

WARNING: This report contains
and describes explicit language.

November 2, 2017

CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE/ATTORNEY WORK PRODUCT¹

SENT VIA U.S. MAIL ONLY

Adrienne Calip
Deputy County Administrative Officer
Human Resources/Operations
200 W. Fourth Street
Madera, CA 93637

Re: *County of Madera – District Attorney Linn Investigation: Final Detailed Investigation Report*

Dear Ms. Calip:

On or about July 5, 2017, the County of Madera (“County”) retained me to conduct a neutral independent investigation into [REDACTED] (“I [REDACTED]”), [REDACTED] allegations that:

1. [REDACTED] and [REDACTED]
2. District Attorney (“DA”) David Linn made repeated racist and sexist comments in the workplace and engaged in abusive and threatening conduct toward his subordinates.

I have completed the investigation and my facts and findings are set forth below. Although I am an attorney, you did not retain my services to represent the County in a disputed matter or to provide legal advice or representation. My function was solely that of fact finder.

I. SCOPE OF INVESTIGATION

Based on [REDACTED] DDA [REDACTED]’s allegations, in my role as a fact-finder, the scope of the Investigation included the following:

¹ This Investigation Report makes only factual determinations and may be considered a confidential attorney-client communication and attorney work product. (*City of Petaluma v. Superior Court [Sonoma County]* (2016) 248 Cal.App.4th 1023, 1033.) However, if this Investigation Report is used in any disciplinary proceeding, privilege will be waived.

1. [REDACTED]
[REDACTED]
[REDACTED]
2. Did DA Linn make racist or culturally inappropriate comments in the workplace?
3. Did DA Linn make sexist, crude, or sexually explicit comments about employees and victims in the workplace?
4. Did DA Linn engage in threatening or abusive conduct toward employees in the workplace?

II. METHODOLOGY

Through the course of my investigation, the County gave me unrestricted access to information and witnesses. Once the scope of investigation was determined and agreed upon, I was given authority by the County's Administrative Office – Deputy County Administrative Officer, Human Resources/Operations Division to order interviewed employees to answer questions honestly and completely in accordance with County policy.

A. Persons Interviewed

Most of the following witnesses were interviewed in person at the County's Human Resources Department located at 200 W. Fourth Street, 4th Floor, Madera, California 93637. DA Linn was interviewed at the law offices of Liebert Cassidy Whitmore located at 5250 N. Palm Avenue, Suite 310, Fresno, CA 93704.

- [REDACTED] [July 24, 2017]
- [REDACTED] [August 10, 2017]
- [REDACTED] [August 10, 2017]
- [REDACTED] [August 10, 2017]
- [REDACTED] DDA [REDACTED] [August 10, 2017]
- [REDACTED] DDA [REDACTED] [August 10, 2017]
- [REDACTED] DDA [REDACTED] [August 10, 2017]
- [REDACTED] DDA [REDACTED] [August 15, 2017]
- [REDACTED] DDA [REDACTED] [August 23, 2017]

- [REDACTED] r DDA [REDACTED] [August 23, 2017]
- [REDACTED] DDA [REDACTED] [August 29, 2017]
- District Attorney David Linn [October 17, 2017]

All interviews were audio recorded and transcripts are attached to this Report. All witnesses were issued timely Notices of Investigative Interviews consistent with County policies. At the start of each interview, witnesses were informed that I was an independent factfinder retained by the County to conduct a neutral investigation into allegations of misconduct by an employee or supervisor. During the course of the investigation, several witnesses, including [REDACTED] provided photos, written notes, text messages, and emails detailing interactions between the witness and other employees and supervisors. Those documents are attached to this Report. As in any investigation, there may be other relevant information I have not identified or collected, but I am confident that I obtained sufficient information to enable me to reach reasoned factual findings set forth below.

B. Credibility Determinations

I made credibility determinations during this investigation as necessary. To determine credibility, I used the following factors from California Evidence Code Section 780:

- “(a) *His demeanor while testifying and the manner in which he testifies.*
- (b) *The character of his testimony.*
- (c) *The extent of his capacity to perceive, to recollect, or to communicate any matter about which he testifies.*
- (d) *The extent of his opportunity to perceive any matter about which he testifies.*
- (e) *His character for honesty or veracity or their opposites.*
- (f) *The existence or nonexistence of a bias, interest, or other motive.*
- (g) *A statement previously made by him that is consistent with his testimony at the hearing.*
- (h) *A statement made by him that is inconsistent with any part of his testimony at the hearing.*
- (i) *The existence or nonexistence of any fact testified to by him.*
- (j) *His attitude toward the action in which he testifies or toward the giving of testimony.*

(k) His admission of untruthfulness.”

C. Standard of Proof

In weighing the available evidence, I used the civil law preponderance of evidence standard of proof. I could make one of three findings:

Unfounded - The investigation clearly established that the allegation is not true.

Not Sustained - There is insufficient evidence to determine whether the alleged conduct occurred.

Sustained - The alleged conduct occurred.

The findings in this Confidential Investigation Report do not reach questions of law as to whether the alleged misconduct supports a violation of applicable laws, but instead are factual findings. I utilized a legal analysis in reaching the determinations in this Report. These determinations, however, are not intended to equate to a finding that applicable laws were violated.

I analyzed the facts and determined whether the allegations were with or without merit under a preponderance of the evidence standard. “*Preponderance of the evidence*” for purposes of this Report, means that the evidence on one side outweighs, or is more than, the evidence on the other side. Where the preponderance of the evidence supported a finding that an allegation was true or a particular action occurred, the allegation or action was “*sustained*.” Where the preponderance of the evidence did not support a finding that an allegation was true or that a particular action occurred, the allegation or action was “*not sustained*” or deemed “*unfounded*.”

D. Documents Reviewed

I reviewed the following documents and these documents are all attached to this Report:

- [REDACTED] July 17, 2017 written narrative regarding his complaints about DA Linn’s and [REDACTED] conduct in the workplace.
- Madera County Policy and Guidelines on Discrimination and Harassment.
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED] DDA [REDACTED] hand-written notes and video of David Linn during a presentation at the Elks Lodge in Madera, California.
- Memorandum of Understanding between the County of Madera and Peace Officer Management Unit effective September 1, 2014 and June 30, 2019.

III. BACKGROUND

On or about June 28, 2017, DA David Linn, members of the Human Resources Department, [REDACTED] DDA [REDACTED] and his representative [REDACTED] DDA [REDACTED] met to discuss [REDACTED] recent erratic behavior in the office, including [REDACTED] DDA [REDACTED] complaint that [REDACTED] yelled at her and was “*hyper aggressive*” during a recent homicide trial. During the meeting, [REDACTED] alleged DA Linn engaged in repeated racist and sexist comments in the workplace. [REDACTED]. [REDACTED] said DA Linn told him that others complained about him and felt so unsafe with him in the office, “*they brought a gun into the office.*” [REDACTED] said he no longer felt safe in the workplace and wanted to take a leave of absence. The County granted [REDACTED] request and he was given an extended paid leave.

IV. WITNESS SUMMARIES

The following are summaries of the witness’ statements during their respective investigative interviews. Quotations are not necessarily verbatim recitations of witnesses’ statements. Quotations are cited as accurately as possible from the recordings and notes.

A. [REDACTED]

[REDACTED] has been a DDA for approximately [REDACTED] ([REDACTED]) years. He first worked as a DDA for the County in [REDACTED]. After leaving the County, he worked as a [REDACTED]. [REDACTED]. He returned to the Madera County DA’s office in [REDACTED]. [REDACTED] was a Supervising Deputy District Attorney until just recently when he “*voluntarily resigned from that position.*” He said he is now just a Senior Deputy District Attorney.³ [REDACTED] said he is no longer responsible for supervising other employees. [REDACTED] is his immediate supervisor and DA Linn is above him in the chain of command. [REDACTED] office is next to [REDACTED].”

² [REDACTED] at times during his interview. He engaged in long-winded narratives about a variety of topics. I found [REDACTED] testimony about DA Linn’s statements in the office credible. However, he was unsteady and highly emotional during his interview. [REDACTED] interview was erratic and he did not answer questions directly. As a result, his witness summary does not follow the same order as other witnesses.

³ A Senior Deputy District Attorney may supervise a junior DDA’s case work when a junior attorney is assigned to work on a Senior DDA’s case, but the Senior DDA position is the same as an Attorney IV position.

[REDACTED]

[REDACTED]

[REDACTED]

2. Linn’s Alleged Racist Comments

[REDACTED] also said DA Linn made numerous racist comments to him privately and in the workplace. DA Linn used the “*n-word*” on at least one occasion. After the election last year, DA Linn said,

*“Michelle and Barack will have go to a Baltimore [Slave Auction] and figure out which one of them is the house n**ger and which one is the field n**ger.”*

DA Linn also said,

“Black people arrested for DUI [driving under the influence] above Oakhurst should argue impossibility as a defense because everyone knows their lips explode at that altitude.”

He also said the “*Deadwood Militia should go after the illegal Mexicans.*”

[REDACTED] also said DA Linn made comments about Native American crime victims. After one Native American family complained about DA Linn providing details regarding their family member’s cause of death to the media, DA Linn said, “*Those people only care if someone takes away their beer!*” When [REDACTED] confronted DA Linn about his comments to the media, DA Linn said, “*Fuck them. They are just a bunch of Indians. They don’t vote.*”

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

[REDACTED] said DA Linn made multiple offensive comments about sex and women. [REDACTED] said DA Linn “*talks about sex to me all the time.*” DA Linn said, “*He was tired of the round eye*

when he went to Hong Kong so he went for some slant eye.” DA Linn also told [REDACTED] earlier this year that “I would eat a mile of [REDACTED] shit just to see where it comes from.” [REDACTED] also said DA Linn told him he deducted points from [REDACTED] DDA [REDACTED] performance evaluation because she was married to someone “less attractive than she is” and for ruining his fantasy. [REDACTED] is married to [REDACTED]

[REDACTED] said DA Linn also told him he wanted to “bounce a quarter off of [REDACTED] / [REDACTED] ass” and that [REDACTED] was “so cute – she was like a little chipmunk!” DA Linn also told a crime victim to “wear something revealing when she came to the office” to meet with him about her case. [REDACTED] said he was also present during a television news interview with “Channel 30 or 47” wherein DA Linn asked the female interviewer “Can I kiss you? Or, I guess I am too old for you!” [REDACTED] said several employees complained to him about “Linn’s crudeness” when he was a Supervising DA, including [REDACTED] and a support staff person named [REDACTED].

4. Linn’s Alleged Threatening or Abusive Conduct

[REDACTED] stated DA Linn regularly made insulting comments to him and other DDAs including telling [REDACTED] “Fuck you, fat boy!” and “You are a piece of shit.” [REDACTED] said DA Linn makes offensive comments to [REDACTED] including “hog calling her where he goes [REDACTED]” [REDACTED] said when [REDACTED] was out of the office because her [REDACTED] was dying, DA Linn told [REDACTED] “I wish that fucker would just die already!” [REDACTED] also said [REDACTED] and DA Linn called him “Vanilla Fat Cakes” and [REDACTED] made a name plate that said “Vanilla Fat Cakes formerly known as [REDACTED]”

[REDACTED] said DA Linn also threatened to “fire people” on a regular basis. He said he has heard DA Linn say “I am going to fire [REDACTED] ass!” [REDACTED] said DA Linn also threatened to fire [REDACTED] and himself. After a recent conflict over prosecuting another case, [REDACTED] said DA Linn told him, “You burned your last fucking bridge around here.” DA Linn has also threatened to fire [REDACTED] on multiple occasions.

B. [REDACTED]

[REDACTED] is an [REDACTED] in the District Attorney’s office. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1. [REDACTED]

⁹ I found [REDACTED] to be very credible. She was extremely nervous about possible retaliation and because [REDACTED] believes he will fire her if he finds out she participated in the investigation.

[REDACTED]

[REDACTED]

2. DA Linn’s Alleged Racist Comments

[REDACTED] said she has heard DA Linn use the “n-word” approximately “four or five times” since he became DA. She said he also made a comment to DDA [REDACTED] that “Blacks should use the impossibility defense for crimes in Oakhurst because their lips explode at that elevation.” [REDACTED] said she also heard DA Linn make disparaging comments about Mexican-Americans, but could not remember specific comments about using the “Deadwood militia to combat illegals.” DA Linn also told her, “The only thing Indians care about is their beer.” [REDACTED] said she heard DA Linn make comments about Michelle and Barack Obama being a “house n**ger and field n**ger.” [REDACTED] also said she heard other racist or discriminatory comments, but could not provide any additional details. [REDACTED] said DA Linn’s inappropriate comments were so commonplace, she stopped noticing them.

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

[REDACTED] said she recalled three separate incidents where DA Linn made offensive comments about women. First, she said some time last year, DA Linn “smacked his lips” and said, “mmm...” when female DDAs walked passed his office, including [REDACTED]. DA Linn also told her to tell a female crime victim to “wear something sexy or low cut” when she came to speak to him about a case involving a former boyfriend exposing sexually explicit information about her.

DA Linn also said he wanted to ask her, “If she wanted to make a porn about the book [published by a former boyfriend about their sex life].” When she came to the office, DA Linn asked [REDACTED] “what is she wearing?” and “What does she look like?” [REDACTED] also said [REDACTED] told her DA Linn said he “wanted to bounce a quarter off [REDACTED] [REDACTED] ass.” [REDACTED] said DA Linn’s comments about women are “an everyday occurrence.” [REDACTED] also said [REDACTED] told her DA Linn said, “he would walk a mile, crawl a mile, just to see where [REDACTED] poop came from.”

4. DA Linn’s Alleged Threatening or Abusive Conduct

[REDACTED] said DA Linn made offensive comments in the workplace “daily.” She said DA Linn “yells, stomps, kicks garbage [cans], throws things at [her], accuses [her] of [not being at work enough] – this is very difficult for me because I’m [REDACTED] He’s a very vile man and the minute he finds out, it’s not gonna be pleasant.” [REDACTED] said DA Linn has kicked garbage cans “more than ten times.” [REDACTED] confirmed she heard DA Linn tell [REDACTED] “Fuck you, fat boy!” She also heard DA Linn say [REDACTED] “was a piece of shit.” [REDACTED] said DA Linn regularly threatened to fire people, including her and [REDACTED] DA Linn often demands people be available to him at any time and if someone is not available, DA Linn yelled “Jesus! Does anyone work around here!”

DA Linn also yelled at [REDACTED] when she took her lunch and regularly forced her to forego her lunch hour.¹⁰ [REDACTED] and [REDACTED] told [REDACTED] when she was out due to the illnesses and subsequent deaths of [REDACTED], DA Linn said, “I wish that fucking guy would just croak!” [REDACTED] said DA Linn often yells at employees and regularly accuses people of not working. [REDACTED] said DA Linn “hog called” her approximately “three times in the hallways.” [REDACTED] said DA Linn called her “Pig [REDACTED]”

C. [REDACTED]¹¹

[REDACTED] is a [REDACTED] in the DA’s office. He has been in his position for approximately [REDACTED] () years. His primary responsibilities include handling [REDACTED] and [REDACTED] matters. He is also responsible for supervising [REDACTED] () or [REDACTED] () [REDACTED] staff. [REDACTED] immediate supervisor is [REDACTED] [REDACTED] said he sits on the other side of the office from [REDACTED] DDA [REDACTED] and [REDACTED]. [REDACTED] and DA Linn’s offices are in the “[REDACTED]” [REDACTED] said he probably passes by [REDACTED] office “three to five times a day.”

1. [REDACTED]

¹⁰ [REDACTED] is considered a non-exempt employee. She is scheduled to work forty hours per week at eight hours per day. She said she regularly skips lunch and just works straight through from 8:00 a.m. to 5:00 p.m.

¹¹ [REDACTED] was very credible. His office is [REDACTED] from DA Linn’s office and he said DA Linn would not have made inappropriate comments around him because of his position in the office. However, [REDACTED] said it “does not surprise him” that DA Linn made offensive comments about women and minorities.

[REDACTED]

[REDACTED]

2. DA Linn’s Alleged Racist Comments

[REDACTED] said [REDACTED] and [REDACTED] told him DA Linn used the “*n-word*” when referring to [REDACTED]. However, [REDACTED] said he did not recall ever hearing DA Linn use the “*n-word*” about anyone else. He also said [REDACTED] told him about DA Linn’s comment regarding Barack and Michelle Obama, but [REDACTED] told [REDACTED] “*don’t tell me. I don’t want to know.*” [REDACTED] also said [REDACTED] told him DA Linn made a comment about “*African Americans’ lips explode at higher elevations.*” [REDACTED] said he did not recall any comments about Native Americans or Mexicans. [REDACTED] said he is not surprised to hear that DA Linn made offensive comments about race or sex in the workplace, but “*He doesn’t talk like that in front of me.*”

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

[REDACTED] stated he never directly heard DA Linn make any offensive comments about women; however, [REDACTED] and [REDACTED] both reported DA Linn’s comments to him “*probably five or six times.*” [REDACTED] said [REDACTED] told him DA Linn made a “*pretty crude comment*” about [REDACTED] and the “*implication was that he would like to be with her.*” He also said he heard from [REDACTED] “*early this year*” that DA Linn made a comment about “*bouncing a quarter off [REDACTED]’s ass.*” [REDACTED] said he did not recall hearing about any sexually explicit or offensive comments about a female victim wearing revealing clothes.

4. DA Linn’s Alleged Threatening or Abusive Conduct

██████████ said he likely complained to ██████████ about DA Linn’s “temperament.” DA Linn gets “pretty angry and boisterous” when he is “confronted with information that frustrates him or goes counter to what his position is.” ██████████ said he has seen DA Linn kick trash cans “twice” and “yell at people” multiple times. ██████████ also said DA Linn used profanity “twenty or thirty times” over the past two years when speaking to him or other employees. ██████████ and ██████████ both complained to ██████████ about DA Linn’s abusive and discourteous conduct.

D. ██████████¹²

██████████ is the ██████████. She is the ██████████. Her immediate supervisor is ██████████. ██████████ joined the DA’s Office the first time in ██████████. ██████████ left in ██████████. She returned in ██████████ before taking on her current role as ██████████. She supervises approximately ██████████ (██████████) DDAs and ██████████.

██████████ is also ██████████ DDA ██████████ immediate supervisor. ██████████ said she knew Linn before he became DA because “he’s practiced in the County for 40 years.” ██████████ also campaigned for DA Linn. ██████████ said the lay out of the office includes a “main hallway” and a “trailer side.” Offices are lined up on either side. Linn, ██████████ and ██████████ all sat next to each other on the “main hallway side.” ██████████ DDA ██████████ sits on the “trailer side.”

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¹² I found ██████████ to be credible and she did not appear to have any bias toward or against DA Linn, ██████████ or ██████████.

[REDACTED]
[REDACTED].”

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2. DA Linn’s Alleged Racist Comments

[REDACTED] said she never heard DA Linn refer to [REDACTED] by the “*n-word*,” but he did call [REDACTED] “*brown sugar*.” She said DA Linn frequently does not remember people’s name, so he refers to people based on their appearance or ethnicity. [REDACTED] said she never heard DA Linn use the “*n-word*,” but [REDACTED] and [REDACTED] told her DA Linn used the “*n-word*.” She could not recall the specifics because she heard a lot of offensive things in the office due to the nature of her work. However, she admitted it is not a regular part of “*office conversation*” to use the “*n-word*” and assumes she would have remembered if she heard it. [REDACTED] said she recalled [REDACTED] telling her about DA Linn’s comment about “*Blacks’ lips exploding when they go above Oakhurst*.” [REDACTED] said she asked [REDACTED] about this comment because she did not understand what it meant.

[REDACTED] also said she heard DA Linn make offensive comments about Native Americans’ propensity for excessive drinking. She said DA Linn disclosed confidential information about the cause of death in a homicide with a Native American victim. When the family complained about DA Linn disclosing the cause of death, he said, “*They’re Indians! The only thing those people care about is if someone takes their beer away*.” [REDACTED] said DA Linn also made offensive comments about Mexicans. She could not recall any specifics, but recalled DA Linn using the terms “*spic*” and “*wetback*” “*once or twice*.” [REDACTED] also recalled overhearing a reference to “*round eyed*” and “*slant eyed*” women.

DA Linn also made an offensive comment about an Asian-American applicant for a DA position. DA Linn wanted to hire an Asian-American applicant *because “Asians are good at research”* and he “*wanted to hire his Asian guy*.” [REDACTED] said [REDACTED] hire another candidate but DA Linn objected because he “*wanted the Asian guy*.” [REDACTED] said she is frequently offended by DA Linn’s comments. She also said [REDACTED] probably hears a lot of offensive comments from DA Linn because [REDACTED] is very deferential to him. [REDACTED] said she does not laugh at or encourage any of DA Linn’s comments. [REDACTED] said [REDACTED] cautioned DA Linn about his inappropriate

comments and he acknowledged his comments were offensive and inappropriate in the workplace.

3. DA Linn's Alleged Sexist or Offensive Comments about Women

█████ stated “[DA Linn] is the most outrageously vile man ever!” Following that, █████ noted that while DA Linn made a “few comments” that may be considered offensive to women, he did not usually make any offensive comments to her. █████ said █████ often told her what DA Linn said about her when she was not present, but she never heard it herself directly from DA Linn. █████ said █████ told her that DA Linn made comments that were “sexual in nature about [her],” but she said she did not want to hear it. █████ alluded to █████ about comments DA Linn made regarding her physical appearance and his desire to engage in a sexual relationship with her. █████ also said █████ told her DA Linn said she was “as cute as a chipmunk.”

█████ said none of the other female attorneys in the office ever complained to her about DA Linn's comments or actions. However, █████ told her DA Linn said he “wanted to bounce a quarter off [█████] ass.” █████ said she never said anything to █████ about DA Linn's comment about her and to her knowledge, █████ never told █████ DDA █████ about DA Linn's comment about her. █████ also said █████ told her DA Linn also made inappropriate comments about DDA █████ and █████ DDA █████ said DA Linn made an inappropriate comment about █████ and a “chauffeur hat.” █████ said when DA Linn was first elected; he wanted one of the DA Investigators to drive him around. DA Investigator █████ acted as DA Linn's chauffeur. The other DA Investigators bought a chauffeur hat for █████. DA Linn said he wanted to see █████ “parade around” in the hat and nothing else.

█████ said DA Linn tended to focus his interests on █████ and █████ and not on DDAs █████ and █████. █████ said it seemed as though DA Linn thought █████ and █████ were attractive and █████ and █████ were not. █████ is openly gay and he would comment on █████ sexual orientation and speculate on █████ sexual orientation. █████ said █████ and █████ never complained to her about any of DA Linn's alleged comments.

4. DA Linn's Alleged Threatening or Abusive Conduct

█████ stated the following in our interview:

“I've prosecuted █████ cases for years. I've heard just about everything. He is outrageously offensive. It's not, you have asked specifically in the context of, you know, race, ethnicity, sexual orientation perhaps, gender, whatever. We haven't discussed other things that he does...like professional inappropriateness.”

█████ explained that DA Linn arrives at the office around lunch time. When he arrives, most people are at lunch. DA Linn often complains when he comes into work *“Doesn’t anybody even work around here?”* █████ said she told DA █████ *“Well gee; they’ve been here since 7:30 a.m., so they are now at lunch.”* █████ said she has seen DA Linn kick the trash can *“five or six times.”* She also stated DA Linn yells at people in an aggressive manner. █████ said she is not bothered by the use of profanity, but said DA Linn gets in peoples’ face, yells, points his finger, and uses profanity. █████ also said DA Linn regularly made fun of █████ weight and █████ told her DA Linn said, *“Fuck you, fat boy!”* DA Linn also referred to multiple employees and other County officials as *“stupid.”* DA Linn also hog called █████ on a couple of occasions. She said someone told him to stop and he stopped. DA Linn regularly threatened to demote or terminate █████ He said, *“I’ll find someone else to do your job”* and *“I’ll replace you with █████*

E. █████¹³

█████ is a █████ Deputy District Attorney. He was hired by the County in █████. His immediate supervisor is █████ sits on the █████ of the office. He sits next to DDA █████ and █████ from █████ DDA █████ and DA David Linn’s offices. █████ said he met █████ when he returned to the DA’s office in █████.

1. █████

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¹³ I found █████ to be credible and he did not appear to have any bias toward or against DA Linn, █████ or █████ He also provided significant detail about certain events lending more credence to his recollection of events.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. DA Linn’s Alleged Racist Comments

When I asked [REDACTED] if he ever heard DA Linn make any racist or offensive comments about minorities, [REDACTED] said, “Yeah, all the time actually.” [REDACTED] said he heard DA Linn use the “n-word” twice in “the same story.” He said DA Linn made a comment about whether Michelle and Barack Obama would be a “house n**ger” or the “field n**ger.” and described the incident as follows:

“After the Trump election he made a joke about going to a slave auction in Baltimore and at the auction they had already determined that Michelle [Obama] was going to be a field nigger because of her broad shoulders and arms. But they were deciding whether Barry [Barack Obama] was going to be a house nigger or a field nigger. Those are the context in which I know him to have used the word, the n word.”

[REDACTED] also said that after a Native-American family objected to DA Linn disclosing the family member’s cause of death to the media, DA Linn stated “they’re Indians. The only things Indians care about is if they take away their beer.” [REDACTED] said DDA [REDACTED] told him DA Linn made a comment about how African-American defendants should claim an impossibility defense to a charge of DUI because his lips explode above Oakhurst and explained [REDACTED] comment about what DA Linn said as follows:

“I don’t remember what [the Defendant’s argument was]... and he said ‘ah, should have argued the impossibility defense.’ And she was like ‘what are you talking about?’ And he said, ‘you know Blacks can’t drive up beyond a certain

elevation because their lips will explode. So it's impossible for them to be in that spot in the mountains.'"

3. DA Linn's Alleged Sexist or Offensive Comments about Women

When I asked [REDACTED] if he ever heard DA Linn make any offensive or sexist remarks about DA Linn in the workplace, he stated "Well...yeah, sure." [REDACTED] said he "hog called" his [REDACTED] "maybe three times." "He does it because he thinks it's funny." [REDACTED] also said other people have told him about DA Linn's offensive comments about women. He said [REDACTED] told him DA Linn made offensive comments about [REDACTED] including "he would be willing to eat a mile of her shit just to see where it comes out of."

[REDACTED] DDA [REDACTED] told [REDACTED] that DA Linn made an offensive comment to him about wanting to "bounce a quarter off [REDACTED]'s ass" and threaten to give [REDACTED] DDA [REDACTED] – a bad performance review because she was married to [REDACTED] and "ruining his fantasy of dating[DA Linn]. [REDACTED] said he also heard DA Linn tried to kiss a local reporter when she was interviewing him for a story. [REDACTED] said he believed [REDACTED] was telling the truth because the statements he was repeating were consistent with statements DA Linn would say. [REDACTED] told [REDACTED] that DA Linn said, "For his birthday gift he wanted [REDACTED] on his face, sitting on his face." [REDACTED] DDA [REDACTED] told him DA Linn asked her if she wanted to star in a pornographic movie based on a lewd book one defendant wrote about a victim called "50 Shades of [REDACTED]."

4. DA Linn's Alleged Threatening or Abusive Conduct

[REDACTED] said DA Linn never threatened to terminate his employment, but said, "he like wielded his authority, I feel like, in a less than proper way." [REDACTED] said he heard DA Linn threaten to fire [REDACTED] "a bunch of times." He also said [REDACTED] told him DA Linn threatened to fire him if he did not drive back to the office in Madera from Bass Lake and get files because DA Linn did not want to go back to the office while waiting for a trial verdict.

F. [REDACTED]

[REDACTED] is a [REDACTED] Deputy DA. He has been with the DA's office for approximately [REDACTED] () years and a [REDACTED] for [REDACTED] () years. He [REDACTED] approximately [REDACTED] or [REDACTED] () attorneys and his immediate supervisor is [REDACTED] [REDACTED] sits in the [REDACTED] directly across from [REDACTED] and next to [REDACTED] DDA [REDACTED]

1. [REDACTED]

¹⁴ [REDACTED] appeared intentionally evasive. He testified he recalled DA Linn making comments he characterized as offensive to women or minorities, but he repeatedly insisted he could not recall what was said.

[REDACTED]

[REDACTED]

2. DA Linn’s Alleged Racist Comments

[REDACTED] said he never heard DA David Linn make any comments he thought were offensive or racist. He never heard DA Linn use the “*n-word*.” He said he never heard DA Linn talk about African Americans’ lips exploding at high altitudes and no one ever told him DA Linn said that. When asked whether DA Linn ever said anything offensive about Mexicans, [REDACTED] said, “*I don’t remember that. He is a little politically incorrect sometimes, but I don’t recall anything. ... He may say something stereotypical. Some category of person... Race, sex, ethnic background, geographic background.*” [REDACTED] said he never heard DA Linn make any offensive comments about Native Americans. [REDACTED] said it was possible DA Linn made offensive comments about people’s race or ethnicity; he just could not recall anything specific.

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

[REDACTED] said he has heard DA Linn make offensive comments about women “less than five times.” However, he could not recall the specific comments. He said he never heard DA Linn say anything offensive about [REDACTED] and no one told him DA Linn said anything offensive about [REDACTED] said DA Linn just complained she was never there. [REDACTED] said someone told him DA Linn wanted to “*bounce a quarter off [REDACTED] ass,*” but he did not recall who told him. When I asked [REDACTED] if he ever heard DA Linn talk about “*wanting slant eye women and round eye women,*” he responded “*I might have. I don’t specifically remember but it kind of vaguely rings a [REDACTED]*”

4. DA Linn’s Alleged Threatening or Abusive Conduct

[REDACTED] said DA Linn never threatened to fire him directly. However, DA Linn told him one of his subordinates “*better not mess up*” or there may be some consequence to [REDACTED]

employment. However, [REDACTED] also said DA Linn later apologized and said he was not threatening him. He said DA Linn may have made “*offhanded*” comments about firing [REDACTED]. [REDACTED] said he never heard DA Linn “*hog call*” [REDACTED] or make any discourteous or abusive comments to her. [REDACTED] said he may have heard DA Linn tell [REDACTED] “*Fuck you, fat boy,*” but could not recall. [REDACTED] said he “*did not recall*” whether DA Linn made any other offensive or abusive comments.

G. [REDACTED]¹⁵

[REDACTED] is a [REDACTED] Deputy District Attorney. He has been a [REDACTED] DDA since [REDACTED] and with the County DA’s Office since [REDACTED]. His immediate supervisor is [REDACTED] and he does not supervise anyone. [REDACTED] said he “*sits on the [REDACTED] side*” and does not sit next to [REDACTED] DDA [REDACTED] or DA David Linn. He said he visits the [REDACTED] “*a few times a day.*” [REDACTED] said he often communicated with [REDACTED] in his office because [REDACTED] was his immediate supervisor before [REDACTED]. He said he “*was in [REDACTED] office on a regular basis.*”

1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁵ I found [REDACTED] to be honest and credible in his responses.

[REDACTED]

2. DA Linn's Alleged Racist Comments

[REDACTED] said he has heard from other people that DA Linn makes "*racist comments*" in the workplace. He said he heard about DA Linn's comment regarding African Americans' lips exploding at higher altitudes from [REDACTED] DDA [REDACTED] and possibly another person, but he could not recall who. He said he did not recall hearing DA Linn use the "*n-word*" in the workplace, but said [REDACTED] told him DA Linn said something about attending a "*slave auction in Baltimore*" and "*whether Michelle and Barack would be the house n**ger or the field n**ger.*" [REDACTED] also said he may have heard DA Linn make a comment about Native Americans "*only caring if someone takes their beer away*" but he could not recall the specifics. [REDACTED] similarly stated he thinks he has heard DA Linn make racist comments about Latinos or people of Mexican ancestry, but could not recall anything specific. [REDACTED] said he never heard DA Linn use the expression "*wetback,*" but said [REDACTED] told him DA Linn uses that expression.

3. DA Linn's Alleged Sexist or Offensive Comments about Women

When I asked [REDACTED] if he ever heard DA Linn made offensive or sexist comments about women, he stated "*Oh, yeah, yeah for sure. ... 'Sexist. I can't give a number, I mean it's not like it's every day or anything like that but, you know but at least a handful or so times.'*" [REDACTED] said DA Linn told him he wanted to "*bounce a quarter off [REDACTED]'s ass*" and missed the times when he could bounce a quarter off his own wife's ass. [REDACTED] also said DA Linn offered to "*add points*" to his performance evaluation for being married to [REDACTED]. DA Linn also threatened to deduct points from [REDACTED] performance evaluation because she married [REDACTED]. [REDACTED] said [REDACTED] "*did not think that was funny.*" [REDACTED] said he vaguely recalled [REDACTED] telling him DA Linn made comments about "*round eye women*" and "*slant eye women.*" [REDACTED] said he did not recall any comments about a female victim's appearance.

4. DA Linn's Alleged Threatening or Abusive Conduct

[REDACTED] said DA Linn never threatened to fire him. However, he said [REDACTED] told him DA Linn threatened to fire him after he refused to take the [REDACTED] trial. [REDACTED] said he has heard DA Linn yell at [REDACTED] from his office. He also heard DA Linn "*hog call*" [REDACTED]. [REDACTED] also said he was present when DA Linn told [REDACTED] "*Fuck you, fat boy.*" However, [REDACTED] said he never heard DA Linn tell [REDACTED] he was a "*piece of shit.*" [REDACTED] said he recalled [REDACTED] complaining to him about DA Linn making offensive comments to him, but he could not recall the specific comments [REDACTED] claimed DA Linn made to him.

H. [REDACTED]⁶

[REDACTED] is a [REDACTED] Deputy DA. She has worked for the County on and off since 2005. She took time off between [REDACTED]. Her immediate supervisor is [REDACTED] DDA [REDACTED] said she was never directly supervised by [REDACTED] but [REDACTED] sits on the [REDACTED]. She sits next to DDA [REDACTED], DDA [REDACTED] and [REDACTED] DDA [REDACTED] has been friends with [REDACTED] DDA [REDACTED] since he started with the DA's office in [REDACTED]. [REDACTED] said her relationship with [REDACTED] changed after he [REDACTED] and she filed a formal complaint about [REDACTED] discourteous conduct with Human Resources in May or June 2017.

1. [REDACTED]

[REDACTED]

[REDACTED]

¹⁶ I found [REDACTED] to be credible. However, she expressed a fear of retaliation and even possible physical violence for her participation in the investigation. She stated because [REDACTED] knew where she lived, she was concerned about having any statements attributed to her in writing.

“ [REDACTED] ”
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2. DA Linn’s Alleged Racist Comments

[REDACTED] said whenever DA David Linn said something offensive; [REDACTED] would just laugh and say “*I can’t believe he said that. He’s crazy!*” [REDACTED] said she never heard DA Linn use the “*n-word*” or make any insulting comments about Mormons. [REDACTED] said [REDACTED] told her DA Linn said, “*Blacks should use the impossibility defense because everyone knows their lips explode at higher elevations.*” [REDACTED] also said DA Linn made comments about “*illegals*” not voting. [REDACTED] also told her DA Linn made a comment about Native Americans only caring about “*their beer.*” [REDACTED] said [REDACTED] told her DA Linn referred to Michelle and Barack Obama as “*house n**ger*” and a “*field n**ger.*” [REDACTED] said she heard a lot of comments from other people about DA Linn’s race-related comments but could not recall any other specifics.

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

[REDACTED] said [REDACTED] and [REDACTED] told her DA Linn made a sexual comment about her wearing the Chauffeur’s hat that was initially on a naked female mannequin that was floating around the office.¹⁷ [REDACTED] said she saw the nude mannequin in her office one day although it was not posed in a sexually explicit manner. [REDACTED] moved the mannequin to the conference room. She said she was not certain who put the mannequin in her office, but speculated it was [REDACTED].

[REDACTED] also said DA Linn asked her to star in a pornographic movie when she was handling a case pertaining to a book called “*50 Shades of [REDACTED]*.”¹⁸ The book included several graphic depictions of sexual activity. DA Linn said he wanted to make a pornographic film about the book. [REDACTED] said, “*Yeah, you could direct it.*” DA Linn responded “*You should star in it.*” [REDACTED] responded “*I don’t think so.*” [REDACTED] said [REDACTED] also told her DA Linn wanted the victim in that case to “*wear something revealing.*” [REDACTED] told her DA Linn said he was “*tired of round eyed women*” and “*wanted some slant-eyed women.*” [REDACTED] also told her DA Linn “*would eat a mile of [REDACTED]’s shit to see where it comes from*” in reference to [REDACTED]. She also heard DA Linn said, “*he wanted to bounce a quarter off [REDACTED] ass.*” in reference to [REDACTED] DDA [REDACTED].

¹⁷ A photo of the mannequin is attached to this Report and described in detail in footnote 22.

¹⁸ Others characterized the book title as “*Fifty Shades of Sherrie*” or “*Fifty Shades of Sharon.*”

4. DA Linn’s Alleged Threatening or Abusive Conduct

██████████ said DA Linn has threatened to fire ██████████ and ██████████ on “multiple occasions.” She also said she believed DA Linn threatened to fire Senior DDA ██████████ but could not recall the specifics. ██████████ and ██████████ also told her that when ██████████ was out of the office due to her father’s illness, DA Linn said, “I wish the fucking guy would just die already.” ██████████ also stated in reference to DA Linn’s interactions with ██████████ “I heard him, I have heard him talking not kindly to her, you know, in a somewhat raised voice, maybe not full on screaming but somewhat raised, very abrupt, rude, you know, demanding.” She also said other people told her DA Linn “hog called” ██████████ from his office. ██████████ said she never heard DA Linn call ██████████ a “piece of shit” or tell him “Fuck you, fat boy.” However, ██████████ stated “But it wouldn’t surprise me, no it wouldn’t surprise me if that was said...”

I. ██████████¹⁹

██████████ is a ██████████ Deputy DA. He has been with the office since ██████████. His immediate supervisor is ██████████. ██████████ worked with the ██████████ District Attorney’s Office until ██████████ and worked directly with ██████████ DDA ██████████. ██████████ said ██████████ was his immediate supervisor until he went out on leave. ██████████ office is located on the ██████████ side of the DA’s office. He sits closest to DDA’s ██████████ ██████████ and ██████████ said he visits the Main Hallway every day, but only in ██████████ office maybe once a day.

1. ██████████

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¹⁹ ██████████ appeared hostile and uncooperative during his interview. Many of his responses seemed intentionally evasive. ██████████
██████████

[REDACTED]

2. DA Linn’s Alleged Racist Comments

[REDACTED] said he never interacted with DA David Linn. He even joked “I’m not sure he knows my name.” [REDACTED] said his communications with DA Linn are limited to just “Hi, Boss” when he passes him in the office. [REDACTED] never heard DA Linn make any offensive comments about race or national origin.

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

[REDACTED] said he never heard DA Linn make any sexist or offensive comments about women. He never heard him say anything about [REDACTED] DDA [REDACTED] or [REDACTED] DDA [REDACTED] also said no one told him DA Linn made any offensive comments about women. He also said he never saw a naked female mannequin in the conference room or in [REDACTED] office.

4. DA Linn’s Alleged Threatening or Abusive Conduct

[REDACTED] said DA Linn never threatened to fire him. He also said [REDACTED] never told him DA Linn threatened to fire him or [REDACTED]. He also stated he never heard DA Linn tell [REDACTED] “Fuck you, fat boy” or call him a “piece of shit.” [REDACTED] also never told him DA Linn made any offensive or discourteous comments in the workplace.

J. [REDACTED]²⁰

[REDACTED] is a [REDACTED] Deputy District Attorney. She was initially hired by the DA’s office in [REDACTED] as a [REDACTED]. She worked as a [REDACTED] and a [REDACTED] on [REDACTED]. [REDACTED] immediate supervisor is [REDACTED] DDA [REDACTED] was assigned to prosecute [REDACTED] cases on or about [REDACTED]. Her office is [REDACTED] located [REDACTED]. However, [REDACTED] said she [REDACTED]

²⁰ I found [REDACTED] to be credible and honest in her responses. Like [REDACTED] she also expressed concern for retaliation if DA Linn learned of her participation in the investigation.

1. [REDACTED]

[REDACTED]

[REDACTED] when [REDACTED]

[REDACTED]

[REDACTED]

2. DA Linn’s Alleged Racist Comments

[REDACTED] said she did not recall hearing any racist or culturally insensitive comments from DA David Linn, but admitted she tried to limit her contact with him. The only comment she recalled was when DA Linn was talking about a case involving a Southeast Asian family and he said, *“I’ve dealt with these kinds of people before in Vietnam.”* [REDACTED] said she never heard DA Linn use the “n-word” or refer to *“Blacks’ lips exploding at higher elevations.”* She also never heard about any offensive comments about Mexicans or Native Americans.

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

██████████ said she heard multiple comments that were sexist or offensive about women, including her. ██████████ provided detailed notes spanning a year documenting DA Linn’s sexist comments toward her.²¹ On or about September ██████████, 2016 – more than eighteen months after DA Linn took office – ██████████ was walking past DA Linn’s office and he called out “Hey, you! The good looking one!” in order to get ██████████ attention because he did not know her name. ██████████ said ██████████ was present in his office at the time. ██████████ said she was embarrassed and uncomfortable. A few months after September ██████████, 2016, DDA ██████████ told ██████████ and DA Linn that “██████████ should be the next DA.” In response, DA Linn said, “Nah, she’s too pretty to be a DA.”

██████████ dated and recently married ██████████. She said shortly after they started dating, ██████████ ██████████ DA Linn also said he missed the days when his wife was good looking enough to bounce a quarter off her ass. ██████████ said she was not sure whether DA Linn told ██████████ he wanted to “bounce a quarter of ██████████ ass” because she heard about the conversation from ██████████. On or about September ██████████, 2016, ██████████ was present in DA Linn’s office with ██████████ and ██████████. DA ██████████ for a ██████████ meeting with ██████████. ██████████. During the meeting, DA Linn said he did not know ██████████ was attending the meeting ██████████ ██████████ and thought “maybe you and ██████████ are dating now.” ██████████ later told ██████████ DA Linn thought it was a “funny joke.”

On or about September ██████████, 2016, ██████████ told her DA Linn told him he has sexual dreams about ██████████. She said ██████████ was also present for this comment. DA Linn also told ██████████ “Your wife is pretty.” When ██████████ said, “your wife is pretty, too” DA Linn responded, “I don’t have it as good as ██████████” said DA Linn also made comments to ██████████ about ██████████.

On or about September ██████████, 2016, ██████████ was in a meeting with DA Linn and ██████████ for her annual performance review. While her overall performance was rated above standard, ██████████ explained that DA Linn noted,

“I received a 4 in the criteria of exercising sound judgment because I would have gotten a 5 if I wouldn’t have been with ██████████. So, meaning like, you don’t have good judgment because you’re with ██████████”

██████████ was shocked, but joked “So ██████████ should receive a 5 because he has good judgment for being with me.” ██████████ said DA Linn never said he was joking or explained any other reason why he was giving her a lower score for judgment. ██████████ said, to her knowledge,

²¹ ██████████ said she kept notes over time and contemporaneous with events as she described them; she said did not prepare the notes in preparation for her interview. Copies of her notes are attached to this Report.

this score was never changed. [REDACTED] also told her he received a 5 in “*Judgment*” on his performance review because he was married to [REDACTED] said [REDACTED] and [REDACTED] knew about DA Linn’s comments during her performance evaluation and that she received a lesser score because of her choice in spouses. [REDACTED] told her, “*it was wrong for DA Linn to do that. Thank you for not suing the office.*”

On or about October [REDACTED], 2016, [REDACTED] was on her way to a Federal Equitable Sharing training with a person she characterized as “[REDACTED]” a Sheriff’s Commander in Southern California. The Sheriff’s Commander told her that when he asked DA Linn for another DA Investigator for [REDACTED] cases, DA Linn told him, “*Well, I already gave you [REDACTED] and she’s a cheerleader.*” [REDACTED] also provided a video of a recent DA’s Office function honoring [REDACTED] as “*Deputy of the Year*” at the Elks Lodge in Madera. During DA Linn’s presentation, he made reference to all the “*Sheriff’s Deputies’ wives being at home and the sacrifices they make*” without reference to the fact that some Sheriff’s Deputies are women. DA Linn also said [REDACTED] was very persuasive because he got [REDACTED] to marry him:

“He’s very, very persuasive, which is very obvious if you look at [REDACTED] and then if you look at his wife over there, [REDACTED] you’ve gotta believe this guy’s persuasive and she didn’t married him for his good looks.”

[REDACTED] was shocked and embarrassed. The audience also appears to let out a gasp after DA Linn’s comment. [REDACTED] never saw a naked female mannequin anywhere in the office and never heard about it.

[REDACTED] said she was also aware of offensive comments that DA Linn made about DDA [REDACTED]’ sexual orientation as well as DDA [REDACTED]’s breasts. She could not recall the specifics of those comments, but thought she heard them from [REDACTED]. She also said [REDACTED] told her DA Linn tried to kiss a news reporter during an interview. [REDACTED] also said she and [REDACTED] recently notified DA Linn that the [REDACTED] recently agreed to endorse him in his run for re-election. DA Linn was excited and said, “*I’m going to kiss [REDACTED]!*” As [REDACTED] and [REDACTED] were leaving DA Linn’s office, he shook [REDACTED] hand and grabbed [REDACTED] and kissed her on the cheek. [REDACTED] said she tried to pull away and her hair was in her face, so DA Linn mostly kissed her hair. She said this made her very uncomfortable. [REDACTED] said she never complained about DA Linn’s comments because she “*works in a male-dominated profession*” and just wants to “*keep her head down and do her job.*”

4. DA Linn’s Alleged Threatening or Abusive Conduct

[REDACTED] said [REDACTED] told her DA Linn threatened to fire him several times. She said he was often upset about DA Linn’s discourteous and threatening conduct. [REDACTED] also told her DA Linn told him, “*Fuck you, fat boy*” and called him a “*piece of shit.*” [REDACTED] said DA Linn is also frequently rude to [REDACTED] told her when [REDACTED] was out of the

office because of a relative’s illness, DA Linn said, “*I wish he would just die, already!*” She also heard DA Linn “*hog called*” [REDACTED] but never heard it herself. She said she never saw DA Linn kick trash cans, but [REDACTED] said he yelled at him regularly.

K. [REDACTED]²²

[REDACTED] is a [REDACTED] Deputy District Attorney. She was interviewed on August 15, 2017. She was represented by [REDACTED] Deputy District Attorney [REDACTED] in her capacity a representative of the Madera County Prosecutors Association. [REDACTED] has been with the DA’s office since [REDACTED]. [REDACTED] said her immediate supervisor was [REDACTED] DDA John [REDACTED] until approximately late April 2017. When [REDACTED] returned to the Senior DDA position, [REDACTED] became [REDACTED] immediate supervisor. [REDACTED] office is on the [REDACTED] side. [REDACTED] office is next to DDA [REDACTED]’ and DDA [REDACTED] offices. However, she visits the Main Hallway multiple times a day especially when [REDACTED] was her immediate supervisor.

[REDACTED] said she and [REDACTED] were really good friend until mid to late 2016. [REDACTED] said [REDACTED] attitude toward her changed in October 2016. [REDACTED] said she suspects [REDACTED] [REDACTED] told [REDACTED] that [REDACTED] was the [REDACTED] [REDACTED]. After [REDACTED] learned about [REDACTED] salary, he started complaining to other people about it. When [REDACTED] confronted [REDACTED] about his comments regarding her salary, he became defensive and angry. [REDACTED] said she stopped joking around with him after that.

1. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

²² I found [REDACTED] to be credible. Although she was defensive and emotional during her testimony, she admitted [REDACTED]
[REDACTED].

²³ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. DA Linn’s Alleged Racist Comments

[REDACTED] said she did not interact with DA David Linn that often; only twice a week and usually just to say “Hi.” [REDACTED] said she never heard DA Linn make any comments she would characterize as “racist” or “offensive to someone’s nationality or ethnicity.” She never heard DA Linn use the “n-word.” [REDACTED] never heard DA Linn say anything offensive about Michelle

and Barack Obama. She never heard him say anything about Latinos or Native Americans. [REDACTED] said she never heard DA Linn refer to her as the “[REDACTED]” [REDACTED] said [REDACTED] told her about DA Linn’s comment about African Americans’ lips exploding at a certain elevation.

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

[REDACTED] said she never heard DA Linn make any comments that were sexist or offensive to women. However, [REDACTED] told her that DA Linn said he “*wanted to bounce a quarter off [REDACTED] ass.*” [REDACTED] said she never heard about any comments directed at [REDACTED] [REDACTED] said she never heard DA Linn make any sexually explicit comments. She said [REDACTED] told her DA Linn said he wanted to see [REDACTED] wearing the chauffeur’s cap and nothing else. [REDACTED] did not hear about DA Linn making sexually explicit comments about female victims.

4. DA Linn’s Alleged Threatening or Abusive Conduct

[REDACTED] said she saw DA Linn “*blatantly outright yell*” at some of the support staff members. [REDACTED] went in DA Linn’s office to obtain his signature on something, he yelled at her “*to get out of his office.*” [REDACTED] was sitting across the hall in [REDACTED] office when it happened. [REDACTED] also said she heard DA Linn “*hog call*” [REDACTED] [REDACTED] said she never saw DA Linn kick a trash can or use profanity. She said [REDACTED] told her DA Linn threatened her job when she conflicted out of the [REDACTED] case because of her [REDACTED] [REDACTED] said she never heard DA Linn tell [REDACTED] “*fuck you, fat boy*” and [REDACTED] never told her DA Linn called him that.

L. David Linn²⁴

District Attorney David Linn participated in an investigative interview on October 17, 2017. He was represented by his attorney C. Russell Georgeson during the interview.²⁵ DA Linn was elected as Madera County’s District Attorney in November 2014. He took office on or about January 5, 2015. He explained that [REDACTED] is second in command in his office and he has two Supervising DAs. [REDACTED] and [REDACTED] are both

²⁴ I did not find Linn to be credible in his responses. He was not forthcoming in his responses and made offensive comments when defending allegations he engaged in racist or sexist conduct in the workplace.

²⁵ David Linn initially declined to participate in this Investigation. Linn’s investigative interview was initially noticed for August 15, 2017 at 3:00 p.m., but he said he was not available for an interview at that time. The County offered two additional dates and times including August 17, 2017 or August 21, 2017. However, DA Linn said he was not available on either date. On or about August 28, 2017, County Counsel Regina Garza notified DA Linn that his investigative interview was scheduled for August 31, 2017 at 9:00 a.m. On or about August 30, 2017, DA Linn’s legal representative contacted me and informed me he was not available on August 31, 2017 and agreed to re-schedule for September 5, 2017 at 1:00 p.m. On September 5, 2017, at approximately 12:30 p.m., DA Linn’s legal representative notified me that DA Linn refused to participate in the Investigation until the County provided more information about the allegations against him. After the County met with Linn and his attorney, he agreed to participate in the investigation.

Supervising DAs, although [REDACTED] is only [REDACTED] DA. Linn also stated there are several Senior Deputy District Attorney, but they do not supervise anyone.

DA Linn explained that [REDACTED] was a Supervising District Attorney before approximately April 2017. DA Linn said [REDACTED] resigned his position as Supervising DA while DA Linn was attending the California District Attorneys Association conference. When he returned, [REDACTED] told him [REDACTED] did not want to be Supervising DA anymore. [REDACTED] also told DA Linn he did not want to be a Supervisor because he did not want to be in charge of other attorneys, including [REDACTED] DDA [REDACTED]

1. [REDACTED]

[REDACTED]

2. **DA Linn’s Alleged Racist Comments**

DA Linn denied making any racist comments. DA Linn stated he never used the word “n**ger” in the workplace. DA Linn said he received an email after the 2016 election from an attorney in Oakhurst about Barack and Michelle Obama. DA Linn said he could not remember the substance of the email, but remembered it pertained to a joke about the Obama family after the election. DA Linn denied he repeated the substance of the email and did not recall whether the email contained the “n-word.” He said he did not say anything about Michelle and Barak Obama being a “house n**ger” and “field n**ger.” He also flatly denied he told DDA [REDACTED] that “Blacks should use the impossibility defense” for crimes above Oakhurst because “everyone knows their lips explode.” DA Linn denied ever using the terms “spic” or “wetback” in the workplace and said he never made any offensive comments about undocumented people of Mexican descent in the workplace.

DA Linn denied he made any comments about Native Americans’ only caring “if someone takes away their beer” or “Fuck Indians. They don’t vote.” DA Linn stated he has been an advocate for “Indians” throughout his career and he expects to carry the Native American community in his upcoming election by “ninety percent.” DA Linn also stated he never told anyone during DDA [REDACTED]’s hiring that he “wanted to hire an Asian because they are good at research.” DA Linn also stated he never referred to [REDACTED] as “the [REDACTED]” He also denied he referred to [REDACTED] as “n**ger” or “brown sugar.” DA Linn said

██████████ called ██████████ “brown sugar” and DA Linn said he told ██████████ his comment was “offensive.” DA Linn said he was not racist and had several “mixed race” nieces and nephews, as well as relatives who are African American.

3. DA Linn’s Alleged Sexist or Offensive Comments about Women

DA Linn denied he ever “smacked his lips together” when a female attorney walked past his office. DA Linn denied telling ██████████ DDA ██████████ he “wanted to bounce a quarter off ██████████ ass.” He also denied telling ██████████ “nice job” when found out about ██████████ relationship with ██████████ DDA ██████████ DA Linn stated he only congratulated ██████████ about his engagement to ██████████ DA Linn denied ever telling ██████████ he “missed when he could bounce a quarter off his own wife’s ass.” DA Linn flatly denied ever saying he “would eat a mile of ██████████’s shit just to see where it comes from.” He also said he never said ██████████ was “cute as a chipmunk.” DA Linn said ██████████ said ██████████ “has a chipmunk look.” DA Linn denied he ever said he “fantasized” about ██████████ sexually.

DA Linn denied he ever yelled out to ██████████ “Hey, good looking girl!” to get her attention before he knew her name. He also denied ever tried to kiss ██████████ – even on the cheek. DA Linn denied ever asking ██████████ to star in a pornographic film. He also denied ever asking a victim named ██████████ to dress provocatively before meeting with about her case. DA Linn also said he never actually met with Ms. ██████████.

DA Linn said he was not aware of any chauffeur hat given to DA Investigator ██████████ and DA Linn said ██████████ only gave him rides when they were headed to the same place. DA Linn denied telling anyone he wanted to “sit on ██████████ face.” DA Linn denied he made comments about “slant eyed women” and “round eyed women.” However, DA Linn said he may have told people he regretted comments he made to women in Hong Kong when he was on “R&R during Vietnam.” He said women in Hong Kong “were exotic and the most beautiful women in the world.” DA Linn denied making any comments about DDA ██████████ or DDA ██████████’s physical appearance. DA Linn strongly denied he threatened to take points off ██████████ performance evaluation because she was married to ██████████ He also denied he gave ██████████ extra points on his performance evaluation because of his relationship with ██████████

DA Linn said he did not know anyone at the Sheriff’s Office named ██████████ or anyone working with the DA’s office with that name and never told anyone he “gave” ██████████ to the Sheriff’s Department and “she’s a cheerleader.” DA Linn also denied telling ██████████ she “was too pretty to be DA.” DA Linn stated he told ██████████ she could be “the next DA.” He also denied telling anyone “there goes my fantasy” when he learned ██████████ was dating ██████████ DA Linn said he was not sexist because his wife is a “dynamic person” and “without her, I would not have been elected.”

4. DA Linn's Alleged Threatening or Abusive Conduct

DA Linn denied he ever "hog called" [REDACTED] or said "[REDACTED]". He denied he ever yelled at a subordinate or used profanity when speaking to a subordinate. DA Linn admitted to "raising his voice," but denied he ever yelled at an employee. He also denied he ever threatened to "fire" any employees. He stated he asked the Board of Supervisors in closed session to alter the County Rules or the bargaining agreement to make [REDACTED] and [REDACTED] [REDACTED]'s positions at will. He stated he may have said "I wish I had the power to terminate my top ranking liutenants."

DA Linn denied ever telling [REDACTED] "Fuck you, fat boy" or calling him a "piece of shit." He also said he never denied any employee the right to take a lunch hour. He said he never discouraged any employee from taking a lunch hour. DA Linn denied he kicked a trash can in anger at any employee. He said he may have kicked the trash can near his desk by accident maybe "three or four times." DA Linn denied anyone ever complained to him about the way he treats employees.

DA Linn admitted he has taken anti-harassment training since starting as DA for the County. He last attended training in April 2017. DA Linn said he was very familiar with the requirements of the Fair Employment and Housing Act because he represented both employees and employers in actions pursuant to the FEHA while in private practice.

V. FINDINGS OF FACT

I considered the totality of the circumstances in determining:

1. [REDACTED]
2. Whether DA Linn made racist or culturally inappropriate comments in the workplace?
3. Whether DA Linn made sexist or sexually explicit comments about employees and victims in the workplace?
4. Did DA Linn engage in threatening or discourteous conduct toward employees?

Below is a summary of my findings based on this revised scope of investigation.

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

B. DA Linn made repeated racist or racially insensitive comments in the workplace

I find that allegations DA David Linn made racist or culturally inappropriate comments in the workplace are SUSTAINED. Multiple witnesses with no apparent motive for dishonesty including [REDACTED] who campaigned for DA Linn; and [REDACTED] DDA [REDACTED] who had no apparent animosity toward DA Linn, testified DA Linn used racial slurs to describe African Americans and Mexicans, including the “n-word,” “wetback,” and “spic.” Multiple witnesses stated they heard or became aware of several comments and recounted them in exactly the same way. [REDACTED]

[REDACTED] said she has heard him use the “n-word” multiple times in the office. Several people heard DA Linn tell DDA [REDACTED] that “Blacks should use the impossibility defense above Oakhurst because everyone knows their lips explode at higher elevations.”

[REDACTED] stated that DA Linn only hired one applicant for Deputy District Attorney because “Asians are good at research” and “I want my Asian.” Even [REDACTED] DDA [REDACTED] who unconvincingly testified he could not remember anything DA Linn said, admitted “He is a little politically incorrect sometimes, but I don’t recall anything. ... He may say something stereotypical. Some category of person... Race, sex, ethnic background, geographic background.” DA Linn also stereotyped Native Americans by stating “they only care if someone takes their beer away.”

The only attorneys who testified they never heard DA Linn make any racist or offensive comments were employees that do not seem to interact with him, including DDA [REDACTED] and [REDACTED] DDA [REDACTED]. Both said their interactions with DA Linn are limited to “Hi, Boss.” The employees that appeared to interact with him the most stated they heard him use racially insensitive comments. Additionally, [REDACTED] stated DA Linn and [REDACTED] DDA [REDACTED] spent a lot of time together so it did not surprise her that he heard most of these offensive comments because DA Linn may have more relaxed around [REDACTED] than other employees.

DA Linn denied making any racist comments in the workplace. However, when asked why his employees would testify otherwise, he stated he did not know why they would say he had made racist comments in the workplace. DA Linn even stated the Prosecutors Association unanimously agreed to back his re-election campaign. DA Linn admitted his subordinates have no reason to lie about what he said in the workplace. DA Linn, on the other hand, is currently running for re-election and has a strong motive to downplay any improper conduct. I find that DA Linn’s denials of making racist comments in the workplace are not credible and that the overwhelming weight of evidence supports the conclusion that DA Linn made racist comments in the workplace.

C. DA Linn made repeated sexist or sexually explicit comments to and about employees and victims of crime

I find allegations that DA David Linn made sexist or sexually explicit comments to and about employees and victims of crime are SUSTAINED. [REDACTED] DDA [REDACTED] and [REDACTED] testified DA Linn made repeated offensive comments about other women in the office. [REDACTED] stated DA Linn smacked his lips together when Senior DDA [REDACTED] or [REDACTED] DDA [REDACTED] passed by his office. [REDACTED] and [REDACTED] DDA [REDACTED] both stated DA Linn told them directly he wanted to “bounce a quarter off [REDACTED] / [REDACTED] ass.” He told [REDACTED] he “wanted to eat a mile of [REDACTED]’s shit just to see where it comes from.” [REDACTED] said DA Linn made repeated comments about finding [REDACTED] attractive and wanting a sexual relationship with her. [REDACTED] and [REDACTED] both used the same words to describe DA Linn’s comments about women in the office: “vile.” [REDACTED] said DA Linn characterized [REDACTED] as “cute as a chipmunk.” Multiple witnesses including [REDACTED] and [REDACTED] stated DA Linn wanted [REDACTED] to “parade around” in a chauffeur hat belonging to one of the DA Investigators and “nothing else.”

Perhaps the most persuasive witness on this issue was [REDACTED]. She provided detailed contemporaneously prepared notes of comments DA Linn said to her or about her that she believed were sexist or offensive. [REDACTED] and [REDACTED] all stated DA Linn altered [REDACTED] performance evaluation to score her lower in “Judgment” because she was dating [REDACTED]. [REDACTED] stated DA Linn increased his scores because he was dating someone as attractive as [REDACTED]. [REDACTED] testified DA Linn said, “Well, there goes my fantasy” when he found out [REDACTED] was dating [REDACTED].

[REDACTED] also said when she first walked past DA Linn’s office after he took office, DA Linn yelled out, “Hey, good looking girl!” in order to get her attention. [REDACTED] said an alleged Sheriff’s Deputy or law enforcement officer working with the County named [REDACTED] told her DA Linn told him, “I gave you [REDACTED] and she’s a cheerleader” in response to the Sheriff’s request for another Investigator. [REDACTED] also played a video from the Deputy of the Year event at the Elks Lodge in which DA Linn was honoring [REDACTED]. DA Linn said [REDACTED] must be persuasive to convince someone as attractive as [REDACTED] to marry him. DA Linn also tried to kiss [REDACTED] after [REDACTED]. Again, the only attorney-witnesses to testify they never heard DA Linn make inappropriate comments about women were employees who did not interact with him on a regular basis. All the other witnesses testified DA Linn made multiple offensive comments about women.

DA Linn denied making any comments that were offensive to women and stated he was not sexist because his “wife is a dynamic person.” He also denied telling [REDACTED] she was too pretty to be DA and that he told her she could be DA. However, [REDACTED] is [REDACTED] for [REDACTED] and played a role in backing his re-election campaign. She has no identifiable motive for dishonesty. [REDACTED] also took contemporaneous notes regarding DA Linn’s conduct as it occurred. I find that DA Linn’s denials are not credible and the overwhelming

evidence supports a determination that he made sexist or offensive comments about women in the workplace.

D. DA Linn Engaged in Abusive or Threatening Conduct in Workplace

I find that the allegation DA David Linn engaged in abusive or threatening conduct in the workplace to be SUSTAINED. Multiple witnesses testified they heard or learned about DA Linn “hog calling” [REDACTED] and yelling at her on a regular basis. [REDACTED] stated DA Linn regularly prohibits her from taking a lunch break and yells, “Does anyone even work around here!” when she and others take scheduled breaks. Additionally, [REDACTED] DDA [REDACTED] and [REDACTED] all testified DA Linn has threatened to fire them repeatedly when they have disagreed with him. [REDACTED] and [REDACTED] testified DA Linn said, “I wish that fucker would just die already” when [REDACTED] was out of the office because of a family member’s illness. [REDACTED] and [REDACTED] all stated DA Linn has used profanity when speaking to subordinates and kicked trash cans on at least a couple of occasions during conversations with subordinates. [REDACTED] DDA [REDACTED] and [REDACTED] both testified DA Linn told [REDACTED] “Fuck you, fat boy.” [REDACTED] said DA Linn called him a “piece of shit.”

DA Linn stated he never used profanity and only kicked his trash can “accidentally.” He denied ever “hog calling” [REDACTED] and said he never threatened to “fire” his subordinates. He also denied he ever told [REDACTED] “Fuck you, fat boy” and never called him a “piece of shit.” However, multiple witnesses heard DA Linn use profanity when speaking to his subordinates and [REDACTED] and [REDACTED] both stated they saw DA Linn kick his trash can more than once out of anger. Even if [REDACTED] had a motive to shade the truth in a manner unfavorable to DA Linn, [REDACTED] has no reason to misrepresent DA Linn’s conduct.

[REDACTED] also stated he was present when DA Linn told [REDACTED] “Fuck you, fat boy.” [REDACTED] also has no apparent motive lie about what he heard. Although no one else heard DA Linn call [REDACTED] a “piece of shit,” given that DA Linn either did not recall or outright denied other comments that multiple people heard him make, his credibility is suspect, at best. This allegation is sustained based on DA Linn’s lack of credulity and the overwhelming evidence in support of allegations that DA Linn engaged in abusive or threatening conduct.

Abusive conduct is defined in the Government Code as “malicious conduct that a reasonable person would find hostile and offensive and 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.”²⁷ I find by a preponderance of evidence using that standard that a reasonable person would find DA Linn’s actions in yelling, cursing, use of derogatory remarks and name-calling towards subordinates, and aggressive posturing such as kicking trash cans within the office as hostile, offensive, and threatening as abusive or threatening conduct.

²⁷ See Gov. Code, § 12950.1, subd. (g)(2).

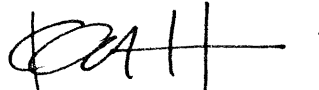
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VI. CONCLUSION

The above-referenced information concludes my investigation of this matter. Thank you for allowing us the opportunity to assist you with this matter. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

LIEBERT CASSIDY WHITMORE

A handwritten signature in black ink, appearing to read 'KAH', with a horizontal line extending to the right.

Kimberly A. Horiuchi

GCD/KAH:slp