



**CONFIDENTIAL
PERSONNEL
INVESTIGATION
SUMMARY REPORT**

**COUNTY OF NAPA –
COUNTY EXECUTIVE
OFFICE**

October 12, 2022

KRAMER WORKPLACE INVESTIGATIONS

Pursuant to the request of the County of Napa (hereinafter "County"), Karen Kramer of Kramer Workplace Investigations conducted a fact-finding investigation into allegations of misconduct pertaining to a County Executive Office staff meeting.

I. INTRODUCTION

The County retained Kramer Workplace Investigations on or about August 15, 2022, to investigate an allegation of misconduct pertaining to a meeting that was audio-recorded without the knowledge or consent of those present. Specifically, on July 27, 2022, someone audio-recorded a County Executive Office staff meeting and released the recording to at least one member of the public, who read excerpts from a transcript of the recording during the July 28, 2022 Board of Supervisors meeting.

This document is a Summary Report of Investigative Findings regarding the allegation of misconduct made against those present during the July 27, 2022 meeting. While numerous hours were spent interviewing witnesses, this document does not include every detail as described by the individuals involved. Rather, it assesses the important facts as they pertain to the staff meeting that was audio-recorded.

II. METHODOLOGY OF THE INVESTIGATION

On September 9, 2022, the undersigned interviewed nine current County employees as part of this investigation. Human Resources Director Christine Briceno was present during these interviews. Former County Executive Officer Minh Tran was not interviewed as part of the investigation.

The witnesses who participated in this investigation were provided with a *Lybarger* admonition prior to their interviews. All of the witnesses signed the *Lybarger* admonition and conveyed during their interviews that they understood the admonition and did not have any questions about it. The witnesses were also instructed to provide honest and forthright answers to the questions asked of them, and were reminded of the County's prohibition against retaliation.

Community member Beth Nelsen was not interviewed as part of this investigation because she was previously interviewed by the Napa County Sheriff's Office as part of its criminal investigation into the audio-recording. Nelsen reported to the Detectives who interviewed her that she did not receive a copy of the recording and never heard the recording. Rather, she received a transcript of the recording, but did not know who sent it to her.

III. FACTUAL BACKGROUND

As relayed to the undersigned, on July 27, 2022, Tran held a staff meeting with members of the County Executive Office. The meeting was secretly audio-recorded, presumably by one of the attendees. The recording of the interview was sent to Nelsen, who quoted from the recording during the July 28, 2022, Board of Supervisors meeting. Shortly thereafter, a transcript of the recording was published online.

The recording depicts Tran talking about his employment with the County, and his commitment to remaining in his position as the County Executive Officer. This meeting followed Riverside County placing an item on their Board of Supervisors' agenda which indicated that Tran accepted a position with Riverside County as the County Counsel. [REDACTED]

At least one employee present at the meeting filed a criminal complaint with the Sheriff's Office, claiming the recording was illegally made. The Sheriff's Office conducted a criminal investigation, but was unable to ascertain who secretly recorded the meeting.

Information Technology reviewed the emails of those present during the July 27, 2022, meeting, but did not find any emails containing the audio-recording.

The purpose of this investigation, as communicated to the undersigned, was to find out who recorded the interview, what occurred to cause a County Executive Office employee to record the meeting, and why the recording was shared with the public.

IV. WITNESS INTERVIEWS

As set forth above, the nine staff members present during the July 27, 2022, meeting were interviewed. They were all asked the same questions, including: (i) what was discussed during the meeting, (ii) why would anyone secretly audio-record the meeting, (iii) why would someone share the audio-recording with the public, (iv) if they recorded the meeting, and if not, (v) if they know who recorded the meeting. Based on the witnesses' responses to these questions, follow-up questions were asked, as appropriate.

None of the witnesses interviewed admitted to recording the meeting. All denied knowing who recorded the meeting, and maintained that they did not know the meeting was recorded until the next day, when Nelsen spoke during the public comment portion of the Board of Supervisors meeting.

The witnesses provided various levels of detail regarding the discussions that took place during the meeting, but for the most part, what they reported was consistent. Specifically, the witnesses described the meeting as "a regular weekly staff meeting" those assigned to the County Executive Office were expected to attend. One witness shared that he asked to be excused from the meeting because he was scheduled to participate on an interview panel, but Tran said "no." and told him to attend the meeting.

According to the witnesses, at the beginning of the meeting, Tran spoke about his personal life and his desire to continue his employment with the County as the County Executive Officer. He discussed the amount of money he was paid by the County and the salary he was offered by Riverside County, and explained that he was not going to accept the County Counsel position with Riverside County because it was a "demotion," and his salary would be lower than what he was paid by Napa County. Several witnesses expressed their displeasure with Tran discussing his salary, knowing that their salaries are significantly lower than his.

A couple of the witnesses opined that Tran audio-recorded the meeting to convey to the public that despite the agenda item posted by Riverside County, he was committed to remaining in his position as the County Executive Officer. They identified his motive as financial, in that by "publicly" making it known that he wanted to stay in his position with the County, if he was terminated by the Board, he would possibly be entitled to a severance package and could use the recording as leverage in obtaining a settlement from the County. What confused these witnesses was their belief that Tran did not have any connection to Nelsen, and therefore, they did not understand how or why he sent the recording to her. However, one witness reported that she heard, secondhand or thirdhand, that Nelsen met with Tran several months prior to the July 27, 2022 meeting.

When asked to identify who might be motivated to secretly audio-record the meeting, a couple of the witnesses identified [REDACTED], who reportedly had a contentious relationship with Tran.

[REDACTED] Witnesses relayed that even though Tran was upset with [REDACTED], he did not threaten her in any way, and therefore they opined that she would have no reason to fear for the security of her employment with the County.

One witness also shared that based upon where Tran was seated and where [REDACTED] was seated, it was unlikely she recorded the meeting, because Tran's voice is "totally clear" on the recording, while those seated closer to [REDACTED] were inaudible on the recording. A couple of the witnesses commented that it was odd to them that during the meeting [REDACTED] said she did not have any update to provide, because usually when asked to provide an update, she provided detailed and lengthy updates. However, she explained that she did not provide an update because she was preoccupied with technology issues for the Planning Commission meeting.

Some witnesses shared that in general, staff in the County Executive Office were unhappy with Tran because of how he treated them (i.e., berating staff), and they did not trust him. They described the environment in the County Executive Office as “toxic.” A couple of the witnesses indicated that prior to the meeting, they did not feel unsafe in their work environment, but they expressed concern about the “violation of trust” that occurred by someone secretly recording the meeting, especially since there were no “secrets” revealed during the meeting.

V. FINDINGS REGARDING AUDIO RECORDING

This Summary Report of Investigative Findings includes findings of fact on the allegation that someone present during the July 27, 2022 County Executive Office staff meeting audio-recorded the meeting without the knowledge of those present. The abbreviated nature of this report is not intended to dismiss the candid and valuable perspectives and experiences reported by the witnesses who participated in this investigation.

In conducting this investigation, the undersigned did not set out to prove or disprove the allegation, but rather to gather information in a neutral fashion and reach reasoned conclusions. The factual findings were made by carefully analyzing the testimonial evidence gathered as part of the investigation. The facts are assessed using a preponderance of the evidence (“more likely than not”) standard of proof.¹

The following findings are made:

- The credible evidence presented did not indicate that any of the employees interviewed as part of this investigation were dishonest;
- Although a few of the witnesses speculated as to who secretly audio-recorded the July 27, 2022 staff meeting and their motivation for doing so, no credible evidence was presented identifying who recorded the meeting and/or why the meeting was recorded;
- It is unknown who sent a transcript of the recording to Nelsen; and
- None of the employees interviewed reported feeling unsafe in their work environment prior to the July 27, 2022 staff meeting being secretly audio-recorded.

Based upon the foregoing, the allegation that a current County employee secretly audio-recorded the July 27, 2022 staff meeting is not sustained.

Respectfully Submitted,



Karen Kramer
Kramer Workplace Investigations

¹ What might be considered hearsay in a legal proceeding was considered and given appropriate weight in this investigation.