

ORDINANCE NO. 6333

The Evelyn Cheatham Effective IOLERO Ordinance an Ordinance of the County of Sonoma, State of California, Repealing and Replacing Article XXVII, Independent Office of Law Enforcement Review and Outreach (IOLERO), Community Advisory Council (CAC), of Chapter 2, Administration, of the Sonoma County Code

The People of the County of Sonoma do hereby ordain as follows:

Section 1. Article XXVII of Chapter 2 of the Sonoma County Code is hereby repealed in its entirety and replaced with the following:

“Article XXVII. Independent Office of Law Enforcement Review and Outreach (IOLERO).

Sec. 2-392. – Independent office of law enforcement review and outreach established.

- (a) County sheriffs lead agencies of law enforcement officers that are vested with extraordinary authority, and the powers to detain, search, arrest, and use deadly force. These officers are also responsible for the safety and welfare of the more than 75,000 incarcerated individuals in California’s jail system. Misuse of these authorities can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, and significant public unrest.
- (b) While sheriffs are independently elected officials, boards of supervisors have the authority to supervise these officials and investigate the performance of their duties and have an obligation to ensure sheriffs and their departments uphold and respect people’s constitutional rights.
- (c) Meaningful independent oversight and monitoring of sheriffs’ departments increases government accountability and transparency, enhances public safety, and builds community trust in law enforcement. Such oversight must have the authority and independence necessary to conduct credible and thorough investigations.
- (d) The board of supervisors ("board") established the Independent Office of Law Enforcement Review and Outreach (hereinafter "IOLERO"), by Resolution on August 18, 2015, pursuant to its authority under California law, including Government Code sections 31000.1 and 25303, with the following mission:
 - 1) To provide an objective, independent and appropriate review and audit of law enforcement administrative investigations of employees, which may include allegations of misconduct, by the Sonoma County Office of the Sheriff-Coroner (hereinafter, "sheriff-coroner"); to provide an alternate site for members of the

- public to file complaints against employees of law enforcement agencies, including the sheriff's office;
- 2) To provide independent investigations of employees of the sheriff-coroner where an investigation by that office is found by IOLERO to be incomplete or deficient in some way;
 - 3) To propose thoughtful policy recommendations to the sheriff-coroner;
 - 4) To increase transparency of law enforcement operations, training, policies and procedures; and
 - 5) To conduct outreach to and engage the communities of Sonoma County so as to foster a culture of accountability and communication between the community and the sheriff-coroner while improving community relations and enhancing public confidence in policing and corrections services provided by the sheriff-coroner.
- (e) As part of the board of supervisor's duty to supervise the official conduct of the sheriff under state law, IOLERO was created by the board of supervisors. IOLERO is intended to promote the common interest of the board of supervisors and the sheriff in effective and lawful policing and corrections, and in complete, unbiased administrative investigations, and to facilitate the board of supervisors' supervisory responsibility without interfering with the sheriff's criminal investigative functions.

Sec. 2-393. – Appointment and qualifications of director and staff.

- (a) The director of IOLERO shall be appointed by the board of supervisors. The director shall be appointed for a term of 3 years, and shall be removed prior to that time only for cause and upon a vote of at least 4 out of 5 supervisors in favor of removal.
- (b) The director shall be an employee of the county of Sonoma. The terms and conditions of employment of the director shall be set by the board, consistent with this ordinance, and shall be specified in a personal services agreement.
- (c) The director shall be an attorney licensed to practice law and shall be qualified as a certified practitioner of oversight by the National Association for Civilian Oversight of Law Enforcement at the time of their employment, or within a reasonable time after hiring.
- (d) The director may assign personnel, as allocated by the board, and utilize equipment and supplies as necessary to perform IOLERO's duties. All personnel shall be employed by the county of Sonoma. The director also may contract with outside specialists for the provision of discrete services related to fulfilling IOLERO's missions, as needed.

Sec. 2-394. – Powers and duties of independent office of law enforcement review and outreach, and corresponding duties of the sheriff-coroner.

- (a) IOLERO, through its director, shall perform its powers and duties subject to all applicable statutory and constitutional requirements of confidentiality and privilege.
- (b) IOLERO's powers and duties shall include, consistent with existing law, the following which shall be exercised at the discretion of the director, subject to adequate staffing and resources to support them:
- 1) Receive and review citizen complaints, and forward them to the sheriff-coroner for review and investigation. IOLERO is an office specifically designated to receive complaints by members of the public against personnel of the sheriff-coroner pursuant to its procedures established under Penal Code § 832.5;
 - 2) Review, audit and analyze administrative and public complaint investigations in mutual coordination and cooperation with the sheriff-coroner; the complaint investigations subject to such automatic review, audit, and analysis, shall include:
 - i. All complaints filed with IOLERO, regardless of the nature of the allegations included in that complaint;
 - ii. All complaints or investigations or analyses of incidents that involve issues of whether uses of force violate law or policy;
 - iii. All complaints or investigations or analyses of incidents that involve a possible violation of the U.S. or state constitutional rights of individuals;
 - iv. All complaints or investigations or analyses of incidents that involve issues of bias by an employee in policing or corrections;
 - v. All complaints or investigations or analyses of incidents that involve issues of sexual harassment or sexual assault by an employee;
 - vi. All complaints or investigations or analyses of incidents that involve issues of dishonesty; and
 - vii. Every incident of force used by a sheriff's deputy regardless of whether a complaint is filed with IOLERO or the sheriff-coroner; and
 - viii. Every case where a civil lawsuit is filed against the sheriff's office related to the use of force regardless of whether a complaint is filed with IOLERO or the sheriff-coroner; and
 - ix. All racial profiling data collected by the sheriff's office in compliance with the Racial and Identity Profiling Act of 2015 or any successor legislation;
 - x. Any other complaints or investigations or analyses of incidents that become a matter of media interest.
 - 3) Act as a receiving and investigative agency for whistleblower complaints involving the sheriff-coroner. For the purposes of these complaints, all statewide legal protections pursuant to California Labor Code sections 1102.5, 1106 et. seq., including confidentiality of the whistleblower and prohibition against retaliation, shall apply. Further, any whistleblower complaints received or investigated by IOLERO shall not need to be reported by IOLERO to the sheriff-coroner, including the Internal Affairs Division.

- 4) Make discipline recommendations, as appropriate, for officers subject to IOLERO investigations.
- 5) As part of the process of review, audit and analysis, IOLERO may, among other things:
 - i. Directly access and independently review any and all sources of investigative evidence to ensure that the investigation is complete and all material evidence has been secured and analyzed by investigators in reaching their investigative findings;
 - ii. Directly receive all prior complaints for the involved deputy , previous investigation files (including *Brady* investigations) and the record of discipline for each complaint;
 - iii. Directly access and review all body worn camera videos and be authorized to post every body worn camera video where force was used on IOLERO's website. Public posting shall be determined on a case by case basis to the extent allowed by law, in consideration of victim privacy rights and active investigations;
 - iv. Where the director deems appropriate, directly contact complainants and witnesses to ensure the completeness and fairness of the investigation;
 - v. Where the director deems appropriate, directly contact custodians of evidence held by third parties to ensure adequate efforts to secure such evidence by investigators;
 - vi. Where the director deems appropriate, request supplemental investigation of matters relevant to the investigation that have not been adequately reviewed or analyzed, in the opinion of the director;
 - vii. Where, in the opinion of the director, the investigation of a complaint or incident by the sheriff-coroner is incomplete or otherwise deficient, conduct an independent investigation of the matter, to the extent deemed necessary by the director;
 - viii. Where an investigation involves an incident resulting in the death of a person in custody of the sheriff-coroner or results from the actions of an employee, conduct an independent investigation of the matter; and
 - ix. Independently subpoena records or testimony, as the director deems appropriate, to complete an adequate investigation. Among other sources of legal authority, such subpoena power is delegated from that held by the board of supervisors, to be used at the discretion of the director.
- 6) Assess and make periodic recommendations, as the director deems appropriate, regarding policies, procedures, strategies, training, and practices based on information gathered in the review process and/or data trends;
- 7) Advise if investigations appear incomplete, biased or otherwise deficient and recommend further review as deemed necessary; when warranted, propose independent recommendations or determinations regarding investigations, which

recommendations may be made public on a summary level without personally identifying information;

- 8) Track, analyze and advise on legislative actions and law enforcement audit trends; make recommendations to the county for legislative platforms, as the director deems appropriate;
 - 9) Prepare annual report to the board of supervisor which includes statistical information, analysis of trends, policy and procedure recommendations; prepare ad hoc reports as the director deems appropriate; and
 - 10) Conduct comprehensive outreach to the community including schools, community based organizations, business and civic groups, which may include: promoting and facilitating communications between the community and law enforcement, educating the community on law enforcement practices, policies, strategies, incident trends and challenges using appropriate methods, such as public presentations and community forums, providing feedback from the community back to department leaders and elected officials, handling media relations concerning matters related to IOLERO and its scope of duties;
 - 11) Staff and support at least monthly meetings of a community advisory council to serve as a bridge between law enforcement, IOLERO, and various communities of the County, as set forth more specifically elsewhere in this ordinance. While IOLERO shall provide staffing and support for the CAC, IOLERO and the CAC shall function as independent bodies, working in a cooperative and collaborative manner; and
 - 12) Perform related services as the director deems appropriate.
- (c) IOLERO shall not be authorized to:
- 1) Interfere with the performance of the powers and duties of the sheriff-coroner as prohibited by law;
 - 2) Disclose any confidential and/or privileged information to anyone not authorized to receive it, as prohibited by law;
 - 3) Decide policies, direct activities, or impose discipline on other county departments, officers and employees;
- (d) IOLERO and the sheriff-coroner shall create written protocols that further define and specify the scope and process providing for IOLERO's receipt, review, processing, and audit of complaints and investigations in a mutually coordinated and cooperative manner.
- (e) The sheriff-coroner shall cooperate fully with IOLERO by providing direct, unfettered access to information of the Sheriff's Office, in order to facilitate IOLERO's receipt, review and audit of complaints and investigations; IOLERO's independent investigation of incidents; as well as IOLERO's review of policies, practices, and training. Among the

sources of information to which the sheriff-coroner shall provide such access to IOLERO are the following:

- 1) Any database or other computer application, or physical files, containing incident reports, dispatch records, or records of responses to law enforcement calls for service;
 - 2) Any database or other computer application, or physical files, containing employee personnel records, investigations of complaints against employees, investigations of claims filed against the Sheriff's Office under the California Claims Act, including *Brady* investigations and the record of discipline with each complaint file or audit or investigations related to lawsuits filed against the County because of any action or inaction of an employee of the Sheriff's Office.
 - 3) Any database or other computer application, or physical files, containing jail inmate grievances and their investigations;
 - 4) Any database or other computer application containing the footage from body worn cameras;
 - 5) Any database or other computer application, or physical files, containing racial profiling data collected by the sheriff's office pursuant to the Racial and Identity Profiling Act of 2015 or any successor legislation;
 - 6) Any database or other computer application, or physical files, containing video or audio recordings related to: incidents involving employees, investigations by employees, investigations of employees, investigations of claims filed against the Sheriff's Office under the California Claims Act, or lawsuits filed against the County because of any action or inaction of an employee of the Sheriff's Office;
- (f) The director shall be provided access by the sheriff-coroner to personally sit in and observe the investigative interviews of any complainant or witness in, or deputy who is a subject of, and administrative investigation, upon request by the director;
- (g) The sheriff-coroner shall cooperate with IOLERO by providing direct, unfettered access to staff of the Sheriff's Office, in order to facilitate IOLERO's ability to develop trusting relationships with such staff, and to informally obtain information related to the receipt, review and audit of complaints and investigations, as well as IOLERO's review of policies, practices, and training. Among the opportunities to access staff which the sheriff-coroner shall provide to IOLERO, are the following:
- 1) Any investigator for a complaint being audited by IOLERO;
 - 2) Any employee who is a witness or custodian of relevant records for a complaint or incident being investigated by IOLERO;
 - 3) Any supervisor of an employee subject to an investigation being audited or otherwise conducted by IOLERO; and

4) Any staff gathered for training opportunities, in cooperation with the sheriff-coroner.

(h) Nothing in this section shall be construed to interfere with the constitutionally and statutorily designated independent functions of the sheriff-coroner, as prohibited by Government Code section 25303; matters involving any of these functions are subject to the sheriff-coroner's collaboration.

Sec. 2-395. – Budget allotment.

The annual budget of IOLERO shall be set at a minimum of 1% of the total annual budget of the Office of the Sheriff-Coroner. While this amount is a minimum, IOLERO's budget allotment shall be sufficient to allow IOLERO to perform effectively all of the functions set out in this ordinance.

Sec. 2-396. – Periodic performance audit.

At least every 3 years, IOLERO shall be subject to a performance audit to determine whether the office is operating in an effective and efficient manner and whether it is meeting best practices for the operation of such a civilian oversight office, as established by comparison with other agencies with similar missions.

Sec. 2-397. – Establishment and appointment of IOLERO community advisory council ("CAC").

(a) Purpose. An IOLERO community advisory council is hereby established to increase visibility for the public into the delivery by the sheriff-coroner of policing and corrections services, to provide community participation in the review and establishment of sheriff-coroner policies, procedures, practices, training, and initiatives, and to engage the public to better understand the role of IOLERO and of the sheriff-coroner. The members of the IOLERO CAC shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.

(b) Composition and appointment. The board of supervisors and the IOLERO director shall appoint a community advisory council, which shall be composed of 11 members who broadly represent the diversity and demographics of the County by way of, including but not limited to, racial, ethnic, cultural, gender, socio-economic, and geographic diversity; and who are representative of the community and of community stakeholders of the law enforcement oversight process, and who reside within the County of Sonoma. The term of office of CAC members shall be two years, subject to reappointment at the end

of the appointment term. Each supervisor shall appoint two members to the CAC, with the IOLERO director appointing one member.

- (c) Qualifications. In addition to the composition standards set forth above, the following are the minimum qualifications for members of the CAC:
- 1) Have not been employed by any law enforcement agency for three years prior to appointment;
 - 2) A demonstrated history of involvement in and engagement with community organizations that work in one or more of the following areas:
 - i. Serving or empowering disadvantaged communities;
 - ii. Protecting and defending the constitutional rights of individuals;
 - iii. Issues concerning the effectiveness or fairness of the criminal justice system;
 - iv. Serving or empowering members of communities that experience behavioral or mental health challenges; and/or
 - v. Spiritual, faith or religious institutions.
 - 3) A demonstrated ability to engage in mature, objective decision making;
 - 4) A demonstrated commitment to transparency and objective decision making;
 - 5) A demonstrated commitment to and support for civilian oversight of law enforcement; and
 - 6) Residency within the County of Sonoma.”

Section 2. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The People of the County of Sonoma hereby declare that they would have passed this Ordinance and every section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

Section 3. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage.

The foregoing Ordinance was adopted by the People of the County of Sonoma at a duly called election on November 3, 2020, by the following vote:

Ayes: 5

Noes: 0

A copy of the certified election results are attached to this ordinance as Exhibit A.

Exhibit A
Copy of Certified Election Results
Measure P
November 3, 2020