

Sent: Thursday, February 02, 2017 2:29 PM
To: Darryl Nakahira
Cc: Timothy.A.Moore@comcast.net; Pauline Word
Subject: RE: Notices of Complaint - Revised

Darryl and Tim:

I've forgotten where we left off on these, but I wanted to get my thoughts and suggestions to you since they've been languishing since last Friday. That said, as I discussed with Darryl, I really think we should meet to discuss these issues, in particular those issues surrounding events or conduct that occurred while Dept. Kozowski was running against Sheriff Nelson. While taken individually, it would seem that each of these occurrences could, and if proven, perhaps should give rise to discipline, given the context and the timing involved I believe a reasonable jury could foreseeably view a combined total of 9 I.A.s and any resulting discipline as piling on – as retaliation against Kozowski for running against Sheriff Nelson. That would be especially true if it were uncovered that other deputies who hadn't run against the Sheriff had not been investigated or disciplined for similar conduct.

While I am in no way trying to discourage you from moving forward on these I.A.s, I am suggesting that you make absolutely sure that in doing so you are being consistent with how the SO has treated other deputies upon discovering similar alleged misconduct or upon discovering alleged misconduct several months or years after it occurs. If not; if there are examples of other deputies who were not subject to the same level of scrutiny for similar conduct, then defending against claims of retaliation or discrimination might prove to be exceedingly difficult. For these reasons, I would really like to discuss the risk/reward facets of each of these allegations and possible strategies for dealing with them with you before the notices are served on Mr. Kozowski. It might also make sense to include the Sheriff and Deputy Administrator/Risk Manager Kropp in that discussion.

Regards,

Chris Bell
Deschutes County
Assistant Legal Counsel
1300 NW Wall Street, Suite 205
Bend, Oregon 97703
(541) 330-4683
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IMMEDIATELY NOTIFY THIS OFFICE AND DELETE THE E-MAIL.


From: Darryl Nakahira
Sent: Friday, January 27, 2017 3:03 PM
To: Christopher Bell
Cc: Timothy.A.Moore@comcast.net
Subject: FW: Notices of Complaint - Revised

Chris,

Please review and let us know your comments

Darryl



Darryl Nakahira, Legal Counsel
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From: Timothy Moore
Sent: Friday, January 27, 2017 12:53 PM
To: Darryl Nakahira
Cc: Paul Garrison; Timothy.A.Moore@comcast.net
Subject: Notices of Complaint - Revised

Here are the notices of complaint with revisions we discussed today. Tim

Paul – you may want to proof read before signing if they come back OK from legal counsel. I have looked at them so much I may have missed spelling or other. Tim

Timothy Moore
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