

CHECK THE SHERIFF

March 16, 2023

To: Los Angeles County Civilian Oversight Commission
Professor Sean Kennedy, Chair, Civilian Oversight Commission
Max Huntsman, Inspector General

Cc: Los Angeles County Board of Supervisors
Supervisor Hilda Solis
Supervisor Holly Mitchell
Supervisor Lindsay Horvath
Supervisor Janice Hahn
Supervisor Kathryn Barger
Justice Deputies

Via E-Mail

RE: Check the Sheriff Coalition Priority Recommendations Regarding the Los Angeles County Sheriff's Department and Deputy Gangs

The Check the Sheriff Coalition (CTS) — comprising organizations and individuals directly impacted by Los Angeles County Sheriff's Department (LASD) violence and misconduct — has worked tirelessly to bring awareness to LASD's harms to the community, and to advocate for legal and policy change to strengthen civilian oversight and accountability and remove LASD from spaces where it causes the most harm. Importantly, CTS developed the first sheriff-related L.A. County charter amendment in 20 years, which became Measure A and passed with a resounding 72 percent of the vote, finally establishing meaningful civilian checks and balances of the paramilitary office of the sheriff. Measure A set a precedent for other charter counties throughout the state to similarly strengthen sheriff accountability.

Our overwhelming community-driven victory in Measure A, following Measures J and R, is a clear mandate — a clarion call — from voters not only for real sheriff accountability but also for a new vision for public safety. Accordingly, the Board of Supervisors (Board) possesses the political capital to leverage these important victories and take decisive actions to finally address the scourge of deputy gangs and the conditions that lead to LASD's unchecked hostility and violence towards communities, particularly Black and Latine communities. Instead of tinkering around the edges, the County can and should move forward with “radical overhauls” and structural changes that will permanently impact the way LASD operates.¹

¹ See, e.g., Erika D. Smith, *Column: If California finally starts cracking down on rogue sheriffs, thank Alex Villanueva*, L.A. TIMES (Nov. 11, 2022), available at <https://www.latimes.com/california/story/2022-11-11/california-sheriff-reformers-alex-villanueva-robert-luna-la-election-measure-a>; *Editorial: What do we do about sheriff gangs?*, L.A. TIMES (Sept. 14, 2021), available at <https://www.latimes.com/opinion/story/2021-09-14/what->

Through its September 28, 2021 motion, titled *Measures to Eradicate Deputy Gangs and Create Stronger Civilian Oversight and Checks and Balances over the Sheriff and Sheriff's Department*, the Board tasked the Civilian Oversight Commission (COC) with soliciting public input and developing recommendations for a holistic approach to eradicate deputy gangs and address associated problems — including through “structural changes” and “policies that the Board may issue under relevant State and local laws and ordinances.”² In turn, in light of the COC’s investigation with crucial support from pro bono special counsel, we have a better understanding of the current goings-on of LASD deputy gangs. On March 3, 2023, the COC ad hoc committee on deputy gangs adopted the special counsel’s draft report and recommendations.

Nevertheless, the COC ad hoc committee’s report falls short of the inclusive and holistic approach we need. Besides ascertaining the impact of deputy gangs on LASD and its deputies, we must also have a full grasp of their devastating impact on local communities. Further, it is not enough for the COC’s recommendations to rely solely on the willingness of the current sheriff and his command staff in solving a crisis that has persisted one sheriff after another for more than five decades. While the last sheriff was exceedingly and openly hostile to the Board and any oversight or accountability, prior sheriffs who were not as openly hostile all delivered the same result: unchecked deputy violence, including by deputy gangs. We cannot depend on sheriffs stating they want to do the right thing, nor on their ability to transform a department with management and staff who at a minimum sat idly by as the department rotted from within. We must recognize that the real cancer is LASD’s pervasive culture of abuse and violence that gives rise to deputy gangs in the first place; deputy gang members, while egregious, are certainly not the only deputies violating the law and the civil rights of residents. And other County agencies, including County Counsel and the Medical Examiner-Coroner, have played a role in enabling deputy gangs and misconduct. In short, merely adopting a stronger policy on deputy gangs and other recommendations directed only to LASD — while worthwhile and even necessary — will not be sufficient to eradicate deputy gangs and address the manifold associated problems.

What we need instead — as the Board’s September 28, 2021 motion envisioned — are structural changes that involve entities outside of LASD, including continued Board intervention. Indeed, the harmful history of LASD and sheriffs is well documented, and structural changes driven by community demands have proven imperative. The COC and the Office of Inspector General (OIG) were created as oversight bodies in response to extreme jail violence and other illegal conduct perpetuated by LASD deputies and sanctioned by former Sheriff Lee Baca.

do-we-do-about-la-county-sheriff-gangs; *Editorial: Cyclist stops and searches show need for stronger sheriff oversight*, L.A. TIMES (Nov. 9, 2021), available at <https://www.latimes.com/opinion/story/2021-11-09/sheriffs-racist-bike-stops-unacceptable> [hereinafter “*Editorial: Cyclist stops and searches*”]; *Editorial: Alex Villanueva isn’t L.A. County’s only sheriff problem. Let’s rethink the job entirely*, L.A. TIMES (Feb. 5, 2021), available at <https://www.latimes.com/opinion/story/2021-02-05/removing-the-sheriff>.

² At the Board of Supervisor’s (Board) September 28, 2021 meeting, as part of agenda item 26, the Board unanimously passed this motion read in by Supervisors Hilda Solis and Holly Mitchell. See L.A. Cnty. Bd. Supervisors, Statement of Proceedings for the Regular Meeting of the Board of Supervisors 32 (Sept. 28, 2021), http://file.lacounty.gov/SDSInter/bos/sop/1113870_092821.pdf; Motion by Supervisors Hilda L. Solis and Holly Mitchell, *Measures to Eradicate Deputy Gangs and Create Stronger Civilian Oversight and Checks and Balances over the Sheriff and Sheriff’s Department* (Sept. 28, 2021), <http://file.lacounty.gov/SDSInter/bos/supdocs/162339.pdf>.

Despite former Sheriff Jim McDonnell’s claims that he supported these oversight entities, he refused to provide information necessary for the COC to fulfill its functions — necessitating the community-driven Measure R ballot measure granting the COC subpoena power to legally compel the production of information from LASD. Former Sheriff Alex Villanueva defied one lawful subpoena after another — in addition to violating departmental policies, state and local law, and court orders intended to create transparency and accountability for deputy misconduct — ultimately leading to the community-driven and Board-placed Measure A.

Therefore, the COC should complement the report and initial recommendations. The COC should investigate deputy gangs’ impact on the community. The COC should develop a holistic set of recommendations, including to other relevant stakeholders, especially the Board. The Board has the moral and legal obligation to ensure that the public is protected from LASD violence, harassment, and unequal enforcement of the law by using all means that it has available — including budget determinations, motions and ordinances, supervision of LASD and other County agencies, negotiations with the associations representing LASD personnel, amendments to the county charter, and support for changes in state law. The Board should do everything in its power to overhaul LASD, its culture, and its footprint, and advance solutions that transform the relationship between the County, the sheriff and LASD, and the public, once and for all.

We urge the COC to consider and include our CTS priority recommendations as part of a holistic approach to eradicate deputy gangs and address associated problems.

1. *Solicit public input and investigate deputy gangs’ impact on community members:*

During its March 7, 2023 meeting, as the Board adopted the COC ad hoc committee’s initial recommendations, Supervisor Holly Mitchell also asked the COC to further investigate the impact of deputy gangs on community members and provide a supplemental report. We support Supervisor Mitchell’s request to ascertain deputy gangs’ harms on communities — especially predominantly Black and Latine communities with a history of deputy gang violence and abuse.

Therefore:

- a. *The COC should proactively solicit input from individuals and families harmed by deputy gang members.*
- b. *As Professor Sean Kennedy’s January 2021 Loyola Law School report on deputy gangs recommended, the COC should partner with community stakeholders and host town halls in key impacted areas to solicit broader community input.³ These communities should include, at a minimum, South Los Angeles, East Los Angeles, Compton and Lynwood, and the Antelope Valley. Related to Recommendation 2, if the COC needs greater resources and staffing to accomplish this fundamental truth-seeking task, the Board should provide adequate funding and personnel.*

³ 50 YEARS OF DEPUTY GANGS IN THE LOS ANGELES COUNTY SHERIFF’S DEPARTMENT: IDENTIFYING ROOT CAUSES AND EFFECTS TO ADVOCATE FOR MEANINGFUL REFORM, LOYOLA LAW SCH. CTR. FOR JUVENILE LAW & POLICY (JAN. 2021), <https://lmu.app.box.com/s/ho3rp9qdbmn9aip8fy8dmmukjjgw5yyc> [hereinafter “LOYOLA REPORT”].

- c. *The COC should investigate the role of the Medical Examiner-Coroner's office in covering up deputy gang violence,⁴ and work with community stakeholders to incorporate its findings and recommendations into a supplemental report.*

2. Establish more robust, independent, and representative civilian oversight of LASD:

Civilian oversight bodies can only be as effective as they are provided with the authorities, resources, and independence necessary to perform their oversight duties. And they must be representative of the diverse communities impacted by law enforcement. Importantly, the COC has lacked the resources and access to independent counsel necessary to fully carry out its duties.⁵ The COC's composition has also failed to include community members who are directly impacted by LASD and the criminal legal system.

Therefore:

- a. *The Board should provide the COC with independent counsel, funding, and staffing commensurate with its duties.⁶*
- b. *As it is the case with the L.A. County Probation Oversight Commission, the Board should ensure community membership and inclusion in the COC of individuals directly impacted by LASD and the criminal legal system.⁷*

3. Clarify and leverage Board and COC policy-making authority:

Sheriffs have adopted and maintained policies that directly contravene local, state, and federal laws or at least violate the spirit of these laws.⁸ Yet, the Board has the duty and authority

⁴ See, e.g., Taylor Walker, *Deadly LA Jails and Inconclusive Autopsies*, WITNESSLA (Mar. 5, 2023), <https://witnessla.com/deadly-la-jails-and-inconclusive-autopsies/>; Emily Elena Dugdale, *UCLA Researchers Say More than Half of 'Natural' LA Jail Deaths Studied Show Evidence of Physical Harm*, LAIST (June 2, 2022), <https://laist.com/news/criminal-justice/ucla-la-jail-deaths-sheriff-autopsy-police-coroner>.

⁵ In this context, considering the special counsel's substantial work, which was done pro bono, we can easily imagine the broader reach the COC could have with adequately resourced independent counsel.

⁶ The COC's ability to retain independent counsel would augment the tools in its oversight toolbox. Instead of being limited to relying solely on a County Counsel agency that also represents LASD and that has the attorney-client privilege not with the COC but with the Board, independent counsel would allow the COC to seek independent legal analysis and affirmatively pursue all available legal means in performing its oversight duties.

⁷ The Probation Oversight Commission must include "at least one member who is formerly justice-system involved, at least one member who is a family member of someone who is currently or formerly justice-involved, and at least one member who is a member of the State Bar of California with juvenile or criminal justice expertise." L.A. Cnty. Code § 3.80.080.

⁸ See, e.g., Letter from Inspector Gen. to L.A. Cnty. Sheriff Civilian Oversight Comm'n re Report Back on Unlawful Conduct of the L.A. Cnty. Sheriff's Dep't (Dec. 14, 2020), <https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/988fd15c-11dc-404a-a669-bf8719ddabec/UnlawfulConductOfLASD.pdf>.

to supervise sheriffs “in order to ensure that they faithfully perform their duties.”⁹ As such, the Board should supervise sheriffs’ departmental policies to ensure that they faithfully perform their duties and functions required by law, including compliance with local and state laws relating to transparency, use of force, and law enforcement gangs, among other areas.

Therefore:

- a. *The Board should clarify its own authority to oversee and set policies for LASD that do not interfere with the statutory authority of the sheriff or otherwise conflict with state law, and it should consider delegating certain powers to the COC.*¹⁰
- b. *The Board should create a process through which issues and recommendations arising out of the COC are automatically agendaized for Board meetings and lead to meaningful action.*

4. ***Ensure real transparency:***

Sheriffs and LASD have had a history of impeding transparency and shielding deputies from accountability. Under the prior sheriff’s administration, LASD exacerbated this practice by refusing to comply with local, state, and federal laws and judicial orders that all compel LASD to disclose information about deputy misconduct and uses of force.¹¹ To the Board’s credit, it has already taken important steps in this area in the past two years, including the Board’s adoption of

⁹ *Dibb v. Cnty. of San Diego*, 8 Cal. 4th 1200, 1208-09 (1994); Cal. Gov. Code § 25303.

¹⁰ The Board retains policy-making authority for County departments, pursuant to L.A. County Code section 2.06.130, which specifies the powers of heads of departments “[u]nder the direction and supervision of the board of supervisors, and subject to its direction” to “formulate departmental policy, direct its implementation and evaluate work accomplished.” As long as they do not obstruct the sheriff’s investigation of crime, the Board should be able to set policies at the Sheriff’s Department (LASD) in a host of areas that address deputies’ conduct.

The Board may also delegate authority to the COC to set LASD policies or empower the COC to find use of force incidents, including shootings, to be in or out of policy. *See* Cal. Gov. Code § 23005 (“A county may exercise its powers only through the board of supervisors or through agents and officers acting under authority of the board or authority conferred by law.”). The California Supreme Court has decided that the board of supervisors may entrust an oversight body to investigate, on its own motion, deaths at the hands of sheriff’s deputies. *Dibb*, 8 Cal. 4th at 1205; *see also Calcoa v. Cnty. of San Diego*, 72 Cal. App. 4th 1209 (1999) (holding that San Diego’s civilian oversight body could legally issue reports finding deputies’ actions out of policy, even without providing deputies an opportunity to contest those findings). According to the court, the board “might be concerned about public distrust of investigations conducted by either the sheriff or district attorney and hopeful that investigations by a group not aligned with law enforcement would restore public confidence.” *Dibb*, 8 Cal. 4th at 1209.

¹¹ *See, e.g., THE RIGHT TO KNOW ACT: LOS ANGELES COUNTY SHERIFF’S DEPARTMENT TO POLICE TRANSPARENCY REFORM*, OFF. INSPECTOR GEN., CNTY. LOS ANGELES (Nov. 2020), <https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/fa0fec1f-b09d-4245-811d-ae02aad3293e/RighttoKnowActLASDCompliance.pdf>; Leila Miller, *Sheriff’s Department defied court orders to name deputies with histories of misconduct. It was a costly decision*, L.A. TIMES (Oct. 17, 2020), available at <https://www.latimes.com/california/story/2020-10-17/court-orders-sheriff-refuses-to-name-deputies-misconduct>; Maura Dolan, *California Supreme Court backs greater access to police misconduct cases*, L.A. TIMES (Aug. 26, 2019), available at <https://www.latimes.com/california/story/2019-08-26/brady-list-prosecutors-los-angeles-sheriff-california-supreme-court-police-misconduct>.

L.A. County Ordinance No. 2022-0011 on March 15, 2022 to move some of this function into County Counsel.¹² Yet, LASD — whether under the advice of County Counsel or outside counsel — has continued to withhold information from records that must be released through extensive and illegal redactions. Shifting responsibility from LASD to County Counsel must also come with greater certainty that the County will take the proper steps to ensure that all the information to which the public is entitled is in fact released to the public — rather than continue to illegally conceal public records and force disclosure through costly litigation.

Therefore:

- a. *The Board should ensure prompt and full operation of L.A. County Ordinance No. 2022-0011, which requires the disclosure of publicly available records systematically, proactively, and immediately in an easily searchable format, once the records are disclosable. The ordinance also shifts the responsibility for publishing records pursuant to SB 1421, as well as responding to California Public Records Act (CPRA) requests, away from LASD and towards County Counsel. The Board should require regular updates on County Counsel’s compliance with the CPRA, including an update on pending litigation and litigation-related costs.*
- b. *Building on its May 4, 2021 motion requesting a report back on alternate mechanisms for community complaints of LASD misconduct,¹³ the Board should take the necessary steps to strengthen and expand access to the civilian complaint process, including by creating an online submission process and a repository of complaints housed within a County agency outside of LASD, so that complaints are not treated as personnel records and are not concealed from oversight bodies and the public.¹⁴*

¹² See L.A. County Ordinance No. 2022-0011 (Mar. 15, 2022), <https://file.lacounty.gov/SDSInter/bos/supdocs/167350.pdf>; see also Motion by Supervisors Holly J. Mitchell and Hilda L. Solis, *Meeting the Sheriff’s Department’s Obligations Under SB 1421* (Feb. 15, 2022), <https://file.lacounty.gov/SDSInter/bos/supdocs/166314.pdf>; Motion by Supervisors Holly J. Mitchell and Hilda L. Solis, *Increasing Transparency Through Access to Peace Officer Records* (May 18, 2021), <https://file.lacounty.gov/SDSInter/bos/supdocs/158358.pdf#search=%22sb%201421%22>; Motion by Supervisors Hilda L. Solis and Holly J. Mitchell, *Taking Action: Further Protections for Surviving Families From Law Enforcement Harassment and Retaliation* (July 27, 2021), <http://file.lacounty.gov/SDSInter/bos/supdocs/160300.pdf> [hereinafter “July 27, 2021 Board Motion”].

¹³ Revised Motion by Supervisors Hilda L. Solis and Holly Mitchell, *Protecting Surviving Families From Law Enforcement Harassment and Retaliation* (May 4, 2021), <https://file.lacounty.gov/SDSInter/bos/supdocs/158009.pdf>.

¹⁴ The County could house an online submission process within another agency, such as the Office of Inspector General (OIG) or the Civilian Oversight Commission (COC). Complainants could voluntarily choose to share their complaints with that agency or designate their complaints to be published online before being submitted to LASD and made part of an officer’s personnel record. Anonymous complaints should be permitted. If the County adopts a public website, it should include the functionality to allow individuals to directly submit additional information relevant to a public complaint or to identify as witnesses. This would provide a check on the internal investigation process by making evident the existence of witnesses that support the complainant’s version of events and any related failures to follow up with those individuals.

- c. *The Board should ensure that body-worn camera or other video footage is maintained outside of the custody and control of LASD — limiting access to LASD personnel so that footage is not inappropriately edited or reviewed to interfere with investigations, while granting appropriate access to the COC, OIG, the Public Defender, the Alternate Public Defender, and the District Attorney.*¹⁵
- d. *The Board should prohibit the use of explicit or implied non-disclosure agreements and protective orders in settlement agreements with employee plaintiffs or lawsuits filed by members of the public regarding deputy misconduct, especially in suits alleging deputy gang-related misconduct, racial or sexual harassment, identity-based bias, dishonesty, or uses of inappropriate force. The Board should also require County Counsel to be transparent with the public about all deputies with ties to deputy gangs; with this information, another County agency, such as the OIG, should create and maintain a database of deputies known to be affiliated with a deputy gang.*

5. Create and enhance external accountability mechanisms:

Time and time again, LASD has proven the truth that the police can't police itself; LASD simply cannot be trusted to adequately investigate complaints filed with the department or appropriately impose discipline. It is long overdue for the Board to overhaul LASD's disciplinary system, which has suffered from significant structural and cultural impediments to effective discipline and meaningful accountability.¹⁶

Therefore:

- a. *The Board should pursue any necessary actions to create a County system outside of LASD that will:*
 - i. *Receive, monitor, and investigate all allegations and complaints of misconduct, including policy violations and incidents of deputy harassment and retaliation of surviving family members, advocates, and protestors;*

¹⁵ Through its July 27, 2021 motion, the Board has taken initial steps here. See July 27, 2021 Board Motion, *supra* note 12. Given the need for multiple agencies to access body-worn camera footage and LASD's frequent recalcitrance at responding to requests for information, hosting body-worn camera footage in a central repository accessible to all those with legal access would ensure that LASD does not impede timely access. Additionally, the County could impose its own policies limiting access to body-worn camera footage by deputies so that it is not inappropriately edited or reviewed to interfere with investigations into deputy conduct or criminal prosecutions.

For additional recommendations on LASD's body-worn camera policies, see Ex. A (Apr. 16, 2020 ACLU SoCal letter re: "Proposed Sheriff's Department Policy on Body-Worn Cameras").

¹⁶ See L.A. CNTY. OFF. INSPECTOR GEN., LOS ANGELES COUNTY SHERIFF'S DEPARTMENT: REVIEW AND ANALYSIS OF MISCONDUCT INVESTIGATIONS AND DISCIPLINARY PROCESS (FEB. 2021), https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/dddb2ccf-34af-4e30-b6a8-7e9d610265d0/IIPublicReport_Body2.pdf.

- ii. *Independently investigate use of force incidents ending in death or great bodily injury;*
 - iii. *Create and apply criteria for when an investigation may be terminated; and*
 - iv. *Adjudicate disciplinary determinations.*¹⁷
- b. *The Board should bolster and leverage the roles of other County agencies that are already designed to, or should be, providing important checks to LASD:*
- i. *The OIG should produce regular reports setting forth all new, pending, and concluded personnel investigations and identify the facts and circumstances of each case as allowed by law, presence of any deputy gang allegations, rank of the deputy involved, and discipline imposed. The OIG should also conduct regular audits to review the accuracy of LASD stop and arrest data, and irregularities uncovered should result in the initiation of personnel investigations.*¹⁸
 - ii. *The Board should adequately fund and support the County’s public defender offices and the Law Enforcement Accountability Project (LEAP) to assist in monitoring potential misconduct, racist affiliations, or gang participation by deputies and making sure that this information is timely provided in the context of ongoing criminal cases.*¹⁹
 - iii. *The Board should ensure that complaints of deputy misconduct including allegations that, if true, would constitute a criminal offense are immediately shared with the District Attorney upon receipt and without delay, in order to avoid the recurrent problem of LASD running out the statute of limitations through its administrative investigation process.*²⁰

¹⁷ See *id.* at 116-19; Letter from L.A. Cnty. Off. Inspector Gen. re: Report Back on Protecting Surviving Families From Law Enforcement Harassment and Retaliation 6-7 (July 7, 2021), https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0a5c0ab3-855a-492a-a9db-5643722e64cb/Report_on_Protect_ing_Surviving_Families.pdf [hereinafter “OIG Report Back”].

The Board has already directed the OIG and County partners to explore a system of accountability external to LASD. See July 27, 2021 Board Motion, *supra* note 12.

¹⁸ For example, the OIG has conducted a helpful analysis of LASD’s underreporting of civilian stop data to the Attorney General. L.A. CNTY. OFF. INSPECTOR GEN., THE SHERIFF’S DEPARTMENT’S UNDERREPORTING OF CIVILIAN STOP DATA TO THE CALIFORNIA ATTORNEY GENERAL (JUNE 10, 2022), <https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/ee467145-85c7-450c-a739-93e1f1d79f78/The%20Sheriff%E2%80%99s%20Department%E2%80%99s%20Underreporting%20of%20Civilian%20Stop%20Data%20to%20the%20California%20Attorney%20General.pdf>.

¹⁹ The mission of the public defender offices provides them with the incentive, if not the obligation, to ensure that evidence of deputy misconduct, bias, racism, violence, or dishonesty is uncovered. If the County wishes to prevent the harms — and civil liabilities — caused by wrongful prosecutions and convictions, funding the public defender offices will help obstruct these harms and spur LASD and the District Attorney to take actions of their own to avoid having questionable deputies or evidence brought to the court’s attention by well-resourced public defender offices.

²⁰ The Board has already requested the District Attorney to “investigate all allegations of criminal conduct” by LASD. July 27, 2021 Board Motion, *supra* note 12.

- iv. *The Board should forbid County Counsel from using county taxpayer resources to defend against lawsuits with deputy gang allegations, including when the deputies at issue engaged in misconduct far outside the course and scope of their duties. In addition, the Board should require County Counsel to track issues arising out of LASD-based litigation, providing regular reports to the Board, COC, and OIG regarding identified issues and efforts to reduce deputy-related harm.*
- v. *The Board should investigate the relationship between the Medical Examiner-Coroner's office and LASD, and similarly revisit the role of the Civil Service Commission — its standards and its composition — considering its role in undermining deputy accountability by reinstating deputies who have been fired or reducing the discipline imposed for serious misconduct against the public.*

6. *Protect surviving families from LASD retaliation and harassment:*

With impunity, LASD deputies have systematically harassed and retaliated against surviving family members of people LASD has killed.²¹ The Board has taken steps to protect surviving families, including through its motion on July 27, 2021, titled *Taking Action: Further Protections for Surviving Families from Law Enforcement Harassment and Retaliation*.²²

Therefore:

- a. *Besides creating an external mechanism for reporting incidents of deputy harassment and retaliation of surviving family members (see Recommendation 5), the Board should ensure the adoption and adherence to policies that prevent the harassment of families.²³ For example, the Board should make sure a policy is in place regarding memorial sites and vigils involving victims of deputy shootings and killings.²⁴*
- b. *The Board should secure permanent and sufficient funding for the Family Assistance Program, especially funding for community organizations providing life-giving support and services to meet human needs, including vital mental health resources.²⁵*

²¹ See generally CHECK THE SHERIFF COALITION, NO JUSTICE, NO PEACE: THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT TARGETED HARASSMENT OF GRIEVING FAMILIES 30 (MAY 2021), <https://www.checkthesheriff.com/reports> [hereinafter "CHECK THE SHERIFF REPORT"].

²² July 27, 2021 Board Motion, *supra* note 12.

²³ See CHECK THE SHERIFF REPORT, *supra* note 21, at 32-33.

²⁴ The Board has already requested LASD to adopt such a policy. See July 27, 2021 Board Motion, *supra* note 12.

²⁵ See CHECK THE SHERIFF REPORT, *supra* note 21, at 32; OIG Report Back, *supra* note 17, at 7. The Board has taken steps to restructure, expand, and permanently establish the Family Assistance Program. See L.A. Cnty. Bd. Supervisors, Statement of Proceedings for the Regular Meeting of the Board of Supervisors 16-18 (Oct. 19, 2021), http://file.lacounty.gov/SDSInter/bos/sop/1114704_101921.pdf; Motion by Supervisor Hilda L. Solis, *Permanent Support for Families Affected by LA County Sheriff's Department: Identifying Sustainable Funding for and Streamlining the Family Assistance Program* (Oct. 19, 2021), <http://file.lacounty.gov/SDSInter/bos/supdocs/162775.pdf>.

7. *Close Men’s Central Jail and create alternatives to LASD functions:*

Men’s Central Jail (MCJ) has been a breeding ground for deputy gangs. These have included the so-called “2000 Boys” and “3000 Boys” — infamous for their brutal beatings of incarcerated persons to earn their tattoos and filing false reports to cover up their abuses.²⁶ Despite the Board’s commitment in June 2021 to close MCJ,²⁷ its continued operation has allowed deputy gangs, including new ones like the so-called “4000 Boys,”²⁸ to maintain control over some of the most vulnerable community members who are faced with intersecting mental health and substance use issues and houselessness. Further, MCJ conditions have been abysmal — a “human rights disaster.”²⁹ We have witnessed rising and record-level in-custody deaths.³⁰

Besides the jails, not only have LASD’s functions in manifold areas led to disparate and devastating impacts on the county’s Black and Latine residents, they have also been antithetical to the County’s “Care First, Jails Last” approach,³¹ which the Board has adopted but is yet to make good on its commitment. Communities across the state and country have taken significant steps to create more effective non-law enforcements alternatives.³² The cost of not doing so in our county has proven disastrous: Angelenos have been harmed and have even died at the hands of sheriff’s deputies purporting to perform functions they should not even be in the business of.

²⁶ See, e.g., REPORT OF THE CITIZENS’ COMMISSION ON JAIL VIOLENCE (SEPT. 2012), <https://ccjv.lacounty.gov/wp-content/uploads/2012/09/CCJV-Report.pdf>; LOYOLA REPORT, *supra* note 3 at 22-23.

²⁷ See Motion by Supervisors Hilda L. Solis and Sheila Kuehl, *Jails Last: Creation of the Jail Closure Implementation Team* (June 22, 2021), https://file.lacounty.gov/SDSInter/bos/supdocs/159317.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=.

²⁸ The special counsel’s report discusses the “4000 Boys” as a new version of the “3000 Boys” on the 4000 floor.

²⁹ Emily Elena Dugdale, *ACLU Urges Court to Force Changes in ‘Abysmal’ Conditions at LA Inmate Reception Center*, LAIST (Sept. 8, 2022), <https://laist.com/news/criminal-justice/aclu-urges-court-to-force-changes-in-abysmal-conditions-at-la-inmate-reception-center>.

³⁰ See, e.g., L.A. CNTY. OFF. INSPECTOR GEN., REFORM AND OVERSIGHT EFFORTS: LOS ANGELES COUNTY SHERIFF’S DEPARTMENT OCTOBER TO DECEMBER 2021 24 (JAN. 2022), <https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/736916ea-786c-4bfd-b073-b7de182ebf6c/Reform%20and%20Oversight%20Efforts%20Los%20Angeles%20County%20Sheriffs%20Department%20-%20October%20to%20December%202021.pdf>.

³¹ L.A. Cnty. Alternatives to Incarceration Work Group, *Care First, Jails Last: Health and Racial Justice Strategies for Safer Communities* (Mar. 2020), https://ceo.lacounty.gov/wp-content/uploads/2020/10/1077045_AlternativestoIncarcerationWorkGroupFinalReport.pdf.

³² See, e.g., MELVIN WASHINGTON II, BEYOND JAILS: COMMUNITY-BASED STRATEGIES FOR PUBLIC SAFETY, VERA INSTITUTE (NOV. 2021), <https://www.vera.org/beyond-jails-community-based-strategies-for-public-safety>; Katie Daviscourt, *Seattle City Council votes unanimously to move 911 dispatch out of police control to new civilian-led center*, PM (May 24, 2021), <https://thepostmillennial.com/seattle-city-council-votes-unanimously-to-move-911-dispatch-out-of-police-control-to-new-civilian-led-center>.

With respect to mental health responses, LASD has proven time and time again that the department is neither qualified nor willing to provide care and support for those suffering from mental health issues inside of the jails. LASD also continues to play an outsized role in dispatch of crisis calls, and the County relies on LASD as the primary first responder, including by directing funding that could be used instead to scale up community-based and clinical responses.³³ This has led to repeated instances of tragic violence carried out by deputies against community members experiencing mental health crises, including individuals with disabilities, often in front of and over the protests of family members who simply called for help.³⁴ Relatedly, the fatal shooting of Nicholas Burgos at Harbor-UCLA in 2020 not only shows that LASD cannot be trusted to respond to crises, but also that LASD's presence in the hospitals erodes the community's trust.³⁵ Black and brown and low-income community members who have historically lacked access to quality health care should be able to trust that their health will be taken care of at county hospitals — not their lives taken by LASD deputies.³⁶

When it comes to the ongoing homelessness crisis, LASD has requested more and more funding for its so-called Homeless Outreach Street Team (HOST) program; yet, we see the same results: increases in use of force against unhoused populations, LASD's failure to connect individuals to meaningful service opportunities, and continued surveillance and harassment of unhoused communities. HOST is made of uniformed deputies who “in their flack jackets, with holstered guns, Tasers and batons, surrounding the people they approach, are unqualified for this

³³ See, e.g., L.A. CNTY. CIVILIAN OVERSIGHT COMM'N, REPORT OF THE SHERIFF CIVILIAN OVERSIGHT COMMISSION REGARDING THE MENTAL EVALUATION TEAM PROGRAM OF THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT (FEB. 15, 2018), [https://coc.lacounty.gov/LinkClick.aspx?fileticket=NOUC3DWcsps%3d&portalid=35](https://coc.lacounty.gov/LinkClick.aspx?fileticket=NOUC3DWcsps%3d&portalid=35;);

³⁴ For example, in 2020, LASD deputies killed Eric Briceno, who was suffering from a mental health crisis; Eric's parents had called 911 hoping for mental health intervention. Instead, deputies arrived at their Maywood home, barged in without permission, went to Eric's room where he was asleep, and proceeded to brutalize him — kneeling on his back, hitting him with batons, elbowing and tasing him — all the while Eric's mother was at the door yelling at the deputies to leave him alone. See Frank Stoltze, *LA Supervisors Approve \$47.6M for Sheriff's Deputies' Alleged Misconduct*, LAIST (Nov. 1, 2022), <https://laist.com/news/criminal-justice/la-supervisors-approve-47-6m-for-sheriffs-deputies-alleged-misconduct>. In a muffled voice, Eric repeated, “I can't breathe, I can't breathe.” *Id.* According to the coroner's report, he died of cardiopulmonary arrest due to neck compression and restraint with a taser. Alene Tchekmedyian, *L.A. County to pay \$47.6 million over alleged misconduct by sheriff's deputies*, L.A. TIMES (Nov. 1, 2022), available at <https://www.latimes.com/california/story/2022-11-01/sheriff-department-legal-payouts>. The County recently settled Eric's case for more than \$16.2 million. *Id.* Eric's family has also faced retaliation and harassment from deputies. See BLM-LA, *Centro CSO & Check the Sheriff, Stop LA Sheriff Attack: Family Forum* (Mar. 27, 2021), <https://www.facebook.com/blmla/videos/347471413335304/>.

As David Ordaz, Jr. and Marco Vazquez were experiencing mental health crises, LASD deputies killed them, also in front of their families. More recently, LASD shot and paralyzed Isaias Cervantes, who has severe autism, in front of his family. See Marc Brown et al., *In LA, many mental health calls to police are ending in tragedy. Here's what we found*, ABC7 (May 19, 2021), <https://abc7.com/use-of-force-mental-health-injuries-deaths/10657057>; Robert Garrova, *Criminal Charges Dropped Against Cudahy Man With Autism Who Was Shot By Deputy*, LAIST (Jan. 7, 2022), <https://laist.com/news/criminal-justice/criminal-charges-dropped-against-cudahy-man-with-autism-who-was-shot-by-deputy>.

³⁵ Josie Huang, *Patient Shot By Sheriff's Deputy Inside Harbor-UCLA Has Died, Family Says*, LAIST (Nov. 16, 2020), https://laist.com/2020/11/16/patient_shot_by_sheriffs_deputy_inside_harbor-ucla_has_died_family_says.php.

³⁶ See Ex. B (Letter from Frontline Wellness Network to Sheriff Civilian Oversight Commission).

task.”³⁷ Indeed, effective outreach requires time to build rapport and trust as well as connection to real services that will actually help unhoused folks — not a strategy such as LASD’s of fear and coercion that is disconnected to services.³⁸ Increasing exposure of unhoused people to LASD increases the likelihood of criminalization and violence, not access to vital support.

Last but not least, LASD’s primary function has been as a massive, racially biased traffic enforcement enterprise.³⁹ LASD’s use of traffic enforcement as justification to stop, detain, and search community members — including what the L.A. Times has described as “stop-and-frisk on a bike” — has had a disproportionate, harmful impact on Black and Latine residents.⁴⁰ These traffic stops have led to trauma, brutalization, and death, including the killings of Paul Rea during a routine traffic stop, Dijon Kizzee and Noel Aguilar while riding a bicycle, and many more.⁴¹ In 2019, former Compton Mayor Aja Brown, her husband, and infant daughter were subjected to a traffic stop, during which deputies sought to search the vehicle for drugs.⁴² More recently, in attempting to search rapper Feezy Lebon in his car, an alleged deputy gang member part of the South L.A. station pulled a gun and threatened to kill him, and then tried to intimidate him to not file a complaint.⁴³

³⁷ Pete White, *Op-Ed: Villanueva’s bogus Venice ‘outreach’ is just a cover for criminalizing homelessness*, L.A. TIMES (June 28, 2020), available at <https://www.latimes.com/opinion/story/2021-06-28/homeless-venice-villanueva-tents>.

³⁸ See *id.*; Check the Sheriff, JusticeLA & Streets Not Sweeps, Letter re: Villanueva Out of Venice and the County’s Responsibility to Hold Him Accountable (June 17, 2021), <https://justicelanow.org/letter-to-bos-countys-responsibility-to-hold-villanueva-accountable/>.

³⁹ The term “traffic enforcement” encompasses driving, bicycling, and pedestrian law enforcement. Based on 2019 data from the Racial & Identity Profiling Act, which requires public reporting by law enforcement on all vehicle and pedestrian stops, almost 90 percent of deputy time spent in the field was for deputy-initiated stops rather than in response to a call for service. ACLU SOCAL & CATALYST CAL., REIMAGINING COMMUNITY SAFETY IN CALIFORNIA (OCT. 2022), <https://www.catalystcalifornia.org/campaign-tools/publications/reimagining-community-safety-in-california>. Deputy-initiated stops — the vast majority of which were for non-serious traffic stops — cost more than \$981 million while calls for service cost about \$124 million. *Id.* Black residents were nearly 2 times more likely than white residents to be subject to a deputy-initiated stop. *Id.*

⁴⁰ See, e.g., *Editorial: Cyclist stops and searches, supra* note 1; Alene Tchekmedyan et al., *L.A. sheriff’s deputies use minor stops to search bicyclists, with Latinos hit hardest*, L.A. TIMES (Nov. 4, 2021), available at <https://www.latimes.com/projects/la-county-sheriff-bike-stops-analysis/>.

⁴¹ Besides Dijon Kizzee, the L.A. Times has identified 15 other times when a bicycle stop led to officers shooting someone in L.A. County; stops were also concentrated in South Los Angeles and all shootings were of Black or Latine bicyclists. See Nicole Santa Cruz & Alene Tchekmedyan, *Deputies killed Dijon Kizzee after a bike stop. We found 15 similar law enforcement shootings, many fatal*, L.A. TIMES (Oct. 16, 2020), available at <https://www.latimes.com/california/story/2020-10-16/examining-dijon-kizzee-bike-stop-police-shootings>.

⁴² See Natalie Brunell, *Compton Mayor Aja Brown Accuses LASD of Misconduct, Sheriff Responds*, SPECTRUM NEWS 1 (Aug. 7, 2020), <https://spectrumnews1.com/ca/la-west/news/2020/08/08/compton-mayor-aja-brown-accuses-of-lasd-misconduct--sheriff-responds>.

⁴³ The special counsel’s report discusses this case; see also Sahra Sulaiman, *Deputy’s Traffic Stop Power Trip on Rapper Sheds Light on Department Culture, Leaves Trauma, Upheaval in its Wak*, StreetsBlog LA (Feb. 3, 2023),

Therefore:

- a. *The Board should close MCJ, once and for all, and dramatically reduce the jail population.*
- b. *The Board should exercise all its powers to separate the role of the sheriff and LASD from certain functions, including but not limited to:*
 - i. *Response to mental health crises,*
 - ii. *Presence in care settings, especially the operation of substations in County hospitals,*
 - iii. *Outreach to unhoused residents, and*
 - iv. *Traffic enforcement, including bicycle stops.*⁴⁴
- c. *The Board should create non-LASD alternatives for these functions and comprehensively advance its “Care First, Jails Last” vision. In this vein, the Board should reject LASD’s requests for additional funds for fiscal year 2023-24.*⁴⁵
- d. *The Board should rescind any authority granted to the sheriff to apply for and accept California Office of Traffic Safety funds, and instead secure permanent funding for community-led traffic safety strategies. The Board should also direct the L.A. County Department of Public Health to conduct regular data analysis on traffic injuries and deaths by geography and disaggregated sociodemographic characteristics.*⁴⁶

<https://la.streetsblog.org/2023/02/03/anything-but-routine-deputys-traffic-stop-power-trip-on-rapper-sheds-light-on-department-culture-leaves-trauma-upheaval-in-its-wake/>.

⁴⁴ In light of the L.A. Times article analyzing LASD bicycle stops and finding a disproportionate impact on Latine and Black residents, the Board began to take steps towards decriminalizing violations related to bicycling and walking, including legalizing biking on sidewalks on unincorporated nonresidential streets. See Alene Tchemedyan & Ben Poston, *L.A. County supervisors seek to decriminalize bike violations after Times investigation*, L.A. TIMES (Nov. 16, 2021), available at <https://www.latimes.com/california/story/2021-11-16/supervisors-sheriffs-bike-stops>.

The Board should strengthen its comprehensive efforts to decriminalize mobility by restricting the authority of the Road Commissioner to prohibit bicycle riding on sidewalks where there are no safe, protected alternatives for bicyclists; any enforcement should be narrowly restricted to sidewalks adjacent to highways or corridors that include a bikeway in proper repair. California Streets and Highways Code section 890.4 defines “bikeways” and categorizes them by type: bike paths, bike lanes, bike routes, and separated bikeways.

More broadly, the Board should take LASD out of county ordinance enforcement through decriminalization, especially in areas susceptible to LASD abuse. For example, the Board should remove LASD from functions related to parking and towing, an area with a history of deputy misconduct. See, e.g., Cindy Chang, *L.A. County sheriff’s deputies implicated in towing thefts, bribes*, L.A. TIMES (Jan. 12, 2015), available at <https://www.latimes.com/local/lanow/la-me-ln-sheriffs-towing-20150112-story.html>.

⁴⁵ For more specific reasons rejecting LASD’s requests for more funding and staffing, see Mar. 1, 2023 Letter from ACLU SoCal & JusticeLA re: LASD’s Budget Priorities and Unmet Needs for Fiscal Year 2023-2024. Ex. C.

⁴⁶ See Chief Executive Office of Los Angeles County, *Report Back on Decriminalizing Mobility Through Implementation of the Vision Zero Action Plan (Item No. 21, Agenda of November 16, 2021)* (June 24, 2022), <http://file.lacounty.gov/SDSInter/bos/supdocs/171384.pdf>.

- e. *The supervisors, who are members of the L.A. County Metropolitan Transportation Authority (Metro) Board of Directors, should rethink Metro as a sanctuary,⁴⁷ lead Metro to adopt the recommendations unanimously approved by Metro’s Public Safety Advisory Committee (PSAC) — including the recommendation that Metro decline to extend the multi-agency policing contracts — and direct Metro staff to develop implementation plans for each non-police safety strategy identified by PSAC.⁴⁸*

8. *Support state law changes to reduce the powers and footprint of sheriffs and their deputies:*

While most of the recommendations above ask the Board to exercise the full extent of its authority over the County, the sheriff, and LASD, there are some limits to this authority imposed by state law. Thus, we urge the Board to also support state legislation that furthers the above goals — such as eliminating consent searches and pretext stops, which are tools through which deputies unnecessarily engage and harass members of the public and often escalate into violence.

Therefore:

- a. *The Board should rethink the role of the sheriff in the twenty-first century, and support state legislation that reduces the powers, authorities, and footprint of sheriffs and their deputies and instead creates non-sheriff and non-law enforcement alternatives, including but not limited to:*
 - i. *Legislation that would curb racially biased policing and protect people from unnecessary interactions with deputies by eliminating law enforcement authority to conduct pretextual stops as well as searches if the only basis is “consent” or a fourth amendment waiver, and requiring other legal bases for the stop and search. AB 93 (Assemblymember Bryan), which would prohibit consent searches based solely on a person’s purported consent, is currently pending in the state legislature.*
 - ii. *Legislation that would expand the ability of local jurisdictions to adopt civilian alternatives to current policing functions.*

While these recommendations represent a significant shift in the County’s current approach to deputy misconduct and deputy gangs, they reflect the bare minimum reforms and structural changes that must be taken if the County intends to effectively eradicate deputy gangs and address the failure of its existing oversight mechanisms.

⁴⁷ See ACT-LA, METRO AS A SANCTUARY (MAR. 2021), <http://allianceforcommunitytransit.org/metro-as-a-sanctuary/>.

⁴⁸ See Memo from the Pub. Safety Advisory Comm. to the Metro Off. of the Chief Exec. re: Outcomes from the November 3, 2021 PSAC Meeting (Nov. 5, 2021), <https://metro.legistar1.com/metro/attachments/8178439f-2f2a-487c-9330-70bb3cac76f3.pdf>.

Exhibit A



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Southern California

April 16, 2020

To: Los Angeles County Board of Supervisors
Hilda Solis, Los Angeles County Supervisor, District 1
Mark Ridley Thomas, Los Angeles County Supervisor, District 2
Sheila Kuehl, Los Angeles County Supervisor, District 3
Janice Hahn, Los Angeles County Supervisor, District 4
Katherine Barger, Los Angeles County Supervisor, District 5

Cc: Max Huntsman, Inspector General, Office of the Inspector General
Brian Williams, Executive Director, Sheriff's Civilian Oversight Commission
Patti Giggans, Chair, Sheriff's Civilian Oversight Commission

Re: Proposed Sheriff's Department Policy on Body-Worn Cameras

Dear Supervisors:

The ACLU of Southern California ("ACLU SoCal") is deeply troubled by the sheriff's proposed policy on Body-Worn Cameras ("BWCs") and does not believe that BWCs should be funded if operated under this policy. The Board of Supervisors has a statutory duty to determine how Los Angeles County funds are allocated,¹ and the statutory power controls how County property purchased with those funds are used.² The Board should not grant the Sheriff's Department millions of dollars in precious County funds for the purchase and ongoing operation of BWCs without ensuring, at a minimum, that BWCs are used in a manner that contributes to the public good.

The sheriff has touted BWCs as a way to improve transparency, accountability, and build trust between law enforcement and the public in moments of crisis. Yet, the proposed policy takes the multi-million dollar taxpayer investment in BWCs, which should theoretically provide greater transparency and accountability in a department that lacks both, and instead puts them to use in ways that will serve to impede fact-finding in deputy uses of force and other alleged misconduct, undercut accountability for deputies, and violate the public's privacy. Simply put,

¹ See *Cnty. of Butte v. Superior Court*, 176 Cal.App.3d 693, 700-01 (1985); Cal. Gov. Code §§ 29088, 25300, 25303.

² A county may adopt policies and procedures governing purchases of supplies and equipment. Cal. Gov. Code § 54202 ("Every local agency shall adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the local agency."). A county may also "manage . . . its property as the interests of its inhabitants require." Cal. Gov. Code § 23004(d). According to the California Supreme Court, the power to manage property necessarily includes the power to determine how it is used. *Great Western Shows, Inc. v. Cnty. of Los Angeles*, 44 P.3d 120, 130, 132 (Cal. 2002) (interpreting section 23004(d) and holding that an ordinance prohibiting the sale of firearms and ammunition on county property was a legitimate exercise of the county's power to make "management decisions about how its property would be used").

the sheriff's approach to BWCs threatens to do more harm than good—and at great cost to the County.

With an investment of this size, and an initiative of this importance, the Board should not simply rubber-stamp the sheriff's flawed approach. Rather, the Board should *require* the Department to use BWCs for its intended goals of greater transparency and accountability by authorizing funding for BWCs if, and only if, the Department revises its BWC policy to include critical safeguards to ensure that the Department uses BWCs for their proper purpose. The Board should adopt a policy regarding the use of BWCs, or condition the receipt of funds for the purchase and operation of BWCs on the Department's adoption of a policy, that does the following:

- Requires deputies to fully record every interaction with a member of the public
- Requires deputies who are being investigated for a shooting or other potential misconduct to give initial statements before permitting them to view footage of the incident at issue, consistent with prior Department policy on video evidence
- Audits BWC video to search for policy violations and imposes discipline when such violations are found
- Provides public access to BWC video while balancing privacy with the public's right to know
- Bars use of BWCs for surveillance

These are the minimum requirements that must be addressed in any effective BWC policy, and they echo the concerns the ACLU SoCal raised and detailed at length in the enclosed letter, dated August 1, 2017.

Require deputies to fully record every interaction with a member of the public

BWCs only work if they are turned on. Yet, the sheriff's proposed policy grants deputies the ability to decide not to record, or to stop a recording, anytime when in their judgement "a recording would interfere with their ability to conduct an investigation."³

What will prevent deputies from choosing against recording by simply claiming that it would *interfere* with their ability to investigate? This broad, subjective standard would make it nearly impossible to hold deputies accountable for not recording or prematurely ending a recording of an incident. As a result, deputies could effectively "edit on the fly" by simply turning off the camera when they do not want to be recorded, undermining BWCs' core purpose of deterring and documenting misconduct and undercutting the public trust in BWCs as an effective tool for accountability. There will be an implicit assumption that a deputy who did not record an incident was trying to hide something—an assumption that would be harmful if allegations of misconduct arise. In this context, clear rules about when to turn on the cameras will actually help deputies.

³ L.A. Cnty. Sheriff's Dept. Proposed Manual Revision, 4 (Jan. 16, 2020), <http://file.lacounty.gov/SDSInter/bos/supdocs/LASDBodyWornCameraPolicy20191219.pdf> (hereinafter "LASD BWC Proposed Policy").

The Department must clearly require deputies to fully record every interaction with a member of the public, including all enforcement-related contacts and consensual encounters initiated by officers for investigatory purposes. Because seemingly ordinary encounters can evolve quickly, deputies should be required to activate BWCs at the earliest stage of each interaction, before leaving a vehicle or making contact with an individual. The buffering period for BWCs should also be at minimum 20 to 30 minutes, or to the maximum permitted by the equipment purchased, to ensure that crucial moments are not lost, even if the deputies initially fail to activate their BWCs.

The Department must also mandate continued recording of statements by witnesses, suspects, or victims—although exceptions can be made as appropriate to shield the privacy of individuals in sensitive situations, such as minor victims of sexual assault. In addition, as recognized by the letter submitted by the Office of the Los Angeles Public Defender, privileged attorney-client communications should also be considered sensitive and such interactions should not be recorded. To the extent the policy permits any deactivation of BWCs during the course of an investigation, it must occur, at a minimum, with the informed consent of the subject of the recording, with the reasons stated on the record prior to deactivation.

In addition, the Department must be proactive in monitoring compliance and discipline those who fail to record when they should. The Department should conduct audits of compliance with its recording policies. Deputies who repeatedly fail to record incidents should be identified and corrected—or fired—long before they are involved in a serious incident. When an incident under investigation should have been recorded, failure to record should result in a rebuttable inference against the deputies who failed to record.

Meaningful policy requires meaningful enforcement, and for BWCs to provide transparency and accountability, deputies' compliance with Department policies requiring recording cannot be voluntary.

Require deputies who are being investigated for a shooting or other potential misconduct to give initial statements before permitting them to view footage of the incident at issue, consistent with prior Department policy on video evidence

Allowing deputies to view the BWC video before providing their statements is poor investigative practice and would not even be contemplated in the context of any other fact-finding process. Under the sheriff's proposed policy, however, deputies involved in use of force incidents have the right to review their BWC recordings *prior* to being interviewed.⁴

The best research concludes that the proposed policy undermines the search for truth: viewing a video of an event may override an individual's own independent recollection. Indeed, a wealth of studies show that presenting an individual with information that is new or different from their own percipient memory will actually alter their recollection.⁵ Therefore, exposure to

⁴ LASD BWC Proposed Policy, *supra* note 3, at 9.

⁵ See generally C.A. Morgan III et al., *Misinformation can influence memory for recently experienced, highly stressful events*, *International Journal of Law and Psychiatry* 36 (2013) 11–17, available at https://webfiles.uci.edu/eloftus/Morgan_Misinfo_IJLP2013.pdf?uniq=-5q3yfp; Jeffrey L. Foster et al., *Repetition*,

information that is not captured in the original memory does not supplement that memory; rather, the entire memory is effectively lost.⁶ Allowing a deputy to review their BWC video of an incident cannot help but change that deputy's account, even for those who may be trying to provide an honest account of their memory. This recognition led the Police Executive Research Forum ("PERF") to conclude that the best practice for law enforcement agencies is to prohibit officers from viewing video in advance of providing a statement.⁷ For example, the Oakland Police Department, which was one of the first police agencies to adopt BWCs in 2010, has a policy prohibiting officers from reviewing video prior to making a statement in an investigation arising out of a Level 1 use of force (the most serious, including shootings, and equivalent to the Department's Category 3 use of force).⁸

The Department's prior policy on BWCs was consistent with this research, as the use of force policy in place in jails operated by the Department prohibited custody assistants from viewing the video before being interviewed.⁹ When reviewing the use of cameras in the county jails, the Los Angeles County Office of Independent Review "found ample evidence that seeing additional information than what was experienced (such as seeing the action from a different angle) can alter the memory of an event," and endorsed a policy that prohibited reviewing the video prior to making a statement.¹⁰ The proposed policy thus represents a 180-degree shift from the Department's prior policy, and serves no purpose but to undermine investigations into deputy misconduct.

Seeing video before making statements would allow deputies who are inclined to lie to tailor their story to the evidence. It would enable them to lie more effectively, and in ways the video evidence will not contradict. Video evidence can be enormously helpful, but it does not capture everything from every angle. If deputies are not sure what was captured by the camera, they will feel pressure to be more candid when describing an incident to avoid being caught by a

not number of sources, increases both susceptibility to misinformation and confidence in the accuracy of eyewitnesses, *Acta Psychologica* 139 (2012) 320–26 (repeated viewing increases the chances that officers will remember video as their own perception), available at https://webfiles.uci.edu/eloftus/Foster_Repetition_ActaPsych2012.pdf?uniq=7a5h8l; Elizabeth F. Loftus, *Planting misinformation in the human mind: A 30-year investigation of the malleability of memory*, *Learning Memory* 2005 12: 361-366, available at <http://learnmem.cshlp.org/content/12/4/361.full>; M. S. Zaragoza et al., *Misinformation effects and the suggestibility of eyewitness memory*, *DO JUSTICE AND LET THE SKY FALL: ELIZABETH F. LOFTUS AND HER CONTRIBUTIONS TO SCIENCE, LAW, AND ACADEMIC FREEDOM* 35–63 (M. Garry and H. Hayne eds., 2007), available at <http://www.personal.kent.edu/~mzaragoz/publications/Zaragoza%20chapter%204%20Garry%20Hayne.pdf>. See also Kathy Pezdek, *Should Cops Get to Review the Video Before They Report?* THE MARSHALL PROJECT (Aug. 13, 2015), available at <https://www.themarshallproject.org/2015/08/13/should-cops-get-to-review-the-video-before-they-report>; Lara Boyle, *Malleable Memories: How Misinformation Alters Our Perception of the Past*, *YALE SCIENTIFIC* (April 1, 2013), available at <http://www.yalescientific.org/2013/04/5227/>.

⁶ See Loftus, *supra* note 5, at 363; Foster et al, *supra* note 5.

⁷ See Kimberly Kindy & Julie Tate, *Police withhold videos despite vows of transparency*, THE WASHINGTON POST (Oct. 8, 2015), available at <https://www.washingtonpost.com/sf/national/2015/10/08/police-withhold-videos-despite-vows-of-transparency/>.

⁸ Departmental General Order I-15.1, "Portable Video Management System," Oakland Police Department, 4 (effective July 16, 2015), available at

<http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak054254.pdf>.

⁹ Los Angeles County of Independent Review, Eleventh Annual Report, 35 (Dec. 2013).

¹⁰ *Id.* at 36.

discrepancy with the video. But if they know what was captured and what was not, they can feel at liberty to color their account, if not outright lie. Even those who try to tell the truth will base their statements on the video; they will come up with alternative, distorted, justifications after the fact, and will often come to believe this alternative reality is what actually happened. Regardless of whether a deputy intentionally alters their statement, such a policy will undoubtedly create an appearance of bias and thus taint the integrity of investigations—a secondary impact that also motivated PERF to adopt a policy against officer review.¹¹

Therefore, when there is a shooting or other investigation, deputies must be required to give initial accounts of what happened and why they acted as they did before viewing BWC video. Such a policy would ensure that deputies' statements reflect what they actually experienced and what they truly remember, not just what they saw on the video—and would avoid giving them the opportunity to tailor their stories to fit the video evidence. Deputies should then be allowed to view the video after making a statement and could explain any omissions or inconsistencies. The initial statement would preserve an important account of what they believed they observed at the time of the shooting.

The ACLU SoCal disagrees with the assertion by the Sheriff's Civilian Oversight Commission ("COC") that there are any circumstances under which deputies should be permitted to review BWC videos before making statements—even if the Department adopted "more defined criteria" for when this may occur.¹² As stated above, this proposed policy does not aid the fact-finding process in any way and only undermines the legitimacy—if not also the accuracy—of the Department's investigations. Moreover, as the practices of the current sheriff administration around the investigation and discipline of deputy misconduct have made clear, the fewer discretionary opportunities to undermine the disciplinary process, the better.

The Department does not let other witnesses watch video of a shooting before providing a statement, or show individuals the evidence in a case before interviewing them. Just as it understands that this would destroy memories and allow an investigative subject to fabricate a story to match the video record, it should hold their own deputies—officers entrusted with the public's trust and the ability to use deadly force—to at least the same standard.

Audit BWC video to search for policy violations and discipline when such violations are found

The sheriff's proposed policy seeks to prohibit the audit and viewing of recordings to search for policy violations. If an audit or review does happen, the policy would prevent discipline for "plain view" misconduct unless it would result in "suspension or termination."¹³ Yet, common sense dictates against this misguided policy. For example, not allowing audits for purposes of searching for policy violations would prevent the ability to conduct an audit on racial profiling, or ensure deputies are not falsifying field interview cards.

¹¹ Kindy & Tate, *supra* note 6.

¹² Sheriff's Civilian Oversight Commission, Evaluation of LASD's Proposed Body Worn Camera Policy, 2 (Apr. 16, 2020), http://file.lacounty.gov/SDSInter/bos/supdocs/BWCpolicy_COCfeedback_FINAL.pdf (hereinafter "COC Evaluation").

¹³ LASD BWC Proposed Policy, *supra* note 3, at 10.

Importantly, the proposed policy does not provide any guidance to supervisors on how to determine if the misconduct viewed on BWC footage “would likely result in suspension or termination.”

The ACLU SoCal agrees with the COC’s recommendation that the Department should audit compliance and punish policy violations; even low-level misconduct will undoubtedly grow if left unchecked.¹⁴ BWC video should be used to identify problems with training or behavior before those problems result in complaints or incidents. Regular review of video will allow the Department to also identify problems that might not be captured in a complaint or other mandatory investigation. Such a review should either be based on specified prior conduct where there is reason to believe misconduct has occurred, or be randomized and conducted according to auditing principles, in order to avoid and risk that some deputies are unfairly targeted by supervisors for unwarranted scrutiny.

Provide access to BWC video while balancing privacy with the public’s right to know

When it comes to the public release of critical incidents, the sheriff essentially wants to be able to release videos when they exonerate deputies but hold on to them when they do not. Instead, video of shootings and other potential misconduct must be released, pursuant to policies that ensure they do not just get out when it helps deputies. Transparency allows the public to judge for themselves whether law enforcement officers are acting in keeping with the community’s values, and whether the institutions charged with holding officers accountable are working.

Legal precedent makes clear that BWC footage is public record generally subject to disclosure under the California Public Records Act (“CPRA”).¹⁵ State law also presumptively requires the release of video from incidents involving deadly force after 45 days, unless doing so would substantially interfere with an ongoing investigation.¹⁶ The Department must follow this law.

The Department must have clear rules for when to release video to balance transparency and accountability with privacy, where there are no uses of force or allegations of deputy wrongdoing. For example, the Department could release all videos, subject to prior review to determine whether particular privacy concerns arise and justify redacting or withholding part or all of the video. In addition, civilians recorded by BWC must unquestionably have access to, and the right to make copies, of those recordings, for however long the Department maintains them. That should also apply to disclosure to a third party if the subject consents, or to criminal defense lawyers seeking relevant evidence. In this context, as the letter by the Office of the Public Defender noted, it is crucial that the office, as another County agency, has unimpeded access to video of incidents involving their clients. Release to the involved party is consistent

¹⁴ COC Evaluation, *supra* note 11, at 2-3.

¹⁵ Cal. Gov. Code §§ 6252(e), (g). In addition, the exception for certain law enforcement records in Cal. Gov. Code section 6254(f) does not provide a categorical exemption for all videos of law enforcement interactions with civilians. See *ACLU Foundation v. Deukmejian*, 32 Cal.3d 440, 449 (1982); *Haynie v. Superior Court*, 26 Cal.4th 1061, 1071 (2001).

¹⁶ Cal. Gov. Code § 6254.

with the CPRA’s requirement that law enforcement disclose certain records of incidents to “victims,” and with the California Information Practices Act (“CIPA”), which recognizes individuals’ right to access records on themselves held by state agencies.¹⁷ Under this approach, because individuals would have control over whether to make the video public, most privacy concerns would be eliminated.¹⁸

The ACLU SoCal agrees with the COC’s recommendation that the benefits of a BWC program will only be realized if the public has access to the video records and that any release policy must also conform with state law, including AB 748. We believe, however, that the access to these records must go beyond the limited disclosure it proposed and should be consistent with the principles articulated above.

Bar use of BWCs for surveillance

BWCs are a surveillance technology, and there are very real concerns that they could be used as a backdoor for surveillance or tracking of the public. The proposed policy, however, has no safeguards against BWCs being used as surveillance tools to collect and keep information, or against using BWCs to document and track activity protected by the First Amendment. Under these terms, BWCs cannot hope to improve transparency and accountability, and they will be a big backwards step for public trust in law enforcement.

The Department must include policies to bar the surreptitious gathering of information based on constitutionally protected speech, association, or religion. Such policies must also prohibit the use of facial recognition technology or other analytic tools that could transform BWCs from tools for law enforcement accountability to invasive surveillance of the public. The Department should also be prohibited from accessing videos unless there is reason to think it contains evidence of crime or misconduct and strict limits should be placed on how long footage is retained.

BWCs will never be a panacea for misconduct or for the crisis of confidence in the Department. But if they are to be any help at all—and they could be—they must be done right. In particular, the final policy should be approved only after a community process both informs and includes the public on how BWCs could be used to promote accountability and how we would limit potential negative impacts on civil rights and civil liberties.

Sincerely,



Andrés Dae Keun Kwon
ACLU of Southern California

¹⁷ Cal. Gov. Code §§ 1798 *et seq.*

¹⁸ Because the CPRA makes clear that disclosures required by law do not waive the agency’s right to assert exemptions to future disclosure, Cal. Gov. Code § 6252(b), disclosure to the video’s subjects need not necessarily constitute waiver. Cal. Gov. Code section 6254(f) itself contains language requiring local agencies to disclose records of incidents to “victims” which would seem to encompass at least those individuals complaining of misconduct or subjected to uses of force.

Exhibit B

Dear Commissioners,

The recent shooting at Harbor UCLA Hospital by a Sheriff deputy has again sparked pain and outrage amongst community members and health workers. We cannot accept a Los Angeles where law enforcement can interfere with lives and care of patients. This outcry has sparked immediate action by the Board of Supervisors in the form of a motion, authored by Supervisor Ridley-Thomas and co-authored by Supervisor Janice Hahn, which calls into question the presence of Sheriff's in our care facilities and explores how to best achieve community safety.

As Commissioners appointed by the Board and entrusted by the community, you have a critical role in pursuing transparency and accountability by the Sheriffs Department. We are grateful for the rigor and diligence with which you pursue those objectives, including the subpoena you initiated earlier this year and the bold but appropriate statement you are making on the failures of the Sheriff himself. We also understand that it is within your authority to assess and make recommendations on the broader systemic functions of the Sheriff, including their budget and how their operations impact other vital services such as healthcare.

We are urging you to support the demands that have emerged in the wake of the recent shooting at Harbor UCLA Hospital; calling for a **1) removal of Sheriff personnel in care settings, 2) reallocation of the funding designated for Sheriff substations at County hospitals, as well as 3) policy changes that restrict any power, authority, and ability they are granted to interrupt treatment in our most sacred places of care.** The Board of Supervisors has received over 100 personal letters from clinicians who work at Harbor UCLA, medical staff from other county hospitals, and medical students who are eager to serve our communities. All have endorsed the demands to remove the Sheriff's from our hospitals and care facilities while reallocating those vital resources into the very *life saving interventions that have been working*. These community and hospital based interventions have saved countless lives, and had it not been for the Sheriff's presence last week, they would have prevented the need for lethal force.

Below is a bulleted list of demands that community members and health workers are calling for as well as short excerpts from letters sent to the Board of Supervisors. Thank you again for your leadership and commitment to our community.

Sincerely,



Mark-Anthony Clayton-Johnson
Founder
Frontline Wellness Network

Frontline Wellness Network Demands:

- **The Board of Supervisors should expand its current efforts to implement the "Care First" roadmap by removing Sheriffs, and other law enforcement entities from hospitals and places of care.** The recent shooting of a patient at Harbor UCLA- Hospital has been devastating to the local community and the staff who diligently provide care for their patients. The incident reconfirms that Sheriffs cannot be trusted to respond to crisis and that their actions continue to undermine those most qualified to provide safety and care for patients. The Board of Supervisors should reallocate resources currently designated for Sheriff substations at the three LA county hospitals, including Harbor-UCLA, and reinvesting those funds into efforts to expand community and hospital based non-law enforcement crisis response and intervention. As the county works to ensure parks remain places of health and recreation for our communities, the communities should be able to trust that facilities meant for care remain sanctuaries from law enforcement violence abuse.
- **The County should immediately end all policies and practices that criminalize patients and replace them with public health approaches that protect those seeking care from law enforcement intervention.** The shooting at Harbor UCLA is one example of a much bigger problem. The County must not only remove Sheriff's and law enforcement from hospital settings but restrict any avenues they have to criminalize patients and undermine medical care including but limited to: overriding 5150 holds to take someone into custody, intimidating health professionals to acquire patient information, requiring health workers to turn over substances and property along with patient identifying information that will result arrest or charges being brought against the patient. Health workers are best positioned to meet their patients' health and safety needs and have developed practices and protocols to meet those needs without encroachment by law enforcement. These strategies should be invested in and scaled up as part across facilities designed for care.
- **The County should take immediate action to ensure the OIG can effectively monitor the Sheriff's investigation and initiate an independent investigation of the shooting at Harbor UCLA to ensure full transparency.**

Letter Excerpts

Tessa, Surgery Resident at Harbor UCLA:

Our hospital staff has been trained in de-escalation techniques and we deal with combative, agitated patients on an hourly basis. **This was by no means an isolated event of a patient acting out, the difference was the presence of an armed officer. It is the opinion of myself and the many of the staff at our hospital that if the Sheriff had not been there we would have been able to adequately control the situation using our resources and this patient would be receiving the psychiatric and medical care that he came to the hospital for – not fighting for his life in our intensive care unit.** I had the privilege of taking care of this patient in our ICU the night after they were shot and I speak for myself and many of my colleagues when I say that the continued presence of ARMED officers in our ICU watching us try to save this patient's life is nothing short of intimidation and at times borders on hindering the heroic efforts of the nursing and medical staff tending to our patients. These officers **MUST** be removed from our hospital **NOW** in order to insure the safety of our staff and patients.

Saba, 3rd Year Resident at Harbor UCLA:

In the Emergency Room, we often have patients who suffer from mental health diseases, and in the DHS hospitals specifically, we often see that burden falling heavier on patients of color and from lower socioeconomic backgrounds. We work so hard to open our doors to everybody, but how can I say that in good conscience when I know that the threat of violence from sheriffs still exists within our walls? How can I take care of somebody in the biggest moment of crisis in their life, when they're not sure whether they can trust me not to call somebody with a gun? I have seen so many agitated patients be talked down by teams of nurses, mental health workers, and other staff who have gone through extensive training about responsible response to crisis in the hospital; I know from these experiences that this is possible with thorough and sensitive training. **Unfortunately, though, I've also watched the same type of patients be yelled at and threatened by sheriffs who simply do not receive the same training, thus escalating the situation and making it more tense for everybody involved. They cannot and should not be a part of any medical care team. They are not medical personnel.** They do not need to be involved with patient care.

Jobert 4th-year psychiatry resident at UCLA:

In the short time I have been working as a psychiatrist in our community, I have already come across numerous examples of individuals with serious mental illness not getting the health care they need and deserve, and instead becoming entangled instead in the criminal justice system. Too many of my patients suffering symptoms of an acute mental illness have been taken to jail instead of the hospital. And I have heard multiple examples of individuals being charged and convicted of crimes due to actions they took in the midst of an acute episode of a mental illness (when they might have been acutely manic or

psychotic and not in their right mind). **The tragedy is that my colleagues and I know how to deal with these types of acute episodes. We have strategies for de-escalating individuals, safely managing agitated and disorganized behavior, and providing treatments that can stabilize individuals in crisis (and usually in a much shorter time frame compared to the weeks and months they may spend in jail if they were arrested and charged with a crime).**

Neil, ICU Nurse at UCLA:

I have cared for many patients who are overseen by law enforcement during their hospital stay. The first time a member of law enforcement stepped in to “help”, unasked, I was taken aback. I was cleaning a wound on a prisoner, who wanted to sit up. It would be impossible for me to finish my task of cleaning the wound with the patient sitting up. The member of law enforcement came over and pushed the patient back from a sitting position to a laying position and sternly told him to stay put until I was done. It was clear to me that the member of law enforcement was attempting to help me finish my task. I did need to clean the wound, I needed the patient to lay down for me to do so, and the patient was wanting to sit up at that time. However, the part that took me aback was the quick escalation to force, pushing the patient back down. **There are many non-compliant patients in the hospital, 99.9% of whom are not supervised by law enforcement, and 100% of whom do not need intervention by law enforcement for me to complete my nursing tasks. If law enforcement was not there, and I was working with a non-compliant patient, I would have talked with the patient. I would have found out why they needed to sit up, maybe they were having trouble breathing, maybe they wanted a drink of water, maybe the wound care was painful, maybe they simply wanted to sit up; and I would have taken this opportunity to provide care to the patient.** Seeing them as a fellow human who has needs and is allowed to feel emotions. I have always been able to accomplish my tasks as a nurse, the more difficult job is to help patients feel cared for. I have found that caring for patients, hearing and responding to their needs and emotions, also tends to be the most efficient way to accomplish my nursing tasks.

Jennifer, Third year Psychiatric Resident, Harbor UCLA:

The recent shooting of a community member at Harbor-UCLA Medical Center hits very close to home. As a trainee, I have worked at Harbor-UCLA in the psychiatric emergency room and have witnessed law enforcement’s interactions with patients. **In one instance, I witnessed a patient brought in by law enforcement, who was tased by an officer in the entryway to our emergency room. It was especially distressing knowing that this man in need of emergent psychiatric therapeutic intervention, which we as psychiatrists in the appropriate facility were ready and able to deliver, was instead harmed in front of our eyes.** This should never happen in a medical facility.

David, 4th year medical student who trained at Harbor UCLA:

As a trainee, I have witnessed police officer involvement in patient care - particularly in the care of patients in the midst of mental health crises. **There is no reason police should be primary responders to patients in such crises. Trained healthcare professionals know how to support patients through such crises, without risking the patients lives. Police officers use the tools of violence available to them, inevitably violating the**

patient's safety and impeding their ability to heal. Critically, this issue disproportionately affects people of color and the houseless members of our community. The only solution is to remove all forms of law enforcement from hospitals - they do not create safety, they violate it. As a future healthcare professional, I cannot truly answer my vocation of healing if systems of violence and oppression continually undermine my ability to care for patients.

Ippolytos, MD, PhD, at UCLA:

This issue is important to me because of the things I have witnessed as a psychiatrist on the front line. Patients are not uncommonly brought to the ER in handcuffs and receive treatment with law enforcement standing over them. I have supervised many physician-trainees at UCLA who describe instances when police have intimidated them to discontinue involuntary psychiatric holds (5150s) so that the police can more expediently take them to jail. I have treated many patients who avoid hospitals because of the perception that it is another carceral space. This is due to the presence of police and guns in hospitals. Hospitals should be places where patients can receive care in safety and free from guns, police, and police influence. Medical treatment, including psychiatric, should be overseen by medical professionals and not by law enforcement.

And police shooting should not be the only way we measure and conceptualize the adverse impact of law enforcement in our care settings: I remember numerous moments in the emergency department, where I would attempt to collect a medical history from a patient brought in by law enforcement - their presence, standing over both me and my patient, created a coercive environment that dispelled trust and impeded care. Even now, when I hear from friends who are rotating at Harbor today in the wake of the shooting last week, they speak of how they are having trouble performing their duties with the even more sustained presence by law enforcement looming over them, intimidating them and patients. This shooting is not an isolated event - there is a larger epidemic of police aggression targeting communities of color and the marginalized. We as physicians see the impact of this violence on our patients in both glaring and subtle ways. This incident requires not only individual accountability, but accountability from the systems that allow this violence to continue.

Exhibit C

March 1, 2023

Sean Kennedy
Chair, Civilian Oversight Commission, County of Los Angeles

Via email

Re: LASD's Budget Priorities and Unmet Needs for Fiscal Year 2023-2024

Dear Commissioner Kennedy and the Civilian Oversight Commission,

Thank you to the Commission for welcoming community feedback on the Los Angeles County Sheriff's Department's (LASD) proposed budget priorities and unmet needs for fiscal year 2023-2024. We respectfully request that the Commission reject LASD's requests for additional funds and staffing for the following reasons:

1. Increasing LASD Positions will Not Bring the County Into Compliance with Department of Justice (DOJ) Consent Decrees

To reduce the jail population, the County must invest in community care, not add budgeted positions to LASD. In L.A. County, the jail budget has increased 44 percent since fiscal year 2011. The number of LASD employees has also increased. The jail population, however, has [decreased by 5%](#) during the same period. LASD asks for more staff to be able to meet the requirements of consent decrees in various lawsuits regarding the jails. LASD – and by extension the County – cannot staff its way into compliance. The jails are operating at 20 percent above capacity. Staffing at that level (which is what LASD is asking for) will not bring the County into compliance with its responsibilities in lawsuits, and especially its responsibility to care for people with severe mental illness.

LASD is requesting additional positions to “mitigate liability arising from the use of force” inside the jails. This ask is absurd on its face. LASD deputy gangs are born from the units responsible for oversight in Men's Central Jail (MCJ). Violence against incarcerated persons is integral to the operations of LASD deputies responsible for jail supervision. Adding deputies to reduce liability is clearly not the answer to LASD use of force. A reduction in LASD staff and a reduction in the jail population is the only way to mitigate liability arising from LASD use of force inside L.A. County jails.

We recommend the Commission reject LASD's proposal for increases in staff-related funding, and instead, encourage the Board of Supervisors to move swiftly towards decarceration of the jail population through proven community diversion programs, such as those of the Office of Diversion and Reentry and community-based alternatives.

2. Increasing LASD Funding Will Not Solve LASD's Inability to Address Mental Health Crises

LASD is requesting additional funding for JMET assigned to Custody Compliance and Sustainability Bureau and additional staff for Moderate Observation Housing (MOH) units inside of MCJ to address the increased MOH population inside of L.A. County jails. LASD has proven time and time again that the department is neither qualified nor willing to provide the care and support for those

suffering from mental health issues inside of the jails. It would be safer to decarcerate the nearly 6,000 people (almost 40 percent of the jail's population) to community-based mental health care models. Further, Correctional Health Services (CHS) has consistently rejected the idea of housing MOH or High Observation Housing (HOH) individuals at MCJ. Continuing to fund any LASD supervision of MOH inside of MCJ would put those designated as MOH and HOH in dangerous and inhumane conditions. For this very reason, the Office of the Inspector General (OIG) and CHS oppose MOH and HOH within MCJ. While LASD states that these positions are necessary to comply with the DOJ consent decree, permitting MOH and HOH housing within MCJ would set compliance even farther back.

We recommend the Commission tell the Board of Supervisors that community-based services are needed here, not additional MOH and HOH staff.

3. Increasing LASD Funding Will Not Address L.A. County's Housing and Homelessness Crises

LASD is requesting \$10 million dollars for its Homeless Outreach Street Team (HOST) program. Each year, LASD requests more and more funding for HOST, and we see the same results: increases in use of force against unhoused populations, LASD's failure to connect individuals to meaningful service opportunities, and continued surveillance and harassment of unhoused communities. LASD must be removed entirely from any outreach to unhoused populations. Increasing funding to law enforcement as the solution to the issue of homelessness ignores all evidence that increasing exposure of unhoused people to law enforcement increases the likelihood of their criminalization and violence exposure, not the likelihood of accessing necessary support.

Effective outreach requires development of rapport and trust, as well as a trauma-informed approach. Deploying law enforcement is inconsistent with these basic outreach principles. Evidence shows that law enforcement homeless outreach teams are not effective, especially when compared with civilian-led outreach teams. For example, a [study of Los Angeles](#) homeless outreach efforts revealed that outreach teams led by a homeless services nonprofit were able to connect 27 percent of people they contacted with housing, while law enforcement outreach teams working in the same system placed only 1 percent of people they contacted in housing. Similarly, the civilian non-profit teams referred twice as many people to services as law enforcement outreach teams. It is also far more costly to increase police officer staffing than to fund staffing for more effective community-based outreach efforts. In short, law enforcement homeless outreach is neither cost-efficient nor effective.

We suggest that the Commission recommend that the Board of Supervisors (1) commission an audit of LASD's HOST program and (2) redirect the funding requested for HOST to support the expansion affordable housing, voluntary supportive services, and non-law enforcement outreach for LA's unhoused community members.

4. Increasing LASD Funding and Positions for Training Will Not Change the Culture of LASD Violence

No amount of funding or increased training will undo the deep-seeded culture of violence that underlies LASD. What the community needs is investment in a mental-health workforce to include clinicians, social workers, crisis-response teams, and long-term caregivers. This reinvestment is consistent with what advocates calling for a just transition [from law enforcement spending and into community spending](#) have recommended: stopping the pipeline into careers of punishment and instead investing in training and retraining those in need of employment into careers that are regenerative and care-based.

We recommend that the Commission tell the Board of Supervisors to reject an increase in funding and staffing for LASD training and instead invest in the training and retraining those in need of employment into careers that are regenerative and care-based. Rather than LASD continuing to enlarge itself with new recruits, reproducing a culture of bloat, liability, violence and deputy gangs, we urge this body to recommend that resources for career training be redirected into care-giving and non-violent crisis response professions.

5. Funds for More and Updated Equipment Will Not Address the Humanitarian Crisis in the Jails

In the request for \$3.6 million for body scanner replacement and staffing, LASD misrepresents the reason the Citizens Commission on Jail Violence (CCJV) recommended body scanner use in the jails. LASD states that the CCJV recommended the scanners to reduce the amount of contraband. Not so. The CCJV recommendation (3.12) states, “Body scanner machinery can substantially reduce (and even largely eliminate) the need for strip searches, which have been a significant source of tension in the jails. While this equipment is expensive, the Commission supports ongoing efforts by LASD to invest in the purchase of body scanners for its jails **and thereby reduce the need for strip searches . . .**” In the years since the CCJV recommendation, however, routine visual body cavity searches are employed in every jail facility and appear only to have increased since the deployment of body scanners. Visual body cavity searches are not only humiliating and demeaning but also the source of a significant number of complaints of sexual harassment and even assault. LASD must commit to and make progress toward “largely eliminat[ing]” visual body cavity and strip searches before a single penny more is allocated to body scanner technology and staffing.

Additionally, LASD is asking for \$38 million for an upgraded CCTV system, \$25 million for mobile radio replacement, and \$65 million for tasers and body worn cameras. That is a total of \$131.6 million dollars in new equipment requests! That is \$131.6 million dollars, none of which will address the tripartite humanitarian crises of obscene overcrowding in the jails, sexual misconduct by the department writ large, and law enforcement murders in our jails and streets. It would be irresponsible for the COC to pass on this request when members of this body know that the County must prioritize decarceration by putting millions of dollars toward community-based services in order to reduce the number of severely mentally ill people in our jails.

With respect to tasers, these will not bring LASD any closer to compliance with DOJ consent decrees. The only things that will move the needle are effective discipline when officers use force, and massive depopulation of the jails to remove the stress of overcrowding. Tasers are often not used as a last resort and department members are not disciplined for their misuse. Further, LASD has supposedly utilized tasers for years, yet this use has done nothing to curb the frequency by which LASD kills community members. [LASD killed 38 individuals in 2022](#) and has already taken the lives of four people in 2023.

We recommend the Commission tell the Board of Supervisors to oppose the funding requests for new equipment in light of the widespread evidence that CCTV, tasers, and other equipment have no meaningful impact on LASD misconduct or effective decarceration.

6. Rather than funding LASD to host “youth activities,” the County should invest in families, end LASD’s exploitation of families impacted by incarceration and law enforcement violence, and keep families connected.

LASD's budget should not be funded through exploitation of families. LASD needs to stop soliciting and entering into contracts that generate "revenue" for its budget by charging incarcerated people and their loved ones burdensome fees to stay connected and mark-ups on commissary. The Board of Supervisors already passed a motion in 2021 to remove these financial burdens from families, so LASD's budget should not continue to rely on them.

The County budget should provide for free phone calls in L.A. County jails; this would require a miniscule portion – less than half of a percent – of LASD's budget. The cost of phone calls from incarcerated people to their loved ones costs less than a third of the amount that LASD is demanding for additional tasers, and less than the amount budgeted for counterproductive law enforcement responses to homelessness and community mental health needs (that should be led by service providers instead). Research shows that the inability to maintain robust communication with parents harms the physical and mental health of children of incarcerated people, and that [maintaining family connections is crucial for successful reentry](#). It is offensive that LASD is requesting millions for its deputies to host "youth activities," while placing financial strain on parents and caregivers and refusing to fund the means for youth and their own families to stay connected.

We suggest that the Commission reject LASD's presentation of "youth activities" funding as an unmet need and recommend to the Board of Supervisors that the County budget reflect a shift away from exploiting families impacted by incarceration for profit.

To conclude, with LASD's annual budget of more than \$3.4 billion dollars, it is difficult to imagine that LASD has "unmet" budget needs. Every other County department operates with drastically smaller budgets and does not solicit the Board of Supervisors for hundreds of millions of dollars in additional funding year after year. The Commission is well aware of the dominance of deputy gangs in LASD, LASD's failures to abide by the DOJ consent decree and maintain adequate jail conditions, and LASD's continued brutalization and harassment of community members. It is the job of this Commission to bring accountability to LASD, and this includes oversight over the department's budget. We encourage the Commission to push back on LASD's funding requests and support our recommended alternatives.

Sincerely,

JusticeLA Coalition

ACLU of Southern California