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CHRISTOPHER K. BOUCHER
Founding Attorney

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May 15, 2024

Josh Brechtel, County Counsel
County of Plumas
1446 E. Main Street
Quincy, CA 95971

Re: Summary of Investigation Conclusions of Complaint by County Administrative
Officer, Debra Lucero Against District Attorney, David Hollister

Our firm was retained to conduct an assessment into a complaint filed by County Administrative Officer, Debra Lucero {"CAO"} against District Attorney, David Hollister ("DA"). This letter is intended to provide your office with a summary of my determination of the issues and conclusions. It is anticipated that this document will be maintained confidentially by the decision-makers of the County and will not be disseminated except as required by law or as determined by the County and its attorneys, and it is subject to attorney-client privilege.

I) Methodology

The CAO was interviewed on two occasions between February and March 2024. In addition, the CAO provided our office with more than 50 exhibits for review, including various correspondence, internal email communications, news articles, budget documents and Public Records Act requests. Further, at the CAO's request, I also reviewed the video recordings of various Board meetings which were made available through the County's website.¹

¹ Specifically, the recordings were accessible at <https://www.plumascounty.us/2442/Agendas-and-Minutes>.

Northern California
2081 Center St.
Berkeley, CA 94704

Southern California
321 S Brand Blvd.
Glendale, CA 91204

In addition, your office (the County Counsel's Office) provided our office with applicable County policies and procedures. Specifically, I reviewed the County's Equal Employment Opportunity Policy, Harassment, Discrimination, Retaliation Policy and Complaint Procedure, and Personnel Rules. The conclusions contained in this letter are based on these policies and are not conclusions of law.

II) Summary of CAO's Allegations Against DA

In summary, the CAO alleged that the DA has created a hostile work environment through intimidation, harassment, and abuse of power. The issues seem to originate from the parties' disagreements over budgeting issues involving the DA's office, as well as the CAO's efforts to bring in professional help to fix financial issues in the County.

In general, the CAO described the DA as being very involved, opinionated and vocal about department budgets and activities outside his purview. She brought in professional accounting help to fix financial issues, which she feels was opposed by DA and other officials.

As a result, the CAO alleged the DA has made false accusations about her in public documents and statements, and has tried to undermine her authority.

In addition, the DA has made public accusations about the CAO having an "improper" relationship with HR Director Nancy Selvage, which she denies. Since filing charges against Ms. Selvage, the DA has accused the CAO of witness tampering for speaking with employees in Human Resources about the case, making the CAO feeling she was targeted. He has also tried to organize a vote of no confidence against the CAO, threatened investigations and made accusations of obstruction of justice and witness tampering, and asked for the CAO to be recused from duties, restricted her budgetary role, and more.

As for creating a hostile Work Environment, the CAO alleges that the DA intimidates County employees. Employees in general fear retaliation from DA so they are reluctant to speak up about issues. The DA's behavior creates a culture of fear and anxiousness, where employees feel unsafe speaking up. Several employees have left their positions due to the alleged hostile environment created by the DA.

The CAO feels the DA has problems with older, strong women who challenge him. He dismisses and ignores women who raise issues, and uses intimidation tactics like getting in or near the CAO's physical space during meetings. The DA also accused the CAO of "giggling" during public meetings.

The CAO also claimed that the DA uses other "proxies" including aligning himself with County Treasurer Julie White and outside parties to make various Public Records Act requests, which she deems harassing in nature.

Since filing her initial complaint, the CAO reported that the DA no longer stands on her side of the room during Board meetings, and his rhetoric in emails has improved somewhat as well. However, his accusations continue publicly at Board meetings.

The CAO requests that as part of the resolution, at minimum, staff (including the DA) need training on organizational structure and roles, policies, and appropriate conduct such as interacting professionally and identifying abuse of power. Many employees feel mistreated and she hopes this process can address the systemic issues.

III) Assessment and Conclusion

In general, the CAO's assertions seem to stem from her role as the CAO, and that the County has not had this kind of management structure in the recent past. Many of the examples cited by the CAO (including those provided by the CAO in exhibits) relate to disagreements over management practices, HR policies, and budgetary issues. This logically created an inherent conflict and dynamic between the CAO's office and the DA's office.

Although the CAO takes exception to the DA's communication with her and others, as well as his overall style and approach towards working with one another, there is no prima facie evidence to support the assertion that the DA targets the CAO because she is an older, strong female (thus a result of a protected classification under County policies). To the contrary, many individuals cited whom the DA has had disagreements with also include other protected classes, including male. This was evident based on the names of individuals provided by the CAO to this Investigator as having been mistreated by the DA.

In evaluating the alleged conduct against the FDA, it is also instructive to review applicable county policies and procedures. As discussed above, I have reviewed the applicable policies and procedures, and County policies specifically refer to actions such as harassment and discrimination as being tied to a protected class.² However, based on my review of the facts and circumstances, I did not find evidence that the CAO was specifically targeted or treated differently by the DA because she is an older, strong female.

Furthermore, although issues related to potential workplace bullying and abusive conduct were alleged, the County does not specifically have a policy prohibiting such conduct. Even if the County did have a policy, under California law, bullying or abusive conduct are also tied to a protected class, which relies on an underlying finding that the conduct was based on a protected class, followed by the abusive conduct.³

² Under the County's Equal Employment Opportunity policy, it defines a protected class as "on the basis of race, color, religion, sex, gender identity, pregnancy, national origin, ancestry, citizenship status, age, marital status, physical or mental disability, medical condition, sexual orientation, or any other basis protected by law."

³ See Government Code section 12950.1(h)(2).

As for statements made publicly by the DA, including those made at Board meetings, based on my review, they stem from matters relating to the County or the DA's office. While the CAO disagrees with the DA's characterization under those circumstances, none of the statements made would constitute a violation of the County policies and procedures mentioned above.

With regards to the DA's alignment with the Treasurer or other individuals from outside entities, and those parties' related demand for public records, existing law (the California Public Records Act) provide a mechanism for responding to those requests, and it appears that the County has responded to those requests according to the law. While the CAO points out that she feels the DA has acted "by proxy," even assuming arguendo that it is true, it does not constitute a violation of the County policies and procedures mentioned above. As an elected official, the DA also has the prerogative to align with any individual whom he feels supports his office's (or conversely, political) cause, and neither existing law nor County policies can prohibit such conduct.

In conclusion, as none of the allegations and evidence support a prima facie case of violation of County policies and procedures, the Board may consider the following actions:

1. Direct our office (through the County Counsel) to conclude the present inquiry as it does not meet prima facie standards.
2. Amend existing policies and procedures to address specific behaviors alleged by the CAO. As an option, the Board may further define abusive conduct to be an independent cause and not dependent on an underlying finding of a protected class.
3. Provide training on workplace conduct, roles and responsibilities and policies to staff.
4. Direct our office (through the County Counsel) to conduct further fact-finding, as determined and defined by the Board in terms of scope and issues.

Based on this conclusion, it should also be noted that since the DA or other parties were not interviewed (and hence provided an opportunity to provide a response), this report does not provide a finding of facts into the alleged conduct by the CAO against the DA. Rather, this report analyzes the allegations on a prima facie basis (i.e. assuming the alleged conduct is true). Therefore, any recitations of the facts are merely based on report by the CAO.

This concludes our summary into the above matters. Thank you for the opportunity to assist the County on this matter.

Sincerely,



CHRISTOPHER K. BOUCHER
ATTORNEY-AT-LAW