

## Growth in Land Holdings

**10-08** Monitor and participate in the national debate regarding fee-to-trust conversions with an eye toward ensuring that Yolo County maintains its tax base and enhances the rural, agrarian nature of Capay Valley.

## COMMENTS

The Grand Jury thanks and sends its appreciation to Yolo County employees for devoting many hours researching information and responding to multiple data requests.

## REQUEST FOR RESPONSE

Pursuant to California Penal Code Sections 933(c) and 933.05, the Yolo County Grand Jury requests a response as follows:

### *From the following governing body:*

- Yolo County Board of Supervisors (Recommendations 10-01 through 10-08)

## Yolo County Department Of Employment And Social Services

## SUMMARY

The Grand Jury investigated the Department of Employment and Social Services in response to a complaint alleging mismanagement, favoritism, and fraud. The Grand Jury received witness testimony and reviewed documentation. The Grand Jury found questionable practices with regard to timekeeping, pay for non-work related activities, lay-off and promotion, employee evaluations, and pursuing client fraud.

## REASON FOR THE INVESTIGATION

California Penal Code Section 925 provides: “The Grand Jury shall investigate and report on the operations, accounts and records of the officers, departments, or functions of the county, including those operations, accounts and records of any special legislative district in the county created pursuant to state law for which the officers of the county are serving in their ex-officio capacity as officers of the districts.”

The Grand Jury investigated the Department of Employment and Social Services as a result of a complaint alleging mismanagement and favoritism within the department. Specific allegations included: (1) misrepresenting vacation and sick leave charges on time sheets, (2) using employee time for non-work related activities, and (3) reporting time spent checking e-mails by cellular phone or remote computers as time worked, despite the suspension of the telecommuting policy. The complaint also alleged that the county fails to pursue fraudulent claims by clients when the amount is less than \$5,000.

## GLOSSARY

The following glossary is to assist readers in keeping track of the various abbreviations and terms used in this report.

**At-will employees**—Salaried employees who serve at the pleasure of a department director or the county administrative officer and are on continuous probation.

**BOS**—Board of Supervisors. The elected governing body that makes policy decisions and oversees the county budget and department programs.

**CAO**—County Administrative Officer. Oversees county budget and personnel administration.

**DESS**—Department of Employment and Social Services.

Provides outplacement services, child and adult protective services, and other related social services in Yolo County.

**ELT**—Executive Leadership Team. DESS top management and some supervisors. They meet regularly and administer the department.

**HR**—Yolo County Department of Human Resources. County-wide personnel department that keeps copies of all county employee records, and establishes and enforces personnel policies. This department reviews the job descriptions for county positions.

**MQs**—Minimum qualifications for a position listed in county job announcements. In order for an applicant to be considered for a specific job, they must meet the MQs for the position at the time they apply for the position.

**XTO**—Extra time off. Established in lieu of furlough days in response to the county’s budget shortfall. Employees accrue XTO and are not paid for that time off.

**XTE**—Extra time earned. Similar to compensatory time off (CTO) in that employees working more than 40 hours a week are allowed to accrue overtime and take it as paid leave at a later date.

## **ACTIONS TAKEN**

The Grand Jury interviewed 20 people, including the complainant, DESS employees, other County employees, and a contracting agency employee. The Grand Jury interviewed DESS employees who were the subjects of the complaint as well as current and former DESS employees not subjects of the complaint. Interviewees included those with responsibilities and knowledge of the county’s policies in human resources, budget and accounting, auditing, and information technology systems.

The Grand Jury obtained and reviewed copies of bi-weekly time keeping records, activity calendars, and e-mails for selected DESS employees. The Grand Jury also reviewed DESS and Yolo County administrative procedures manuals and a copy of the county’s “at-will” employee listing, which is approved by the BOS. The Grand Jury reviewed a list of DESS files of closed potential fraud cases under \$5,000.

## **WHAT THE JURY DETERMINED**

### **Misuse of Time Keeping**

The Grand Jury found inconsistencies with regard to the reporting of vacation and sick leave time. In some

cases DESS uses a “by exception method.” Employees fill out a time sheet if they used any form of leave -- such as vacation, sick leave, or XTO -- or if they are filing a correction to a previous pay period. If no time sheet is filed, it is assumed by management that the employee worked the 80 hours for that pay period. Some, but not all, DESS employees use the “by exception” method for their time reports, depending on their supervisor. The ELT use the “by exception” reporting method, that is they file time reports only when on vacation, sick leave, or for other non-regular activity.

In reviewing calendars and e-mails, the Grand Jury found that DESS management kept incomplete records regarding employee absences. In two cases the Grand Jury found evidence that vacation and sick leave times were misrepresented. In one instance, it appeared that the employee supplemented county disability benefits by claiming to work part-time at DESS in order to receive full pay and continue to accrue full leave benefits. In another instance, the Grand Jury found evidence that an employee, who worked part-time, accumulated full-time sick and vacation time by failing to turn in time sheets for the pay periods covered.

During its investigation, the Grand Jury was informed that the county is installing a new electronic time keeping system that will be in place by the end of 2010. There will be a trial run in late May 2010. The system requires employees to use a password to enter times, and will send the information to the auditor’s database system. DESS supervisors will have access to the database to check employee’s time statements, but will not be able to make changes. DESS will no longer use “by exception” time keeping.

### **Non-Work Related Activities**

All interviewees noted that their paid time was used for non-work activities (e.g., long lunch hours and time off for shopping). This time was allowed as a morale booster. Eight interviewees claimed that it was the ELT and supervisors who regularly took two-hour lunches or three to four-hour shopping trips during work hours. Other employees were not allowed to do this. In reviewing County policy, the Grand Jury determined that XTO or vacation time should be used for such non-work related time out of the office.

### **Telecommuting and Out-of-Office Work**

With regard to telecommuting, previous DESS policy required written approval and an agreement of what work was to be performed prior to starting telecommuting. That policy was suspended in summer 2009,

and at present CAO approval is required.

The CAO has no contracts listed for telecommuting by cellular phone, and only a few DESS employees have approval to work from home, via computer and the Internet. County-issued cellular phones may be used to check in with the office when on leave or out of town for non-business reasons, but such contact does not count as being at work (unless the supervisor was notified in advance and had it posted on the supervisor's calendar). The Grand Jury found evidence that some managers inappropriately claimed to be telecommuting in violation of the department's written policy.

### **Favoritism**

DESS has reduced its staff by at least 63 people since July 2009. The Grand Jury heard testimony that the DESS director selects employees for layoffs so that those employees would not feel targeted by co-workers. In addition, unit supervisors and division managers are not allowed to provide input regarding potential layoffs or other personnel changes, such as employee transfers. Staff members view this process and the decisions arising from it as either favoritism or possible retribution for disagreeing or questioning management.

The Grand Jury found evidence that at least one employee may have been inappropriately selected for a position in that the employee did not have the necessary education qualifications for the job. The MQs were changed at a later date by the BOS to allow less experience and education. This employee has since completed the education required to meet the original MQs. Another employee was seen by staff as inappropriately favored by having been moved into positions that will not be lost to layoffs.

The Grand Jury received testimony that older, more experienced employees have been selected for layoff rather than less experienced employees. Reportedly there is a lack of cooperation among co-workers, clients, and cooperating agency workers. Testimony regarding other forms of favoritism included unequal distribution of extra workload or clients, without explanation.

At the time of our interviews, assigning supervisors or division managers as at-will employees was possibly in violation of BOS procedures. The Grand Jury reviewed the at-will employee list and four DESS positions changed to at-will status do not appear on the BOS approved list of at-will employees. This appeared to circumvent the BOS process regarding staffing, pay, and positions. As these positions were reclassified at a time of layoffs, the at-will assignments added to the appearance of favoritism.

### **Performance Evaluations**

HR requires annual employee performance evaluations. HR keeps file copies of all annual employee performance evaluations. Performance evaluations are also required when an employee changes position, and three months after beginning a new position.

It is written policy that employees be given copies of their performance evaluation and meet to discuss that evaluation with their supervisor. In some cases, this has not been done and there is no copy of their performance evaluation in the DESS personnel files. Some employees have not had annual performance evaluations for several years.

Staff members, who were interviewed, saw the lack of performance evaluations as a way to reduce their ability to gauge if their work performance meets the job requirements and as a way to reduce their ability to protest what appear to be arbitrary and capacious decisions regarding layoffs, employee transfers, demotions, or promotions.

### **Fraud Less than \$5,000**

DESS has a Memorandum of Understanding with the District Attorney's office regarding, among other things, fraud investigations. The current MOU does not mention a dollar amount threshold for fraud investigations. There appears to be an unwritten agreement of not pursuing cases of potential fraud of less than \$5,000. The Grand Jury found several cases that fell into that category, and could not find any cost-benefit analysis with regard to the \$5,000 threshold.

### **FINDINGS**

- F-1** The DESS "by exception" method of time keeping can engender fraud, either accidental or intentional.
- F-2** If properly used and managed, the new electronic time keeping system should help to reduce misuse of time reporting.
- F-3** The arbitrary allowance of paid time for non-work related activities suggests favoritism and may be a misuse of public funds.
- F-4** The CAO and DESS have not enforced rules for the use of XTE, telecommuting, and cellular phone use.
- F-5** HR did not exercise due diligence regarding the MQ for newly-hired or transferring DESS employees.
- F-6** Proposed employee layoffs do not include written criteria and input from all ELT and the

- employee supervisors.
- F-7** Within the department, there is a perception of favoritism concerning job and client assignments.
- F-8** At the time of the interviews, the policy regarding listing of at-will employees had not been followed.
- F-9** DESS has not followed its written policy regarding employee performance evaluations.
- F-10** Copies of the evaluations are not readily available to the employee.

## RECOMMENDATIONS

- 10-09** Follow proper procedures for recording XTE and XTO.
- 10-10** Conduct an audit regarding DESS use of XTE.
- 10-11** Stop allowing paid work time for non-work activities.
- 10-12** Enforce the written rules for cellular phone use and telecommuting.
- 10-13** Enforce HR and BOS policy listing at-will employees.
- 10-14** Enforce MQ requirements listed in county job descriptions before approving the hiring of employees (whether new hires, transfers, or promotions). HR should not allow individual departments to make changes to the requirements without BOS approval.
- 10-15** Conduct employee performance evaluations as required by County policy.
- 10-16** Perform a cost-benefit analysis regarding fraud amount exclusions and amend the MOU to establish policy.

## COMMENTS

Given the number of layoffs over the past few months, the low morale at DESS is not surprising. Many of the layoffs and budget reductions come in critical areas (such as Women, Infants, and Children and Child Welfare Services). However, the top down management of DESS, which does not include or even elicit input from affected staff, contributes significantly to the low morale.

The ELT's efforts to raise morale — such as putting on special events or lunches — seem to be ineffective because only selected staff members are allowed to participate. Even during a time of low morale, using county time for non-work related activities is inappropriate.

The Grand Jury notes that the BOS has revised the at-will position list as of March 23, 2010, which

eliminates concerns regarding whether or not the former list followed BOS policy.

## REQUEST FOR RESPONSES

Pursuant to California Penal Code Sections 933(c) and 933.05, the Yolo County Grand Jury requests a response as follows:

### *From the following governing bodies:*

- Yolo County Administrative Officer (Findings F-1, F-4 through F-8; Recommendation 10-09, Recommendations 10-12 through 10-15)
- Yolo County Department of Human Resources (Findings F-1, F-4 through F-8; Recommendations 10-12 through 10-15)
- Yolo County Auditor (Findings F-2 and F-5; Recommendation 10-12)

### *From the following individual:*

- Director, Department of Employment and Social Services (Findings F-6 through F-10; Recommendations 10-11, 10-12, 10-14 and 10-15)