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NOTICE OF CLAIM

This constitutes a "Notice of Claim" filed against the County of Oklahoma County, the State of Oklahoma, and its representative(s) David L. Prater, Oklahoma County District Attorney in accordance with the *Oklahoma Governmental Tort Claims Act*, 51 Okla. Stat. Ann. § 156.¹

Name of Claimant: William Muller. Mr. Muller is a former Investigator for the Oklahoma County District Attorney's Office (May 2017 – January 31, 2019). Mr. Muller, who began his career as a Enid and Stillwater Police Officer (1996-2002), served as a Special Agent for the United States Secret Service (2002-2015) who served as the leads on details for President George Bush, on high-risk missions in Africa, and as the lead case agent on many federal cases for the U.S. Department of Justice. The federal government recognized Mr. Muller as the Federal Employee of the Year in 2007. An Eagle Scout himself, Mr. Muller volunteers his time with his son in the Boy Scouts of America.

Address of Claimant: William Muller, c/o Robert D. Gifford, Attorney-at-Law, GIFFORD LAW, P.L.L.C., P.O. Box 2682, Oklahoma City, Oklahoma 73101

¹ Please note that this claim is also being submitted independently and separately to both the County Clerk for Oklahoma County and to the State of Oklahoma as it involves the county of Oklahoma County as well.

Telephone Number of Claimant: c/o his attorney at (405) 810-5406.

Date of Occurrence Giving Rise to Claim: January 29, 2019, (date that claimant was notified), however Mr. Muller was paid through January 31, 2019 and compelled to use his earned vacation leave.

Circumstances of Claim: This is a claim for wrongful termination arising from Mr. Muller's refusal to continue an illegal criminal investigation run only by David Prater, with no open file or no other law enforcement agency investigating, into the Oklahomans for Criminal Justice Reform, one of its leaders, and the American Civil Liberties Union (ACLU) with state multi-county grand jury subpoenas that were issued without the required "probable cause," and for the subsequent malicious interference by David Prater into Mr. Muller's future employment opportunities.

William Muller served as an Investigator for the Oklahoma County District Attorney's Office from May 2017 until January 31, 2019. Mr. Muller, a career law enforcement officer with a decorated and honorable record, joined the Oklahoma County District Attorney's Office after serving as a decorated Special Agent for the United States Secret Service.

Upon his employment with the Oklahoma County District Attorney's Office, Mr. Muller was one of the highest paid employees, and was highly revered due to his experiences as both a police officer and a Secret Service Agent guarding the President of the United States and in leading high-profile white-collar criminal investigations.

During the course of the employment under District Attorney David Prater, Mr. Muller became concerned about both the management and integrity of the office in general. He expressed these concerns to another investigator, as well as to a senior Assistant District Attorney. These concerns, as a matter of background, are relevant to the underlying claim now brought by Mr. Muller, include, but are not necessarily limited to the following practices:

1. **Surreptitiously Recorded Conversations.** Evidence will show that at the direction of Mr. Prater, Mr. Muller learned (and was directed to do

so himself later) to secretly record the conversations of individuals who would meet with Mr. Prater. Whether it was an attorney, a legislator, or even an Oklahoma County Judge, the evidence would show that Mr. Prater has a practice of regularly and secretly record conversations and retaining them for later use if necessary.

2. Toxic and Hostile Work Environment. Evidence will show that the office had a very low morale due to Mr. Prater's explosive temper and unexpected outbursts, an unreasonably high turnover rate (25-30 personnel left in year-and-a-half), a high acquittal rate due to a lack of guidance and supervision, and concerns over a member of the senior management day drinking, spending time at strip clubs and relationships with strippers that were highly publicized, and other inappropriate behavior that included a prior arrest.
3. Evidence Room(s)/Chain of Custody Concerns. Evidence will show that the on the far west end of the District Attorney's Office (5th Floor), in the "Gang Hall" is an "Evidence Room." Should any outside agency, judicial authority, or member of the defense bar, were to review this area it would create a great concern over any testimony given regarding the "chain of evidence" of any cases. This "evidence room" has no "custodian," no "manager," no "security controls," and would shock the conscience of the public as to the lack of security, control and disorganization. Notably, there was more than one key to this room, and most significantly – there is no evidence log that tracks when evidence is checked into this room and when it was checked out. With the disorganization, lack of security controls and evidence logs, there is no guarantees that there was no commingling of evidence.

Further, evidence was also kept, unofficially, in the office of the Investigator who was responsible for the Technology Evidence (i.e. phone downloads, etc.) on the east end of the District Attorney's Office (also on the 5th floor). This office, also insecure with unknown number of keys available for access, as well, with no evidence logs, etc., contained the evidence for major cases to include homicides and other high-level violent crime investigations. This office which is used as a

“make-shift” evidence room is filled with stacks of unfiled reports/search warrant returns, as well as other miscellaneous and otherwise misplaced evidence. If ever reviewed or audited by an investigatory agency or the originating law enforcement source would likely result in both public and judicial concerns on the veracity, credibility, and reliability of the evidence and testimony as it was presented in court in Oklahoma County.

4. Misuse of Grand Jury Subpoenas. During the Fall of 2017, Oklahoma County District Attorney David Prater, without an ongoing investigation, an open file, or without any known “probable cause” (and with no other independent law enforcement agency), ordered Mr. Muller to obtain a Multi-County Grand Jury Subpoena from the Oklahoma Attorney General’s Office² to obtain the banking and financial records from Paycom for the organization *Oklahomans for Criminal Justice Reform*. Mr. Prater, in his own words, felt that any reform to criminal justice was “bullshit,” and expressed great anger toward any discussion with anything that mentioned “reform.” This use of the multi-county grand jury was only after the General Counsel for Paycom stated he would need a court order or subpoena. This rebuff by the Paycom General Counsel angered Prater, who then ordered Muller to contact Sheila Tiffin at Attorney General’s Office’s Multi-County Grand Jury Unit and get subpoenas to be issued to Paycom for disclosure of the records.

The aim of Mr. Prater’s personal inquiry, as stated directly by Mr. Prater to Muller, was to find incriminating or compromising information pertaining to Former Speaker of the Oklahoma House of Representatives Kris Steele, one of the most visible leaders of the criminal justice reform movement in Oklahoma.³ The scope of the

² Notably, and tellingly of the Oklahoma County District Attorney’s knowledge of a probable cause requirement before issuing a grand jury subpoena, David Prater once served as an Assistant Attorney General in the grand jury unit.

³ Kris Steele served in the Oklahoma state legislature for 12 years, including two years as speaker of the House. He is chairman of *Oklahomans for Criminal*

investigation also included efforts to review donations from national office of the American Civil Liberties Union (ACLU) based in New York City and represented by their affiliate in Oklahoma by the ACLU of Oklahoma to the criminal justice reform movement in Oklahoma. No other investigative agency was involved, there was no case file assigned to the investigation, no court filings, and it was not until later that Mr. Muller realized that the Oklahoma County District Attorney apparently did not have the lawfully required “probable cause” to obtain grand jury subpoenas from the Attorney General and have them issued to Paycom.

As a matter of reference, to even initiate an investigation against any private citizen, a law enforcement investigator would need at a minimum a “reasonable suspicion.” *See Whren v. United States*, 517 U.S. 806, 809-10 (1996). To request a multi-county Grand Jury Subpoenas from the Oklahoma Attorney General is a higher standard. A District Attorney must have at least “probable cause” before ever issuing grand jury subpoenas to obtain private documents.

As the Oklahoma Court of Criminal Appeals has stated, because without probable cause has a standard, “a D.A. could abuse the rights of any citizen by circumventing a citizen’s constitutional rights by seeking the evidence through a grand jury subpoena. In effect, district attorneys would be provided with a license to obtain evidence without being required to meet constitutional standards.” *Woolverton v. Multi-County Grand Jury Okla. Cty.*, 1993 OK CR 42, 859 P.2d 1112. In this matter, Mr. Prater (an attorney and not an investigator) had no “reasonable suspicion,” much less the legally required “probable cause” to seek from the Attorney General multi-county grand jury as his personal weapon against his “political enemies.” This action by Mr. Prater represents an extraordinary departure from the appropriate use of the immense power and discretion that rests with District Attorneys.

Justice Reform, which led the campaign to pass State Questions 780 and 781 and serves as executive director of *The Education and Employment Ministry*.

The Review of the Grand Jury Records. During his ordered review of the grand jury documents, Mr. Muller could not find any wrongdoing by the ACLU, Oklahomans for Criminal Justice Reform, House Speaker Kris Steele, or any other party for that matter. Upon finding no evidence of criminality, Mr. Muller advised the Oklahoma County District Attorney David Prater of his findings. Mr. Prater immediately became irrational and angry upon learning about the outcomes of Mr. Muller's investigation. Mr. Prater then took the Grand Jury documents into his office, not secured, and later questioned Muller again about his findings, in which Muller again explained expenditures and defended them. It was at that point, Mr. Muller's position within the eyes of the District Attorney drastically changed.

With Mr. Muller's investigation resulting in no evidence of criminal conduct by leaders and organization in the criminal justice reform movement, including the ACLU, *Oklahomans for Criminal Justice Reform*, Kris Steele, Mr. Muller went from being a highly respected member of the office to becoming the target of Mr. Prater's hostility and outrage. Mr. Muller was then excluded from meetings he was routinely invited into, no longer spoken with, and appeared to be forced on the outside of things of the office. Mr. Muller shared these concerns with other investigators and with at least one senior Assistant District Attorney.

On or about January 29, 2019, Mr. Muller briefed the District Attorney about an ongoing political corruption case with the conclusion with the evidence supporting moving forward against the target of the investigation. After which, Prater called two Oklahoma County Sheriff's Deputies into the office where then Prater lost control of himself and began to yell and curse uncontrollably. Prater then order the search of Muller's own bag, took his personal firearm, and kept demanding and cursing at Muller demanding where his other firearms were. Muller asked what was going on and what brought was about, but Prater refused to answer and would only personally berate Muller in front of the First Assistant and others. Mr. Muller was then escorted from the office in front of all of the personnel.

Shortly thereafter, Prater sent an email to the entire Oklahoma County District Attorney's Office stating that Muller was no longer employed and that he was "prohibited from entry to any of our offices or buildings. Any contact from Muller to you should be reported to me immediately. Do not print or forward this message to anyone." (emphasis added).

Shortly thereafter, Oklahoma County D.A. David Prater, without cause, personally and maliciously sent an email on a statewide listserv (group email) to the Oklahoma Chiefs of Police Association notifying every single police agency that Mr. Muller, many of whom knew Mr. Muller personally as a police officer and Secret Service Agent, had been terminated from his position as an Investigator from the Oklahoma County District Attorney's Office. It is believed that Mr. Prater may have done similar through other law enforcement group emails listservs. The evidence will show that this was not only unprecedented but done only to maliciously interfere with Mr. Muller's ability to obtain future employment.

Mr. Muller was never notified of the reasons for his termination. When given an opportunity for Prater to contest any unemployment compensation for misconduct, he did not.

State Agency Involved: The Oklahoma County District Attorney's Office and the District Attorney David Leonard Prater,⁴. While Oklahoma is a prime example of conservative-led de-incarceration efforts, with voters overwhelmingly supporting a ballot initiative (Oklahoma State Question 780) to change several drug and property felonies into misdemeanors in 2016, Oklahoma County District Attorney David Prater has publicly resisted criminal justice reform at every turn. Mr. Prater has referred to leaders in the criminal justice reform movement as liars and exercises a powerful voice in the District Attorney's Council and the District Attorneys Association. He

⁴ This Claim is, at this time, against Mr. Prater is made in his official capacity, but his egregious acts exceed the scope of his duties under the law, and the professional responsibility obligations as accorded to attorneys by the Oklahoma Supreme Court, thus there may be a potential claim against Mr. Prater in his personal capacity as well.

supports mandatory minimums for drugs and stated his belief that any reduction in Oklahoma's drug offender prison population will lead to more burglary and theft. Prater supports mandatory minimums for drugs and stated his belief that any reduction in Oklahoma's drug offender prison population will lead to more burglary and theft. He also opposed State Question 780. Prater also continues to actively seek the death penalty (often unsuccessfully, with jurors rejecting it), in a county with a particularly sordid capital punishment history under scandalized former District Attorney who used a fraudulent forensic analyst he called "Black Magic" to construct a "courtroom of death."

Nature of Injury: Mr. Muller seeks compensation and damages from the hostile work environment as created by the Oklahoma County District Attorney David L. Prater, the unlawful termination of his employment as an investigator for the Oklahoma County District Attorney's Office, and David L. Prater's malicious and intentional interference in Mr. Muller's future employment opportunities. This termination arose due to Mr. Muller's lawful and moral refusal to pursue a blatantly unlawful investigations of private citizens and "political enemies" after D.A. Prater's gross grand jury abuse and for the tortious interference of Mr. Muller's future employment opportunities in law enforcement with Mr. Prater's malicious and intentional contacting all Oklahoma law enforcement leaders and made.

Compensation Demanded: The claimant seeks the statutory limit pursuant to the Government Tort Claims Act \$125,000.00. Due to the intentional and malicious acts, punitive damages are also authorized pursuant to 23 O.S. § 9.1. *See also Lierly v. Tidewater Petroleum Corp.*, 2006 OK 47, 139 P.3d 897. Please note that an insurer (for either the county or state) may not indemnify the insured for punitive damages awarded against the insured unless awarded for the acts of one for whom the insured is legally responsible under the doctrine of *respondeat superior*. *Dayton-Hudson Corp. v. American Mutual Liab. Ins. Co.*, 1980 OK 193, 621 P.2d 1155.

Attorney Authorized to Settle Claim: Robert D. Gifford, *GIFFORD LAW*, P.L.L.C., P.O. Box 2682, Oklahoma City, Oklahoma 73101; Robert.Gifford@GiffordLawyer.com; (405) 810-5406.

CONCLUSION

It is requested that this matter be resolved in a fair and equitable matter on behalf of Mr. Muller, in the interests of justice, and in the interests of the Oklahoma taxpayer.

GIFFORD LAW, P.L.L.C.

A handwritten signature in black ink, appearing to read "RD Gifford II", written over the printed name below.

ROBERT D. GIFFORD, II
Attorney and Founder