

VICTIMIZATION OF THE MASSACHUSETTS STATE

POLICE

IF THE OLDEST, LARGEST AND ARGUABLY MOST PRESTIGIOUS
LAW ENFORCEMENT AGENCY IN NEW ENGLAND CAN BECOME
A VICTIM OF MULTIPLE FRAUDS, WHAT DOES THAT SAY
ABOUT YOUR ORGANIZATION'S EXPOSURE?

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ONE OF THE FIRST SIGNS OF TROUBLE

at the Massachusetts State Police (MSP) began with Denise Ezekiel, director of payroll since 2013. Payroll records showed that Ezekiel had been receiving unauthorized travel and training reimbursements from June 2016 through October 2017. During 33 pay periods, Ezekiel received fraudulent reimbursements in 29 of those periods — ranging from \$500 to \$950 — for a total of \$23,900.

“A financial discrepancy was discovered and brought to the attention of the Department’s Director of Finance as well as the Department’s Chief Administrative Officer,” wrote Major John M. Lannon of MSP’s Division of Investigative Services in court documents.

Major Lannon went on to state that Ezekiel’s responsibilities as payroll director included the final auditing of all travel and training reimbursement entries during each pay period. A search of MSP reimbursement records showed no documentation to support the reimbursements she received. During an interview with MSP investigators, Ezekiel admitted that she hadn’t been authorized to receive the reimbursements, according to court records.

On June 25, Ezekiel pleaded guilty in Framingham District Court to a single count of larceny over \$250 related to the fraudulent payroll reimbursements. Under Ezekiel’s plea agreement, she forfeited more than \$17,000 in accrued vacation and sick leave that she would’ve received after the MSP terminated her. Those funds went toward her restitution payment, and, in addition, she was ordered to perform 100 hours of community service. Ezekiel, who had no previous criminal record, was fired from her job after the court accepted her guilty plea. (See “Former State Police payroll head pleads guilty to stealing \$23,000 from agency,” by Matt Rocheleau, Boston Globe, June 25, tinyurl.com/y79ze8f4.)

LOSING THE TRUST OF THE PEOPLE

Governor John Andrews established the Massachusetts Constabulary on May 16, 1865. The constabulary evolved into the modern-day MSP, which is the oldest state police agency in the country and the largest in New England. (Full disclosure: I was an MSP trooper from 1996 to this year. Much of the MSP information in this article comes from my institutional knowledge.)

So, the MSP has been a model for U.S. law enforcement for decades. However, multiple MSP frauds have come to light recently involving civilian (administrative support staff) and sworn (law enforcement) employees of the agency — some of which go back years. When you factor in the investigative and prosecutorial time invested, the expense of incarcerating the guilty, hiring and training their replacements, and the civil lawsuits that have already started, these scandals will cost taxpayers millions. The reputational damage will be long-lasting. Even worse, the MSP might forever lose what matters most to their success: the trust of the people they’ve been charged to protect.

The warning signs in the Ezekiel case were there. All three elements of the Fraud Triangle — perceived unshareable financial need (pressure or motivation), perceived opportunity and rationalization — were present.

Ezekiel had the motivation. “In 2014 and 2015, Ezekiel was sued several times by credit card companies for an amount estimated at around \$23,000. She paid off \$14,000 of a debt in 2015 in six months,” according to “State Police: Suspended Payroll Director Will Be Fired,” by Sarah Betancourt, U.S. News & World Report, June 25, tinyurl.com/yaqfkhn.

Historically, the civilian MSP management personnel are underpaid in comparison to their private-sector counterparts. A director of payroll for a private company or corporation with 3,000 employees makes significantly more than \$95,000 in New England. However, there are trade-offs — most significantly pension versus pay. (See tinyurl.com/ya5hoazn.)

So, the rationalization is easy. She could’ve conjectured, “If I were in the private sector I would be making twice as much for my position. I’m not appreciated, and my sacrifices aren’t recognized.” Factor in that a brand-new trooper, who’s willing to work overtime and details (outside employment, such as working highway construction jobs), along with court time and shift differentials, has the potential to make twice what Ezekiel was making. (All state employee salaries are public record.) Therefore, she had the perceived unshareable financial need and the rationalization. And we know that she had the perceived opportunity because she was the final authority on travel/training reimbursements.

Where did the MSP go wrong? Apparently, the department’s director of finance and the chief administrative officer, each of whom Ezekiel reported to, failed to audit the quality of her work.

29 fraudulent reimbursements

\$500-\$950 each

Total fraud: \$23,900

DENISE EZEKIEL

Ezekiel's position could possibly require travel or training out of the office once or twice a year. If either of her supervisors had been spot-checking Ezekiel's work, it would've been quite apparent to them when she received reimbursements that they hadn't authorized. The court records don't clearly show if Ezekiel was submitting reimbursement requests with her weekly payroll — the common practice at MSP — or if she'd edited her payroll after it had been approved by the director of finance and the chief administrative officer because she had that authority.

EMPLOYEE CREDIT CHECKS AND COMPASSIONATE ASSISTANCE

The MSP is a paramilitary organization that requires preapprovals for all training and travel, which it keeps in a database. If the MSP had run data analytics tests to determine if preapproved travel and training matched submitted weekly entries, and those responsible for reviewing that data knew what they were looking for, it would've seen red flags in Ezekiel's department that needed closer examination.

Do you think it's just a coincidence that troopers who work in a drug unit are drug tested more frequently than their uniformed counterparts? Then shouldn't those who have the means and opportunity to exploit an organization's accounting system be subject to closer financial scrutiny?

Here's a suggested policy change: As a condition of employment, the organization should require those with the most opportunities to exploit system loopholes to undergo yearly or biannual credit checks.

Troopers, who are sworn members of the agency, are required by policy to keep their financial houses in order, or they can be subject to discipline. Had the MSP been aware that Ezekiel was having financial troubles from 2014 to 2015 (and I don't know if they did or not), it might

have stepped in and offered her some assistance, such as financial counseling, to help alleviate the pressure. If that wasn't possible, her superiors still should've scrutinized her work, limited her authorization authority and denied her the ability to alter her electronic payroll — and her immediate supervisor should've been responsible for the final approval of her payroll submission. (See "State Police payroll head struggled with debt before alleged



theft began," by John R. Ellement and Matt Rocheleau, The Boston Globe, April 23, tinyurl.com/ybyvzxs.)

If civilian employees had had the same financial responsibilities policy as the troopers, and the MSP couldn't have trusted Ezekiel, it should've demoted her to a position with fewer opportunities or terminated her for cause.

GHOSTING OVERTIME PATROLS AND INFRACTION TICKETS

Unfortunately, Ezekiel's case isn't the only MSP scandal. As of publication, the U.S.

Department of Justice (DOJ) and the Massachusetts Attorney General's Office are investigating at least 46 troopers, sergeants and lieutenants who worked in the now-defunct Troop E. The allegations include payroll fraud, conspiracy and other federal violations. The DOJ has indicted six, and three have pleaded guilty. (See "Editorial: Accountability key for state police," Boston Herald, Sept. 1, tinyurl.com/y9h33rhv.)

The allegations are that they "ghosted" overtime patrols by altering tickets written on different dates to submit with overtime paperwork. The DOJ has also alleged that troopers ghosted driver infraction tickets by running random plates, obtaining owners' information from the registry of motor vehicles and then issuing written warnings to unwitting motorists. They'd leave the bogus tickets and paperwork for the overtime shifts with troopers that were actually working regular shifts at the times of the scheduled overtime, and those troopers would hand in the paperwork to the overtime supervisor. (See "Former Massachusetts State Trooper Pleads Guilty to Overtime Fraud," July 3, U.S. Department of Justice, U.S. Attorney's Office, District of Massachusetts, tinyurl.com/y9alaoav and "Ex-State Police lieutenant indicted by federal grand jury in OT fraud scandal," by Matt Rocheleau, The Boston Globe, Aug. 22, tinyurl.com/y73qkyd5.)

(Update: As this issue went to press, the state of Massachusetts also indicted three retired MSP lieutenants who allegedly were paid thousands of dollars in 2016 for overtime they didn't work. And a former MSP trooper pleaded guilty to embezzling \$12,468 in overtime payments in the ongoing federal investigation. See "Three former State Police lieutenants indicted in AG's OT probe," by Danny McDonald and Shelley Murphy, The Boston Globe, Sept. 21, tinyurl.com/y7grv4br and "Former state trooper to plead guilty in overtime fraud scam," by John

R. Ellement, *The Boston Globe*, Sept. 19, tinyurl.com/y9ku3yq2.)

According to the ACFE's 2018 *Report to the Nations*, fraud losses rose significantly when more than one fraudster was involved. What happens, then, when you have, at last count, 46 individuals involved? Identifying fraud is hard enough, but when you have three levels — two of which are supervisory levels — it's virtually impossible to detect. Factor in that troopers have the autonomy that allows them to go entire shifts without ever seeing supervisors, then you have real opportunity. Troopers are assigned cruisers they're allowed to take home. They start and end their shifts from the road — they don't have mandatory roll calls.

My training and experience lead me to believe that MSP has this lack of controls because it's a rank-heavy organization that lacks frontline supervision. It uses sergeants to "backfill" troopers' desk positions, which demonstrates that what really matters to the organization is avoiding overtime instead of providing proper field supervision and accountability.

Since 1996, the MSP has had 10 different colonels — the head of the agency. An organization can't improve its anti-fraud efforts until it has stable leadership, solid tone at the top, leading by example and not taking its marching orders from a politician.

MSP could've prevented these frauds with these deterrents:

- Direct the troopers on overtime to report to their supervisor in person at the start and end of the shifts. Apply that philosophy up the chain.
- Accept paperwork only from the trooper responsible for generating it.
- Purchase tracking software that allows GPS to locate cruisers in real time.
- Audit citations with cruiser laptop records, registry of motor vehicle

records, vehicle tow records and the daily administrative journal.

- Spot-check citation books for sequential dates and times.
- Check to see whether a cruiser laptop and radio were turned on during a shift.
- Spot-check fuel card usage. Every trooper's cruiser needs to fill up during an eight-hour shift.
- Or go old school by asking a trooper over the radio for their cruiser location. The supervising sergeant asks for their mileage and tells them to pull over and stop. Then the supervisor travels to the trooper's location, conducts an inspection of the trooper and cruiser, and checks the citation book to see when the last one was written. (Of course, the supervisor can't do any of this if they're stuck on the desk because the department is trying to avoid overtime.)

POOR BACKGROUND CHECKS BITE THE MSP

The MSP faces another issue about their improperly performed background checks that have caused some serious problems. Integrity and reputation are key elements in almost every line of work but none more so than law enforcement. Law enforcement officials can literally take away your freedom. Because they have this unique power, citizens should hold them to higher standards. Therefore, courts often give their testimonies greater weight over defendants' statements in such cases as speeding tickets, stoplight violations or failure to use a directional.

Law enforcement officials are supposed to base their decisions on facts and have no personal vendettas or conflicting interests. They should be independent and neutral when they help resolve disputes.

In one case, a trooper was virtually untouchable at first apparently because she was politically connected. An investigative

blogger, in an article about another MSP matter, mentioned that this trooper had received preferential treatment because of who she knew. The trooper challenged the blogger, via text message, to get his facts straight. The blogger then posted a transcript of the trooper's federal court testimony in which she admitted to using drugs daily, selling pounds of marijuana, laundering money, structuring bank deposits, evading taxes and perjuring herself during a federal grand jury. (See "State Police probe clears leaders in hiring of trooper with drug-dealing past," by Andrea Estes and Shelley Murphy, *The Boston Globe*, Aug. 25, tinyurl.com/ycpfo304.)

Earlier I mentioned one of the keys of law enforcement is to have no conflicting interests. Well, according to the Aug. 25 *Globe* article, the sergeant responsible for completing the background check that allowed the self-admitted drug dealer to become a trooper has since been promoted to lieutenant and is now assigned to the MSP Internal Affairs Unit that was responsible for investigating how she slipped through the cracks and became a trooper.

Since she became a trooper, the self-admitted drug dealer had arrested 192 people, criminally summonsed another 202 and written hundreds, if not thousands, of civil citations. (See "Fight Back Against Disgraced Trooper Leigha Genduso," by Howie Carr, May 2, tinyurl.com/y7esfpc6.)

Her admission to perjuring herself before a federal grand jury should result in all her cases being vacated. In other words, legitimate bad guys — some of whom are heroin dealers — could get a free pass during the height of the opioid epidemic because the MSP failed to recognize the importance of a properly conducted background check. I'm sure civil lawsuits for false imprisonment aren't far behind.

This ex-trooper never should've made it to day one as an MSP trainee — never mind become a full-fledged trooper. This and other poorly vetted background checks have embarrassed the MSP and cost

the taxpayers hundreds of thousands. And, unfortunately, the MSP probably passed over qualified individuals in accepting unqualified candidates.

Lessons learned from MSP's improperly conducted background checks:

- Choose people to perform background checks who have an interest in doing them and emphasize their importance to the success of the organization.
- Don't dump background checks on junior employees in the organization. Either outsource the position as the federal agencies do or incentivize the position to attract top talent to complete the task.
- Outsourcing the checks also could ensure better results from a neutral third party and save money. The commonwealth of Massachusetts already outsources the Cannabis Control Commission, University of Massachusetts

and Gaming Commission background checks.

- Spot-audit 10 percent of the background packages to ensure they're being done properly.
- Give adequate time for investigators to perform proper investigations.
- Establish memorandums of understanding with all federal law enforcement agencies and cross-check potential candidate names in federal law enforcement databases. Troopers are assigned to each of the federal agencies as task force officers, and they have access to these databases.

In the case of the self-admitted drug dealer who became a trooper, had the MSP checked the Drug Enforcement Administration's Narcotics and Dangerous Drugs Information System, her name would've shown up.

THIS COULD HAPPEN TO YOU

The scandal-plagued Massachusetts State Police will be working for a long time to restore the faith of Massachusetts taxpayers. And all of its problems were preventable.

Ask yourself: Could this happen to my organization? The answer quite possibly is yes. Your company's good reputation and financial standing are what allows you to attract first-rate employees, dependable business partners and loyal customers. Make sure you're doing everything to preserve these assets. ■ FM

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