

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

LSO



FROM: Executive Office

SUBMITTAL DATE:
July 27, 2004

SUBJECT: Report on Public Allegations of Improprieties in the Human Resources Department

RECOMMENDED MOTION: That the Board receive and file the attached report.

BACKGROUND: On April 13, 2004, Riverside County Employee Relations Manager, Debrah Freeman, addressed the Board of Supervisors in open session. At the time, she accused the County's Human Resources Director of improprieties that included racist hiring and preferential promotional practices. In response, the Board ordered a review of the allegations. The Executive Office then retained Riverside Attorney, Jack Clarke Jr. of Best Best & Krieger to investigate the claims. Mr. Clarke is experienced in cases involving public allegations of racism and his firm includes attorneys who specialize in employee evaluation and discipline, personnel administration and employment law.

The attached report outlines the allegations and Mr. Clarke's conclusions. Those conclusions are based, in part, on interviews with more than 50 people (including county employees of varied race and ethnicity) and a review of hundreds of documents. As noted in the report, Mr. Clarke concludes that he cannot substantiate the allegations made by Ms. Freeman. Mr. Clarke will be available at the July 27, 2004 Board meeting to answer questions from the Board.

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Departmental Concurrence

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: Receive and file.

County Executive Office Signature

- Dep't Recomm.: Policy
- Per Exec. Ofc.: Policy
- Consent
- Consent

3000 700 81 6W15: P2
RECEIVED HUMAN RESOURCES DEPARTMENT
RECEIVED HUMAN RESOURCES DEPARTMENT

While not included in the report, it is important to note that in 2001, Human Resources developed a written Countywide "Master Plan" for further improving equal employment opportunities in Riverside County. In addition, the Human Resources Department has been recognized by the California State Merit Systems Division as "one of the leaders in Human Resources in California," by Governing Magazine (2002), as one of the top ten Human Resources Departments (of large counties) in the nation, and by the International Personnel Management Association (IPMA) by receiving the 2001 "Award of Excellence." The Department has also won two CSAC Challenge Awards in 1999 and 2003. Mr. Komers was personally nominated by his staff as a Business Press "Leader of Distinction" in 2001 and 2002 when he was a finalist for the Innovation Award.

I continue to have confidence in the Human Resources Department, its programs and its leadership.

Attachment

**INVESTIGATION REPORT TO
RIVERSIDE COUNTY EXECUTIVE OFFICER**

**RE: PUBLIC ALLEGATIONS AGAINST
HUMAN RESOURCES DIRECTOR, RON KOMERS
MADE BY EMPLOYEE RELATIONS MANAGER,
DEBRAH FREEMAN
TO THE COUNTY BOARD OF SUPERVISORS
ON APRIL 13, 2004**

July 21, 2004

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1. INTRODUCTION

On April 13, 2004, the Riverside County Employee Relations Manager, Debrah Freeman, made public allegations claiming that the Riverside County Human Resources Director, Ron Komers, engaged in "corrupt," "racist," and other practices in several aspects of his function as the Human Resources Director. Shortly thereafter, the County retained Jack Clarke, Jr. of Best Best & Krieger LLP to investigate the allegations.

The investigation consisted of interviews with Ms. Freeman in the presence of her legal counsel, interviews with over fifty individuals, including County employees, two former County employees, a member of the public, a member of a law firm which represented the County, a member of another law firm, the Human Resources Director for the County of Ventura, and interviews with Mr. Komers. We also reviewed hundreds of pages of records from the Human Resources Department. Ms. Freeman was allowed to assist in our review of the records. This report will not try to summarize all of that information. The report will address the allegations made by Ms. Freeman to the Board of Supervisors during their April 2004 meeting by a summary analysis.

Ms. Freeman's allegations will be addressed in the order presented to the Board.

2. THE ALLEGATIONS AND OUR ANALYSIS OF THE ALLEGATIONS

3.

- A. **This County Official has used his position and influence to ask for and obtain political favors in the form of criminal defense services for his stepson, which were intended for the use of the truly indigent citizens of our County.**

Summary:

- Mr. Komers did call the Public Defender's office regarding an arrest of his adult stepson.
- Mr. Gary Windom, the Riverside County Public Defender, spoke with Mr. Komers and explained that in order for the Public Defender's office to take a case, a defendant must qualify under either the pertinent provisions of California law or Federal Indigency Standards. According to Mr. Windom, the Public Defender's office did not grant Mr. Komers' stepson any special consideration regarding its representation of him.
- Mr. Komers' stepson did have an attorney from the Public Defender's office assigned to his case. However, the Public Defender and the Assistant Public Defender explained that the Public Defender's office represented Mr. Komers' stepson in the same manner which other criminal defendants had been represented. The fact that an attorney from the Public Defender's office represented Mr. Komers' stepson had nothing to do with Mr. Komers' position with the County.

- Mr. Komers called Mr. Windom approximately 30 to 45 days after the first conversation. The call lasted a very short time. Mr. Komers stated his stepson had received a letter from a Los Angeles law enforcement agency stating that his stepson had a misdemeanor case pending in Los Angeles County. Mr. Komers asked Mr. Windom if he knew an attorney in Los Angeles who could handle the matter. Mr. Windom informed Mr. Komers that the case could be handled by the Riverside County Public Defender's office as part of its representation of his stepson in Riverside. Mr. Windom explained it was common for his office to handle criminal matters in this way. Mr. Windom also explained that it is not uncommon for members of the public to call or e-mail him directly. He has taken calls or responded to e-mails when he is available. Thus, Mr. Komers was not treated any differently than a member of the public by the Public Defender's office.

This allegation is not sustained.

B. This County official has used his position and influence to contract with his son's company to provide services to the County, without going through the competitive bidding process.

Summary:

- Ms. Freeman expressed concern that Mr. Komers may have an improper relationship with Resumix Corporation. Resumix was retained by the County pursuant to a Request for Proposal process

which began in 1997. (Request for Proposal #96643.) Resumix is a form of a Human Resource Applicant Management System. It apparently was incorporated in 1988. Mr. Komers assigned the former Assistant Human Resources Director, Dave Walquist, to facilitate its implementation. Ms. Freeman indicated that Mr. Komers might have some financial interest in Resumix. We have found no improper connection between Resumix and Mr. Komers.

- Ms. Freeman also expressed a concern about a company known as GovernmentJobs.com. Ms. Freeman identified GovernmentJobs.com as the company to which Mr. Komers' son was affiliated. GovernmentJobs.com, now known as Neogov.com, is a company formed by Damir Davidovic and Ward Komers, Ron Komers' son. GovernmentJobs.com is a website that communicates job positions. Mr. Komers' son is no longer affiliated with the company and has not been since December 2003. According to the County Purchasing Department and the Human Resources Department financial staff, there has not been a contract with that company and the Human Resources Department did not pay GovernmentJobs.com for any services it provided. Mr. Komers did not conceal his son's connection with GovernmentJobs.com from the County. In fact, it was such common knowledge that in 2002, and for a short time in 2003, the Riverside County Auditor-Controller reviewed the connection between GovernmentJobs.com and the County. Further, as far back as 2000,

the County Executive Office was also made aware of the services GovernmentJobs.com provided and that Ward Komers was connected with the company. There was an instance in which GovernmentJobs.com was paid \$16,700 by the Economic Development Agency to construct a database. This issue was reviewed by the Auditor-Controller's office in 2002 and it was concluded that it was within policy and procedure of the County. Further, the Auditor-Controller did not see the transaction as a conflict of interest. Finally, we found evidence of an apparent payment of \$390.00 to GovernmentJobs.com on 02-09-13 (sic). This payment was also reviewed by the Auditor-Controller in 2003. The Auditor-Controller concluded that that payment also was not in violation of County policy and procedure.

- Ms. Freeman also alleged that Mr. Komers used his position to cause the County to enter into a purchase contract with an office supply company which employed Mr. Komers' wife. The Director of the Purchasing and Fleet Services Department, however, explained that the company was given no preferential treatment and that the company simply participated in the ordinary County bidding process. Thus, there was no circumvention of the bidding process. We would note that the Director of the Purchasing and Fleet Services Department indicated that Mr. Komers does not place any more

pressure on him to obtain products and supplies for his Department than any other Department Head.

In light of the disclosures Mr. Komers made and the prior scrutiny of this issue, the allegations concerning Resumix and GovernmentJobs.com/Neogov.com are not sustained.

In addition, the allegations that Mr. Komers used his position to circumvent the competitive bidding process are also not sustained.

C. This County Official has used his position and influence to tamper with and to manipulate information provided to the Riverside County Grand Jury.¹

Summary:

- Ms. Freeman presented documents showing summary data concerning certain aspects of the operations of the Human Resources Department to the Civil Grand Jury.
- Mr. Komers acknowledges that he instructed a Human Resources Department employee to amend a column of data on one of those summaries to reflect working days rather than calendar days. However, the final summary describes the days shown as working days. Thus, the information was not deceptive. The summary data

¹ The term "manipulate" is actually a term that does not necessarily mean illegal conduct. (See, The American Heritage Dictionary of the English Language (1981) p. 794.) Nevertheless, for purposes of this report, we have interpreted the term as involving illegal conduct.

was reviewed line by line during the investigation.² From our analysis of the data, the information reported to the Grand Jury was accurately described. Thus, we conclude that there was no illegal manipulation of information provided to the Grand Jury. We would note that the Grand Jury has its own means available to protect its process and that the Grand Jury has not asked for additional information.

This allegation is not sustained.

D. This County Official has engaged in attempts to misuse and manipulate Human Resources financial accounts and funding.

Summary:

- Ms. Freeman expressed concern about the use of Temporary Assistance Program funds within the Human Resources Department. The Temporary Assistance Program is a component of the Human Resources Department. In Mr. Komers' role as the Human Resources Director, he would have substantial authority to oversee Department funding within his management discretion. (The Class Specification Bulletin for Assistant County Executive Officer, Human Resources states he "monitors revenue and expenditure transactions.") We would also note the financial staff for the Human Resources Department did not indicate any illegal activity.

² We attempted to obtain the reports from the Grand Jury office; however, the Grand Jury office would not provide them, referencing California law.

This allegation is not sustained.

E. This County Official has used his position and influence to discriminate against African Americans in the areas of hiring, promotional opportunities and disciplinary actions.

Summary:

- We note at the outset that the County is prohibited from considering race in hiring or promotion by both California and federal law. We were cognizant of that fact as we reviewed the data and conducted our interviews.
- There are 266 employees within the Human Resources Department. The ethnic breakdown of the Human Resources Department is set forth in the following chart:

Gender	Ethnic Group	Total Count	Percent
F	American Indian/Alaskan Native	1	0.38%
M	American Indian/Alaskan Native	1	0.38%
F	Asian/Pacific Islander	9	3.38%
M	Asian/Pacific Islander	2	0.75%
F	Black	44	16.54%
M	Black	4	1.50%
F	Hispanic	42	15.79%

M	Hispanic	12	4.51%
	Subtotal Minorities	115	43.23%
Gender	Ethnic Group	Total Count	Percent
F	White	112	42.11%
M	White	39	14.66%
	Subtotal Whites:	151	56.77%
	Total Employees:	266	100.00%

- There are five “senior” management positions: The Human Resources Director, Assistant Human Resources Director, Director of Leadership and Organization Development, Deputy Human Resources Director, and Employee Relations Manager. The position of Deputy Human Resources Director is currently vacant. One out of those five senior managers is African American. It should be noted that Mr. Komers promoted that African American Manager to her current management position.³
- Part of the Human Resources Department is arranged by teams: Engineering Team, Health Services Team, Justice Team, Administrative Team, Mental Health and Districts, Riverside County Regional Medical Center, Sheriff Team, and Social Services Team.

³ It also should be noted that in Mr. Komers’ former position as Human Resources Director for the County of Ventura, he promoted an African American female to the position of Assistant Director of Human Resources.

Two of the Human Resources Service Managers for those teams are Hispanic.⁴

- There is also a section called the Specialty Unit. Those Specialty Units are Accounting, Career Development, Compensation Unit, Employee Relations, and Network Support. One of the Managers of one of the Specialty Units, excluding the Employee Relations Manager, is African American, and one is Hispanic.
- There is also a Unit called the Enterprise Unit. The Enterprise Unit consists of Risk Management, Safety Division and Workers' Compensation Division. One of those Directors is Hispanic.
- There is also a set of Divisions entitled Employee Health, Exclusive Provider Option Exclusive Care, Employee Assistance Program, Benefit Service Center, and Ride Share Program. None of the supervisors of those programs are African American.
- There is also a Division called Employee Services. That Division includes the Employee Services Unit, the Outstationed Records Unit, the Outstationed Records Unit (RCRMC), the Jobmatch Unit, and ADA Unit. One of the supervisors of those five Service Units is African American. There is also a section called the Temporary Assistance Pool. The Human Resources Service Manager for that program is African American.

⁴ We note that Ms. Freeman's complaints focused on concerns about African Americans. However, Ms. Freeman raised a concern about favoritism toward Caucasians. In that context, we believe it is useful to note the presence of another ethnic minority group.

- This data as well as other data we reviewed does not show a pattern of illegal discrimination.
- Further, from our interviews, we have found that African Americans have been promoted into positions of increasing responsibility, or hired into, more Senior Human Resource Analyst or Supervisor positions.
- In addition, from our numerous interviews, the majority of interviewees did not believe that there is discrimination against African Americans in hiring and promotional opportunities and disciplinary actions. A small percentage of the interviewees did believe that there was a "glass ceiling" for African Americans within the promotional process. However, those employees did not appear to have full knowledge of the qualifications of persons who did receive promotions. On the issue of discipline, we would note that a small percentage of the interviewees did indicate a concern about whether discipline was imposed equally among people of various races. However, from our review of the discipline files and from numerous interviews, we have not disclosed a pattern of discriminatory disciplinary action against African Americans.
- We also should note that the County merit system of hiring and promotion gives the Human Resources Director substantial discretion in determining individuals who should be hired or promoted. It was noted by some interviewees that sometimes promotions are made

without a formal posting or prior notice. Under the County's merit system, this does not appear to be illegal, although several interviewees expressed concern about the "fairness" of the system. Ms. Freeman asserts that the discretion granted to the Human Resources Director and the senior managers forms an inequitable system for African Americans. We have not found substantial evidence to support that conclusion. As noted above, there is African American representation in the management/supervisor ranks and, again, qualified African Americans have been promoted, or hired, into more senior positions. Further, the Human Resources Department has created a system to assist Department employees to advance their education. That system was reviewed and African Americans have participated, and currently are participating, in that system. Ms. Freeman also contends that the manner in which discipline is being pursued against an African American employee in a specific instance is additional proof of discrimination. We have not found evidence to support that assertion.

This allegation is not sustained.

F. This County Official has either condoned or personally used racially charged statements in the Human Resources Department, such as “Lynching Party,” “Why are all these black applicants here?” and “Black women speak too loudly and need to lower their voices.”

Summary:

- Mr. Komers did not condone the use of the term “Lynching Party.”
- At one time, Mr. Komers did inquire of a manager if there was any effort by the manager to hire only one minority group in response to a concern raised by another employee. We could not confirm that the alleged statement “Why are all these black applicants here?” was ever made by Mr. Komers. However, if words to that effect were used, when put in the above context, they were not racially charged.
- The assertion that the Human Resources Director made the statement “Black women speak too loudly and need to lower their voices” could not be substantiated by any person other than Ms. Freeman.⁵ Mr. Komers has acknowledged that he has asked more than one Manager to lower their voice in the performance of their duties. Our investigation could not substantiate a generalized comment that would be considered an illegal racially charged statement.
- Ms. Freeman also later alleged that Mr. Komers stated that Ms. Freeman’s family was “not the norm” for African Americans in that

⁵ One interviewee did state that Ms. Freeman told the interviewee that Mr. Komers had made the statement.

“[they] had done well in their careers and had a stable home life.” Mr. Komers does not recall making such a statement, but does recall complimenting Ms. Freeman about her family, particularly her children. There was no one who could substantiate Ms. Freeman’s allegation. We can not conclude that whatever words were actually used constituted illegal racially charged comments.

- Ms. Freeman also asserted that Mr. Komers made improper references to Ms. Freeman’s weight, stating that “Black people have the highest incident of life threatening diseases due to being overweight.” Mr. Komers stated that in a private conversation in his office with Ms. Freeman, they did talk about going to the gym, or a similar subject, and that he did recall talking to Ms. Freeman about an article in the Wall Street Journal about the dangers of obesity in the African American community. We reviewed the Wall Street Journal database and did find such an article. In that context, the comment is not an illegal racially charged statement

This allegation is not sustained.

G. This County Official has shown favoritism to Caucasian employees in the area of promotion, while passing over qualified African American candidates. For example, one Caucasian employee has been continuously promoted from secretary to manager in exchange for personal favors such as house sitting for this County Official.

Summary:

- As noted above, Riverside County uses a merit system which is described in Ordinance 440. Section 6 of that Ordinance states:

“a. The personnel administration under this ordinance is designated a merit system. Appointments and promotions shall be made on the basis of merit and ability. Each officer shall appoint all necessary employees allowed for his or her department by this ordinance only from among persons certified to him by the Human Resources Director as eligible for the respective positions. The Human Resources Director shall determine the methods of evaluating the qualifications of applicants. The methods shall be practical in nature and may involve any combination of written test, oral test, performance test, rating of education, training and experience and shall take into consideration a system of veterans preference as may be adopted by the Board of Supervisors, by resolution. The veterans preference program shall be administered by the Human Resources Director.”

Our investigation has not shown anyone to be promoted who was not qualified for the position under the qualification requirements set forth in job specification bulletins. Some interviewees did express the view that there is some “favoritism” in that there is a perception that only certain employees are mentored. However, the general consensus of the interviewees was that the “favoritism” was not based on race. Further,

from our review of a recent promotion process, we did not find illegal favoritism.

This allegation is not sustained.

H. This County Official has targeted African American employees for discipline, including termination, while ignoring and/or downplaying the same or similar offenses of Caucasian employees.

Summary:

- This was addressed in Allegation E. We would note that we reviewed a substantial number of personnel and discipline files, as well as conducted numerous interviews. Ms. Freeman explained several specific instances in which she felt African Americans were subjected to discipline and other situations in which non-African Americans were not disciplined for similar behavior. We have examined records on this subject; however, there are significant obstacles in performing this analysis. For example, looking at a particular situation in hindsight, especially situations in which no discipline was issued (so there is no written summary of the facts), presents us with trying to essentially examine judgments about unique circumstances months or years after the fact. Discipline is a subject that requires a significant amount of judgment about many issues. From our review of the written data, and from the interviews, we cannot conclude that African Americans were illegally targeted for discipline.

This allegation is not sustained.

- I. **This County Official has ignored evidence or created facts in order to target and discipline African American employees, stating that he is not concerned about the multi-million dollar judgments or the hundreds of thousands of taxpayer dollars ultimately required to settle these cases when reversed on appeal.**

Summary:

- We did not find facts to support the allegation that Mr. Komers has ignored evidence or created facts in order to target African Americans. Our investigation did disclose that at times Mr. Komers has stated words to the effect that he is not afraid of having an action challenged. However, those comments were made in the context of making observations that he believed the County's position was defensible or justified.

This allegation is not sustained.

J. This County Official has manipulated and slanted information given to the County Board of Supervisors regarding various labor issues, to further his personal agenda rather than act in the best interests of the County of Riverside.

Summary:

- The specific allegation raised by Ms. Freeman was that Mr. Komers did not provide sufficient information to the County Board of Supervisors regarding the status of labor negotiations. Mr. Komers, in his role as Director of Human Resources, has the responsibility of updating the Board of Supervisors regarding labor negotiations. (Class Specification Bulletin for Assistant County Executive Officer, Human Resources states he “serves as the County Chief negotiator.”) At one point, one of the employee associations apparently did not believe that their positions or offers were being accurately portrayed to the Board of Supervisors and, therefore, began a process of contacting the Board of Supervisors by direct e-mail. We do not find that the Human Resources Director, by exercising judgment in deciding what summary information to relay to the County Board of Supervisors regarding labor negotiations, especially as described by Ms. Freeman, committed an illegal act.

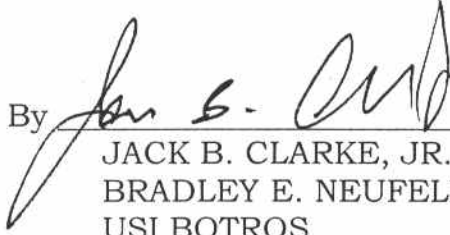
This allegation is not sustained.

4. CONCLUSION

We cannot substantiate the allegations which Ms. Freeman made to the Board of Supervisors. We should note that, during the investigation Ms. Freeman did raise additional complaints which do not come within the ambit of our investigation. More specifically, Ms. Freeman sought to have us investigate issues concerning an ongoing, and as yet unresolved, disciplinary matter concerning a Human Resources Department employee. She also complained about comments which would not be considered racist, such as a comment about a person's or persons' weight. Those complaints have been forwarded to the County Executive Office.

Respectfully submitted,

BEST BEST & KRIEGER LLP

By 

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