

DEC 30 2010

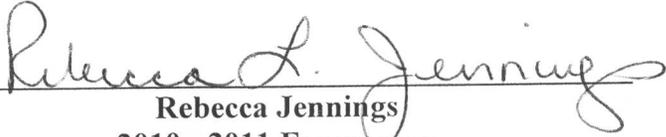
Report
Of the
2010 -2011
Sutter County Grand Jury

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SUTTER
CLERK OF THE COURT
By JACKIE LASWELL Deputy

Public Distribution 1/7/11
jll

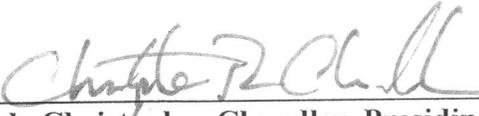
Rebecca Jennings-Foreperson, Bob Benton, Carol Guidera, Dale Palmer, Don Pope,
Glen Davis, Hal Beeso, Harjeet Singh, Jimi Hans, Karen LaRose, Linda Peterson,
Megan Saavedra, Nancy Romero, Sue Countryman, Tammie Putman, Theresa McFall,
Tom Bethards, Vera Crabtree.

Final Report [pursuant to Penal Code 933 (a)] on subject:
Unauthorized Release of Public Information


Rebecca Jennings
2010 - 2011 Foreperson

December 29, 2010
Date

Pursuant to Penal Code Section 933(a), the Presiding Judge makes the finding that the
foregoing report is in compliance with the Title 4, Chapter 3 of the Penal Code ("Powers
and Duties of the Grand Jury").


Honorable Christopher Chandler, Presiding Judge
Superior Court of California, County of Sutter

12-30-10
Date

County Government
Release of Public Information

Introduction

The 2010-2011 Sutter County Grand Jury conducted an investigation of the County Auditor, Mr. Robert Stark, regarding the California Public Records Act (CPRA) and the release of the names of all county employee salary and classification data including the names of those who had previously been excluded from such a release.

The County Government Committee conducted this investigation. Committee members met with the staff of the Auditor Controller's office, and the County Administrative Officer (CAO).

Discussion

Under GOVT. CODE §§ 6250 – 6276.48 the fundamental precept of the CPRA is that governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so. The county may withhold such information and grant an "exclusion" to any request in narrow circumstances where an employee has a legitimate, verifiable safety and/or security concerns.

An allegation regarding release of public information was referred by Mary Lynn Carlton, Personnel Director to the CAO, Stephanie Larsen and the Sutter County Board of Supervisors (BOS) on July 08, 2010. The BOS then referred the allegation to the district attorney's office who conducted an investigation and then presented the information to the Grand Jury on August 25, 2010.

The Grand Jury investigation disclosed the following:

In August 2008, interoffice e-mails were sent to all elected officials and all employees; from Mary Lynn Carlton, Personnel Director; concerning a request for the release of employee names, titles, and salaries; under CPRA. This e-mail also stated that "if you believe you have a legitimate safety or security reason for the non-disclosure of your name, contact Mary Lynn Carlton immediately and, if warranted, we will withhold your name from the disclosure". This same e-mail and request was issued at numerous times prior to the release of information on May 19, 2010.

Mr. Stark received a request from a private citizen for Sutter County employee payroll information and felt he had a duty to comply with the request per the CPRA; therefore, he released the complete list of Sutter County employees. The Grand Jury found Mr. Stark acted within the scope of his position when he released the complete list on May 19, 2010.

On July 8, 2010, an e-mail from Mary Lynn Carlton stated: "The Personnel Department has been in the process of preparing the requested information, and removing the names of those employees who were granted exclusions. That report has not yet been released as we are still preparing it.

When the first request was made in 2008 and original exclusions were determined, the County

took this process very seriously and spent a significant amount of time processing the request and ensuring that those who should receive exclusion actually received one. The County still takes this process very seriously and works hard to safeguard the exclusions that we deem are appropriate.”

After the release of public information by the Auditor Controller, Mr. Stark was then directed by the CAO that in the future to refer all those requests to the Personnel Department. Mr. Stark stated “And I certainly intend to comply with that now that I have been informed that’s what she wants to happen because in the Auditor’s office we are concerned about the employees.”

On September 8, 2010, the Grand Jury asked a staff member of the CAO’s office if the directive for the CPRA requests were part of the Sutter County policy and procedures manual. The Grand Jury was told “No, at this time there is no county policy or procedure for responding to the CPRA requests.” The Grand Jury asked who is responsible for writing the policy for the release of public information and was told that the policy was to be written by the assistant CAO, reviewed by County Council and approved by the BOS. On November 2, 2010 the Grand Jury was told by the assistant CAO the policy had not been started and “It is sitting in a pile on my desk”. A commitment was made to have a policy in place by the end of November 2010. A new deadline was offered to be presented to the BOS for approval hopefully by December 2, 2010.

Finding

The Grand Jury finds when the County receives a CPRA request of this nature, the county is responsible to release a list of employee names, compensation and job title information, and may withhold such information and grant an “exclusion” to any information request in a very narrow circumstance where an employee has a legitimate safety or security reason based upon specific, verifiable safety and/or security concerns.

Recommendation

The Grand Jury recommends that Sutter County take steps to prevent the release of confidential employee information in the future by establishing a policy for release of CPRA requests.

Finding

The Sutter County Grand Jury finds that the Auditor Controller, Mr. Stark, did not violate the CPRA law. At the time of release of personnel names, job titles and salary, a County Policy was not in place regarding CPRA. Mr Stark received a request for the information from a private citizen and he responded to the request based on current law.

The CPRA law was enacted in 2007 and neither the CAO nor the Board of Supervisor's saw a need to establish a policy within the county to address a request of this nature.

Recommendation

The Sutter County Grand Jury recommends that the CAO establish a policy for the release of public information and the Board of Supervisors approve the policy as soon as possible to insure issues of this nature do not happen in the future.

Finding

The Grand Jury finds the potential for future harm continues to be high with no CPRA policies in place. As of December 27, 2010 a CPRA policy has not been approved by the Sutter County Board of Supervisors.

Recommendation

The Grand Jury recommends any adverse actions against an employee or their family as a result of the breach of confidentiality be forwarded to the Sutter County Sheriff's Department.

Respondents

Mr. Robert Stark, Auditor Controller

Ms. Stephanie Larsen, County Administrative Officer

Ms. Shawne Corley, Assistant County Administrative Officer

Sutter County Board of Supervisors
