

City of Hughson
Grand Jury Case No. 03-06GA
2002-2003

REASON FOR INVESTIGATION

A formal complaint was received regarding various matters concerning the City of Hughson.

BACKGROUND

Deemed to be most significant issues raised in the complaint are:

- A. Use of city credit cards and cellular phones for personal benefit.
- B. Use of city employee and funds for work on private property.
- C. Use, transportation and supervision of Honor Farm inmates for city work.
- D. Disbursement of CalHome Rehabilitation funds.

PROCEDURES FOLLOWED

- 1. There were seven interviews. Those interviewed included the current and former city employees and city officials as well as the complainant.
- 2. The Civil Grand Jury made an on-site tour of Hughson City Hall and the Hughson Police Department headquarters.
- 3. The Civil Grand Jury requested and/or reviewed the following documents:
 - a. Hughson city credit card statements for January 1, 2001 through December 31, 2002 for Office Depot, Home Depot, Chevron, Office Max, Staples, Orchard Supply and Elan, including invoices.
 - b. Hughson city ordinance No. 03-17 establishing a credit card policy.
 - c. Hughson city ordinance No. 84-03, establishing a purchasing procedure.
 - d. Hughson personnel policy manual dated October 28, 1996.
 - e. Hughson city ordinance No. 02-01, repealing and adding chapter 3.24 of the Hughson Municipal code, relating to a purchasing system, compensation records for city officials, and general ledgers for Community Development Block Grant (CDBG) accounts.
 - f. CDBG policies and procedures.
 - g. Hughson city council ordinance No. 73-11, administrative ordinance, amended October 16, 1974, by ordinance No. 74-9, and repealed November 13, 1978 by ordinance No. 78-13.
 - h. Hughson city ordinance No. 78-13, creating a personnel merit system, rules and regulations for employment and administration of city employees.
 - i. Hughson city ordinance No. 87-41, regarding personal vehicles used by city employees.

- j. Memo from Mayor to City Council members, undated.
- k. Memo from Mayor to City Manager dated May 21, 2003.
- l. City of Hughson's Nextel cellular phone statements October 2001 – January 2003.
- m. City of Hughson's AT&T cellular phone statements December 2002 – May 2003.
- n. CalHome Rehabilitation Grant.
- o. Copies of documents from a loan recipient.

Pursuant to the Civil Grand Jury interviews and review of documents, the following findings, conclusions, and recommendations were made on issues investigated:

A. Use of city credit cards and cellular phones for personal benefit.

FINDINGS

1. Prior to April 28, 2003, the city of Hughson had no written credit card policy.
2. On April 28, 2003, the Hughson City Council adopted Resolution No. 03-17, which established basic policies and procedures for using city credit cards.
3. The following have access to city credit cards: Mayor, City Manager, Public Works Director, Special Projects Director/worker, and City Clerk.
4. Prior to April 28, 2003, the mayor used a city credit card for personal use.
5. When the mayor used a city credit card for personal needs the city was not reimbursed.
6. The city credit card ordinance, adopted April 28, 2003, provides that personal use is prohibited.
7. The city has no written policy on personal use of city cellular phones.
8. From December 2001 through May 2003, the mayor used a city cellular phone for personal calls.
9. The mayor's calls regularly exceeded the standard monthly charge and he reimbursed the city.
10. The city's purchasing policy since 1984, City Ordinance No. 84-03, was replaced in 2002 by City Ordinance No. 02-01.
11. During the last two years, not all receipts were turned in to substantiate business use of city credit cards.
12. Invoices, receipts, and credit card statements are reviewed by the city manager or his designee before being submitted to the city council for review and approval, and before being paid by the city clerk, or her designee.
13. The city council receives all documents provided by credit card users before the city council meetings in which these payments are approved.
14. All credit card purchases are not documented and/or verified as city expenses.

CONCLUSIONS

1. Prior to April 28, 2003, the manner in which the City of Hughson verified business use of city credit cards and cellular phones was inadequate and vulnerable to misuse.
2. Prior to April 28, 2003, a city credit card and city cellular phone were used for personal business by the mayor.
3. The City of Hughson has addressed the need for a clear and written policy regarding use of city credit cards.
4. The City of Hughson has not enacted written cellular phone policies.
5. Pursuant to the newly adopted City Ordinance No. 03-17, there is still no independent review of the city manager's use of city credit cards, as only he is designated in the ordinance to review credit card documentation.
6. Prior to April 28, 2003, verification as to business use of all receipts was inadequate and vulnerable to misuse and/or abuse.

RECOMMENDATIONS

1. Hughson City Ordinance No. 03-17 should be amended to include a provision for review of credit card use by the city manager.
2. A complete audit should be conducted of all credit card use for the period prior to April 28, 2003, with a reasonable period to include at least twelve months prior to the adoption of Ordinance No. 03-17.
3. The mayor reimburse the city for all personal credit card use.
4. Any personal use of credit cards identified in the audit be reimbursed to the city immediately.
5. Any misuse should be addressed by the city council and all appropriate action be taken.
6. The City of Hughson should enact a written policy for city cellular phone use.

B. Use of city employee and funds for work on private property.

FINDINGS

1. The Hughson city manager lives in a home he owns in Fresno, CA.
2. Work was done on the city manager's home by a Hughson city employee.
3. The city employee was not working for the City of Hughson when working on the city manager's home.
4. The city employee had previously earned compensatory time off from the city for overtime worked for the city in his regular employment.
5. The Hughson city personnel manual provides that compensatory time can be

earned and received by an employee, rather than normal overtime pay; said “comp time” is to accrue at the same rate as overtime, i.e. time and a half of normal pay.

6. A city-maintained ledger shows accrued and used “comp time” of the city employee.
7. The city employee actually received only one hour of “comp time” for every hour of overtime worked, as opposed to time and a half.
8. While working on the city manager’s home, the city employee was working on his days off. The city employee’s workweek was not traditional, i.e., he did not work Monday-Friday. He did work five days a week, but some of his days off were actually during the week, as opposed to during the weekend.
9. During some of the times and dates the city employee was working on the city manager’s home, he was using accrued “comp time.”
10. A city employee using “comp time” is free to do as he/she chooses, essentially the same as with vacation time.
11. The city manager personally, with his own funds, paid the city employee for the work.

CONCLUSIONS

1. The described use of the city employee by the city manager was neither illegal nor inappropriate.
2. Use of a city employee to work on a public official’s property may be a reasonable option. Whether the city official pays “side-job” rates, or the city employee wants to do an unpaid personal favor for the city official on his own time is irrelevant. But, when this arrangement is made privately and the work is done during the “normal” workday, then is discovered rather than disclosed, an appearance of impropriety may follow. If possible, the arrangement should be avoided, or made public.
3. Providing an employee the option of accruing “comp time” rather than normal overtime pay is reasonable, in that it is provided for in the city personnel manual, as long as it is consistent with the federal Fair Labor Standards Act.

RECOMMENDATIONS

The city council or the city manager should adopt a written policy that when a public official, elected or hired, uses a city employee to work on private property, such arrangement should be disclosed to the public in advance in writing.

C. Use, transportation and supervision of Honor Farm inmates for city work.

FINDINGS

1. The City of Hughson until early in 2003 used services of Stanislaus County Honor Farm inmates for city work.
2. The inmates were transported in a city vehicle.
3. The vehicle was operated for the most part by a city employee, but at times by a volunteer worker.
4. During transportation, inmates were neither supervised nor accompanied by a law enforcement officer.
5. During the transportation and work, inmates were accompanied and supervised by either the city employee or the city volunteer.
6. The city has ceased using inmates for city work.
7. Inappropriate conduct by inmates while working for the City of Hughson was reported, including inmate acquisition and use of tobacco, which is prohibited; attempted transfer of illegal paraphernalia to an inmate, which was intercepted by the supervisor.

CONCLUSIONS

1. The use of inmates is of some economic benefit to the city.
2. The manner in which the City of Hughson transported and supervised the inmates was inadequate, and provided an opportunity for abuse or misuse by the inmates, and left the citizens vulnerable to such abuse or misuse.

RECOMMENDATIONS

Law enforcement personnel should always be involved in the transportation, use and supervision of the inmates.

D. Disbursement of CalHome Rehabilitation funds.

FINDINGS

1. The city manager represented that the CalHome Rehabilitation loan in question had been administered properly.
2. The City of Hughson disbursed funds for a CalHome Rehabilitation loan without appropriate paperwork.

CONCLUSIONS

The CalHome Rehabilitation program has not been properly administered by the City of Hughson.

RECOMMENDATIONS

1. The CalHome Rehabilitation fund account should be audited and the audit report made public on an annual basis.
2. The city officials should work with the CalHome Rehabilitation Grant program office to complete all required documents for the loan in question quickly.
3. The City of Hughson should hire a qualified administrator to run the program and train staff.
4. The City of Hughson should review their policies for disbursement of funds.