

YOLO COUNTY PROBATION DEPARTMENT: **SLOW RESPONSE TO NEEDED CHANGE**

SUMMARY

The 2012-2013 Grand Jury's investigation into the Yolo County Probation Department (YCPD) focused on Yolo County promotional and hiring practices, YCPD discipline issues and YCPD staff morale.

The Grand Jury found that there is insufficient interaction between the Human Resources Department (HR) and hiring authorities to ensure that a hiring or promotional selection from a long list of eligible candidates can be justified and effectively communicated to employees. This has resulted in a potential for abuse by the hiring authority and, at YCPD, a perception that promotions are based on favoritism rather than on qualifications.

The Grand Jury found that YCPD's Policies and Procedures Manual still has not been revised. The inadequacy and vagueness of the existing policy has created issues for management in discipline and a perception by employees that discipline is unfairly applied.

The Grand Jury found that Yolo County administration has taken little action to implement the findings and recommendations contained in a series of reports pertaining to personnel and morale issues within YCPD.

REASON FOR INVESTIGATION

This investigation was initiated in response to complaints alleging favoritism in promotions and unfairness in disciplinary practices at YCPD. The complaints further alleged failure of Yolo County (YC) administration and YCPD management to address longstanding issues involving hostile work environment and low employee morale.

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 and districts."

ACTIONS TAKEN

The 2012-13 Grand Jury reviewed the following documents:

- Letters and emails pertaining to YCPD issues;
- Yolo County Personnel Rules and Regulations (proposed);
- YCPD Issues and Action Chart;
- Yolo County Oral Interview Panel Exam and Outline;
- Memorandum of Understanding, Articles 8 (Transfers and Promotions) and 13 (Disciplinary Procedures);
- HR Investigative Report, November, 2010;
- Independent Consultant Report, August, 2012;
- YCPD Policies and Procedures Manual;
- Promotion Recruitment spreadsheets from 2009 through 2012;
- YC Administration Chart regarding Probation Issues;
- Random selection of hiring/promotion files from four county departments.

In addition, the Grand Jury interviewed complainants, Yolo County managers, Human Resources (HR) managers, YCPD managers and staff, and an independent consultant.

Note: The last interviews for this report were completed on March 12, 2013.

WHAT THE GRAND JURY DETERMINED

Promotional Practices: Justifications Needed

The Grand Jury learned that Yolo County HR has a well-developed plan for initial recruitment, screening, and testing, when necessary, of promotional and new hire candidates. After the initial steps, HR establishes and certifies to the hiring authority a list of eligible candidates for the open positions. A candidate is placed on the eligible list if he or she meets the minimum requirements for the position. At this time, HR provides the hiring authority with a written guideline for conducting oral interviews. This guideline contains information regarding the types of questions that may or may not be asked and explains how the panelists are to rank the candidates after the interview process. HR oversight of the hiring and promotional process ends at this point. The guideline does not

instruct the hiring authority how to select a candidate for promotion or new hire from the final, ranked list.

The hiring authority is required to contact each eligible candidate on the list to offer an opportunity to participate in an oral interview conducted by a panel. The number of eligible candidates on the list varies. The Grand Jury reviewed certified lists containing as few as three and as many as 85 eligible candidates. The panelists conduct an oral interview and assign a score to each candidate. The panelists' interview notes and rankings are contained in a "selection file" maintained by each department. The selection file, containing the ranked list, is sent to the department's hiring authority to make the ultimate decision on which candidate will receive an offer of employment or promotion. Under current County policy, the hiring authority is free to choose from any candidate on the eligible list, regardless of ranking. The hiring authority is not required to prepare any record explaining the selection.

In order to better understand the process, the Grand Jury reviewed three hiring and promotional files from YCPD and two each from the following departments: Sheriff's Department, Department of Employment and Social Services, and Department of Alcohol, Drug and Mental Health. The Grand Jury looked at the total number of eligible candidates on each list; the number of candidates hired or promoted; the ranking of the selected candidate by the interview panel; and whether the files contained an explanation when a lower-ranked candidate was hired or promoted over a higher-ranked candidate.

In all but one of the selection files reviewed, candidates ranked higher by the selection panels were passed over for lower ranked candidates. This was the case in two of the three Probation Department selections. None of the files reviewed contained a written explanation for the selections.

YCPD Policies and Procedures Manual: Overdue Revisions

The 2011-2012 Grand Jury found that the Policies and Procedures Manual for Probation has not been revised since 1995. The Grand Jury recommended the Manual be completely revised by July 1, 2013. The County, HR and Probation filed a Response to the Grand Jury report on July 17, 2012 stating it foresaw no difficulties with developing and distributing a newly revised policy manual by July 1, 2013.

The Grand Jury learned that YCPD management has begun the process of revising its Policies and Procedures Manual. It has been working with Lexipol, a company that provides policies and procedures templates for law enforcement agencies. Once policy language is drafted, YCPD managers must "meet and confer" with the four bargaining units representing all levels of YCPD employees, supervisors and managers. As of late February 2013, only eight out of approximately 85 policies were in the process of

revision. The Grand Jury has learned that the Policies and Procedure Manual will not be complete by July 1, 2013. The Grand Jury recently has been advised that the due date was ambitious and, at best, a draft manual might be complete by that time.

The YCPD manager assigned to the revision project was hired as extra help (no more than 1,000 hours per fiscal year). It is unknown how much longer he will be working at YCPD or whether anyone will be assigned to complete the revision if he leaves before it is finished.

YCPD Policies and Procedures Manual: Fairness in Discipline

The Grand Jury learned that YCPD management believes a good, comprehensive Policies and Procedures Manual sets the standards of expected behavior in the workplace. It tells employees and managers what to do and how to conduct themselves in a variety of circumstances. It gives management the ability to identify and correct employee and supervisory behavior. It provides clear standards for performance evaluations or, if necessary, disciplinary action.

The Grand Jury learned that YCPD management sometimes has had difficulty pursuing formal discipline for unacceptable conduct because the outdated Policies and Procedures Manual does not set clear and enforceable standards. No witness identified any other source of standards for employee conduct. The Grand Jury learned that what some employees may perceive as an unfair application of discipline actually may be the result of management's inability to enforce vague and outdated policies.

To better understand the relation between disciplinary decisions and the Policies and Procedures Manual (P&PM), the Grand Jury reviewed portions of the existing P&PM addressing employee "Conduct/Conflict of Interest" (Section 107) and compared it to a draft revision addressing "Employee Conduct On/Off Duty" (Section 340; draft 12/6/2012).

Section 107 of the existing P&PM provides that employees should conduct themselves in a professional manner and avoid endeavors which are "inappropriate or which may lead to a conflict of interest." The Grand Jury learned that management believes this language to be too vague to put employees on notice as to expected or prohibited conduct.

In contrast, section 340 of the draft revision contains a comprehensive list of conduct that is prohibited and may result in discipline. It covers issues of attendance, on and off duty conduct, work performance, discrimination, use of intoxicants, safety and security. It sets forth responsibilities for employees, supervisors and managers regarding reporting, investigation and discipline.

Staff Morale: An On-going Problem

In March 2010, HR commenced an investigation into claims of management bullying by a supervisor and unprofessional conduct by a high level YCPD manager. HR sustained several of the claims and issued a report in November 2010 containing specific recommendations for HR and YCPD to implement. YC administration was aware of the findings of the HR investigation. The Grand Jury learned that HR's normal practice, after issuing such a report, would have been to meet with YCPD management to develop a plan to address the problems identified in the investigation. Instead, the YCPD Department Manager complained about the findings to a high level County Department Head who was not her supervisor. Nothing further was done to implement the findings of the report by HR, YCPD or YC administration. The employees whose complaints were, in part, sustained were never told why the report was ignored and none of its recommendations implemented.

In late 2010, throughout 2011 and early 2012, YCPD employees watched events unfold with the former Department Head involving the ADC contract and the ADC CEO. These events are set forth in a Grand Jury report dated October 12, 2012. Despite the expressed concerns of employees, the Board of Supervisors (BOS) adopted a resolution honoring the Department Head following her resignation. Their action sent a message to employees that their concerns were being ignored.

In June 2012, after the YCPD Department Head announced her resignation, YC administration hired an outside consultant to "take the temperature" of the YCPD and to assist in developing a vision for the next Chief Probation Officer (CPO). In July and August 2012, the independent consultant interviewed YCPD employees and managers and heard details behind the personnel and morale issues which had plagued YCPD since 2010. On August 6, 2012, the consultant prepared a report for YC administration with his findings. The consultant concluded there existed a sharp division among YCPD employees and managers that was negatively affecting the functioning and "vitality" of the Department. The consultant provided YC administration and YCPD management with strategies to raise morale that included a follow-up of personnel issues raised by staff. The Grand Jury could not find that any of these strategies were implemented and none were communicated to YCPD employees.

On June 30, 2012, the 2011-2012 Grand Jury published its report which focused on training needs at YCPD. In that same report, the Grand Jury also reported serious staff morale and workplace concerns and noted that the recommendations from HR in the 2010 report had never been implemented.

In December 2012, HR prepared a comprehensive YCPD Issues and Action Chart, which listed all the YCPD personnel issues raised by prior investigations, including prior Grand Jury reports. HR met with YC administration and YCPD management to review the chart, to develop an action plan, which included sharing information with employees, and

to assign areas of responsibility and accountability. The action plan has not been fully developed or implemented, and no information has been shared with employees.

The Grand Jury also reviewed a chart prepared by YC administration intended to address the Probation Department issues raised by prior Grand Jury reports. With respect to employee morale, the chart notes that HR will be asked to develop a standardized employee morale survey to gather information and “report back.” The chart lacks specificity on when the survey will be developed, who will receive the information gathered and how it will be used to improve employee morale.

Recently, YCPD has taken steps to provide teambuilding and ethics training for staff and managers. HR also provided training on how to conduct performance evaluations and internal affairs investigations. The Grand Jury also has learned that the majority of performance evaluations were up to date through December 31, 2012. However, as of early March 2013, one high level employee had not received a performance evaluation since 2009.

The Grand Jury recognizes that YCPD management is in a state of flux right now due to the resignation last summer of the former Department Head and because a new, permanent Chief Probation Officer has not been hired.

Changes Needed: A “Lack of Urgency” Culture

Between early 2010 and the summer of 2012, there have been multiple investigations into YCPD and its personnel issues by the Grand Jury, by HR and by an independent consultant. In each case, complaints of low morale have been substantiated and recommendations made to address the problem. No substantial plan addressing these findings of the various investigations has been fully developed or implemented.

YCPD is in the beginning stages of revising its Policies and Procedures Manual. It is unlikely that the revision will be completed and distributed by July 1, 2013, as earlier predicted by YCPD.

In its report of October 12, 2012, the Grand Jury reported that “a dual relationship” existed between a top YCPD manager and the CEO of the company under contract to provide computerized risk assessment tools to YCPD. The Grand Jury recommended that YC evaluate dual relationships in County employment and, if appropriate, adopt a policy to address them. The Grand Jury has learned that additional dual relationships exist at YCPD between some supervisors and providers of services. YCPD management sent a notice to managers advising against referrals to contractors with whom a referring employee has a personal relationship. The notice has not been communicated more

widely throughout the YCPD as recommended by HR. To date, no policy has been adopted defining or prohibiting “dual relationships.”

In its report of October 12, 2012, the Grand Jury also recommended that YC develop a general ethics/conflict of interest policy for YC managers. The Grand Jury learned a general ethics policy was drafted five years ago, in May 2008, but was never completed. This draft of a general ethics policy was presented to the Board of Supervisors in December 2012. At that time, a subcommittee was formed to work on developing the policy. As of March 19, 2013, the subcommittee had not met.

FINDINGS

- F1. While HR has a well-developed system for initial recruitment and testing of candidates for promotion or hire, its current policies do not include any oversight of the process after a list of eligible candidates is established and sent to the hiring department.
- F2. The hiring authority may hire or offer promotions to anyone on the list of eligible candidates, regardless of ranking.
- F3. While the ability of the hiring authority to offer promotions or to hire anyone on the list of eligible candidates gives needed flexibility, it also gives rise to the potential for abuse and the perception of favoritism.
- F4. There is no requirement that the hiring authority document any justifications for its selections.
- F5. Yolo County Personnel policies and practices do not provide feedback to affected employees or to candidates not selected.
- F6. YCPD has been slow to revise its Policies and Procedures. Based on the progress thus far, it is unlikely that the manual will be revised and distributed by July 1, 2013.
- F7. The vagueness and inadequacy of provisions of the existing YCPD Policies and Procedures Manual have created difficulties for management to address unacceptable conduct through appropriate discipline, which has resulted in a perception of unfairness.
- F8. The recommendations contained in the 2010 HR report and those set forth by the independent consultant hired in summer 2012, have not been implemented by YCPD or YC administration.
- F9. The YC administration has in recent months produced “action charts” to propel change forward. The Grand Jury believes that this should have happened months or, in some cases, years earlier.

- F10. The "action charts" presented to the Grand Jury in most cases fail to break down larger objectives into smaller, well defined tasks, each with a deadline and responsible party, in order to ensure accountability and timely completion.
- F11. The ongoing problem of low morale at YCPD is, in part, a result of a continuing failure by YCPD management and YC administration to communicate to employees a serious intention and plan to resolve it.
- F12. There appears to be a general "lack of urgency" culture in YC administration regarding YCPD morale issues.
- F13. As of April 2013, YC administration and the Board of Supervisors have failed to adopt an ethics policy that addresses general ethical conduct and dual relationships, beyond prohibiting financial conflicts of interest.

RECOMMENDATIONS

- R1. HR should include in its Policies and Procedures Manual provisions to ensure the hiring department can articulate justification for hiring and promotional selections. This would allow the hiring department to communicate the basis for its selections to staff and management in a reasoned and transparent manner.
- R2. Within 30 days of this report, YCPD should develop a specific plan for the completion of its Policies and Procedures Manual revision. This plan should include project milestones and staff assignments for completing and distributing the revision no later than December 31, 2013.
- R3. As the Policies and Procedures Manual is revised, YCPD managers should continue to receive training on internal affairs investigations and performance evaluations to ensure all employees and managers understand what is expected of them and what conduct is prohibited.
- R4. YC administration, YCPD management and HR should meet regularly to fully develop and implement a plan to address the staff morale issues raised in the 2010 HR report, 2012 independent consultant's report and prior reports from the Grand Jury pertaining to YCPD. The plan should include actions required to address each recommendation, timeline for completion, resources required and responsible departments. These results should be reported to the Board of Supervisors 30 days following the issuance of this report.
- R5. The Board of Supervisors should ensure the plan developed pursuant to R4 is implemented.
- R6. By September 1, 2013, the Board of Supervisors should finalize and adopt a Code of Ethics as a part of its Administrative Policies and Procedures Manual. The Code should address general ethical conduct for all levels of YC employees and managers and include provisions defining dual relationships.

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following individuals and departments:

- Human Resources Director: Recommendations R1, R3, and R4
- Chief Probation Officer: R2, R3 and R4
- County Administrator: R4

From the following governing bodies:

- Board of Supervisors: R5 and R6

The governing body indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.