

**Independent Office of Law Enforcement Review and Outreach (IOLERO)
COMMUNITY ADVISORY COUNCIL (CAC)**

**Public Meeting Agenda
August 7, 2024 6:00 p.m.
Finley Community Center
2060 W. College Avenue
Manzanita Room
Santa Rosa, CA. 95401**

ADVISORY NOTICE

The meetings will be held as an in-person/online hybrid format.

MEMBERS OF THE PUBLIC MAY ATTEND THIS MEETING IN PERSON AT THE ADDRESS ABOVE, OR MAY JOIN THE MEETING VIRTUALLY THROUGH ZOOM.

Members of the Community Advisors Council will attend the meeting in person, except that they may attend virtually via ZOOM, to the extent allowable by the Brown Act for good cause pursuant to AB-2449.

Join the meeting via the Zoom application on your computer, tablet or smartphone:

Go to:

<https://sonomacounty.zoom.us/j/94301239209?pwd=vp1ybGAapBfxgOgt0AZ2F9vnter88l.1>

Please be advised that those participating in the meeting remotely via Zoom do so at their own risk. The CAC's public meetings will not be canceled if any technical problems occur during the meeting.

Call-in and listen to the meeting:

By telephone: Dial 1-669-900-9128

Webinar ID: 943 0123 9209

Passcode: (IOLERO) 465376

1. Spanish interpretation will be provided via zoom and in-person. Any additional language services could be available at all regular and special CAC meetings if made at least 48 hours in advance of the meeting to help ensure availability. For more information or to request services: contact (707) 565-1477. If you need an accommodation, an alternative format, or required another person to assist you while attending this meeting, please contact the CAC Community Engagement Manager at (707) 565-1477 or by email cac@sonoma-county.org within 72 hours of the meeting to ensure arrangements for accommodation. Spanish interpretation will be provided within the zoom application, you must use version 5.9.0 or later. We will make every effort to accommodate you.
2. **Interpretación al español se proveerá vía la aplicación de zoom y en persona.** Cualquier otro idioma/lenguaje podría ser disponible en todas las reuniones regulares y especiales del

CAC si el pedido es 48 horas antes de la reunión para garantizar disponibilidad. Para más información o para pedir servicios: llame al (707) 565-1477. Si necesita una adaptación, un formato alternativo o requiere que otra persona le ayude mientras asiste a esta reunión, por favor contacte ala Gerente de Compromiso Comunitario del CAC al 707-565-1477 o notifícanos por correo electrónico cac@sonoma-county.org en un plazo de 72 horas de la reunión para garantizar los arreglos para la adaptación. Para traducción en español, se tiene que usar la versión de Zoom 5.9.0 o una versión más adelantada. Haremos el esfuerzo posible por proporcionar la adaptación.

Public Comment at Community Advisory Council Meetings

Members of the public are free to address the CAC. Public comments:

- Should fall under the subject matter jurisdiction of the CAC (as noted in the founding documents).
- Are time-limited. Time limitations are at the discretion of the Director and Chair and may be adjusted to accommodate all speakers.

In addition to oral public comment at the meetings, the community is also invited to communicate with IOLERO staff and CAC members through email. Members of the public who would like to make statements that may exceed the time limits for public comment, suggest topics to be placed on future agendas, or suggest questions to be raised and discussed by CAC members or staff, may send an email addressing these matters to CAC@sonoma-county.org

CAC members may not deliberate or take action on items not on the agenda, and may only listen and respond briefly in limited circumstances. Should CAC members wish to deliberate on an issue raised during public comment, that issue may be placed on a future agenda of the CAC for discussion and possible action. Materials related to an item on this Agenda submitted to the CAC after distribution of the agenda packet are available for public inspection in the IOLERO office at the above address during normal business hours or via email.

Agenda

1. CALL TO ORDER, ROLL CALL

2. APPROVAL OF JUNE 5, 2024 MEETING MINUTES AND APRIL 15, 2024 SPECIAL MEETING MINUTES

3. OPENINGS AND APPOINTMENTS

Chair will report on current openings and appointments. If you are interested in applying for the current vacancy please visit: <https://sonomacounty.ca.gov/boardsandcommissions>

A. Introductions:

John Azevedo, Appointee for District 4

Imelda Martinez De Montano, Appointee for District 5

B. Current Vacancy:

- District 2

4. CORRESPONDENCE ITEMS

The Chair will report on correspondence items received from members of the public and relevant to CAC business.

5. DIRECTOR'S REPORT (ORAL REPORT ONLY)

6. SHERIFF'S LIAISON REPORT (ORAL REPORT ONLY)

7. PRESENTATIONS: NONE

8. BUSINESS ITEMS:

- A. Discussion and Possible Action Regarding: IOLERO's Issued Subpoena to the Sonoma County Sheriff's Department Related to a Whistleblower Complaint.

Action includes, but is limited to, a proposed Opinion Piece that will be presented to the CAC for consideration and possible approval and also a discussion and action on other means of publicizing about the need for enforcement of subpoenas that are authorized by an agency.

9. ADJOURNMENT TO START AD HOC COMMITTEES WORKING MEETINGS

The CAC will adjourn for a 30-minute recess for each ad hoc committees to conduct business. The public is free to stay and listen. As these are ad hoc working meetings, no official public comment period will be held. Access to these working sessions is not available on Zoom.

10. RECONVENE TO REGULAR MEETING

11. CAC COMMITTEE REPORTS (ORAL REPORTS)

Councilmembers to provide verbal reports and/or updates on the work being conducted by their committees. There are no written reports for these items.

A. Community Engagement

- B. Racial and Identity Profiling Act (RIPA)
- C. Recruitment and Hiring Practices
- D. Policy Recommendations Review (Canine)
- E. Evictions

12. OPEN TIME FOR PUBLIC COMMENT

This section is intended for items not appearing on the agenda but within the subject matter jurisdiction of the CAC. Please state your name and who you represent, if applicable. Comments will be limited at the discretion of the chairs based on number of comments and other factors.

13. REQUESTS FOR FUTURE AGENDA ITEMS

14. CAC ANNOUNCEMENTS

Councilmembers may provide oral announcements on things related to CAC business.

15. ADJOURNMENT

The next regular meeting of the Community Advisory Council will be Wednesday September 4, 2024 at 6:00pm

The in-person/hybrid meeting will be at the following location:

Location:
Finley Community Center
2060 W. College Avenue
Manzanita Room
Santa Rosa, CA. 95401

Commitment to Civil Engagement

All are encouraged to engage in respectful, non-disruptive communication that supports freedom of speech and values diversity of opinion. We, the members of the CAC, have adopted a list of norms referred to as our “Designed Team Alliance”, which describes the way we want to show-up and be in community while modeling collaborative behavior. We request that CAC members, staff, and the public follow the CAC’s agreed upon norms, which are:

- Be tough on the topic not on people
- Respect all participants in the meeting

- Respect others' perspective, even when you disagree
- Respect each other's time
- Stay within the meeting's time and content parameters
- Practice active listening
- Listen with an open mind to all information, including dissenting points of view
- Speak to others as you would like to be spoken to
- Allow others to speak without comment or intrusive sounds
- Honor freedom of speech
- Call each other "in"



Community Advisory Council Meeting Minutes
Independent Office of Law Enforcement Review and Outreach
June 5, 2024

Members of the public and CAC members attended this meeting in person/online hybrid format. June 5, 2024 Community Advisory Council meeting was held hybrid in person and via zoom.

PRESENT

Council Members: Lorena Barrera, Robin Jurs, Darnell Bowen, Nathan Solomon, Casey Jones

IOLERO Staff: John Alden, IOLERO Director, Lizett Camacho, Community Engagement Manager

Members of the Public: 7 members of the public attended via Zoom. 2 members attended in person.

Sheriff's Office: Sheriff's Liaison, Lt. Sean Jones, Lt Kelly Burris

Absent: Nancy Pemberton, Imelda Martinez De Montano, George Valenzuela, Trevor Ward

Call to Order

The meeting was called to order at 6:00 p.m.

AGENDA

1. WELCOME AND ROLL CALL

The meeting was facilitated by CAC Chair Barrera. Council members introduced themselves to the public.

2. APPROVAL OF APRIL 3, 2024 MEETING MINUTES

A. Motion to approve the meeting minutes: Councilmember Jurs
2nd: Councilmember Jones
Vote:
Ayes: Jurs, Barrera, Solomon, Bowen, Jones
Abstain:
Absent: Pemberton, Ward, Valenzuela, Martinez De Montano
Motion carries.

3. OPENINGS AND APPOINTMENTS

A. We continue to have the following vacancy:

- District 2

4. CORRESPONDENCE ITEMS

Chair Barrera announced there was a correspondence item which would be addressed by the Sheriff Liaison in item #6 of the agenda.

5. DIRECTOR'S REPORT

Director Alden shared that IOLERO was getting ready to participate in many summer community events such as, Wednesday night market in Santa Rosa, and the Sonoma-Marín County fair in Petaluma. There was a reminder to get CAC members to participate in these community events. Ricardo with Lizett's help also sends monthly newsletters announcing these community events so director Alden asked that CAC members please let the team know if there are other events that should be added. Since the July meeting has been canceled, there are several weeks to sign up for upcoming events.

Next week, District 4 will be appointing John Azevedo to the CAC. John Azevedo is a past president of the Farm Bureau and currently works for the wine industry. IOLERO also heard about Imelda Martinez De Montano coming on board with the CAC for District 5. She is a small business owner and she has been connected with the community events and provides health education through Raizes Collective. A little update regarding the IOLERO budget.

In April, IOLERO had its budget workshop and requested to add a new position and upgrade a current position from part-time to full-time. Early this week IOLERO received news from the County Executive that the requests were ones she has recommended to the BOS to adopt. The new position would be a Chief Deputy Auditor that would supervise the current Auditors and would also have a caseload of audits. There is no county classification with that title yet, therefore an extra step would be to go through the Civil Service Commission to get this recruitment going. There is no direct effect to the CAC in terms of funding. However, IOLERO does have funding that supports sending the CAC members to an annual conference hosted by the National Association for Civilian Oversight of Law Enforcement (NACOLE). This training takes place this fall in October and will be in Tucson, Arizona. IOLERO strongly encourages CAC members to attend and will give priority to those who have not attended before. If CAC members are interested in attending the NACOLE conference, please let Melanie Griffin know. The conference will be October 13-17.

Los Angeles Police Department (LAPD) also hosted training which IOLERO Auditor Matt Chavez and IOLERO director John Alden attended. The Board of Supervisors (BOS) approved a language access equity plan for the entire county. The language access equity plan is about how we provide language resources all across the county departments. An example of that work would be how the IOLERO office will be providing translation services

at every meeting from now on starting in August. This was not the case in the past, as translation services were only provided upon request. This is also a reminder to please speak slowly during the CAC meetings, because there is 30% more content in Spanish when translating. IOLERO also has our Community Policing project that is still in progress. In prior years, IOLERO, the Sheriff's Office and Sonoma State University started working together and gathered a survey of community members about what community policing meant to them and how that might affect the services they might receive from the Sheriff's Office.

Public Comment: 1 member of the public addressed the director

6. SHERIFF'S LIAISON REPORT

A. Lt. Jones has reported that the hunger strike at the MADF has ended. The reasons behind the hunger strike were due to complaints from inmates regarding the facility conditions such as not requiring inmates to quarantine once tested for COVID after being booked into MADF. Lt. Jones has agreed to get some questions answered from the CAC regarding the hunger strike. The CAC was informed of the hunger strike by a community member via email.

7. BUSINESS ITEMS

A. Received and discussed Presentation on the Implementation of the Racial and Identity Profiling Act (RIPA)

A presentation on the implementation of the Racial and Identity Profiling Act (RIPA) was provided on the item by Sonoma County Sheriff's Office, Lieutenant Kelly Burris.

CAC members asked questions and provided comments.

Public comment: 2 members of the public addressed the CAC.

8. CAC AD HOC REPORTS

A. Community Engagement: Ad hoc members have met with Rania and are working together. Working on a plan to get more participation from the community and CAC members.

B. Racial and Identity Profiling Act (RIPA): Ad hoc continues to meet with Rania and will meet again to review next steps.

C. Recruitment and Hiring Practices: Ad hoc has met and sent questions to Sheriff Liaison. Policy statement is coming this fall.

D. Policy Recommendations Review (Canine): The ad hoc has met, has had discussions with Rania. Feedback has been verbal and in writing from Rania. Ad hoc continues to work with Rania for further progress.

E. Evictions: No report.

9. OPEN TIME FOR PUBLIC COMMENT

Public comment: 2 members of the public addressed the CAC.

10. REQUESTS FOR FUTURE ITEMS

A. Pelaez-Chavez case update

B. Whistleblower update

C. Hunger strike update

11. ANNOUNCEMENTS

12. ADJOURNMENT

The meeting was adjourned at 7:53pm.

The next meeting of the CAC is scheduled for Wednesday August 7, 2024, at 6:00pm and will be hybrid (via zoom and in person).

Location:

Finley Community Center

2060 W. College Avenue

Manzanita Room

Santa Rosa, CA. 95401



**Community Advisory Council
Special Meeting Minutes**
Independent Office of Law Enforcement Review and Outreach
April 15, 2024

CAC members attended this special meeting in person only.

Location: Rohnert Park Community Center, 5401 Snyder Lane, Rohnert Park
CA. 94928

Time: 7:00p.m.

PRESENT

Council Members: Lorena Barrera, Robin Jurs, David Jones, George Valenzuela,
Darnell Bowen

IOLERO Staff: Lizett Camacho, Community Engagement Manager

Members of the Public: No members of the public attended

Absent: Nathan Solomon, Trevor Ward, Nancy Pemberton, Esther Lemus

Call to Order

The meeting was called to order at 7:00 p.m.

AGENDA

1. CALL TO ORDER, ROLL CALL

2. BUSINESS ITEMS

Discussion was on a proposed letter opposing the Board of Supervisors' (BOS) intent to adopt an ordinance to modify Sonoma County code and revise the County Administrator's duties.

The CAC members worked together and drafted a letter opposing the adoption of the ordinance. The letter will be read by a CAC member at the Board of Supervisors meeting on Tuesday April 16, 2024.

3. ADJOURNMENT

The meeting was adjourned at 7:48pm.

The next meeting of the CAC is scheduled for Wednesday, June 5, 2024, at 6:00pm and it will be hybrid (via zoom and in-person).

Location:
Finley Community Center
2060 W. College Avenue
Manzanita Room
Santa Rosa, CA. 95401

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Law Enforcement Review and Outreach

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SONOMA

IN RE INDEPENDENT OFFICE OF LAW
ENFORCEMENT REVIEW AND OUTREACH'S
WHISTLEBLOWER CASE NO. 23-W-0001

Case No.

EXEMPT FROM FEES (GOV. CODE § 6103)

**CERTIFICATION OF FACTS TO ENFORCE
ADMINISTRATIVE SUBPOENAS**

[Gov. Code, § 25303.7(b)(3)]

The Independent Office of Law Enforcement Review and Outreach ("IOLERO") hereby transmits this Certification of Facts to enforce the administrative subpoenas to appear and produce documents issued by IOLERO in its Whistleblower Case No. 23-W-0001 to ASO Marina Luna and the Records Custodian of the Sonoma County Sheriff's Office ("Sheriff's Office").

OVERVIEW

On April 30, 2024, IOLERO issued a subpoena to appear and produce documents to ASO Luna, which ordered her to attend an interview on May 15, 2024, and bring with her the personnel records of Sheriff's Office employees and office policy records. (See Certified Statement of Facts, Ex. D.) On April 30, 2024, IOLERO issued a subpoena to produce documents to the Sheriff's Office Records Custodian, which ordered the production of additional personnel records, office policy records and social

media posts for production on May 10, 2024. (See Certified Statement of Facts, Ex. E.) IOLERO postponed the production deadlines to May 17, 2024 and rescheduled the interview of ASO Luna to May 21, 2024. ASO Luna and the Records Custodian have refused to comply with the subpoenas.

VENUE

Venue is proper because IOLERO is conducting the whistleblower investigation in the County of Sonoma. (See Gov. Code, § 25303.7, subd. (b)(3)(A).)

STATEMENT OF LAW AND FACTS

“Because an administrative adjudication is not an aspect of a judicial proceeding . . . no judge is empowered to act in the [administrative] matter.” (*Parris v. Zolin* (1996) 12 Cal.4th 839, 851.) To address the lack of jurisdiction over administrative matters, the State Legislature enacted several statutes that provide “a simplified, expeditious procedure by which a court and judge are made available to vindicate the dignity of the administrative tribunal whose process has been disobeyed or whose proceedings have been obstructed.” (*Ibid.*)

For example, Government Code § 11455.20 (formerly § 11525) provides that:

(a) The presiding officer or agency head may certify the facts that justify the contempt sanction against a person to the superior court in and for the county where the proceeding is conducted. The court shall thereupon issue an order directing the person to appear before the court at a specified time and place, and then and there to show cause why the person should not be punished for contempt. The order and a copy of the certified statement shall be served on the person. Upon service of the order and a copy of the certified statement, the court has jurisdiction of the matter.

(b) The same proceedings shall be had, the same penalties may be imposed, and the person charged may purge the contempt in the same way, as in the case of a person who has committed a contempt in the trial of a civil action before a superior court.

Similarly, Government Code § 25303.7(b)(3) provides that:

(A) If a witness fails to attend, or in the case of a subpoena duces tecum, if an item is not produced as set forth therein, the chair or the chair authorized deputy issuing the subpoena upon proof of service thereof may certify the facts to the superior court in the county of the board.

(B) The court shall thereupon issue an order directing the person to appear before the court and show cause why they should not be ordered to comply with the subpoena. The order and a copy of the certified statement shall be served on the person and the court shall have jurisdiction of the matter.

(C) The same proceedings shall be had, the same penalties imposed, and the person charged may purge themselves of the contempt in the same way as in

a case of a person who has committed a contempt in the trial of a civil action before a superior court.

Government Code § 25303.7(c)(2) authorizes IOLERO as the Inspector General for the Sheriff's Office to enforce the subpoenas by using the procedure outlined in Government Code § 25303.7(b)(3) and "certifying the refusal of the witness to comply with the subpoena to the superior court." (*Parris, supra*, 12 Cal.4th at p. 848.) The statute, which is worded similarly to Government Code § 11455.20, "impos[es] a duty to transmit the certification to [the superior] court." (*Id.* at p. 845.) "[I]t is the agency in which or on behalf of which the hearing is held . . . that must report to the superior court the failure of a subpoenaed witness to appear." (*Id.* at p. 851.) "The report may be in the form of a certified statement by the hearing officer describing the facts." (*Id.*) The facts must relate to the inspector general's belief "that a witness has been subpoenaed and has not appeared." (*Id.*) "To establish an apparent refusal to appear the report must include only the factual basis for the hearing officer's belief that the witness was properly served." (*Id.*)

"Transmission of a certification of facts . . . to the superior court in the county where the hearing is pending is all that is necessary to invoke the jurisdiction of the court and initiate a contempt proceeding." (*Id.* at p. 844.) Government Code § 25303.7(b)(3) requires "a superior court to file and process as a new action, without filing fee, a matter transmitted from another tribunal or department." (*Id.* at p. 846, fn. 5.) "On receipt of the certification the clerk must file it as a contempt proceeding without payment of a filing fee and, if the certification states facts which may be the basis of a judgment of contempt, the court must issue an order to show cause." (*Id.* at p. 844.) Government Code § 25303.7(b)(3) "provide[s] a means by which the equivalent of a pending action is created in the superior court." (*Id.* at p. 846.) The statute "then incorporates all of the procedures made applicable to contempt proceedings initiated under Code of Civil Procedure section 1211" (*Id.*)

Government Code § 25303.7(b)(3) does not require "an affidavit or declaration setting forth the facts constituting the contempt" or the inspector general's personal knowledge. (*Id.* at p. 849.) The contempt proceeding will be akin to a direct contempt proceeding in a civil action pending before a superior court. (See *id.* at p. 851.) "But for the lack of contempt power in an administrative hearing officer, the contempt proceeding would be commenced [in the administrative adjudication] without the

necessity of a certification of facts or affidavit.” (*Id.*) Government Code § 25303.7(b)(3) thus provides that the inspector general “need only certify the fact of the apparent contempt to the superior court.” (*Id.*)

The Deputy Sheriff’s Association (DSA), which represents some of the affected employees, and the Sheriff’s Office dispute only that the subpoenas were improperly issued. They do not challenge the service of the subpoenas. As explained in further detail in the Certified Statement of Facts from the IOLERO Director which is filed herewith, the subpoenas are lawful.

IOLERO’s investigative authority over whistleblower complaints is derived from: (1) state law, as provided in Government Code §§ 25303.7(c) and 25303; (2) local law, as provided in § 2-394(b) of Ordinance No. 6333; and (3) several agreements between IOLERO and the Sheriff’s Office.

After receiving a whistleblower complaint related to events involving multiple Sheriff’s Office employees, IOLERO interviewed the complainant. IOLERO then began its evaluation of the whistleblower complaint and prepared subpoenas to the Sheriff’s Office for production of various materials that are relevant to the whistleblower’s allegations.

The IOLERO Director issued the subpoenas to ASO Luna and the Records Custodian on April 30, 2024, and a corrected subpoena to the Records Custodian on May 6, 2024, pursuant to the subpoena power provided and recognized by state law, local law and the operative agreements between IOLERO, the Sheriff’s Office and the DSA. The subpoenas were served in accordance with an agreement between the Sheriff’s Office and IOLERO, which provides that IOLERO will email subpoenas to the Sheriff’s Office, and the Sheriff’s Office will in turn serve such subpoenas on the named individual.

The subpoenas request the production of records for four of the employees who were allegedly involved in the events described by the whistleblower. Two of the employees are the subject of allegations in the whistleblower complaint; all four of the employees’ personnel records allegedly document the events in the whistleblower’s complaint. IOLERO generally seeks (1) personnel records of three sworn and one non-sworn employee involved in the alleged incidents (subject to appropriate redactions such as social security numbers, HIPAA protected information), (2) written policies of the Sheriff’s Office regarding assignments, promotions and light duty status for sworn employees, (3) records relating to various Internal Affairs investigations, including investigations of sustained dishonesty allegations, and investigations of two of the three sworn employees referenced in the

whistleblower complaint, and (4) written policies of the Sheriff's Office regarding such investigations. (Notably, even though the Sheriff's Office acknowledges that the written policies are properly subpoenaed, the Office refuses to produce even those documents.)

The DSA and the Sheriff's Office wrote to IOLERO on May 10, 2024, and May 17, 2024, respectively, indicating their objection to and refusal to comply with the subpoenas, respectively. (See Certified Statement of Facts, Exs. F and J.) Their objections are as follows: (1) the Sheriff is not subject to IOLERO's jurisdiction pursuant to *Essick v. County of Sonoma* (2022) 81 Cal.App.5th 941; (2) local law authorizes IOLERO to supervise the official conduct of the Sheriff only, not the Sheriff's Office; (3) local law and the Amended Letter of Agreement both limit IOLERO's subpoena power to two types of investigations, neither of which include whistleblower investigations; and (4) the personnel records cannot be disclosed pursuant to the *Pitchess* statutes in Penal Code §§ 832.7 and 832.8, as well as Evidence Code §§ 1043 and 1045.

As to the first objection, *Essick* is distinguishable. The case involved a "reverse" Public Records Act cause of action in which the former Sheriff of Sonoma County sought to prevent the disclosure of materials under a Public Records Act exemption requiring the former Sheriff to prove that the materials were privileged personnel records under the *Pitchess* statutes. (See *Essick, supra*, 81 Cal.App.5th at pp. 950-951.) The court remarked that since the Sheriff is ultimately responsible to the people and not the Sonoma County Board of Supervisors, the former Sheriff could not meet his burden of proving that Sonoma County was his employer to qualify for the privilege conferred by the *Pitchess* statutes. (See *id.* at p. 951.) The court also observed that "a county board has 'oversight responsibility' as to an elected sheriff but lacks power to direct how he or she performs official duties." (*Id.* at p. 952 [citation omitted].) Any whistleblower investigation of the Sheriff falls under such oversight responsibility provided by Government Code §§ 25303.7(c) and 25303, Ordinance No. 6333 and the Amended Letter of Agreement.

With respect to the second and third objections, the DSA and the Sheriff's Office fail to consider that: (1) § V of the Amended Letter of Agreement and §§ A and B of the Operating Agreement extend IOLERO's investigative authority of whistleblower complaints in Ordinance No. 6333 to DSA members and the Sheriff's Office; (2) both § 2-394(b) of Ordinance No. 6333 and Government Code §

25303.7(c)(2) authorize IOLERO to issue subpoenas as needed, including for whistleblower investigations; (3) § II of the Amended Letter of Agreement recognizes IOLERO as an Inspector General under Government Code § 25303.7; and (4) § IV(D)(iii)(b) of the Amended Letter of Agreement specifically states that IOLERO can issue subpoenas pursuant to Government Code § 25303.7.

As for the fourth objection, personnel records may be disclosed in a whistleblower investigation for two separate reasons.

Pursuant to Section (C)(3) of the Operational Agreement, the Sheriff's Office has acknowledged and agreed that IOLERO is an office specifically designated to receive and review complaints under Penal Code § 832.5 and, like the Internal Affairs Department of the Sheriff's Office, has access to confidential peace officer records ordinarily protected by the *Pitchess* statutes.

The *Pitchess* privilege also does not extend to any personnel record relating to an incident in which a sustained finding was made by any law enforcement agency involving dishonesty by a peace officer directly relating to the reporting, investigation or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer, including but not limited to any false statements, filing false reports, destruction, falsifying or concealing of evidence, or perjury. (See Pen. Code, § 832.7, subd. (b)(1)(C).) Since many of the subpoena document categories pertain to sustained dishonesty allegations, the *Pitchess* privilege does not extend to the personnel records relating to such sustained allegations.

For the reasons stated above and set forth in the accompanying Certified Statement of Facts from the IOLERO Director, the subpoenas were properly issued and served on the Sheriff's Office. The Sheriff's refusal to respond violates the subpoenas and controlling authority subjecting both the Sheriff's Office (as the Records Custodian) and ASO Luna to contempt proceedings.

PRAYER FOR RELIEF

WHEREFORE, in seeking to enforce the subpoenas and complete the whistleblower investigation as required by law, IOLERO respectfully requests that the Court:

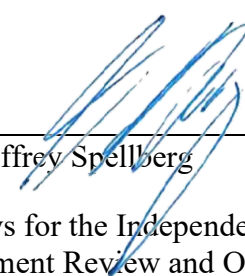
1. Initiate contempt proceedings against the Sheriff's Office and ASO Luna;
2. Issue an order to show cause directing the Sheriff and ASO Luna to personally appear before the Court and explain why they should not be ordered to comply with the subpoenas;

3. Award reasonable attorney's fees and costs in favor of IOLERO and against the Sheriff's Office and ASO Luna pursuant to Code of Civil Procedure § 1218; and

4. Award any other relief that the Court believes is just and proper.

Dated: July 9, 2024

RENNE PUBLIC LAW GROUP

By: 

Geoffrey Spellberg

Attorneys for the Independent Office of Law
Enforcement Review and Outreach

Sonoma County voters overwhelmingly adopted Measure P in November 2020. With that vote, our community expressly recognized that the Sheriff is an independent, elected law enforcement official given “extraordinary authority,” including search, arrest and use of deadly force. Simultaneously and purposefully, the voters exercised their own authority to institute powerful civilian oversight of the Sheriff and his employees, including the power to investigate, subpoena otherwise confidential records, and report to the public on the Sheriff’s conduct and operations.

The civilian oversight authorized by Measure P is now being challenged by the Sheriff and the Deputy Sheriff’s Association (DSA). John Alden, the director of the watchdog agency, Independent Office of Law Enforcement Review and Outreach (IOLERO), has been compelled to bring a lawsuit in Sonoma Superior Court to enforce the voters’ intent that he effectively investigate “whistleblower” claims of wrongdoing inside the Sheriff’s Department. As Director Alden has noted, whistleblower claims coming from inside the Department can uncover misconduct which would otherwise never be known to the public.

The Sheriff and DSA seek to block the investigation, largely by claiming that IOLERO has no jurisdiction over the elected Sheriff, and that IOLERO’s express subpoena power somehow does not reach complaints against the Department brought by whistleblowers despite Measure P’s clear language authorizing such subpoenas. These claims are, sadly, unsurprising efforts to thwart the broad investigatory powers the voters intended.

This is not the first time DSA has sought to curb IOLERO’s authority. In previous litigation, DSA and the other deputies’ association, SCLEA, unsuccessfully tried to prevent Measure P from taking effect altogether.

As members of the IOLERO Community Advisory Council, we volunteered to increase public information and visibility into the operations of the Sheriff’s Department, and into the watchdog oversight provided by IOLERO. As a body, we strongly support Director Alden in his efforts to fairly and thoroughly investigate allegations of wrongdoing from within the Sheriff’s Department. Mr. Alden can and should assertively pursue the investigation and oversight authority the voters created and intended to be fully exercised. We are disappointed that the Sheriff and the DSA are attempting to use legal technicalities to limit the full investigation and sunshining of Sheriff operations which our community demands. We urge them to rethink their opposition, and to welcome the oversight the voters, who employ them, so clearly intended.