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MEMORANDUM

TO: All Media Representatives
FROM: Jon Tunheim, Chief Deputy Prosecuting Attorney
DATE: February 2, 2009
RE: No charges filed in Trooper diploma case

On December 5, 2008, the Washington State Patrol (WSP) submitted investigative reports for review regarding the investigation of a number of WSP troopers who were receiving incentive pay based on obtaining on-line degrees that were determined to not have proper accreditation. The reports outline what appears to be an extensive and thorough investigation of the relevant facts of the case. The reports did not contain any recommendation with respect to criminal charges, but only requested that this office review the materials to determine if any criminal charges should be filed. The matter was assigned to Mark Thompson, a 20+ year veteran prosecutor now specializing in fraud prosecution. Mr. Thompson completed a thorough review of these investigative reports, including listening to audio recordings of interviews of all of the troopers involved. From that review, we have determined that there is insufficient evidence to warrant criminal charges in this case and, as such, no charges will be filed.

Factual Summary

In July of 1996, the Washington State Legislature authorized an incentive pay program for troopers and other command staff within the WSP that allowed for a 4% incentive pay for those personnel who obtained a Bachelor's Degree from an "accredited" college or university. That program was publicized throughout the patrol. In 2008, after the patrol became aware that certain organizations that were offering on-line or distance learning degrees were not properly accredited, they initiated a review of their own incentive pay program and discovered that 10 troopers were receiving incentive pay for non-accredited degrees. This investigation followed, and reveals the following facts.

Between 2002 and 2006, eight troopers obtained what were represented to be Bachelor's Degrees from an on-line organization entitled Almeda University. Almeda University at that time held itself out as an on-line institution offering degrees based on life experience and training, and offered a degree in criminal justice. The organization claimed to be accredited by three separate accrediting organizations. Persons seeking a degree are required to submit a resume and summary of their experience and training to qualify. The first of the aforementioned troopers first submitted his degree to his sergeant in 2002, who denied the request for incentive pay. In 2006, however, he asked the Human Resources Department at WSP to review his degree to determine if he qualified for the incentive pay. He did this by calling the HR department and talking with an HR employee. At the HR representative's request, he submitted the degree and was purportedly told that the degree had been verified and accepted for incentive pay.

Similarly, another of the troopers independently obtained his degree from Almeda. However, prior to obtaining the degree, he asked the WSP HR department to verify if the degree would qualify him for the incentive pay. He was advised that as long as the organization was "accredited," then it would qualify him. He obtained the degree and submitted it to HR, who approved him for the incentive pay.

The other troopers who obtained their degrees from Almeda heard about the organization through word-of-mouth within the patrol. Each heard from another that the HR department had approved the degrees for the incentive pay, and each submitted their degree and were approved for the pay program.

Independently, another trooper was qualified for incentive pay based on a degree obtained from the "University of Berkley, Michigan." The trooper indicated that he first looked into the degree as a way to qualify him to be an applicant for a DEA position. He researched the program's accreditation and indicated that he believed that the program was properly accredited. He was required to submit an application and write a "thesis" or research paper, which he did. After receiving the degree, he called the WSP HR department asking what they would need to review him for the incentive program. He was told to send a copy of his diploma, which he did. Subsequently, he began receiving incentive pay.

The last of the troopers involved obtained his degree from an institution known as Columbia State University in September of 1997, prior to his employment with the WSP. At the time, he was serving in the United States Air Force. He indicated that distance learning was new at the time and offered him an opportunity to complete his college education without interfering with his work schedule. He said that he reviewed a brochure that he was sent, representing that the organization was accredited. He was required to submit information about his training with the Department of Defense, and also to read and submit essays on two specified books, which he did.

After joining the Patrol in 2000, he submitted his degree to the WSP and was accepted for incentive pay. However, in 2001, he was recalled to active military duty. He was scheduled to return to the Patrol in 2009. During that time, Columbia State University was closed down and its owner prosecuted for fraud. This trooper indicated that he found out about this in 2006 but did not attempt to address this issue while he was on military duty. He did receive some benefits

and a small portion of his salary from the WSP while on active duty, a portion of which was based on the incentive pay. However, the trooper told investigators that his wife handled all of the family finances while he was deployed and she did not know of the incentive pay aspect of his pay.

Conclusion

To prove a criminal charge in this case, this office would need sufficient evidence to prove beyond a reasonable doubt that these troopers *knew* that the diplomas were not properly accredited and/or that they *intended* to deceive or defraud the WSP. In our view, the facts of this investigation do not support such a conclusion. To the contrary, it appears that all of these troopers relied on the WSP HR department to determine if the degree would qualify them. In all cases, the HR department with the WSP accepted these degrees and qualified each for the incentive pay program. We have been advised by the WSP that all of the troopers requested that the incentive pay be discontinued and have in fact repaid all money that was attributed to this pay program, further demonstrating their mental state. This was done without any promise as to the results of the criminal investigation or prosecution.

While it may be argued that obtaining these degrees and having them accepted for educational incentive pay increases should have seemed to be “too good to be true,” that alone, in our opinion, does not sufficiently prove the criminal mental state beyond a reasonable doubt that is necessary for a criminal prosecution. Therefore, we do not believe that a jury would find any of these troopers guilty of any criminal conduct.

Our conclusion is that this is more appropriately handled as an employment matter. We have been advised that additional controls have been put in place by the WSP HR department to better verify credentials for the incentive pay program which appropriately addresses future requests for incentive pay. It should be noted that by our action, however, that we are not making any conclusion or recommendation on whether these troopers violated WSP policy or should be subject to employment related discipline. We leave that to the discretion of the patrol and their internal discipline process.