor will make it public.

"When I have that information, we will decide what is the appropriate action ranging from 'sin no more,' 'watch yourself,' to termination conceivably," the governor said.

Bredesen said "one of the more serious" issues would be if officers lied on their applications regarding prior convictions. That would lead to immediate termination, he said.

"If they lied on the application, I don't want to hear any more about it, you're gone," he said.

Bredesen's order of the background checks came after the newspaper began asking questions about the Pitts memo.

"If a felony conviction is found during a background check it will be your responsibility to rectify these records by either expungement or other legal process," Pitts said in the memo, adding in bold, "It is imperative that you attend to this issue immediately."

The checks are a new requirement as the patrol works to have all its officers cleared to use the federal database.

"Failure to provide the necessary documentation and/or meet the qualifications as stated shall disqualify you from obtaining certification," Pitts' memo said. "It could also effect your position with the Tennessee Highway Patrol."

In an interview yesterday, the colonel said the memo was not asking officers with criminal problems to try to hide them. He said it was simply a courtesy to officers.

"Not anywhere in here have they been told to do anything illegal, been told to hide something or take something off ..." Pitts said. "It does not say that, it has not said that ... If you have a felony conviction and I find it out, you're going on leave without pay immediately."

However, the governor, when asked in an interview about the wording, said it was "not an acceptable paragraph."

"Somebody read that paragraph to me — it sort of read to me like 'I don't really care if you have a felony conviction or not. Just take care of it,' " Bredesen said.

The Oct. 12 memo told officers that THP would be doing background checks; but as of yesterday afternoon, only 200 had been done. Bredesen stepped in yesterday and had TBI do all 855 checks in one day.

Raybin said he saw nothing sinister in Pitts' memo. Because expungements follow probation periods that can last several years, criminal defense lawyers sometimes forget to file the necessary court papers to get their clients' charges expunged, Raybin said.

Pitts' memo could have been misconstrued because it's not possible to expunge a conviction, Raybin said.

"I think he was probably focusing on officers who had those old post-trial diversions where their lawyers had not expunged it," Raybin said.

Pitts said the department performs background checks on officer candidates before they are hired, but said there had been some instances where officers may have transferred into the department from other state agencies without such checks by the THP, which is part of the Department of Safety.

As of yesterday afternoon, the department was continuing to conduct its own background checks separate from the TBI, according to Phillips. About 200 of those had been completed, and he said two had flags that raised a concern.

One officer had a larceny charge show up in his background and another had an assault charge. Phillips said he did not know the nature of the offenses or whether they resulted in convictions.

"If I find someone who has a criminal conviction, you'll know about it because I'm going to fire them," Phillips said. •