

## **YOLO COUNTY PROBATION DEPARTMENT: A TROUBLING CONTRACT, QUESTIONABLE ETHICS**

### **SUMMARY**

The 2012-2013 Grand Jury investigated the Yolo County Probation Department (YCPD) in response to a citizen's complaint. The YCPD has a contract for risk assessment software and training to use in determining the risk of re-offense by clients. The contract is with Assessments.com (ADC). The Grand Jury found that a high level YCPD manager was the sole contract administrator for the contract and had a personal relationship with the Chief Executive Officer (CEO) of ADC.

The Grand Jury determined that a dual relationship existed between the high level manager and the CEO of ADC. This relationship made it difficult for the manager to be impartial in the administration of the ADC contract and created, at a minimum, an ethical conflict of interest. As the administrator of the ADC contract, the manager was the sole receiver of invoices and had sole approval for payment. This relationship could impair professional judgment in the administration of the ADC contract and the interests of Yolo County. The Grand Jury recommends an audit of the ADC contract be performed to ensure no improper invoice payments occurred.

The YCPD management authorized a compensation package for a select group of probation officers who had been trained by ADC to be considered subject matter experts in Motivational Interviewing Technique (MIT). This compensation deviates from the normal compensation for YCPD trainers and is contrary to the Memorandum of Understanding (MOU) between the County of Yolo and Yolo County Probation Association, the probation officers' union. The Grand Jury questions the legality of the compensation package and the authority of YCPD management to authorize this compensation.

It is important to note that the Chief Probation Officer resigned near the conclusion of this investigation.

### **REASON FOR THE INVESTIGATION**

The 2011-2012 Grand Jury conducted an investigation of the YCPD and issued a report on the Department's training protocols and other administrative policies and procedures. Subsequently, the 2011-2012 Grand Jury received a second complaint alleging conflict of interest in the administration of a consultant contract.

The 2012-2013 Grand Jury investigated the second complaint. The investigation identified the following concerns and irregularities:

- Administration of the Assessments.com (ADC) contract and other contract issues
- Inappropriate relationship between a high level YCPD manager and the ADC CEO

- Irregular compensation package for MIT trainers
- MIT trainers' payroll time sheet irregularities

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 or other 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."

## **ACTIONS TAKEN**

The 2012-2013 Grand Jury subpoenaed YCPD employees, supervisors, managers and Yolo County managers and staff. The Grand Jury reviewed the following documents, many of which were subpoenaed:

- Yolo County Administrative Manual
- YCPD Policies and Procedures Manual
- ADC CEO arrest records
- YCPD correspondence
- YCPD Memorandum of Understanding with the Yolo County Probation Association
- YCPD ADC contracts
- YCPD emails
- Employee payroll time sheets
- Employee travel expense claims
- Employee training records

## **WHAT THE GRAND JURY DETERMINED**

### ***Overview of the YCPD***

The YCPD is responsible for supervision, case management and correctional treatment of delinquent youth and their families as well as adult felons on probation. The Chief Probation Officer of the YCPD reports directly to the Chief Administrative Officer (CAO) of Yolo County.

### ***Assessments.com Contracts***

According to the Chief Probation Officers of California (CPOC), 310,000 adults are on formal probation in California. The large majority (79%) have committed felonies. It is estimated that approximately 1,420 probation officers are available for supervising these offenders. A fundamental principle of supervision, according to the CPOC, is assessing both the offender's level of risk for re-offense and the risk posed to public safety. "Evidence Based Practice" is used to determine the type and level of supervision provided to the offender in the community. It is

estimated that over one-half of the California probation departments use a formal risk assessment tool.

The Grand Jury determined that in 2009, YCPD participated with other counties to create the CPOC's Adult Probation Business Plan Model. In 2009, the Department entered into a contract with Allvest Information Services, Inc., dba Assessment.com (ADC), to establish the juvenile risk, needs and detention assessment tools. The contract also established the adult needs assessment and sex offender risk assessment.

The Grand Jury found that the Yolo County Board of Supervisors (BOS) approved three Non-Competitive Bid contracts (NCB) with Utah-based ADC for a total amount of \$325,000 at the May 11, 2010 meeting. The Grand Jury determined that a high level YCPD manager submitted the contract to the BOS for approval and also wrote the NCB justification. The contracts provide software, enhancements, case plan and reporting features associated with risk/needs assessment of adult probation clients. Additionally, the contracts provide training for risk/needs assessments. The NCB justification statement reads, in part, that "Assessments.com broad based clientele and their ongoing relationship with leading researchers in the criminal justice field, the Yolo County Probation Department believes they have the necessary qualifications to successfully implement an adult risk/needs tool." The statement further noted that YCPD had a high probation failure rate.

### *YCPD Management Conduct*

The CEO of ADC conducted training for a select group of YCPD employees to become trainers in the Motivational Interviewing Technique in November and December 2010; and January, February and March 2011. The Grand Jury learned that the CEO often arrived late, lacked focus, and appeared jittery and edgy.

The ADC CEO's role at one of the training sessions held in San Francisco was to coach and supervise several Yolo County Probation Officers in delivering the training to probation staff in other counties. The Grand Jury learned that the CEO arrived very late to one session and was bruised, beat up, and smelled of alcohol. Another incident occurred at a session in another county when Yolo staff inadvertently forgot some materials. The Grand Jury learned that the CEO became verbally abusive to Yolo staff when this mistake was brought to his attention. These two incidents were reported to the YCPD manager. The CEO eventually apologized; however, he was allowed to continue training Yolo staff. No further action was taken.

The Grand Jury learned that the CEO's behavior was considered to be consistent with drug use. Although Yolo County has a no-tolerance drug policy and protocols to follow if an employee is suspected of being under the influence of drugs while on the job, neither the county policy nor the ADC contract addresses consultants or other persons performing work for the County.

The Grand Jury determined that although at the time of this investigation no convictions were found, the CEO of ADC has a history of arrests for drug use and alcohol abuse. Additionally, the Grand Jury found that in April 2011 the YCPD manager was with the CEO in Sacramento when he was stopped for a DUI violation. The CEO was arrested and the manager, who was also under the influence of alcohol and unable to drive, was directed by law enforcement to sleep in the car.

The next day, the manager transported the CEO from jail to the airport for his return flight to Utah. This event was not reported to any official within YCPD or Yolo County.

The Grand Jury learned that during the summer of 2011, the YCPD manager was in near daily contact with the CEO of ADC either by text, phone or email inquiring about his sobriety and illegal drug use. During this time, the manager was trying to get the CEO into a rehabilitation facility. The Grand Jury found and police records confirmed that he was arrested in Las Vegas, Nevada in December 2011 for unlawful possession of drug paraphernalia, possession of cocaine and driving with a suspended license.

This information regarding the CEO's drug and alcohol abuse was fully known by a high level YCPD manager. The Grand Jury determined that the high level YCPD manager continued to breach the boundaries of what is considered to be an acceptable distance in a business relationship. The Grand Jury found that in February 2012, the high level manager traveled from Sacramento to Utah to personally assess his condition. The Grand Jury was unable to confirm the CEO's use of a controlled substance during the time the YCPD manager was with him in his Utah apartment.

No disclosure of suspicious or harmful activity, such as suspected use of a controlled substance, was made by the YCPD manager to the manager's superior, legal counsel or any jurisdictional authority. The Grand Jury determined that this non-disclosure of illegal activities to the manager's superior was a violation of professional duty.

The Grand Jury learned that during this time period, the YCPD manager traveled with the CEO from Utah to Arizona, then back to Utah in an unsuccessful attempt to get the CEO into a rehabilitation program. Another attempt at rehabilitation was arranged in March 2012, by the high level manager. The Grand Jury learned that the YCPD manager flew from Sacramento to Utah, and drove the CEO back to Sacramento in the CEO's truck. The vehicle remained in the YCPD parking lot until someone from Utah came to pick it up. The manager used airline credits earned during business travel for Yolo County to pay for the numerous trips taken to Utah and other states to interact with the CEO of ADC.

### ***Conflict of Interest***

An ethical conflict of interest can exist even if there are no improper or illegal acts as a result. The fact that a high level YCPD manager had a close personal and business relationship with the CEO created a dual relationship. Dual relationships create an ethical conflict of interest, make it difficult to be impartial and create the appearance of impropriety. This conflict could impair professional judgment as it relates to the administration of the ADC contract and the interests of Yolo County.

Yolo County high level management employees are required to take the Attorney General's on-line ethics training within 30 days of hire. The focus of this training is monetary conflicts of interest. The Grand Jury determined that Yolo County has no written Code of Conduct, Code of Practice, Code of Ethics or any written guidelines for high level management employees to identify what is acceptable professional behavior and what is not. In many jurisdictions, it is

suggested that management employees ask themselves: How would I feel if what I am doing were to be on the news tomorrow? This could resolve questionable areas before they become an issue. Yolo County has no established framework for evaluating the professional behavior or conduct of individuals in high level management positions. Common sense professional ethics would dictate that any known or suspected use of a controlled substance by a consultant who is receiving large sums of money from the County and interacting with YCPD staff, should be reported to one's superior. There is nothing in place to require management employees to report suspicious or harmful activity by persons providing services to Yolo County.

### ***YCPD Administration of Assessments.com Contract***

The Grand Jury determined that the high level YCPD manager was the Department's sole administrator for the ADC contract, which the manager secured as an NCB contract. That responsibility is very broad and includes:

- Monitoring the CEO and others responsible for providing the services
- Independently receiving invoices from ADC
- Independently verifying services are performed satisfactorily
- Independently reviewing and approving invoices for payment
- Independently requesting services

The standard procedure for YCPD contract administration is for the consultant to remit invoices to the fiscal staff for review and analysis. The invoice is then sent to the appropriate program manager for verification of services and signature approval. The submittal of invoices from ADC directly to the manager is a deviation from standard practice and lacks any type of check against possible abuse.

The Grand Jury obtained copies of emails that showed the YCPD manager often instructed ADC on how to complete invoices, what services to invoice, and the amount to bill. This lack of separation of power in the administration of the ADC contract created an opportunity for abuse and misuse of Yolo County funds. The duties of invoice payment for this contract should follow standard accounting protocol.

The Grand Jury determined that the dual relationship dated back at least to 2010; however, the manager did not disclose the relationship to the Yolo County Administrative Officer and the County Counsel until April 2012, after the start of the Grand Jury's investigation. At that time, the manager volunteered to transfer the contract oversight to someone else in the department. The "oversight" of the contract was verbally transferred to another high level YCPD employee in April 2012.

The Grand Jury learned that under order of the Second District Court of Utah, ADC was placed under the protection of a receiver in January 2012. This was a result of the CEO testing positive for use of a controlled substance on January 8 and January 20, 2012. On March 30, 2012, an email from the court-appointed receiver to the YCPD manager stated that no further payments should be made directly to ADC. Additionally, the California Corrections Standards Authority Board (CSA) indicated that the CEO had been on personal leave for many months prior to ADC

going into receivership. CSA indicated that on or about March 29, 2012, CSA was advised that ADC was experiencing cash flow problems and staff reductions.

In April 2012, the YCPD manager returned to Utah and accompanied the CEO to meet with the receivership attorneys. . The Grand Jury learned that the YCPD manager approved an invoice of \$33,000 from Assessments.com, and on April 19, 2012 offered to wire-transfer the funds into the CEO's bank account. This action took place after the manager's verbal transfer of oversight of the contract to another management employee.

The Grand Jury determined that administration of the ADC contract continued to remain with the same manager although a "verbal" transfer occurred. This employee retained authority over the contract and invoices. The ADC contract expires in January 2013; the decision to renew the contract remains under the authority of YCPD management.

### *Status of the ADC Contract*

YCPD has invested extensive time and money integrating the assessment tools provided, maintained and supported by ADC. The contract expires in January 2013 and currently the contractor is having financial and staffing difficulties which have prompted some counties to explore other consultants. The ADC software and other products in use by YCPD reside on YCPD servers and could remain in use for a short period of time if the company were no longer able to provide services. There are also other firms providing such services.

### *Motivational Interviewing Technique*

ADC trained select YCPD Probation Officers in Motivational Interviewing Technique (MIT). This technique of interviewing clients is based on a clinical model of motivating clients to want to change their behavior. The training for MIT is very intense and expensive. The cost for one trainer is \$2,500 per day. The county used two trainers over a period of 10 to 12 months, and one of the trainers was the CEO of ADC. The MIT training consists of several stages, one of which is a Train the Trainer (T4T) module. This training was conducted by the CEO and his sub-consultant. The goal was to train YCPD Probation Officers to become "experts" in MIT and subsequently qualified to train other Yolo staff and other counties' probation staff in MIT. The Grand Jury determined that the YCPD manager looked upon MIT training as potential "profit" opportunity for the County, which is currently not authorized by the Yolo Board of Supervisors.

Several staff selected by the YCPD manager participated in the T4T and became MIT trainers. Under this "learning collaborative or community of practice," YCPD would share costs with other counties for this training. The YCPD manager devised a method by which YCPD trainers travel to the counties of Santa Cruz, Yuba, Butte and San Francisco to train staff. YCPD management has "verbal" agreements with some of the other counties to be reimbursed for this training. The rationale for developing in-house trainers was to save money by avoiding consultant trainer rates of \$2,500. However, at the time of this investigation, no signed agreements were in place, no invoices have been submitted and no payments have been made to YCPD.

### *Motivational Training Compensation*

The Memorandum of Understanding (MOU) Section 7.11 for Probation Officers states: “Employees whose job classifications or regularly-assigned duties do not include training of new employees and who are assigned primary responsibility for a training program, in writing, by the Department Head or his/her designee, shall receive a five percent (5%) differential above their base salary during the hours engaged in providing such training.”

The MOU pay provision applies to all trainers. However, as an incentive for MIT trainers to travel approximately 2 – 3 days every other week to another county and conduct training, the YCPD manager authorized a strategically complex compensation package. MIT trainers work an alternate work shift by which they work a 9/80 or 4/10 workweek and earn a Regular Day Off (RDO). Per MOU and Yolo County Policy and Procedures, employees who are required to work their RDO receive an overtime rate of time and a half. Employees also earn compensation time (comp time) off for working extra hours, and they are able to use or take the comp time off at a later date.

The Grand Jury determined through testimony, reviewing timesheets and other documents, that as an incentive to earn additional pay, MIT trainers must conduct training on a day that they are “off work” (RDO or using comp time). The YCPD manager implemented a compensation package, which was not negotiated with the employee union or authorized by Yolo County Human Resources. That package required trainers to conduct training on a day they are “off work” thereby eligible to earn overtime for working on a “non-work day.” This day off is reflected on the timesheet as RDO or as comp time. The package also includes:

- A 5% training differential as outlined in the MOU
- Travel hours for MIT training paid at an overtime rate
- Pre-preparation hours: every four hours of training earns two hours of comp time
- Post-preparation hours: every four hours of training earns one hour of comp time

The document that outlines this compensation also states: “I understand that the Chief has the sole discretion to determine eligibility, participation in and implementation of any such schedule and compensation agreements.” Although this document had not been signed by the YCPD manager, it has been circulated to YCPD management, supervisors and MIT trainers and the requirements are being followed. It is estimated that trainers received between \$200 and \$400 additional pay each two-week pay period. This did not include per-diem and expenses paid by the County for travel.

The Grand Jury determined that some trainers were instructed by the manager to falsify their time sheets. Some trainers who do not have a RDO were told by the YCPD manager to claim an RDO in order to receive overtime. Although most YCPD trainers submitted correct timesheets, some trainers were told by management to claim hours worked on a Saturday when they did not work on a Saturday. These falsifications allowed some trainers to be compensated overtime for training conducted during the regular work week. Some YCPD supervisors and managers have questioned the legality and potential violation of MOU Section 7.11.

Many Yolo County MIT trainers, supervisors and program managers have expressed concerns about the impact that training personnel from other counties has on YCPD’s regular workload. During this time of reduced budgets and staff reductions that Yolo County is experiencing, this is not the most

cost-effective use of county funds or staff time. As of this investigation, YCPD has not responded to these concerns.

## **FINDINGS**

- F1 YCPD is supportive of “Evidence Based Practice” through the use of ADC’s assessment tools.
- F2 ADC is the sole provider of assessment tools used by YCPD.
- F3 The YCPD manager was the sole contract administrator for ADC.
- F4 The YCPD manager had a dual relationship with the CEO of ADC.
- F5 ADC invoices were received and approved solely by the YCPD manager.
- F6 YCPD management exhibited questionable ethical conduct.
- F7 The YCPD manager did not disclose a personal relationship with the CEO of ADC in a timely manner.
- F8 The YCPD manager traveled from Sacramento to other states to intervene in the CEO’s substance abuse.
- F9 The YCPD manager used airline credits earned as a Yolo County employee to travel from Sacramento to Utah and Arizona on non-county business.
- F10 The YCPD manager did not disclose the CEO’s substance abuse to Yolo County administrators in a timely manner.
- F11 The YCPD manager guided ADC in completing invoices for payment despite having a dual relationship with the CEO.
- F12 The YCPD manager authorized a strategically complex pay package for MIT trainers.
- F13 The method of compensation for MIT trainers was not approved by Yolo County Human Resources (YCHR).
- F14 Some trainers were directed to falsify timesheets.
- F15 Timecards were submitted improperly.
- F16 There are no agreements for other counties to reimburse Yolo County for MIT training conducted by the Yolo County staff.
- F17 No invoices have been submitted by YCPD to other counties for training reimbursement and no reimbursements have been received by Yolo County.
- F18 Yolo County has no code of conduct or professional code of ethics for high level management employees to follow.
- F19 At the time of this investigation, ADC was in receivership.

## **RECOMMENDATIONS**

- R1 The ADC contract should be reviewed by Yolo County Counsel and the County Administrative Officer to determine by December 28, 2012 the operational fitness and financial viability of ADC.
- R2 Yolo County should develop and implement a code of conduct, clarifying professional protocol for high level management employees to avoid dual relationships, conflicts of interest, improprieties or the appearance of impropriety by December 28, 2012.
- R3 The MIT compensation package should be reviewed by December 28, 2012 to determine if YCPD management has the authority to authorize a compensation package.



R4 The scheduling of MIT training on days not at work should be reviewed by December 28, 2012 to determine if this is a violation of the MOU.

R5 No single Yolo County manager should have singular authority over the development and implementation of a contract or vendor.

R6 The timesheets for MIT trainers should be audited and overpayments should be recovered by December 28, 2012.

R7 Yolo County should closely monitor YCPD to ensure no dual relationships exist between employees and outside contractors.

R8 Yolo County should perform an audit of payments to ADC and determine if any payment irregularities occurred and recoup funds as necessary by December 28, 2012.

R9 Any agreements and/or payments for reimbursement for MIT training from other counties should be reviewed for compliance with Yolo County's financial policies and procedures.

#### **REQUEST FOR RESPONSES**

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

##### **From the following governing bodies:**

Yolo County Board of Supervisors  
R1 through R9

##### **From the following individuals:**

Yolo County Administrator's Office  
F2 through F18 and R1 through R9

Yolo County Counsel  
F4 through F18 and R1 through R9

Yolo County Auditor-Controller and Treasurer  
F2 through F5, F9, F11 through F18,  
R1 and R3 through R9

Yolo County Human Resources Department  
F6 through F18 and R2 through R9

Chief Probation Officer  
F1 through F18 and R1 through R9

Assistant Chief Probation Officer  
F1 through F18 and R1 through R9

**DISCLAIMER**

This report was issued by the Grand Jury with the exception of one member who may have had a perceived conflict of interest. That juror was excluded from all parts of the investigation, including interviews, deliberations and the preparation and acceptance of this report.