



TONY RACKAUCKAS
ORANGE COUNTY DISTRICT ATTORNEY

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August 28, 2017

THE HON. CHARLES MARGINES, Presiding Judge
Orange County Superior Court
Central Justice Center
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Response to 2016-17 Orange County Grand Jury Report, *"Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation."*

Dear Judge Margines:

Please find enclosed a copy of the Orange County District Attorney's response to Findings F1-F8, and Recommendations R1-R3 of the Orange County Grand Jury Report, *"Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation."*

Sincerely,


Tony Rackauckas
District Attorney-Public Administrator

TR:vlb
Enclosure

"Another Hostile Work Environment"

SUMMARY RESPONSE STATEMENT

The Bureau of Investigation (Bureau) is the Orange County District Attorney's Office's (OCDA) law enforcement division. The Bureau is comprised of over 130 sworn police Investigators who are seasoned law enforcement professionals who have been recruited from other law enforcement agencies. They have extensive investigative experience, highly developed technical skills, exemplary work records, and outstanding personal histories. The Bureau also employs 90 non-sworn support team members.

Investigators assist prosecutors in trial by developing leads and locating additional witnesses, including uncooperative or reluctant witnesses, ensuring the safety of the victims and witnesses, and engaging in trial strategy with their prosecutor partners. Their work is extensive, which includes writing and serving search & arrest warrants and investigating original cases in complex matters, going the extra mile to ensure that the law is enforced in a just, honest, efficient and ethical manner.

The Bureau's Special Assignments Unit responds to and investigates officer-involved shootings, custodial deaths, police officer criminal conduct allegations, public corruption, and other sensitive and complex investigations. In addition to working cooperatively with 25 local police agencies, the Orange County Sheriff's Department, and other state and federal agencies, the OCDA Investigators are assigned to participate on 7 different local state and federal task forces. These task forces allow law enforcement to leverage the abilities and expertise of the various participating agencies which results in coordinated and effective investigations of the highest level crimes.

OCDA Investigators maintain expertise in a number of various units. There over 35 different units where an investigator may be assigned.

- Anti-Terrorism/ Organized Crime
- Automobile Insurance Fraud
- Branch Court Services
- Child Abduction
- Child Abuse
- Civil Gang Injunctions
- Cold Case Homicide Task Force
- Consumer Protection
- Environmental Protection
- DEA Task Force
- DNA Investigations
- Elder Abuse
- Family Protection
- FBI Cyber Crime Task Force
- Felony Panel
- Gangs

- Homicide
- Human Exploitation And Trafficking (HEAT)
- In-Home Support Services Fraud
- Juvenile
- Major Fraud
- Medical Insurance Fraud
- Narcotic Enforcement Team
- Orange County Auto Theft Task Force (OCATT)
- Orange County Gang Reduction and Intervention Partnership (OC GRIP)
- Orange County Housing Fraud
- Orange County Regional Computer Forensics Laboratory
- Professional Standards
- Protective Services Unit/ Threat Assessment
- Public Assistance/ Welfare Fraud
- Real Estate Fraud
- Sexual Assault
- Special Assignments
- TARGET
- Technical Services
- Taskforce Review Aimed at Catching Killers, Rapists & Sexual Offenders (TracKRS)
- U.S. Marshall Task Force
- Vehicular Homicide
- Workers' Compensation Insurance Fraud

The Bureau's accomplishments have been recognized by outside agencies. In August 2017, Investigator Kevin Ruiz was honored with the "Golden Rule Award" for his extensive work as a non-profit leader with the Orange County Gang Reduction Intervention Partnership (OC GRIP). In October 2016, Investigator Dan Pratt was recognized by the California Welfare Fraud Investigator's Association for outstanding service. In March 2017, Investigator Paul Litchenberg received a rare FBI commendation from Director James Comey for his extraordinary efforts that resulted in several indictments against individuals running a large racketeering operation. In 2015, Investigator Wes Van Diver was named the California District Attorney's Investigator of the Year. In 2013, Investigator Larry Montgomery received the same award. The investigative staff has also been recognized for their outstanding work in the Orange County Auto Theft Task Force (OCATT), HEAT (Human Exploitation and Trafficking), OC GRIP, and pioneered the first Rapid DNA program in the State of California.

Against this backdrop of excellence, the OCDA recognizes that some decisions made in the Bureau impacted morale and compromised the professionalism and integrity of the Bureau and the OCDA. When these issues came to light, the OCDA took swift and decisive actions to ensure these issues were corrected before the issuance of this report. Change in leadership, outreach to employees, conducting human resources investigations, and

developing policies that go further than one County policy. The OCDA believes these changes have helped to restore morale and confidence in the future direction of the Bureau.

FINDINGS AND RESPONSES

Finding F1

“Multiple consensual relationships involving some members of Bureau management have contributed to a perception of favoritism and cronyism among some in the Bureau. This perception stems from the promotion of some who have been engaged in intimate relationships with their supervisors, whether or not those promotions were deserved, and a belief by some that participation in activities that occur outside the workplace impact promotion decisions. This has created the perception of a hostile work environment for some.”

Response to Finding F1: Disagree partially with the finding

The OCDA is committed to a hostile free work environment. This has always been the policy of the OCDA both in writing and in practice. As recently as March 31, 2015, and March 1, 2017, District Attorney Tony Rackauckas, issued a memo to all OCDA employees that the Office was fully committed to the County’s Equal Employment and Anti-Harassment Policy and Procedures (EEO) and provided a copy of the policy to all employees (Attachments A and B.) Additionally, on Feb. 26, 2016, the District Attorney issued a similar memo with a copy of the County’s Equal Employment and Anti-Harassment Policy and Procedure and also included a copy of the Office of the District Attorney Ethical Employee Conduct Guidelines (Attachment C.) All OCDA employees signed an acknowledgement form confirming their receipt of the policies (Attachment D.) Each memo outlines the Office’s intent and commitment to non-discrimination and promoting employees on ability and job performance. Further, the memos make it clear that sexual harassment in any form would not be tolerated and that anyone working in the OCDA who believed he or she was a victim of discrimination or harassment of any kind is encouraged to report the incident.

The OCDA’s strong commitment to the EEO policies is further demonstrated by the mandatory training of its employees in this area. In April of 2015, all non-manager/supervisors were required to complete an online training in “Workplace Harassment: Prevention and the Law.” At the end of 2015 and into 2016, all OCDA managers and supervisors completed mandatory EEO training: “Prevention of Harassment, Discrimination and Retaliation Training.” The District Attorney is requiring all managers and supervisors to attend Equal Employment Opportunity and Anti-Harassment training on September 28, 2017. (Attachment E.)

To address the stated perceived issues within the Bureau, the Office initiated an independent investigation to determine the validity of this perception. Personnel actions have been taken including changes in Bureau leadership. The OCDA is committed to determine if any policy violations have occurred and the appropriate actions will be taken. In addition, the Bureau is proactively developing several new policies that prohibit this

type of conduct. (Attachments F and G.) The OCDA is currently in the Meet & Confer process with the respective union, as required.

Finding F2

“Current county sexual harassment training for Bureau employees does not appear adequate. Many Bureau employees appear to be unaware of the policy. Some OCDA management seemed unaware of the implications of a hostile work environment and what constitutes sexual harassment.”

Response to Finding F2: Disagree partially with the finding

As stated in the Response to Finding 1, the OCDA is firmly committed to a hostile-free work environment. The OCDA will ensure that all employees, including members of the Bureau, receive adequate training to ensure the work environment is free of harassment and discrimination. There will be a special emphasis upon the OCDA managers and supervisors to be excellent role models and to support the OCDA and County’s commitment to these principles. This will include taking prompt and appropriate action to avoid and minimize any reported occurrences of discrimination.

Finding F3

“The current county sexual harassment policy does not prohibit supervisor-subordinate intimate relationships.”

Response to Finding F3: Agree with the finding.

The County of Orange maintains and enforces an anti-harassment policy that broadly covers sexual harassment conduct. The County may not, however, specifically address supervisor-subordinate intimate relationships. It has always been the policy and the practice of the OCDA to prohibit such a relationship. The Bureau is developing a stronger policy against nepotism and conflicting relationships. (Attachment G.) The OCDA is currently in the Meet & Confer process with the unions, as required.

Finding F4

“The absence of a transparent assignment process that uses investigators’ skill sets has contributed to the perception of favoritism among some Investigators.”

Response to Finding F4: Disagree partially with the finding

Investigative transfers and assignments are assessed based on Office needs, while balancing investigative experience and expressed preferences. Once a year, an assignment preference list is completed by Investigators so they can express their desired work assignments. This list may be updated throughout the year by the investigator. As office needs arise in various locations and units, the Bureau management will review the interested candidates based on the assignment preference list, their background and experience, and the particular responsibilities of that assignment. In addition to office needs, some transfers and assignments are initiated to broaden the Investigators’ experience. Another factor impacting investigative movement is that some assignments

are more desired and popular than others and the ability to move investigators to their most desired assignments is not always feasible.

The OCDA acknowledges that there may have been in the past some decisions by the Bureau's management relative to transfers and assignments that were perceived as being based on factors other than merit and office needs. As stated in the introduction and elsewhere in this Response, the OCDA took steps months before the issuance of this report to ensure that the process is fair and objective.

Finding F5

"Supervisor and commander positions lack an adequate management training requirement. This has led to either a failure to uniformly enforce OCDA and county policies surrounding work place behavior or at least a perceived failure to do so."

Response to Finding F5: Disagree wholly with the finding

The Bureau actively participates in the Commission on Peace Officer Standards and Training (POST). This commission was established by the California Legislature in 1959 to set minimum selection and training standards for California law enforcement. More than 600 agencies participate in the POST program and the participating agencies agree to abide by the standards established by POST.

Every supervisor in the Bureau is required to attend an 80-hour mandated Supervisory course and this course must be completed within 12 months of promotion or appointment to a first level supervisory position. The Bureau has five supervising investigators who have completed the prestigious Sherman Block Supervisory Leadership Institute. This is an eight-month course designed to stimulate personal growth, leadership and ethical decision-making for law enforcement supervisors. The Bureau is committed to sending all of their supervisors through this program. In addition to POST mandated training, the Bureau sends their supervisors to internal affairs training, background investigations and assertive supervision.

Each Commander (second level supervisor) is required to attend a 104-hour mandated Management Course designed to assist supervisors transitioning to middle managers. This course must also be completed within 12 months of their promotion. Four out of five Bureau Commanders have attended a POST 80-hour Executive Development Course and with the final Commander scheduled to finish by the end of the year. One Commander has completed the POST Command College and another Commander is currently enrolled in the program. The Command College is a 16-month program designed to prepare law enforcement leaders of today for the challenges of the future.

In 2015, the County launched the PDX training program for all County managers and supervisors to receive quality, standardized training. The expected results are real and sustainable changes to culture, operations and the quality of the supervisory and managerial workforce.

All Bureau Supervisors and Commanders are provided adequate management training and are required to uniformly enforce Department and County policies.

Finding F6

“Some employees report they do not feel comfortable going to OCDA or county Human Resource Services staff to report incidents of harassment for fear they will not be afforded confidentiality, the complaint will be dismissed, or they will face retaliation.”

Response to Finding F6: Disagree partially with the finding.

Prior to the release of the Grand Jury report, the OCDA’s Human Resources (HR) Department did not receive any complaints regarding the issues raised in the report. The OCDA is unaware of any complaints received by central County HR, which is independent from the OCDA. When the OCDA became aware of rumors and prior to the issuance of the Report, the OCDA took measures to create an environment that encourages employees to feel comfortable when approaching HR. Six months prior to the report, HR was moved to a different floor away from the executive management offices. The OCDA will continue to foster an environment where all employees are comfortable in reporting incidents of harassment. The OCDA believes the recent leadership changes made in the Bureau have restored confidence to the employees who believed their voices would not be heard or that they faced retaliation or reprisal.

Finding F7

“Under the current leadership, the Bureau is run much more like a police department than a support unit for a law firm and this has led several employees to invoke the law enforcement code of silence about alleged inappropriate behavior in the Bureau.”

Response to Finding F7: Disagree partially with the finding.

The OCDA Bureau’s primary role is to support the prosecution of cases conducted by the prosecutors. This is no easy task as over 60,000 cases are filed yearly by the prosecutors. The vast majority of investigators are working every day to prepare cases for trial or other court proceedings. In addition to its function of supporting the prosecution of cases, the Bureau is also responsible for being the primary investigating agency in several specialized crimes, handling the investigations from inception similar to a traditional police department. These specialized investigations consist of officer involved shootings, custodial deaths, police officer misconduct, major fraud, cold case homicides, auto insurance fraud, workers’ compensation insurance fraud, medical providers’ fraud, public works (prevailing wage) fraud, cyber-crimes, animal cruelty, environmental crimes, consumer protection fraud, child abduction, code enforcement and organized crime. The Bureau also participates in law enforcement task forces targeting certain sophisticated criminal activities.

The Bureau works collaboratively with the legal staff in several successful programs:

Human Exploitation And Trafficking Unit

In 2013, in response to proposition 35, our office created the Human Exploitation And Trafficking Unit. This program was designed to vigorously prosecute perpetrators who commercially exploit and traffic women. Since the inception, there have been a total of

1,864 criminal filings, over 230 felony convictions with a majority of cases resulting in state prison sentences, and six life sentences.

Rapid DNA

In 2015, our office became the first rapid DNA program in the state (1 of 4 in the USA). This unit has processed 241 samples, 74 of the samples resulted in the identification of the perpetrator (41percent).

Local DNA Database

OCDAs began collecting voluntary DNA database samples from defendants in 2007. Since its inception, 160,000 samples have been collected, 644 crime scene DNA profiles have resulted in the identification of a potential perpetrator in 15 types of crimes, including homicide and sexual assaults.

Gang Injunctions

Since 2006, the courts have granted 13 gang injunctions, enjoining over 500 gang members and protecting vulnerable citizens and children from intimidation and criminal activities of gang members.

Homicide Unit

Since 2004, the Homicide Unit has worked tirelessly to obtain 340 criminal convictions, resulting in a conviction rate of 90 percent.

TrackRS/ Orange County Cold Case Taskforce

The task force was created in 2014. Since the inception of the task force, 12 cold case homicides have been solved with the oldest case dating back to 1974. There are still 1,000 cold cases that must be solved in Orange County.

Vehicular Homicide

The Vehicular Homicide Unit is a model statewide on how to prosecute vehicular homicides, including aggressive enforcement of the *Watson* case which permits certain driving under the influence cases to be tried as a murder. Since 2008, the unit has obtained 90 vehicular death convictions, including 11 second degree murder convictions.

Economic Crimes Division

Major Fraud Unit has original cases involving real estate fraud, cyber-crimes, white collar crimes and elder fraud. These cases regularly involve multiple victims with multiple perpetrators resulting in multi-million dollar losses. Environmental Fraud and Consumer Protection enforcement has protected our residents from hazardous waste violations and unfair business practices. The Consumer Protection, Environmental Units and Major Fraud often make the perpetrator pay for their criminal activity, reducing the burden on the taxpayers. The Insurance Fraud Unit has identified several medical fraud billing schemes which is responsible for hundreds of millions of dollars in fraudulent billing and the arrest of numerous medical professionals.

Orange County Gang Reduction Intervention and Partnership (OC GRIP)

OC GRIP is presently in 54 schools and presented to 3900 students throughout Orange County. GRIP partners with 565 parents who volunteer as “parent-greeters” to provide a safer environment for the students on campus. Over 500 families receive CSP services, including counseling, food and housing assistance, medical referrals and school supplies. In 2016-17 school year truancies went from 1877 to 856 unexcused absences, a 54 percent reduction. GRIP hosts seven soccer camps for 355 students, Taekwondo and leadership training for 60 students, Get Safe After School Programming for 150 students, volleyball camps and sends 50 students to the Pythian Camp in the summer.

Public Assistance Division

Since 2012, In Home Support Services (IHSS) investigated 1,024 referrals and collected \$467,071 in restitution and saved the taxpayers \$4,140,529 in cost savings. The Criminal Unit investigated 5,414 referrals which resulted in 378 felony complaints and collected \$1,476,538 in restitution. The Orange County Housing Authority (OCHA) investigators are responsible for conducting the largest Section 8 housing fraud case in Orange County history.

The OCDA does not believe that the manner in which the Bureau carries out its responsibilities is connected to any perceived code of silence.

Finding F8

“There is a perception among some Bureau employees that some members of OCDA management have not consistently enforced the Orange County zero-tolerance policy towards sexual harassment.”

Response to Finding F8: Agree partially with the finding.

As stated in the above responses, the OCDA has always been, and continues to have a zero-tolerance policy towards sexual harassment. Annual EEO training and messages from the OCDA are provided and reinforced. The OCDA took several measures including a Bureau-wide anonymous survey in May 2017 to solicit feedback from employees in an effort to improve morale and confidence in the future direction of the Bureau.

RECOMMENDATIONS AND RESPONSES

Recommendation R1

“The OCDA should implement comprehensive management training of all management in the Bureau.”

Response to Recommendation R1: Implemented

As outlined in response to Finding 5, all Bureau Supervisors and Commanders have always been required to attend extensive and comprehensive leadership training.

Recommendation R2

“The OCDA should ensure all employees receive comprehensive sexual harassment training annually and periodically follow up to ensure policies are being followed.”

Response to Recommendation R2: Implemented

As outlined in responses to Findings 1 and 2, EEO training is conducted annually. A mandatory manager and supervisor training is scheduled for Sept. 28, 2017. Harassment in any form, including sexual, is not tolerated and the OCDA will continue to encourage employees to report inappropriate conduct.

Recommendation R3

“Bureau management should recognize the Bureau’s role in the mission of the OCDA, prioritize assignments accordingly, and develop an assignment process that better uses the experience and skills of investigators.”

Response to Recommendation R3: Implemented

The Bureau has an assignment process in place as described in response to Finding 4. The OCDA has taken steps and will continue to ensure that the process is fair and objective. It is understood that the Bureau’s primary role is to support the prosecution of OCDA cases. There are also important collateral areas that require the Bureau to be the originating and main investigative force.

ATTACHMENT A



TONY RACKAUCKAS
DISTRICT ATTORNEY

MEMO

OFFICE OF THE DISTRICT ATTORNEY

March 31, 2015

TO: All District Attorney Employees

FROM: Tony Rackauckas, District Attorney

SUBJECT: Commitment to Equal Employment Opportunity - 2015

In compliance with County of Orange Board of Supervisors Resolution No. 13-052, which commits the County of Orange to Equal Employment Opportunity in accordance with state and federal legal requirements, I hereby accept the responsibility and pledge my full support to the County's policy of non-discrimination and equal employment opportunity in this organization.

The County of Orange Equal Employment and Anti-Harassment Policy and Procedures (EEO) insures full realization of non-discrimination and equal employment opportunity by selecting, training, and promoting employees based on their ability and job performance, and provides for equal opportunities in all aspects of employment without regard to an employee's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression or sexual orientation, age, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law. Unlawful discrimination, harassment and retaliation in any form will not be tolerated.

Further, in compliance with Board of Supervisors Resolution 99-514, sexual harassment in any form will not be tolerated. All executives, managers, supervisors and employees are responsible for maintaining a work environment free of sexual harassment.

Any employee, volunteer or intern who believes he or she has been the victim of discrimination and/or harassment including, sexual harassment, in violation of the County's EEO and Anti-Harassment Policy and Procedures should report the incident immediately to his or her supervisor, the District Attorney's Human Resource Services team, or to the EEO Access Office. When the District Attorney receives a complaint of discrimination, harassment or retaliation or otherwise has reason to believe that discrimination, harassment or retaliation is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and that prompt, appropriate remedial

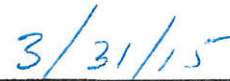
action is taken. This District Attorney is committed to take action if it learns of discrimination, harassment or retaliation in violation of this Policy whether or not the aggrieved employee files a complaint. If the allegation is sustained, appropriate remedial action shall be taken. To ensure Countywide consistency and for the sake of record keeping, information regarding District Attorney investigations, including the proposed disposition, must be reported to the EEO Access Office before final action is taken.

All District Attorney supervisory and management employees are responsible for promptly responding to, and/or reporting any suspected acts of discrimination, harassment (hostile work environment and/or quid pro quo), and retaliation. Failure by a District Attorney supervisor or manager to appropriately report and address known or suspected incidents of discrimination, harassment or retaliation shall be considered to be a violation of the EEO Policy and appropriate disciplinary action may be taken.

It is expected that all managers and supervisors at the District Attorney demonstrate leadership by supporting and implementing the EEO and Anti-Harassment Policy as well as all Equal Employment Opportunity Programs administered by the County of Orange. Lisa Bohan-Johnston EEO Coordinator at the District Attorney is delegated responsibility for ensuring compliance with the EEO policy and applicable programs.




Tony Rackauckas, District Attorney



Date



Lisa Bohan-Johnston, EEO Coordinator



Date

ATTACHMENT B



TONY RACKAUCKAS
DISTRICT ATTORNEY

MEMO

OFFICE OF THE DISTRICT ATTORNEY

Date: March 1, 2017

From: Tony Rackauckas, District Attorney

To: All District Attorney Employees

Subject: Commitment to Equal Employment Opportunity - 2017

In compliance with County of Orange Board of Supervisors Resolution No. 15-135, which commits the County of Orange to Equal Employment Opportunity in accordance with state and federal legal requirements, I hereby accept the responsibility and pledge my full support to the County's policy of non-discrimination and equal employment opportunity within this organization.

The County of Orange Equal Employment & Anti-Harassment Policy and Procedures (EEO) insures full realization of non-discrimination and equal employment opportunity by selecting, training, and promoting employees based on their ability and job performance, and provides for equal opportunities in all aspects of employment without regard to an employee's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression or sexual orientation, age, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law. Unlawful discrimination, harassment, retaliation and abusive conduct (bullying) in any form will not be tolerated.

Further, in compliance with the Board of Supervisors Resolution, sexual harassment in any form will not be tolerated. All executives, managers, supervisors and employees are responsible for maintaining a work environment free of sexual harassment.

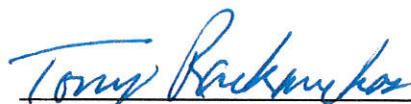
Any employee, volunteer or intern who believes he or she has been the victim of discrimination and/or harassment including, sexual harassment, in violation of the County's EEO and Anti-Harassment Policy and Procedures should report the incident immediately to his or her supervisor, the District Attorney's Human Resource Services team, or to the EEO Access Office. When the District Attorney receives a complaint of discrimination, harassment, retaliation or abusive conduct or otherwise has reason to believe that discrimination, harassment, retaliation or abusive conduct is occurring, it will take all necessary steps to

ensure that the matter is promptly investigated and that prompt, appropriate remedial action is taken. The District Attorney is committed to take action if it learns of discrimination, harassment, retaliation or abusive conduct in violation of this Policy whether or not the aggrieved employee files a complaint. If the allegation is sustained, appropriate remedial action shall be taken. To ensure Countywide consistency and for the sake of record keeping, information regarding District Attorney investigations, including the proposed disposition, must be reported to the EEO Access Office before final action is taken.

All District Attorney supervisory and management employees are responsible for promptly responding to, and/or reporting any suspected acts of discrimination, harassment (hostile work environment and/or quid pro quo), retaliation and abusive conduct. Failure by a District Attorney supervisor or manager to appropriately report and address known or suspected incidents of discrimination, harassment, retaliation or abusive conduct shall be considered to be a violation of the EEO Policy and appropriate disciplinary action may be taken.

It is expected that all managers and supervisors at the District Attorney demonstrate leadership by supporting and implementing the EEO & Anti-Harassment Policy as well as all Equal Employment Opportunity Programs administered by the County of Orange. Madai Chavez, EEO Coordinator for the District Attorney is delegated responsibility for ensuring compliance with the EEO policy and applicable programs.

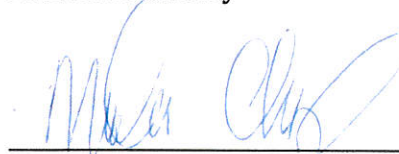
As the District Attorney of the County of Orange, I want to personally assure each and every one of you that you may report any incidents that you believe are a violation of EEO policies without fear of retaliation. I will not tolerate such conduct by any staff member in this office. If you ever feel that you have been a victim of such conduct, I urge you to talk with any manager or supervisor with whom you are comfortable in discussing it. They have the same commitment from me in supporting them in their duty to report it. I want everyone in this Office to feel safe in the knowledge that they will be listened to without prejudice or pre-judgment if they believe such conduct has occurred.



Tony Rackauckas
District Attorney

3/1/17

Date



Madai Chavez
EEO Coordinator

3/1/17

Date

COUNTY OF ORANGE EQUAL EMPLOYMENT OPPORTUNITY
and ANTI-HARASSMENT POLICY AND PROCEDURE
(Board Resolution No. 15-135)

This policy and procedure shall be known as the County of Orange Equal Employment Opportunity and Anti-Harassment Policy and Procedure. It may be referred to as the EEO/Anti-Harassment Policy.

PURPOSE

The purpose of the County of Orange EEO/Anti-Harassment Policy is to ensure equal opportunity in all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leaves of absence, compensation, and training. The County is committed to ensuring that no employee, unpaid intern (hereinafter 'intern') or volunteer is subjected to unlawful discrimination, harassment, retaliation or abusive conduct. Unlawful discrimination, harassment, retaliation or abusive conduct in any form will not be tolerated.

SCOPE

- A. The EEO/Anti-Harassment Policy is applicable to all County Agencies and Departments and their employees, interns and volunteers.
- B. Agencies/Departments and their employees, interns and volunteers are responsible for full support and commitment to a policy of equal employment or placement opportunity and a workplace free of discrimination, harassment, retaliation and abusive conduct.

POLICY

A. Equal Employment Opportunity

- 1. Agencies and Departments are responsible for preparing and submitting to the Human Resource Services - Equal Employment Opportunity Access Office (EEO Access Office) each calendar year a Certification of Compliance and/or an Equal Employment Opportunity Plan.
- 2. Equal employment opportunity will be achieved through leadership and aggressive implementation of programs designed to achieve equal employment opportunity. The program will include the periodic and systematic review of recruitment, selection and promotional practices, attention to upward mobility, periodic training and educational opportunities and audits of progress through a review of statistics, and annual Certificates of Compliance and/or Equal Employment Opportunity Plans.
- 3. In all cases, the better qualified applicant or employee shall be selected for a position, promotion, assignment, training, unpaid internship,

volunteer position or other employment action, unless the provisions of an applicable MOU require a different result.

B. Discrimination

1. The County of Orange is committed to ensuring that no employee, intern, volunteer or applicant is a victim of discrimination based on the person's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law (collectively referred to as "protected classification"). Unlawful discrimination of any kind will not be tolerated.
2. Any person who believes that he or she has been the victim of unlawful discrimination should report the incident immediately to his or her supervisor, manager, Agency or Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH). Interns or volunteers may also make complaints to the DFEH.
3. Discrimination is misconduct which could result in severe discipline up to and including discharge.

C. Harassment

1. Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law.
2. Occasional, isolated, sporadic, or trivial acts that are simply annoying in nature may not constitute unlawful harassment. A hostile work environment exists when harassing conduct is severe or pervasive enough to alter the conditions of employment or intern/volunteer placement so as to create an abusive working environment. Nonetheless, Agencies/Departments are expected to investigate and remedy promptly even seemingly minor acts of harassment to avoid the development of a hostile work environment.

Examples of harassment include, but are not limited to:

- Explicitly or implicitly conditioning any term of employment or intern/volunteer placement (e.g. continued employment/placement, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
 - Participating in conduct the purpose or effect of which is to unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment;
 - Unwelcome touching or grabbing any part of an employee's, intern's or volunteer's body;
 - Continuing to ask an employee, intern or volunteer to socialize on or off-duty when that person has indicated she or he is not interested;
 - Displaying or transmitting, in person or through any media, sexually suggestive pictures, words, objects, cartoons, or posters if it is known or should be known that such behavior is unwelcome;
 - Sending sexually suggestive notes or letters if it is known or should be known that the recipient does not welcome such behavior;
 - Telling sexual jokes or using sexually vulgar or explicit language in the presence of another person;
 - Using foul language or gestures;
 - Harassing acts or behavior directed against a person on the basis of his or her sex or any other protected classification;
 - Derogatory or provocative remarks about or relating to an employee's, intern's or volunteer's sex or appearance;
 - Off-duty conduct which falls within any of the above that nonetheless affects the work environment; and
 - Making unwelcome or inappropriate inquiries about a person's private or personal behavior.
3. Any person who believes he or she has been the victim of unlawful harassment, should report the incident immediately to his or her supervisor, manager, Agency/Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH). Interns and volunteers may also make complaints to the DFEH.
4. The County of Orange will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive work environment. Whenever an employee, intern or volunteer alleges harassment, or at any time when it is believed that harassment is taking place, the County of Orange will act promptly to investigate and take swift and appropriate remedial action in dealing with those found in violation of the County's EEO and Anti-Harassment Policy.

5. Harassment in the form of retaliation for complaints of discrimination will likewise not be tolerated.
6. Harassment is misconduct which could result in discipline, up to and including discharge.

D. Retaliation

1. Retaliation is defined as taking an adverse employment action(s) against an employee, intern or volunteer because of his/her protected activities, including but not limited to the reporting of violations of law or policy, unlawful discrimination, harassment, retaliation, and any other violation of this policy. Adverse employment actions may include, but are not necessarily limited to, denial of a promotion, refusal to hire, and/or imposition of discipline. Adverse placement actions include violations of the terms and conditions of internship or volunteer placement.
2. Any person who believes he or she has been the victim of retaliation should report the incident immediately to his or her supervisor, manager, Agency/Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH). Interns and volunteers may also make complaints to the DFEH.
3. Retaliation is misconduct which could result in severe discipline up to and including discharge.

E. Abusive Conduct

1. Abusive conduct means conduct of an employer or employee, intern or volunteer in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.
2. Abusive conduct is not directed at someone's membership in a protected classification.

Examples of abusive conduct include, but are not limited to:

- Mocking, insulting or ridiculing a coworker, intern or volunteer;
 - Spreading rumors, hurtful gossip or innuendo;
 - Offensively discounting an employee's, intern's or volunteer's ideas in front of others;
 - Regularly yelling, screaming, using a threatening tone towards another;
 - Using foul and profane language;
 - Unwanted physical contact or physical gestures that intimidate or threaten;
 - Repeatedly calling someone a humiliating 'nick-name';
 - Glaring at a coworker, intern or volunteer to intimidate them;
 - Intentionally and repeatedly discrediting another's work;
 - Temper tantrums, mood swings, shouting; and/or
 - Ganging up against a co-worker, intern or volunteer
3. Any person who believes he or she has been the victim of abusive conduct should report the incident immediately to his or her supervisor, manager, Agency/Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken.
 4. Abusive conduct is misconduct which may result in severe discipline up to and including discharge.

F. Disability Accommodation

1. The County of Orange is dedicated to providing equal employment opportunities to persons with disabilities in accordance with the Americans with Disabilities Act and Fair Employment and Housing Act. Discrimination based on a person's actual, perceived, or record of disability will not be tolerated.
2. Qualified employees, with disabilities shall have the same access to benefits as employees without disabilities.
3. An individual with a disability is responsible for making his or her supervisor or HR recruiter, during a recruitment, aware of his or her need for a reasonable accommodation. When the need for accommodation has been identified, or if the supervisor is aware of the disability, the supervisor or HR recruiter is responsible for entering into an "Interactive Process" with the individual. The "Interactive Process" is case specific and may include one or more of the following steps:
 - i. Identifying the essential functions of the job based upon the job description, job announcement, policies and procedures manuals;

- ii. Consulting with the individual who requested the accommodation to identify which duties are affected by the individual's disability and what accommodations could enable the individual to perform those duties or the duties of another vacant position;
- iii. Conferring with the Agency/Department Human Resources staff, Human Resource Services/EEO Access Office to evaluate the reasonableness of the requested accommodations and/or to identify alternate accommodations on a case-by-case basis. The EEO Access Office shall provide support and assistance in determining the reasonableness of an accommodation;
- iv. Providing a qualified applicant with a disability, who is able to perform the essential functions of the position, an equal opportunity to compete for the position; and
- v. Implementing those reasonable accommodations that allow an employee to perform the essential functions of his or her position without imposing an undue hardship on the operation of the business of the County or creating a direct threat of harm to the safety of the employee or others.

COMPLIANCE AUTHORITY AND PROCEDURES

- A. The EEO Access Office is responsible for overseeing the administration of the County's EEO and Anti-Harassment Policy and may act through the County Executive Office and County Agencies/Departments as necessary to carry out this Policy.
- B. Executives, managers, and supervisors are expected to foster support for the EEO/Anti-Harassment Policy and to show leadership in supporting the County's commitment to providing a working environment free of discrimination, harassment, retaliation and abusive conduct.
- C. Agencies/Departments are responsible for ensuring that they do not discriminate, harass or retaliate in any policy, practice or procedure on the basis of any legally protected classification.
- D. The EEO Access Office will gather and provide to Agencies and Departments work force statistics for their particular Agency or Department. This information may be used to insure that employment related decisions are made in compliance with federal and state non-discrimination law and this Policy.
- E. Each Agency/Department will appoint an EEO Coordinator who is responsible for administering this Policy within its respective Agency/Department.
- F. All Agency/Department Heads and EEO Coordinators shall on an annual basis timely submit a Certificate of Compliance to Equal Employment Opportunity. Those Agencies and Departments required under the provisions of state or

federal contracts or grants to prepare Equal Employment Opportunity Plans must do so by timely preparing and updating their existing plans and contacting the EEO Access Office for assistance as needed.

PROCESSING COMPLAINTS

- A. Any employee, intern, volunteer or applicant for employment who believes he or she has been the victim of discrimination, harassment, retaliation or abusive conduct in violation of the County's EEO Policy is encouraged to file a complaint. When the County of Orange receives a complaint of discrimination, harassment, retaliation, abusive conduct or otherwise has reason to believe that discrimination, harassment, retaliation or abusive conduct is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and that prompt, appropriate remedial action is taken. The County of Orange is committed to take action if it learns of discrimination, harassment, retaliation or abusive conduct in violation of this Policy whether or not the aggrieved employee, intern or volunteer files a complaint.
- B. The complainant must be given the option to file a discrimination, harassment or retaliation complaint with his or her department manager/supervisor, Agency/Department Human Resources staff, the EEO Access Office, or with an outside compliance agency such as the California Department of Fair Employment and Housing (DFEH) or the United States Equal Employment Opportunity Commission (EEOC), or the Civil Rights Division of the U.S. Department of Labor.
1. California Department of Fair Employment and Housing
1055 W. 17th Street, Suite 1400
Los Angeles, CA 94612
(800) 884-1684
www.dfeh.ca.gov
 2. United States Equal Employment Opportunity Commission
555 W. Beach Street, Suite 504
San Diego, CA 92101
(800) 669-4000
 3. Civil Rights Center
U.S. Department of Labor
Room N-4123
200 Constitution Avenue, NW
Washington, DC 20210
(202) 693-6500
- C. Complaints alleging abusive conduct must be filed with the department manager/supervisor, Agency/Department Human Resources staff, the EEO Access Office or the DFEH.

- D. The complainant and the accused are entitled to know and shall be promptly informed at the conclusion of any investigation by the County of Orange whether allegations have been found to be substantiated or unsubstantiated.
- E. Where a complaint is filed against an employee with whom the EEO Access Office has a reporting relationship, the complaint will be directed to the CEO. The EEO Access Office will not conduct the investigation. The CEO will appoint an independent investigator who will report to the CEO on the complaint.
- F. All supervisory and management employees are responsible for promptly responding to, and/or reporting any suspected acts of discrimination, harassment (hostile work environment and/or quid pro quo), retaliation or abusive conduct. Supervisors and managers must immediately report suspected discrimination, harassment, retaliation or abusive conduct to their Agency/Department Human Resources staff. The Agency/Department Human Resources staff shall, in turn, report any suspected discrimination, harassment, retaliation or abusive conduct to the EEO Access Office. Failure by a manager/supervisor to appropriately report and address known or suspected incidents of discrimination, harassment, retaliation or abusive conduct shall be considered to be a violation of this Policy and appropriate disciplinary action may be taken.
- G. Although the County encourages an employee, intern or volunteer who believes he or she may be the victim of discrimination, harassment, retaliation or abusive conduct to report such behavior, the County will not tolerate false accusations of discrimination, harassment, retaliation or abusive conduct. The filing of any false claim is considered unlawful and may result in severe discipline up to and including discharge.

ADMINISTRATION OF THE COUNTY OF ORANGE EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-HARASSMENT POLICY AND PROCEDURE

The Human Resource Services/EEO Access Office is responsible for administering this EEO and Anti-Harassment Policy and Procedure. To ensure that this Policy is administered consistently on a countywide basis and to ensure accurate record-keeping, information regarding Agency/Departmental investigations, including the nature of the complaint or the suspected misconduct involved, the steps taken in the investigation, and the proposed disposition must be reported to the EEO Access Office before any final action is taken. The EEO Access Office will coordinate with Agency/Department Human Resources staff to ensure that all employees, interns and volunteers are advised of this Policy and to ensure uniform and effective implementation of this Policy.

Effective date: December 8, 2015
Last updated: November 13, 2015

ATTACHMENT C



TONY RACKAUCKAS
DISTRICT ATTORNEY

MEMO

OFFICE OF THE DISTRICT ATTORNEY

Date: February 26, 2016

From: Tony Rackauckas, District Attorney

To: All District Attorney Employees

Subject: Commitment to Equal Employment Opportunity - 2016

In compliance with County of Orange Board of Supervisors Resolution No. 15-135, which commits the County of Orange to Equal Employment Opportunity in accordance with state and federal legal requirements, I hereby accept the responsibility and pledge my full support to the County's policy of non-discrimination and equal employment opportunity in this organization.

The County of Orange Equal Employment & Anti-Harassment Policy and Procedures (EEO) insures full realization of non-discrimination and equal employment opportunity by selecting, training, and promoting employees based on their ability and job performance, and provides for equal opportunities in all aspects of employment without regard to an employee's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression or sexual orientation, age, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law. Unlawful discrimination, harassment, retaliation and abusive conduct (bullying) in any form will not be tolerated.

Further, in compliance with Board of Supervisors Resolution 99-514, sexual harassment in any form will not be tolerated. All executives, managers, supervisors and employees are responsible for maintaining a work environment free of sexual harassment.


Any employee, volunteer or intern who believes he or she has been the victim of discrimination and/or harassment including, sexual harassment, in violation of the County's EEO and Anti-Harassment Policy and Procedures should report the incident immediately to his or her supervisor, the District Attorney's Human Resources team, or to the EEO Access Office. When the District Attorney receives a complaint of discrimination, harassment, retaliation or abusive conduct or otherwise has reason to believe that discrimination, harassment, retaliation or abusive conduct is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and that prompt, appropriate remedial action is taken. This District Attorney is committed to take action if it learns of discrimination, harassment, retaliation or abusive conduct in violation of this Policy whether or not the aggrieved employee files a complaint. If the allegation is sustained, appropriate

remedial action shall be taken. To ensure Countywide consistency and for the sake of record keeping, information regarding District Attorney investigations, including the proposed disposition, must be reported to the EEO Access Office before final action is taken.

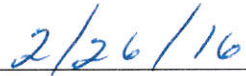
All District Attorney supervisory and management employees are responsible for promptly responding to, and/or reporting any suspected acts of discrimination, harassment (hostile work environment and/or quid pro quo), retaliation and abusive conduct. Failure by a District Attorney supervisor or manager to appropriately report and address known or suspected incidents of discrimination, harassment, retaliation or abusive conduct shall be considered to be a violation of the EEO Policy and appropriate disciplinary action may be taken.

It is expected that all managers and supervisors at the District Attorney demonstrate leadership by supporting and implementing the EEO & Anti-Harassment Policy as well as all Equal Employment Opportunity Programs administered by the County of Orange. Madai Chavez, EEO Coordinator at the District Attorney is delegated responsibility for ensuring compliance with the EEO policy and applicable programs.

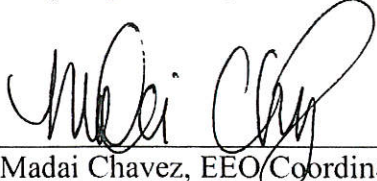
As the District Attorney of the County of Orange, I want to personally assure each and every one of you that you may report any incidents that you believe are a violation of EEO policies without fear of retaliation. I will not tolerate such conduct by any staff member in this office. If you ever feel that you have been a victim of such conduct, I urge you to talk with any manager or supervisor with whom you are comfortable in discussing it. They have the same commitment from me in supporting them in their duty to report it. I want everyone in this Office to feel safe in the knowledge that they will be listened to without prejudice or pre-judgment if they believe such conduct has occurred.




Tony Rackauckas, District Attorney



Date



Madai Chavez, EEO Coordinator



Date

OFFICE OF THE DISTRICT ATTORNEY
ADMINISTRATIVE POLICIES AND PROCEDURES

Subject: ETHICAL AND EMPLOYEE CONDUCT GUIDELINES

PURPOSE

To provide guidelines regarding proper and professional conduct for District Attorney employees.

POLICY

All employees of the District Attorney's Office, County of Orange, are expected to conduct themselves in an ethical and professional manner. District Attorney employees shall refrain from engaging in activities which constitute or give the perception of a conflict of interest or misuse of their position or the District Attorney's position. The department may exercise the option of reassigning an employee from a job assignment if a conflict or potential conflict exists. Failure to follow this policy or other Office policies may lead to discipline, up to and including termination.

GUIDELINES

I. Conflict of Interest and Misuse of Position

These include, but are not limited to:

- A. The use of County time, facilities, equipment, badge, or office identification for financial gain or personal advantage or advantage of another person is prohibited.
- B. The office identification card, business card, or official office stationery should be used, displayed or distributed only in connection with official duties and purposes.
- C. Office supplies, communication equipment, information and technology resources, duplicating equipment or any other County-issued equipment will be used for County business only.
- D. The assistance of clerical or other support personnel are provided only for County business only.

- E. Employees must refrain from the use of prestige or influence of the District Attorney's office employment for private gain or advantage, or the private gain or advantage of another person.
- F. An employee of the District Attorney's office may not use his/her official position to avoid payment of any fine, penalty, judgment, etc.
- G. The use of confidential and/or privileged information acquired through County employment for private gain or advantage, or private purposes or private gain or advantage of another person is prohibited.
- H. Employees may not accept money or payment other than from the County for the performance of duties related to County employment during work hours.
 - ◆ Orange County Codified ordinance, Article 2, Sections 1-3-21 through 24 prohibits the receipt of gifts by County officers and certain designated employees. Gifts include money, services, entertainment or items having monetary value provided by persons having certain business relationships with the County.
- I. District Attorney employees should refrain from participation in an activity or activities outside of County employment, knowing that such acts may later be subject to the control, inspection, review, audit or enforcement by the employees of the District Attorney's Office.

All employees are required to immediately report to their supervisor the following:

- A. When an employee or a close relative is a defendant or a witness in any case prosecuted by this office.
- B. When an employee is a defendant in a criminal case (except for traffic infractions) prosecuted in any other jurisdiction.
- C. When an employee is a party or witness in a civil suit against the County; when the employee is being sued in his/her official capacity; or, when the employee is involved in any civil suit, which becomes or may become of significant public interest.
- D. The representation of, or assisting in the representation of, private interests for profit before any board or commission of the County or in court when the County is a party.
- E. The solicitation of future employment with a business doing business with

the County over which the employee has some control or influence in his/her official capacity at the time of transaction.

- ◆ Government Code Section 82700 specifies that certain city and county positions, which entail making of decisions that may affect financial interests, file a Statement of Economic Interests (Form 700). The District Attorney specifies which employees are required to complete a Statement of Economic Interest Form,

Individuals required to file a Statement, of economic interest will be notified annually.

- F. All District Attorney employees are required to report in writing, secondary employment to their direct supervisor, with a copy to Human Resources. The department may exercise the option of transferring an employee from a job assignment if a secondary employment conflict exists.

Policy on Employment of Relatives

1. No person may be appointed, promoted, reduced, transferred or reassigned to a position in which that person is in the direct line of supervision of a close relative; nor shall close relatives have the same immediate supervisor. "Supervision" includes the assignment of work, evaluation of performance and setting or influencing the pay or granting of benefits to the other.
2. A close relative shall be defined as an individual related by blood, adoption or marriage, e.g., spouse, parent, child, sibling, grandparent, grandchild, uncle, aunt, first-cousin, nephew, niece, mother/father in-law, son/daughter in-law sister/brother in-law, step-parent, stepchild, step-brother/sister or half-brother/sister.

Drug and Alcohol Policy

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the Orange County District Attorney's workplace. A violation of this policy may be grounds for disciplinary action up to and including discharge from County service. The official Orange County Drug and Alcohol Policy, as identified in the Personnel and Salary Resolution, is hereby incorporated herein by reference.

Nondiscrimination

No County official or employee shall grant any special consideration, treatment, or advantage to any person beyond that which is available to every other person in similar circumstance. No person shall be favored or discriminated against with respect to any appointment in the County service because of family or social

relationships, sex, religion, national origin, ancestry, marital status, age, physical disability, mental disability, medical condition, political opinion or political affiliation.

Relations and/or communication with News Media

1. Management approval is necessary prior to responding to any press inquiries. In the event the press inquiry is specifically case related, the legal staff handling the case is authorized to respond to the press.
2. All comments made to the media must be professional and dignified. Any critical comments, whether verbal or written, should first be discussed with an employee's immediate supervisor to assure they are well considered and appropriate.
3. In releasing information to the media, all District Attorney employees must consider individual privacy rights, whether the dissemination of the information furthers the public interest and, in relation to a specific case, the defendant's right to a fair trial.
4. Informing the media, either directly or indirectly, of confidential information regarding investigations or cases is prohibited.

Political Activities

California Government Code Sections 3201-3209 regulates political activities of public employees.

Department employees may, except during working hours:

1. Participate in political activities so long as their participation does not interfere with the Department, or the County, accomplishing its objectives;
2. Solicit funds to promote the passage or defeat of a ballot measure which affects the rate of pay, hours of work, retirement, civil services, or working conditions of County employees;
3. Take an active part in political management and political campaign.

Department employees may not

1. Participate in any political activities during office hours; use office supplies, equipment, information or any other Department resources for the purpose of any political activity;

2. Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;
3. Directly or indirectly coerce, attempt to coerce, command or advise a State or local officer or employee to pay, lend, or contribute anything or value to a party, committee, organization, agency or person for political purposes.
4. Employees working in programs funded in whole or part by loans or grants by a federal agency are governed by Title 5, Sections 1501-8 of the United States Code ("Hatch Political Activity Act" and "Hatch Act Reform Amendment of 199311"). In addition to the aforementioned regulation specific to political activity, Federal statute prohibits federally funded employees from being a candidate for a partisan political office.

COUNTY OF ORANGE EQUAL EMPLOYMENT OPPORTUNITY
and ANTI-HARASSMENT POLICY AND PROCEDURE
(Board Resolution No. 15-135)

This policy and procedure shall be known as the County of Orange Equal Employment Opportunity and Anti-Harassment Policy and Procedure. It may be referred to as the EEO/Anti-Harassment Policy.

PURPOSE

The purpose of the County of Orange EEO/Anti-Harassment Policy is to ensure equal opportunity in all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leaves of absence, compensation, and training. The County is committed to ensuring that no employee, unpaid intern (hereinafter 'intern') or volunteer is subjected to unlawful discrimination, harassment, retaliation or abusive conduct. Unlawful discrimination, harassment, retaliation or abusive conduct in any form will not be tolerated.

SCOPE

- A. The EEO/Anti-Harassment Policy is applicable to all County Agencies and Departments and their employees, interns and volunteers.
- B. Agencies/Departments and their employees, interns and volunteers are responsible for full support and commitment to a policy of equal employment or placement opportunity and a workplace free of discrimination, harassment, retaliation and abusive conduct.

POLICY

A. Equal Employment Opportunity

- 1. Agencies and Departments are responsible for preparing and submitting to the Human Resource Services - Equal Employment Opportunity Access Office (EEO Access Office) each calendar year a Certification of Compliance and/or an Equal Employment Opportunity Plan.
- 2. Equal employment opportunity will be achieved through leadership and aggressive implementation of programs designed to achieve equal employment opportunity. The program will include the periodic and systematic review of recruitment, selection and promotional practices, attention to upward mobility, periodic training and educational opportunities and audits of progress through a review of statistics, and annual Certificates of Compliance and/or Equal Employment Opportunity Plans.
- 3. In all cases, the better qualified applicant or employee shall be selected for a position, promotion, assignment, training, unpaid internship,

volunteer position or other employment action, unless the provisions of an applicable MOU require a different result.

B. Discrimination

1. The County of Orange is committed to ensuring that no employee, intern, volunteer or applicant is a victim of discrimination based on the person's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law (collectively referred to as "protected classification"). Unlawful discrimination of any kind will not be tolerated.
2. Any person who believes that he or she has been the victim of unlawful discrimination should report the incident immediately to his or her supervisor, manager, Agency or Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH). Interns or volunteers may also make complaints to the DFEH.
3. Discrimination is misconduct which could result in severe discipline up to and including discharge.

C. Harassment

1. Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's legally protected status, whether actual or perceived, including race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation, veteran status, citizenship status, use of family medical leave, military leave or any other legally protected classification under state or federal law.
2. Occasional, isolated, sporadic, or trivial acts that are simply annoying in nature may not constitute unlawful harassment. A hostile work environment exists when harassing conduct is severe or pervasive enough to alter the conditions of employment or intern/volunteer placement so as to create an abusive working environment. Nonetheless, Agencies/Departments are expected to investigate and remedy promptly even seemingly minor acts of harassment to avoid the development of a hostile work environment.

Examples of harassment include, but are not limited to:

- Explicitly or implicitly conditioning any term of employment or intern/volunteer placement (e.g. continued employment/placement, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
 - Participating in conduct the purpose or effect of which is to unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment;
 - Unwelcome touching or grabbing any part of an employee's, intern's or volunteer's body;
 - Continuing to ask an employee, intern or volunteer to socialize on or off-duty when that person has indicated she or he is not interested;
 - Displaying or transmitting, in person or through any media, sexually suggestive pictures, words, objects, cartoons, or posters if it is known or should be known that such behavior is unwelcome;
 - Sending sexually suggestive notes or letters if it is known or should be known that the recipient does not welcome such behavior;
 - Telling sexual jokes or using sexually vulgar or explicit language in the presence of another person;
 - Using foul language or gestures;
 - Harassing acts or behavior directed against a person on the basis of his or her sex or any other protected classification;
 - Derogatory or provocative remarks about or relating to an employee's, intern's or volunteer's sex or appearance;
 - Off-duty conduct which falls within any of the above that nonetheless affects the work environment; and
 - Making unwelcome or inappropriate inquiries about a person's private or personal behavior.
3. Any person who believes he or she has been the victim of unlawful harassment, should report the incident immediately to his or her supervisor, manager, Agency/Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH). Interns and volunteers may also make complaints to the DFEH.
4. The County of Orange will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive work environment. Whenever an employee, intern or volunteer alleges harassment, or at any time when it is believed that harassment is taking place, the County of Orange will act promptly to investigate and take swift and appropriate remedial action in dealing with those found in violation of the County's EEO and Anti-Harassment Policy.

5. Harassment in the form of retaliation for complaints of discrimination will likewise not be tolerated.
6. Harassment is misconduct which could result in discipline, up to and including discharge.

D. Retaliation

1. Retaliation is defined as taking an adverse employment action(s) against an employee, intern or volunteer because of his/her protected activities, including but not limited to the reporting of violations of law or policy, unlawful discrimination, harassment, retaliation, and any other violation of this policy. Adverse employment actions may include, but are not necessarily limited to, denial of a promotion, refusal to hire, and/or imposition of discipline. Adverse placement actions include violations of the terms and conditions of internship or volunteer placement.
2. Any person who believes he or she has been the victim of retaliation should report the incident immediately to his or her supervisor, manager, Agency/Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken. Employees may also make complaints to the Equal Employment Opportunity Commission (EEOC) and/or California Department of Fair Employment and Housing (DFEH). Interns and volunteers may also make complaints to the DFEH.
3. Retaliation is misconduct which could result in severe discipline up to and including discharge.

E. Abusive Conduct

1. Abusive conduct means conduct of an employer or employee, intern or volunteer in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.
2. Abusive conduct is not directed at someone's membership in a protected classification.

Examples of abusive conduct include, but are not limited to:

- Mocking, insulting or ridiculing a coworker, intern or volunteer;
 - Spreading rumors, hurtful gossip or innuendo;
 - Offensively discounting an employee's, intern's or volunteer's ideas in front of others;
 - Regularly yelling, screaming, using a threatening tone towards another;
 - Using foul and profane language;
 - Unwanted physical contact or physical gestures that intimidate or threaten;
 - Repeatedly calling someone a humiliating 'nick-name';
 - Glaring at a coworker, intern or volunteer to intimidate them;
 - Intentionally and repeatedly discrediting another's work;
 - Temper tantrums, mood swings, shouting; and/or
 - Ganging up against a co-worker, intern or volunteer
3. Any person who believes he or she has been the victim of abusive conduct should report the incident immediately to his or her supervisor, manager, Agency/Department Human Resources staff, or the Human Resource Services/EEO Access Office. All allegations will be investigated promptly. Complaints will be kept as confidential as possible. If the allegation is sustained, prompt, appropriate remedial action shall be taken.
 4. Abusive conduct is misconduct which may result in severe discipline up to and including discharge.

F. Disability Accommodation

1. The County of Orange is dedicated to providing equal employment opportunities to persons with disabilities in accordance with the Americans with Disabilities Act and Fair Employment and Housing Act. Discrimination based on a person's actual, perceived, or record of disability will not be tolerated.
2. Qualified employees, with disabilities shall have the same access to benefits as employees without disabilities.
3. An individual with a disability is responsible for making his or her supervisor or HR recruiter, during a recruitment, aware of his or her need for a reasonable accommodation. When the need for accommodation has been identified, or if the supervisor is aware of the disability, the supervisor or HR recruiter is responsible for entering into an "Interactive Process" with the individual. The "Interactive Process" is case specific and may include one or more of the following steps:
 - i. Identifying the essential functions of the job based upon the job description, job announcement, policies and procedures manuals;

- ii. Consulting with the individual who requested the accommodation to identify which duties are affected by the individual's disability and what accommodations could enable the individual to perform those duties or the duties of another vacant position;
- iii. Conferring with the Agency/Department Human Resources staff, Human Resource Services/EEO Access Office to evaluate the reasonableness of the requested accommodations and/or to identify alternate accommodations on a case-by-case basis. The EEO Access Office shall provide support and assistance in determining the reasonableness of an accommodation;
- iv. Providing a qualified applicant with a disability, who is able to perform the essential functions of the position, an equal opportunity to compete for the position; and
- v. Implementing those reasonable accommodations that allow an employee to perform the essential functions of his or her position without imposing an undue hardship on the operation of the business of the County or creating a direct threat of harm to the safety of the employee or others.

COMPLIANCE AUTHORITY AND PROCEDURES

- A. The EEO Access Office is responsible for overseeing the administration of the County's EEO and Anti-Harassment Policy and may act through the County Executive Office and County Agencies/Departments as necessary to carry out this Policy.
- B. Executives, managers, and supervisors are expected to foster support for the EEO/Anti-Harassment Policy and to show leadership in supporting the County's commitment to providing a working environment free of discrimination, harassment, retaliation and abusive conduct.
- C. Agencies/Departments are responsible for ensuring that they do not discriminate, harass or retaliate in any policy, practice or procedure on the basis of any legally protected classification.
- D. The EEO Access Office will gather and provide to Agencies and Departments work force statistics for their particular Agency or Department. This information may be used to insure that employment related decisions are made in compliance with federal and state non-discrimination law and this Policy.
- E. Each Agency/Department will appoint an EEO Coordinator who is responsible for administering this Policy within its respective Agency/Department.
- F. All Agency/Department Heads and EEO Coordinators shall on an annual basis timely submit a Certificate of Compliance to Equal Employment Opportunity. Those Agencies and Departments required under the provisions of state or

federal contracts or grants to prepare Equal Employment Opportunity Plans must do so by timely preparing and updating their existing plans and contacting the EEO Access Office for assistance as needed.

PROCESSING COMPLAINTS

- A. Any employee, intern, volunteer or applicant for employment who believes he or she has been the victim of discrimination, harassment, retaliation or abusive conduct in violation of the County's EEO Policy is encouraged to file a complaint. When the County of Orange receives a complaint of discrimination, harassment, retaliation, abusive conduct or otherwise has reason to believe that discrimination, harassment, retaliation or abusive conduct is occurring, it will take all necessary steps to ensure that the matter is promptly investigated and that prompt, appropriate remedial action is taken. The County of Orange is committed to take action if it learns of discrimination, harassment, retaliation or abusive conduct in violation of this Policy whether or not the aggrieved employee, intern or volunteer files a complaint.
- B. The complainant must be given the option to file a discrimination, harassment or retaliation complaint with his or her department manager/supervisor, Agency/Department Human Resources staff, the EEO Access Office, or with an outside compliance agency such as the California Department of Fair Employment and Housing (DFEH) or the United States Equal Employment Opportunity Commission (EEOC), or the Civil Rights Division of the U.S. Department of Labor.
1. California Department of Fair Employment and Housing
1055 W. 17th Street, Suite 1400
Los Angeles, CA 94612
(800) 884-1684
www.dfeh.ca.gov
 2. United States Equal Employment Opportunity Commission
555 W. Beach Street, Suite 504
San Diego, CA 92101
(800) 669-4000
 3. Civil Rights Center
U.S. Department of Labor
Room N-4123
200 Constitution Avenue, NW
Washington, DC 20210
(202) 693-6500
- C. Complaints alleging abusive conduct must be filed with the department manager/supervisor, Agency/Department Human Resources staff, the EEO Access Office or the DFEH.

- D. The complainant and the accused are entitled to know and shall be promptly informed at the conclusion of any investigation by the County of Orange whether allegations have been found to be substantiated or unsubstantiated.
- E. Where a complaint is filed against an employee with whom the EEO Access Office has a reporting relationship, the complaint will be directed to the CEO. The EEO Access Office will not conduct the investigation. The CEO will appoint an independent investigator who will report to the CEO on the complaint.
- F. All supervisory and management employees are responsible for promptly responding to, and/or reporting any suspected acts of discrimination, harassment (hostile work environment and/or quid pro quo), retaliation or abusive conduct. Supervisors and managers must immediately report suspected discrimination, harassment, retaliation or abusive conduct to their Agency/Department Human Resources staff. The Agency/Department Human Resources staff shall, in turn, report any suspected discrimination, harassment, retaliation or abusive conduct to the EEO Access Office. Failure by a manager/supervisor to appropriately report and address known or suspected incidents of discrimination, harassment, retaliation or abusive conduct shall be considered to be a violation of this Policy and appropriate disciplinary action may be taken.
- G. Although the County encourages an employee, intern or volunteer who believes he or she may be the victim of discrimination, harassment, retaliation or abusive conduct to report such behavior, the County will not tolerate false accusations of discrimination, harassment, retaliation or abusive conduct. The filing of any false claim is considered unlawful and may result in severe discipline up to and including discharge.

ADMINISTRATION OF THE COUNTY OF ORANGE EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-HARASSMENT POLICY AND PROCEDURE

The Human Resource Services/EEO Access Office is responsible for administering this EEO and Anti-Harassment Policy and Procedure. To ensure that this Policy is administered consistently on a countywide basis and to ensure accurate record-keeping, information regarding Agency/Departmental investigations, including the nature of the complaint or the suspected misconduct involved, the steps taken in the investigation, and the proposed disposition must be reported to the EEO Access Office before any final action is taken. The EEO Access Office will coordinate with Agency/Department Human Resources staff to ensure that all employees, interns and volunteers are advised of this Policy and to ensure uniform and effective implementation of this Policy.

Effective date: December 8, 2015
Last updated: November 13, 2015

ATTACHMENT D



TONY RACKAUCKAS
DISTRICT ATTORNEY

OFFICE OF THE DISTRICT ATTORNEY

Policy and Procedure Acknowledgment

This is to acknowledge that I have been provided a copy of the following Office of the District Attorney (DA) and County of Orange policies and procedures listed below. I understand that at any time I am able to obtain clarification from my supervisor, manager or Human Resources regarding any provision outlined in these documents.

<u>POLICY</u>	<u>POLICY DATE</u>	<u>DATE RECEIVED</u>
DA Administrative Policies and Procedures Ethical and Employee Conduct Guidelines	<u>Rev. Date 7/2/12</u>	_____
County of Orange Equal Employment Opportunity And Anti-Harassment Policy & Procedure	<u>12/8/15</u>	_____

I further acknowledge that I am responsible for following each of these policies and procedures and understand that violation of any of the policies and procedures may result in disciplinary action.

Print Name

Date

Employee Signature

ATTACHMENT E

Black, Vicki

Subject: Message from Tony re: MANDATORY Training

Importance: High

From: Black, Vicki

Sent: Monday, August 21, 2017 4:39 PM

To: Coulter, Jaime; D'Agostino, Joe; Lubinski, Mike; Tanizaki, Jim; Zidbeck, Scott; Baytieh, Ebrahim; Bogardus, Keith; Burnett, Ted; Contini, Jennifer; Conway, Dennis; Duff, Christopher; Ferrentino, Tony; Gundy, Howard; Gyves, Alison; Henson, Carol; Kaliban, Kal; 'Laird, James'; Miller, Tracy; Olivieri, Rebecca L.; Roper, Margaret; Wagner, Dan; Yonemura, Steve; Young, Lesley; Balleste, Sonia; Costello, Beth; Doyle, Kimberly; Fernandez, Lynda; Hoffmann, Jana; Mendelson, Jim; Nicholson, Nicole; Price, Susan; Akerlind, Eric; Core, Kelly; Mauger, Dina; McCall, Clint; Seman, Ron; Berry, Stan; Betancourt, Rigo; Chantanasombute, Naran; DeGraffenreid, Kory; Ellison, Roy; Field, Carlos; Gomez, Ernie; Harkins, John; Hester, Billy; Porter, Shawn; Reynoso, Francisco; Smith, Lee; Tanner, Brad; Tucker, Damon; Wiseman, Eric; Wolfe, Steven; Brockbank, Kenneth; Chan, Billy; Chavez, Madai; Cumberland, Victor; Parsons, Katie; Qian, Jenny; Roach, Ana; Robison, Glenn; Woolf, Adell; Arellano, Rosy; Freeman, Ronald; Gorey, Michele; Hart, Todd; Schroeder, Susan; Van Der Linden, Michelle; Borghese, Lynda; Calderon, Jovita; Galvan, Erica; Garcia, Mabel; Karella, Todd; Nguyen, Catherine; Pasillas, Ana; Pulu, Marie; Romo, Alma; Rosplock, Marci; Saldana, Connie; Santa Cruz, Elena; Schach, Debbie; Sepeda, Jeannie; Traweek, Tamra; Zverina, Petra

Subject: Message from Tony re: MANDATORY Training

Importance: High

Please see the following message from Tony. Thank you.

Vicki Black

Executive Secretary to Tony Rackauckas

District Attorney – Public Administrator

County of Orange, State of California

Vicki.black@da.ocgov.com | Direct Office 714.347.8401 | Fax 714.834.5880

Managers and Supervisors:

The Office will be providing Equal Employment Opportunity and Anti-Harassment training to all Managers and Supervisors. This training is **MANDATORY** and you are all expected to complete the training. This training is geared in helping Managers and Supervisors:

- Understand the expectation of them as leaders to support the County and the DA-PA's commitment to providing a working environment free of discrimination, harassment, retaliation or abusive conduct;
- Identify possible unlawful discrimination, harassment, retaliation or abusive conduct by and towards DA-PA employees; and
- Understand their responsibility of promptly responding to, and/or reporting any suspected acts of discrimination, harassment, retaliation or abusive conduct.

Training will be held on Thursday, September 28, 2017, in the Law Library.

To Sign-up for one of the following sessions, please contact:

[Jenny Hernandez](#) at 347-8420 -OR- [Nancy Estrada](#) at 347-8444

Session 1: 9:00 a.m. – 11:00 a.m.

Session 2: 2:00 p.m. – 4:00 p.m.

Once again, this is a **MANDATORY** training; therefore, sign-up by no later than Wednesday, September 6, 2017.

Thank you,
Tony

ATTACHMENT F

Standards of Conduct

314.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Orange County District Attorney Bureau of Investigation and are expected of all Bureau members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this Bureau or a member's supervisors.

314.2 POLICY

The continued employment or appointment of every member of the Orange County District Attorney Bureau of Investigation shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

314.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any Bureau supervisor or person in a position of authority, absent a reasonable and bona fide justification.

314.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or Bureau policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, Bureau policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

314.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

314.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

314.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient Bureau service:

314.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in Bureau or County manuals.
- (b) Disobedience of any legal directive or order issued by any Bureau member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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314.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Orange County District Attorney Bureau of Investigation in any way that could reasonably be perceived as an attempt to gain influence or authority for non-Bureau business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this Bureau and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

314.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

314.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this Bureau.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this Bureau.

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314.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

314.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this Bureau.
 - 1. Members of this Bureau shall not disclose the name, address or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this Bureau for personal or financial gain or without the express authorization of the Bureau Chief or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Orange County District Attorney badge, uniform, identification card or Bureau property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using Bureau resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

314.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Bureau within 24 hours of any change in residence address, contact telephone numbers or marital status.

314.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

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- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any Bureau record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any Bureau-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this Bureau or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this Bureau or subverts the good order, efficiency and discipline of this Bureau or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on Bureau premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any Bureau equipment or system.
 - 3. Gambling activity undertaken as part of an investigator official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on Bureau property except as expressly authorized by County policy, the memorandum of understanding, or the Bureau Chief.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the Bureau Chief.
- (i) Any act on or off-duty that brings discredit to this Bureau.

314.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.

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- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this Bureau or the County.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this Bureau.
- (i) Unauthorized possession of, loss of, or damage to Bureau property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of Bureau property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of Bureau property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Bureau Chief of such action.
- (m) Any other on or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this Bureau, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this Bureau or its members.

314.5.10 SAFETY

- (a) Failure to observe or violating Bureau safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

314.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.

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- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

ATTACHMENT G

Nepotism and Conflicting Relationships

1026.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this Bureau. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1026.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Bureau employee's annual interest, compensation, investment or obligation is greater than \$250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

1026.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Bureau will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
 2. When personnel and circumstances permit, the Bureau will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Bureau, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, supervisors and other trainers will not be assigned to train relatives. Supervisors and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
- (d) To avoid actual or perceived conflicts of interest, members of this Bureau shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
- (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

1026.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify their next in command to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

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1026.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Bureau Chief of such actual or potential violations through the chain of command.