

New complaint accuses Pierce County Prosecutor Mark Lindquist of legal misconduct, waste and abuse of authority

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A new and explosive whistleblower complaint filed against Pierce County Prosecutor Mark Lindquist accuses him of violating state and federal laws, wasting public money, abusing his authority and risking public safety to serve his political ends.

The complaint was filed May 21 with the state Auditor's Office and the county's Human Resources Division. The News Tribune obtained a copy via public disclosure.

The 10-page complaint describes numerous actions allegedly involving Lindquist and high-level staff members, broken down into four categories. It lists 34 witnesses, including 25 deputy prosecutors, many from Lindquist's leadership team.

It was filed anonymously, unlike a May 12 complaint filed by deputy prosecutor Steven Merrival, who voluntarily disclosed his authorship and whistleblower status.

The News Tribune sought comment from Lindquist about the new complaint. He replied via email, saying, "Our hardworking staff remains focused on doing our jobs and serving our community."

A separate emailed statement came from chief civil deputy prosecutor Doug Vanscoy.

"These are baseless allegations in an anonymous complaint," Vanscoy said. "A complaint can be filed for any reason and without any basis. We are confident an investigation will confirm the office acted properly in serving the public."

The complaint adds specific detail to some of the actions described by Merrival, but it also includes new allegations and many decisions and quoted statements attributed to Lindquist.

Contextual references suggest the complaint comes from a high-level staff member. The complainant claims "firsthand knowledge" of the described incidents and calls for a full investigation.

"The complainant believes a full investigation will support a finding of the improper government actions alleged and may uncover further improper actions unknown to complainant."

WASTING PUBLIC FUNDS

According to the complaint, Lindquist sought and obtained extra money from the Pierce County Council to hire outside attorneys to represent the county and his own interests in recent cases alleging misconduct by his office.

The bills for those cases, including invoices received through June 2, total \$669,211, according to figures provided to The News Tribune by the county's Risk Management department.

One action, Nissen vs Pierce County, is a long-running pair of public records lawsuits tied to Lindquist's use of his personal phone for public business, slated for arguments at the Washington State Supreme Court on June 11.

Billings for the Nissen action alone stand at \$282,490, according to the latest totals.

The complaint contends that Lindquist's employees, not the outside attorneys, did most of the legal work. Deputy prosecutors wrote the majority of the legal briefings during work hours, "only to have such briefs superficially reviewed and signed by the outside attorneys," the complaint states.

The complaint contends that eight deputy prosecutors, as well as Lindquist, participated in writing the briefings, and that the work sometimes went for days.

"The briefing sessions would often last several full days at a time, including office-paid lunches, with as many as eight DPAs participating at the same time to conduct line-by-line editing of lengthy appellate briefs," the complaint states.

One of the friend-of-the-court briefs filed with the Supreme Court in the Nissen case was submitted by a coalition of the state employees and state teachers unions and the local prosecutors union.

The complaint contends that in-house attorneys wrote the brief in consultation with those unions — in effect providing free legal services to outside, nongovernment entities.

The complaint states that some deputy prosecutors questioned the move, but were told it was not a problem. It is unclear in records whether Lindquist personally said it was not a problem; portions of the complaint are redacted.

The complaint adds that Lindquist promoted one deputy prosecutor, Grant Blinn, to homicide chief to improve Blinn's ultimately successful effort to become a municipal court judge in Lakewood.

The promotion meant a slight reduction in salary. The complaint contends that Lindquist created a homicide division to preserve Blinn's prior salary — but the division had only one employee: Blinn.

"Lindquist reclassified the homicide trial team into a 'division' in order to keep Blinn's salary the same," the complaint states. "This division had and still has only one DPA, the division chief himself."

"CONFEDERACY OF DUNCES"

The complaint contends that Lindquist potentially violated the rights of criminal defendants by compiling a list of defense attorneys who had been critical of him.

"Lindquist dubbed these attorneys, 'the confederacy of dunces,' " the complaint states.

The attorneys – about 30 of them – had filed declarations supporting sheriff's Deputy Mike Ames, who sued the county and argued that Lindquist's office was wrongly branding him as a liar.

According to the complaint, Lindquist ordered his chief criminal deputy, Stephen Penner, to tell other prosecutors to avoid giving good plea bargains to the "confederacy."

Penner refused, citing ethical concerns, the complaint states; Lindquist turned to another prosecutor, John Sheeran, and asked him to deliver the message.

"DPAs were also told not to be seen being friendly to these attorneys, lest their careers be adversely affected," the complaint states.

Lindquist was particularly concerned about one defense attorney, Gary Clower, the complaint states.

Clower was defending a man accused of embezzling money. Penner ordered his plea negotiators to treat the case as they would any other, the complaint states. When Clower received a standard deal, Lindquist was upset, according to the complaint; he admonished Penner and accused him of not having "passion for the office."

Penner reportedly replied that he had a passion for justice. Lindquist replied that "justice is a platitude," the complaint states.

MISUSE OF EVIDENCE

The complaint contends that Lindquist admonished prosecutors when allegations against Ames were excluded from an unrelated murder trial at which Ames was scheduled to testify.

At the time of the alleged events, in October 2013, Ames was embroiled in his lawsuit against the county. The allegations against him — affecting his credibility — were potentially helpful to the defense.

Prosecutors intended to argue that the allegations were irrelevant.

The complaint states that Lindquist told Penner to make the arguments and added a nudge.

“Regarding Ames, Lindquist told Penner not to argue too hard against admissibility,” the complaint states.

It states a miscommunication followed. Deputy prosecutor Kit Proctor handled the exclusion arguments. She won. The allegations against Ames were out, inadmissible — one less obstacle for prosecutors in the murder case.

Lindquist wasn’t happy, the complaint states. Though the county had gained an advantage in the murder case, Lindquist reportedly admonished Penner because Ames’ credibility hadn’t been attacked.

“That wasn’t the result we wanted,” Lindquist said, according to the complaint.

WHISTLEBLOWER FALLOUT

The new complaint describes Lindquist’s reaction to the earlier whistleblower complaint filed by Merrival, and lists 11 potential witnesses.

It states that Lindquist directed his chief of staff, Dawn Farina, and assistant chief civil deputy prosecutor Denise Greer to give public statements claiming that Merrival was a disgruntled employee upset with being passed over for leadership positions.

The complaint states that Merrival was happy with his current position, hadn’t been passed over “and never sought a leadership position from Lindquist — all of which Lindquist knew.”

Lindquist later held multiple meetings with staff members, and said Merrival had a “meltdown” and was not acting “adult and mature,” the complaint states.

Penner reportedly suggested the comments about Merrival could become fodder for a retaliation lawsuit. Farina later admonished Penner for the comments in front of other staffers, the complaint states.

Lindquist also told Penner he might not be suited to continue serving as chief criminal deputy, according to the complaint.

OTHER ALLEGATIONS

The complaint alleges misconduct in other categories:

- Evasion of public records laws.

“Lindquist directs employees to avoid email, especially for sensitive subjects, and admonishes employees who fail to follow the directive,” the complaint states.

- It contends that Lindquist hires employees based on their looks instead of their qualifications.

“Lindquist prefers to hire and surround himself with physically attractive people,” the complaint states. “Accordingly, jobs are offered to, and preferred assignments are given to, attractive people over potentially more qualified candidates.

“Lindquist has jokingly used the phrase, ‘the person meets our hiring criteria’ as a euphemism for being physically attractive.”

- Retaliatory job assignments.

The complaint lists five examples of demotion and/or reassignments of employees who criticized Lindquist “too loudly or too publicly.”

- Intimidation.

The complaint echoes statements by Merrival regarding Lindquist’s monitoring of employees outside the workplace, including Facebook posts by spouses or significant others.

The allegations:

One employee was threatened with demotion after his fiancée posted a Facebook comment in support of Merrival’s character. Another was admonished for not greeting Farina cheerfully enough.

Another was admonished for “liking” a photograph of a sunset posted by former chief criminal deputy Mary Robnett, who left the office in 2012. Lindquist regards Robnett as a member of the “confederacy of dunces,” the complaint states.

NEXT STEPS

The county’s Human Resources Department is the lead agency for investigating local whistleblower complaints. Merrival and the new complainant filed their complaints with the state Auditor’s Office as well as the county, but the auditor’s authority is limited to complaints involving state employees and agencies.

Ginny Dale, Pierce County's human resources director, would not comment on the new complaint, or confirm its existence, in keeping with confidentiality provisions. But she said the county has begun the process of hiring an investigator and an attorney not connected to Lindquist's office to conduct the Merrival inquiry.

Related interviews of witnesses are slated to begin soon. Dale could not say how long the process would take.

"Allegations of this nature are complex, and we're going to do a thorough and complete investigation, which takes time," she said.

In cases of multiple complaints surrounding the same circumstances, the county will try to consolidate investigations, Dale said. Under county policy, the costs of such investigations are billed to the agency under scrutiny.

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