

Dear colleagues:

Just like you, we found out about the All Staff Meeting when we received the email on Friday. Shortly thereafter, the leadership of AIDE, CAC, AOCDDA, DAWN & OCAA discussed facilitating the submission of questions anonymously from our members so that our colleagues could feel free to ask what was on their mind. What follows is the list of questions gathered by these groups, only edited for clarity or to avoid repetition, and submitted to Kimberly Edds for use during the All Staff Meeting. None of our organizations is involved in this meeting beyond gathering these questions. Wednesday afternoon we will be just like you, sitting in the (in person or virtual) audience, eagerly awaiting answers to these important questions.

- *AIDE, AOCDDA, CAC, DAWN & OCAA*

ALL STAFF MEETING QUESTIONS

COMPILED JOINTLY BY AIDE, AOCDDA, CAC, DAWN & OCAA

DA SPITZER

- Will you have the courage to read these questions and do your best to answer them all candidly, to show that this meeting is about us, or will this meeting be just a commercial for you?
- Do you agree that it is fair for CAC to do a revote on your endorsement in light of the things that have transpired since the vote?
- If a majority of your line DDA's take a vote in favor of no confidence, will you step down and let the Board of Supervisors appoint an interim DDA?
- What have been the biggest mistakes you have made as DA thus far?
- Are you willing to accept any responsibility for anything negative? It appears that every single time there is any type of issue, whether internal to our office or external (something that affects politics, lawsuits, media attention, or the public), your response is always some variation of "let me tell you why I am not responsible for any part of this, let me point the finger at as many others as I can and blame them for everything, and let me reiterate how I did everything right." We're all human and we all mess up at times, but it appears as if you are somehow above ever owning that. Shouldn't we have a boss, and an elected public official, who is a good representative of humility, and an example to us of fixing our mistakes when we make them, rather than always blaming everyone else and not trying to improve?

- Who is Rafael ‘Ralphie’ Farias?
- Have you ever spoken to a Defendant without the presence of his attorney?
- Have you ever provided a VNOK your direct cell phone number and had communication with them without the presence of an investigator?
 - Were any of those VNOK’s later testifying witnesses and were your conversations turned over to the defense?

HIGH PROFILE CASES: BUGGS

- In recent media interviews (*Buzzfeed*), you refuse to recognize that your comments were inappropriate, offensive and racist. In fact, you doubled down on your comments as appropriate. You speak often of accountability, but you have yet to acknowledge or apologize for the hurt you have caused the Orange County Community who deserve fair, just and equitable prosecution. Given that you lack personal insight and awareness on how injecting race into the criminal justice system is inappropriate, how can you continue to lead others to ensure equitable treatment under the law?
- You were quoted in *The Times* as clarifying that during the meeting you said, black men date white women “to improve their status in the community.” How is that relevant to the *Buggs* case?
- You have recently said your comments about black men dating white women were “inartful;” how would you now say it in a more "artful" way?
- It was reported that you thought it was possible cross-racial ID could be a motive for murder. Can you explain what that even means and how it could be relevant?
- Is the office going to release the memos at issue from the *People v. Buggs* case?
- Rumor is you were leaning toward death during the October 1 special circumstances meeting re: *Buggs*, what changed your mind?
- Why did you decide to charge Adam Abdul-Jabbar with 245 instead of 664-187? Was that a race-based decision?
- What type of racial bias/sensitivity class will you be taking after your racist remarks in the Special Circs meeting on the *Buggs* case?
- What do you say to the victims’ families who, because of your actions injecting race into a death penalty analysis, their case is not getting the fair treatment and handling under the law that they are entitled to?

- What do you say to your Black staff members who feel personally offended by the statements that you have made?

BRAHIM

- Why should we believe Brahim's firing was anything other than politically motivated?
- If the firing of Brahim was truly only because of the results of the "independent investigation," why not allow him to resign respectfully & not make a media circus of it?
- When Dan Wagner and Scott Simmons, and even Gary LoGalbo, were allegedly found in violation during an investigation, why did they all have the opportunity to announce their retirements, and have celebrations of their careers, one of which you spoke at, but Brahim was walked out with a box and disparaging quotes from you appeared in the OC Register 3 hours later?
- Why did you talk to the press before making any kind of statement to your own employees? We often have to learn the happenings of our office from the press and it is embarrassing.
- Prior to sending the 4 page memo did anyone consider the implications to the DDAs who have to pick juries in the post AB3070 era? What was the point of releasing that document?

OFFICE MORALE

- When you took over this office you talked about how morale was at an all-time low under the previous administration, but are you aware that office morale at this point is much much lower than it was back then? Your line DDAs have had to endure public ridicule for a sexual harassment scandal, Brahim's firing, and now "alleged" racist comments from our department head.
 - What is the office's plan to improve moral?
 - Are you asking your managers to do anything in particular to improve moral? If so, what?
- How do you expect us to stand in front of a jury or court with any credibility when you are insinuating in the media (constantly) that we are unethical or "win at all costs" prosecutors?
- Do you have any idea how hard it is to continue in our office with the dirty politics all over the media? This has a lot to do with people quitting and retiring. It feels so dirty and many don't want any part/association with it.
- How much money did we spend to convert our doors from the ones that came with the building to the ones with the glass panels? Why did we spend money on this? Did you realize that they are easier to hear through thus making confidential conversations with

witnesses, victims, detectives, etc., more difficult? Why can't employees install a shade to allow them privacy when needed to have these conversations, eat their lunch or just take a few moments of peace in their stressful day? Shawn Nelson told a nursing mother that she had to use the lactation room and could not use her office, even though it is more productive and comfortable for her to use her own office. While you may have reversed that position for nursing mothers, the rest of us are expected to work at an unprecedented pace, but cannot even eat at our desk to try to keep up with the workload in peace. Do you understand how disrespectful that is?

HIGH PROFILE CASES: SMITH

- Who is the independent law firm that investigated the *People v. Smith* discovery issues?
 - Why was that not an in-house investigation?
 - How much did the office spend on the use of that law firm?
 - Did the office open the project to a bidding system for law firms to apply?
 - Why was this specific law firm chosen?
 - Does any management or OCDA employee have ties to the law firm chosen?
 - Didn't those lawyers actually previously work for Pat Dixon? If so, how is that independent?
- Can you release the outside law firm's investigation into the handling of the Smith case? A senior attorney was fired based on his conduct in that case. Doesn't it make sense to release the report so we can all learn from it and not repeat any mistakes? Also, do not cite pending litigation as to why you cannot release it as our office has already conceded the new trial motion.
- If you won't release it as you did with the LoGalbo investigative report, would you then acknowledge that releasing the LoGalbo report was harmful to the victims?
- In general, who chooses the independent law firm that is hired to investigate alleged misconduct by a prosecutor? How is this law firm vetted? How much is this law firm paid? Is there a bidding process? Who specifies the tasks this law firm is to carry out? Is the accused prosecutor involved in any or all of these decisions?

OFFICE POLICIES ON WALLING OFF CASES

- How often is the tactic of walling off a DDA from an active case that he/she is currently handling and reassigning it to another DDA used by management? Is a trusted independent third party consulted when such decisions are made?

- Have you ever contacted a prosecutor regarding a case that you were walled off from?

TRACY'S DEPARTURE

- Was Tracy fired? Retired? Quit?

GARY LOGALBO LAWSUIT

- Do you still stand by allowing him to retire or do you believe you should have walked him out with a box like Brahim?
- How do you think the release of the Sexual Harassment report impacted the victims?
- Do you think releasing it will have a chilling effect on future reporters?
- Did you consider warning the victim's prior to releasing it? If so, did you direct your managers to do so?
- Will you apologize to the women who gave statements in the report for the hurt and embarrassment caused by you sharing it with the entire office?

PROMOTIONS & ADVANCEMENT

- Are you doing anything to increase the number of Turbo positions?
- Are there still vacant Turbo positions that have not been filled?
- Will the office promote and fill Turbo positions as they become open as opposed to waiting a year or more?
- Traditionally, Turbo promotions were predominantly given to attorneys in the vertical trial units because of the demanding hours, pressures, and extra work required for those assignments. As of late, it is also the vertical trial attorneys who have to face allegations of prosecutorial misconduct and threats to their bar cards. Yet, you have now valued non-trial work over trial work based on your recent promotions. This has created a problem for the office in that people are not incentivized to do the hard trial work that is necessary for this office to succeed. Why would anyone risk their bar card and put the added stress on their life that comes from trial work when they will not be justly rewarded for it?
- What are the actual qualifications to getting a Turbo? There is an immense inconsistency between what applicants are being told matters versus the qualifications of many who actually get it. For example, why are so many of us still being told "you have to do more trials to be eligible," yet many of our colleagues have been promoted to Turbo with

literally zero post-panel trials? Why are people who have the alleged qualifications of: (1) substantial time in the office, (2) having received their '4' years ago, (3), being successful in various vertical units for years, and (4) substantial trial numbers, STILL being passed up for their Turbo, when applicants with less of all of the above are being promoted? Can we please have clarity on the actual qualifications/disqualifications?

- There are rumors you are trying to give a pay raise to Turbos. What about the new and younger attorneys who are in most need of it?
- Why were there two promotion lists for Turbo positions?
- It is not credible that the second promotion list was simply a continuation of the 1st promotion list. The managers I spoke to did not know there was a 2nd list coming out and had no opportunity to prepare their employees for the 2nd list and to tell them that they were not getting promoted. This was very disrespectful to all employees affected. What is your response to your disrespectful treatment of your employees and how and when do you plan to apologize and correct it?
- How does the office intend to acknowledge longevity of service to the office moving forward, given the widespread exodus from the office? How is length of tenure going to be measured in regards to newer people (e.g. laterals) in the office?
- It seems as if the DA's Office under you has moved from a culture of promote from within to one where line DAs who have committed their lives to this office and this county are passed over for recruitment from other counties. Why? And is this something that will change?
- Is the office going to promote a new person to the vacant 6 position?

SALARY ISSUES

- What are you personally doing to work with the County to try to increase our pay, especially in light of the drastic increases in cost of living (both home/rental prices, and dramatic inflation of goods and services).
- There is a reported 7% cost of living increase year-over-year in 2022, Social Security cost-of-living adjustment for 2022 was 5.9%. OC DDAs were already noticeably underpaid compared to DDAs statewide. This monetary stress is in addition to mass retirements, frequent firings, increased caseloads, and public distrust of our office due to scandal. What is the administration doing to ensure job security for our DDAs and to encourage people to stay?
- What will you be doing to assist in contract negotiations with the board of supervisors in light of the increasing cost of living here?

OFFICE ATTRITION & THE RESULTING CONSEQUENCES (E.G. INCREASING WORKLOADS, PROMOTION WITHOUT COMMISERATE EXPERIENCE, LOSS OF EXPERIENCE, ETC.)

- How many attorneys have retired or quit since you became DA?
 - Do you take any responsibility for the culture that you have created in the office that is causing the mass exodus of career prosecutors & new DDAs alike?
 - Employees are quitting at record rates. Please tell us why you think it's because of low pay. If you ask around you will find out it's because of the low morale you cause by constantly embarrassing us. What do you plan to do about it?
- Are you cognizant of the increased caseloads on DDA's that result from the rapidly increasing mass exodus? What do you plan to do about it?
- Panel DDAs are only staying on panel for 6-9 months and leaving with only 2-5 trials. Historically, a DDA leaving panel had a much greater wealth of experience. Is this the new trend? How can a post-panel DDA feel confidence in their work product when their experience is severely lacking in comparison? Moreover, with many experienced DDAs leaving our office, who do these new attorneys turn to for help?
- With many attorneys being placed in management positions for the first time, what plans are in place to ensure they are receiving management training? Being an experienced trial attorney does not equate to being an organized, supportive, or a quality boss, who can provide constructive feedback in a meaningful way. How are we providing support to these transitioning attorneys and their new supervisees?

COVID

- Why has the office been treating outbreaks on a floor-by-floor basis rather than by work location/building?
- Why can't a work from home or hybrid structure be implemented long term for our DDAs? Covid has allowed us to test this workflow and it has proven to be successful. Presence alone does not equate to productiveness. In fact, studies have shown, of those who work remotely at least a few times per month, 77% reported greater productivity while working offsite; 30% percent said they accomplished more in less time and 24% percent said they accomplished more in the same amount of time. To be honest, requiring us to physically be present in the office (especially offices with glass doors) solidifies that the administration simply does not trust the DDAs. If you don't trust us, how can we trust you?