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## Deputy's snooping into driving records brings lawsuit

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An Ocala woman maintains in a forthcoming lawsuit that a former Marion County Sheriff's deputy violated her civil rights by unlawfully snooping into her driving records.

The woman, Kelleen Truesdell, also alleges that state and local authorities share the blame because they did nothing to curb the electronic prying by Clayton Thomas, who at the time was a sheriff's sergeant, decorated SWAT team member and courthouse bailiff. He has since resigned.

"We don't know what the harm is, but that's the fear. We suspect there is no harm, but there's no way to know," said Andy Dogali, a Tampa lawyer representing Truesdell.

Truesdell intends to seek class-action status for thousands of other women, including numerous Marion residents, whose records were searched by Thomas.

One of those women is Melissa Cook, the former mistress of former Undersheriff Dan Kuhn. Officials say Thomas inappropriately accessed Cook's driver's license record on Oct. 4, 2012 — the same day the news of the affair broke in the Star-Banner.

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Thomas' activities came to light earlier this year when it was discovered that he had poked around in the records of state Attorney General Pam Bondi.

The state Department of Highway Safety and Motor Vehicles, in response to a media request, had searched Bondi's file to learn which law enforcement agencies had accessed it.

The Marion County Sheriff's Office made the list because Thomas had sought Bondi's driver's license picture on two occasions: in August 2010 and January 2011.

After informing the state that Thomas' interest in Bondi was not tied to any investigation, the Sheriff's Office launched an internal inquiry.

The probe showed that Thomas had submitted requests for hundreds of women's driver's license records between July 2010 and June 2013.

The Internal Affairs unit assembled more than 1,500 pages of names, totaling 42,364 transactions that Thomas had made in that time.

Under the state system, Thomas' request would have triggered records for all similarly named people with a Florida driver's license.

Thomas, a 26-year veteran of the Sheriff's Office, resigned in August after he admitted to investigators that he had obtained the records without an official purpose.

Truesdell's records were breached in June 2011. She learned this from a letter sent by Sheriff Chris Blair in August.

In the letter, Blair called the revelation "troubling" and apologized.

He also explained that Thomas was motivated by personal curiosity and that the former deputy did not intend to utilize her information for criminal purposes, such as identity theft, or to harm Truesdell.

Other public records indicate that Thomas continued to look up records after Blair and his senior staff understood they might have a problem with the staff's improper access of the state system.

It's unclear whether they knew about Thomas specifically.

Blair took office in January. Two months later, Chief Deputy Fred LaTorre issued a memo saying the top brass had learned the database "may have been" misused in the past.

LaTorre urged the staff to adhere to the state's protocols. He also circulated an article about the consequences of failing to do so.

The article was written by Hal Johnson, general counsel of the Florida Police Benevolent Association, the police union.

Johnson had written in the union's February newsletter that law enforcement agencies were cracking down on abuse of the driver's license system, and that violations could lead to disciplinary actions and even criminal charges.

Tapping into the database for personal reasons could invite legal action under the federal Driver's Privacy Protection Act, Johnson added.

Enacted in 1994 as an anti-stalking measure, the law prohibits state motor vehicle departments from releasing a driver's personal information except for legitimate government functions, or unless the driver gives his or her consent.

The statute contains a penalty of \$2,500 for each violation, Johnson noted.

Sheriff's documents show that Thomas was still accessing records this past May — and perhaps as late as June, based on prior Star-Banner reporting.

Truesdell's lawsuit, scheduled to be filed in federal court today, argues that inadequate policy safeguards eased access to her driving records and license photo, as well as data such as her Social Security number, place and date of birth, residential address, insurance coverage, names and information of emergency contacts as well as "other highly restricted personal information."

Besides Thomas, the lawsuit names as defendants Sheriff Blair, Florida Department of Law Enforcement Commissioner Gerald Bailey and Department of Highway Safety and Motor Vehicles Executive Director Julie Jones.

Based on the number of responses Thomas got, the penalty under federal law could hit \$106 million if Truesdell's claims

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Truesdell and Melissa Cook are not the only women involved. Blair sent similar notification/apology letters to some of the most prominent women in Ocala. Their records were also improperly accessed.

And, according to authorities, Thomas is not the only person who was improperly using the state database.

In November 2012, in the wake of the Cook/Kuhn scandal, FDLE sent letters to the heads of several agencies asking them to investigate whether an employee's search of Kuhn's or Cook's records was for official purposes.

In addition to then-Sheriff Ed Dean in Marion County, the recipients of those letters included the chief judge for the 5th Judicial Circuit that includes Marion County, the Tallahassee-based inspector general of the Department of Children and Families, the sheriffs of Bradford and Lafayette counties, and the police chief in Plantation.

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The outcomes of those inquiries were mixed, according to records FDLE provided to the Star-Banner.

Marion sheriff's Maj. Don Maines, head of the agency's professional compliance bureau, wrote in late August that Blair's high command only recently had learned of the letter to Dean.

Two of the employees identified by FDLE had their state database privileges temporarily suspended and later retired, Maines wrote.

The third was counseled and allowed to resume her duties.

"Additionally," Maines wrote, "Thomas has been used as an example to current employees of the real-life consequences of improper (database) usage."

Grace Fagan, general counsel for the 5th Judicial Circuit, noted that the local judge in question had accessed Cook's records appropriately because Cook was involved in a case he handled.

Keith Parks, chief of DCF's internal investigations unit, wrote that the allegations of misuse against that agency's employee were verified.

The staffer received a written reprimand and was warned that another violation could lead to disciplinary action, including dismissal, Parks added.

Lafayette Sheriff Brian Lamb's office reported that the state system was not abused by a top official there, but Bradford Sheriff Gordon Smith's staff determined a lieutenant had violated policies, was counseled, and was stripped of his access.

Down in Plantation, Chief Howard Harrison's internal affairs unit found that a civilian employee had misused the system.

Harrison subsequently requested an audit and found she had violated policies by searching other people. The chief allowed the staffer to resign, Plantation Lt. Steven Geller wrote.

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The legal trail Truesdell seeks to travel has been blazed by plaintiffs in Minnesota, which has been rocked by recent scandals over public officials accessing drivers' records without authorization.

Last year local governments, including the cities of Minneapolis and St. Paul, combined to pay \$1 million to settle a federal lawsuit brought by Anne Marie Rasmusson, a former St. Paul police officer who sued after other law enforcement officers looked up her driving records more than 400 times, according to a report by the website [politicsinminnesota.com](http://politicsinminnesota.com).

Last month, the Minneapolis Star-Tribune reported that an insurer representing county governments in Minnesota paid \$2 million to settle a class-action lawsuit filed by 3,000 people whose records were compromised.

In that case a child support officer in Rock County, a community of fewer than 10,000 people in the southwest corner of the state, dug into a database of drivers' photos more than 4,000 times. The clerk was reportedly looking up friends, neighbors, co-workers and workers in other communities.

Two months ago, Jessica Miles, a local newscaster in Minneapolis, sued after learning that police officers from nearly 180 departments had looked up her records a combined 1,380 times.

Earlier this year five class-action lawsuits representing roughly 5,000 plaintiffs were filed against a former Minnesota Department of Natural Resources employee who inappropriately accessed drivers' records 19,000 times, almost all of them done to view records belonging to women, according to the Star-Tribune.

That case, however, might give government agencies in Truesdell's case some support.

A judge tossed out all five lawsuits, ruling the state did not provide access to the records with the knowledge that they were being abused.

Judge Joan Ericksen also determined, the Star-Tribune reported, that information contained in drivers' records does not qualify as "so extremely personal" to warrant constitutional privacy protection.

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