



INSPECTOR GENERAL REPORT

2005-03-0194

December 29, 2006

STATE POLICE DROP PROGRAM

Indiana Inspector General David O. Thomas, after an investigation by Investigators Rocky Stotts and Ryan Harmon, the State Board of Accounts, and Staff Attorney Amanda Schaeffer, reports as follows:

This investigation involves the Indiana State Police (ISP) Deferred Retirement Option Plan program (DROP). DROP is a retirement incentive option adopted by the ISP Pension and Insurance Advisory Board on September 1, 2002. The plan presents an option for an ISP officer who knows he or she will soon retire. DROP gives the option to work during the final three years before retirement, the DROP period, and accrue pension benefits set aside for a lump sum payout at retirement in lieu of a larger monthly retirement benefit which would accrue if the money were fully devoted to the pension. Once enrolled in DROP, the employee's bi-weekly payroll pension contribution is stopped and set aside for the lump sum payment.

In short, DROP allows the retiree to receive an immediate large lump sum

payment at the beginning of retirement with only a slightly less pension benefit.

In order to make DROP viable, enrollment in DROP requires an irrevocable notice of intent to retire within the employee's last thirty-six months. Once enrolled in DROP, the ISP employee must retire within the prescribed time limit. There is a Plan Administrator who oversees the DROP enrollment process and the ISP employee must sign a "Notice of Election" form with the Plan Administrator who also signs as a witness. It is this component of DROP which was the focus of the investigation.

I.

This investigation commenced from a report in 2005 that there was abuse in the ISP DROP program by Superintendent Melvin Carraway and Assistant Superintendent Colonel Cody Johnson, the top two ISP officials. The current ISP leadership brought this matter to the attention of the OIG upon discovery in early 2005 and cooperated and assisted in the investigation. ISP Detectives Rocky Stotts and Detective Ryan Harmon were assigned to the OIG as investigators in 2005. Auditors from the Indiana State Board of Accounts also played a major role in the investigation.

The assigned OIG detectives were contacted in early 2005 by an individual who requested a meeting with the investigators. The individual showed the detectives documents where past ISP Superintendent Carraway and past Assistant Superintendent Johnson had allegedly enrolled in DROP. The paperwork reflected that Johnson had enrolled December 19, 2002, and that Carraway had enrolled on April 14, 2004. The forms were signed by an ISP

employee other than the Plan Administrator.

In January of 2005, an ISP employee sent a letter to the Deputy State Treasurer, stating that Carraway and Johnson, who were now retiring, had enrolled in the DROP program and therefore were entitled to the lump sum refund of the pension contribution payments allegedly set aside through DROP.

However, at least two acts are inconsistent with the alleged DROP enrollment. First, copies of the completed election forms for both individuals were not forwarded to or signed by the Plan Administrator as required. Second, full pension contributions continued to be made by both individuals, indicating that DROP had not been irrevocably chosen by either Carraway or Johnson.

A logical deduction from this conduct could give the appearance that both individuals created this equivocal situation pending the outcome of the 2004 election for the Office of Governor, which event historically controls the assignment of these top two posts within ISP. For example, had the previous administration continued after the 2004 elections, both individuals could have conversely maintained that they had not yet entered DROP and continued to build a larger pension through continued contributions with a later DROP election. Likewise, DROP mandates retirement thirty-six months after the election, and both individuals may have wished to continue employment beyond this restricted time frame.

II.

The OIG asserts jurisdiction in this case under IC 4-2-7-2(b) where the OIG is responsible for addressing fraud, waste, abuse and wrongdoing in state

agencies. ISP is a state agency and Carraway and Johnson were employees of this agency.

III.

This investigation involving the DROP program was one of three cases investigations submitted by the OIG to the Marion County Prosecuting Attorney's Office in June of 2005, although the investigations continued thereafter. These three cases involved: (1) missing computer hard drives in computers assigned to Superintendent Melvin Carraway in investigation 2005-02-0072, (2) an investigation addressing the transfer of ISP pension funds to the not-for-profit Memorial Foundation investigation in 2005-04-0231 and reported this same date, and (3) this investigation regarding the DROP program. With the information obtained by the OIG and the additional efforts by the Marion County Prosecuting Attorney's Office, sufficient evidence has not been collected to advance these three cases to the point of filing criminal charges. The OIG concurs and declines to seek prosecution. Any future evidence receive by the OIG will be presented to the Marion County Prosecuting Attorney's Office for its consideration. This conclusion having been reached in 2006, this report and that issued in 2005-04-0231 have been prepared and issued by the OIG at the conclusion of 2006 and submitted to ISP for review.

However, prosecutorial review is only one potential disposition of an OIG investigation. The OIG reports the following additional actions taken as a result of these same three investigations.

1.

First regarding the current case involving the DROP program, the OIG makes the following recommendations in conjunction with the report issued earlier by the Indiana State Board of Accounts:

A.

The names of DROP enrollees should be included in the minutes of the meeting of the ISP Pension and Insurance Advisory Board at the time an ISP employee enrolls in DROP.

B.

Two witnesses' signatures should be required on the DROP enrollment form, as opposed to only the single signature of the Plan Administrator.

C.

If there is noncompliance with the strict requirements for enrolling in the DROP program, DROP benefits should be denied.

These recommended controls are essential when the Plan Administrator is under the chain of command of the ISP Superintendent and Assistant Superintendent who may wish to receive the benefits of DROP.

2.

Second, regarding investigation 2005-04-0231 and the transfer of the \$93,000 bequest from the ISP Pension Fund to the Foundation, the OIG submitted its investigation to the Indiana Attorney General and the Indiana State Board of Accounts. Based upon these actions, the Indiana Attorney General has recovered these transferred pension funds. Under the Attorney General's oversight, Cody

Johnson has resigned as the Executive Director and a new Executive Director for the Foundation has been appointed.

3.

Third, regarding investigation 2005-02-0072, the OIG filed an ethics complaint against ISP Superintendent Melvin Carraway on October 13, 2005 for violating ethics rule 40 IAC 2-1-9(f), using state property for nonofficial state business (currently codified as 42 IAC 1-5-12). This complaint was admitted to by the former ISP Superintendent and the Indiana Ethics Commission imposed a fine in the amount of \$5,000.00. This fine has been paid in full on July 27, 2006.

Dated this 29th day of December, 2006.



David O. Thomas, Inspector General