



INSPECTOR GENERAL REPORT

2005-04-0231

December 29, 2006

STATE POLICE MEMORIAL FOUNDATION

Indiana Inspector General David O. Thomas, after an investigation by Investigators Rocky Stotts and Ryan Harmon, reports as follows:

This investigation involves the creation and operation of a private not-for-profit corporation, the Indiana State Police Memorial Foundation (Foundation). The alleged purpose of the Foundation is to honor fallen Indiana State Police (ISP) officers by maintaining the Indiana State Police Memorial (Memorial) which is located near the Indiana State Police District 52 Indianapolis Post.

I.

This investigation commenced from a report in 2005 that a bequest of money to the ISP Pension Fund had been diverted to the Foundation. The current ISP leadership brought this matter to the attention of the Indiana Office of Inspector General (OIG) upon discovery in early 2005 and cooperated and

assisted in the investigation. The OIG in its investigation also received assistance from the Indiana State Board of Accounts.

The investigation revealed that the concept of the Memorial began in 2001 when ISP received a donation of \$62,700. The purpose of the donation was to perpetuate the memory of fallen ISP officers. An idea of building a Memorial was born, and in June of 2003, the Foundation was created as a not-for-profit domestic corporation. The Foundation's articles of incorporation described the Foundation's purpose as having the "exclusive responsibility for the care, preservation and maintenance of the Indiana State Police Memorial."

Cody Johnson of ISP served as the Executive Director of the Foundation from its inception in June of 2003 until his resignation from ISP in 2006. According to Foundation documents, Cody Johnson was to receive a salary of \$28,000 for the calendar year of 2005 for serving as Executive Director of the Foundation. During this same time, Cody Johnson was also employed as the ISP Assistant Superintendent and Chairman of the ISP Pension and Benefit Advisory Board (ISP Pension Board). The ISP Pension Board administers the ISP Pension Fund.

In 2003, ISP also initiated an agreement with the Indiana Bureau of Motor Vehicles (BMV) to produce Foundation specialty license plates. These license plates could be purchased, for an additional fee of \$25, by Indiana motorists as a substitute license plate.

This license plate fee revenue and Memorial contributions were deposited in the Foundation's private bank account rather than with the State Treasurer.

In 2004, the ISP Pension Fund was the recipient of a \$93,000 bequest from an estate. On May 24, 2004, Cody Johnson sent a letter to the executor of the estate, explaining that the money devised to the ISP Pension Fund was going to be directed to the Foundation. It appears that Cody Johnson signed this letter in his capacity as Chairman of the ISP Pension Board.

On May 25, 2004, the day after the letter was sent, a special meeting was held by the ISP Pension Board. At this meeting the ISP Pension Board approved the transfer of the bequest to the Foundation and the money was transferred from the ISP Pension Board to the Foundation on July 12, 2004.

II.

We first address the jurisdiction of the Indiana OIG. The OIG has jurisdiction to investigate the ISP as a state agency. IC 4-2-7-1-1(1). The OIG is further “responsible for addressing fraud, waste, abuse, and wrongdoing in agencies.” IC 4-2-7-2(b). The OIG is further charged to “recommend policies and carry out other activities designed to deter, detect, and eradicate fraud, waste, abuse, mismanagement, and misconduct in state government.” IC 4-2-7-3(2).

III.

This investigation involving the Foundation was one of three 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 in 2005-03-0194 regarding the ISP DROP program and reported this same date and (3) this investigation addressing the transfer of ISP pension funds to the Foundation. 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 received 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 2005-03-0194 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 following additional actions have also been taken by the OIG as a result of these same three investigations.

1.

First regarding this investigation, the OIG makes the following findings:

A.

The Memorial is a worthy project honoring fallen ISP officers.

B.

However, there is no statutory authority authorizing ISP to establish a not-for-profit corporation. *See*: IC 10-11-2.

C.

There is also no statutory authority for the ISP to deposit public funds, both from estate monies and the sale of specialty license plates, into a private bank account. State agencies do not have the authority to maintain funds outside the Auditor of State's accounting system without specific statutory authority.

See: Accounting and Uniform Compliance Guidelines Manual for State Agencies, Chapter 3. IC 5-13-6-1 also states in relevant part that "all public funds collected by state officers, other than the treasurer of state, shall be deposited with the treasurer of state, or an approved depository selected by the treasurer of state no later than the business day following the receipt of funds."

In addition to these prospective recommendations, the OIG reports that it has submitted its investigation to the Indiana State Board of Accounts and the Indiana Attorney General. 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.

2.

Second, regarding the DROP program investigation in 2005-03-0194, the OIG made 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.

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