



## **EL DORADO COUNTY GRAND JURY 2010 - 2011**

### **EL DORADO COUNTY SHERIFF'S OFFICE INCENTIVE PAY**

Case Number GJ10-011

#### **REASON FOR REPORT**

In February 2010, a candidate for El Dorado County Sheriff dropped out of the race after newspaper stories alleged that his college degree was not issued by an accredited college or university.

In April 2010, the interim El Dorado County Sheriff ordered an internal investigation to determine whether any employees of El Dorado County Sheriff's Office (EDCSO) receiving Educational Incentive Pay (EIP) had degrees from questionable sources. At that time, it was determined that of the 194 sworn personnel on duty, 79 were receiving EIP. Additionally, there were eighteen Correctional Officers of the EDCSO receiving EIP who were not included in this audit.

EDCSO Internal Affairs reviewed the training files of all 79 sworn personnel receiving EIP. Each file documented the type of degree held and the college or university attended. The 79 files also contained either the college transcript, a copy of the diploma or both.

The EDCSO Internal Affairs investigation determined that two Deputies, two Sergeants and one Lieutenant were receiving EIP based upon degrees issued by unaccredited institutions, which did not require appropriate levels of coursework when issuing diplomas. The matter was turned over to the District Attorney's Office for further investigation.

Pending the results of the District Attorney's investigation, EDCSO Internal Affairs suspended its administrative investigation. EDCSO also modified its procedure for receiving EIP, requiring a copy of the diploma. However, the controlling document is the

labor agreement in force between El Dorado County and the two bargaining units representing EDCSO sworn personnel. EIP provisions in these agreements do not require applicants to provide diplomas from accredited colleges and have no requirements for validating the legitimacy of the degrees.

On May 28, 2010, an anonymous letter was sent to the Board of Supervisors (BOS) and to the Grand Jury alleging that EDCSO had awarded EIP based upon degrees issued by “diploma mills”. Webster’s Third New International Dictionary defines a diploma mill as “*an institution of higher education operating without supervision of a state or professional agency and granting diplomas which are either fraudulent or because of the lack of proper standards worthless.*”

## **BACKGROUND**

On December 15, 2009 the El Dorado County Board of Supervisors (BOS) signed Resolution NO. 270-2009 stating that an impasse had been reached in negotiating a good faith labor agreement with the Deputy Sheriff’s Association Law Enforcement Unit. The resolution adopted a Modified Last Best Final Offer that remains in effect currently and is subject to renegotiation. In addition, the agreement with the El Dorado County Law Enforcement Manager’s Association expired on June 30, 2010 and is also subject to renegotiation.

EDCSO sworn personnel are represented by two different bargaining units. Deputies and Sergeants are represented by the Deputy Sheriff’s Association, Law Enforcement Unit. Lieutenants and Captains are represented by the El Dorado County Law Enforcement Manager Association. While both agreements provide longevity pay as a benefit for extended service, the amounts available differ, as illustrated below:

<u>Longevity Pay</u>	
<u>Deputies and Sergeants:</u>	<u>Lieutenants and Captains:</u>
5 Years = 2.5% of Base Pay	10 Years = 5.0% of Base Pay
15 Years = 5.0% of Base Pay	15 Years = 10.0% of Base Pay
20 Years = 7.5% of Base Pay	20 Years = 13.0% of Base Pay
	25 Years = 15.0% of Base Pay
	30 Years = 18.0% of Base Pay

In 2001, the Memorandum of Understanding (MOU) for both bargaining units was modified to include incentives for achieving California Peace Officers Standards and Training (POST) Certificate awards.

POST Certificates are available to law enforcement personnel, based upon a combination of law enforcement experience, POST training points and education. POST requires that all college degrees or college unit courses shall be by a national or regional accrediting body that is recognized by the Secretary of the United States Department of Education.

Degrees or course credits not issued by an accredited institution, as described above, are only allowed if they are accepted and recorded on transcripts of a college that is accredited.

Certificates are awarded by POST for multiple levels of education and service in law enforcement. POST Certificate incentive pay was included in the MOU as an alternative to longevity pay. Personnel could elect to receive either incentive, but not a combination of the two. The election to take either POST Certificates incentives or longevity pay is irreversible. The incentive pay for POST Certificate awards is different for each of the two bargaining units, as illustrated below:

<u>POST Certificates</u>	<u>Deputies and Sergeants</u>	<u>Lieutenants and Captains</u>
Intermediate POST	6.5% of Base Pay	5.0% of Base Pay
Advanced POST	12.5% of Base Pay	10.0% of Base Pay
Supervisory POST	N/A	12.0% of Base Pay
Management POST	N/A	13.0% of Base Pay
Executive POST	N/A	15.0% of Base Pay

The POST requirements for certificate awards are illustrated below:

Intermediate Certificate (with Basic Certificate)

<u>Degree or Ed. Points</u>		<u>Law Enforcement Experience</u>		<u>Training Points</u>
Bachelor's Degree	(and)	2 years	(plus)	0
Associate Degree	(and)	4 years	(plus)	0
45 Ed Points	(and)	4 years	(plus)	45
30 Ed Points	(and)	6 years	(plus)	30
15 Ed Points	(and)	8 years	(plus)	15

Advanced Certificate (with Intermediate Certificate)

<u>Degree or Ed. Points</u>		<u>Law Enforcement Experience</u>		<u>Training Points</u>
Master's Degree	(and)	4 years	(plus)	0
Bachelor's Degree	(and)	6 years	(plus)	0
Associate Degree	(and)	9 years	(plus)	0
45 Ed Points	(and)	9 years	(plus)	45
30 Ed Points	(and)	12 years	(plus)	30

Education points achieved through college course work and training points awarded for completion of POST training modules may be combined to achieve POST certificates without completion of an Associate or Bachelor degree.

Supervisory POST Certificates require possession of, or eligibility for, an Intermediate POST Certificate plus a minimum of 60 college semester units, completion of a POST-

certified Supervisory Course and a minimum of two years law enforcement experience as a permanent first-level supervisor or higher.

Management Certificate awards require possession of or eligibility for a POST Advanced Certificate, plus completion of a POST- certified Management Course and two years experience in law enforcement as a permanent middle manager or higher.

Executive POST Certificates include the same requirements as a Management Certificate, plus a minimum of two years law enforcement experience as a permanent department head with the current employing agency. The department head for the Sheriff's Office is the Sheriff, an elected official who is not eligible for incentive pay. Consequently, the MOU for the El Dorado County Law Enforcement Manager's Association contains a benefit for which no one is eligible.

In addition to incentive pay for POST Certificates, the County added EIP to the labor contracts issued in 2001. Unlike POST Certificates, EIP can be combined with longevity pay and does not require degrees or college course credits to be issued from an accredited college or university. The MOU does not require applicants to provide sealed transcripts with the diploma when applying for EIP.

While POST Certificate Incentive Pay cannot be combined with longevity pay, it can be combined with EIP. The only differences between the requirements for POST Certificates and the County requirement for EIP is that POST requires accredited degrees and two years of law enforcement experience. Consequently, an individual with a POST Certificate is also qualified for EIP and can combine either POST with EIP or EIP with longevity pay. A Captain, for example, with a Management POST Certificate may receive an incentive equal to 13% of base pay for POST and another 5% incentive for EIP. This 18% increase in total pay may be earned in much less time than the 30 years of service that would be required for the 18% available in longevity pay. As a result of these benefits, a Captain with a base pay of \$144,441 is paid as much as \$170,044. This \$26,000 in benefits is PERS eligible and would be worth over \$500,000 to the employee over the course of a 20-year retirement.

It should be noted that at the time EIP was added as a provision of the EDCSO Labor Agreements, "Catalog Colleges" were commonplace and Internet "Diploma Mills" had also become available. Furthermore, the minimum qualifications specified in the job classifications for all EDCSO sworn personnel state that, "*Where college degrees and/or college course credits are required, degrees and college units must be obtained from an accredited college or university.*" Nevertheless, the MOU provided in the labor agreements does not specify that college degrees must be issued by accredited colleges or universities. The MOU only specifies a "four year Bachelor degree" or a "two year Associate degree" as the requirement for EIP. The determination of the types of degrees acceptable for EIP is left to the discretion of the Sheriff or his command designees.

The lack of a defined standard in the MOU for acceptable institutions issuing degrees complicates the process of auditing the legitimacy of an applicant's diploma. Had the MOU specified a degree from a college or university accredited by a governing body

recognized by the Secretary of the United States Department of Education, a simple web search could easily validate the legitimacy of the institution. Alternatively, the MOU could have specified a “state approved college or university.” The California Private Postsecondary Education Act of 2009 (AB48) established a regulatory agency for institutions approved by the State of California. Either governing authority provides easy verification that the institution granting the degree is not a “diploma mill.”

As a means of remaining competitive for recruitment purposes, other local law enforcement agencies offer POST Certificate Incentives and Educational Incentives. In Folsom, for example, Police Officers and Sergeants may apply for either an Educational Incentive or a POST Certificate, but not both. The Folsom Police Department provides a 5% incentive for an A.A. Degree or an Intermediate POST Certificate and a 10% incentive for a B.A. Degree or a POST Advanced Certificate.

Placerville Police Department provides an Educational Incentive of \$125 per month for possession of a POST Intermediate and/or AA Degree or \$400 per month for a POST Advanced Certificate and/or a BA/BS Degree.

The City of Roseville provides Police Officers and Sergeants with a 5% incentive for either a POST Intermediate Certificate or an Associate Degree or a 10% increase in pay for a Police Officer or Sergeant with a POST Advanced Degree or Bachelor Degree.

It is noteworthy that these three cities do not allow Officers and Sergeants to combine POST incentives with EIP. All three cities provide personnel with a choice of POST or EIP and none offers a maximum benefit greater than 10%. It is also noteworthy that Lieutenants and Captains are not eligible for incentive pay.

As a result of vague language in the current EDCSO Labor Agreements, two deputies, two sergeants and one lieutenant of EDCSO received EIP after providing Bachelor degrees from universities that are currently being investigated by the United States Attorney General as “Diploma Mills.” Richardson University, also known as Hamilton University, has been under investigation for selling college diplomas. Hamilton University was first established in Hawaii as American State University and then moved to Evanston, Wyoming. The school issued degrees based upon “life experiences.” Candidates obtained degrees after answering a few questions from a booklet and submitting a paper of approximately 2,000 words.

In 2004, CBS News reported that Hamilton University was operated by Rudy Marn, who pled guilty to tax fraud in 2008 and was sentenced to two years in federal prison. Hamilton University has since changed its name to Richardson University and moved its “campus” to the Bahamas.

The District Attorney’s Office is concluding its criminal investigation into the EIP awarded to the five individuals in the Sheriff’s Office. The investigation revealed the five officers in question have received a total of \$166,459.72 in additional pay since their application for EIP was approved. One officer applied for entrance into Richardson

University on August 20, 2004, and graduated with a Bachelor's Degree in Criminal Justice only 27 days later, after completing 22 classes.

Only one of the five individuals investigated agreed to be interviewed by the District Attorney's investigator. This deputy stated that the Lieutenant under investigation encouraged him to obtain a degree from Hamilton University. The investigation also revealed that all five of the applications for EIP were approved by the EDCSO command staff. These approvals for EIP were granted even though the "four year degrees" were earned in as little as four weeks.

As of this writing, the District Attorney has not determined there is sufficient evidence to prosecute for the following reasons:

- The MOU was the controlling document for EIP and the wording in this document was vague.
- At least one Deputy was encouraged by his superior officer to attend Hamilton University, and all of the EIP applications were approved by EDCSO Commanders.
- Many of the actual admission records of the institutions in question had been destroyed and the difficulty in obtaining admissible evidence that could prove guilt beyond a reasonable doubt made successful prosecution questionable.

## **METHODOLOGY**

Interviews were conducted with the following officials:

- El Dorado County Director of Human Resources
- El Dorado County Auditor-Controller
- El Dorado County Sheriff
- El Dorado County Sheriff's Office Internal Affairs
- District Attorney's Investigator, and
- Staff of the EDC Payroll Department.

The Grand Jury reviewed the following websites and documents:

- El Dorado County Human Resources document, *Employee Count by Position for Sheriff's Department*, pages 9-10, not dated.
- EDCSO document, *Education List Sworn*, EDCSO Internal Affairs, pages 1-2, April 28, 2010
- El Dorado County Website, [www.edcgov.us/Government/HumanResources/Labor](http://www.edcgov.us/Government/HumanResources/Labor)
- El Dorado County Website, [www.edcgov.us/sigma/jobclass](http://www.edcgov.us/sigma/jobclass), Minimum Qualifications, page 4.

- Memorandum of Understanding Between City of Folsom and Folsom Police Officers Association, *Educational Incentive Pay*, article V (e), pages 11-13, July 1, 2010.
- Resolution NO. 7432 of the City of Placerville and the Memorandum of Understanding by and Between Placerville Police Officers Association and the City of Placerville, *POST/Educational Incentive Maintenance*, article 17, pages 12 & 14, September 26, 2006.
- Memorandum of Understanding for El Dorado County Law Enforcement Manager's Association, *Education Incentive*, article 10, section 7, page 18 dated June 30, 2010.
- Modified Last Best Final Offer for El Dorado County Sheriff's Association, Law Enforcement, article 6, (d, e & f), *Longevity Pay/POST Certificate Pay/Education Incentive Pay*, pages 7-8, dated 12/15/2010
- Memorandum of Understanding for Roseville Police Officer Association, chapter 2, article III, *Educational Incentive*, page 3, October 8, 2009 – December 31, 2012.
- POST Administrative Manual, *Certificate Terminology and Policy*, § 9070 (c-k), chapter 7, pages 3-8.

## **FINDINGS**

1. According to sworn testimony given to the Grand Jury, EDCSO Internal Affairs audited the degrees of EIP recipients in 2002 and found one individual with a degree from Hamilton University. This individual did not appear to warrant EIP. Internal Affairs reports directly to the Under-sheriff and does not conduct investigations without direction from or approval by the Under-sheriff or Sheriff. Testimony indicated that when approached by Internal Affairs, the Under-sheriff ordered Internal Affairs to cease any further investigation. However, when Internal Affairs was interviewed by the District Attorney's investigator, this audit was said to have been conducted in 2008.
2. A simple Web search provided information that Hamilton University was operated by a convicted felon. Hamilton University changed its name to Richardson University and relocated to the Bahamas after Hamilton University was shut down by authorities.
3. In 2010, the issue of questionable degrees resurfaced. An Internal Affairs investigation revealed three individuals with diplomas from Hamilton or Richardson University and two other individuals with degrees from other questionable institutions. Internal Affairs turned the matter over to the District Attorney's office to determine if criminal charges should be brought against these five sworn personnel. Internal Affairs did not obtain statements from the accused officers before turning the matter over to the District Attorney.

4. The District Attorney's Office spent eight months investigating the issue but has elected not to prosecute any of the individuals involved, due to a lack of sufficient evidence.
  - Four of the accused deputies declined to provide statements to the District Attorney's Office.
  - The District Attorney's investigation revealed that the five officers in question received a total of \$166,459.72 in additional pay after the EDCSO Commanders approved their application for EIP.
  - The investigation revealed that the "four year degrees" were approved by EDCSO Commanders even though they were obtained in as little as four weeks of coursework.
5. EDCSO Internal Affairs delayed any administrative investigation while the District Attorney's investigation was ongoing. During this time, two of the individuals in question retired and the other three have remained employed.
6. The Modified, Last, Best and Final offer for the EDCSO Deputy Sheriffs Association, Law Enforcement Unit and the El Dorado County Law Enforcement Manager's Association are the two labor agreements currently in force between El Dorado County and the sworn personnel of the Sheriff's Office. Both agreements are subject to renegotiation.
7. Both labor agreements provide incentives for longevity pay, POST Certificate Awards and Educational Incentive Pay. POST incentives are available as an alternative to longevity pay and these two incentives may not be combined. However, EIP may be combined with either POST incentives or longevity pay. A Captain, for example, receiving the maximum benefit for EIP and longevity pay could receive nearly \$32,000 in additional pay.
8. In 2010, the County paid in excess of \$300,000 in EIP to EDCSO personnel. At the current rate, this incentive program will cost the County in excess of \$3,000,000 over the next ten years.
9. Neither labor agreement provides a standard for evaluating the legitimacy of college degrees and diplomas. The language of the agreements does not specify either "accredited colleges" or "State approved" colleges as a means of identifying legitimate institutions.
10. Two deputies, two sergeants and one lieutenant received degrees from unaccredited institutions that are being investigated by the U.S. Attorney General as "diploma mills." All five of these individuals applied for and received EIP. Applications were approved by EDCSO Commanders.



11. There is no requirement for personnel applying for EIP to provide a duplicate diploma and/or sealed transcripts to the El Dorado County Human Resource Department for independent verification.
12. The District Attorney's investigation confirmed that the five employees investigated were the only then current sworn personnel receiving EIP based upon degrees issued by questionable institutions.
13. Other local law enforcement agencies offer EIP and POST but the incentives cannot be combined, are currently limited to a maximum benefit of 10% of base salary, and are not available to command rank (Lieutenants and above).
14. The EDCSO reviewed the training files of 79 sworn personnel in 2010 to determine the legitimacy of college degrees. However, there were an additional 18 Correctional Officers receiving EIP who were not included in that review.

## **RECOMMENDATIONS**

1. As provisions of the EDCSO labor agreements are renegotiated, the provision for providing EIP should be modified to include a standard for measuring the legitimacy of the institutions providing the qualifying degrees. Either "accreditation by a governing body recognized by the Secretary of the United States Department of Education" or "State Approved Colleges" recognized by the bureau established by the California Private Postsecondary Education Act of 2009 provides easy verification of the legitimacy of the institutions.
2. Accreditation by a governing body recognized by the United States Department of Education would be preferred because it is consistent with the standards required by POST.
3. A memorandum from the Sheriff should be sent to all employees clarifying that the current MOU language means "two year" or four year" degrees must be Associate and Bachelor degrees from colleges or universities which are accredited by an accrediting agency recognized by the Secretary of the United States Department of Education.
4. Any future applications for EIP by sworn personnel should include sealed transcripts and a diploma from the accredited college or university. Copies of these documents should be provided to both the Under-sheriff for approval and the Director of El Dorado County Human Resources for independent review.
5. An administrative investigation by EDCSO Internal Affairs should determine whether any of the five sworn officers investigated for EIP abuse were culpable of any violation of department policy that would warrant administrative

penalties. Appropriate penalties including termination or demotion should be enforced if justified.

6. The El Dorado County Department of Human Resources should be required to verify the accreditation status of any college or university granting degrees for which EIP is currently being paid or for which an application is submitted. No payment should be made for EIP or POST Award certificates without pre-specified evidence of eligibility from both the Sheriff's Office and the El Dorado County Human Resource Director.
7. In order that the paid compensation of the EDCSO is consistent with other local law enforcement agencies, the CAO should direct the Department of Human Resources to periodically conduct compensation reviews of those other local agencies to ensure that the compensation is consistent and competitive with local standards.
8. In addition to the EDCSO the personnel files of all past and present County, City and Special District employees receiving EIP should be reviewed by an independent auditor to evaluate the legitimacy of all degrees on file.

## **RESPONSES**

Responses to both numbered findings and recommendations in this report are required in accordance with California Penal Code §933 and §933.05. Address responses to: The Honorable Suzanne N. Kingsbury, Presiding Judge of the El Dorado County Superior Court, 1354 Johnson Blvd., South Lake Tahoe, CA 96150.

This report has been provided to the El Dorado County Sheriff, the El Dorado County Human Resources Department and the El Dorado County CAO for response.

Elected officials under statute are given 60 days to respond, and non-elected officials are provided a 90-day response period from the release date of this report.