



OFFICIAL REPORT

JULY 7, 2011

**EL DORADO COUNTY DISTRICT ATTORNEY'S
INVESTIGATION OF FRAUDULENT DEGREES
LEADING TO SHERIFF'S OFFICE
EDUCATION INCENTIVE PAY INCREASES**

SUMMARY

Over the span of nine (9) months, the District Attorney's Office conducted an exhaustive criminal investigation of five (5) Sheriff's Peace Officers who obtained incentive pay increases by submitting fraudulent college degrees from diploma mills. The conclusions of the investigation are explained below, and are largely shaped by the prior Sheriff's deliberate choice to dispense with any oversight of the education incentive pay program, and to blindly authorize pay increases without verifying that a college degree had actually been obtained. The investigation revealed that this failure in management may have been more than neglect; it was perhaps purposeful disregard exposed by the testimony of a Sheriff's Captain who told the Grand Jury that he raised the issue of questionable diplomas and sought authorization to investigate the issue as early as 2004. However, despite this alert, according to the Captain, the prior Sheriff and his Undersheriff simply did not "have the will to take the issue on" at that time. The prior Sheriff's failure to face this problem more than six (6) years ago raises a legitimate "claim of right" defense, especially for the four (4) officers who obtained their questionable degrees after the prior Sheriff knew about the first questionable degree and chose not to act.

The investigation was also impacted by the lack of cooperation by the subject officers, delay in receiving necessary records from the federal government, and the ill-timed destruction of these key records by the federal government and the private agency that maintained the records for one of the purported academic institutions. Ultimately, the conclusion of this Office was fated by the poorly crafted and vague incentive policy that contains no specifications or requirements to substantiate the "four year degree" supporting the pay increase.

The stated intention of pay incentives is to encourage employees to achieve higher education. However, such incentives require proper administration and oversight. The El Dorado County Sheriff's Office and County Human Resources simply

failed to provide such administration and oversight. This failure resulted in five (5) peace officers being paid for “degrees” from universities that had been publicly identified through several major media conduits as diploma mills.

The District Attorney's Office cannot file criminal charges against any of the five (5) peace officers for the following reasons: (1) The prior Sheriff's purposeful disregard and management failure to oversee the incentive pay program raises a legitimate "claim of right" defense; (2) the poorly crafted and vague incentive policy is too uncertain to support the allegation of false representation; and (3) the lack of admissible evidence due to the destruction of records. Accordingly, we cannot prove the criminal allegations to a jury beyond a reasonable doubt.

The El Dorado County Grand Jury recently completed their investigation, with the assistance of the District Attorney's Office, and published their findings in their final report. This report can be found at:

http://www.edcgov.us/Government/GrandJury/2010-2011_Grand_Jury_Report.aspx

BACKGROUND INFORMATION

In July 2010, the District Attorney's Office received a written request for a criminal investigation from then Sheriff, Fred Kollar. The Sheriff asked the District Attorney's Office to criminally investigate five (5) El Dorado County Sheriff's Peace Officers following administrative determination that they had obtained educational pay incentives after obtaining fraudulent “four year” college degrees.

The El Dorado County Sheriff's Office, like many other law enforcement agencies, enhances the pay for those sworn personnel who have obtained certain academic degrees and certifications. However, most law enforcement agencies require that degrees be supported by certified transcripts and be from universities or colleges that have been accredited by recognized accreditation

associations. In reviewing the authorizing language in the Peace Officer's contract, it provides that sworn personnel shall, "*receive a total of 5% of base salary for possession of a 'four-year college degree' (Bachelor of Arts and/or Bachelor of Sciences degree).*" The contract language makes no mention that the degree shall be obtained through an "Accredited University or College". Further, the contract language does not expressly include any requirement to provide verification such as certified transcripts, a certified copy of the degree, or any other supporting documentation. The contract's vagueness on this point opens the door to the potential for serious evidentiary issues when contemplating a criminal prosecution. For example, what is considered a "four year degree?" If one person took four years to complete their Associate of Arts degree at a community college, would that be considered a "four year degree?" Alternatively, if an exceedingly bright individual completed a Bachelor of Science Degree in Criminal Justice from Sacramento State in barely two calendar years, would that be considered a "four year degree?" The vague nature of this language is even more confounding when a degree is obtained outside the confines of traditional institutions of higher learning through a "correspondence" or "internet" based school.

As a case in point, Union Institute, a widely recognized and accredited correspondence university advertises that "most *working* adults earn a bachelor's degree in less time than it would take in a traditional college program." Currently multiple Sheriff's Peace Officers in El Dorado County receive a pay incentive based upon a degree received from Union Institute. In fact, the correspondence school's website boasts that "most learners complete their degree in less than two years (16-20 months)."

Prior to the onset of the District Attorney's Office investigation, the Sheriff's Office had conducted a preliminary internal administrative investigation into this matter which included obtaining numerous County documents related to the five (5) peace officer's incentive pay. (Hereinafter referred to as Peace Officer Nos. 1-5)¹ The internal administrative investigation was suspended when the District Attorney's Office criminal

¹ Since this public report details an investigation into peace officers' personnel files, the identification of the subject officers are confidential under Penal Code § 832.7

investigation began. On July 14, 2010, the District Attorney's office received copies of the documents previously obtained by the Sheriff's Internal Affairs Division during their administrative investigation.

On July 21, 2010, emails and telephonic voice messages were left with each of the five (5) peace officers advising them that the District Attorney's Office was conducting a criminal investigation into the matter of their college degrees and related incentive pay. They were each asked to contact the District Attorney's Office telephonically or via email if they wished to speak to our office about this matter. They were further advised that since this was a criminal investigation, they were under no obligation to speak with us. All five (5) peace officers initially refused to speak with us.

Between July, 2010, and September, 2010, the District Attorney's Office conducted interviews with Sheriff Kollar, management personnel at Human Resources, the County Auditor's payroll employees, the Sheriff's payroll employees, and the Sheriff's Personnel Section. Each of the aforementioned entities was in some way involved in the process that enabled the peace officers to obtain their incentive pay.

As a result of the interviews of the aforementioned personnel the District Attorney's Office discovered that the incentive pay process varied throughout the time span when the five (5) peace officers received approvals for their educational pay incentives (2003-2010). The process normally required that when peace officers obtained their degrees, copies of the degrees and the supporting transcripts would be provided to the Sheriff's Payroll. A review of Sheriff's Payroll files involving the five (5) peace officers demonstrated differing results. Some had transcripts and no diplomas; some had diplomas and no transcripts; and, some had both. Many of the documents contained in the Sheriff's Payroll files had no certification or attestation of authenticity.

A review of this incentive pay process also showed that after receipt of documentation supporting receipt of a degree, the Sheriff's Payroll would then create a PPF form. The purpose of the PPF form was to activate a deputy's educational incentive pay. The PPF form was forwarded to Sheriff's Personnel where it was

supposed to be reviewed and approved (usually by the Sheriff or Undersheriff). The PPF form was then reviewed by the Sheriff's Payroll Administrator and then forwarded to County Payroll and Human Resources wherein the increase in pay would begin. This incentive pay process apparently varied slightly over the years in question.

In August of 2010, the District Attorney's Office met with personnel from the County Auditor's Office. At the request of the District Attorney's Office, the County Auditor's Office performed an internal audit of all County employees, current and retired, who received the educational incentive pay to determine if any appeared illegitimate. The County Auditor's Office found that there were one hundred ninety-one (191) employees receiving educational pay incentives. All one hundred ninety-one (191) were either sworn peace officers or Certified Public Accounts. In September of 2010, the District Attorney's Office received a spreadsheet from the County Auditor's Office. This spreadsheet includes names of all County employees, current and retired, who receive the incentive pay. It also includes the type of degree, college or university they received it from, date they received their degree, whether their records contained copies of diplomas and transcripts, and highlighted those who they felt were suspicious.

The District Attorney's Office conducted an exhaustive search of files for all those El Dorado County personnel who receive the educational pay incentives (not just those in the Sheriff's Department). The enormity of this audit consumed many hours spread over several months. Although the County Auditor's Payroll audit initially pointed toward numerous suspicious types of degrees or lack thereof, the District Attorney's Office's extensive audit determined that other than the five (5) peace officers in question, no other similar improprieties existed.

The District Attorney's Office investigation included interviews of those personnel (Human Resources, Sheriff's Payroll and Sheriff's Personnel) who were involved in the approval process and the review of the documentation provided by the peace officers enabling them to receive their pay enhancements. These interviews demonstrated that the approval process was, at best, very

inconsistent. These interviews further demonstrated that the approval process did not require any real proof other than a copy of a diploma with no certification as to where the document or purported degree originated.

The District Attorney's investigation included a review of the documents (PPF forms) generated within the Sheriff's Office initiating the Education Incentive Pay. The PPF forms, which should have documented the exact dates wherein the pay enhancements began, were extremely vague and inconsistent throughout the Sheriff's Office's records and the records of Human Resources. The lack of uniformity and oversight in this process created a reality wherein someone with the slightest bit of ingenuity could create and submit a forged copy of any university's diploma, accomplishing a similar fraud with a minimal chance of detection.

The District Attorney's Office later learned from the Grand Jury testimony of former Sheriff Jeff Neves, that the then Sheriff and his administration had a practice of "blindly signing" off on submitted PPF forms without even attempting to verify the veracity of the information justifying pay increases. The former Sheriff suggested that he and his administration were too busy to fulfill their oversight obligation to the county in so much as PPF forms were concerned. Retired Sheriff Neves testified that because they received so many PPF forms for review and signature, they adopted an unwritten policy of simply signing the forms and submitting them to county payroll without even attempting the most cursory or surface review of the forms and their content.

However, the investigation revealed that while the prior Sheriff admits intentional neglect of the education incentive pay approvals, he may actually have been alerted to the issue of fraudulent degrees, and that he may have had this knowledge as early as 2004. A Sheriff's Captain testified that he told both the prior Sheriff and his Undersheriff that he suspected a Sheriff's Deputy had obtained incentive pay based on an illegitimate degree that he obtained from a diploma mill. According to this Captain, the prior Sheriff and his Undersheriff did not authorize any investigative action at that time

and the issue was not addressed again until 2010. The Captain testified that he shredded any notes or records documenting his concerns and his report to the prior Sheriff. The prior Sheriff and his Undersheriff have denied any knowledge of purported fraudulent degrees and have no recollection of any such information being brought to their attention. This conflicting information only further complicated matters for our investigation and demonstrated how dysfunctional the management team was during the era of these fictitious diplomas.

After learning that three (3) of the peace officers received degrees from Richardson/Hamilton University, the District Attorney's Office began looking into that university. The District Attorney's Office investigation revealed that just prior to 2008, the IRS Office out of Cheyenne, Wyoming completed a criminal investigation into the Richardson/Hamilton University, resulting in the arrest and conviction of the university's owner, Rudy Marn. In August of 2010, the District Attorney's Office contacted the Assistant United States Attorney (AUSA) in Cheyenne, Wyoming, requesting any records they had recovered during their criminal investigation of Richardson/Hamilton University that related to Peace Officer Nos. 1, 2 and 3. The AUSA directed the District Attorney's Office to the IRS Agent involved in the case, who in turn directed the District Attorney's Office to contact the individuals who owned the company that was subcontracted to maintain records for Richardson/Hamilton University and individuals from whom the IRS had recovered their records.

In September of 2010, the District Attorney's Office was able to make contact with the individuals who maintained the records. They, in fact, had originally retained all student records on behalf of Richardson/Hamilton University; however, once the IRS had recovered and copied all the records they destroyed the originals. The District Attorney's Office re-contacted the AUSA again requesting relevant records and was told that the investigation and the records recovered were a part of a Federal Grand Jury. The AUSA advised that our request would have to be sent to their headquarters in Washington D.C. to obtain an approval before the release of records.

In late October 2010, the District Attorney's Office was contacted by an AUSA from the United States Attorney General's Office in Washington D.C. who advised that he received our request for records relevant to Peace Officer Nos. 1, 2 and 3 but that he would have to review the request and meet with the Attorney General before approving the release of the records to us. The AUSA further stated that since the Attorney General's schedule was extremely busy, the approval process may be slow. After numerous contacts with the Attorney General's Office throughout the next five (5) months, the Attorney General ultimately approved the release of information in their possession related to Peace Officer Nos. 1, 2 and 3.

In February of 2011, the District Attorney's Office was contacted by an IRS Agent involved in the original retention who now had the authority to release information to us. The Agent stated that all the original records had been destroyed; however, prior to the destruction, the IRS had put together a spreadsheet documenting the content of those original records. The spreadsheet, which the District Attorney's Office eventually received, contains a breakdown of records obtained by the IRS related to Peace Officer Nos. 1, 2 and 3. The spreadsheet includes their names, contact information, type of graduate degree they received, field they majored in, original date of contact with Richardson/Hamilton University, dates of initial application, date accepted, payment amounts made to the university, dates when each received their diplomas, and their respective grade point averages.

WHAT WE KNOW

None of the universities involved in this investigation were appropriately accredited. Accreditation is a formal evaluation of an organization according to accepted criteria or standards. Accreditation may be done by a professional society, a non-governmental body, or a governmental agency. "Accreditation" in the world of academia is the process by which colleges and universities are granted approval by an official review board, indicating that the institution has met certain requirements.

Legitimate universities are closely monitored annually by these accreditation associations.

Whether a college, university, or program is accredited is important for a multitude of reasons. A degree that is obtained from an accredited program may help determine if the employee or candidate has the requisite qualifications for a particular position or promotion. Financial aid such as grants, loans, and veteran's benefits are typically only available to students attending accredited schools. Completing a degree from an accredited program may also provide an employee or candidate with an advantage over another competing employee or candidate when they are seeking the same position or promotion. And as noted above, getting a degree from an accredited program has a practical effect in El Dorado County of enabling a Deputy Sheriff to receive up to a 5% increase in their pay.

There are six recognized regional accreditors involved in higher education accreditation in the United States: The Middle States Association of Colleges and Schools (MSA), Middle States Commission on Higher Education, the New England Association of Schools and Colleges Commission on Institutions of Higher Education (NEASC-CIHE), the Commission on Technical and Career Institutions (NEASC-CTCI), the Higher Learning Commission North Central Association of Colleges and Schools (NCA-HLC), the Northwest Commission on Colleges and Universities (NWCCU), the Southern Association of Colleges and Schools Commission on Colleges (SACS), the Western Association of Schools and Colleges Accrediting Commission for Community and Junior Colleges (WASC-ACCJC), and the Accrediting Commission for Senior Colleges and Universities (WASC-ACSCU).

At the outset of our investigation we began the process of attempting to obtain any and all documentation involving the accused Peace Officers, Nos. 1, 2, 3, 4, and 5, for reference and the universities where they obtained their purported degrees. The following is a summary of what we now know as a result of those efforts.

RICHARDSON/HAMILTON UNIVERSITY

Peace Officer Nos. 1, 2 and 3 obtained their degrees from Richardson and/or Hamilton University. Although the purported university changed names, Richardson University and Hamilton University were one and the same institution or organization. In 2004, CBS news did a news report on Richardson/Hamilton University exposing the purported program as an online tool for obtaining fraudulent college degrees. Shortly thereafter the FBI and the IRS opened a criminal investigation of the “university” and its owner, Rudy Marn. As a result of their investigation Marn was arrested, prosecuted and convicted in 2008, wherein he was sentenced to two (2) years in a Federal Penitentiary. Both universities were shutdown sometime before Marn’s conviction.

All records (files and related documentation) maintained by Richardson/Hamilton universities were compiled and retained by a small unrelated business in Wyoming. This business was hired by the purported university as a subcontractor to maintain records. At some point the IRS served search warrants and seized all of the records maintained by the subcontractor.

Unfortunately, as noted above, after the federal case against Rudy Marn was adjudicated in 2008, the IRS destroyed all of the seized documentation. These documents and what may have been conspicuously absent from these documents would be crucial to prove any criminal allegations. Although the documents themselves were destroyed, a spreadsheet was created before the documents were destroyed detailing some limited information regarding each student. That spreadsheet included information relating to Peace Officer Nos. 1, 2 and 3 including details about when each officer applied for and received their respective degrees.

BELFORD UNIVERSITY

Peace Officer No. 4 submitted a degree he received from Belford University. Belford University is an organization offering online unaccredited degrees for "life experience". Through contact with the U.S. Postal Inspectors, the District Attorney’s Office learned that Belford University maintains a post office box in Humble, Texas, and in West Hollywood, California. However, the

organization mails its certificates/degrees from the United Arab Emirates. This led the District Attorney's Office investigators to conclude that any documentation related to Peace Officer No. 4's degree, if it exists, is retained in the United Arab Emirates making the records unobtainable.

Belford University is not accredited by any accrediting agency recognized by the United States Department of Education (USDE) or Council on Higher Education Accreditation (CHEA). Neither of the organizations from which Belford claims accreditation, the International Accreditation Agency for Online Universities (IAAOU) and the Universal Council for Online Education Accreditation (UCOEA), are recognized accreditation associations of higher learning. Being that this university is based out of the United Arab Emirates, we found our efforts to obtain any related documentation to be unsuccessful.

AMERICUS UNIVERSITY

Peace Officer No. 5 submitted a degree from Americus University. Americus University is an organization offering online unaccredited degrees for "life experience".

Americus University is not accredited by any accrediting agency recognized by the United States Department of Education (USDE) or Council on Higher Education Accreditation (CHEA). Neither of the organizations from which Americus University claims accreditation, the International Accreditation Agency for Online Universities (IAAOU) and the Universal Council for Online Education Accreditation (UCOEA), are recognized accreditation associations of higher learning. Our investigation revealed that this organization was based in the British Virgin Islands between 2001 and 2003 and is no longer in existence, which again rendered our efforts to obtain supporting documentation unsuccessful.

Peace Officer No. 1

In 2004, Peace Officer No. 1 presented to the Sheriff's Department and the County, a copy of a diploma and a copy of "Official Transcripts" he obtained from Richardson University.

This submission enabled Peace Officer No. 1 to begin receiving an Educational Pay Incentive from the County for obtaining a “four year” degree. According to the calculations of Allyn Bulzomi (Director of Human Resources), Peace Officer No. 1 received a total of \$38,048.29 in incentive pay after submitting his “degree” to the County from Richardson University.

According to the spreadsheet the District Attorney’s Office received from the IRS on February 16, 2011, Peace Officer No. 1 initially applied to the program (called Richardson University at this time) on August 20, 2004. He was accepted into the program on August 23, 2004, and he graduated on September 16, 2004, after paying a total of \$2,500.00. Peace Officer No. 1 received a “Bachelor’s Degree” in Administration of Justice roughly twenty-seven (27) days after applying to the program. The transcript that Peace Officer No. 1 submitted from Richardson University listed twenty-two (22) classes completed and a 4.0 grade point average.

Peace Officer No. 2

In 2005, Peace Officer No. 2 presented a copy of “Official Transcripts” from Richardson University to the Sheriff’s Payroll. This submission enabled Peace Officer No. 2 to begin receiving an educational pay incentive from the County for obtaining a “four year” degree. According to the calculations of Allyn Bulzomi, Peace Officer No. 2 received a total of \$28,302.25 in incentive pay after submitting his “degree” to the County from Richardson University.

We were able to garner more information about Peace Officer No. 2 simply because Peace Officer No. 2 was the only accused peace officer who was willing to provide a voluntary statement to the District Attorney’s Office in connection to this investigation. The information that Peace Officer No. 2 supplied was later corroborated by the information in the spreadsheet obtained from the IRS. Peace Officer No. 2 initially applied to the program (called Richardson University at the time) on July 25, 2005, and was accepted to the program on July 28, 2005. In his statement, Peace Officer No. 2 asserted his application to Richardson University was the result of encouragement from his then supervisor, Peace Officer No. 1. Peace Officer No. 2 made an initial payment

\$2,250.00 and graduated on September 18, 2005, less than two (2) months after entering the program. Peace Officer No. 2 paid a total of \$2,500.00 prior to receiving a “Bachelor’s Degree” in Business Communications. The transcript that Peace Officer No. 2 submitted from Richardson University listed twenty-one (21) classes and sixty (60) units completed and a 3.5 grade point average.

Peace Officer No. 3

In 2004, Peace Officer No. 3 presented a copy of a diploma from Hamilton University to the Sheriff’s Payroll. This submission enabled Peace Officer No. 3 to begin receiving an Educational Pay Incentive from the County for obtaining a “four year” degree. According to the calculations of Allyn Bulzomi, Peace Officer No. 3 received a total of \$39,516.03 in incentive pay after submitting his “degree” to the County from Hamilton University.

According to the spreadsheet obtained from the IRS, Peace Officer No. 3 initially applied to the program (called Hamilton University at this time) on January 8, 2004. He was accepted into the program on January 12, 2004, and made an initial payment of \$2,250.00. Less than five (5) weeks later, Peace Officer No. 3 graduated on February 17, 2004. Peace Officer No. 3 paid a total of \$2,500.00 prior to receiving a “Bachelor’s Degree” in Administration of Justice with a reported GPA of 3.5.

Peace Officer No. 4

In 2006 Peace Officer No. 4 presented a copy of a diploma from Belford University to the Sheriff’s Payroll. This submission enabled Peace Officer No. 4 to begin receiving an educational pay incentive from the County for obtaining a “four year” degree. According to the calculations of Allyn Bulzomi, Peace Officer No. 4 received a total of \$25,054.26 in incentive pay after submitting his “degree” to the County from Belford University.

Because our efforts to obtain documentation from the purported university that issued Peace Officer No. 4’s degree were unsuccessful, we know nothing about what the degree cost, the

time it took to complete the degree or the nature of the coursework required to complete the program. All of this information would be crucial in an effort to prove any criminal allegations.

Peace Officer No. 5

In 2002, Peace Officer No. 5 presented a copy of a diploma from Americus University to the Sheriff's Payroll. This submission enabled Peace Officer No. 5 to begin receiving an Educational Pay Incentive from the County for obtaining a "four year" degree. According to the calculations of Allyn Bulzomi, Peace Officer No. 5 received a total of \$35,538.89 in incentive pay after submitting his "degree" to the County from Americus University.

Not unlike Peace Officer No. 4, our efforts to obtain documentation from the purported university that issued Peace Officer No. 5's degree were unsuccessful. Therefore, we know nothing about what the degree cost, the time it took to complete the degree or the nature of the coursework required to complete the program. All of this information would be crucial in an effort to prove any criminal allegations.

In May of 2010, the County stopped paying the educational pay incentives to the five (5) deputies as the result of the internal administrative investigation conducted by the Sheriff's Department. In September, 2010, four (4) of the five (5) officers entered into civil financial settlements with the county brokered by their attorneys and County Counsel and approved by the County's Board of Supervisors. In March, 2011, the fifth officer also entered into a civil financial settlement with the county brokered by his attorney and County Counsel and approved by the County's Board of Supervisors. The District Attorney's Office was not a participant to the civil settlements or the negotiations that lead to those settlements.

WHAT WE CAN PROVE

Is there sufficient legally admissible evidence to warrant criminal prosecution of any of the five (5) Peace Officers who were reported to have obtained education pay incentive after obtaining fraudulent "four year degrees"?

To address this issue one must first review the potential criminal charges that may apply to these circumstances. The most appropriate criminal charge that applies to this factual situation is theft by false pretenses, Penal Code § 532. To prove a charge of theft by false pretenses, the following elements must be proved: 1) The defendant knowingly and intentionally deceived a property owner [or the owner's agent] by false or fraudulent representation or pretense; 2) the defendant did so intending to persuade the owner [or the owner's agent] to let the defendant take possession and ownership of the property; and, 3) the owner [or the owner's agent] let the defendant take possession and ownership of the property because the owner [or the owner's agent] relied on the representation or pretense. Under California law, someone makes a false pretense if, intending to deceive, he or she (1) gives information he or she knows is false or (2) makes a misrepresentation recklessly without information that justifies a reasonable belief in its truth. Proof that the representation or pretense was false is not enough by itself to prove that the defendant intended to deceive.

The real challenge to proving that any of the five (5) peace officers involved committed a theft by false pretenses is found in the first element. Did the offending peace officers *knowingly and intentionally deceive the county by a false or fraudulent representation?* The answer as a practical matter is, yes, they *may have*. In fact, all five (5) of them *may have* intentionally deceived the county by submitting evidence of a college degree to the county that they knew was not legitimate. However, the answer to this question in terms of the evidence that can be presented to a jury is simply, *we don't know*. There is very little admissible evidence that would prove this first element.

To illustrate, take Peace Officer No. 1's case, and the known facts related to his case to demonstrate the difference between what we have come to believe through our investigation as

opposed to what we can prove to a jury. Peace Officer No. 1 started receiving education incentive pay from El Dorado County in the fall of 2004. Peace Officer No. 1 applied to Richardson University on August 20, 2004. On August 23, 2004, Peace Officer No. 1 was enrolled in Richardson University and by September 16, 2004, after paying a total of \$2,500.00, Peace Officer No. 1 had graduated with a bachelor's degree in Criminal Justice. By September 30, 2004, his diploma was issued. Stated another way, we believe that Peace Officer No. 1 enrolled, was accepted, completed 22 classes and graduated with a 4.0 GPA in just under thirty (30) calendar days.

Arguably, if they could be proven, these facts alone might be sufficient to prove that Peace Officer No. 1 knowingly and intentionally deceived the county by submitting the diploma he received from Richardson University as evidence of having received a "four year degree." However, as much as we might believe the facts to be true, we simply cannot prove them in a court of law. We cannot prove when Peace Officer No. 1 enrolled. We cannot prove when Peace Officer No. 1 graduated. We cannot prove that he paid \$2,500.00. And, we cannot prove that he supposedly completed twenty-two (22) classes over the course of twenty-nine (29) days. Consequently, we cannot prove any criminal allegation against Peace Officer No. 1 beyond a reasonable doubt (the legal standard required for a criminal conviction).

We are unable to prove so many of the facts relative to Peace Officer No. 1 because virtually all of the information set forth above came from the federal government (the IRS) in the form of a spreadsheet. As noted above, Richardson University, aka Hamilton University, was investigated by the FBI and the IRS and the president/owner was prosecuted by the federal government. During the course of the federal investigation, the purported school's records were seized by the IRS. The information seized, including that related to the three (3) subject peace officers from El Dorado County, was at some point entered into a spreadsheet, which was then turned over to our office in February of 2011. No supporting documentation was included with the information in the spreadsheet submitted by the federal government agency and no foundational information regarding where the information

came from was included. Although we have the information, and although we believe the information to be accurate, we have no way to legally introduce any of it into evidence in a California court due to a lack of foundation. California Evidence Code § 403 sets forth rules for establishing preliminary facts as foundation for the introduction of certain evidence. It provides that the proponent of proffered evidence has the burden to produce evidence as to the authenticity of a written document. In this case, this rule of evidence would preclude the prosecution from introducing any evidence from the spreadsheet received from the IRS unless we could first prove where the information originated (prior to being seized by the IRS) and second that the facts contained in the spreadsheet were authentic and accurate. Furthermore, even if the prosecution could lay sufficient foundation to establish authenticity of the information in the spreadsheet, the document would still be inadmissible hearsay. (See also California Evidence Code §§ 402, 405 and 1200, *et seq.*)

Additionally, with the vague language contained in the county policy, the defense would likely also assert that none of the officers, in fact, provided any such “false or fraudulent representation” to the County. At any potential jury trial, each peace officer could assert that they provided the County precisely what was required of them to obtain the incentive pay. They could argue that the County’s failure to clarify that degrees used to enhance pay needed to come from an accredited university rendered the degrees obtained by Peace Officers 1-5 as legitimate under the County contracts as any “accredited” degrees.

As illustrated using Peace Officer No. 1 above, the District Attorney’s Office investigation becomes a case of what we believe we know, versus what we know we can prove, and those are two very different things. We, unlike the Sheriff’s Office in an administrative hearing cannot compel any of the five (5) officers to give us admissible statements. Moreover, four (4) of the five (5) have formally invoked their right to remain silent through legal counsel. Further, unlike the Sheriff’s Office in an administrative hearing, we have the burden of proof beyond a reasonable doubt.

The only peace officer who has agreed to cooperate in our investigation is Peace Officer No. 2. He agreed to cooperate fully and without any promises of leniency or benefit. Peace Officer No. 2's willingness to come forward and honestly represent his point of view is commendable. However, the information we received from Peace Officer No. 2's candid interview further illustrates the fact that criminal charges likely cannot be proven beyond a reasonable doubt to a fair, impartial jury.

Peace Officer No. 2's situation may be unique in the sense that he experienced what he described as implicit pressure from a supervisor to go out and obtain a degree from Richardson University. As Peace Officer No. 2 explained, Peace Officer No. 1 was his immediate supervisor while he was on "probationary status". During that time, Peace Officer No. 1 made it clear to Peace Officer No. 2 that if he wanted to "make it" in El Dorado County, he needed to obtain a degree. What's more, Peace Officer No. 1 told Peace Officer No. 2 that the way to get the degree was through Richardson University.

Peace Officer No. 2, wanting to do everything that was asked of him to assure that he successfully completed his probationary employment term, applied for and in short order received a diploma from Richardson University. It is worth noting that Peace Officer No. 2 described in detail the process and timing of his application, payment and receipt of his degree and the information received from the IRS regarding these details corresponded precisely with Peace Officer No. 2's personal account.

Peace Office No. 2 also provided copies of professionally prepared brochures and pamphlets from Richardson University that would, to an unsuspecting eye, give the organization an appearance of legitimacy.

Other than merely being the only person willing to cooperate with our investigation, Peace Officer No. 2 also set himself apart from the other four (4) by quickly taking action after learning that his original degree was questionable. He did this by replacing his Richardson degree with an accredited degree from the aforementioned Union Institute. It is worth noting that the unquestionably legitimate degree that Peace Office No. 2 obtained

from Union Institute did not take “four years” to complete. In fact he completed the coursework through Union Institute in less than one year and got a “four year” degree as a result.

Our early interview with Peace Officer No. 2 further illustrated to the District Attorney’s Office that our ability to prove any criminal charges against any of these officers would be significantly hampered by the fact that these fraudulent degrees were obtained from organizations who went to great lengths to convince those would be customers that they offered a legitimate degree alternative to traditional higher education.

As an example, Richardson/Hamilton’s Universities pamphlets and promotional literature supplied by Peace Officer No. 2 during his voluntary interview were professionally put together and appeared indistinguishable from pamphlets and literature one might receive from any well-known University. Moreover, Richardson/Hamilton University claimed to be accredited by an accreditation organization known as the, *American Council of Private Colleges and Universities*. Although our investigation has demonstrated that this accrediting organization is no more than a sham, the claim of accreditation lent credibility to the already well put together promotional materials supplied by the program. Moreover, the promotional materials used similar language to Union Institute’s language regarding awarding college level credits for “life” and professional experience.

The programs promised that after a prospective applicant submitted a lengthy application detailing both their personal and professional life experiences that the programs could award some significant amount of college credits for those personal and professional experiences. This promise inevitably rang true for some officers who had likely legitimately received college level credit for military experience and/or professional law enforcement training over the years. The idea that their years of experience working as a patrol officer, field training officer, detective, and swat team member to name a few examples, could be credited to them in the form of college credits was an idea that they readily, if not gullibly, embraced. This is all important in the context of potential criminal prosecution because the prosecution bears the burden of

proving that these officers were not deceived themselves into believing that these “alternative degrees” were legitimate.

The importance of this hits home when one remembers that the first thing we must prove in order to successfully prosecute these officers is that they “knowingly and intentionally deceived”. Simply put, as criminal prosecutors, we cannot prove with legally admissible evidence that these officers were not fooled themselves after buying into the glossy print brochures selling them an idea that they inevitably wanted to believe; that idea being that they were entitled to credit for all of their hard work and dedication over the years.

An additional defense surely to be brought up by the peace officers if criminal charges were filed would be the "claim of right" defense. CALCRIM instruction 1863 provides in pertinent part that "In deciding whether the defendant believed he/she had a right to the property and whether he/she held that belief in good faith, consider all the facts known to him/her at the time he/she obtained the property..." The jury instruction goes on to further state the most important language to this potential defense - that "[t]he defendant may hold a belief in good faith *even if the belief is mistaken or unreasonable.*" (emphasis added)

Bearing the burden of proof in a criminal prosecution, it must be proved beyond a reasonable doubt that these officers knowingly and intentionally deceived the county in order to receive this pay incentive. Said another way, the prosecution would have to prove that that the officers themselves were not fooled by the programs glossy print brochures and promises.

All in all, we have a situation wherein the known facts tend to strongly suggest that the peace officers knew or should have known that their “degrees” did not equate to a “four year” degree; however, we simply do not have the ability to prove those facts to a jury with legally admissible evidence such that we could overcome our burden our proof.

CONCLUSIONS & RECOMMENDATIONS

Upon full review and audit of Peace Officer Nos. 1, 2, 3, 4, and 5, and the related documents concerning their diplomas and incentive pay, it is determined that we cannot prove the charges beyond a reasonable doubt. Thus, our criminal investigation into this matter is closed. However, the conduct and actions of these officers is extremely troubling and we believe it is necessary to change the incentive pay process. Accordingly, we make the following recommendations:

1. We suggest and recommend that the El Dorado County Sheriff's Office conduct an additional internal administrative investigation into this matter (taking into consideration the additional documents and evidence obtained during the District Attorney's Office criminal investigation). This additional internal administrative investigation has two major components: (1) The Sheriff's Office has the ability to force Peace Officer Nos. 1, 2, 3, 4 and 5 to give statements; and, (2) if appropriate, the Sheriff's Office can take administrative actions upon Peace Officer Nos. 1, 2, 3, 4, and 5, which could include various punishments, and potentially termination, of said officers.
2. The Memorandum of Understanding should be amended to remove the currently vague description of what is required for sworn personnel to receive an education incentive. The new definition must be simple and unambiguous such that in the future everyone has a clear and consistent understanding of what type of educational endeavors will qualify someone for the incentive.
3. The approval process should at least require that the County Human Resources and or the Sheriff's Personnel Department receive a "certified" diploma document directly from a legitimately accredited college or university. The certified documentation should also include the student's official transcripts along with the diploma. Ideally, as a check and balance built into the system, the process should require that

4. the school send a copy of their certified documents to a designated person from the Human Resources Department and also to a designated person at the Sheriff's Personnel Department.
5. Some type of documentation should be maintained that identifies each person who is involved in the approval process along with records of the documents they reviewed that justified the increased pay. This log or documentation could possibly be listed in the employee's PPF authorizing the pay increase.
6. It is also recommended that whatever process or protocol is agreed upon that it be audited periodically to ensure its' reliability.