COUNTY OF SAN LUIS OBISPO

AUDITOR • CONTROLLER • TREASURER • TAX
COLLECTOR• PUBLIC ADMINISTRATOR

Whistleblower Hotline Complaint #121179945
Confidential Management Report

April 8, 2015

JAMES P. ERB, CPA
Auditor-Controller
Treasurer-Tax Collector-Public Administrator

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TO: DAN DOW, DISTRICT ATTORNEY

CC: DAN BUCKSHI, COUNTY ADMINISTRATIVE OFFICER
RITA NEAL, COUNTY COUNSEL
TAMI DOUGLAS-SCHATZ, HUMAN RESOURCES DIRECTOR

FROM: JAMES P. ERB, CPA, AUDITOR-CONTROLLER-TREASURER-TAX COLLECTOR-PUBLIC ADMINISTRATOR

DATE: APRIL 8, 2015

SUBJECT: CONFIDENTIAL WHISTLEBLOWER COMPLAINT 121179945, SEARCH WARRANT DUTY COMPENSATORY TIME

Our office received a Whistleblower Hotline complaint alleging an informal time reporting system in the District Attorney's Office whereby District Attorney staff members receive nine days of compensation time per year without the legal authority for the paid time off. We investigated this complaint by interviewing department staff and reviewing payroll records for calendar year 2014 and calendar year 2015 to date.

Background

As part of their job duties, Deputy District Attorneys (DDA) carry a "search warrant phone" for two weeks in each calendar year. The DDA assigned the search warrant phone is on call 24/7 during the two week period. The assigned DDA will review search warrants prepared by local law enforcement prior to the warrants being submitted to a judge for final signature. According to District Attorney management, staff handles a varying number of after-hours calls during the two week period. As compensation, the District Attorney's office has traditionally provided nine days of paid time off. The nine days are requested, authorized, and then tracked via an internal District Attorney office system. These nine compensatory days are in addition to the Board of Supervisor approved vacation, sick, holiday, personal, and administrative days that employees currently receive. When the search warrant duty compensatory time is used, it is coded as regular time in the SAP time-keeping system. We noted not all DDA's use the entire nine days they are allotted by this practice.

Finding

Earning compensatory time and subsequently taking time off is not a practice authorized in the current Memorandum of Understanding between the Board of Supervisors and the San Luis Obispo Government Attorneys Union which represents the Deputy District Attorneys. Because compensatory time was not subject to an agreement resulting from labor negotiations nor was

it approved by the Board of Supervisors, the current search warrant duty compensatory system violates Article XI, section 10(a) of the California Constitution which prohibits a local government from paying extra compensation or extra allowances to public employees under an agreement made without authority of law.

Recommendation

The District Attorney must discontinue the search warrant duty compensatory time practice and any other compensatory practices until such time those practices are approved and adopted by the Board of Supervisors.

Follow Up

Please respond to my department your intended corrective actions within 10 business days of receiving this report.