

**PREAMBLE¹ AND EXPLANATORY PREFACE TO *PROPOSED* REVISIONS TO CHAPTER 3.79
RELATING TO THE CIVILIAN OVERSIGHT COMMISSION**

In order to provide more effective oversight of the Los Angeles County Sheriff's Department, the Civilian Oversight Commission requests the Board of Supervisors to adopt several amendments to the Commission's charter, contained in Chapter 3.79 of the County Code. In this Preamble, we explain why these revisions are necessary to achieve the goal of improved and truly meaningful oversight of the Sheriff's Department.

Since the Commission was established by the Board eight years ago, the role of civilian oversight of law enforcement organizations has evolved and expanded across California and the nation. This has led to granting oversight bodies subpoena power, and a clear understanding that oversight includes both the authority to access needed information and the ability to independently investigate and address systemic issues within law enforcement organizations, such as the Department, with consequential recommendations for reform. This trend toward more robust and independent oversight bodies, of course, is reflected in the passage of Measure R in March 2020 and more recently the passage of AB 1185² by our state legislature. Nonetheless, Chapter 3.79 has not been significantly updated since 2016,³ and it is time for it to reflect an enhanced oversight model for oversight of the LASD -- a COC 2.0 if you will -- an oversight body with real oversight authority that is more consistent with those that have been created in the past several years across our country.

We briefly discuss below the revisions the Commission is proposing and the rationale for them.

The amendment to section 3.79.010 changes the formal title of the Commission from the "Sheriff Civilian Oversight Commission" to the "Civilian Oversight Commission for the Los Angeles County Sheriff's Department." There are two reasons for this change. First, the current title of the Commission has caused confusion and distrust among the public, some of whom have indicated that, because of our name, we were part of or somehow an arm of the Sheriff or otherwise part of the Department, rather than independent from it. Secondly, the Commission provides oversight, not just for the Sheriff, as the head of the Department, but for the entire Department, and its name should so reflect.

Section 3.79.020 makes explicit that the Commission, in exercising its duties, acts independently and is expected to act independently. In this regard, it is noteworthy that the Supervisors who created the Commission eight years ago urged the newly appointed Commissioners to act independently and base their findings and recommendations on the merits and the facts, as we determine them. Moreover, if there were any doubt that the

¹ The Preamble is not intended to be part of the revised Chapter 3.79, but rather to explain to the Board and other interested parties why the Civilian Oversight Commission is proposing the revisions.

² Codified as Government Code § 25303.7.

³ There were several amendments in 2020 that codified some of the Measure R authorities of the Commission.

Commission should act independently, it was removed by the passage of Measure R. As noted in the Impartial Analysis of Measure R by then County Counsel Mary Wickham, Measure R gave the Commission “*independent subpoena power*” and “*independent power to perform investigations.*” (Emphasis added.)⁴ Furthermore, the National Association of Civilian Oversight of Law Enforcement (NACOLE) has emphasized that establishing *independent* law enforcement oversight bodies is unquestionably the best practice for such bodies.⁵ Indeed, most of the law enforcement oversight bodies created after the murder of George Floyd in May 2020 have “independent” in their titles and/or in their charters. Moreover, it has been our own experience that it is of the utmost importance that the Commission be independent, and be perceived as such, in order to be optimally effective in performing our oversight function.⁶ This revision is also consistent with the language that the Board used regarding the OIG: “The OIG shall provide, within its scope of authority, *independent* and comprehensive oversight. . . [over the Sheriff’s Department and its employees].” § 6.44.190B. (Emphasis added.)

There are several amendments to the Duties section, 3.79.030. The additional sentence to subsection 3.79.030B regarding how the Commission carries out its investigative function, merely codifies Measure R into this subsection.

Subsections 3.79.030B and 3.79.030F add that the Commission can itself investigate, using its own staff, systemic issues and citizen complaints, or, alternatively, it may use the OIG to investigate citizen complaints. It also makes clear that the Commission may use public hearings, as is its current practice, in furtherance investigations of LASD practices and procedures that impact the public, *e.g.*, the existence of deputy gangs and/or cliques within certain units of the Department, a pattern of harassment of family members grieving a relative killed as a result of use of force, and the like.

Subsection G is added to explicitly state that the Commission may “independently review and evaluate the Department and the OIG’s handling and resolution of citizen and inmate complaints.”

⁴[https://ballotpedia.org/Los Angeles County, California, Measure R, Civilian Police Oversight Commission and Jail Plan Initiative \(March 2020\)](https://ballotpedia.org/Los_Angeles_County,_California,_Measure_R,_Civilian_Police_Oversight_Commission_and_Jail_Plan_Initiative_(March_2020))

² The first of NACOLE’s 13 principles for effective oversight states: “One of the most important and defining concepts of civilian oversight of law enforcement is independence. In its broadest sense, it refers to an absence of real or perceived influence from law enforcement, political actors, and other special interests looking to affect the operations of the civilian oversight agency. In order to maintain legitimacy, an agency must be able to demonstrate the extent and impact of its independence from the overseen law enforcement agency — especially in the face of high-profile issues or incidents.”

⁶ Needless to say, the Commission credibility with the public requires it to be view as independent of the Sheriff’s Department and above politics. It is also important that the Sheriff and the personnel of the Sheriff’s Department believe that we act independently. It has only been in the recent past that a former Sheriff falsely accused the Commissioners of being “pawns” of the Board of Supervisors.

The last amendment to the Duties section of 3.79.030 is a subsection clarifying that, while the Commission is an advisory body, it may review and comment on the adequacy of internal investigations as well as the levels of discipline imposed for misconduct. Further, the additional language underscores the practice of the Commission from its inception of studying, investigating, and making recommendations for changes in the LASD's policy and procedures. Importantly, this revision adds that "the Sheriff will have sixty (60) days" to adopt the recommendations of the Commission or explain in writing to the Commission why he/she has not adopted them." The amendment appears as 3.79.030L, formerly 3.79.030J. This amendment is a best practice in civilian oversight of law enforcement and is needed to ensure that the Commission's well-researched and thought-out recommendations are responded to in a timely manner.⁷

Section 3.79.031 relates to inspections, including unannounced inspections, of Los Angeles County Jail facilities. While both the Sybil Brand Commission (SBC) and the OIG have this authority, the COC does not. Yet the COC has responsibility for overseeing the Sheriff's operation of the jails. While there is overlap between the SBC and COC's missions when it comes to the jails, the COC and its staff should have inspection authority, including unannounced inspections, while at the same time attempting to leverage the resources and capabilities of the OIG and SBC to assist it.

Access to information, including confidential information under state law, is critical to the Commission's ability to provide effective oversight, and yet after nearly eight years of existence, members of the Commission and its ad hoc committees have been thwarted in their attempts to access confidential information essential to effectively performing its oversight mission. For example, the Commission's ad hoc committee on the Use of Force, although it agreed to maintain confidentiality, has been denied access to closed investigations involving use of lethal force, *e.g.*, the killing of Andres Guardado in June 2020. The Commission's ad hoc committee regarding Deputy Gangs, despite agreeing to maintain confidentiality of information protected by state law, has been denied access to the closed investigation involving the Kennedy Hall assaultive behavior by the Banditos deputy gang in September 2018. More recently, the same ad hoc committee has been denied access to the LASD's investigation into an assault against teenagers in a parking lot by members of the Industry Indians in February 2020.

The amendments to section 3.79.032 provide members of the Commission, who sign nondisclosure/confidentiality agreements, the same access to confidential information as OIG personnel. This practice has also allowed other civilian oversight commissions in California to access and review confidential information from their respective law enforcement agencies.

Section 3.79.035 makes two important changes to the second paragraph of the section. First, it eliminates language that the Commission "is not authorized to conduct closed sessions." This is an incorrect statement of the law and, for that reason alone, should be removed.

⁷ Sixty days should be more than sufficient as the Commission will have already sought the Sheriff's input on its recommendations before adopting them. See § 3.79.030K, below.

Although the Commission is a Brown Act body, the Act is clear that it may conduct closed sessions to deal with attorney-client briefings concerning pending litigation to enforce Commission subpoenas [Govt. Code § 54956.9] as well as to receive and discuss sensitive personnel performance evaluations of the Executive Director and the staff. Govt. Code § 54957(b).⁸ The Commission will seek advice of County Counsel before going into or conducting a closed session and comply with the notice provisions for such sessions set out in Government Code § 54954.5. It is important to note that other civilian oversight of law enforcement entities in California are authorized to conduct closed sessions for the purpose of discussing confidential information provided by their respective law enforcement agencies.

Second, language is added that expressly recognizes that, subject to confidentiality agreements signed by individual Commissioners, confidential records and information may be provided to members of ad hoc committees of the Commission. The latter is consistent with a Memorandum of Understanding that the Commission has proposed to the Sheriff several months ago. As for assuring confidentiality by individual Commissioners on ad hoc Committees, each will be required to sign a confidentiality/non-disclosure agreement, and, of course, they will be subject to Penal Code sanctions for improperly disclosing confidential information up to and including expulsion from the Commission. With this revision, implemented with a MOU,⁹ the Commission will be able to access confidential information judiciously, but when it is needed to provide knowledgeable and meaningful oversight and/or to assure its recommended reforms and policy changes are warranted.

We propose a minor change to section 3.79.040A(2), to wit: that the Commission be consulted before the Board appoints an at-large or “community” member to a Commission vacancy. This amendment is consistent with current practice.

There are two slight organizational tweaks. First, in section 3.79.130, we indicate that the Commission may elect “one or more Vice Chairpersons.” Further, we propose amending section 3.79.090 to indicate that the Commission, from time to time, may establish ad hoc committees, made up of less than a quorum of the Commission, to study, conduct interviews and otherwise investigate for the purpose of addressing specific issues, including systemic issues, within the LASD. This amendment recognizes the Commission’s practice from its inception. Indeed, formation and use of ad hoc committees has been indispensable to the development of many of the most significant recommendations of the Commission over the past seven years, including, among others, the use of Body Worn Cameras and the policies applying to them, the expansion of MET teams, changes to use of force policy, the

⁸ See, e.g., *Gillespie v. San Francisco Pub. Library Comm’n*, 67 Cal.App.4th 1165 (1998) (a Library Commission conducted a closed-session meeting to consider appointment of a new city librarian, even though the Mayor was the ultimate hiring authority).

⁹ Based on his public comments, we believe that the Sheriff is supportive of the MOU providing members of the Commission’s ad hoc committees with confidential information, subject to advice of County Counsel and a meet and confer process with the labor unions representing Sheriff’s Department sworn employees.

implementation of PREA, the use of drones, identifying and developing policies to eliminate deputy gangs and cliques, and monitoring compliance with PREA.

Finally, there is a proposed revision to section 3.79.140 that allows the COC, working with County Counsel, to retain outside counsel to enforce its subpoenas. This language tweak conforms to current practice.

Other than the above, County Counsel provided the Commission with an initial draft that included new sections 3.79.130 and 3.79.190. They track Measure R, and except for minor edits noted, we concur that they are appropriate. County Counsel's initial draft also include a new section 3.79.210 that recited the very lengthy taskings set out in Measure R regarding the study and development of a public safety reinvestment plan and feasibility study. We have not included this in our proposed revisions for two reasons: (1) these types of taskings, even from the Board itself, would not usually be made part of an ordinance or law; and (2) we have been informed that the County considers that these taskings have been carried out by other entities of the County. We also note that after Measure R passed, the Commission sought to hire an outside consultant pursuant to Section 3.79.140 to assist it in performing the substantial tasks outlined in Measure R. Although the Commission had selected an outside consultant after competitively bidding the work, the Commission did not receive funding to hire a consultant and was unable to perform the Measure R taskings.

The Commission's proposed revisions¹⁰, with the Commission's explanatory footnotes, are highlighted below.

¹⁰ For clarity, the Commission's proposed revisions are in red. The revisions in blue are those that had previously proposed by County Counsel.

[PROPOSED] REVISIONS TO CHAPTER 3.79 OF THE LOS ANGELES COUNTY CODE

Chapter 3.79 SHERIFF CIVILIAN OVERSIGHT COMMISSION

3.79.010 Created.

There is created a ~~Los Angeles County Sheriff~~ Civilian Oversight Commission for the Los Angeles County Sheriff's Department,¹¹ hereinafter in this chapter referred to as the "Commission."

(Ord. 2016-0048 § 1, 2016.)

3.79.020 Purpose.

The purpose of the Commission is to provide independent oversight of the Los Angeles County Sheriff's Department (hereafter referred to as the "Sheriff's Department") and its policies, practices, procedures; to improve public transparency and accountability with respect to the Los Angeles County Sheriff's Department, by providing robust opportunities for community engagement, and to investigate and provide ongoing analysis of the Department's polices, practices and procedures, and advise make recommendations on changes, improvements and reforms to the Board of Supervisors, the Sheriff's Department, and the public.¹²

(Ord. 2020-0006 § 1, 2020; Ord. 2016-0048 § 1, 2016.)

3.79.030 Duties.

The Commission shall, on its own or at the request of the Board of Supervisors or the Sheriff, without interfering with the Sheriff's investigative function:

¹¹ The amendment to section 3.79.010 changes the formal name of the Commission from the "Sheriff Civilian Oversight Commission" to the "Civilian Oversight Commission for the Los Angeles County Sheriff's Department." There are two reasons for this change. The current title of the Commission has caused confusion among the public, some of whom have indicated that, because of our name, we were part of or somehow an arm of the Sheriff or otherwise part of the Department, rather than independent from it. Secondly, the Commission provides oversight, not just for the Sheriff, as the head of the Department, but for the entire Department, and its name should so reflect.

¹² Section 3.79.020 makes explicit that the Commission, in exercising its duties, acts independently and is expected to act independently. The language "to provide independent oversight" is also used in to describe the OIG's oversight authority. See § 6.44.190 of the Code. It is also noteworthy that the Supervisors who created the Commission eight years ago urged the newly appointed Commissioners to act independently and based their findings and recommendations on the merits and the facts, as we determine them. Moreover, if there were any doubt that the Commission should act independently, it was removed by the passage of Measure R. As noted in the Impartial Analysis of Measure R by then County Counsel Mary Wickham, Measure R gave the Commission "independent subpoena power" and "independent power to perform investigations." (Emphasis added.) Furthermore, the National Association of Civilian Oversight of Law Enforcement (NACOLE) has emphasized that providing for the independence law enforcement oversight bodies is unquestionably the best practice for such bodies. Indeed, most of the law enforcement oversight bodies created after the murder of George Floyd in May 2020 have "independent" in their titles and/or in their charters. Moreover, it has been our own experience that it is of the utmost importance to the Commission's effective functioning that the it be independent, and be perceived as such, in order to be optimally effective in performing its oversight function.

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- A. Make Recommendations. 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. Investigate through the Office of Inspector General (OIG), or through its own staff, analyze, solicit input and make recommendations to the Board of Supervisors and the Sheriff on systemic Sheriff - related issues or complaints affecting the community. In carrying out its investigations, the Commission has independent subpoena power to obtain documents and records, electronic or otherwise, and witnesses pertinent to its investigation and oversight, as well as to administer oaths to witnesses appearing before it.¹³
 - C. Review. Review policy recommendations made by outside entities at the request of 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. Monitor Settlement. Only at the request of the Board of Supervisors and/or the Sheriff, serve, either collectively or through one or more of its members, as the monitor of the implementation of settlement provisions in litigated matters.
 - E. Serve as Liaison and Mediator. Function as a liaison, or at the request of the Board of Supervisors, the Sheriff, and/or 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. Obtain Community Input. 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, investigate through the OIG or its own staff and at public hearings, and make recommendations.¹⁴

¹³ The additional sentence to subsection 3.79.030B regarding how the Commission carries out its investigative function, merely codifies Measure R into this subsection.

¹⁴ Subsection 3.79.030F adds that the Commission can itself investigate with its own staff citizen complaints, or, alternatively, it may use the OIG to investigate citizen complaints. It also makes clear that the Commission may use public hearings, as is its current practice, in furtherance investigations of LASD practices and procedures that impact the public, *e.g.*, the existence of deputy gangs and/or cliques within certain units of the Department, a pattern of harassment of family members grieving a relative killed as a result of use of force, etc.

G. Independently review and evaluate the Department's handling and resolution of citizen and inmate complaints.¹⁵

- H. Work with the OIG. Work with and assist the OIG in soliciting community input and feedback on issues being investigated by the Inspector General, and supervise and evaluate at least annually all work performed by the Inspector General that is done at the request of the Commission.
- I. Function as a Bridge. 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.
- J. Seek Sheriff's Input. Seek the input of the Sheriff prior to completing any of its recommendations made pursuant to the duties defined in this section.
- K. Advise. Serve in an advisory capacity 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 Sheriff's Department employees, including imposition of discipline. The Commission, however, may review and comment on levels of discipline and the Department's disciplinary decisions and practices, as permitted by law. Moreover, although advisory, the Commission shall make recommendations for changes to policy and procedures of the Department. Once the Commission has adopted such recommendations and transmitted them to the Sheriff, the Sheriff will have sixty (60) days to adopt them or provide the Commission with a written statement why the Sheriff has chosen not to adopt them or is unable to meet the sixty day deadline.¹⁶

(Measure R, § 3, approved by voters in Mar. 3, 2020 General Election; Ord. 2020-0006 § 3, 2020.)

3.79.031 Inspect.

The Commission may ~~Receive~~ referrals for inspections of jail facilities operated by or within the jurisdiction of the County, ~~and direct the OIG~~ it may conduct inspections of County jail facilities on its own initiative using Commissioners or its own staff, or refer the matter to the OIG or the Sybil Brand

¹⁵ A new subsection, 3.79.030G, is added to make plain that the Commission may "independently review and evaluate the Department and the OIG's handling and resolution of citizen and inmate complaints." This needs to be made explicit in the COC governing ordinance.

¹⁶ The last amendment to the Duties section of 3.79.030 is a subsection, subsection K, clarifying that while the Commission is an advisory body, it may review and comment on the adequacy of internal investigation as well as the levels of discipline imposed for misconduct. Further, the additional language underscores the practice from the Commission's inception of studying, investigating, and making recommendations for changes in the LASD's policy and procedures. Importantly what is added is that "the Sheriff will have sixty (60) days" to adopt the recommendations of the Commission or explain in writing to the Commission why he/she has not adopted them." The amendment appears as 3.79.030L, formerly 3.79.030J. This amendment is essential to assuring that the Commission's well-researched and thought-out recommendations do not vanish into some blackhole within the Sheriff's Department. Sixty days is reasonable in as much as the Commission will have sought the input of the Sheriff before adopting its recommended policies in the first instance. Cf. § 3.79.130K, above.

Commission to conduct such inspections. The Commission and its staff shall have authority to conduct unannounced inspections of County jail facilities.¹⁷

(Ord. 2020-0006 § 3, 2020.)

3.79.032 Access Information.

Under § 3.79.190 of the County Code and Government Code § 25303.7(b), the Commission has authority to subpoena persons and records. The Commission shall be able to access information, documents, and testimony necessary to the Commission's oversight function as set forth in this ordinance.¹⁸ The Commission, in compliance with all laws and confidentiality protections, may compel production of such information by directing the OIG to issue a subpoena on the Commission's behalf or by issuing a subpoena under its own authority, when deemed necessary by action of the Commission. The requirements and procedures for access to, and review and redaction of, confidential information received by the OIG or by the Commission are set forth in subsection J of County Code Section 6.44.190.¹⁹

(Ord. 2020-0006 § 3, 2020.)

3.79.035 Records.

Any personnel records, complaints against Sheriff's Department personnel, and information obtained from these records, which come into the possession of the Commission or its staff to the extent protected under the law, shall be treated as confidential and shall not be disclosed to any member of

¹⁷ Section 3.79.031 relates to inspections, including unannounced inspections, of Los Angeles County Jail facilities. While both the Sybil Brand Commission (SBC) and the OIG have this authority, the COC does not. Notwithstanding the overlap between the SBC and COC's missions (the COC is responsible for oversight of the LASD's operations of the LA County Jail system) when it comes to the jails, the COC and its staff should be given this authority, while at the same time attempting to leverage the resources and capabilities of the OIG and SBC.

¹⁸ Indeed, NACOLE's third principle or best practice for a police oversight agency is: "Unfettered Access to Records and Facilities."

¹⁹ The amendments to section 3.79.032 expressly recognize the Commission subpoena authority, both under Measure R and state law. They also recognize that members of the Commission, who sign nondisclosure/confidentiality agreements, have the same access to confidential information as OIG personnel. Access to information, including confidential information about Department personnel, protected under state law from public disclosure, is critical to the Commission's ability to provide effective oversight. And yet after nearly eight years of existence, members of the Commission and its ad hoc committees have been thwarted in their attempts to access confidential information essential to effectively performing its oversight mission. For example, the Commission's ad hoc committee on the Use of Force, although it agreed to maintain confidentiality has been denied access to closed investigations involving use of lethal force, *e.g.*, the killing of Andres Guardado. The Commission's ad hoc committee regarding Deputy Gangs, despite agreeing to maintain confidentiality of information protected by state law, has been denied access to the closed investigation involving the Kennedy Hall assaultive behavior by the Banditos deputy gang. More recently, the same ad hoc committee has been denied access to the LASD's investigation into an assault against teenagers in a parking lot by members of the Industry Indians. This needs to change.

the public, except in accordance with applicable laws. Copies of complaints not already in the Sheriff's Department possession may be made available to the Sheriff's Department upon completion of the Commission's investigation, unless confidentiality mandates otherwise.

Because the Commission is a Brown Act body ~~that is not authorized to conduct closed session~~, the Commission may not receive records protected by any law protecting the Confidentiality of records, including Penal Code §§ 832.7, 11077, and 13300, et al., unless such records are appropriately redacted. However, members of ad hoc committees²⁰ of the Commission, composed of less than a majority of the members of the Commission, may access and receive confidential records, provided there is an agreement by them to keep protected information confidential.²¹ As permitted by law, and consistent with subsection J of the County Code Section 6.44.190, material received by the OIG in response to a subpoena issued at the direction of the Commission may be shared with the Commission by the OIG. (Ord. 2020-0006 § 4, 2020.)

3.79.040 Membership.

- A. The Commission shall consist of nine members. Each shall be a resident of the County of Los Angeles. The members shall be selected as follows:
1. Five members shall be appointed by the Board, one nominated by each Supervisorial District.
 2. Four community members shall be appointed by the Board upon recommendation by the Executive Officer of the Board of Supervisors, in consultation with the Commission²² and

²⁰ Compare County Code sec 6.44.190J, which provides, regarding the OIG:

The confidentiality of peace officer personnel records, juvenile records, medical and mental health records, protected health information, 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 and as necessary to maintain any applicable privileges or the confidentiality of the information. The OIG shall not disclose any confidential records, including peace officer personnel, records, juvenile records, medical and mental health records, or protected health information, unless the disclosure is permitted by law. Other than juvenile records (Welfare and Institutions Code §827), the OIG's sharing of information, including confidential information, with the COC staff, POC staff, or ad hoc committees of the Commissions does not constitute a disclosure. The OIG's sharing of information including confidential and juvenile information with the Board of Supervisors does not constitute a disclosure. (Emphasis added.)

²¹ Section 3.79.035 makes two important changes, both to the second paragraph of the section. *First*, it eliminates that language that the Commission "is not authorized to conduct closed sessions." This is an incorrect statement of the law and, for that reason alone, should be removed. Although the Commission is a Brown Act body, the Brown Act itself is clear that the Commission may conduct closed sessions to deal with attorney-client briefings concerning pending litigation to enforce Commission subpoenas [Govt. Code § 54956.9] as well as to receive and discuss sensitive personnel performance evaluations of the Executive Director and the staff. Govt. Code § 54957. *Second*, language is added that expressly recognizes that, subject to confidentiality agreements signed by individuals Commissioners, confidential records and information may be provided to members of ad hoc committees of the Commission. The latter is consistent with a Memorandum of Understanding that the Commission proposed to the Sheriff several months ago.

²² We propose a minor change to section 3.79.040A(2), to wit: that the Commission be consulted before the Board appoints at large or "community" member to a Commission vacancy. This amendment is consistent with current practice.

County Counsel. Subsequent appointments shall follow a process set forth in the Commission's Handbook.

- B. The following individuals cannot serve as members of the Commission:
1. A current employee of the County of Los Angeles;
 2. A current employee of any law enforcement agency, including a police or prosecutorial agency for a government entity, or any individual who has been an employee of such an agency within the previous year.

(Ord. 2020-0006 § 5, 2020: Ord. 2016-0048 § 1, 2016.)

3.79.050 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. The term for all members shall begin on July 1st 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 commission members 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 3.79.050 (A). The commission members shall be placed into three groups by a random selection process.

(Ord. 2020-0006 § 6, 2020: Ord. 2016-0048 § 1, 2016.)

3.79.060 Training.

Each commission member must successfully complete a comprehensive training and orientation program within six months of appointment. Failure to complete the training may result in disqualification. 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.

(Ord. 2020-0006 § 7, 2020: Ord. 2016-0048 § 1, 2016.)

3.79.070 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.

(Ord. 2016-0048 § 1, 2016.)

3.79.080 Vacancies.

The Board of Supervisors will appoint members to fill vacancies on the Commission created by events other than the normal end of a member's term in accordance with the process set forth in Section 3.79.040. Vacancies shall be filled within 60 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.

(Ord. 2016-0048 § 1, 2016.)

3.79.090 Organization.

The Commission shall, with the advice of County Counsel, prepare and adopt necessary rules and regulations for the conduct of its business. A copy of the rules and regulations shall be filed with the Executive Officer/Clerk of the Board of Supervisors. The Commission is to conduct itself in accordance with the Commission's Handbook as established by the Executive Officer in consultation with the Executive Director. **Commission may establish, from time to time, ad hoc committees made up of less than a majority of the members of the Commission in order to investigate and study specific issues and develop recommendations to be presented to the full Commission at a regularly scheduled meeting of the Commission.**²³

(Ord. 2016-0048 § 1, 2016.)

3.79.100 Meetings.

The Commission shall meet at least once a month, 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.

(Ord. 2016-0048 § 1, 2016.)

3.79.110 Officers.

At each annual meeting, the Commission shall elect a chairperson, **one or more** vice chairpersons,²⁴ a secretary and such other officers as it deems appropriate. The Commission shall determine the procedures and methods by which the officers are elected and the term they are to serve. A chairperson, however, may only serve for two full consecutive one-year terms.

²³ The amendment to section 3.79.090 provides that the Commission, from time to time, may establish ad hoc committees, made up of less than a quorum of the Commission, to study, conduct interviews and otherwise investigate in order to address specific issues, including systemic issues within the LASD. This amendment recognizes the Commission's practice from its inception. Indeed, formation and use of ad hoc committees has been indispensable to the development of many of the most significant recommendations of the Commission over the past seven years, including, among others, the use of Body Worn Cameras and the policies applying to them, the expansion of MET teams, changes to use of force policy, the use of drones, identifying and developing policies to eliminate deputy gangs and cliques, and monitoring compliance with PREA, etc. Such ad hoc committees are not subject to the Brown Act. See Govt. Code § 54952(b).

²⁴ There is a slight tweak to section 3.79.130, It would provide that Commission may elect "one or more Vice Chairpersons." Indeed, two co-vice chairs were elected by the Commission at its July 2024 meeting. The reason is that the time demands on the leadership team of the Commission justify and require two vice chairs.

(Ord. 2016-0048 § 1, 2016.)

3.79.120 Reserved.

3.79.130 - Use of the Office of Inspector General Staff for Investigative Purposes.

The Commission may utilize the staff of the Office of Inspector General to undertake investigations, inquiries, audits and monitoring. Alternatively, the Commission may use its own members or staff to undertake investigations, inquiries, audits and monitoring. the Commission shall direct, supervise and evaluate all work performed by the Inspector General that is done at the request of the Commission. Additionally, the Commission may review and evaluate the Office of Inspector General's handling and resolution of any or all citizen's or inmate's complaints.²⁵

(Measure R, § 3, approved by voters in Mar. 3, 2020 ~~General~~-Election.)

3.79.140 Commission Staff.

The Executive Director and other officers and employees of the Commission shall be designated in the current salary ordinance of the County of Los Angeles. The Commission will also have authority to use outside consultants and outside counsel when the need arises in accordance with applicable laws and policies. Outside consultants may be retained by the Executive Office/Clerk of the Board and/or by the Chief Executive Office pursuant to a delegated authority agreement. Outside counsel for the Commission may be retained by County Counsel on behalf of the Commission. Such outside counsel shall be provided in when County Counsel has a conflict of interest.²⁶

(Ord. 2016-0048 § 1, 2016.)

3.79.150 Monetary Terms.

Members of the Commission shall be eligible to receive reasonable monetary allowance 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).

(Ord. 2016-0048 § 1, 2016.)

3.79.160 Annual Report.

The Commission shall prepare and submit to the Board of Supervisors and make available to the public, subject to applicable privileges and protections, an annual report of the previous fiscal year. The annual report will be prepared and submitted no later than August 1st of each year. The annual report shall

²⁵ This section is proposed by County Counsel and is based on Measure R. We concur with it.

²⁶ The revision to section 3.79.140 allows the Commission, working with County Counsel, to retain outside counsel to enforce its subpoenas. This language substantially conforms to current practice.

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.

(Ord. 2016-0048 § 1, 2016.)

3.79.170 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, 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, subject to applicable privileges and protections.
- 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 the status of the implementation of the recommendations identified in the self-evaluation. This written report shall be made available to the public, subject to applicable privileges and protections.

(Ord. 2016-0048 § 1, 2016.)

3.79.180 Cooperation and Coordination.

In the discharge of its duties, the Board of Supervisors directs all officers and employees of the County of Los Angeles to cooperate with the Commission and, to the extent permitted by law, promptly supply copies of requested documents and records, so that other public officers and the Commission can fully and properly perform their respective duties.

(Ord. 2016-0048 § 1, 2016.)

3.79.190 - Obtaining Documents and Information.

Consistent with state law, including, but not limited to the Peace Officer's Bill of Rights, the Commission has the power to subpoena and require attendance of witnesses and the production of books and papers pertinent to its investigations and oversight, and to administer oaths.²⁷

²⁷ This is County Counsel proposed language to incorporate Measure R's grant of independent subpoena power to the Commission. It also recognizes the Commission's independent subpoena authority under Government Code § 25303.7(b).

(Measure R, § 3, approved by voters in Mar. 3, 2020 General Election; Govt. Code § 25303(b)).

3.79.200 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 Peace Officer's Bill of Rights.

(Ord. 2016-0048 § 1, 2016.)

~~3.79.210 Comprehensive Public Safety Reinvestment Plan²⁸~~

~~[Text deleted]~~

²⁸ The lengthy taskings of Measure R are not appropriate for inclusion in an ordinance, any more than a specific tasking by the Board of Supervisor to the Commission would be enshrined into an ordinance or law. Moreover, we understand that the County's position is that the taskings under Measure R regarding a public safety reinvestment plan and feasibility study have been completed by other County agencies.