

Druckman & Blatt, P.C.

Attorneys at Law

0424 S.W. Iowa Street
Portland, Oregon 97239

(503) 241-5033
jjdlaw.com

Admitted in Oregon
and Washington

Direct Line: (503) 241-7020
E-Mail: janine@jjdlaw.com

April 24, 2020

**PRIVATE AND CONFIDENTIAL
BY EMAIL ONLY**

Andy Miller
Ryan K. Brown
Benton County Washington Prosecuting Attorney
7122 West Okanogan Place, Bldg. A
Kennewick, Washington 99336

Subject: *Benton County Investigation – Sheriff Jerry Hatcher*

Dear Messrs. Miller and Brown:

On February 14, 2020, you appointed Jeffrey J. Druckman and Janine C. Blatt, Druckman & Blatt, PC, Special Deputy Prosecutors to investigate a written report of harassment Benton County (the “County”) received from Lieutenant Erik Magnuson regarding Sheriff Jerry Hatcher (the “Sheriff”).¹ Ms. Blatt conducted the witness interviews and prepared this investigative report. The investigation substantiated that Sheriff Hatcher harassed and retaliated against Lieutenant Magnuson for engaging in union activity and retaliated against witnesses for participating in a County investigation. The investigation did not substantiate that the Sheriff discriminated against or harassed Lieutenant Magnuson based on religion.

I. Investigative Procedure

A. Persons Interviewed

Ms. Blatt interviewed the complainant and the following witnesses in the presence of their attorney, Alan Harvey, on the following dates:

¹ Lieutenant Magnuson’s written report is attached as **Exhibit 1**.

1. Lieutenant Erik Magnuson, Benton County Sheriff's Office, Benton County (March 19, 2020).²
2. Lieutenant Mathew Clarke, Benton County Sheriff's Office, Benton County. (March 19, 2020).
3. Commander Jon Law, Benton County Sheriff's Office, Benton County.³ (April 13, 2020, by telephone).
4. Commander Steve Caughey, Benton County Sheriff's Office, Benton County. (April 13, 2020, by telephone).

Ms. Blatt interviewed the subject of the investigation, Sheriff Jerry Hatcher, Benton County Sheriff's Office, Benton County, on April 7, 2020, by telephone.⁴ Ms. Blatt also spoke to the Sheriff by telephone on April 9, 2020 (at his request) and April 23, 2020 (at Ms. Blatt's request) to clarify and obtain additional information. The Sheriff tape-recorded the conversations on April 7 and April 23, 2020.

B. Documents Reviewed

Ms. Blatt reviewed the following documents:

1. January 30, 2020 report of harassment prepared by Lieutenant Erik Magnuson;
2. February 5, 2020 email from Commander Steve Caughey to Lexi Wingfield ("Wingfield"), Benton County Human Resources Manager reporting that the Sheriff had ordered him to disclose that Magnuson had made a complaint to the County.⁵

² The interviews originally were scheduled for March 12, 2020 but were postponed at the request of Mr. Harvey. Mr. Harvey also was out of town the week of March 2, 2020, which precluded earlier interviews. I also asked to interview Jason Erickson but received no response.

³ I scheduled and attempted to interview the Commanders in person on March 19, 2020, but I was informed after I arrived in Benton County for the interviews that the Sheriff ordered the commanders not to participate. A copy of Commander Law's email to Benton County dated March 20, 2020 detailing the scheduled interviews and the Sheriff's order that he and Commander Caughey not participate is attached as **Exhibit 2**. Subsequently, I was able to interview the Commanders by telephone during their non-work time.

⁴ On February 24, 2020, I notified the Sheriff of the investigation in written correspondence, a copy of which is attached as **Exhibit 3**. The Sheriff responded on February 25, 2020, that he would not permit the investigation to proceed unless I coordinated my investigation with an elected sheriff appointed by him. A copy of his email is attached as **Exhibit 4**.

⁵ Commander Caughey's February 5, 2020 email is attached as **Exhibit 5**.

3. February 10, 2020 letter from the Sheriff to Wingfield stating that he is assigning an independent elected sheriff to be part of the investigation and if the elected sheriff he selects is not permitted to participate, he will conduct his own investigation.⁶

4. October 9, 2019 public media articles announcing domestic violence and witness tampering charges against the Sheriff and subsequent article announcing the dismissal of the charges without prejudice. These articles were reviewed only for the purposes of establishing a timeline and context of particular conversations.

5. October 10, 2019 request by the bargaining groups of the Benton County Sheriff's Office that the Sheriff resign because of the domestic violence and witness tampering charges.

6. October 26, 2019 Facebook post by Lieutenant Magnuson expressing support of Benton County Corrections employees.⁷

7. January 31, 2020 letter of non-support from the Benton County Deputy Sheriff's Guild to the Sheriff and the Board of Benton County Commissioners.⁸

8. Benton County Equal Employment Opportunity/Anti-Discrimination and Harassment Policy and Complaint Procedure, Resolution No. 08-750.⁹

9. Benton County Sheriff's Office General Orders, No. 26.1.3 – Harassment Policy.¹⁰

II. Applicable Policy

The County maintains a personnel policy, prohibiting discrimination and harassment in the workplace, which provides in relevant part as follows:

Benton County strictly prohibits and does not tolerate unlawful discrimination or harassment on the basis of age, sex (including pregnancy), marital status, sexual orientation, race, color, creed, religion, national origin, ... or any other protected status, as provided by law.

* * *

Unlawful discrimination and harassment can occur in a variety of ways and can include derogatory comments, jokes, names, or pictures, acts of

⁶ The Sheriff's February 10, 2020 letter is attached as **Exhibit 6**.

⁷ Lieutenant Magnuson's Facebook post is attached as **Exhibit 7**.

⁸ A copy of the Guild's January 31, 2020 letter is attached as **Exhibit 8**.

⁹ A copy of the Resolution is attached as **Exhibit 9**.

¹⁰ A copy of General Order 26.1.3 is attached as **Exhibit 10**.

physical aggression, intimidation, hostility, or unequal treatment based on a protected status.

* * *

Benton County protects the confidentiality of discrimination and harassment complaints to the extent possible.

* * *

Benton County does not tolerate any retaliation against any person for opposing unlawful discrimination or harassment, making a discrimination or harassment complaint, or participating in an investigation or complaint proceeding. Prohibited conduct includes any adverse treatment that is based on a retaliatory motive and that is reasonably likely to deter an individual from engaging in protected activity. Such prohibited conduct can include, but is not limited to, hostility toward a complainant or participant in an investigation, exclusion/ostracism of such individuals, and/or negative remarks about such individuals.

The County policy was approved and accepted on behalf of the Sheriff's Office by Sheriff Larry Taylor.

III. Investigation Facts

A. Relevant Background Information

The following facts are not in material dispute. This information provides context for the facts and timeline documented in this report.

1. Sheriff Hatcher's Employment History with the County

Jerry Hatcher has worked for the Benton County Sheriff's Office for approximately 27 years. He began his career as a deputy, worked his way through the various offices and ranks, served as interim Sheriff beginning in May 2017 and then was elected Benton County Sheriff in a special election in November 2017. He is serving a four-year term that began in 2018. The Sheriff currently has three commanders who report directly to him: Commander Law; Commander Steve Caughey; and Commander Thomas Croskrey.

2. Lieutenant Magnuson's Employment History with the County

Lieutenant Magnuson also is a career Benton County Sheriff's Office employee. In September 1998, Lieutenant Magnuson began his career in Corrections, working his way up to the rank of lieutenant. In 2008, he transferred to the Patrol Division. He then worked his way through the officer ranks and in February 2018, was promoted to lieutenant. He currently oversees the Investigative Division and reports to Commander Steve Caughey. The Investigative Division oversees the investigation of all major crimes

and conducts internal investigations. Three sergeants report directly to Lieutenant Magnuson.

3. October Request for the Sheriff's Resignation by Collective Bargaining Units

On or about October 10, 2019, the Benton County Deputy Sheriff's Guild (the "Guild"), of which lieutenants are members, and other unions affiliated with the Sheriff's Office, sent the Sheriff a letter requesting his resignation based on domestic violence and witness tampering charges filed against him. The charges were dismissed without prejudice. Around this same time, Lieutenant Magnuson told the Sheriff directly that he should resign because he had discredited the sheriff's office.

4. Lieutenant Magnuson's Facebook post expressing support of corrections employees

On or around October 22, 2020, Benton County Commissioners voted to take over management of the county jail from the Sheriff's office. On October 26, 2019, Lieutenant Magnuson posted the following message on his personal Facebook page:

I worked in Corrections for Benton County for almost a decade. I had the great honor of working with so many wonderful people and it gave me a unique perspective into that career field. The men and women that serve in the Benton County facility are true professionals and have a very difficult job. Regardless of the reasons for the separation, it establishes a department budget and recognizes Corrections as a stand alone profession within our county. It's been a long time coming! Please show your support for these professionals and share this post!

5. January 31, 2020 Guild Letter

On or about January 31, 2020, the Guild sent a letter to the Sheriff stating, among other things, that he 1) no longer had support from the Guild, 2) had destroyed the well-respected reputation of the Sheriff's Office due to a hostile and negative management style, 3) only promotes himself, and 4) fails to hold himself to the same standard of accountability as he would a deputy. The letter, which the media published, labeled the Sheriff a "tyrant."

B. Nature of Lieutenant Magnuson's complaint to the County

On or about January 30, 2020, Lieutenant Magnuson provided a written complaint of harassment to Wingfield. Lieutenant Magnuson reported that the Sheriff constantly threatens his livelihood, interferes with his ability to express support through personal social media of the members of his Guild and the Corrections Department employees, makes offensive comments about his religious beliefs, and has made threats of violence to him. See **Exhibit 1**.

C. Witness accounts

1. Lieutenant Magnuson's account

Lieutenant Magnuson said he had only distant contact with the Sheriff prior to becoming a lieutenant. His first negative interactions with the Sheriff began in late 2018. Lieutenant Magnuson had begun sharing with the Sheriff that staff were frustrated by the Sheriff's micromanagement and inconsistent statements and they needed to work in improving communication. Shortly after this, Lieutenant Magnuson called the Sheriff to update him on a case, the details of which he cannot recall. He believes the Sheriff was traveling to Montana for the holidays at the time. During this call, the Sheriff said to Lieutenant Magnuson, "If I could reach through this phone and choke the life out of you, I would." Lieutenant Magnuson cannot recall anything remarkable about his case report that would have caused the Sheriff to become irate. Lieutenant Magnuson told Commanders Law and Caughey about the threat.

A few months later, in or around February or March 2019, Lieutenant Magnuson was in the Sheriff's office and Commander Caughey was present. Lieutenant Magnuson believes the purpose of the meeting was to give the Sheriff a case update because that is the only reason he visits the Sheriff's office. The Sheriff again became irate, put his hands out toward Lieutenant Magnuson's neck in a choking motion and said, "I just want to choke you, I just want to fucking choke you." They were approximately five to seven feet apart at the time, and the Sheriff stood up from his chair and leaned toward Lieutenant Magnuson when saying this.

The Sheriff has not made other threats of violence toward him, but the Sheriff often has an angry demeanor in command staff meetings, and this scares him. Prior to February 2020, the Sheriff met each morning with his command staff, which consisted of Lieutenant Magnuson, Lieutenant Clarke, and Commanders Law and Caughey. About three to five times a week during these meetings, the Sheriff would lunge forward from his chair, point his finger at him, and aggressively say, "What the fuck are you talking about?" On one recent occasion, the Sheriff was explaining a plan to enlist information from the jail to pre-plan arrests. Lieutenant Magnuson, based on his Corrections experience, did not believe the plan would work and began to shake his head. The Sheriff exploded, pointed his finger at Lieutenant Magnuson and said, "Don't you shake your

head at me.” Lieutenant Magnuson has been excluded from command staff meetings since this occurred.

When Lieutenant Magnuson completed his probationary period as a lieutenant in 2018, instead of congratulating him, the Sheriff made the following comments, some of which he has repeated often since then: “Don’t get too comfortable, I can do away with you like that;” “I can restructure the department and you can be gone like that;” and “I’m the Sheriff, no one can do anything to me.” These comments have caused Lieutenant Magnuson to fear for his job.

Lieutenant Magnuson provided the following context for his request to the Sheriff that he resign. A few weeks before the domestic violence charges against the Sheriff became public, the Sheriff had discharged an officer based on unsubstantiated allegations of domestic violence. When the Sheriff was charged with domestic violence, the Guild sent him a letter asking him to resign because the Guild believed he had sullied the reputation of the Sheriff’s Office. Shortly after this, Lieutenant Magnuson and Commander Law were in the Sheriff’s office and Lieutenant Magnuson expressed to the Sheriff that he should resign because he was in violation of his own policies. This became a heated discussion and the Sheriff asked Lieutenant Magnuson what right he had to judge him and accused Lieutenant Magnuson of judging him based on Lieutenant Magnuson’s religious beliefs. Lieutenant Magnuson replied that he was judging him on the Department’s policies, which the Sheriff had enforced against the deputy mentioned above a few weeks earlier, and because the Sheriff’s behavior was unbecoming to the Department. Lieutenant Magnuson explained that he had deputies coming to him crying because the public was treating them negatively because of the charges against the Sheriff. After this conversation, which occurred near the time of Lieutenant Magnuson’s October 26 Facebook post in support of Corrections employees,¹¹ the Sheriff repeatedly (thirty to forty times) made comments to him along the following lines: “he had no right to judge,” “who are you to judge me?”, “you Christians are all high and mighty,” “you shouldn’t judge me based on your beliefs,” “I know how soft you are because of ‘your beliefs’” (using his hands to make air quotes around “beliefs”), “do you want to lay on the couch because of how soft you are?”, and “you are all high and mighty and go to church and all that but then do the same things everyone else does.”

¹¹ Around the date of the October 26 Facebook post, the Sheriff called Lieutenant Magnuson into his office. The Sheriff had said he heard from a member of the public that Lieutenant Magnuson had posted something offensive about him on Facebook. Lieutenant Magnuson expressed that the post did not mention the Sheriff. The Sheriff proceeded to tell Lieutenant Magnuson that he did not have any leadership skills, he needs to be careful what he posts because his words carry weight, that the Sheriff could not have people in administration who don’t support him; there was no room for neutrality, and that Lieutenant Magnuson needed to use his personal Facebook post to build up the Sheriff and sell him to his family and friends. Lieutenant Magnuson perceived this to be a threat to his employment if he did not actively express support for the Sheriff.

Around this same time, the Sheriff also [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Lieutenant Magnuson explained to Ms. Blatt that the Sheriff had admitted in a September staff meeting to having had an affair and perceived Lieutenant Magnuson to be judging him for this behavior.

In or around November, 2019, Lieutenant Magnuson told the Sheriff he needed to stop making comments about Lieutenant Magnuson's religion; that it was about department policy and standards. The Sheriff persisted that Lieutenant Magnuson was "judging him."

Lieutenant Magnuson has heard the Sheriff make comments about others' religious beliefs, namely Jason Erickson, who is a member of the Latter-Day Saints of Jesus Christ. Jason Erickson was a lieutenant who represented the Sheriff at community events. He recently self-demoted to sergeant. The Sheriff said in reference to Jason Erickson, "I'm sick of people judging me and these religious people think they are better than anyone else." After Jason Erickson self-demoted, the Sheriff commented, "I guess he demoted because his moral and ethical beliefs or compass were not in line with my personal life and he could not deal with it."

Lieutenant Magnuson is concerned about retaliation by the Sheriff. After Lieutenant Magnuson provided his January 30, 2020 written complaint about the Sheriff to the County, the Sheriff excluded Lieutenant Magnuson and Lieutenant Clarke from the daily command staff meetings. This exclusion also coincided with the Guild's letter of non-support. The Guild has told Lieutenant Magnuson that the Sheriff referenced him specifically to the Guild, said Lieutenant Magnuson was judging him, and that he was going to exclude the Lieutenants from the command staff meetings. The Sheriff also has shunned him; he is going directly to Lieutenant Magnuson's reports to obtain information and is falsely suggesting to his reports that Lieutenant Magnuson failed to share their concerns with the Sheriff and should have done more for them. For example, lieutenants used to be able to approve training for their staff. The Sheriff changed this so that the Sheriff had to approve training. Lieutenant Magnuson shared the change with his staff. The Sheriff recently told Lieutenant Magnuson's staff that he had no idea lieutenants were not approving training and that they should be. This undermines Lieutenant Magnuson's credibility with his reports.

Lieutenant Magnuson exhibited a credible fear of the Sheriff and became emotional during the interview. He fears retaliation and worse due to the Sheriff's anger. He closes his blinds at night in his home. He has sought medical treatment related to stress and the stress is interfering with his relationships with his wife and children and

affecting his memory and concentration. He said he walks around the office in tears at times and expressed that he deserves a safe place to work.

2. Lieutenant Clarke's account

Lieutenant Clarke grew up in Benton County and his father was a Benton County Sheriff's deputy until 2005. In July 2003, Lieutenant Clarke began working for Benton County as a corrections officer. In 2005, he was hired as a patrol officer. Prior to this Sheriff, he felt significant pride in the Sheriff's Office, which he considered to be the number one government agency in Tri-Cities. Lieutenant Clarke worked his way up to patrol lieutenant, a position he received in 2018. During his career, he has received recognition for Squad of the Year several times and Supervisor of the Year.

Lieutenant Clarke perceives that the Sheriff has destroyed the reputation of the Sheriff's office and has actively undermined Lieutenant Clarke's leadership. Lieutenant Clarke became very emotional discussing the injury to his reputation, teared up, and said it now was difficult to come to work every day, and he only does so in order to survive. The concerns expressed by Lieutenant Clarke about the Sheriff's leadership were similar to those expressed in the January 31, 2020 Guild letter. He said the Sheriff talks down to officers, does not give officers a chance to explain, takes credit for successes that are not his, makes sure you know that he is in charge, back stabs, and throws members of the command staff under the bus.

I asked Lieutenant Clarke if he had heard the Sheriff make comments about the religious beliefs of other officers. He said he was certain that the Sheriff had made such comments but did not provide examples. He confirmed that the Sheriff commented a few times that he was surprised Lieutenant Magnuson had recommended a female candidate because the candidate allegedly had an affair. He also confirmed that the Sheriff has commented that they are "soft" and "weak." The Sheriff also made statements about officers needing counseling sessions on the couch because they are so soft. The Sheriff has also told Lieutenant Clarke that Lieutenant Clarke is obligated to push the Sheriff's message through to the Guild.

The Sheriff has threatened Lieutenant Clarke's job, telling Lieutenant Clarke that he can fire or demote whoever he wants, all he needs to do is change a job description. The Sheriff also has commented that he is going to restructure. In early February 2020, the Sheriff barred him and Lieutenant Magnuson from the command staff meetings. In response to the Guild's January 31, 2020 letter, the Sheriff blamed the command staff for his problems with the Guild to the media. Lieutenant Clarke believes that demotions will soon be coming for command staff members to back up the perception that command staff are the problem and not the Sheriff. In meetings within the last week (March 16), the Sheriff began grabbing sticky notes and acting like he was taking notes on them.

3. Commander Caughey's account

Commander Caughey shared that he was not able to meet with me on March 19, 2020 because the Sheriff told him he could not meet on paid time if his attorney, Alan Harvey was present. As the conversation continued with the Sheriff on March 19 about the interviews, the Sheriff told Commander Caughey knew that "he will find out what these interviews state and if you are not going to defend me, I will take great exception to that, but this is not a threat." The Sheriff offered to let the interviews proceed if he could have his own representative sit in. Commander Caughey declined to have a representative of the Sheriff in the interview.

Commander Caughey has been with the Sheriff's office since 1993 and started in Corrections, moving to the patrol side in 1996. He has been the Investigations Commander since the beginning of 2018. He worked closely with the Sheriff when Commander Caughey was a patrol lieutenant and the Sheriff was the acting sheriff. They had no conflicts at that time.

Commander Caughey has heard the Sheriff reference an employee's religious beliefs. The employee was Jason Erickson, a lieutenant at that time. Lieutenant Erickson's role was to represent the Sheriff at public events. After the October domestic violence charges, Lieutenant Erickson became disenchanted with the Sheriff. The Sheriff told Commander Caughey that 1) Erickson was not performing his job duties (of promoting the Sheriff) because of his religious beliefs; 2) Erickson was fair weathered about his beliefs, 3) the allegations against him were not proven and he thought Erickson had a double-standard, and 4) if he were a true Christian, Erickson wouldn't talk to the County commissioners.

Commander Caughey also said he has heard the Sheriff make snide comments to Lieutenant Magnuson about his beliefs in the context of conversations with Magnuson about how Magnuson views the Sheriff. In these conversations, Commander Caughey has seen the Sheriff make air quotes with his fingers around the word "beliefs." Commander Caughey has also heard the Sheriff say Lieutenant Magnuson was judging him; this occurred in the context of the Sheriff's domestic violence charges.

Commander Caughey has never had a direct conversation with Lieutenant Magnuson about his religious beliefs. Commander Caughey "assumes" the Sheriff is aware of Lieutenant Magnuson's religious beliefs but does not know. He has heard the Sheriff "beat up" on Lieutenant Magnuson about his beliefs a least a handful of times, but not necessarily in a religious based way. For example, if the case being discussed involved rape, the Sheriff would comment to Lieutenant Magnuson that it was Lieutenant Magnuson's belief that the woman is always right. Commander Caughey perceived the Sheriff made the comments to Lieutenant Magnuson using a negative and derogatory tone.

[REDACTED]

The Sheriff commented to Lieutenant Magnuson, "Oh, your morals have shifted regarding adultery." Lieutenant Magnuson previously had expressed disapproval to the Sheriff about the Sheriff's infidelity.

Commander Caughey was present when the Sheriff threatened to choke Lieutenant Magnuson and said the comment was also directed at him. Commander Caughey said this occurred possibly one year to 18 months prior to the interview. He and Lieutenant Magnuson were in the Sheriff's office and the Sheriff was beating them up about something concerning investigations. The Sheriff was sitting behind the desk and became visibly angry, leaned toward him and Lieutenant Magnuson, made a choking motion with both hands as if around a neck, clenched his teeth and said "I just want to come over this desk and choke the both of you." Caughey was not physically afraid, but he was fearful that his boss was angry and might demote or fire him. He was also taken aback that the Sheriff would use such language. Lieutenant Magnuson appeared to be upset. Lieutenant Magnuson commented to Commander Caughey that he was fearful of the Sheriff becoming physical, but also said, "bring it, let's go." Commander Caughey confirmed that Lieutenant Magnuson had shared with him that the Sheriff had made a similar threat to Lieutenant Magnuson before this one.

Commander Caughey has heard the Sheriff repeatedly threaten to make staff changes. He will say things like "I'm making changes around here; this command staff is not what I envisioned." The Sheriff has made so many references to making changes that Commander Caughey lives in fear of being demoted/fired at any time. In 27 years with Benton County, Commander Caughey has never had a boss make such statements. In response to the recent Guild letter of no-confidence, the Sheriff blamed the command staff to the media for the problems with the Guild. The Sheriff falsely claimed the command staff is not providing correct information to the line officers. Commander Caughey perceives the Sheriff is setting up the command staff to shift blame away from the Sheriff.

Lieutenant Magnuson told Commander Caughey he was filing a complaint about the Sheriff with the County. Commander Caughey said the Sheriff then compelled him to disclose that Lieutenant Magnuson had filed a complaint. On February 4, 2020, the Sheriff called Commander Caughey to his office and asked whether he had read the Guild letter and if he had known it would be sent. Commander Caughey told him no. The Sheriff said he believed Lieutenant Magnuson had known about the Guild letter and asked Commander Caughey if Lieutenant Magnuson was poisoning the well. The Sheriff mentioned that Lieutenant Magnuson had issues with him ever since asking the Sheriff to resign. The Sheriff also commented that he believed Lieutenant Erickson had a hand in writing the Guild letter. The Sheriff said Commander Caughey should be controlling Lieutenant Magnuson. Lieutenant Caughey said Lieutenant Magnuson was a Guild member and they could not stop him from talking to the Guild. The Sheriff disagreed.

The morning of February 5, 2020, Commander Caughey met with the Sheriff. As part of this meeting, the Sheriff started talking about Lieutenant Magnuson and asked Commander Caughey what issues Lieutenant Magnuson had with him. Commander Caughey told the Sheriff he could not tell him because he did not want to violate County policy. The Sheriff told Commander Caughey that he had one more chance to tell him. Commander Caughey interpreted this as a threat to his job and told the Sheriff that Lieutenant Magnuson had filed a complaint with the County. The Sheriff went on to complain that his command staff was not keeping him informed and said if they don't support him, he cannot have them. The Sheriff said doesn't want to make changes, but he needs a command staff who supports him.

Later that same afternoon, Commander Caughey went to brief the Sheriff on an investigation. The Sheriff said he needed more information about Lieutenant Magnuson's complaint. Commander Caughey said he could not disclose this and also told the Sheriff he had reported to the County that the Sheriff had compelled him to disclose that Lieutenant Magnuson had filed a complaint. The Sheriff then asked who else knew of the complaint. Commander Caughey said Commander Law knew. The Sheriff then called in Commander Law and asked if he believed anything in Lieutenant Magnuson's complaint was criminal in nature. Commander Law said he should not answer because the complaint was confidential and he was a possible witness. The Sheriff persisted and Commander Law said it could possibly be criminal; he wasn't sure. The Sheriff commented he could not keep current practices. The Sheriff said he did not want to demote or terminate anyone, but he couldn't have the lack of support.

The Sheriff recently has begun making statements about bringing in someone as an undersheriff, which means a commander will be bumped. Commander Caughey expects to be demoted.

In early February, the Sheriff removed the lieutenants from the daily command staff meetings. Commander Caughey said the Sheriff told him he made the change because he did not want to hurt the lieutenants' fragile feelings by asking them too many questions. The Sheriff also said he doesn't believe the lieutenants are supporting him and are not sharing correct information to the Guild. The Sheriff's tone toward the lieutenants was derogatory. The exclusion of the lieutenants makes more work for Commander Caughey and Lieutenant Magnuson because Commander Caughey has to spend more time in the weeds because Lieutenant Magnuson is not delivering information directly to the Sheriff or the Sheriff to him. When Commander Caughey does bring Lieutenant Magnuson into the Sheriff's office to discuss something, the Sheriff comments, "Oh, are we changing how we are doing things?"

Since learning of Lieutenant Magnuson's complaint, the Sheriff has begun grabbing sticky notes to document anything he perceives to be negative about the commanders and lieutenants. The Sheriff recently also made allegations in a round-about

manner that Commanders Law and Caughey stole County ammunition for use on a 2017 hunting trip. The Sheriff shared this information with officer Todd Carlson in a meeting on April 7, 2020. Todd Carlson then told Jason Erickson about the allegation. On April 8, 2020, the Franklin County Sheriff's Office interviewed Jason Erickson as part of an ongoing investigation into allegations that the Sheriff had stolen ammunition and firearms from the County. In this investigation, Jason Erickson was required to share with the Franklin County Sheriff's Office the ammunition theft allegation initiated by the Sheriff against Commanders Law and Caughey.

Commander Caughey said that there are no significant issues with Lieutenant Magnuson's performance. The Sheriff can be critical when Lieutenant Magnuson's report does not correspond to the Sheriff's pre-determined thought process about the investigation and this criticism becomes more pointed if the investigation involves domestic violence or protection order issues (i.e. any conduct similar to that alleged against the Sheriff). Commander Caughey said there is nothing about Lieutenant Magnuson's performance that would justify demotion or discipline and Commander Caughey would not want anyone else as his lieutenant. Lieutenant Magnuson is due for a performance review and Commander Caughey's review of him will be more favorable than the prior review, which was a good review.

Commander Caughey said that Lieutenant Magnuson had told the Sheriff early in the Sheriff's tenure that he wanted to run for sheriff but said that this was after the Sheriff said he was only going to serve one-term. Commander Caughey recently heard (sometime after October 2019) Lieutenant Magnuson tell the Sheriff that he no longer wanted to run for sheriff.

Commander Caughey said he told Wingfield that the Sheriff had forced him to disclose Lieutenant Magnuson's complaint to protect himself from the Sheriff. The Sheriff has commented to Commander Caughey that the County cannot do anything to him; as the Sheriff, he answers to the voters and no one else.

Commander Caughey is also concerned that the County cannot protect him from retaliation by the Sheriff. This concern was aggravated by a conversation he and Commander Law had with Wingfield in which she suggested that the County could act only if he was demoted or if he got fired.

4. Commander Law's Account

Commander Law has worked for the Benton County sheriff's office for about 20 years. He has held positions in corrections, patrol, and as the jail commander. He has socialized with the Sheriff outside of work, visiting the Sheriff's vacation house in Montana and attending the same Christmas parties. He has been Patrol Commander since spring 2017.

Commander Law has worked with the Sheriff for eight years. He said the Sheriff is very direct and his delivery is intended to intimidate. Commander Law emphasized that the witnesses in this investigation have seen horrible events and death as part of their jobs, but the events with the Sheriff have caused more stress than any of those things. These are tough men, but he has observed Lieutenants Magnuson and Erickson in tears at work on multiple occasions and Lieutenant Clarke on the verge of tears. On February 6, 2020, Commander Law shared with Wingfield that he was afraid an officer might commit suicide (no particular officer) and requested mental health services for officers. Wingfield told him that there wasn't anything the County could do [about the Sheriff's behavior] and suggested the officers could step down or resign to protect themselves from the Sheriff.

With respect to religious comments, Commander Law has heard the Sheriff make comments about the religious beliefs of Jason Erickson. The Sheriff referenced Erickson's religion as a reason for his inability to do his job and has commented that "Erickson is not holier than thou," "he can't judge me," and "he has child molesters in his church and has no problem with them." The Sheriff also has said that Erickson is a Christian and as a Christian, should forgive the Sheriff. The Sheriff made the comments in connection with Erickson's decision to self-demote because he no longer could support the Sheriff to the public after the domestic violence charges.

Commander Law recalls one instance in which the Sheriff berated Lieutenant Magnuson for his morals and ethics, using air quotes with his hands around the words "morals and ethics." Commander Law does not know if Lieutenant Magnuson is religious. The Sheriff made these comments shortly after the Sheriff had been publicly accused of assaulting his wife and Lieutenant Magnuson told the Sheriff he should resign. The Sheriff berated Lieutenant Magnuson and said, "your morals and ethics don't make you right." [REDACTED]

Commander Law learned about Lieutenant Magnuson's complaint from Lieutenant Magnuson. Lieutenant Magnuson said he had had enough; it was too much, and he had gone to Human Resources and filed a complaint. Commander Law asked if he was a witness and Lieutenant Magnuson said yes.

On February 5, 2020, Lieutenant Law heard the Sheriff and Commander Caughey having a heated discussion in the Sheriff's office. Commander Law later went looking for Commander Caughey and came across Lieutenant Magnuson. Lieutenant Magnuson shared that the Sheriff had forced Commander Caughey to tell the Sheriff that Lieutenant Magnuson had filed a complaint with the County.

Later that same day, the Sheriff called Commander Law into his office. Commander Caughey was present. The Sheriff asked Commander Law what he knew of the HR Complaint. Commander Law replied that he did not believe it was an appropriate

question to ask because he was asking Commander Law to violate policy and/or state law. The Sheriff said he needed to know if the allegations were criminal because if they were, he had the right to investigate them. Commander Law replied it was a potential whistleblower complaint and he was a witness and again objected to responding. The Sheriff persisted and, having been told by Commander Caughey that the Sheriff had threatened his job if he did not answer, Commander Law answered and told the Sheriff he wasn't sure if Lieutenant Magnuson's complaint alleged criminal wrongdoing. The Sheriff asked him about the contents of the complaint and Commander Law said he did not know and if he did, it would be inappropriate to share. Commander Law continued to deflect the Sheriff's questions. The Sheriff began stressing loyalty and commitment and saying his appointed staff need to be loyal to him. Commander Law understood from these comments that the Sheriff was linking loyalty and commitment in relationship to Lieutenant Magnuson's complaint. The Sheriff also talked about the Guild letter and was focused on finding the source. The Sheriff mentioned several names and stated specifically that Erickson was Christian and shouldn't judge others. At the end of the conversation, the Sheriff said, "I need to know if you guys support me?"

The next morning, while briefing the Sheriff on a pursuit, the Sheriff again asked about Lieutenant Magnuson's complaint. Commander Law told him they shouldn't be talking about it. The Sheriff asked how Commander Law knew he was a witness and then the Sheriff commented that he has information on guys concerning which he could blow the whistle, but that he didn't want to "whistleblow" on others because "we as a command staff don't need that."

Since learning of Lieutenant Magnuson's complaint, the Sheriff has been exclusionary of Magnuson, dry toward him, and for a while, avoided eye contact. This has improved over the last few weeks.

Commander Law said the Sheriff has centered his suspicion about the source of the Guild letter on Lieutenant Magnuson and former Lieutenant Jason Erickson (recently self-demoted to Sergeant). In discussions with Commander Law about the Guild letter, the Sheriff mentioned loyalty being paramount and said, "I expect you to support me." The Sheriff repeatedly references demoting and firing in relationship to loyalty to him.

The Sheriff told him that the lieutenants were no longer welcome at command staff meetings because they were not communicating his message to the line staff correctly. The Sheriff said the Guild letter clearly came from inside his command staff and he wanted to prevent leaks. In October, 2019, the Sheriff shared with Commander Law that it aggravated him that the lieutenants did not believe it was appropriate for them to speak to the Sheriff on behalf of the Guild and explain to him why the Guild was asking him to resign. Commander Law believes the Sheriff would love to demote Lieutenant Magnuson and has wanted to do so ever since Lieutenant Magnuson told the Sheriff he should resign. Commander Law, however, does not believe the Sheriff is a physical threat to Lieutenant Magnuson. Commander Law confirmed Lieutenant

Magnuson at some point told him that the Sheriff had threatened to choke him during a telephone conversation. Lieutenant Magnuson called Commander Law and said he had just gotten off the phone with the Sheriff who had berated him and threatened to choke him. Commander Law perceived that this angered Lieutenant Magnuson.

Recently he learned that the Sheriff has alleged that he and Commander Caughey misappropriated county-owned ammunition for personal use. The allegation stems from a 2017 trip to hunt varmints in Oregon on the property of Josh Shelton. The Sheriff had planned to attend this trip. Prior to the trip, Commander Law asked the Sheriff if it would be permissible to use county ammunition on the trip because they would be practicing shooting. The Sheriff said, "you absolutely can use county ammunition." The Sheriff ended up not going on the trip. County ammunition was used during the trip.

On February 14, 2020, after Jason Erickson self-demoted and a complaint was lodged that the Sheriff had misappropriated numerous cases of county ammunition and some firearms, the Sheriff discussed the allegations against him with Commander Law and told Commander Law that the ammunition in his home was just practice ammunition. The Sheriff then commented, "I hope they don't find out about your little ground squirrel hunt in Oregon." Commander Law was shocked that this 2017 trip was being brought up years later because the Sheriff had approved it at the time.

In a phone call that same day, the Sheriff called Commander Law and asked who else had gone on the 2017 Oregon trip. Commander Law asked why? The Sheriff told Commander Law it was because they had taken county ammunition and it could be construed as inappropriate.

On April 7, 2020, the Sheriff texted Commander Law and asked if he had already been interviewed in this investigation. Commander Law subsequently discovered that the Sheriff also had a meeting the same day with Deputy Todd Carlson in which the Sheriff told Deputy Carlson that he and Commander Caughey had used county ammunition on a personal trip to Oregon. Commander Law perceived this to be an attempt by the Sheriff to intimidate him and retaliate against him for participating in this investigation.

5. Sheriff Hatcher's account

The Sheriff said he did not believe he threatened to choke Magnuson and certainly would not have meant it. He commented that if he has said anything like this, such as "I just could shake you," it was because Magnuson was not getting things done. The Sheriff recalls having a conversation with Lieutenant Magnuson during which Lieutenant Magnuson raised this alleged incident. The Sheriff did not want to call Lieutenant Magnuson a liar and apologized to him but denies that he actually made the alleged threat. The Sheriff then voluntarily commented that he has had some performance issues with Lieutenant Magnuson, none of which are in writing. On April 9, 2020, after

listening to the tape recording of his interview, the Sheriff contacted me and clarified that he absolutely denies that he threatened to choke Lieutenant Magnuson.

The Sheriff denied making any derogatory comments about Lieutenant Magnuson's religion or even knowing Lieutenant Magnuson's religious beliefs or whether he attends a church. The Sheriff admits that he has said that Christians can't have situational ethics. Any comments about beliefs or situational ethics are made to educate officers to maintain objectivity and not be swayed by personal judgments. The Sheriff reiterated this point in our April 9, 2020 telephone call.

The Sheriff explained he was taken aback in October 2019 when Lieutenant Magnuson told the Sheriff he should resign. The Sheriff viewed this request to be wholly inappropriate. In response, the Sheriff referenced Magnuson's "high and mighty attitude" and that he believed Lieutenant Magnuson was talking down to him as if the Sheriff had done something wrong (the charges had been dismissed; he was innocent). The Sheriff said that Lieutenant Magnuson referenced the Code of Ethics in these conversations, but the Sheriff's issue is how Lieutenant Magnuson interprets the Code of Ethics. For instance, Lieutenant Magnuson raised the Sheriff's termination of a colleague accused of domestic violence as an example of a double standard and the Sheriff responded that he had followed the process with respect to the coworker and, in contrast, the charges against the Sheriff had been dismissed and Lieutenant Magnuson could not just follow his beliefs and judge him. The Sheriff recalls having two or three conversations with Magnuson involving discussions on this topic.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The Sheriff does not recall if he referenced Lieutenant Magnuson's "beliefs" in the context of this situation, but if he did, he said it had nothing to do with religion. He knew Lieutenant Magnuson opposed extra-marital relationships (Lieutenant Magnuson had voiced this to the Sheriff when the Sheriff disclosed his own infidelity in or around September 2019), but he viewed it as Lieutenant Magnuson's personal belief and did not attribute it to religion.

The Sheriff admitted he had a conversation in or around October 2019 with Lieutenant Magnuson about a personal Facebook post. The Sheriff said the post had a negative connotation concerning the department and several people had called the Sheriff about it. The Sheriff told Lieutenant Magnuson to be careful about what he puts out there on social media because it reflects on the sheriff's office.

The Sheriff admitted that he has commented to Lieutenant Magnuson that Lieutenant Magnuson can be soft on his subordinates based on his beliefs because he wants to win their hearts and minds. He said Lieutenant Magnuson is not capable of

being direct because he does not want to upset anyone, and this has caused performance problems.

The Sheriff admitted he has not documented any performance issues with Lieutenant Magnuson. Commanders prepare the performance evaluations for their lieutenants and he reviews and signs them. The Sheriff commented that he does not push back on the performance reviews and they are not reflective of an officer's day-to-day performance. The Sheriff then offered that there was some pending stuff coming based on policy violations when this blows over, and when I inquired as to what he meant by this, he replied that it was not for my ears.

When I asked him whether he had ever told Lieutenant Magnuson not to get too comfortable, because he, the Sheriff, could do away with him like that, the Sheriff denied this. The Sheriff said he has told Lieutenant Magnuson that if he is not doing well with investigations, he may move him to patrol, which the Sheriff mentioned has the same pay. The Sheriff then told me that when he decides it is going to happen, it is going to happen (meaning the move to patrol). The Sheriff then said he may also rotate the Commanders. In the April 23 follow-up telephone interview, the Sheriff also said he planned to bring in an undersheriff. He said this was necessary because he had been performing both the sheriff and undersheriff roles and it was clear that this model is not working. He is in the office too much and he needs to have more direct contact with the line staff to avoid miscommunication.

The Sheriff shared that he questions Lieutenant Magnuson's motivation and timing in making the complaint with everything else that is going on; he said it seemed like a concerted effort. The Sheriff then mentioned that Lieutenant Magnuson wants to run for Sheriff (implying he is out to harm the Sheriff politically with this complaint). In a follow-up telephone interview on April 23, the Sheriff acknowledged in response to my question that three months ago Lieutenant Magnuson actually told the Sheriff he no longer wanted to run for the office.

When I asked what he meant by concerted effort, the Sheriff said that there is a small group with an agenda in relationship to the dismissed criminal charges against him, who got the Guild behind them, and there is now a monumental uproar. The Sheriff said certain officers cannot get over it and Lieutenant Magnuson is one of them. In a follow-up telephone interview on April 23, I asked the Sheriff who he suspects of being behind the Guild letters and he said he was reluctant to say. He then went on to talk about how he knows the information has come out of his office, which essentially consists of his command staff (the commanders and lieutenants). The Sheriff began explaining how he now goes directly to the line staff himself because the commanders' and lieutenants' communication to the line staff is the problem; they are not conveying his message correctly to the line staff. The Sheriff never directly answered the question as to who he believes to be behind the Guild letters or whether he has told any staff who he suspects of being behind the Guild letters.

The Sheriff admitted he required Commander Caughey to tell him that Lieutenant Magnuson had filed a complaint against him with the County because as Sheriff he had an obligation to know whether the allegations were of a criminal nature. He said this is because it is the obligation of the Sheriff's Office to investigate all criminal complaints. He inquired of Commander Caughey whether there was a problem with Lieutenant Magnuson because he was frustrated that the lieutenants would not take information to the Guild and represent the Sheriff's Office in the proper way. Commander Caughey told him the complaint concerned an internal policy violation.

Prior to early February 2020, the Sheriff had 30-minute daily staff meetings that included Commanders Law and Caughey and Lieutenants Clarke and Magnuson. The Sheriff said he included the lieutenants in these meetings for mentoring purposes. He viewed their participation as critical for advancement because it allowed them to learn from himself and the commanders and be closest to the important discussions.

The Sheriff admitted that he had changed the make-up of the command staff meetings sometime in the last month before our April 7, 2020 interview. He changed the command staff meetings to include only the commanders, excluding the lieutenants. The Sheriff said he made the change because the meetings were eating up too much of the lieutenants' time and it seemed like the lieutenants were frustrated and he wanted to alleviate their stress. He commented that his questions to them in the meetings were questions that should have been asked by their commanders anyway and he perceived he was putting them on the spot in the meetings.

In the follow-up telephone conversation on April 23, 2020, the Sheriff acknowledged the following:

- He has said early and often that the command staff needs to be loyal to the sheriff's office and not out their undermining him. If he said they had to be loyal to him, he meant to the office and the direction and vision of the office, not to him personally.
- He has told the commanders that he knows who says what in investigations and he needs them to be loyal and not put out information in a negative way; he admitted to telling them he cannot have that.

When I asked the Sheriff if he had raised the issue of whistleblowing recently with staff and said he could "whistleblow", he sidestepped the question and said that there are things that happen every day that could be looked at wrong and viewed as whistleblowing if disclosed. He provided a few examples. He then volunteered that he launched a whistleblower investigation on himself concerning the ammunition at his house. When I asked him specifically about an alleged conversation with Deputy Todd Carlson, he acknowledged that he recently met with Todd Carlson and told him about the 2017 gopher hunt that involved Commanders Caughey and Law. The Sheriff said he

viewed the trip as training at the time and had initially planned to go but does not recall pre-authorizing the use of county ammunition. He did say that he was told of the ammunition use when they returned and did not think anything of it. He then said he shared the gopher hunt recently with Deputy Carlson because he is trying to understand the protocols for permitting officers to use county ammunition for training so he can standardize them; he believes there is a double standard being applied to him concerning the use of county ammunition. The Sheriff mentioned that guys are checking out county ammunition all the time and he encourages guys to shoot for practice. I asked him if he had mentioned any other instances of possible inappropriate ammunition use to Deputy Carlson other than the commanders' gopher hunt several year ago and he said he did not recall mentioning anyone else. The Sheriff also mentioned that he recently heard that alcohol had been consumed on this trip and implied this information somehow changed his view about whether the ammunition properly had been used for training. I asked for the context of how he learned the information about alleged alcohol use, which he referenced several times, and he chose not to answer the question. The Sheriff then also commented that just because he knew about the ammunition use on this trip does not give Commander Law justification.

IV. Factual Findings

A. Harassment by Sheriff Hatcher based on protected activity

Lieutenant Magnuson's complaint to the County involved two legally protected statuses: religion and union membership/activity. See 42 U.S.C. §2000e-2, RCW 41.56.040 and RCW 41.56.140. The findings of the investigation focus on these two protected statuses and on alleged retaliation by the Sheriff against the complainant and witnesses. Thus, while the investigation substantiated that sometime in early 2019 the Sheriff told Lieutenant Magnuson he wanted to choke him, the investigator determined that the Sheriff did not intend to follow through, and while comments suggesting violence are highly inappropriate in any workplace, the comment did not involve a legally protected status or protected activity.

1. Religion

The investigation did not substantiate that the Sheriff has harassed or discriminated against Lieutenant Magnuson based on religion. The investigation found that in October and November 2019, the Sheriff made many references to Lieutenant Magnuson about his beliefs and moral standards and did so in a derogatory manner. The evidence, however, does not substantiate that the Sheriff was referencing Lieutenant Magnuson's religious beliefs. However, because it is difficult for an individual to separate their beliefs and morals from their religion, and witnesses corroborated that the Sheriff made comments about Lieutenant Erickson's religious affiliation, it is reasonable that Lieutenant Magnuson perceived that the Sheriff was ridiculing his religious faith and had a good faith basis for reporting his concerns.

2. Union activity

The investigation substantiated that Sheriff Hatcher has harassed and retaliated against Lieutenant Magnuson because of his union activity and affiliation. The evidence supports a finding that the Sheriff believes Lieutenant Magnuson played a role in the Guild's October 2019 and January 31, 2020 letters that voiced non-support of the Sheriff and requested his resignation. The evidence further supports a finding that because the Sheriff was upset with Lieutenant Magnuson for his alignment with the Guild on the subject of his resignation, the Sheriff directed multiple derogatory and insulting comments to Magnuson (about his beliefs on marital infidelity, being soft, having a "high and mighty" attitude, judging him, etc.). The investigation found that the Sheriff's behavior has created an intimidating and hostile work environment for Lieutenant Magnuson because of Lieutenant Magnuson's participation in concerted activity with the Guild and members of the guild.

B. Retaliation by Sheriff Hatcher

1. Retaliation against Lieutenant Magnuson

The investigation substantiated that Sheriff Hatcher retaliated against Lieutenant Magnuson because of Lieutenant Magnuson's union activity and suspected involvement with the Guild letters. The retaliatory behavior included making negative comments to Lieutenant Magnuson about his beliefs and excluding Lieutenant Magnuson from command staff meetings. Multiple witnesses substantiated that the Sheriff made it clear that he considered Lieutenant Magnuson's involvement with the Guild letter and his unwillingness to support the Sheriff to the Guild to be disloyal and has made it well-known to each member of his command staff that he will not tolerate "disloyalty." It is reasonable to conclude that the Sheriff's behavior is designed to intimidate and chill Lieutenant Magnuson's protected union activity and to stop Lieutenant Magnuson from sharing negative information about the Sheriff with the Guild and other Guild members.

2. Retaliation against witnesses involved in this investigation

The investigation also substantiated that Sheriff Hatcher has retaliated against Commanders Law and Caughey for participating as witnesses in this investigation. The investigation determined that the Sheriff disregarded the provisions of the County policy requiring protection of the confidentiality of discrimination and harassment complaints to the extent possible when he compelled Commander Caughey to disclose Lieutenant Magnuson's complaint and then caused both commanders to divulge that they believed themselves to be witnesses in this process. After learning that they were witnesses, the Sheriff 1) told them they could not participate on paid time unless he could have a representative sit in on their interviews, 2) started using sticky notes in meetings allegedly to document their negative performance, 3) warned them that he will find out

what they say as witnesses in this process and will take great exception to disloyalty, and 4) told them that he also could “whistleblow”, and promptly after making this comment, surfaced an allegation that the witnesses had engaged in inappropriate activity in 2017 by using county ammunition for personal purposes during a hunting trip. The Sheriff made no such allegation of wrongdoing at the time of the trip although he knew in proximity to the trip (either before or right after) that county ammunition had been used. The investigation determined that the Sheriff’s motive for raising this allegation now (and not in 2017) can be for no other purpose than to retaliate against the witnesses for participating in an investigation against him. The investigation found that the Sheriff’s behavior is intended to damage the reputation of the witnesses (by raising an allegation of impropriety) and to make the witnesses believe they will lose their jobs or be demoted if they share any negative information about the Sheriff in this investigation. The witnesses’ fear of demotion or discharge is substantiated by the Sheriff’s admission in his interview that he will be filling an undersheriff position and making changes to the structure of his command staff.

Very truly yours,

Janine C. Blatt