

**REPORT TO THE
LOS ANGELES COUNTY
BOARD OF SUPERVISORS**

**FROM THE
WORKING GROUP**

**CIVILIAN OVERSIGHT
COMMISSION**

**FOR THE
LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT**



June 22, 2015

Dean Hansell, Chair

Vincent Harris

Hernan Vera

Les Robbins

Brent Braun

Neal Tyler

Max Huntsman

June 22, 2015

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

On December 9, 2014, the Board of Supervisors, by unanimous vote, created the Working Group for the Oversight Commission for the Los Angeles County Sheriff's Department. You directed that the Working Group should make "recommendations to the Board regarding the oversight commission's mission, authority, size, structure, relationship to the Office of the Sheriff and to the Office of the Inspector General and appointment options...."

On behalf of the Working Group, I am honored to present to you our comprehensive proposal and Report for the creation of the Civilian Oversight Commission. Central to our goal in developing our proposal was your finding when you created the Oversight Commission that:

A moral imperative to ensure constitutional policing in the County's communities and jails exists. When coupled with the need for far reaching structural reforms and accountability mechanisms necessary to restore public trust and confidence in a department beset by allegations of excessive force and significant litigation costs, establishment of a permanent oversight entity without delay is well justified. Such an entity can play a vital role in promoting transparency, restoring public trust and validating reform efforts.

In proceeding with our work, the Working Group held 13 regular public meetings at the Hall of Administration and hosted nine Town Hall meetings throughout Los Angeles County (the Working Group met at least once in each Supervisory District.) In preparing our proposal and Report, we have considered approximately 308 public comments. Because use of force and jail violence in Los Angeles County has been widely publicized, public testimony came primarily from those who appeared most concerned about these issues. Those who testified included members of the clergy, representatives of civil rights and civil liberties organizations, political leaders, retired and active law enforcement, mental health advocates, civic leaders, community activists, families and victims of alleged police brutality and representatives from other civilian oversight groups. Many of those who testified did so on multiple occasions. The Working Group, despite efforts to gather as large a representation as possible of the Greater Los Angeles County populace, did not

have participation from a wide range of members of the general public that might have provided a broader view of law enforcement in general or the Sheriff's Department in particular. While we have heard testimony about specific allegations of misconduct, the Working Group has not assumed that all of them are true. We have also had the benefit of the broad experience of the seven Working Group members. We are grateful for the public's candor, wisdom and insights on how the Civilian Oversight Commission should be structured. The Working Group's proposal takes into consideration many recommendations made by those who provided public comment.

The Report that accompanies our proposed ordinance is intended as a commentary on its various provisions, information that we want to provide to you as you consider the proposal. In most of the recommendations the Working Group after healthy discussion ultimately voted unanimously. There are three areas where we were not united. Where this is the case, we provide the various options and indicate who supported which option.

We have also created a public website for the new Commission and for the public that contains a detailed chronicle of our work (www.lacounty.gov/sheriff-oversight), which we hope will enlighten the new Commission and the public about the issues we considered. The website also contains articles and other materials in connection with civilian oversight.

It has been our honor to serve the people of the County of Los Angeles. Thank you for entrusting us with this important responsibility.

Respectfully,



Dean Hansell, Chair



Vincent Harris



Hernan Vera



Les Robbins



Brent Braun



Neal Tyler



Max Huntsman

**REPORT FROM THE WORKING GROUP
ON THE
CIVILIAN OVERSIGHT COMMISSION
FOR THE
LOS ANGELES COUNTY SHERIFF'S DEPARTMENT**

TABLE OF CONTENTS

A. MISSION STATEMENT

B. RESPONSIBILITIES OF THE CIVILIAN OVERSIGHT COMMISSION

C. COMMISSION'S COMPOSITION PROPOSAL

D. MISCELLANEOUS PROVISIONS

1. TERM OF OFFICE
2. VACANCIES
3. ORGANIZATION
4. MEETINGS
5. STAFF
6. SELF-GOVERNANCE
7. COMPENSATION
8. RECORDS
9. ANNUAL REPORT
10. SELF-EVALUATION
11. COMPLIANCE WITH ALL LAWS

E. MEMORANDUM OF AGREEMENT FOR OBTAINING DOCUMENTS AND INFORMATION

1. MEMORANDUM OF AGREEMENT
2. COOPERATION AND COORDINATION
3. AMENDMENT TO COUNTY CHARTER FOR SUBPOENA POWER

F. RELATIONSHIP TO THE OFFICE OF THE INSPECTOR GENERAL

- PROPOSED AMENDMENT TO THE OFFICE OF THE INSPECTOR GENERAL ORDINANCE

G. ADDITIONAL RECOMMENDATION

1. SYBIL BRAND COMMISSION FOR INSTITUTIONAL INSPECTIONS

H. RECOGNITIONS

ATTACHMENTS

1. COMMISSION COMPOSITION OPTIONS 2 THROUGH 6 (Attachment I)
2. PROPOSED ORDINANCE PROVIDED BY COUNTY COUNSEL SHERIFF CIVILIAN OVERSIGHT COMMISSION (Attachment II)
3. SUMMARY OF EACH TOWN HALL MEETING (Attachment III)
4. PHILADELPHIA POLICE ADVISORY COMMISSION, AMERICAN CIVIL LIBERTIES UNION LETTER, AND LA TIMES EDITORIAL (Attachment IV)

SECTION A: MISSION STATEMENT

The Chair of the Working Group initiated the crafting of the mission statement. It is the consensus of the Working Group that the new Commission provide an effective vehicle for community engagement, enhanced transparency, accountability and oversight. While recognizing the autonomy of the Sheriff and his direct accountability to the voters, we also seek to create a mechanism – one that the Sheriff has welcomed and embraced – for providing insights and another bridge to the community on LASD policies, practices and procedures. We have tried to create a mission statement that is short and aspirational.

Mission Statement:

The mission of the Civilian Oversight Commission is to improve public transparency and accountability with respect to the Los Angeles County Sheriff's Department. The Commission shall provide robust opportunities for community engagement and ongoing analysis and oversight of Los Angeles County Sheriff's Department policies, practices and procedures, and advice to the Sheriff, Board of Supervisors and the Public.

SECTION B: RESPONSIBILITIES OF THE CIVILIAN OVERSIGHT COMMISSION

The Working Group carefully considered and defined the responsibilities for the Civilian Oversight Commission. The Commission should have the ability to review, analyze, investigate and report where appropriate to the Board of Supervisors and the Sheriff. It is imperative that the Commission serves as an effective mediator and facilitator between the Board and community and between the Sheriff's Department and the community on matters deemed appropriate by the Board and Sheriff's Department. The Working Group also recognizes the Commission has the opportunity to serve as a monitor on behalf of the Board and the community to oversee the implementation of settlement provisions in litigation.

Because the Sheriff is independently elected and has operational autonomy, many of the proposed responsibilities are referral powers, only possible if the Board, the Sheriff, and the Office of Inspector General (OIG) find the Commission's work to be appropriate, useful and credible. Many roles described for the Commission will occur only if the Commission is requested by the Board, the Sheriff, the OIG and other interested stakeholders to assume those roles.

The testimonies provided by community members make clear that it is critical that the Commission serve as a bridge between the community and the Sheriff's Department. The Commission should dedicate itself to ongoing outreach efforts by conducting regular Town Hall meetings, in addition to its own regular meetings.

Bringing the Commission's work and meetings directly into the community and enhancing the public's understanding of the Sheriff's Department as well as the OIG will be invaluable. In addition, the Commission should emphasize to both the public and law enforcement the duty to respect and obey the Constitution in all dealings involving law enforcement in order to prevent or mitigate the likelihood of violations of law.

Responsibilities of the Commission:

1. Review, analyze, where appropriate solicit public input, and make recommendations to the Board of Supervisors and the Sheriff on LASD operational policies and procedures affecting the community or make recommendations to create additional operational policies and procedures affecting the community and request a response. Normally the Commission shall seek the input of the Sheriff before completing its recommendations.
2. Investigate, analyze, solicit input, and make recommendations to the Board of Supervisors and the Sheriff on systemic LASD-related issues or complaints affecting the community. Normally the Commission shall seek the input of the Sheriff before completing its recommendations.
3. Review, at its discretion, or upon request from the Board of Supervisors or the Sheriff, policy recommendations to the Sheriff made by official entities sanctioned by the Board of Supervisors or the Sheriff or recommendations made in other reports that in the judgment of the Commission merit its analysis, and report to the Sheriff and the Board of Supervisors whether or not the recommendation should be implemented by the Board of Supervisors or Sheriff or if the recommendation is being implemented, the status of the implementation. The Oversight Commission reports shall contain an analysis supporting its recommendations and normally shall seek the input of the Sheriff before completing or publishing its reports.
4. Upon request of the Board of Supervisors and the Sheriff, the Commission or any of its members may serve as the monitor and assess the implementation of settlement provisions in litigation.
5. Function as a liaison, or at the request of the groups or organizations involved, serve as a mediator to help resolve on-going disputes between the LASD and members of the community, or organizations within Los Angeles County.
6. Without interfering with the Sheriff's investigative functions, obtain community input and feedback on specific incidents involving use of force, detention conditions, or other civil rights concerns regarding the LASD and convey to the Sheriff and the Board of Supervisors community complaints,

concerns, or positive feedback and where appropriate make recommendations.

7. Work with and assist the OIG in soliciting community input and feedback on issues under investigation by the OIG.
8. Function as a bridge between the Sheriff's Department and the community by providing the community an additional means of giving input to the LASD, obtaining answers from the LASD to community concerns about LASD operations, practices, and activities, bring an additional perspective to LASD decision-making to ensure an on-going balance between the sometimes competing factors of ensuring public safety and constitutional, civil, and human rights, and communicate community concerns to the LASD that otherwise might not be as clear or might go unnoticed.

SECTION C: COMMISSION'S COMPOSITION PROPOSALS

The Working Group discussed their individual perspectives about how the Commission should be comprised. To better understand the function of a Sheriff's Department oversight body, the Working Group invited representatives from San Diego County's Citizen's Law Enforcement Review Board to testify about their experiences in establishing their oversight commission. The Working Group also took into account public testimony as noted earlier in this report and the accompanying cover letter.

The Working Group's efforts resulted in the creation of a list of six diverse composition options; five created by the Working Group and one proposed by Dignity and Power Now. The option proposed by Dignity and Power Now contemplates five appointments by the Board, and delegates the remaining appointments to a committee created by community organizations.

Each proposed option calls for a nine member commission. Each provides that at least five of the members would be selected by the Board, one per Supervisor. The proposals differ on the selection of the remaining four members. Each proposal advocates that weighted consideration be given to the selection of members who are both diverse and may bring to the Commission special expertise in fields such as mental health, custody and juvenile justice.

Common to each proposal is a set of core standards for Commission members that requires robust and on-going orientation and training, adherence to a code of conduct, compliance with a conflicts of interest policy, and the active participation of the Sheriff.

The proposal does not ban all "law enforcement" personnel from service. Rather, the prohibition is limited to current or former LASD employees and current employees of other police departments. The prohibition of former LASD law enforcement personnel, which is stated in proposal number nine below, was passionately debated among the Working Group. The Working Group was

ultimately divided on this issue. A majority of members felt former LASD law enforcement should not have the opportunity to serve on the Commission due to the belief that it was important to reestablish public trust and restore confidence in the Department as well as to avoid any possible conflicts of interest for the Commission or because of the appearance of a conflict that the inclusion of former LASD employees might create on a civilian board. They believe that since this is to be a "Civilian Oversight" group, current LASD and other L.A. County employees should not serve nor should any current members of any police department. Support for prohibiting law enforcement from serving on the Commission was the overwhelming sentiment of members of the public who attended our meetings.

Some members on the Working Group who felt former LASD and current police department personnel should not be prohibited from serving on the Commission believed strongly that barring such personnel would be discriminatory and would not contribute to the spirit of having a diversified Commission composition. They believed that a "blanket prohibition" of any person, absent a clear conflict of interest or other disqualifying factor is at odds with the stated premise that the Commission members be diverse and representative of all members of the LA County populace to the extent that is humanly possible. They believed that excluding any segment of the population on this basis alone is meritless and derogatory. The opposing members of the Working Group on this point believe there is a duty to appoint only the very best and most qualified persons to the Commission so they speak effectively and with credibility for all segments of our community.

At the conclusion of the Working Group's debate, the members voted 4 to 3 in favor of not including former LASD personnel on the Commission.

(Four Working Group members supported this option – Huntsman, Hansell, Harris and Vera. Three Working Group members opposed it – Tyler, Braun and Robbins.)

As mentioned, community members that participated in the Town Hall meetings expressed the belief that the Commission should have a composition that reflects the diversity of Los Angeles County. The Working Group agrees with this sentiment that the Commission should reflect the diversity of Los Angeles County and favors weighted consideration be given to age, geographic, racial, ethnic, religious, national origin, immigration status, gender, gender identity and sexual orientation, when selecting members.

The Working Group also favored having Commission members qualified with subject matter expertise in such areas as mental health, custody and juvenile justice.

The Working Group has thoroughly discussed the merits of each option. At the conclusion of the debate and the public's testimony on this matter, a 4-3 majority of the Working Group has recommended Option One for your Board's

consideration. To assist the Board, the Working Group has included the remaining five options in the attachment for your review (ATTACHMENT I). Three of the Working Group members favored other options.

One idea for increasing the opportunity of additional community members to participate in Commission activities is to allow the Commission to create "subcommittees" (for instance, a subcommittee comprised at least in part of community advocates, mental health professionals, former jail inmates, law enforcement experts, etc.). Another related idea is to allow the Commission to create neighborhood councils, in recognition of the fact that Los Angeles County is too large to be considered "one community." In fact, the Sheriff's Department serves many dozens of communities with differing priorities and expectations of law enforcement, and since 1993, has developed Community Advisory Committees in each Sheriff's station area. These groups meet with station personnel monthly, and are ethnically and socio-economically reflective of the communities they represent. The Working Group believes these sorts of ideas have merit, but should be explored more deeply after the Commission has begun its work and gained experience in its tasks.

COMMISSION COMPOSITION PROPOSALS:

1. The Oversight Commission shall consist of nine members. Each shall be a resident of Los Angeles County. Each member shall be selected from candidates who have been qualified as defined in the application process set forth in section 3.79.050 of the new ordinance creating the Commission. The members shall be selected as follows:

Option 1

A. Each Supervisor shall select one member to serve on the Commission.

B. Four additional members of the Commission shall be jointly selected by the Board of Supervisors by majority vote. These members shall be proposed by any Supervisor.

NOTE: 4 members were in favor of this option.

ADDITIONAL PROVISIONS:

2. The application process can be changed by the Board of Supervisors. Any resident of Los Angeles County may submit an application. The applications shall be submitted to the Chief Executive Officer.

3. In selecting the members chosen by the Supervisors from those who qualified, weighted consideration shall be given to selection of persons with substantial community involvement (such as active participation in a community organization working on custody or juvenile justice issues or nominated by such

organization), background either as a mental health professional or experienced mental health advocate, or a representative of a contract city.

4. In selecting members of the Commission each Supervisor shall give weighted consideration to selecting members who would add to the diversity of the Commission including, but not limited to, racial, ethnic, age, geographic, gender, gender identity, religious, sexual orientation, occupational, immigration status, and national origin composition of the Commission.

5. Each member shall serve for a three year term. No member may serve on the Commission for more than two full consecutive terms unless such limitation is waived by the Board of Supervisors. Tenure is also subject to the provisions of Section 5.12.050 of the County Code.

6. The Commission shall develop a comprehensive training and orientation program which each Commissioner must complete within six months of appointment. Failure to do so may result in disqualification. In developing this program the Commission shall consult with the Sheriff, community groups and other community stakeholders. The initial training program and on-going training shall be robust and cover such topics as constitutional policing, the use of force and firearms, custody issues, mental health issues, juvenile justice, and patrol issues. Each Commission member shall complete the initial training program and actively participate in on-going training programs.

7. The Commission, working with the County Counsel, shall develop a comprehensive conflicts of interest policy and a code of conduct policy that each Commission member will follow. This shall be evidenced by each commission member signing the policies.

8. The Sheriff or senior representatives of the LASD selected by the Sheriff shall attend and participate in the meetings of the Commission without vote.

9. No current employee of Los Angeles County, current or former employee of the Los Angeles County Sheriff's Department, or any current employee of any police department, may serve as a voting member of the Commission.

10. Transition Provision. As part of the formation of the Commission only, the initial Commissioners shall be divided in to three groups, with Group A serving an initial three year term, Group B serving an initial two year term and Group C serving an initial one year term. The County Counsel shall randomly determine which Commissioners shall be placed in which of the three groups.

SECTION D: MISCELLANEOUS PROVISIONS

In the following, the Working Group recommends twelve miscellaneous provisions for your consideration.

In the area of compensation, the Working Group discussed the purpose of compensation and the proposed compensation amount. The Working Group agreed that the compensation amount should not serve as a source of income, but to mitigate financial hardship associated with service, subject to a cap. It was also agreed that where possible, Commissioners shall be encouraged to waive their compensation. Members of the Working Group recognized that some level of compensation might be appropriate or necessary if the Board wishes to appoint members of the community who would be unable to serve without compensation over and above mere reimbursement for expenses. The concern was raised, however, that compensation of the amount suggested might conflict with our aim that membership be predicated on public service rather than monetary remuneration.

The Working Group believes that to be effective, the Commission itself needs sufficient staff such as an Executive Director, Analysts, Public Information officer and Administrative Support and the OIG staff should be increased to handle the increase in workload of the OIG investigators due to the Commission's work as deemed necessary by the Board of Supervisors and based upon a demonstrated work load to justify the positions.

The Working Group also recommends a self-evaluation provision that would require tri-annual evaluation by the Commission with a mandatory review by the Chief Executive Office of each evaluation within ninety days after the Commission's evaluation being submitted to the Board. This provision will enable the Board of Supervisors to review, discuss and debate the efficiency and effectiveness of the Commission.

Miscellaneous Provisions:

Term of Office. A member shall be appointed for no more than two consecutive full three year terms. Appointment to fill a vacancy shall not constitute an appointment for a full term. The term for all members shall begin on July 1 and end on June 30. The first term of all persons who are the initial appointees to the Oversight Commission shall be deemed to commence on the date their appointment is approved by the Board.

Vacancies. Vacancies on the Commission shall be filled in the same manner as that position was originally filled. Vacancies shall be filled within 30 days and subject to the provisions of the article, shall be filled for the balance of the unexpired term.

Organization. The Oversight Commission shall, with the advice of the County Counsel, prepare and adopt necessary rules and regulations for the conduct of its business subject to approval of the Board of Supervisors. The Commission shall initially follow Robert's Rules of Order. A current copy of the rules and regulations shall be filed with the Executive Officer of the Board of Supervisors.

Meetings. The Commission shall meet at least once a month or more often as necessary at a time and location to be established by the Commission. It shall hold an annual meeting during the month of June.

Staff. The Commission shall utilize the staff of the OIG to undertake investigations, inquiries, audits and monitoring and the staff of Commission Services to provide assistance at Commission meetings. The actual staff of the Commission shall be comprised of positions designated in the current salary ordinance of the County of Los Angeles. The Commission will also have the authority to use consultants where the need arises, to be retained by the Executive Office or by the Chief Executive Officer's delegated authority.

Self-governance. The Commission shall elect a chairperson, a vice-chairperson and a secretary and such other officers as it determines appropriate from its membership at its annual meeting. A chair may only serve for two consecutive one year terms.

Compensation. Members of the Oversight Commission will be eligible to receive reasonable compensation to be set from time to time by the Board of Supervisors for each regular and special meeting of the Commission up to a cap per member of \$5,000 per fiscal year and shall be reimbursed for reasonable expenses incurred in performing their duties in accordance with County policies regulating reimbursement to County officers and employees (including parking and transportation in attending meetings of the Commission). Members are encouraged where possible to waive their meeting compensation.

Records. Any personnel records, citizen complaints against County personnel in the Sheriff's Department, and information obtained from these records, which come in to the possession of the Oversight Commission or its staff, shall be confidential and shall not be disclosed to any member of the public, except in accordance with applicable law. Copies of records and complaints of the Oversight Commission shall be made available to the Sheriff upon completion of the investigation of the Oversight Commission unless prohibited by applicable law.

Annual Report. The Commission shall prepare, submit to the Board of Supervisors and make available to the public an annual report. The annual report will be prepared no later than July 1 of each year. The annual report shall contain background information about the Commission, identify Commission members and senior staff members, detail activity of the Commission in the previous year, provide a budget for the Commission and provide contact information. The annual report will detail what Sheriff's Department policies, procedures or practices if any, were eliminated, modified or created due to the Commission's work.

Self-Evaluation. At the end of the third year of its operation and every three years thereafter, the Commission shall undertake a detailed self-evaluation. The

detailed self-evaluation shall include a candid assessment about the strengths and the weaknesses, and successes and failures of the Commission. It shall contain a recommendation whether the Commission should continue in existence and if so should its responsibilities and powers change in any way or whether a management audit should be conducted. The self-evaluation should also contain recommendations directed to the Commission itself about how to improve its operations. The self-evaluation shall be submitted to the Board of Supervisors and to the public. The Chief Executive Officer of Los Angeles County shall, within ninety days of the Commission's audit being transmitted to the Board of Supervisors, review the Commission's self-evaluation and determine whether a management audit should be conducted and shall be incorporated in the self-evaluation transmitted to the Board of Supervisors with a copy to the Sheriff. Within a year of the issuance of the self-evaluation, the Commission shall provide a written report to the Board of Supervisors and to the general public about its status in implementing the recommendations identified in the self-evaluation.

Compliance With All Laws. The Oversight Commission shall comply with all applicable State and federal laws including but not limited to the Ralph M. Brown Act and the Political Reform Act.

SECTION E: MEMORANDUM OF AGREEMENT FOR OBTAINING DOCUMENTS AND INFORMATION

The Working Group was unanimous in recognizing the need for the Commission, the OIG and the LASD to have a comprehensive agreement on the protocols of obtaining documents and information from the LASD. The members also emphasized the value of having a cooperative and coordinated relationship among the three parties in order for the Commission to succeed.

However, the Working Group was divided in its discussion whether to recommend to the Supervisors that an amendment to the County Charter be submitted for consideration by the voters that would allocate subpoena power to the Commission and OIG. Some members believed that a charter amendment is necessary due to the strength of the public testimonies of those who attended the Working Group meetings in favor of amending the County Charter to grant subpoena power. There was also strong consideration by some members that felt the Commission needed to have "teeth" in the form of the power to request information from the Sheriff's Department. Four members voted to support placing the question of subpoena power before the voters – Huntsman, Hansell, Harris and Vera.

These members believe that for the Inspector General and the Civilian Oversight Commission to be effective, they must have access to detailed and accurate information from the Sheriff's Department so that the opinions they render are powerful and persuasive. Over a year ago, the Board of Supervisors passed an ordinance to implement its supervisory duties under Government Code section 25303 in a manner that County Counsel believes would not conflict with the

Sheriff's independence or the Peace Officer Bill of Rights. That ordinance was drafted in partnership with the Sheriff's Department and empowered an Inspector General to examine the workings of the Department, including personnel records, and report to the Board and the public on what was found out without disclosing confidential information. However, to this date, that ordinance has not been followed by the LASD and the Inspector General is unable to access a great deal of information which is considered to fall under the category "personnel records" or otherwise under investigation. Our newly elected Sheriff has demonstrated a strong commitment to transparency and civilian oversight, but has not yet been able to implement the access necessary to support them. It is in this context of lack of transparency that the majority of the Working Group voted to recommend that the Board of Supervisors seek a change in the law.

Members of the public from throughout the county have spoken in support of a civilian commission which has the ability to enforce appropriate access even over objection by the Sheriff. Mark-Anthony Johnson of Dignity and Power Now conveyed a March 19, 2015, letter from Kelvyn Anderson, Executive Director of the Police Advisory Commission in Philadelphia, which sets forth a detailed example of the usefulness of subpoena power in shedding light on police disciplinary practices (Attachment IV). Peter Eliasberg of the American Civil Liberties Union provided an April 2, 2015, letter arguing on behalf of the institutional importance of being able to enforce access through a subpoena (Attachment IV). On May 17, 2015, the Los Angeles Times published an editorial with the heading "Subpoena power key to Sheriff's Department oversight, but it's complicated" arguing for subpoena power for a civilian commission, although acknowledging that personnel records may need to be reviewed only by the Inspector General and used to produce appropriate public reports to avoid public disclosure of protected information (Attachment IV). These writings and numerous public comments have expressed the desire that a civilian commission be empowered to require information rather than merely to ask for it.

The members not in favor of amending the County Charter felt strongly that a prolonged, polarizing public debate about subpoena power, potentially coupled with legal activity opposing it by employee associations, will inevitably slow the progress of the developing relationship between the Commission and the Sheriff's Department, and could distract from the important work of this body and impair the effectiveness of oversight for years. Those members, Tyler, Braun, and Robbins, believe that the County has an excellent opportunity for reaping the benefits of effective oversight immediately and into the future, due to the following factors – (1) a supportive Sheriff committed to increased transparency and cooperative responsiveness to the new Commission's requests for information and to its recommendations, (2) an already-functioning Inspector General's office, poised to obtain deeper, more extensive access to LASD confidential information, meetings, etc. upon completion of the nearly-finalized MOA that will render subpoena power for the Commission unnecessary, and (3) a Civilian Oversight Commission that can guide the Inspector General's office and can rely on the cooperation of the Sheriff's Department in both entities'

missions. These members recognize that the Sheriff's Department has a 22-year track record for full cooperation with prior oversight entities, including the Board-appointed Special Counsel, the Office of Independent Review, and various monitors appointed in response to litigation. These members also believe it is vitally important for the Commission to begin its work in a cordial and cooperative relationship with the Sheriff and the Sheriff's Department. These members believe that the use of a subpoena is often at odds with that objective and the members felt the new Sheriff should be granted a reasonable period of time to effectuate the reforms he was elected to implement and to establish his working relationship with the Commission in a non-adversarial setting. Further, they believe that no evidence was presented to identify under what conditions a subpoena would be issued, to whom or for what and how that information would be critical to the work of the Commission. The public comment only addressed broad generalities.

At the conclusion of the Working Group's discussion, the members voted 4 to 3 in favor of recommending to the Board that it place on the ballot a proposal to amend the County Charter to provide subpoena power to the Commission and the OIG.

Obtaining Documents and Information:

1. Memorandum of Agreement. The Working Group recommends that the Oversight Commission, the Office of Inspector General and the Los Angeles Sheriff's Department shall enter in to a comprehensive memorandum of agreement (MOA) that will in most circumstances govern how the Commission and the Inspector General will obtain documents and information from the Sheriffs' Department.

The MOA shall cover such things as:

- A. What documents and information the Commission shall have access to;
- B. What documents and information the Inspector General shall have access to;
- C. Confidentiality procedures;
- D. General time limits for responding to document requests and exceptions;
- E. Compliance with the Public Safety Officers Procedural Bill of Rights Act (Government Code Sections 3300-3313), Penal Code Section 832.7 and other confidentiality statutes;
- F. Procedures for making requests for information.

2. Cooperation and Coordination. In the discharge of its duties, the Board of Supervisors directs that all officers and employees of the County to the extent permitted by law provide complete and prompt cooperation to the Commission so

that the other public officers and the Commission can fully and properly perform their respective duties.

3. Amendment to the County Charter for Subpoena Power. The Working Group recommends to the Board of Supervisors that it place on a ballot in an election that the voters of Los Angeles County consider an amendment to the Charter of the County of Los Angeles subpoena power for the Commission and to the OIG. The County Counsel should be asked to draft the Charter amendment language to ensure compliance with the Public Safety Officers Procedural Bill of Rights Act and Penal Code Section 832.7.

NOTE: Paragraph 3 (subpoena power) was adopted on a 4 to 3 vote.

SECTION F: RELATIONSHIP TO THE OFFICE OF THE INSPECTOR GENERAL

One of the critical factors that will determine the success of the Civilian Oversight Commission for the Sheriff's Department will be the Commission's relationship with the OIG. The Commission must work closely with the OIG as the OIG undertakes investigative duties required for the Commission to perform its responsibilities.

The Working Group believes a tight working relationship between the Commission and the OIG will assist to resolve conflicts, create efficiencies and produce future cost savings from reduced litigation and claims

The Working Group also believes that the Commission should oversee and guide the work of the OIG and has proposed various amendments to the OIG ordinance to establish a reporting relationship from the OIG to the Commission and clarify the powers of the OIG and fill in the gaps of the existing ordinance such as clarifying that the OIG's responsibilities include oversight over vendors who work in the jails.

Proposed Amendment to the Office of the Inspector General Ordinance:
(The final ordinance and its analysis will be submitted to the Board of Supervisors under separate cover by County Counsel.)

ORDINANCE NO. _____

An ordinance amending Title 6 - Salaries of the Los Angeles County
Code, relating to

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 6.44.190 is hereby amended to read as follows:

6.44.190 - Office of Inspector General.

A. As part of the Board of Supervisors' duty to supervise the official conduct of the Sheriff under Government Code section 25303, the Office of Inspector General ("OIG") is created in the department of the Board of Supervisors. The OIG is created to promote constitutional policing and to promote the common interest of the Board and the Sheriff in effective and lawful policing and to facilitate the Board of Supervisors' responsibility without interfering with the Sheriff's investigative functions. The OIG shall focus on matters relevant to department-wide policies and procedures and shall not interfere with criminal, personnel, and other investigations by the Sheriff's Department.

B. The OIG shall provide independent and comprehensive oversight, monitoring of, and reporting about the Sheriff's Department and its jail facilities and the contractors and employees involved with the jails, as set forth in this Section under the leadership of an Inspector General appointed by the Board of Supervisors.

C. As used in this section, the terms "investigation," "audit," "inquiry" and "monitoring" shall have the following definitions:

(1) Investigation: A formal gathering of information targeted at producing actionable information regarding an employee, employees, or other matter to be done in compliance with the Confidentiality Protections contained in subsection K, below.

(2) Audit: A formal process following professional guidelines to answer specific questions regarding specific operations.

(3) Inquiry: Gathering of information as in monitoring, but with the goal of obtaining additional information regarding a potential problem area.

(4) Monitoring: Gathering of information regarding facilities and operations, including by direct observation, discussions with staff and the public, and review of records, in order to identify problem areas or to ensure compliance with existing laws, policies, and other imposed obligations.

D. The County of Los Angeles Sheriff Civilian Oversight Commission ("commission") shall supervise and evaluate all work performed by the Inspector General that is directly aligned with the commission's responsibilities as defined in County Code chapter 3.79. When there is a vacancy in the office of the Inspector General, the commission shall nominate a successor, subject to final appointment by of the Board of Supervisors.

A decision to terminate the Inspector General shall be either initiated by the Board of Supervisors with the input of the commission or shall be recommended by the commission, subject to the final decision of the Board of Supervisors.

E. The OIG shall provide its public reports and investigations to the Board and the Sheriff at the same time it provides them to the commission.

GF. The OIG shall have four primary functions: (1) monitoring the Sheriff's Department's operations, the conditions of confinement in the jails and other custody-related facilities, including monitoring the provision of services to inmates and the conduct of contractors and employees who provide such services, including, but not limited to, medical, pharmaceutical, and mental health services; in the jail facilities, and the Sheriff's Department's response to inmate

and public complaints related to the Sheriff's Department operations; or
conditions of confinement, including provisions of services to inmates and the
conduct of contractors and employees who provide such services; (2) periodically
reviewing the Sheriff's Department's use of force patterns, trends, and statistics,
the Sheriff's Department's investigations of force incidents and allegations of
misconduct, and the Sheriff's Department's disciplinary decisions; (3) reviewing
the quality of audits and inspections conducted by the Sheriff's Department and
conducting its own periodic audits and inspections; and (4) regularly
communicating with the public, the Board of Supervisors, the commission, and
the Sheriff's Department regarding the Sheriff's Department's operations.

Complaints relating to specific conduct shall be referred, with the permission of
the complainant, to the Sheriff's Department for action pursuant to Penal Code
section 832.5.

G. The OIG is specifically authorized to monitor compliance with civil rights
laws and to review inmate health information to determine compliance with such
laws.

DH. Without interfering with the Sheriff's investigative functions, the OIG shall
have the authority to undertake an inquiry and audit or perform monitoring at the
request of the Board of Supervisors, the Sheriff, the commission, or at its own
initiative. ~~‡~~The OIG shall have the authority to investigate specific incidents
involving Sheriff's Department personnel only in the following circumstances:

- (1) when requested by, or with authorization of, the Sheriff;
- (2) when the Inspector General ~~determines~~ makes a factually based
determination that the Sheriff's Department has not adequately investigated an

incident; provided, however, that the Inspector General shall first meet and confer with the Sheriff or his staff and afford the Sheriff's Department the opportunity to investigate the incident further before the OIG conducts an investigation pursuant to this subpart; or

(3) when the Board of Supervisors makes a formal request to the Inspector General for privileged legal advice pertaining to a claim or lawsuit arising out of the actions of the Sheriff's Department or its personnel.

EJ. The Inspector General shall ~~report directly to, and serve as an agent of,~~ the commission and the Board of Supervisors and shall make regular reports to the commission and the Board of Supervisors on the Sheriff's Department's operations. Such reports to the Board of Supervisors shall be public reports, except to the extent they relate to confidential personnel or otherwise privileged matters or contain confidential medical or mental health records or protected inmate health information. The OIG shall work under the direction of the Inspector General, who shall be an attorney licensed by the State Bar of California. The Inspector General shall serve as special counsel to the Board of Supervisors and have an attorney-client relationship with the Board of Supervisors when requested by the Board to provide privileged legal advice pertaining to a claim or lawsuit arising out of the actions of the Sheriff's Department or its personnel. The Inspector General shall also serve as special counsel to the commission and have an attorney-client relationship with the commission.

FJ. The Sheriff's Department and all other County departments shall cooperate with the OIG and promptly supply any information or records

requested by the OIG, including confidential peace officer personnel records, medical and mental health records or other protected health information of inmates necessary for the OIG to carry out its duties; provided, however, that the OIG shall not have the authority to compel Sheriff's Department personnel involved in a specific incident to respond to questions concerning that incident without the authorization of the Sheriff. The OIG shall not make any use of a compelled statement or any evidence therefrom that would jeopardize a criminal investigation.

GK. The confidentiality of peace officer personnel records, medical and mental health records, protected health information of inmates, and all other privileged or confidential information received by the OIG in connection with the discharge of the OIG's duties shall be safeguarded and maintained by the OIG as required by law or as necessary to maintain any applicable privileges or the confidentiality of the information. The OIG shall not disclose, without the Sheriff's authorization, any of the Sheriff's Department's confidential personnel, investigative, or disciplinary information unless such information is already a matter of public record or the disclosure is to the Board of Supervisors in response to a formal request by the Board of Supervisors for privileged legal advice pertaining to a claim or lawsuit arising out of the actions of the Sheriff's Department or its personnel. The OIG shall not disclose any confidential inmate medical or mental health records or protected health information of inmates, unless the disclosure is permitted by law.

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SECTION G: ADDITIONAL RECOMMENDATION

There is one area we believe merits additional analysis. The Sybil Brand Commission for Institutional Inspections performs certain functions over the jails that could overlap with the work of the Commission. Sybil Brand functions which relate to probation camps and facilities are duplicated by the powers of the Probation Commission.

1. Sybil Brand Commission for Institutional Inspections. The Working Group believes that there may be considerable overlap between the role of the Sybil Brand Commission and some of the potential responsibilities of the new Commission. We recommend that the role and responsibilities of Sybil Brand be analyzed.

SECTION H: ACKNOWLEDGEMENTS

We would like to thank the following for their dedication and support through this process. Without your assistance, the voices of the community could not have been heard at our Town Hall meetings throughout the County and at our regular meetings at the Kenneth Hahn Hall of Administration. We are also deeply appreciative of the assistance we received from the Los Angeles Sheriff's Department in investigating misconduct allegations we received and providing the Working Group with technical information.

Again, our sincere gratitude to everyone for your assistance through this endeavor.

- **THE STAFF OF EACH OF THE BOARD OF SUPERVISORS**
- **EXECUTIVE OFFICE OF THE BOARD OF SUPERVISORS, COMMISSION SERVICES**
- **COUNTY CHIEF EXECUTIVE OFFICE**
- **COUNTY OFFICE OF THE COUNTY COUNSEL**
- **COUNTY PARKS AND RECREATION**
- **COUNTY INTERNAL SERVICES DEPARTMENT**
- **ANTELOPE VALLEY COMMUNITY COLLEGE**
- **CITY OF WEST HOLLYWOOD**

ATTACHMENT I

COMMISSION COMPOSITION OPTIONS 2 THROUGH 6

Option 2

- A. Each Supervisor shall select one member to serve on the Commission.
- B. Four additional members of the Commission shall be nominated by the Chief Executive Officer of Los Angeles County and appointed by the Board of Supervisors by majority vote.

Option 3

- A. Each Supervisor shall select one member to serve on the Commission.
- B. The five members of the Commission selected by the Supervisors shall select four additional members to serve on the Commission.

Option 4

- A. Each Supervisor shall select one member to serve on the Commission.
- B. The remaining members shall be selected as follows:

One member selected by the Presiding Judge of the Court

One member selected by the District Attorney

One member selected by the Public Defender

Alternate A

One member selected by the other Commission members from a list of 5 or fewer individuals put together by the Board of Supervisors and intended to reflect diverse community representation.

Alternate B

One member selected by the Sheriff as a non-voting ex officio member.

NOTE: 2 members were in favor of this option.

Option 5

- A. Each Supervisor shall select one member to serve on the Commission.
- B. Two additional members of the Commission shall be selected by a Committee consisting of:

1. A representative from a Los Angeles County city selected by the California Contract Cities Association;
 2. The District Attorney;
 3. The Public Defender;
 4. The Presiding Judge of the Los Angeles County Superior Court; and
 5. A representative of a civil rights organization that has successfully litigated a case against Los Angeles County, to be chosen by the Board of Supervisors.
- C. Two additional members of the Commission shall be selected by a Committee consisting of three representatives of community organizations with a history of working on law enforcement accountability issues, to be chosen by the Board of Supervisors.

NOTE: 1 member was in favor of this option.

Option 6

- A. The Commission shall consist of nine (9) members.
- B. The Board of Supervisors shall appoint five (5) members to the Civilian Oversight Commission. Each Supervisor shall be responsible for one appointment, all of whom shall be residents of Los Angeles County. In making nominations and establishing appointments, each Supervisor shall attempt to reflect in the Oversight Commission membership comprehensive representation of age, sex, socioeconomic status, racial and ethnic background, sexual orientation, former experience of incarceration in the Los Angeles County jail system and geographical distribution including representation of both the unincorporated areas and the cities that contract with the County for law enforcement by the Sheriff's Department. Each Supervisor shall provide to the Board of Supervisors and the public a statement of the qualifications of each person nominated.
- C. The remaining four (4) Oversight Commission members shall be nominated by a committee of community members, organizations, and advocates. This committee shall include, but not be limited to, the organizations that comprise the Coalition to End Sheriff Violence in L.A. Jails. The list of nominees shall be submitted to the Board of Supervisors who shall appoint the remaining four members of the Commission from this list. The committee shall provide a statement of the qualifications of each person nominated.
- D. Public notice and publicity shall be given of intention to appoint members to the Oversight Commission. An application form shall be provided to members of the public.
- E. County employees and persons employed as peace officers, or formerly employed as peace and/or custodial officers shall not be eligible to be members of the Review Board.

F. Each member shall serve a term of three years; provided, however, that the terms of the initial members of the Review Board shall be determined as follows:

1. At the first meeting of the Oversight Commission, the nine members shall draw lots to determine which three members will serve a three year term, which three members will serve a two year term, and which three members will serve a one year term.
2. Each member of the Board may serve up to two consecutive terms as a Commission member.

ATTACHMENT II

ORDINANCE NO. _____

An ordinance amending Title 3 - Advisory Commissions and Committees of the
Los Angeles County Code, relating to

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 3.79 is hereby added to read as follows:

3.79 – Sheriff Civilian Oversight Commission.

Sections:

3.79.010 Created.

3.79.020 Purpose.

3.79.030 Duties.

3.79.040 Membership.

3.79.050 Nominations.

3.79.060 Term of Service.

3.79.070 Training.

3.79.080 Conflict of Interest.

3.79.090 Sheriff Participation.

3.79.100 Vacancies.

3.79.110 Organization.

3.79.120 Meetings.

3.79.130 Officers.

3.79.140 Records.

3.79.150 Staff.

3.79.160 Compensation.

3.79.170 Annual Report.

3.79.180 Self Evaluation.

3.79.190 Cooperation and Coordination.

3.79.200 Obtaining Documents and Information.

3.79.210 Compliance with all Laws.

3.79.010 Created.

There is created a Los Angeles County Sheriff Civilian Oversight Commission,
hereinafter in this chapter referred to as the "commission."

3.79.020 Purpose.

The purpose of the commission is to improve public transparency and accountability with respect to the Los Angeles County Sheriff's Department, by providing robust opportunities for community engagement and ongoing analysis and oversight of the department's policies, practices, procedures and advice to the Board of Supervisors, the Sheriff's department and the public.

3.79.030 Duties.

The commission shall:

- A. Review, analyze, and where appropriate solicit input, and make recommendations to the Board of Supervisors and the Sheriff on the Sheriff's department's operational policies and procedures that affect the community or make recommendations to create additional operational policies and procedures affecting the community and request a response from the Sheriff.
- B. Investigate, analyze, solicit input and make recommendations to the Board of Supervisors and the Sheriff on systemic Sheriff – related issues or complaints affecting the community.
- C. Review, at its discretion, or upon request from the Board of Supervisors or the Sheriff, policy recommendations made by outside entities which were requested by the Board of Supervisors or the Sheriff or recommendations made in other reports that in the judgment of the commission merit its analysis, and report to the Board of Supervisors or the Sheriff whether or not the recommendation(s) should be implemented by the Board of Supervisors or the Sheriff or, if the recommendation(s) is

being implemented, the status of implementation. The commission's reports shall contain an analysis supporting its recommendations and shall seek the input of the Sheriff before implementing or publishing its reports.

D. Upon request of the Board of Supervisors and/or the Sheriff, serve, either collectively or through one or more of its members, as the monitor and assess implementation of settlement provisions in litigated matters.

E. Function as a liaison, or at the request of community groups or organizations involved, serve as a mediator to help resolve ongoing disputes between the Sheriff's department and members of the community, or organizations within the County of Los Angeles.

F. Without interfering with the Sheriff's investigative functions, obtain community input and feedback on specific incidents involving the use of force, detention conditions, or other civil rights concerns regarding the Sheriff's department. Convey to the Board of Supervisors and the Sheriff, community complaints, concerns or positive feedback received by the commission, and where appropriate, make recommendations.

G. Work with and assist the Office of Inspector General in soliciting community input and feedback on issues being investigated by the Inspector General.

H. Function as a bridge between the Sheriff's department and the community by providing the community an additional means of giving input to the Sheriff, obtaining answers from the Sheriff to community concerns about the Sheriff's department's operations, practices and activities, bringing an additional perspective to the Sheriff's department's decision-making to ensure an ongoing balance between the sometimes

competing factors of ensuring public safety and constitutional, civil and human rights, and communicating community concerns to the Sheriff that otherwise might not be as clear or might go unnoticed.

I. Seek the input of the Sheriff prior to completing any of its recommendations made pursuant to the duties defined in this section.

J. Shall supervise and evaluate all work performed by the Inspector General that is directly aligned with the duties defined in this section.

K. Be advisory only to the Board of Supervisors and the Sheriff, and without the authority to manage or operate the Sheriff's department or direct the activities of the Sheriff's department employees, including imposition of discipline.

3.79.040 Membership.

The commission shall consist of 9 members. Each shall be a resident of the County of Los Angeles. Each member shall have been determined to be qualified to serve based on an application process as defined in section 3.79.050 of this Chapter. The members shall be selected as follows:

A. Each member of the Board of Supervisors shall select one member to serve on the commission.

B. Four additional members of the commission shall be jointly selected by the Board of Supervisors by majority vote. These members may be proposed by any Supervisor.

3.79.050 Qualifications and Nominations Process.

A. Subject to subsection F, below, the application process for membership shall be open and any resident of the County of Los Angeles can submit an application. Candidates shall be selected based on completion of a statement of qualifications form that will be made available through the Executive Office/Clerk of the Board. Completed forms shall be submitted to the Chief Executive Officer. This form will require background information of the candidate as well as a statement by the candidate as to their qualifications in order to be considered for the commission.

B. This application process can be modified by the Board of Supervisors or the commission. Any resident of the County of Los Angeles may submit an application subject to subsection F, below.

C. In making their respective selections, the Board of Supervisors shall give weighted consideration to persons with substantial community involvement (such as active participation in a community organization working on custody or juvenile justice issues or nominated by such an organization); persons with a background either as a mental health professional or experienced mental health advocate; or persons who are representatives of a contract city.

D. In making their respective selections, the Board of Supervisors shall also give weighted consideration to selecting members who would add to the diversity of the commission including, but not limited to: racial, ethnic, age, geographic, gender or gender identity, religious, sexual orientation, occupational, immigration status and national origin composition of the commission.

E. As used in subsections C and D above, weighted consideration shall mean that those factors are of high importance in the selection process.

F. No current employee of the County of Los Angeles, no current or former employee of the Sheriff's department, or current employee of any other police department, shall serve as a member of the commission.

3.79.060 Term of Service.

A. Subject to subsection B of this section, each member shall serve for a three year term. No member may serve on the commission for more than two full consecutive terms unless such limitation is waived by the Board of Supervisors. Tenure is also subject to the provisions of section 5.12.050 of the County Code. The term for all members shall begin on July 1 and end on June 30th. However, the first term of all members who are the initial appointees to the commission, shall be deemed to commence on the date their appointment is approved by the Board of Supervisors and will end on June 30th of a succeeding year as set forth in subsection B of this section.

B. As part of the original creation of the commission only, the initial commissioners shall be divided into three groups, with Group A serving an initial three year term, Group B serving an initial two year term and Group C serving an initial one year term. For groups B and C, this initial one and two year term shall not be considered towards the restriction of two full year terms as described in section 3.79.060 (A). The County Counsel shall randomly determine which commissioners shall be placed in which of the three groups.

3.79.070 Training.

The commission shall develop a comprehensive training and orientation program which each commissioner must complete within six months of appointment. Failure to complete the training may result in disqualification. In developing this program, the commission shall consult with the Sheriff, community groups and other community stakeholders. The training program shall be robust and cover Constitutional policing including such topics as use of force, firearms, custody, mental health issues, juvenile justice and patrol. Each commission member shall actively participate in the ongoing training program.

3.79.080 Conflict of Interest.

The commission, working with County Counsel, shall develop a comprehensive conflict of interest policy and a code of conduct policy to be approved by the Board of Supervisors. Each commission member must sign conflict of interest and code of conduct statements certifying compliance.

3.79.090 Sheriff Participation.

The Sheriff, or a senior ranking member of the Sheriff's department, selected by the Sheriff, shall attend and participate in all the meetings of the commission, but shall not have voting rights.

3.79.100 Vacancies.

Vacancies on the commission created by events other than the normal end of a member's term shall be filled in the same manner as the vacant position was originally filled. Vacancies shall be filled within 30 days. Appointments to fill a vacancy shall not

constitute an appointment for a full term but solely to fill the balance of the unexpired term.

3.79.110 Organization.

The commission shall, with the advice of County Counsel, prepare and adopt necessary rules and regulations for the conduct of its business, subject to the approval of the Board of Supervisors. A copy of the rules and regulations shall be filed with the Executive Office/Clerk of the Board of the Board of Supervisors.

3.79.120 Meetings.

The commission shall meet at least once a month and may meet at such other times as may be deemed necessary, at a time and location to be established by the commission. The commission shall hold an annual organizational meeting during the month of July. The commission meetings will follow Robert's Rules of Order and must comply with the Ralph M. Brown Act.

3.79.130 Officers.

At each annual meeting, the commission shall elect a chairperson, a vice chairperson and a secretary and such other officers as it deems appropriate. The commission shall determine the procedures and methods by which the officers are elected. A chairperson may only serve for two consecutive one year terms.

3.79.140 Records.

Any personnel records, citizen complaints against County of Los Angeles personnel in the Sheriff's department, and information obtained from these records, which come into the possession of the commission or its staff, shall be treated as

confidential and shall not be disclosed to any member of the public, except in accordance with applicable laws. Copies of citizen complaints not otherwise sooner provided to the Sheriff's department through other means, shall be made available to the Sheriff upon completion of the commission's investigation, unless prohibited by applicable laws.

3.79.150 Staff.

The commission shall utilize the staff of the Office of Inspector General to undertake investigations, inquiries, audits and monitoring. The commission shall supervise and evaluate all work performed by the Inspector General that is directly aligned with the commission's responsibilities as defined in this chapter. Commission Services staff from the Executive Office/Clerk of the Board will provide assistance at commission meetings. The actual staff of the commission shall be comprised of those individuals designated in the current salary ordinance of the County of Los Angeles. The commission will also have authority to use outside consultants when the need arises in accordance with applicable laws and policies, which will be retained by the Executive Office/Clerk of the Board and/or by the Chief Executive Office's delegated contracting authority.

3.79.160 Compensation.

Members of the commission shall be eligible to receive reasonable compensation to be set from time to time by the Board of Supervisors for each regular and special meeting of the commission up to a maximum per member of \$5,000.00 per fiscal year and shall be reimbursed for reasonable expenses incurred in performing duties in

accordance with County policies regulating reimbursement to County of Los Angeles officers and employees (including parking and transportation in attending meetings of the commission). Members are encouraged, where possible, to waive their meeting compensation.

3.79.170 Annual Report.

The commission shall prepare and submit to the Board of Supervisors and make available to the public, an annual report. The annual report will be prepared no later than July 1st of each year. The annual report shall contain background information about the commission, identify the commission members and senior staff members, detail the activities of the commission during the previous year and provide contact information. The annual report will also detail Sheriff's department policies, procedures or practices, if any, that were eliminated, modified or created due to the commission's work. Budget requests for each fiscal year must be made within the normal budget cycle followed by all County departments.

3.79.180 Self Evaluation.

A. At the end of the third year of the commission's creation and every three years thereafter, the commission shall undertake a detailed self-evaluation. This detailed self-evaluation shall include a candid assessment about the strengths and the weaknesses, successes and failures of the commission. It shall also contain recommendations as to whether the commission should continue in existence and if so, any recommended revisions to its responsibilities and/or authority and whether an independent management audit should be conducted.

B. The self-evaluation should also contain recommendations on improvements regarding the commission's operations.

C. The self-evaluation shall be submitted to the Board of Supervisors and made available to the public.

D. The Chief Executive Office shall, within 90 days following the commission's self-evaluation being transmitted to the Board, review the commission's self-evaluation and determine whether an independent management audit should be conducted.

E. Within one year following the issuance of the self-evaluation, the commission shall provide a written report to the Board of Supervisors regarding status on implementation of the recommendations identified in the self-evaluation. This written report shall be made available to the public.

3.79.190 Cooperation and Coordination.

In the discharge of its duties, the Board of Supervisors directs that all officers and employees of the County of Los Angeles, to the extent permitted by law, provide complete and prompt cooperation to the commission as well as copies of requested documents and records, so that other public officers and the commission can fully and properly perform their respective duties.

3.79.200 Obtaining Documents and Information.

The commission, the Office of Inspector General and the Sheriff's department shall enter into a comprehensive memorandum of agreement ("MOA") that will in most circumstances govern how the commission and the Office of Inspector General will

obtain documents and information from the Sheriff's department. The MOA shall include but not be limited to the following:

1. specifying which documents and information the commission shall have access to;
2. specifying which documents and information the Inspector General shall have access to;
3. defining confidentiality procedures, including ensuring compliance with Government Code sections 3300 – 3313 (Public Safety Officers Procedural Bill of Rights) and Penal Code section 832.7 et seq. as well as any other applicable confidentiality statutes;
4. establishing procedures regarding requests for information, including defining time limits for responding to document requests and exceptions to the time limits.

3.79.210 Compliance with all Laws.

The commission shall comply with all applicable California and federal laws, including, but not limited to the Ralph M. Brown Act and the Political Reform Act.

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ATTACHMENT III

Summary of Town Hall Meetings

In an effort to effectively reach out to communities across Los Angeles County, the Working Group coordinated with each Board office to identify nine key Town Hall meeting locations. The Working Group worked with County Departments and other community partners to find facilities that would accommodate the Working Group's needs. The Working Group sincerely appreciates the assistance of the County Department of Parks and Recreation and the generosity of the City of West Hollywood and the Antelope Valley Community College for hosting the Town Hall meetings in their respective areas.

The County Office of Countywide Communications orchestrated extensive outreach to build awareness and generate attendance for the Town Hall meetings. Information was distributed to 143 media contacts, including bloggers, print publications and broadcast outlets. The office also used Los Angeles County's Twitter account--@CountyofLA--to promote the gatherings among its 10,000-plus followers. Meeting dates and locations were also posted on the Commission's website (www.lacounty.gov/sheriff-oversight).

The Countywide Criminal Justice Coordination Committee (CCJCC) distributed information on the Town Hall meetings to its membership, which is comprised of more than 50 executives from county, municipal, state and federal agencies that comprise and support the local criminal justice system. Members include elected officials, executives of law enforcement and criminal justice agencies, judges, and heads of social service agencies.

In addition, individual Board Offices utilized their extensive social media and community contacts to promote attendance at the Town Halls.

The following are summaries from each of the nine town hall meetings. Overall, approximately 600 people total attended the Town Halls. Of the 600, it should be noted that numerous people attended and provided testimony at multiple meetings.

A total of 180 attendees provided testimony to the Working Group, some people doing so at multiple meetings. Informal polls were conducted by the Working Group at many of the meetings. Questions posed to the public at each Town Hall meeting also varied in number and composition. The informal polls were conducted by means of a voluntary show of hands in response to questions put forth by Working Group members. These informal polls were designed to give the Working Group a general sense of the participants' opinions about the questions asked.

Sheriff McDonnell was also in attendance at a number of the Town Hall meetings to participate, observe and take questions from the public.

At these meetings, a number of individuals from the public used the forum to raise their personal concerns and complaints about the Sheriff's Department to the Working

Group. The staff of the Sheriff's Department received and followed up with each of those individuals.

The purpose of this document is to provide a high-level summary in order to identify the common concerns expressed during public testimony. From the testimony, it is clear that a majority of the people who attended the Town Hall meetings were in favor of :

- Greater LASD accountability and transparency
- An Amendment to the County Charter giving subpoena power to the Commission
- A Commission that is diverse and reflective of the community
- A Commission that does not include law enforcement appointees

Although, a majority of those testifying at the town halls were unified in support of the issues identified above, the sample size of the speakers was small, relative to the actual population of the County of Los Angeles.

1) FLORENCE & FIRESTONE TOWN HALL - Second Supervisorial District

Brief Summary of the Public Discussion

The consensus among the public comments was in support of subpoena power for the Commission and community participation in the Commission. The public testimony also supported the principal that the Commission reflect the diversity of the community. Points were also made that the Sheriff should not have any representation on the Commission because the Commission should only consist of civilian members due to the community's perceived lack of trust between the community and the LASD. A few of the speakers also expressed the need to have commissioners who have experienced what they believe to be Sheriff brutality in order to understand the injustice felt in community.

A few of the commenters pointed out the recent efforts by the Sheriff's Department to provide positive outreach in the Florence/Firestone communities. Another speaker questioned the need for the Office of the Inspector General if the Board creates an Oversight Commission.

Approximately 70 participants from the community attended and 24 participants signed up to speak to the Working Group. Sheriff McDonnell was also present and made brief remarks in support of the proposed Commission.

Organizations that signed-in:

- Office of Supervisor Mark Ridley-Thomas
- Sheriff Jim McDonnell
- Florence & Firestone Chamber of Commerce
- Youth Justice Coalition
- Inner City Visions
- City of Compton

- National Day Laborer Organizing Network
- Local Choices for Global Respect
- Asian Coalition
- People for Community Involvement
- Dignity and Power Now
- Asian Americans Advancing Justice
- Community Coalition South Los Angeles
- American Civil Liberties Union (ACLU)
- Compton Parents for Social Justice
- California Contract Cities Association
- Los Angeles Times
- ABC News Channel 7

Informal Poll Responses

An informal poll conducted at the Florence/Firestone Town Hall meeting found a majority of the participants replied affirming the following:

- The Commission should have subpoena power.
- Many have had a bad experience with LASD.
- The Commission should consist of more than nine members.
- Commission members should not be appointed by the Board.
- A majority of the Commission should be appointed by the community.

2) EL CARISO TOWN HALL - Third Supervisorial District

Brief Summary of the Public Discussion

The overall public comments and the informal polls taken at the El Cariso Town Hall meeting reflected overwhelming consensus among attendees that the Commission needs to have subpoena power in order to have “teeth”. The speakers said that the need for subpoena power stems from the public’s distrust of the Sheriff’s Department. There was also consensus among the speakers that the Commission should not have any commissioners from the Sheriff’s Department, current or retired. Many of the participants voiced the need for a Commission that reflects the diversity of the community and encouraged more community involvement with the Commission.

Approximately 60 participants from the community attended and 18 participants spoke to the working group.

Organizations that signed-in:

- Office of Supervisor Mark Ridley-Thomas
- Office of State Senator Bob Hertzberg
- Office of Assembly Member Patty Lopez
- Churches for Action
- National Association for the Advancement of Colored People (NAACP)

- Sober Living Network
- First 5 LA
- Dignity and Power Now
- San Fernando Valley Gray Panthers

Informal Poll Responses

An informal poll conducted at the El Cariso Town Hall meeting found a majority of the participants replied affirming the following:

- The Commission should have subpoena power.
- Many have had a negative experience with the LASD.
- The Commission should have 9 members.
- The Commission should not have a current or retired LASD member serve on the commission.

3) BASSETT TOWN HALL – First Supervisorial District

Brief Summary of the Public Discussion

The top three issues identified by the public at the Bassett Town Hall meeting were subpoena power for the Commission, no law enforcement participation on the Commission, and a Commission that is diverse and reflective of the community. Residents from Bassett also encouraged more interaction between the community and LASD in order to foster trust which would improve accountability with the Sheriff's Department.

Some of the speakers believed that the Commission needs to coordinate with other County departments to avoid duplication and improve effectiveness. One speaker expressed support for the Peace Officer's Bill of Rights.

Approximately 70 participants from the community attended and 19 participants signed up to speak to the working group. Sheriff McDonnell attended the Town Hall meeting and provided brief remarks in support of the proposed Commission.

Organizations that signed-in:

- Office of Supervisor Hilda Solis
- Office of Supervisor Mark Ridley-Thomas
- Sheriff Jim McDonnell
- Mayor of West Covina, Fredrick Sykes
- Anthony Naranjo, Azusa City Council Member
- Avocado Heights Community Association
- California Contract Cities Association
- San Gabriel Valley Conservation Corps
- Homeboy Industries
- National Veterans Foundation

- ACLU
- Rowland Unified School District
- NAACP
- Dignity and Power Now
- Los Angeles Times

Informal Poll Responses

An informal poll conducted at the Bassett Town Hall meeting found a majority of the participants replied affirming the following:

- The Commission should have subpoena power.
- The Commission should have nine members.
- The Sheriff's Department requires oversight.
- The Commission's oversight will improve public safety.

4) ANTELOPE VALLEY TOWN HALL - Fifth Supervisorial District

Brief Summary of the Public Discussion

The participants of the Antelope Valley Town Hall meeting discussed the need for subpoena power for the Commission, diversity on the Commission and transparency within the Sheriff's Department. The importance of not having law enforcement serving on the Commission was also a central theme.

Residents also stressed the importance of mutual cooperation between the LASD and the community. They commented on the importance of open channels of communication with the LASD leadership in Antelope Valley. Some participants also described positive interactions with the LASD and commended the Antelope Valley Sheriff's stations on improving their community outreach efforts.

Approximately 60 participants from the community attended and 16 participants signed up to speak to the Working Group.

Organizations that signed-in:

- Office of Supervisor Michael D. Antonovich
- Office of Supervisor Mark Ridley-Thomas
- Office of Assembly Member Tom Lackey
- Palmdale School District
- Dignity and Power Now
- Coalition for Humane Immigrant Rights of Los Angeles
- Quartz Hill Town Council
- Pueblo Y Salud
- One Way Up
- Antelope Valley Press

Informal Poll Responses

No poll was taken at the meeting.

5) HACIENDA HEIGHTS TOWN HALL – Fourth Supervisorial District

Brief Summary of the Public Discussion

The public participants at the Town Hall meeting discussed the need to have the OIG and the Commission separated so each can have their respective independence and authority. The majority of the speakers supported an amendment to the County Charter giving subpoena power to the Commission and diversity within the Commission that is reflective of the community.

There was one speaker who voiced concern about creating another commission, adding another level of bureaucracy.

Approximately 30 participants from the community attended and 12 participants signed up to speak to the Working Group.

Organizations that signed-in:

- Office of Supervisor Mark Ridley-Thomas
- NAACP
- Casa Blanca Council
- Hacienda Heights Improvement Association
- Rowland Heights Community Coordinating Council
- Dignity and Power Now

Informal Poll Responses

An informal poll conducted at the Hacienda Heights Town Hall meeting found a majority of the participants replied affirming the following:

- Members of the Commission should be from the community.
- Nine members on the Commission is an adequate number.
- Membership should be denied to any current and former member of law enforcement.

6) ARBORETUM TOWN HALL – Fifth Supervisorial District

Brief Summary of the Public Discussion

A majority of the public's testimony and discussion expressed significant distrust of the Los Angeles County Sheriff's Department. The participants all agreed that granting

subpoena power to the Oversight Commission and not allowing law enforcement on the commission was paramount and a must. Those who spoke also displayed some concern about the number of commissioners proposed. Many were comfortable with the nine proposed number, but others believed a larger commission would have the opportunity to provide a more diverse commission.

Approximately 50 participants from the community attended and 12 participants signed up to speak to the Working Group.

Organizations that signed-in:

- Office of Supervisor Mark Ridley-Thomas
- NAACP
- Asian Coalition
- L.A.U.R.A.
- Dignity and Power Now
- San Gabriel Valley Tribune

Informal Poll Responses

An informal poll conducted at the Arboretum Town Hall meeting found a majority of the participants replied affirming the following:

- The Commission should have subpoena power.
- Many have had a negative experience.
- Believe a Commission is needed.
- The Commission will promote greater accountability within the LASD.
- The Commission will not compromise public safety.
- Commission members should be appointed by community group.
- The Commission should not have less than nine members.
- Law enforcement should be prohibited from serving on the Commission.

7) EXPOSITION PARK TOWN HALL – Second Supervisorial District

Brief Summary of the Public Discussion

The attendees of the Exposition Park Town Hall were very appreciative of the Board's effort to create a Commission to oversee the Sheriff's Department. They believed that a Commission is long overdue, and the Commission must have subpoena power in order for it to have credibility. A Commission must also be representative of the diversity of Los Angeles County with respect to race, religion, gender and gender identity.

The public's testimony also expressed the need for members on the Commission who are sensitive to mental health issues. The speakers were adamant that appointees to the Commission should not include current or retired law enforcement officers.

Approximately 85 participants from the community attended and 23 participants signed up to speak to the Working Group.

Organizations that signed-in:

- Office of Supervisor Mark Ridley-Thomas
- National Association for Equal Justice in America
- East 120 Blocks Neighborhood Association
- Florence and Firestone Chamber of Commerce
- Pathway to Your Future
- El Nido Family Centers
- Avalon Gardens Community
- Dignity and Power Now
- California Immigrant Youth Justice Alliance
- McGhee Broadcasting
- National Association for Equal Justice
- L.A.U.R.A.
- Amistad
- Amity
- California State University of Los Angeles (CSULA)
- VDO Block Club
- Lincoln Heights Neighborhood Council

Informal Poll Responses

An informal poll conducted at the Exposition Park Town Hall meeting found a majority of the participants replied affirming the following:

- The Commission should have subpoena power.
- Many have had a negative experience with LASD.
- The LASD needs more civilian oversight.
- The Commission will promote greater accountability within the LASD
- Additional oversight of the LASD will not compromise public safety.
- The Commission should be appointed by community groups.
- The Commission should have nine members.
- Law enforcement should be prohibited from serving on the Oversight Commission.

8) EAST LOS ANGELES TOWN HALL – First Supervisorial District

Brief Summary of the Public Discussion

The East Los Angeles Town Hall meeting consisted of more local residents willing to speak out and provide testimony to the Working Group. Collectively, the major concerns of the participants consisted of the need to amend the County Charter to give subpoena power to the Commission and OIG. Other concerns included the need for

transparency within the Commission and accountability for the actions of the LASD. The residents of East Los Angeles vocalized a considerable amount of frustration with the local policing by the LASD and the Los Angeles Police Department. However, there were residents who expressed the importance of being law abiding and steering away from trouble.

Approximately 70 participants from the community attended and 29 participants signed up to speak to the working group.

Organizations that signed-in:

- Office of Supervisor Hilda Solis
- Office of Supervisor Mark Ridley-Thomas
- City Terrace Coordinator
- Los Angeles Brown Berets
- Youth Justice Coalition
- Occupy Los Angeles
- Dignity and Power Now
- National Lawyers Guild
- Los Angeles Chamber of Commerce
- Coalition for Humane Immigrant Rights of Los Angeles
- ACLU
- CSULA
- El Gallo Bakery
- CLUE – LA
- ALMA Family Services
- So-Cal Burgers

Informal Poll Response

No polls were taken at the meeting.

9) WEST HOLLYWOOD TOWN HALL – Third Supervisorial District

Brief Summary of the Public Discussion

The residents and city representatives from West Hollywood were well represented at the Town Hall meeting. The testimony provided at this Town Hall meeting was more diversified in their shared experiences with the LASD. Some of the speakers voiced positive experiences in their relationship with the LASD and commended LASD's efforts in community outreach. City leaders also thanked Sheriff McDonnell for attending the meeting and encouraged further cooperation with the new Sheriff. City officials also encouraged greater community involvement in the City's public safety issues.

Much of the testimony provided supported an amendment to the County Charter giving subpoena power to the Commission and OIG, greater accountability and transparency

within the Sheriff's Department and the Commission and a diverse Commission. The issue of diversity included race, gender and gender identity.

On the issue of law enforcement personnel serving on the Commission, the speakers were mixed in their testimony. Approximately, two-thirds of the speakers were against any current or former member of a law enforcement agency serving on the Commission. One speaker believed it is important to have a retired or current law enforcement person on the Commission in order to provide perspective on the Commission's work.

Approximately 75 participants from the community attended and 27 participants signed up to speak to the working group. Sheriff McDonnell attended the Town Hall in support of the proposed Commission.

Mr. Jeff Steck, President of the Association of Los Angeles Deputy Sheriffs, was also in attendance and made remarks in opposition to subpoena power, but was in support of improving transparency through better cooperation from all parties. Mr. Steck is opposed to having people who have been convicted of crimes serve on the commission.

Organizations that signed-in:

- Office of Supervisor Sheila Kuehl
- Office of Supervisor Mark Ridley-Thomas
- Sheriff Jim McDonnell
- Office of Assembly Member Richard Bloom
- Lindsey P. Horvath, Mayor of West Hollywood
- John J. Duran, Council Member of West Hollywood
- West Hollywood Public Safety Commission
- West Hollywood Business Licenses Commission
- West Hollywood Public Facilities Commission
- West Hollywood Human Services Commission
- West Hollywood Neighborhood Watch
- Jeff Steck, President of Association of Los Angeles Deputy Sheriffs
- San Fernando Valley Dream Team
- Dignity and Power Now
- Forgotten Americans Network
- Americans for Democratic Action

Informal Poll Response

No polls were taken at the meeting.

ATTACHMENT IV



TO: Members of the working group to establish
Civilian Oversight of the Los Angeles County Sheriff's
Department

FROM: Kelvyn Anderson, Executive Director, Police Advisory Commission
Philadelphia, PA

RE: Subpoenas & police oversight in Philadelphia

DATE: March 19, 2015

On behalf of the Commission, I write to commend your efforts to establish civilian oversight of the Los Angeles County Sheriff's Department, and offer our experience as you consider the powers and duties of the new agency.

Philadelphia's [Police Advisory Commission](#) was established by [Executive Order 8-93](#)¹, which spells out access to a broad range of police records, documents and personnel necessary to complete its mission.

Section 4(f) grants the commission the same subpoena power as other municipal agencies under the city charter: "The Commission shall have the authority vested in the Executive and Administrative branch of City government under Section 8-409 of the Philadelphia Home Rule Charter to compel the attendance, interview, and/or testimony of any witness and the production of documents and other evidence relating to any and all matters properly before it and, for that purpose, it may issue subpoenas requiring the attendance, interview, and/or testimony of persons and the production of documents and other evidence and cause them to be served in any part of the City."

Historically the Commission has wielded its subpoena power in two circumstances: first, subpoenas are issued to police officers to compel their cooperation and statements in connection with independent investigations and/or public hearings of police misconduct complaints. Officers who testified at several public hearings around the Nizah Morris case for example. In these cases, officers are given [Garrity warnings](#) to protect their compelled statements in the context of the Commission's administrative inquiries.

The Commission has also used subpoenas to gather surveillance video from hospitals, restaurants and other private locations. In perhaps the most stark reminder of the need for oversight subpoena power, in December 2013, the Commission successfully subpoenaed a copy of an exhibit used by FOP attorneys in an arbitration hearing from a 2012 incident.

On September 30, 2012, Philadelphia Police Lt. Jonathan Josey arrested Aida Guzman for disorderly conduct in the area of [5th & Lehigh Streets](#), in the post-Puerto Rican Day Parade celebration. A [35-second video](#) taken by an onlooker and posted on YouTube captured a portion of the incident, which depicted Josey

¹ "Executive Order 8-93 - City of Philadelphia." 2013. 19 Mar. 2015 <http://www.phila.gov/pac/PDF/Exec_Order_893.pdf>

quickly approaching and striking Guzman. She falls to the ground, is handcuffed by Josey and lead away by another officer. The incident attracted considerable attention from local & national media, and several versions of the original video, embedded in news reports and blog posts, gathered millions of views on YouTube and other websites.

In early October 2012, Mayor Michael Nutter met with Guzman and her attorneys to deliver an apology. Josey was suspended with Intent to dismiss on October 4, 2012, and [was fired by Philadelphia Commissioner Charles Ramsey](#) through a Commissioner's Direct Action on November 1, 2012. He was charged with two counts of Conduct Unbecoming, Making False Entries in a Department Report, and Excessive Force. The District Attorney's office dropped the disorderly conduct charge against Guzman.

Ramsey noted that he was "deeply troubled" by the video Lt. Josey. "From what I saw, it's difficult to justify the actions that took place." FOP President John McNesby defended Lt. Josey's actions and promised to challenge the dismissal in arbitration. [McNesby told KYW News reporter Mark Abrams there was no evidence Josey used excessive force.](#) "Was it multiple swings? Was he pulling hair? Was he kicking anybody? Absolutely not," he says. "You know, there was one swinging motion. She was handcuffed and led to the police wagon." McNesby conceded Josey's actions might merit a suspension, but not dismissal.

On November 15, 2012, the [Philadelphia District Attorney's Office charged Josey with simple assault](#). In a courtroom packed with supportive fellow officers, Josey was acquitted of the charge by on February 22, 2013 by Municipal Court Judge Patrick F. Dugan. Subsequent to the ruling, it was revealed that Judge Dugan is married to Philadelphia Police officer Nancy Dugan, which caused a firestorm of conflict-of-interest criticism and calls for a federal civil rights investigation of the incident.

As expected, the FOP submitted Josey's case for arbitration. Hearings were held before arbitrator David Reilly on June 24 and June 25, 2013. Local reporters were prevented from attending the proceedings at the request of FOP attorneys. Reilly issued his final report in the Josey Matter on August 10, 2013. The arbitrator granted the grievance, reinstating Josey to his former position with full back pay.

As the Josey case unfolded in early 2013, Commission staff began a review of all police arbitration cases between 2008 and 2012, focusing on the [high percentage of officers who are dismissed for disciplinary reasons but returned to active duty by arbitrators](#). The Commission examined 23 cases where dismissals were submitted to arbitration, including the Josey-Guzman incident.

Commission members and staff discussed the Josey arbitration decision at its September 2013 public meeting. Several members asked to view the frame-by-frame version of the video, which was clearly a pivotal exhibit that colored the arbitrator's decision to return Josey to the police department and acquit him of the excessive force charge.

After viewing the original video and the FOP's frame-by-frame excerpt, the arbitrator concluded that "it is apparent that Guzman did not fall to the street from the force of being struck by Josey's hand. Rather, **"she fell because she slipped and lost her balance after accidentally stepping on a can as she moved away from him"** (Pg. 15, Arbitrator's Opinion). In rejecting the allegation of excessive force, the arbitrator accepted the FOP attorney's assertion that "Guzman slipped on a can", and was struck by a "glancing blow" from Josey but not enough to cause her to fall.

After contacting the law department, it became apparent that the FOP strongly objected to the Commission's request for the evidence it presented to the arbitrator. FOP counsel Tom Jennings provided details in an November 5, 2013 email response to the law department: "As the arbitrator rightfully concluded, the video contains an analysis of the incident that dispels the myth that Josey never so much as touched the "victim" who was in the process of throwing beer at police officers and who, after consuming beer all day, slipped on a can. The video prepared by this law office with respect to the arbitration contains nothing that cannot be duplicated by the PAC through its own effort and considerable expense. However, as the author of that document, I and the FOP assert the strongest privilege to its design and content and unequivocally refuse any permission to the PAC to view or otherwise possess the video that was the product of our efforts"

On November 22, 2013, the Commission served a subpoena to the City Law Department requesting a copy of the FOP frame-by-frame version of the video. The [FOP filed a Motion to Quash the subpoena](#),² but it's rather novel assertion of intellectual property rights around the exhibit was rejected by Common Pleas Court Judge Idee C. Fox on Dec. 20, 2013.

[The Commission subsequently produced its own frame-by-frame version of the video](#) which raised serious questions about the quality of the FOP version, and the weight assigned to it by the arbitrator. We would not have been able to challenge those conclusions without the power to subpoena the exhibit. [The Philadelphia Bar Association cited the need for subpoena power in a 2007 resolution calling for permanency for the Commission](#).³

Last month, [Commissioners voted to prepare a subpoena for records concerning police shootings](#)⁴ in Philadelphia that have been denied to our office by the police department under the Executive Order. Subsequent discussions with our city solicitor's office may make this request unnecessary, but citizen confidence in an oversight agency's ability to impact the public narrative of police misconduct turns on [information often hidden from view](#).

We hope this detailed review of our experience with subpoena power is informative to your efforts at building effective oversight of the Los Angeles County Sheriff's Office.

Sincerely



Kelvyn Anderson
Executive Director
Police Advisory Commission
Philadelphia, PA

² "FOPsuit1 (Josey) - DocumentCloud." 2014. 19 Mar. 2015

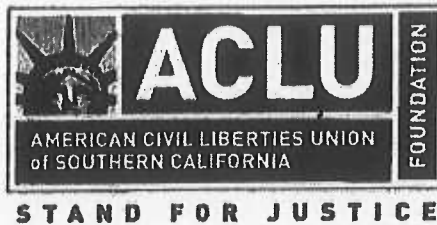
<<http://www.documentcloud.org/documents/1378992-fopsuit1.html>>

³ "Supporting A Philadelphia Home Rule Charter." 2009. 19 Mar. 2015

<<http://www.philadelphiabar.org/page/BoardResolution0329200701>>

⁴ "Panel pushes for records of police-involved shootings from ..." 2015. 19 Mar. 2015

<<http://www.newsworks.org/index.php/local/philadelphia/78884-panel-pushes-for-records-of-police-involved-shootings-from-philly-department>>



April 2, 2015

Via E-Mail

Sheriff Civilian Oversight Commission Working Group
Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Re: Subpoena Power and Sheriff Civilian Oversight Commission

Dear Honorable Members of the Commission:

The ACLU of Southern California urges the Sheriff Civilian Oversight Commission Working Group to recommend that the Sheriff Civilian Oversight Commission ("the Commission") have subpoena power – or other equivalent authority to obtain documents and compel testimony with an enforcement mechanism to allow prompt remedy for non-compliance – for the following reasons.

First, to conduct meaningful oversight, the Commission must have full access to pertinent facts about individual operations and Sheriff Department policies. This access depends upon the Commission having the court-sanctioned authority to compel the information necessary to its investigations. If the Sheriff's Department has the ability to withhold documents or testimony, the Commission will be hamstrung in its ability to assess Department incidents or policies. As the United States Commission on Civil Rights has noted, "without subpoena power, external review boards cannot access records or compel testimony that would further their investigations. Many police officers are reluctant or simply refuse to cooperate or offer any assistance to investigations that would incriminate their fellow officer." *United States Commission on Civil Rights, Revisiting Who is Guarding the Guardians? A Report on Police Practices and Civil Rights in America*. Chapter 4, External Controls, (2000). This finding led the Commission to recommend, "All civilian review boards should have subpoena power and disciplinary authority over police misconduct investigations, in conjunction with, but not subordinate to, police internal affairs divisions." *Id.*, Recommendation 4.4.

Second, if the Commission is dependent on the goodwill of the Department to turn over documents, by definition it is not independent. It will instead be forced constantly to negotiate with Department for access and thus its effectiveness will be dependent on the voluntary cooperation – or lack thereof – of the agency it is charged with overseeing. Even if subpoena

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*deceased

power is never used, its existence will allow the Commission to continue to serve as a mechanism for truly independent investigation. Even if the power rarely used, its importance persists because it will inform negotiations over access to documents. The Department is much more likely to be forthcoming with requested documents if they know a subpoena could issue than if they know the oversight agency really cannot do anything, other than complain to the press, if the Department refuses to provide requested documents.

Third, access to documents has to be total to be meaningful. If LASD voluntarily provides requested documents 99 times for every request it refuses it's a good bet that the withheld documents, even if only 1% of the total requested, are important and call the Department's actions or policies into question.

Fourth, the principle argument thus far offered against giving the Commission subpoena power – the stated commitment of Sheriff McDonnell to reform and constitutional policing – does not justify withholding this power from the Commission, no matter how sincere Sheriff McDonnell's statements. We hope and expect the Department will cooperate fully under Sheriff McDonnell, and the Commission will not need to use subpoena power, nonetheless its existence will do no harm. Indeed, numerous oversight commissions in California and throughout the nation already have subpoena power and that has not harmed those departments or public safety, including the Los Angeles Police Department's Inspector General,¹ Berkeley's Police Review Commission,² Chicago's Police Board,³ Philadelphia's Police Advisory Commission, New York Police Department's Inspector General,⁴ San Francisco's Office of Citizen's Complaints, and San Diego County's Citizen's Law Enforcement Review Board.⁵

Oversight agencies without subpoena power, on the other hand, have struggled. In Atlanta, the

¹ See Los Angeles Board of Police Commissioners, Policies and Authority Relative to the Inspector General, <http://oiglapd.org/documents/policies&authority.pdf>.

² See Berkeley Ordinance No. 4644-N.S., Sec. 10(e), available at http://www.ci.berkeley.ca.us/Police_Review_Commission/Home/Ordinance_4644.aspx

³ Chicago Mun. Code § 2-84-030(3), available at http://www.cityofchicago.org/content/dam/city/depts/cpb/supp_info/MCC.pdf.

⁴ Kate Taylor and J.David Goodman, New York Police Department's Oversight Office, Fought by Bloomberg, Gets First Leader, N.Y. Times, Mar. 28, 2014, available at <http://www.nytimes.com/2014/03/29/nyregion/inspector-general-for-new-york-police-department-is-named.html>.

⁵ The Newark, New Jersey mayor has also announced plans to sign an Executive Order creating a nine-member civilian complaint review board, to serve as an alternative to the police department's internal affairs unit, to take complaints. This board would have subpoena power. Dan Ivers, *Baraka: Civilian Review Board Will Have Power to Subpoena, Not Discipline Newark Police*, NJ.com, Jan. 20, 2015, available at http://www.nj.com/essex/index.ssf/2015/01/baraka_civilian_review_board_will_have_power_to_su.html (last visited April 1, 2015).

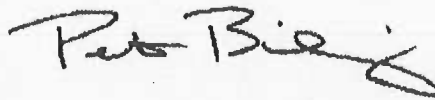
Citizen Review Board spent several years in existence unsuccessfully attempting to interview police who refused to appear before it.⁶ In 2010, the City Council approved providing it subpoena power and the ability to compel the police chief to discipline any officer who refuses to testify before the citizens board. Now, Atlanta's Citizen Review Board may exercise subpoena power by majority vote, and can compel access to materials or a person "relevant to investigate or study or review matters within the board's authority and discretion."⁷

Sheriff McDonnell will not always be sheriff, and the Commission should be built to work even if a less cooperative and transparent sheriff holds office. The Commission must be built to function in the manner intended from its inception. Rather than signal that any particular incident of non-cooperation has given rise to an adversarial relationship requiring reconsideration of the decision to withhold subpoena power, the Commission should have subpoena power from the outset, and in anticipation of the goodwill and cooperation of the Department, the Commission should not be forced to use this power for some time.

Sincerely,



Peter J. Eliasberg
Peter Bibring
Legal Director



Director of Police Practices

⁶Ernie Suggs, *Citizen Board Given Power to Subpoena Police*, Atlanta Journal-Constitution, May 17, 2010, available at <http://www.ajc.com/news/news/local/citizen-board-given-power-to-subpoena-police/nQf7w/> (last visited April 1, 2015).

⁷Atlanta, Georgia, Ordinance 10-0-0773 (May 17, 2010), available at <http://acrbgov.org/wp-content/uploads/2010/08/ACRB-Ordinance-Amendment.pdf> (last visited April 1, 2015).

Editorial Subpoena power key to Sheriff's Department oversight, but it's complicated

By THE TIMES EDITORIAL BOARD

MAY 17, 2015, 5:00 AM

The recent indictments of top leaders of the Los Angeles County Sheriff's Department are a timely reminder that the department has operated for too long with little regular and meaningful public review. As members of a working group complete the task of designing an oversight commission and prepare to forward their recommendations to the Board of Supervisors, they should keep in mind that there can be no oversight worthy of the name — no ability to assess policies and operations or to discover and spotlight festering problems — without access to internal department information. To secure such access, and to ensure that the sheriff cannot easily revoke it, the commission or its staff must be able to subpoena documents or have some equivalent power, enforceable in court, to compel the production of data and records.

Subpoena power has become the primary bone of contention in the many hearings and town hall meetings of the seven-member working group, revealing widely differing attitudes and assumptions about what oversight is or ought to be, and in fact whether it can actually exist under a state Constitution that makes the sheriff an independently elected official, subject only to the will of the voters at reelection time, the budget discipline (if any) exercised annually by county supervisors and, as a last resort, the review and orders of the courts.

Sheriff Jim McDonnell sees the commission as advisory — a useful tool to assist him in ferreting out problems in his department and maintaining a productive relationship with the public, while providing a forum in which to air and respond to grievances. The relationship between the sheriff and the oversight panel would be cooperative rather than adversary, and subpoena power would be unnecessary

Such a view falls short of the muscular oversight needed, although it does take into account some compelling legal and political facts: Deputy records are broadly shielded from public view under state laws intended to protect peace officers from politically motivated discipline. Deputies, their unions and, more to the point, the courts are likely to reject any path that would result in an individual's records becoming public — and that includes subpoena power, if the officials with that power have the discretion to make their findings part of the public record.

There are many shades and iterations of arrangements that would allow the commission access

but keep documents from the public. Some already have been tried. An Office of Independent Review, for example, was granted broad access but became in effect the department's lawyer, ensuring that documents were privileged and remained confidential, but at the cost of the office's independence. It was wrapped up last year in favor of an inspector general, who currently is under no compulsion to keep documents from the public — but who, consequently, without subpoena power, has so far been granted only limited access to department records.

Sheriff's officials and leaders of the deputies' unions have discussed a type of contract under which documents could be shared with the commission but still kept from the public eye. To be acceptable, such an agreement must be enforceable in court and must not allow the department the discretion to withhold or delay production of any records. If it accomplishes much the same thing as subpoena power, and is as enforceable and as effective, it makes little difference what it is called.

Yet how could a commission, expressly designed to exert public oversight, agree to any kind of arrangement that keeps information from the public?

Activists whose family members or who themselves have been subject to abuse by deputies on patrol or in the jails, and many others troubled by the high-profile deaths nationwide of unarmed suspects in police custody over the last year, envision a commission with power to publicly review individual incidents and to discipline deputies, or at least to assess the adequacy of the department's discipline

But that approach asks too much of a panel that would operate under current state law. At least in the short term, the sheriff's oversight commission should be expected to focus on systemic issues and patterns of abuse and discipline rather than individual cases. It cannot itself be all the missing pieces of the reform puzzle: a reformed civil service panel; a more vigorous grand jury; a more attentive Board of Supervisors.

The balance between gaining useful access to department documents and preventing confidential material from becoming public can be met by investing subpoena power in the commission's investigative staff: the inspector general. The I.G. could study the documents and present to the commission, and therefore to the public, reports outlining the department's failures and recommending remedies while preventing the public release of records of individual deputies.

Subpoena power will require first a vote by the Board of Supervisors and then by Los Angeles County voters. The earliest the public could expect to consider the question is a year from now. Advocates for a less formal approach note that a memorandum of agreement could be in place long before then.

But the two paths are not mutually exclusive, and access to the internal records of an office whose sole purpose is to serve the public, and is supported by public money and whose leader is elected by the public, should not depend solely on negotiations between the department and the deputies' union. If winning subpoena power for an oversight commission will take time, there is no time like the present to begin the quest.

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