



County of Orange

County Executive Office

September 12, 2017

Honorable Charles Margines
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, "Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation"

Dear Judge Margines:

Per your request, and in accordance with Penal Code 933, please find the combined County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the Orange County Board of Supervisors

If you have any questions, please contact Lilly Simmering of the County Executive Office at 714-834-6748.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Kim", written over a horizontal line.

Frank Kim
County Executive Officer

Enclosure

cc: FY 2016-17 Orange County Grand Jury Foreman
Lilly Simmering, Deputy Chief Operating Officer, County Executive Office



County Executive Office

S35B

Memorandum

September 1, 2017

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

Handwritten signature of Frank Kim

RECEIVED
2017 SEP -6 PM 4:11
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

The County Executive Office is requesting a supplemental for the September 12, 2017, Board Hearing Meeting.

Agency: County Executive Office
Subject: Hostile Work Environment District Attorney Grand Jury Response
Districts: All Districts

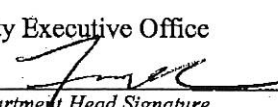
Reason for supplemental: The Supplemental ASR must be heard on September 12, 2017, to allow for the Grand Jury response to be filed on time. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur: [Signature]
Chairwoman Michelle Steel, Supervisor, Second District

cc: Board of Supervisors
County Executive Office
County Counsel



**SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT**

MEETING DATE: 9/12/17
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office
DEPARTMENT HEAD REVIEW: 
Department Head Signature
DEPARTMENT CONTACT PERSON(S): Brenda Diederichs (714) 834-2836
Lilly Simmering (714) 834-6748

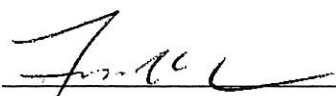
RECEIVED
2017 SEP -6 PM 4:11
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

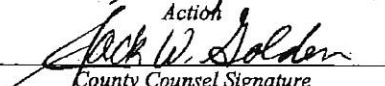
SUBJECT: Hostile Work Environment District Attorney Grand Jury Response

CEO CONCUR

COUNTY COUNSEL REVIEW

CLERK OF THE BOARD


CEO Signature

No legal objection.
Action

County Counsel Signature

Discussion
3 Votes Board Majority

Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: N/A

of Positions:

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S)

1. Approve proposed response to FY 2016-17 Grand Jury Report entitled, "Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation."
2. Direct the Clerk of the Board to forward this Agenda Staff Report with attachments to the Presiding Judge of the Superior Court and the FY 2016-17 Grand Jury no later than September 22, 2017.

SUMMARY:

Approval of proposed response to the FY 2016-17 Grand Jury Report entitled, "Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation" will fulfill the County's required response to the Grand Jury.

BACKGROUND INFORMATION:

On June 27, 2017, the Orange County Grand Jury released a report entitled, "Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation." The report directed responses to findings and recommendations to the Board of Supervisors and the Orange County District Attorney (OCDA). OCDA has submitted its response separately. Attachment B is the proposed response from the Board.

FINANCIAL IMPACT:

STAFFING IMPACT:

REVIEWING AGENCY:

Orange County District Attorney

ATTACHMENT(S):

Attachment A - Report, Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation

Attachment B - Proposed Response to Findings and Recommendations

Attachment C - Draft Transmittal Letter, Response to Grand Jury Report

Attachment D - Orange County District Attorney Response



Responses to Findings and Recommendations
2016-17 Grand Jury Report:

“Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation”

SUMMARY RESPONSE STATEMENT:

On June 27, 2017 the Grand Jury released a report entitled: “Another Hostile Work Environment? Orange County District Attorney Bureau of Investigation.” This report directed responses to findings and recommendations to the Orange County Board of Supervisors and the Orange County District Attorney (“OCDA”). OCDA has submitted its response separately. Below is the response from the Orange County Board of Supervisors.

FINDINGS AND RESPONSES:

F.2. 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: Disagrees with finding. The County specifically disagrees with respect to the portion regarding sexual harassment prevention training for County employees. The County is committed to cultivating a work environment that is free of all forms of harassment, including sexual harassment and retaliation.

County supervisors and managers are biannually required to attend in-person sexual harassment prevention training that also covers prevention of retaliation and bullying. Employees are provided the County of Orange Equal Employment Opportunity (EEO) and Anti-Harassment Policy and Procedure (Board Res. No. 15-135) (“EEO Policy”) for review before attending the training. The program explains California and Federal laws along with the EEO Policy and educates employees on their responsibilities to ensure compliance with EEO laws. After completion of the training, employees must acknowledge attendance and receipt of the EEO Policy. The County also requires non-supervisory employees to biannually complete an online program regarding the prevention of discrimination, harassment, retaliation and bullying.

At time of hire, all County employees are provided the EEO Policy for review and employees sign that they received a copy of the EEO Policy. The Board of Supervisors reaffirms its commitment

yearly to the EEO Policy by sending an email memo to all County employees outlining the commitment and provides each employee a copy of the EEO Policy. An electronic copy of the EEO Policy is available on the Internet at:

<http://www.ocgov.com/civicax/filebank/blobdload.aspx?BlobID=42930>

The County defers to the part of the finding specific to OCDA management to OCDA.

F.3. The current county sexual harassment policy does not prohibit supervisor-subordinate intimate relationships.

Response: Disagrees partially with the finding. While the current EEO Policy does not explicitly prohibit intimate relationships between a supervisor and subordinate employee, the policy does not tolerate harassment in any form and provides numerous examples of behavior that constitutes unlawful harassment. Many of these examples prohibit problematic behavior that often stems from such relationships. The first example from the EEO Policy precludes “[e]xplicitly 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.” The policy also states that the County will not tolerate behavior such as participating in conduct that unreasonably interferes with work performance or creates a hostile or offensive work environment, and off-duty conduct which constitutes harassment and nonetheless affects the work environment.

RECOMMENDATIONS AND RESPONSES:

R.4. The County should consider implementing a policy that prohibits intimate supervisor-subordinate relationships and prohibits all individuals holding senior leadership position in any county agency from engaging in any intimate relationships with anyone in the agency they supervise.

Response: The recommendation requires further analysis. While the current EEO Policy does not explicitly prohibit intimate relationships between a supervisor and subordinate employee, the policy does not tolerate harassment in any form and provides numerous examples of behavior that constitutes unlawful harassment. Many of these examples prohibit problematic behavior that often stems from such relationships. The first example from the EEO Policy precludes “[e]xplicitly 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.” The policy also states that the County will not tolerate behavior such as participating in conduct that unreasonably interferes with work performance or creates a hostile or offensive work environment, and off-duty conduct which constitutes harassment and nonetheless affects the work environment. The County will report back to the Grand Jury in March 2018 the result(s) of the analysis.

R.5. The County should review the current sexual harassment training provided to all county employees and include metrics for impact and effectiveness.

Response: The recommendation has been implemented. The County is currently updating and revising the regularly implemented anti-sexual harassment in-person training curriculum for

supervisors and managers and expects to have those employees trained by January 2018. Data will be gathered and analyzed to determine training impact and effectiveness.

R.6. The Board of Supervisors should hire an outside, independent investigator to investigate why the OCDA and county Human Resources Services departments are not being used in reporting by individuals in the Bureau.

Response: The recommendation requires further analysis. Elected officials serving as Department Heads have the discretion to either use County Human Resource Services or internal Department staff to perform HR functions. Although OCDA elects to use its own internal staff for all HR functions needed to support the Department, the County's Human Resource Services department does maintain an EEO office separate from all departments that function as a resource for employees who require additional information or assistance concerning EEO matters. Handling EEO complaints is one of its main functions and its staff ensures that the provided services meet and/or exceed both state and federal requirements.

This recommendation to hire an independent investigator requires further analysis and the County will report back to the Grand Jury in March 2018.