

ATTORNEY GENERAL JEFF LANDRY,
IN HIS OFFICIAL CAPACITY AS THE
CUSTODIAN OF RECORDS FOR THE
LOUISIANA DEPARTMENT OF
JUSTICE

DOCKET NO. DIV.

19TH JUDICIAL DISTRICT COURT

VERSUS

EAST BATON ROUGE PARISH

ANDREA GALLO

STATE OF LOUISIANA

**PETITION FOR DECLARATORY JUDGMENT AND
MOTION TO SEAL THE RECORD OF THESE PROCEEDINGS**

NOW INTO COURT, through the undersigned counsel, comes Attorney General Jeff Landry, in his official capacity as custodian of records for the Louisiana Department of Justice, who respectfully represents:

1.

The Attorney General is authorized by, La. Code Civ. Pro. Art 1871, *et. seq.*, and La. R.S. 44:35(D)(2) to petition this Court for declaratory judgment against a person, based on the person's request to inspect, copy, or reproduce a record or to receive or obtain a copy or reproduction of a public record.

2.

Made defendant is Andrea Gallo, a person of full age of majority, domiciled in East Baton Rouge Parish, State of Louisiana.

3.

The Attorney General is domiciled in East Baton Rouge Parish, Louisiana, venue is therefore proper pursuant to La. R.S. 44:35(A).

4.

On December 14, 2020, Defendant electronically submitted a request for public records to the Louisiana Department of Justice ("LADOJ"), seeking any and all complaints of sexual harassment related to a specific LADOJ employee (hereinafter the "Request").¹

¹The request also sought records showing how those complaints were handled, including any records of investigations, as well as any disciplinary memos, orders to seek counseling, suspensions, resignations or terminations, and records of any settlements paid in connection with any such complaints. The request, as related to these other documents, has been resolved. Exhibits "A" and "B"

5.

In compliance with La. R.S. 44:35(A), the Attorney General acknowledged the Request by providing the Defendant with written notice, on December 14, 2020, that the Request had been assigned a tracking number, and LADOJ was in the process of determining “what, if any records are subject to the request and, if so, whether any privileges or exemptions apply.” The Defendant was also informed that the process could take some time, and that she would be notified within 30 days of whether responsive records had been located and an approximate date of when the records would be ready for review.²

6.

Later that same day, the Defendant was informed by the LADOJ Public Records Coordinator that only one complaint had been identified in conjunction with the Request and was currently under investigation (hereinafter, the “Complaint”). The Defendant was also informed, due to the open investigation, that the records were deemed confidential and could not be released until the investigation had been closed. At such time, the records would be made available for review.³

7.

On December 29, 2020, the Defendant contacted the Public Records Coordinator, via email, requesting a specific citation to the exemptions supporting the delay in producing responsive records, due to the ongoing investigation.⁴ By email dated January 4, 2021, the Defendant was informed, due to the nature of the Complaint, the document was temporarily subject to exemption pursuant to La. R.S. 44:33(B)(1) (as a public record being at that time in active use) and La. Const. art. I, Section 5 (Right to Privacy). The Defendant was also informed that in compliance with Louisiana Department of State Civil Service guidance, regarding records of an internal investigation in claims of sexual harassment, the Complaint would be withheld until such time as the investigation had been completed, “as to not impede the process.”

8.

With specific regard to the Complaint, the Defendant was again notified, by letter dated January 9, 2021, as follows:⁵

² Exhibit “A”

³ Exhibit “A”

⁴ Exhibit “B”

⁵ On January 6, 2021, and February 2, 2021, the Public Records Coordinator was contacted, via email, by counsel for Capital City Press, LLC, d/b/a The Advocate and The Times Picayune (hereinafter “Capital City”), questioning the exemptions that had been previously provided to the Defendant. The Public Records Coordinator responded to

It is still our office's opinion that the complaint should be withheld under the parties' right to privacy until the investigation is complete. Determining whether a public record can be withheld due to the right to privacy involves a balancing act that weighs the individual's right to privacy against the public's right to access that information. The balancing of these competing interest is done on a case-by-case basis given the particular facts and circumstances of each case that impact those interest. *Capital City Press, L.L.C. v. Louisiana State Univ. Sys. Bd. Of Sup'rs*, 2013-2001 (La. App. 1 Cir. 12/30/14), 168 So. 3d 727, writ denied, 2015-0209 (La. 4/17/15), 168 So. 3d 401.

9.

On January 22, 2021, the Defendant was notified that public records, responsive to the Request, would be made available early the following week. The requested records, with the exception of the Complaint, were made available, thereafter, on January 28, 2021.⁶

10.

Upon conclusion of the administrative investigation, after careful consideration of the relevant facts and law, and pursuant to the advice of legal counsel, the Defendant was notified on January 28, 2021, that the Complaint would not be produced in response to the Request. The Complaint was determined to contain private information that is constitutionally protected from disclosure, even upon conclusion of an internal investigation. Personal information to which society at large is prepared to recognize an expectation of privacy, as set forth in the Louisiana Constitution, within Article I Declaration of Rights, section 5 "Right to Privacy."⁷

11.

Additionally, public disclosure of the complaint would be in direct contravention of LADOJ policy, public policy, and statutory mandates requiring confidentiality surrounding employee complaints and grievances regarding, including but not limited to, sexual harassment, employment discrimination, violations of state and federal law, and violations of LADOJ policies and procedures.⁸ Furthermore, in the instant matter, LADOJ has determined that the redaction, would be insufficient to protect the privacy interest contained in the Complaint and/or would result in a meaningless document.

Capital City, on the January 9, 2021. As Capital City identified Ms. Gallo as a reporter for The Advocate, the Defendant was copied on this correspondence. Exhibit "C" *in globo*.

⁶ Exhibit "D"

⁷ Exhibit "A." Louisiana Act 270 of 2018, enacted, in part, as La. R.S. 42:345(A); recognizing that the public policy of the State of Louisiana is to prevent sexual harassment, the relevant guidelines provide that all efforts should be made to ensure confidentiality of a complaint, as confidentiality of complaints are essential to maintaining the integrity of the process and ensuring that harassment is reported.

⁸La. R.S. 42:342(B). La. R.S. 42:345(A). LADOJ PP001, PP029, and LADOJ PP029, attached hereto as Exhibit "E," *in globo*. Louisiana Department of State Civil Service Rule 3.1(m). Louisiana Department of State Civil Service, Comprehensive Public Training Program (CPTP) on sexual harassment, as mandated by La. R.S. 42:342.

12.

Considering the competing interest at state, and the need to review and balance these interest on a case-by-case basis, the Attorney General is before this Court seeks declaratory judgement.

13.

“[G]iven that disclosure [of the Complaint] would cause embarrassment or humiliation to an employee, could be detrimental to the reputation, and/or evaluation, and/or future employment of the complainant, or the supervisors, witnesses or other persons who participate in the grievance process, the requested disclosure would be an unwarranted invasion of the employee’s individual right to privacy, and such interest is not outweighed by any public interest.” *Broderick v. State Dep’t of Env’tl, Quality*, 2000-0156 (La. 1 Cir. 5/12/00) 761 So2d 713.

14.

Agencies are limited in their ability to investigate and eliminate sexual harassment or resolve grievances if employees are reluctant to file reports for fear that grievances and complaints will be subject to public disclosure.

15.

Complainants will also be reluctant to identify significant details for fear that these private, personal details would be open to public spectacle on the front page of a newspaper or headlines on the evening news. Witnesses will go unidentified as employees will be unwilling to expose friends and coworkers to the same ridicule and possible retaliation. When matters go unreported, the offensive behavior can be expected to continue along with its consequent harms.

16.

Under the instant circumstances, there is a significant, subjective reasonable expectation of privacy in the Complaint. It is reasonable to expect that the personal details of a grievance will not become the subject of public discourse. There is simply no question that, as a general rule, public policy would be undermined if there were no expectation of privacy in the grievance/complaint process.

17.

Not only would there be a *chilling effect* on reporting, the number of competent, able-bodied public employees, as well as potential employees, will be significantly reduced if they are

aware that any complaint or grievance filed by them, or against them - without regard to the veracity of the claim, will be afforded zero confidentiality and made public. It is, therefore, in the best interest of the State that public employees feel safe to openly communicate and freely participating in the reporting process based upon the articulated public policy of the State of Louisiana and the employing agency's clearly outlined policy and stated confidentiality protections. *Gannett River States Pub. v. Hussey*, 557 So.2d 1154, 1159 (La. App. 3d Cir. 1990), writ denied, 561 So.2d 103 (La. 1990).

18.

Under Louisiana law, the constitutional right to privacy has been described as *the right to be let alone*, to be free from *unnecessary public scrutiny* or intrusion into one's private affairs, and is subject to the public's competing interest to be informed about legitimate public interest. *Capital City Press v. East Baton Rouge Parish Metropolitan Council*, 96-1979, p. 8 (La.7/1/97), 696 So.2d 562. These competing interests must, however, be balanced "on a case-by-case basis given the particular facts and circumstances of each case that impact those interests." *Broderick v. State Dep't of Env'tl, Quality*, 2000-0156 (La. 1 Cir. 5/12/00) 761 So2d 713.

19.

In *Broderick*, the Louisiana First Circuit affirmed the trial court's denial of a petition seeking disclosure of employee grievance files, finding that individual privacy interest outweigh the public interest in having "a chance to understand if a good faith effort is being made to resolve problems within these agencies." *Id.* "[I]f an individual didn't have anything to do other than go down to [a state agency] and read what's going on in there, a person could take that information and ... could cause those individuals all kind of embarrassment in the community, at their church or on the job. I just think that what we're talking about here isn't the type of material that would help your cause in this case, [the public's right to know]." *Id.*

20.

Fully cognizant of the public's constitutional *right to know* the information already in the public domain regarding this matter, disclosure of the Complaint would, nevertheless, constitute an unwarranted *invasion of privacy* prohibited by La. Const. art. I, Section 5. *Trahan v. Laviree*, 365 So.2d 294, 299 (La. App. 3d Cir. 1978). To determine otherwise would have a chilling

⁹ Notably, the Court distinguished *Broderick*, where the records at issue were employee-generated complaints/grievances, as factually different from an earlier holding in *Hilbun v. State ex rel. Div. of Admin.*, 98-1993 (La. App. 1 Cir. 11/5/99); 745 So.2d 1189, 1190, wherein the Court found that public employees had no reason to expect privacy regarding facts generated from interviews associated with the daily operation of a state agency.

effect on complaints and grievances. When complaints and grievances are made, the information therein can be based upon a combination of fact, hearsay, and unsubstantiated claims. Publication and/or disclosure of such detailed, personal accounts may embarrass or humiliate the complainant, accused, witnesses and anyone else involved among fellow employees, friends, family, and the public in general. *Id.*

21.

In order to protect the privacy interests at the heart of this Petition and to enable the parties to be as candid as possible with the Court, the record of these proceedings should be sealed and the parties and their representatives instructed, at the risk of contempt, to preserve complete confidentiality and to refrain from disclosing any information, documents, exhibits, pleadings, attachments, depositions, testimony and/or communications of any kind or nature in any way arising out of or connected with this litigation pending further orders of the Court.

22.

Moreover, in the interest of a prompt resolution for all parties concerned, the Attorney General asks that the Court expedite the proceedings and set a trial date no later than 30 days from the filing of the Petition.

PRAYER FOR RELIEF

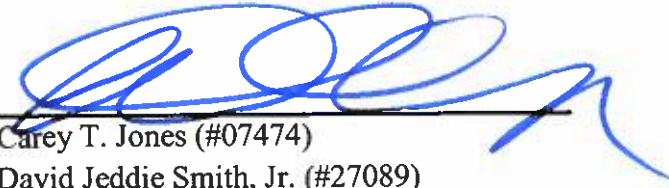
WHEREFORE, Plaintiff, Attorney General Jeff Landry, in his official capacity as custodian of records for the Louisiana Department of Justice, respectfully request that this Honorable Court:

1. Issue an order and judgment, pursuant to La. C.C.P. art 1871, *et. seq.*, declaring that the Complaint, an employee grievance record, be and is exempt from disclosure under the Louisiana Public Records Law, as provided in La. R.S. 44:4.1.
2. Issue an order and judgment, pursuant to La. C.C.P. art 1871, *et. seq.*, declaring that by withholding production of the Complaint, the Plaintiff has in no manner behaved in an arbitrary or capricious manner.
3. Issue an order sealing the record of these proceedings and instructing the parties and their representatives, at the risk of contempt, to preserve complete confidentiality of these proceeding and to refrain from disclosing any information, documents, exhibits, pleadings, attachments, depositions, testimony and/or communications of any kind or nature in any way arising out of or connected with this litigation pending further orders of the Court.
4. Give preference to, pursuant to La. R.S. 44:35(C), and expedite these proceedings, setting a trial date no later than 30 days from the filing of the Petition.
5. Cast the Defendant with all costs of these proceedings.
6. Grant the Plaintiff any and all other relief the Court deems proper.

Respectfully submitted,

**JEFF LANDRY
ATTORNEY GENERAL**

BY:



Carey T. Jones (#07474)
David Jeddie Smith, Jr. (#27089)
Alicia Edmond Wheeler (#28803)
Assistant Attorneys General
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smithda@ag.louisiana.gov
WheelerA@ag.louisiana.gov

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing *Petition for Declaratory Judgment and Motion to Seal the Records of These Proceedings* has been served upon counsel for all represented parties to this proceeding by fax and/or electronic mail on this 5th day of February, 2021.



Alicia Edmond Wheeler

Please Serve:

Ms. Andrea Gallo



ATTORNEY GENERAL JEFF LANDRY,
IN HIS OFFICIAL CAPACITY AS THE
CUSTODIAN OF RECORDS FOR THE
LOUISIANA DEPARTMENT OF
JUSTICE

DOCKET NO. DIV.

19TH JUDICIAL DISTRICT COURT

EAST BATON ROUGE PARISH

VERSUS

STATE OF LOUISIANA

ANDREA GALLO

ORDER SETTING HEARING

CONSIDERING the foregoing *Petition For Declaratory Judgment and Motion to Seal the Record of These Proceedings* filed herein:

IT IS ORDERED that Defendant, Andrea Gallo, show cause on the ____ day of _____, 2021 at ____ o'clock ____ .m. why this Court should not:

1. Issue an order and judgment, pursuant to La. C.C.P. art 1871, *et. seq.*, declaring that the Complaint, an employee grievance record, be and is exempt from disclosure under the Louisiana Public Records Law, as provided in La. R.S. 44:4.1.
2. Issue an order and judgment, pursuant to La. C.C.P. art 1871, *et. seq.*, declaring that by withholding production of the Complaint, the Plaintiff has in no manner behaved in an arbitrary or capricious manner.
3. Issue an order sealing the record of these proceedings and instructing the parties and their representatives, at the risk of contempt, to preserve complete confidentiality of these proceeding and to refrain from disclosing any information, documents, exhibits, pleadings, attachments, depositions, testimony and/or communications of any kind or nature in any way arising out of or connected with this litigation pending further orders of the Court.
4. Give preference to, pursuant to La. R.S. 44:35(C), and expedite these proceedings, setting a trial date no later than 30 days from the filing of the Petition.
5. Cast the Defendant with all costs of these proceedings.
6. Grant the Plaintiff any and all other relief the Court deems proper.

READ AND SIGNED this ____ day of _____, 2021 at _____,
Louisiana.

JUDGE, 19TH JUDICIAL DISTRICT COURT

Please Provide Notice To:

Ms. Andrea Gallo
[REDACTED]

ATTORNEY GENERAL JEFF LANDRY,
IN HIS OFFICIAL CAPACITY AS THE
CUSTODIAN OF RECORDS FOR THE
LOUISIANA DEPARTMENT OF
JUSTICE

DOCKET NO. DIV.

19TH JUDICIAL DISTRICT COURT

EAST BATON ROUGE PARISH

VERSUS

STATE OF LOUISIANA

ANDREA GALLO

**MEMORANDUM IN SUPPORT OF PETITION FOR DECLARATORY JUDGMENT
AND MOTION TO SEAL THE RECORD OF THESE PROCEEDINGS**

NOW INTO COURT, through the undersigned counsel, comes Attorney General Jeff Landry, in his official capacity as custodian of records for the Louisiana Department of Justice, who and submits the following memorandum in support of his plea for declaratory judgment and to seal the record in this litigation.

The Attorney General is authorized by, La. Code Civ. Pro. Art 1871, *et. seq.*, and La. R.S. 44:35(D)(2) to petition this Court for declaratory judgment against a person, based on the person's request to inspect, copy, or reproduce a record or to receive or obtain a copy or reproduction of a public record.

Named as defendant is Andrea Gallo, a person of full age of majority, domiciled in East Baton Rouge Parish, State of Louisiana.

On December 14, 2020, Defendant electronically submitted a request for public records to the Louisiana Department of Justice ("LADOJ"), seeking any and all complaints of sexual harassment related to a specific LADOJ employee (hereinafter the "Request").¹

In compliance with La. R.S. 44:35(A), the Attorney General acknowledged the Request by providing the Defendant with written notice, on December 14, 2020, that the Request had been assigned a tracking number, and LADOJ was in the process of determining "what, if any records are subject to the request and, if so, whether any privileges or exemptions apply." The Defendant was also informed that the process could take some time, and that she would be

¹The request also sought records showing how those complaints were handled, including any records of investigations, as well as any disciplinary memos, orders to seek counseling, suspensions, resignations or terminations, and records of any settlements paid in connection with any such complaints. The request, as related to these other documents, has been resolved. See Exhibits "A" and "B"

notified within 30 days of whether responsive records had been located and an approximate date of when the records would be ready for review.²

Later that same day, the Defendant was informed by the LADOJ Public Records Coordinator that only one complaint had been identified in conjunction with the Request and was currently under investigation (hereinafter, the "Complaint"). The Defendant was also informed, due to the open investigation, that the records were deemed confidential and could not be released until the investigation had been closed. At such time, the records would be made available for review.³

On December 29, 2020, the Defendant contacted the Public Records Coordinator, via email, requesting a specific citation to the exemptions supporting the delay in producing responsive records, due to the ongoing investigation.⁴ By email dated January 4, 2021, the Defendant was informed, due to the nature of the Complaint, the document was temporarily subject to exemption pursuant to La. R.S. 44:33(B)(1) (as a public record being at that time in active use) and La. Const. art. I, Section 5 (Right to Privacy). The Defendant was also informed that in compliance with Louisiana Department of State Civil Service guidance, regarding records of an internal investigation in claims of sexual harassment, the Complaint would be withheld until such time as the investigation had been completed, "as to not impede the process."

With specific regard to the Complaint, the Defendant was again notified, by letter dated January 9, 2021, as follows:⁵

It is still our office's opinion that the complaint should be withheld under the parties' right to privacy until the investigation is complete. Determining whether a public record can be withheld due to the right to privacy involves a balancing act that weighs the individual's right to privacy against the public's right to access that information. The balancing of these competing interest is done on a case-by-case basis given the particular facts and circumstances of each case that impact those interest. *Capital City Press, L.L.C. v. Louisiana State Univ. Sys. Bd. Of Sup'rs*, 2013-2001 (La. App. 1 Cir. 12/30/14), 168 So. 3d 727, writ denied, 2015-0209 (La. 4/17/15), 168 So. 3d 401.

On January 22, 2021, the Defendant was notified that public records, responsive to the Request, would be made available early the following week. The requested records, with the exception of the Complaint, were made available, thereafter, on January 28, 2021.⁶ Upon

² Exhibit "A."

³ *Id.*

⁴ Exhibit "B."

⁵ On January 6, 2021, and February 2, 2021, the Public Records Coordinator was contacted, via email, by counsel for Capital City Press, LLC, d/b/a The Advocate and The Times Picayune (hereinafter "Capital City"), challenging the exemptions that had been previously provided to the Defendant. The Public Records Coordinator responded to Capital City, on the January 9, 2021. As Capital City identified Ms. Gallo as a reporter for The Advocate, the Defendant was copied on this correspondence. Exhibit "C," *in globo*.

⁶ Exhibit "D."

conclusion of the internal investigation, after careful consideration of the relevant facts and law, and pursuant to the advice of legal counsel, the Defendant was notified on January 28, 2021 that the Complaint would not be produced in response to the Request. The Complaint was determined to contain private information that is constitutionally protected from disclosure, even upon conclusion of an internal investigation. Personal information to which society at large is prepared to recognize an expectation of privacy, as set forth in the Louisiana Constitution, within Article I Declaration of Rights, section 5 “Right to Privacy.”⁷

Additionally, public disclosure of the complaint would be in direct contravention of LADOJ policy, public policy, and statutory mandates requiring confidentiality surrounding employee complaints and grievances regarding, including but not limited to, sexual harassment, employment discrimination, violations of state and federal law, and violations of LADOJ policies and procedures.⁸ Furthermore, in the instant matter, LADOJ has determined that the redaction, would be insufficient to protect the privacy interest contained in the Complaint and/or would result in a meaningless document.

Considering the competing interest at state, and the need to review and balance these interest on a case-by-case basis, the Attorney General is before this Court seeks declaratory judgement. “[G]iven that disclosure [of the Complaint] would cause embarrassment or humiliation to an employee, could be detrimental to the reputation, and/or evaluation, and/or future employment of the complainant, or the supervisors, witnesses or other persons who participate in the grievance process, the requested disclosure would be an unwarranted invasion of the employee’s individual right to privacy, and such interest is not outweighed by any public interest.” *Broderick v. State Dep’t of Env’tl, Quality*, 2000-0156 (La. 1 Cir. 5/12/00) 761 So2d 713.

Agencies are limited in their ability to investigate and eliminate sexual harassment or resolve grievances if employees are reluctant to file reports for fear that grievances and complaints will be subject to public disclosure. Complainants will also be reluctant to identify

⁷Exhibit “A.” Louisiana Act 270 of 2018, enacted, in part, as La. R.S. 42:345(A); recognizing that the public policy of the State of Louisiana is to prevent sexual harassment, the relevant guidelines provide that all efforts should be made to ensure confidentiality of a complaint, as confidentiality of complaints are essential to maintaining the integrity of the process and ensuring that harassment is reported.

⁸La. R.S. 42:342(B). La. R.S. 42:345(A). LADOJ PP001, PP029, and LADOJ PP029, attached hereto as Exhibit “E,” *in globo*. Louisiana Department of State Civil Service Rule 3.1(m). Louisiana Department of State Civil Service, Comprehensive Public Training Program (CPTP) on sexual harassment, as mandated by La. R.S. 42:342.

significant details for fear that these private, personal details would be open to public spectacle on the front page of a newspaper or headlines on the evening news. Witnesses will go unidentified as employees will be unwilling to expose friends and coworkers to the same ridicule and possible retaliation. When matters go unreported, the offensive behavior can be expected to continue along with its consequent harms.

Under the instant circumstances, there is a significant, subjective reasonable expectation of privacy in the Complaint. It is reasonable to expect that the personal details of a grievance will not become the subject of public discourse. There is simply no question that, as a general rule, public policy would be undermined if there were no expectation of privacy in the grievance/complaint process.

Not only would there be a *chilling effect* on reporting, the number of competent, able-bodied public employees, as well as potential employees, will be significantly reduced if they are aware that any complaint or grievance filed by them, or against them - without regard to the veracity of the claim, will be afforded zero confidentiality and made public. It is, therefore, in the best interest of the State that public employees feel safe to openly communicate and freely participating in the reporting process based upon the articulated public policy of the State of Louisiana and the employing agency's clearly outlined policy and stated confidentiality protections. *Gannett River States Pub. v. Hussey*, 557 So.2d 1154, 1159 (La. App. 3d Cir. 1990), writ denied, 561 So.2d 103 (La. 1990).

Under Louisiana law, the constitutional right to privacy has been described as *the right to be let alone*, to be free from *unnecessary public scrutiny* or intrusion into one's private affairs, and is subject to the public's competing interest to be informed about legitimate public interest. *Capital City Press v. East Baton Rouge Parish Metropolitan Council*, 96-1979, p. 8 (La.7/1/97), 696 So.2d 562. These competing interests must, however, be balanced "on a case-by-case basis given the particular facts and circumstances of each case that impact those interests." *Broderick v. State Dep't of Envtl, Quality*, 2000-0156 (La. 1 Cir. 5/12/00) 761 So2d 713.

In *Broderick*, the Louisiana First Circuit affirmed the trial court's denial of a petition seeking disclosure of employee grievance files, finding that individual privacy interest outweigh the public interest in having "a chance to understand if a good faith effort is being made to resolve problems within these agencies." *Id.* "[I]f an individual didn't have anything to do other than go down to [a state agency] and read what's going on in there, a person could take that

information and ... could cause those individuals all kind of embarrassment in the community, at their church or on the job. I just think that what we're talking about here isn't the type of material that would help your cause in this case, [the public's right to know]." *Id.*⁹

Fully cognizant of the public's constitutional *right to know* the information already in the public domain regarding this matter, disclosure of the Complaint would, nevertheless, constitute an unwarranted *invasion of privacy* prohibited by La. Const. art. I, Section 5. *Trahan v. Laviree*, 365 So.2d 294, 299 (La. App. 3d Cir. 1978). To determine otherwise would have a chilling effect on complaints and grievances. When complaints and grievances are made, the information therein can be based upon a combination of fact, hearsay, and unsubstantiated claims. Publication and/or disclosure of such detailed, personal accounts may embarrass or humiliate the complainant, accused, witnesses and anyone else involved among fellow employees, friends, family, and the public in general. *Id.*

In order to protect the privacy interests at the heart of this Petition and to enable the parties to be as candid as possible with the Court, the record of these proceedings should be sealed and the parties and their representatives instructed, at the risk of contempt, to preserve complete confidentiality and to refrain from disclosing any information, documents, exhibits, pleadings, attachments, depositions, testimony and/or communications of any kind or nature in any way arising out of or connected with this litigation pending further orders of the Court.

Moreover, in the interest of a prompt resolution for all parties concerned, the Attorney General asks that the Court expedite the proceedings and set a trial date no later than 30 days from the filing of the Petition.

CONCLUSION


Accordingly, the Attorney General Jeff Landry, in his official capacity as custodian of records for the Louisiana Department of Justice, respectfully submits that he is entitled to relief as prayed for in the petition.

⁹ Notably, the Court distinguished *Broderick*, where the records at issue were employee-generated complaints/grievances, as factually different from an earlier holding in *Hilbun v. State ex rel. Div. of Admin.*, 98-1993 (La. App. 1 Cir. 11/5/99); 745 So.2d 1189, 1190, wherein the Court found that public employees had no reason to expect privacy regarding facts generated from interviews associated with the daily operation of a state agency.

Respectfully submitted,

**JEFF LANDRY
ATTORNEY GENERAL**

BY:



Carey T. Jones (#07474)
David Jeddie Smith, Jr. (#27089)
Alicia Edmond Wheeler (#28803)
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JonesCar@ag.louisiana.gov
smithda@ag.louisiana.gov
WheelerA@ag.louisiana.gov

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing *Memorandum in Support of Petition for Declaratory Judgment and Motion to Seal the Records of These Proceedings* has been served upon counsel for all represented parties to this proceeding by fax and/or electronic mail on this 5th day of February, 2021.



Alicia Edmond Wheeler

Please Serve:

Ms. Andrea Gallo


R000325-121420 - Public Records Request

Message History (4)

✉ On 1/28/2021 4:45:28 PM, Asyl Nachabe wrote to Andrea Gallo (agallo@theadvocate.com):

From: LADOJ – Public Records Center (louisianaag@mycusthelp.net)
To: Andrea Gallo (agallo@theadvocate.com)
Message Id: 9345
Message Status: Clicked
☐☐

Subject: [Records Center] Public Records Request :: R000325-121420

Body:

RE: PUBLIC RECORDS REQUEST of December 14, 2020, Reference # - R000325-121420

Dear Andrea Gallo,

In response to your public records request pursuant to La. R.S. 44:1 et seq, which our office received on December 14, 2020, the information you requested has been processed. You sought records related to the following:

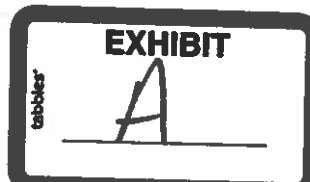
- “-Any and all complaints of sexual harassment related to Patrick Magee**
- **Any records showing how those complaints were handled, including any records of investigations, as well as any disciplinary memos, orders to seek counseling, suspensions, resignations or terminations.**
 - **Records of any settlements paid in connection with any such complaints”**

Our office has found no responsive records of disciplinary memos, orders to seek counseling, suspensions, resignations or terminations.

Our office has not paid any settlements in connection with such complaints.

We located an initial complaint, which is being withheld for the following reasons:

- Louisiana Constitution Article I, § 5 is a constitutional provision that expressly prohibits unreasonable invasions of privacy. The parties involved have a reasonable expectation of privacy under La. Const. art. I, § 5. The expectation of privacy is of a type which society at large is prepared to recognize as being reasonable. And based on the facts in this matter our office believes the individuals’ right to privacy outweighs the public’s right to access the initial complaint.
- LADOJ PP029. This office policy requires confidentiality be observed to the extent possible for any sexual harassment complaint.
- The State training course prepared by the Louisiana State Civil Service in accordance with Act 270 of 2018 Regular Session, mandates that sexual harassment complaints be maintained confidential. The training provides that:
 - o All efforts should be made to ensure confidentiality of a complaint.
 - o Holding complaints of sexual harassment in confidence is key in maintaining the integrity of the process and the ensuing investigation. Agencies are limited in their ability to investigate and eliminate harassment if an employee does not report harassment.
 - o For those involved the loss of one’s professional reputation can have damaging affects for a lifetime by hindering career progression and potential earnings.



Additionally, correspondence between our office and outside legal counsel is not subject to disclosure as it is privileged attorney-client communication under La. C.E. art. 506.

Director Magee's personal home address has been redacted under La. Const. art. I, § 5.

That being said, our office has identified records which are responsive to your request.

Copies of these records are available for download from our office's Public Records Center. Please log in to the [Public Records Center](#) at the following link to retrieve the appropriate responsive documents.

[Public Records Request - R000325-121420](#)

If our office can be of any further assistance, please let us know.

Sincerely,

Asyl Nachabe
AAG - Public Records Coordinator

☑ On 12/14/2020 4:15:28 PM, Asyl Nachabe wrote to Andrea Gallo (agallo@theadvocate.com):

From: LADOJ – Public Records Center
(louisianaag@mycusthelp.net)
To: Andrea Gallo (agallo@theadvocate.com)
Message Id: 9026
Message Status: Delivered-Confirmed

Subject: [Records Center] Public Records Request :: R000325-121420

Body:

Good afternoon Ms. Gallo,

Our office treats employee complaints seriously in a manner that protects the legal rights of all the parties involved. As such, Mr. Magee is on leave while an ongoing administrative investigation is conducted. As the investigation is still ongoing, the records are considered confidential and cannot be released until the investigation has been closed.

Besides this ongoing investigation, there have been no other past complaints/investigations regarding Mr. Magee. Once the investigation has been completed and closed, the records will be available to review.

Our HR department is continuing to work on gathering the responsive documents for your initial request (R000318-121020). We hope to get those documents out to you in a timely manner.

If our office can be of further assistance, please do not hesitate to ask.

Sincerely,
Asyl Nachabe
Public Records Coordinator

☑ On 12/14/2020 3:17:52 PM, System Generated Message to agallo@theadvocate.com:

From: System Generated Message
To: agallo@theadvocate.com
Subject: Public Records Request :: R000325-121420
Message Id: 9025
Message Status: Delivered-Confirmed



RE: Public Records Request, R000325-121420

Dear Andrea Gallo:

This letter is an acknowledgment and response of the public records request dated 12/14/2020, which you submitted to the Office of the Attorney General. The request seeks records related to the following:

- Any and all complaints of sexual harassment related to Patrick Magee
- Any records showing how those complaints were handled, including any records of investigations, as well as any disciplinary memos, orders to seek counseling, suspensions, resignations or terminations.
- Records of any settlements paid in connection with any such complaints

Your request has been assigned tracking number R000325-121420. Our office is in the process of determining what, if any, records are subject to this request and, if so, whether any privileges or exemptions apply. This may take some time. You will be notified within 30 days whether records have been located that are responsive and approximately when they will be ready for review.

Due to the COVID-19 pandemic, many of our office staff are working remotely. This may slow the request process down as access will be limited. If you are looking for information about the pandemic, please visit the site linked below:

Office of Public Health

If our office can be of any further assistance, please let us know.

Sincerely,

Asyl Nachabe

Assistant Attorney General

To monitor the progress or update this request please log into the [Public Records Center](#)

Powered by
GovQA

On 12/14/2020 3:17:50 PM, Andrea Gallo wrote:

Request was created by customer

From: PublicRecords
To: "Gallo, Andrea"
Subject: RE: Public records request: The Advocate
Date: Monday, January 4, 2021 8:43:00 AM
Attachments: image001.png

Good morning,

I apologize for the delay in response, I was out of the office last week. We're using a couple different legal exemptions in this case.

First, the records are not available because they are considered to be in active use and therefore unavailable under La RS 44:33(B)(1). I'm waiting back to hear from HR about a time estimation for when the investigation will be done. The holidays have definitely slowed the process down with people being out of the office and whatnot.

Second, we're withholding the records until the investigation is complete to protect the privacy of all parties involved under their right to privacy found in La. Const. art. I, Section 5.

Finally, HR is following guidance put out by the Department of State Civil Service which states records of internal investigations become public documents following the completion of the investigation as to not impede on the process.

Please note that all of these exemptions are temporary and not permanent and we will make the appropriate documents available once the investigation is over.

Please let me know if our office can be of further assistance.

Thanks,
Asyl Nachabe
Public Records Coordinator

From: Gallo, Andrea <agallo@theadvocate.com>
Sent: Tuesday, December 29, 2020 9:16 AM
To: PublicRecords <PublicRecords@ag.louisiana.gov>
Subject: RE: Public records request: The Advocate

CAUTION: This email originated outside of Louisiana Department of Justice. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Asyl,

Hope you're enjoying the holidays!

Can we get a citation of the exemption that you guys are leaning on here to keep from releasing these documents?

Best,



THE ADVOCATE

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The Times-Picayune
NEW ORLEANS ADVOCATE



From: PublicRecords
<PublicRecords@ag.louisiana.gov>
Sent: Monday, December 14, 2020 4:15 PM
To: Gallo, Andrea <agallo@theadvocate.com>
Subject: RE: Public records request: The Advocate

Andrea Gallo

Reporter

agallo@theadvocate.com

www.theadvocate.com

Desk: (225)388-0372
Cell: (225)200-3793

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considered confidential and cannot be disclosed at the moment. Once the investigation has been officially closed, the records will be available for review.

HR is continuing to work on gathering the responsive documents for your initial request. If there's anything else our office can assist you with, please do not hesitate to ask.

Sincerely,
Asyl Nachabe

From: Gallo, Andrea <agallo@theadvocate.com<<mailto:agallo@theadvocate.com>>>
Sent: Monday, December 14, 2020 3:20 PM
To: PublicRecords <PublicRecords@ag.louisiana.gov<<mailto:PublicRecords@ag.louisiana.gov>>>
Subject: RE: Public records request: The Advocate

CAUTION: This email originated outside of Louisiana Department of Justice. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Asyl,

I just filed another records request and I wanted to see if you could prioritize my new request (filed 12/14) over the request that I filed last week (12/9), if it means I can get the response to the second request more quickly.

Feel free to call me with any questions, my cell is 225-200-3793.

Best,

THE ADVOCATE
BATON ROUGE · NEW ORLEANS · ACADIANA

[cid:image001.png@01D6D233.148F9ED0]

Andrea Gallo

Reporter

agallo@theadvocate.com<<mailto:agallo@theadvocate.com>>

Desk:(225)388-0372

Cell: (225)200-3793

www.theadvocate.com<<http://www.theadvocate.com/>>

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From: PublicRecords <PublicRecords@ag.louisiana.gov<<mailto:PublicRecords@ag.louisiana.gov>>>

Sent: Thursday, December 10, 2020 8:46 AM

To: Gallo, Andrea <agallo@theadvocate.com<<mailto:agallo@theadvocate.com>>>

Subject: RE: Public records request: The Advocate

Good morning,

I have logged your request into our online portal. You should be receiving an email from the website soon with log in instructions. There, you'll be able to track the progress of your request and view the responsive documents if any exist.

If our office can be of further assistance, please do not hesitate to ask.

Sincerely,

Asyl Nachabe

Public Records Coordinator

From: Gallo, Andrea <agallo@theadvocate.com<<mailto:agallo@theadvocate.com>>>

Sent: Wednesday, December 9, 2020 5:40 PM

To: PublicRecords <PublicRecords@ag.louisiana.gov<<mailto:PublicRecords@ag.louisiana.gov>>>

Subject: Public records request: The Advocate

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Greetings,

Pursuant to the Louisiana Public Records Law, R.S. § 44:1 et seq., I request that that records custodian for the Louisiana Attorney General's office produce the following public records:

From Jan. 1, 2016 through the date of this request:

- * Any and all complaints of sexual harassment filed by any employee of the Louisiana Department of Justice, or filed about an employee of the LADOJ by a member of the public.
- * Any records showing how those complaints were handled, including any records of investigations, as well as any disciplinary memos, orders to seek counseling, suspensions, resignations or terminations.
- * Records of any settlements paid in connection with any such complaints

Please produce these records electronically to avoid unnecessary fees and save paper.

As you know, R.S. § 44:32(D) of the Louisiana Public Records Act requires a response to this request within three (3) business days, exclusive of Saturdays, Sundays, and legal holidays. If these records will not be produced in three business days, please notify me in writing immediately and explain the reasons why.

If the records are not currently in your possession, please notify me in writing, and provide any and all information about where and with whom the records may be found, requested, viewed or copied, and/or when they will become available to your office.

If there is any cost associated with the production of these records, please notify me in writing immediately. If you deny any part of this request, please cite each specific exemption to the Louisiana Public Records Law that you have determined justifies the refusal to produce the records. Please feel free to contact me at any time using the contact information below. Thank you for your time and consideration.

Best,

THE ADVOCATE
BATON ROUGE · NEW ORLEANS · ACADIANA

[cid:image001.png@01D6D233.148F9ED0]

Andrea Gallo
Reporter
agallo@theadvocate.com<mailto:agallo@theadvocate.com>
Desk:(225)388-0372
Cell: (225)200-3793
www.theadvocate.com<http://www.theadvocate.com/>

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--
Scott L. Sternberg
Managing Partner

935 Gravier Street, Suite 2020 | New Orleans, LA 70112
Direct: (504) 324-1887 | Cell (504) 331-0888 | Fax: (504) 534-8961
scott@snw.law | www.snw.law | @ScottLSternberg

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From: [PublicRecords](#)
To: "[Scott Sternberg](#)"
Cc: [Gallo, Andrea](#); [Gordon Russell](#)
Subject: RE: Public Records Request of Andrea Gallo
Date: Monday, January 11, 2021 3:46:00 PM
Attachments: [Response Letter- 1.11.2021.pdf](#)
[image002.png](#)

Good afternoon Mr. Sternberg,

Please see the attached letter.

Thank you,



Asyl Nachabe

Assistant Attorney General, Public Records Coordinator
Office of Attorney General Jeff Landry
Phone: (225) 326-6712
www.AGJeffLandry.com

From: Scott Sternberg <scott@snw.law>
Sent: Wednesday, January 6, 2021 2:43 PM
To: PublicRecords <PublicRecords@ag.louisiana.gov>
Cc: Gallo, Andrea <agallo@theadvocate.com>; Gordon Russell <grussell@theadvocate.com>
Subject: RE: Public Records Request of Andrea Gallo

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Please see attached.

--

Scott L. Sternberg
Managing Partner

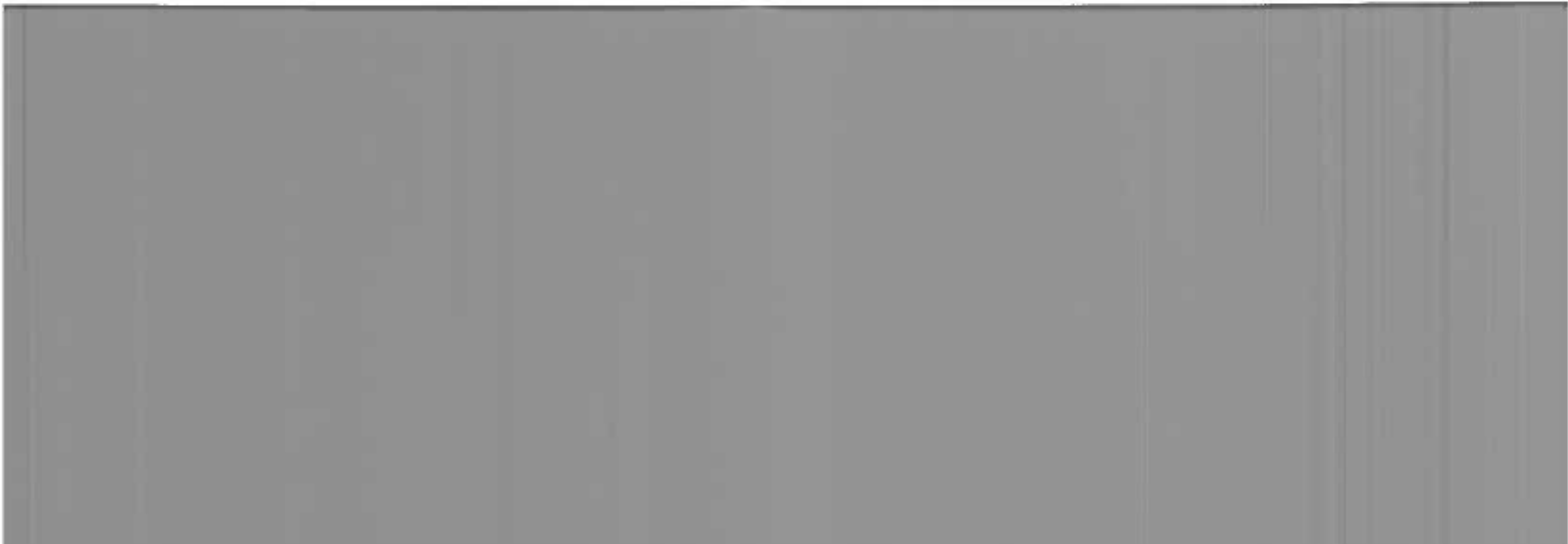
935 Gravier Street, Suite 2020 | New Orleans, LA 70112
Direct: (504) 324-1887 | Cell (504) 331-0888 | Fax: (504) 534-8961
scott@snw.law | www.snw.law | @ScottLSternberg

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privilege. No matter who you are, please keep this e-mail confidential. If you've received it in error or by mistake, please let me know and delete the message. The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

THE ADVOGATE COPY





Jeff Landry
Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
ADMINISTRATIVE SERVICES DIVISION
P.O. BOX 94005
BATON ROUGE
70804-9005

January 9, 2021

VIA E-MAIL: scott@snw.law

Scott L. Sternberg
Sternberg, Naccari, & White LLC

RE: Public Records Request of Andrea Gallo 12/14/20

To Whom It May Concern:

This communication is in reference to the following public records request submitted by Andrea Gallo which sought the following:

Any and all complaints of sexual harassment related to Patrick Magee

•Any records showing how those complaints were handled, including any records of investigations, as well as any disciplinary memos, orders to seek counseling, suspensions, resignations or terminations.

•Records of any settlements paid in connection with any such complaints.

I'm hoping this letter can properly convey our office's reasoning and lay out a reasonable path towards disclosure.

First, it is important to note which requested records do not exist. After a diligent search, our office has not located any of the following requested records: disciplinary memos, orders to seek counseling, suspensions, resignations, or termination. Additionally, no settlements have been paid in connection with the complaint.

There has only been one complaint filed against Patrick Magee, and it is the one that is currently under investigation. As Ms. Gallo knows, outside counsel has been retained to conduct the investigation and prepare a written report detailing the investigation including the results. Therefore, at this moment, no records of investigation exist because they are currently in the process of being created by outside counsel. All other communication between our office and outside counsel about the matter is considered privileged attorney-client communication under La. C.E. Art. 506.

The only remaining disputed record is the complaint itself. It is still our office's opinion that the complaint should be withheld under the parties' right to privacy until the investigation is complete. Determining whether a public record can be withheld due to the right to privacy involves a

balancing act that weighs the individual's right to privacy against the public's right to access that information. The balancing of these competing interests is done on a case-by-case basis given the particular facts and circumstances of each case that impact those interests.¹ We believe this balancing act cannot be properly performed until the investigation is complete as all the facts have not yet been determined.

Outside counsel has indicated that their investigation is almost complete. Once our office receives the final report, we will review it to determine whether any additional privileges or exemptions apply and release the responsive documents after the proper redactions are made.

We hope to get the documents out sooner rather than later, but are stuck in a stalemate until outside counsel finishes their investigation.

If our office can be of further assistance, please do not hesitate to ask.

Sincerely,



Asyl Nachabe
Public Records Coordinator

¹ *Capital City Press, L.L.C. v. Louisiana State Univ. Sys. Bd. of Sup'rs*, 2013-2001 (La. App. 1 Cir. 12/30/14), 168 So. 3d 727, writ denied, 2015-0209 (La. 4/17/15), 168 So. 3d 401

From: PublicRecords
To: "Gallo, Andrea"
Subject: RE: Public Records Request of Andrea Gallo
Date: Friday, January 22, 2021 3:58:00 PM
Attachments: [image001.png](#)
[image002.png](#)

Good afternoon,

The records should be ready and released to you by early next week. They'll be released via the original GovQA request that was submitted on 12/14/20. You should receive an email from the site when they're ready to be viewed.

Have a good weekend!
Asyl Nachabe

From: Gallo, Andrea <agallo@theadvocate.com>
Sent: Friday, January 22, 2021 12:48 PM
To: PublicRecords <PublicRecords@ag.louisiana.gov>
Subject: RE: Public Records Request of Andrea Gallo

***CAUTION:** This email originated outside of Louisiana Department of Justice. Do not click links or open attachments unless you recognize the sender and know the content is safe.*

Hi Asyl,

Just trying to see if you have any updates for us on this request.

Thanks,

Andrea

From: PublicRecords <PublicRecords@ag.louisiana.gov>
Sent: Wednesday, January 20, 2021 4:23 PM
To: Gallo, Andrea <agallo@theadvocate.com>
Cc: Russell, Gordon <grussell@theadvocate.com>; Scott Sternberg (scott@snw.law) <scott@snw.law>
Subject: RE: Public Records Request of Andrea Gallo

Good afternoon,

I'm currently waiting for a response from HR on a timeline. I know they are in the process of gathering, reviewing, and redacting the necessary confidential information from the responsive documents. I have a meeting with them tomorrow afternoon and will be able to update you with more concrete information then.

If our office can be of further assistance, please do not hesitate to let us know.



Sincerely,
Asyl Nachabe

From: Gallo, Andrea <agallo@theadvocate.com>
Sent: Wednesday, January 20, 2021 11:57 AM
To: PublicRecords <PublicRecords@ag.louisiana.gov>
Cc: Russell, Gordon <grussell@theadvocate.com>; Scott Sternberg (scott@snw.law) <scott@snw.law>
Subject: RE: Public Records Request of Andrea Gallo

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Hello Asyl,

Checking back in on this request.

Thank you!

Best,

Andrea

From: Gallo, Andrea
Sent: Tuesday, January 19, 2021 3:11 PM
To: PublicRecords <PublicRecords@ag.louisiana.gov>
Cc: Russell, Gordon <grussell@theadvocate.com>; Scott Sternberg (scott@snw.law) <scott@snw.law>
Subject: RE: Public Records Request of Andrea Gallo

Hi Asyl,

I just received a copy of a letter from the AG's office to Mr. Magee confirming that this investigation has now concluded.

Just wanted to follow back up with you and see when we might expect those records.

Best,

THE ADVOCATE

BATON ROUGE · NEW ORLEANS · ACADIANA

The Times-Picayune
NEW ORLEANS ADVOCATE

 **From:** PublicRecords <PublicRecords@ag.louisiana.gov>

Andrea Gallo

Reporter

agallo@theadvocate.com

www.theadvocate.com

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Sent: Monday, January 11, 2021 3:47 PM

To: Scott Sternberg <scott@snw.law>

Cc: Gallo, Andrea <agallo@theadvocate.com>;
Russell, Gordon <grussell@theadvocate.com>

Desk: (225) 388-0372
Cell: (225) 200-3793

Subject: RE: Public Records Request of Andrea Gallo

Good afternoon Mr. Sternberg,

Please see the attached letter.

Thank you,



Asyl Nachabe

Assistant Attorney General, Public Records Coordinator

Office of Attorney General Jeff Landry

Phone: (225) 326-6712

www.AGJeffLandry.com

From: Scott Sternberg <scott@snw.law>

Sent: Wednesday, January 6, 2021 2:43 PM

To: PublicRecords <PublicRecords@ag.louisiana.gov>

Cc: Gallo, Andrea <agallo@theadvocate.com>; Gordon Russell <grussell@theadvocate.com>

Subject: RE: Public Records Request of Andrea Gallo

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Please see attached.

--

Scott L. Sternberg
Managing Partner

935 Gravier Street, Suite 2020 | New Orleans, LA 70112

Direct: (504) 324-1887 | Cell (504) 331-0888 | Fax: (504) 534-8961

scott@snw.law | www.snw.law | @ScottLSternberg

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THE ADVOCA





Jeff Landry
Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE
70804-9005

IN REPLY, REFER TO:
P&P 030
SJH
22 Dec 17

From: Attorney General Jeff Landry
To: All Employees, Louisiana Department of Justice (LADOJ)

Subj: DISCRIMINATION

Ref: a. Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.
b. Civil Rights Act of 1964, § 7, 42 U.S.C. §§ 2000e et seq.
c. Civil Rights Act of 1991, 42 U.S.C. § 1981 et seq.
d. Rehabilitation Act of 1973, 29 U.S.C. §§ 701 et seq.
e. Age Discrimination in Employment Act, 29 U.S.C. §§ 621 et seq.
f. La. R.S. 23:301 et seq.
g. La. R.S. 23:661 et seq.

1. The purpose of this policy is to review and establish LADOJ protocol and procedure regarding complaints of discrimination.
2. It is the policy of the Attorney General to make decisions regarding employment, including hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment without regard to race, color, religion, sex, national origin, military service, age, genetic information, pregnancy, childbirth or a medical condition related to pregnancy or childbirth, or disability as defined in the Americans with Disabilities Act.
3. Programs and activities offered by the Attorney General will be open to all persons without consideration for race, color, religion, sex, national origin, military service, age, genetic information, pregnancy, childbirth or a medical condition related to pregnancy or childbirth, or disability as defined in the Americans with Disabilities Act.
4. It is the policy of the Attorney General to ensure equality of opportunity in all aspects of employment and to employ and advance qualified individuals with disabilities, qualified veterans and special disabled veterans who, with reasonable accommodations, can perform the essential functions of a job.



Subj: DISCRIMINATION

5. It is the responsibility of all employees to promptly report any violations of this policy to their supervisor or the appropriate Human Resources personnel. If the person engaging in the alleged discriminatory behavior is their supervisor, the employee reporting the complaint should contact the supervisor's supervisor or the appropriate Human Resources personnel to report the complaint.

6. All such complaints will be thoroughly investigated within a reasonable timeframe in a confidential and non-biased manner regardless of whether it involves a co-worker or supervisor. Appropriate action will be taken against those who violate this policy.

7. There shall be no retaliatory adverse employment actions taken against individuals who report instances of discrimination, or who participate in or are witnesses in any procedure to investigate a complaint of discrimination or who oppose an unlawful employment practice of discrimination. Retaliation is a violation of this policy, and complaints of retaliation may be reported to Human Resources.

8. **Point of Contact:** Human Resources, (225) 326-6729

9. This policy supersedes any and all prior policies regarding discrimination. Failure to comply with any of the aforementioned material may result in disciplinary action, up to and including the termination of employment from the LADOJ.


Jeff Landry
Attorney General



Jeff Landry
Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE
70804-9005

IN REPLY, REFER TO
P&P 029
SJH
12 Feb 19

From: Attorney General Jeff Landry
To: All Employees, Louisiana Department of Justice (LADOJ)

Subj: SEXUAL HARASSMENT

Ref: a. Civil Rights Act of 1964, § 7, 42 U.S.C. § 2000e et seq.
b. La. R.S. 42:341 et seq.
c. La. R.S. 23:301 et seq.

1. The LADOJ is committed to providing our employees with a work environment free from sexual harassment.
2. Sexual harassment consists of unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
 - b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance creating an intimidating, hostile, or offensive working environment.
3. Sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. There are two kinds of sexual harassment: quid pro quo which means "something for something" and hostile work environment which covers regular and repeated actions or things displayed around the workplace that are based on the sex of the employee and unreasonably interfere with job performance or create an intimidating, hostile, or offensive work environment.
4. Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, which is offensive, which debilitates morale, and therefore interferes with work effectiveness. The LADOJ specifically prohibits such behavior whether committed by supervisors or non-supervisory personnel.



Subj: SEXUAL HARASSMENT

5. Examples of sexual harassment include, but are not limited to repeated offensive sexual flirtations, sexual advances or propositions, continued or repeated verbal abuse of a sexual nature (i.e., sexual innuendos, suggestive comments, insults, humor and jokes about sex, threats or sexual demands), non-verbal abuse of a sexual nature (i.e., leering, whistling, obscene gestures), graphic or degrading verbal comments about an individual or his/her appearance, the display of sexually suggestive objects or pictures, any offensive or abusive physical conduct (i.e., touching, pinching, brushing the body, coerced sexual intercourse, assault), third party harassment (a situation in which an individual witnesses harassing behavior).
6. No employee of the LADOJ should infer or threaten that an applicant or employee's "cooperation" of a sexual nature (or refusal thereof) will affect the individual's employment, assignment, compensation, advancement, career development or any other condition of employment.
7. Any employee who believes he/she has been the subject of sexual harassment or a witness to sexual harassment should report the alleged act immediately and directly to their supervisor or Human Resources. In the event that the employee's supervisor is the alleged harasser, the employee should report his/her allegations to their supervisor's supervisor or Human Resources.
8. Upon receiving a complaint of sexual harassment, the Deputy Director of Administrative Services and/or other appropriate personnel shall determine the appropriate steps to take and conduct any investigation deemed necessary.
9. Upon receiving a report of alleged sexual harassment, the supervisor shall promptly report the alleged harassment to Human Resources for appropriate investigation. A supervisor's obligation to report harassment is not discretionary and failure to do so may lead to disciplinary action up to and including termination of employment with the LADOJ.
10. Making false accusations of sexual harassment can have serious effects on innocent women and men. It is a violation of this Policy for an individual to make an intentionally false and malicious accusation of sexual harassment through the procedures described above. This provision is not intended to discourage complaints where an individual sincerely believes harassment has occurred. We trust that all employees of the LADOJ will continue to act responsibly to establish a pleasant working environment free of sexual harassment.
11. There shall be no retaliation of any kind against individuals who report instances of sexual harassment, or who participate in or are witnesses in any procedure to correct a complaint of sexual harassment. Retaliation is a violation of this policy, and complaints should be reported to a supervisor or Human Resources.
12. Confidentiality, to the extent possible, will be observed provided it does not interfere with the LADOJ's ability to investigate or take corrective action.

Subj: SEXUAL HARASSMENT

13. The LADOJ can respond to harassment only if it is aware of the harassment. Therefore, the LADOJ encourages any employee who believes that he/she has experienced or witnessed sexual harassment to come forward promptly with inquiries, reports or complaints and to seek assistance from the appropriate LADOJ resources.

14. All employees shall complete a sexual harassment education and training course within 45 days of being hired by the LADOJ. Employees shall complete the course each January thereafter. Employees who require extra time to complete training courses shall seek written approval from the Attorney General or his designee, citing extenuating circumstances. Such acceptable circumstances include, but are not limited to, employees utilizing leave under the Family Medical Leave Act, Americans with Disabilities Act, crisis leave, and workers' compensation.

15. Supervisors and any person designated to accept or investigate complaints of sexual harassment shall complete an additional education and training course. This course must be completed within 45 days of being hired by the LADOJ in a supervisory position or within 45 days of being promoted to a supervisory position within the LADOJ. These employees shall complete the course each February thereafter.

16. The LADOJ maintains records of each employee's compliance with mandatory training requirements. Each employee's record of compliance shall be a public record and will be available to the public in accordance with Louisiana public records law.

17. **Point of Contact:** Deputy Director of Administrative Services, (225) 326-6729

18. Any supervisor or employee found, after appropriate investigation, to have sexually harassed another employee will be subject to appropriate disciplinary action up to and including termination of employment. Any violation of this policy may lead to disciplinary action up to and including termination of employment.


Jeff Landry
Attorney General



Jeff Landry
Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
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70804-9005

IN REPLY, REFER TO:
P&P 001
SJH
14 Nov 18

From: Attorney General Jeff Landry
To: All Employees and Contract Staff, Louisiana Department of Justice (LADOJ)
Subj: LADOJ POLICIES AND PROCEDURES

1. This is to serve as notice that all LADOJ policies and procedures will be made available to every LADOJ employee. Employees are responsible for reading all policies and procedures and becoming familiar with policies provided henceforth.
2. Policies and procedures serve to highlight the benefits, resources, responsibilities, and protocol associated with LADOJ employment. They are intended to provide orderly, concise, and easily understood references covering employment subjects.
3. Policies and procedures are not to be interpreted as legal documents or as an employment contract. They do not constitute an express or implied contract or assurance of continued employment, nor do they imply that just cause is required for termination. Employment with the LADOJ is at the sole discretion of the Attorney General and may be terminated with or without cause at any time and for any reason.
4. All policies and procedures will be made available online via the LADOJ Employee Intranet. Employees are to review policies presented within 30 days of issuance by the Attorney General or issuing authority. Employees must acknowledge their review by online verification.
5. After the policies and procedures are posted on the LADOJ Employee Intranet, proposed changes must be submitted in writing to the appropriate Director for review and concurrence. Upon concurrence, the proposed changes will then be presented to the indicated Point of Contact for review, presentation to stakeholders, and concurrence. Upon concurrence, the proposed changes will be forwarded to the Chief Deputy Attorney General for review. Final review items will be forwarded to the Attorney General or to a designated authority by direction of the Attorney General for adoption.
6. When a policy or procedure is updated, employees will receive electronic notice and are required to review the update and acknowledge their review, by online verification.



Subj: LADOJ POLICIES AND PROCEDURES

7. Questions regarding department policies or procedures should be directed to the employee's immediate supervisor or the indicated Point of Contact.

8. **Point of Contact:** Executive Officer, (225) 342-5811

9. Exceptions to this policy must be approved in advance and may be granted by the Attorney General or his designee through specific written authority.

10. There shall be no retaliation of any kind against individuals who report policy violations, or who participate in or are witnesses in any procedure to correct a complaint regarding policy violations. Retaliation is a violation of this policy, and any employee who believes that he/she has experienced or witnessed a policy violation shall promptly report the information and seek assistance from the appropriate LADOJ resources.

11. Confidentiality, to the extent possible, will be observed provided it does not interfere with the LADOJ's ability to investigate or take corrective action.

12. This policy supersedes any and all prior policies regarding the issuance of LADOJ policies and procedures. Information and complaints shall be reported to a supervisor or Human Resources. Failure to comply with any of the aforementioned material may result in disciplinary action, including termination of employment, from the LADOJ.



Jeff Landry
Attorney General