



# Memorandum

**TO:** John Hutchings

**FROM:** Donnie LaPlante, Erika Lautenbach, and Bennett Knox

**DATE:** February 20, 2024

**RE:** Investigation Closeout

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As you know, the County received allegations that you violated County policy AZ142300Z (*Prohibiting Harassment*), or AD142100Z (*Establishing Standards of Conduct*). Those allegations are best represented by the investigative report of Daphne Schneider, hereto attached as Exhibit 1. That investigation was never finalized, as you resigned your position with the County in October of 2022. Absent a response to the allegations from you, the County declined to issue any findings in regard to the allegations. However, the County received multiple public records requests in 2023 targeted specifically at viewing materials related to the allegations. You were given third-party notice under the *Public Records Act*, and ultimately the records were released for public view. In conjunction with that process, the County invited you to attend a name clearing hearing and take advantage of the opportunity to be heard in regard to the allegations. You took advantage of that process, and we heard evidence presented by you on January 31, 2024.

Your comments to us on January 31, 2024 were impactful, and we cannot thank you enough for your participation. At that hearing, you told us in detail about many issues you were contending with in your personal life throughout all times relevant to the allegations. The information you provided about your personal life was very meaningful, and it was quite emotional. You also explained that the events in your personal life demanded your resignation in October of 2022, and further impacted your ability to confront the allegations made against you at that time. We did consider all of the evidence presented by you on January 31, 2024, and we found it to be mitigating in some regard. If the County would have been aware of those circumstances in your personal life, when they were occurring, the County would have provided you typical employee support in the form of professional employee assistance services and options for a leave of absence. In any event, the County has only now become fully aware of these historical issues.

While your comments to us on January 31, 2024 were mitigating, they were not entirely mitigating, and in fact you did admit to some behaviors detailed in the allegations. Without being exhaustive in this letter, you openly admitted unburdening some of the aforementioned personal life issues on your administrative assistant, and moreover you acknowledged that this behavior was inappropriate. Further, you acknowledged that you did physically touch another assistant in the workplace. However, you characterized that contact as an innocent greeting of a coworker.

Taking all the evidence presented to us in consideration, we conclude that you did interact with your subordinate coworkers in an unprofessional manner, which is to some degree in violation of AD142100Z (*Establishing Standards of Conduct*). However, based on the information we have available to us, we do not have sufficient evidence to find that you engaged in behavior that violated AZ142300Z (*Prohibiting Harassment*).

We also feel compelled to discuss the issue of notice, and a well-intentioned but nonetheless failure to address these issues in accordance with our policies. To further explain, we begin by addressing a meeting that occurred between yourself, Laura Todd (a third-party consultant), [REDACTED], and [REDACTED] in October of 2021. We find fault in this meeting for two reasons. While the meeting was actually arranged by you and was focused on another topic, Ms. [REDACTED] used the opportunity of having Ms. Todd, who also performs mediations, present to notify you of conduct that she perceived to be inappropriate, and another purpose was to empower you to correct the behavior at issue. While these may have been valid objectives at the time, neither objective could have been met without your superiors in attendance. Only the persons superior to you in the County chain of command have the required authority to correct your behavior. Second, this meeting may have begun to describe behaviors that others perceived as a violation of County policies, but no one discussed the actual policies with you at that meeting. When any employee is arguably in violation of a County policy, effective notice demands an actual statement of the policies at issue. Notice of the policies at issue is required, so that the persons affected can offer a meaningful response to the complaint levied against them.

After the conclusion of the meeting in October of 2021, Ms. [REDACTED] continued to allege that your behavior was in violation of policy. However, Ms. [REDACTED] assertions again were not routed properly through the chain of command, and therefore failed to provide effective notice. For reasons not known to us, Ms. [REDACTED] chose to re-assert her complaints to your subordinate in the office. Further, Ms. [REDACTED] demanded that your subordinate keep her complaints in confidence. Your subordinate chose to honor this request, and Ms. [REDACTED] complaints were kept in confidence until the end of September 2022. This failure to report was in error, and

contrary to the County's policy, AZ111051Z (*Reporting Improper Government Action & Protecting Employees Against Retaliation*). In light of those circumstances, we concluded that the County failed to respond appropriately until October of 2022, when the complaints finally reached your superiors and Ms. Schneider was retained to investigate the complaint.

While the process has moved slowly since October of 2022, the County has since complied with all applicable laws and policies. We now consider the complaints levied against you to be resolved by the findings made here. Thank you for your cooperation as the County investigated this matter. Please note the County prohibits retaliation of any kind against those making a complaint or participating in the investigation. If you have any questions regarding the above, please feel free to contact us.



**CONFIDENTIAL-ATTORNEY WORK PRODUCT**  
**Report of Investigation Interviews**  
**Complaints against Jon Hutchings**  
**Whatcom County Public Works Department**

In October, 2022, I conducted interviews of two complainants and a witness (Appendix) concerning the behavior of Whatcom County Public Works Department Director Jon Hutchings. I also reviewed multiple documents.

NOTE: Since I am not an attorney, nothing in this report is intended, or should be taken, to constitute legal advice. All comments reflect information I was provided during interviews and the written documents given to me.

*Statements in quotation marks are direct quotations from those interviewed, either from the interviews or from documents they provided.*

**I. Background and Overview**

Jon Hutchings has been the Director of the Whatcom County Public Works Department (“Department”) since 2015, prior to which he was the Assistant Director from 2007 - 2012. [REDACTED] has been his Administrative Specialist throughout his time as Director, and they have known each other for approximately 15 years. She said she liked him, and felt that he was a good leader and mentor for most of that time.

However, [REDACTED] reported that in 2020, Mr. Hutchings began speaking with her about his marital troubles, and began texting her after hours with non-work and often very personal messages. She said that prior to that time, his texts had either been about work, or about neutral subjects (such as the Seahawks). She stated that the cell phone he used in his communication with her is the one issued to him by Whatcom County. She also explained that she uses her personal phone for work.

[REDACTED] said that Mr. Hutchings’ text messages and other comments to her became ever more objectionable throughout 2020 and 2021, and that during this time he would

daily discuss issues in his personal life and with his marriage with her. She said that the inappropriate nature of his communication with her grew gradually, and that he increasingly “crossed boundaries” in 2021. She noted that as time went on, she was so concerned about Mr. Hutchings’ communication with her that she eventually spoke to Assistant Public Works Director [REDACTED] about the situation.

This led [REDACTED], in Fall of 2021, to speak with [REDACTED] in Human Resources about the possibility of asking [REDACTED], who regularly worked with the Department on team and other issues, to assist. [REDACTED] then met with Mr. Hutchings, [REDACTED] and [REDACTED]. [REDACTED] and [REDACTED] reported to me that during this meeting in October, 2021, [REDACTED] was very clear in telling Mr. Hutchings to stop communicating with her after hours, and to stop communicating with her about his personal life. They said he appeared to hear what he was being told, and appeared to confirm that he would comply with [REDACTED]. [REDACTED] admonitions.

[REDACTED] reported that after this meeting, Mr. Hutchings retaliated against her by shutting her out of communication and meetings, and responding to her written communications very tersely where previously she had been part of the “circle of trust” with him and [REDACTED]. Additionally, [REDACTED] said that as 2022 began, Mr. Hutchings again started to text her after hours about personal matters and to make personal comments to her. She continued to let [REDACTED] know this was happening, but insisted nothing more be reported to Human Resources. At that time, [REDACTED] honored that request.

In Summer, 2022, the Public Works Superintendent position became vacant, and Mr. Hutchings began to spend two days each week at the Operations Shop. When Administrative Assistant [REDACTED], who works at the Shop, reported an inappropriate interaction with Mr. Hutchings to [REDACTED], the latter became concerned that Mr. Hutchings might be beginning to treat another employee as he had been treating her. [REDACTED] also told Arden Haines, Administrative Assistant to the County Executive, about her experience with Mr. Hutchings, and the latter told her to report it to [REDACTED] and to Human Resources. She did so.

On October 24, 2022, I was contracted with Beth Kennar of Summit Law, on behalf of Whatcom County, to speak with the above-named women and to produce this report reflecting their experiences with Mr. Hutchings.

## **II. Scope**

The scope of this work under the direction of Ms. Kennar in the potential anticipation of litigation, was to gather information from [REDACTED], [REDACTED] and [REDACTED] concerning Mr. Hutchings' behavior,

## **III. Process**

In interviewing each person, I began with a short introduction from me and a description of the interview process, including that:

- I am taking notes and they should assume that whatever they say could be in a report I would be writing and submitting to the County's attorney,
- If I state or re-state something I understood them to say, and I get it wrong, they should correct me,
- I am not electronically recording the interview, and asking the interviewee to confirm that they are not recording it, and
- They are expected to be honest, and to let me know if they are making assumptions or estimating rather than stating facts as they recall them.

Any questions concerning other matters with regard to this situation were referred to Donnie LaPlante in Human Resources.

I also provided interviewees with the opportunity to ask me any questions they had before the interview began.

At the close of each conversation, I asked interviewees to provide any documents I had requested, and to contact me if they had additional information for me. I told them I might have additional questions for them, and confirmed that I might contact them again if those arose. I asked them not to discuss the content of our conversation with anyone until the investigation process was complete. I also told interviewees that, though I did not expect it, any retaliation by or against them, or against anyone else in connection with this investigation, was unacceptable and could be illegal under State and/or Federal law. I added that if they experienced or witnessed any retaliation, they should let me know immediately.

In addition to conducting interviews as described above, I also reviewed documents provided to me by Ms. Kennar.

#### IV. Complainant and Witness Reports

The following summaries describe some of the most egregious examples of Mr. Hutchings' behavior provided to me by interviewees.

##### A. [REDACTED]

[REDACTED] reflected that many of Mr. Hutchings behaviors, taken individually, might not be problematic for her. However, she said that the continuous and cumulative nature of his behavior over more than two years had become intolerable, had resulted in an extremely stressful work environment, and had formed the content of many of the discussions she had had with her therapist over that time.

[REDACTED] provided numerous examples of inappropriate behavior on Mr. Hutchings' part:

*Text Messages:* She said she saved all of the text messages that Mr. Hutchings sent her over more than two years, mostly outside of work hours and unrelated to professional matters. She submitted approximately 120 (of the more than 200 he had sent) to Ms. Acland in Human Resources when she came forward with this complaint. As noted above, [REDACTED] said all text messages were sent from Mr. Hutchings' County-owned cell phone. Examples of some of the more egregious messages and photos include many comments about his state of mind/emotions, his feelings about [REDACTED], and related comments. For example:

- October 19, 2020: "I am getting drunk. I might not be at work on time." This was accompanied by a photograph of his left hand without a wedding ring.
- No date: "I like feeling like I can take care of you..."
- No date: "Caring for a person makes me feel good, and you happen to need caring for every now and then..."
- November 5, no year specified: "So you miss me?..." "Don't hurt my

feelings...”

- No date: “I probably will need a little outside attention and unfortunately for you, you’re it right now...”
- No date: “Sorry for directing my shittiness anywhere close to you...”
- May 18, 2021: “Wake up girl...it personal, selfish and important!” (*sic*)
- June 23, no year specified: “I need a bitch session. Can I FT you?”
- No date: “You are killing me with all this hard ass [REDACTED] line...good thing I know the real you -- a big heart softie...”
- July 23, 2021: “You know, that is exactly why I text you all the time. You listen to my whining and don’t just tell me to get over it (except when I really need to just get over it). All that matters to me is that you listen and pet my hair the right way every now and then...Hopefully, I do the same to your purple head...”
- July 24, 2021: “No rise [moonrise] is at 10:01. Can you stay up that late? I have two beers for tonight. Cheese, crackers and an orange for breakfast. Be home in time for coffee.” [Accompanied by pictures of a couch looking out on natural scenery.]
- August 11, 2021: “Just had my counseling session. Next time we get all psychological you must ask me what I learned about my role in this disappointing divorce and what I learned about myself in going through it. You’re the only one I can think of to say it to who will know right away if I am being truthful from my gut...”

*Nicknames:* Mr. Hutchings called [REDACTED] by various nicknames, including “sweetie,” “sunshine,” “baby,” and “Momma.”

*Hugs:* Mr. Hutchings regularly gave [REDACTED] hugs, including coming up behind her when she was seated at her desk, putting his arm around her and his face close to hers, even after she had told him she did not like hugs and put a sign up in her office indicating “no hugs.”

*Walk invitations:* Mr. Hutchings invited [REDACTED] to go on walks on the “berm” near her home with him on several occasions. Sometimes he added, “This is not a date.”



██████████ was very clear with me that she did not want a personal relationship with Mr. Hutchings, she did not want him to take care of her, did not want to take care of him, and did not want to be his counselor or therapist.

██████████ said she felt she had to reply to his many text messages in some way because he was her “boss.” She noted that on the few occasions when she objected to the personal interactions and communications Mr. Hutchings had with her, he retaliated against her by “ghosting” her and otherwise leaving her out of important work communications and meetings, and completely altering their prior professional relationship.

**B. ██████████**

██████████ described several examples of problematic behavior from Mr. Hutchings, beginning with one incident that took place several years ago. The others happened between July and October, 2022, when the Public Works Superintendent position (which reports to Mr. Hutchings) was vacant. Mr. Hutchings spent two days each week at the Operations Shop where she worked during that time. ██████████ related the following:

- In 2016 or 2017, she and Mr. Hutchings were sitting next to one another at a County leadership training. She said that they were “friendly” and “professional” in their interactions with one another until he placed his hand on her thigh. She said she “gave him a look” and he removed his hand. She did not report the incident at the time.
- She reported two incidents during Mr. Hutchings’ time at the Shop in 2022:
  - In approximately late August, she and Mr. Hutchings were cleaning out a vacant office. She said he touched her forehead with a thermometer that had been acquired during the COVID pandemic, and commented, “You’re a hottie...” She said she responded that the thermometer showed her temperature at 97, so his statement was incorrect.
  - In early October, she was leaving in her vehicle when he approached. She rolled down her window to speak with him, and put her forearm on the window frame. At the conclusion of their conversation, he ran his hand up and down her arm twice, between her shoulder and wrist, telling her to “have a great evening.”
- ██████████ also said that Mr. Hutchings has given her hugs without asking,

sometimes approaching from the front for a full, two arm hug. She said that when he has done that, she has turned sideways. She also recalled having seen him hug other female employees.

██████████ said that, in the aggregate, this behavior on Mr. Hutchings' part "feels flirty to me," and represents "a pattern of actions that feel outside the bounds of appropriateness."

C. ██████████

██████████ said that both ██████████ and ██████████ have described the above behavior to her. In addition, she has seen Mr. Hutchings give female employees both frontal and side hugs. She said he has tried to hug her twice, but she has turned away from him and he has not attempted to hug her in some time.

██████████ also described two incidents of inappropriate comments directed at her by Mr. Hutchings:

- During a meeting in late Summer, 2022, he made a remark about pulling on her "pigtails."
- In mid-October, 2022, she remarked that she would be taking some training related to her maritime work. She said she would be doing some diving, and he commented that he would need to see a photo of her underwater, in her swimsuit.

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This concludes my report on this matter.

Submitted this 30th day of October, 2022  
Daphne R. Schneider  
Management and Organization Development Consultant  
Licensed Private Investigator

**APPENDIX**  
List of Interviewees

The following individuals were interviewed in person on October 25, 2022. All are current Whatcom County Public Works Department (“Department”) employees.

██████████ has been the Department Administrative Specialist since 2007, when she joined the Department.

██████████ has been the Assistant Director of the Public Works Department since 2020. She has been with the Department since 2019.

██████████ has been an Administrative Assistant in the Department since May, 2021. She has been with Whatcom County since 2015.