

Hillsborough County Attorney

State of New Hampshire

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September 5, 2019

Sent via electronic mail (gordon.macdonald@doj.nh.gov)

Attorney General Gordon MacDonald
Department of Justice
33 Capitol Street
Concord, NH 03301-6397

Re: Resignation Response

Dear Attorney General MacDonald,

Thank you for meeting with me to disclose that the Attorney General's Office has decided to take action in support of the Hillsborough County Attorney's Office. Your suggestion of how best to support the office by resigning or having the AGO provide a prosecutorial resource to assist with supervision was discussed between myself and Office leadership, County leadership, and others. It seems clear from those discussions that the best thing for the Office would be for me to remain as County Attorney and coordinate with any resources that the Attorney General can provide to continue the progress that I have started since taking control of the Office and accomplish our shared goals.

My decision to run for County Attorney was founded upon the concerns expressed regarding inattention of the previous County Attorney, the importance of the Office's successful operation and my professional experience in working with organizations going through crisis and successfully working to deliver improvements. It should be clear to all paying attention that the Hillsborough County Attorney's Office has suffered greatly under its recent stewards; its staff has workloads more than double other offices around the state, has struggled with morale and staff retention, and its ability to effectively communicate with law enforcement and other agencies regarding cases had eroded into a state of crisis.

During my training at the Attorney General's Office, I was informed about statutory delegation of powers, about one-party wiretapping authorizations, about different subpoena powers, and other administrative aspects of prosecution in New Hampshire. I was also cautioned about the perceived poor state of operation at the Hillsborough County Attorney's Office. At no time were any suggestions made about priorities or needs of the Office, about recommendations to address known issues, or anything similar. The message was clear: good luck, we will take your call if you need us, but otherwise we can't help you.

After the Attorney General's Office conducted a review of the Hillsborough County Attorney's Office it concluded that a) additional resources were needed to b) implement training and c) policies and procedures, while d) the County Attorney should be more involved with day to day operations. This direction was unspecific and without any accompanying suggestions or documentation as a starting point, and implementing the recommendations was my responsibility. The recommendations did not include any suggestions or direction on aspects of prosecutorial operations that should be prioritized; it did not recommend that a policy on *nol prosequing* charges should be prioritized; and it did not recommend that standards regarding communication with law enforcement agencies be implemented for plea negotiations or case dispositions. Additionally, no resources from the Attorney General's Office would be made available to accomplish these important goals.

Through discussions of those recommendations with senior leadership at the Attorney General's Office, we concluded I was on the right path by seeking to free up the capabilities of my existing management team while developing the other components and being an engaged County Attorney with my team. These were all within my professional capabilities from private practice and business. The Hillsborough County Attorney's Office has never historically had any documented policies and procedures, and to be elected into this role with such an enormous task ahead would require the confidence and trust of the team of experienced professionals at the Office. It was quickly apparent that the Office had suffered from inattentive leadership and I sought to build the trust and relationships first with my team internally so that we could ensure strength and confidence among ourselves, forged by communication and resolving issues, while gaining an understanding of the day-to-day operations of the Office and preparing for the upcoming County budget process that started in March 2019.

As an elected official who became the department head of an organization in multiple office locations with such a task at hand I would need the confidence of my team in order to successfully implement significant changes while building morale and demonstrating progress. This is no small task and required many tough, stressful decisions. It was also a very delicate situation as I wanted to avoid any mistakes as their new leader that would encourage them to simply leave and find employment elsewhere. A vital and important goal when first assuming office was to integrate myself with the fifty two (52) current employees of the Office. Within days of receiving the Attorney General's review letter, I was able to push my plans forward to successfully obtain approval for two new prosecutor positions; perform the analysis to confirm that they could be funded without additional money from the County; and post, interview and get candidates to fill those roles. One of the recruits for these new positions was a 19-year veteran prosecutor who has continued to deliver dedicated service to our Office.

As the months-long budget process continued and was poised to bring further progress to the Office, the unfortunate reality is that these new budget dollars would not be available until July, and even then it would take weeks for the County to process and prepare each of its departments for the funds and equipment in that new budget. As a result the team continued to struggle for months under their same workload, which was disrupted by certain employees leaving the office for other ventures.

Our most experienced departure said she had a personal goal of opening a law firm by a certain period in their career and it was not because of my leadership; another hoped there would be a position available upon return after serving in a unique opportunity elsewhere; another thought of his family after receiving an offer from a former mentor that paid better; and our most experienced secretary departure had two years of experience. Others had medical issues or childcare issues that did not reconcile with the office's schedule. There are many reasons why employees leave but in so many of these cases it is not due to my performance or my leadership and I value the continued contribution by every present employee of the Office.

Therefore as a result despite the new budget and additional resources allocated to our Office, the ability of our management team to realize immediate results was delayed, and continues to be delayed in many aspects. However, we have recovered from the staffing losses in the first half of 2019 and are now starting to see net improvements in staffing numbers. These improvements, coupled with the policies & procedures that I have developed, are designed to bring about sustained performance results to address both the prosecutor workload and the communication with our partners in discharging our duty to bring justice to Hillsborough County.

It seems clear to me that if I were to resign and walk away from this role that it would not be beneficial to the Hillsborough County Attorney's Office. It would not be beneficial to the people of Hillsborough County, who used their voice and their vote to give me the opportunity to heal the deep wounds of this office and its functionality. It would not help further the recommendations of providing management structure, policies & procedures and day-to-day operational involvement to support the team of employees at the Office and it would not be beneficial to the goals that I have expressed here in addressing the historical negligence that has caused this Office to suffer to the extent that it has. Every day I am encouraged by the conviction and dedication of everyone at the Hillsborough County Attorney's Office who weather this storm, who wear this burden, and continue to diligently discharge their important, critical duties for the benefit of the public and the Granite State.

Your stated basis for this action taken by the Attorney General's Office is a lack of confidence from police chiefs. This conclusion arises from communication with a few of the Chiefs of police in the County. They are upset at how certain cases have been handled and a particular one most recently. Many of the Chiefs can easily think about a time when they were disappointed in communication surrounding cases that were handled by my Office. This includes many matters that happened before I became County Attorney. Unfortunately, this conclusion is not based on any communication with me or any member of my Office as to the cause or reasons for this struggle to effectively communicate. If the Chiefs of police of Hillsborough County are disappointed and unsatisfied with the communication capabilities of my office, count me among them.

That is why I have, among many initiatives I have set forth since becoming County Attorney, worked hard to ensure our budget was argued in a way to address that very issue. When my unreasonably overworked staff is faced with two options to spend their time on case performance or communication with external agencies, the focus needs to be the cases and then to try our best to communicate effectively. With no material support being provided to assist, it is through my efforts, with my team at my side, that the office be able to bring about improvements to this very

important issue. I cannot see how my resignation will contribute to the success of this initiative and effort that is critical to the confidence of the chiefs of police and the overall successful operation of my office.

It should be unacceptable to everyone in New Hampshire, especially the Attorney General, that the Hillsborough County Attorney's Office has been treated in this manner for all these years. For those that want to help, who want to bring about change to this Office, who want to see it become successful in all regards at delivering justice and serving the public, then those people should be working with me as the County Attorney while I continue to strive forward. There is much more work to be done and the team of agencies involved fighting among themselves do not serve to advance these important goals.

I respectfully decline your suggestion to resign and welcome any resources that you make available to support the Hillsborough County Attorney's Office.

Respectfully,

A handwritten signature in black ink, appearing to read 'M Conlon', written over a horizontal line.

Michael Conlon, Esq.
Hillsborough County Attorney