



COUNTY OF YOLO

Office of the County Administrator

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September 28, 2010

Honorable Janet Gaard
Judge of the Superior Court
725 Court Street
Woodland, CA 95695

RE: 2009/2010 Grand Jury Final Report

Dear Judge Gaard:

The following is the response to the 2009/2010 Grand Jury Final Report from the Yolo County Board of Supervisors, the County Administrator, the Director of Human Resources, the Director of the Department of Employment & Social Services and the Chief Probation Officer.

For purposes of readability we have included the Grand Jury's Recommendations in italics.

Yolo County Department of Employment and Social Services

F-1 *“The DESS “by exception” method of time keeping can engender fraud, either accidental or intentional.”*

The respondent agrees with the finding.

The County's current voluntary system of time tracking does not prevent misrepresentation of time reporting. While no system is 100% accurate, the County has reviewed software which would minimize the amount of discrepancy between actual time worked and time reported. Funding for this system is being investigated.

There is no evidence to support that vacation and sick leave times were misrepresented. The Grand Jury was furnished with supporting documentation that explained the reporting procedures used when employees are on disability leave. Each pay period, employees earn leave time and are paid for that leave time. This is in accordance with County policies and procedures. The Grand Jury was provided with evidence that an

employee who was credited with working part-time, did in fact work part-time, based upon a modified duty release from the employee's doctor.

- F-2** *"If properly used and managed, the new electronic time keeping system should help to reduce misuse of time reporting."*

Auditor-Controller's response sent under separate cover August 2, 2010: We agree with this finding. The Auditor-Controller has always advocated the use of time sheets with supervisorial approval as a countywide timekeeping method. This system reduces abuse and errors in time reporting. However, certain county departments have chosen the less burdensome method of reporting time by exception, which is more prone to abuse and errors.

The electronic timekeeping system that the county was considering would help to reduce misuse of time. However, due to current severe budget constraints, this plan is on hold. As an alternative, the County Information Technology Department is developing and piloting an absence management program which may be useful to DESS.

- F-3** *"The arbitrary allowance of paid time for non-work related activities suggests favoritism and may be a misuse of public funds."*

The respondent disagrees with the finding.

There is no evidence that non-work-related activities were performed by non-exempt employees during paid time. Employees are entitled to perform purchasing activities during paid hours as long as purchases are work-related. While there is no evidence exempt employees took inordinately long lunch breaks, there is no restriction on the amount of time taken for lunch by an exempt employee. It is the acknowledged responsibility of department heads and managers to ensure that FLSA (Fair Labor Standards Act) exempt employees are performing their duties.

- F-4** *"The CAO and DESS have not enforced rules for the use of XTE, telecommuting, and cellular phone use."*

The respondents disagree with the finding.

For purposes of a response, it is assumed this finding relates to the County's Extra Time Off (XTO) program. This program allows employees to schedule unpaid time off.

There have been no reports or evidence of violations of County policies covering XTO, telecommuting or cellular phone use. The Department of Employment & Social Services (DESS) discontinued the use of the formal telecommuting program during the 2008/09 fiscal year.

The Fair Labor Standards Act (FLSA) governs these issues and would prevent the partial-day deduction of an exempt employee's wages. Requiring exempt employees to report hourly would be in violation of the FLSA. An exempt employee "telecommuting by cellular phone" would not be a violation of County policies and procedures for exempt employees so long as the employee is performing his or her required work.

- F-5** *“HR did not exercise due diligence regarding the MQ for newly-hired or transferring DESS employees.”*

The respondents disagree with the finding.

Human Resources (HR) is regularly audited by Merit System Services, a branch of the California Personnel Services Agency. Their audits have found no violations of the County's hiring or transfer practices for the Department of Employment & Social Services (DESS).

Auditor-Controller's response sent under separate cover August 2, 2010: This finding pertains to an area outside of the purview and expertise of the Auditor-Controller. The County Human Resources Department is responding to this finding.

- F-6** *“Proposed employee layoffs do not include written criteria and input from all ELT and the employee supervisors.”*

The respondents agree with the finding.

Budget decisions are the responsibility of the Director of the Department making recommendations to the County Administrator who then makes recommendations to the Board of Supervisors. These recommendations are used in making final budgetary determinations. Once the allocated positions are reduced in order to meet budgetary constraints, the Human Resources department implements layoffs based upon the written criteria outlined in bargaining unit contracts. Written criteria include a process for appeal; they do not include a process whereby a supervisor has any discretion or provides input as to which employees should be laid off. It is primarily by seniority in classification.

- F-7** *“Within the department, there is a perception of favoritism concerning job and client assignments.”*

The respondents agree that employee perceptions present ongoing management challenges.

Supervisors have the authority to set employee workloads and assignments and due to employee layoffs, adjustments have been necessary. The County has a process in place for reporting disparate treatment. No reported problems have been brought to the attention of the Department. Workload and efficiency are areas of paramount interest and ongoing analysis and evaluation.

- F-8** *“At the time of the interviews, the policy regarding listing of at-will employees had not been followed.”*

The respondents disagree with the finding.

All Department of Employment & Social Services (DESS) at-will positions were included in the Board-approved At-Will Resolution for all of 2009/10. There were no changes made during the period of layoff and there have been no changes for DESS classifications for the past three years.

F-9 *“DESS has not followed its written policy regarding employee performance evaluations.”*

The respondent disagrees with the finding.

Please see the response to 10-15 for additional evidence that the Department of Employment & Social Services (DESS) policy for evaluations has in fact been substantially followed.

F-10 *“Copies of the evaluations are not readily available to the employee.”*

The respondent disagrees with the finding.

Copies of evaluations are readily available in each employee's official personnel file in Human Resources. Employees are given copies of their evaluation and any employee who wishes an additional copy may contact Human Resources. Departments are not required to maintain a separate file with extra copies of evaluations. Human Resources reports there have been no requests for copies of evaluations which they were unable to grant.

10-9 *“Follow proper procedures for recording XTE and XTO.”*

The recommendation has been implemented.

County employees request and are subsequently granted a specified quantity of unpaid time off, i.e. XTO. The County has found no evidence of improper recording of XTO. XTO is recorded in the same manner as any other available leave. No errors in recording the use of this leave in the Department of Employment & Social Services have been identified to date. Should an error be discovered by either an employee or an auditor, the remedy will be to immediately rectify the employee record and adjust the employee work schedule accordingly.

10-10 *“Conduct an audit regarding DESS use of XTE.”*

<p>Auditor-Controller's response sent under separate cover August 2, 2010: We agree with this recommendation and have added this audit task to the countywide payroll audit which is in progress and scheduled to be completed in September 2010.</p>
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10-11 *“Stop allowing paid work time for non-work activities.”*

The recommendation has been implemented.

Employees are allowed work-related purchase time and are not paid work time for non-work activities.

10-12 *“Enforce the written rules for cellular phone use and telecommuting.”*

The recommendation will be implemented.

The Department of Employment & Social Services discontinued the use of the telecommuting program during the 2008/09 fiscal year.

Auditor-Controller's response sent under separate cover August 2, 2010: This recommendation pertains to an area outside of the purview and expertise of the Auditor-Controller. The County Administrator is responding to this recommendation.

10-13 *"Enforce HR and BOS policy listing at-will employees."*

The recommendation has been implemented.

The Board of Supervisors will continue the review and publication of all at-will employee positions.

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."*

The recommendation has been implemented.

Human Resources (HR) strictly enforces adherence to the minimum qualifications (MQ) requirements of a classification for all new hires. Every two years, HR policies and procedures are audited by Merit System Services and there have been no adverse audit findings. Departments are not allowed to make changes to the MQ requirements of a classification. In the past, departments were able to approve transfer requests without the involvement of HR. That is no longer part of the promotion process. In reviewing incumbents in management positions at the Department of Employment & Social Services, there are no incumbents who did not meet the MQs at the time of appointment to their position whether from promotion or new hire.

10-15 *"Conduct employee performance evaluations as required by County policy."*

The recommendation has been implemented and the Department will strive for 100% compliance.

Employee performance evaluations are conducted in accordance with County policy. A listing of the evaluations for Department of Employment & Social Services employees shows there are less than 1% of employee evaluations past due and no evaluations are more than one year past due.

The County strives to have all evaluations delivered in a timely manner. Transfers and employee leaves can often delay delivery of evaluations. Evaluations are not part of the layoff process. The lack of an evaluation would have no bearing on a layoff, transfer, demotion or promotion.

10-16 *"Perform a cost-benefit analysis regarding fraud amount exclusions and amend the MOU to establish policy."*

The recommendation has been implemented.

For many years prior to 2009, the Department of Employment & Social Services (DESS) had funded a dedicated prosecutor within the District Attorney's (DA) office that handled all welfare fraud cases regardless of the dollar amount of the loss. Since 2009, DESS has been unable to fund a dedicated welfare fraud prosecutor. As a result, all potential fraud cases are now referred to the general prosecution unit in the DA's office. Due to limited staff and resources, the DA set a loss threshold to limit the number of cases that actually resulted in prosecution. The threshold was set at an amount that was/is consistent with other District Attorney offices.

On average, it takes approximately 15 hours to investigate an alleged fraud at an employee cost of \$1,015. The average time it takes to review the case, file charges and prosecute can be as low as five hours or as high as 120 hours which would represent an employee cost of \$9,900. These are strictly the costs of the main employee contact for investigating or prosecuting. It does not include supplies, overhead or support staff. Based on these expenses, the cost benefit analysis demonstrated that it is generally not reasonable to pursue lower-dollar-amount fraud cases.

Currently the DA and the Director of DESS maintain the flexibility to address issues of fraud regardless of the dollar amount. The approach to date has been reasonable and has provided the maximum amount of flexibility.