Dear Chairperson Hermosillo & Members of the Board of Supervisors,

The CAC has collectively reviewed the PIVOT triennial audit of IOLERO's functions and offers the following recommendation. We are encouraged by the findings that IOLERO has been able to substantially implement the provisions of Measure P and that cooperation between IOLERO and the Sheriff-Coroner's office has been generally productive. We note, however, that the audit found areas for improvement.

We decided to focus on IOLERO attorneys' access to information in the Sheriff-Coroner's control because this is an area we think would significantly improve the ability of IOLERO to fulfill the voters' intent in auditing and investigating the work of the Sheriff-Coroner's department. This is also an area where you can have an impact by using your relationships with, and authority to supervise (Section 2-392(b)), the Sheriff-Coroner and the deputies associations to ensure adherence to the voter's directives.

The PIVOT audit discusses in detail each of the areas in which access is limited or impeded due to the Sheriff-Coroner's practice with IOLERO, the Operational Agreement and/or the Letters of Agreement. None of these limitations or impediments are acceptable and all are easily remedied.

Below we highlight areas that we recommend you address with the Sheriff-Coroner and the deputy sheriff's associations.

Section 2-394(e) of Measure P reads, in part:

> 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.

The section then provides a non-exclusive list of materials the sheriff-coroner must make available to IOLERO attorneys. ("Among the sources of information to which the sheriff-coroner shall provide such access to IOLERO are the following: ...." *Id.*)

A. Access to all incidents subject to review by IOLERO

Despite the clear directive of Measure P, the PIVOT audit repeatedly cites impediments to that access, beginning with the question of whether IOLERO even has access to all the incidents that are subject to review under Measure P.

See, PIVOT audit @ 23 ("At present, no independent mechanism exists for IOLERO to verify that all incidents subject to Measure P have been identified and reported for review.").

See also, PIVOT audit @ 30 ("Although the [operational] agreement provides IOLERO access to completed investigations and the ability to search certain investigative records within AIM, it does not establish a clear mechanism through which IOLERO may independently verify that all matters falling within Measure P's review categories have been identified and provided for review.").

B. Availability of investigative evidence

The PIVOT audit assessed access to material needed to carry out IOLERO's authorized areas of investigation and raised concerns about the limits to IOLERO's access. (PIVOT audit @ 36.)

The first issue is that "existing production processes generally permit IOLERO to conduct case specific review, but do not necessarily permit IOLERO to independently verify the completeness of the information available for review." (PIVOT audit @ 37.) If IOLERO cannot be assured that it has all the available information, its work is necessarily compromised.

Secondly, the Sheriff-Coroner's office does not always[1] upload all the information in the database to which IOLERO has access, thus requiring IOLERO attorneys to spend time requesting specific pieces of evidence that appear to be missing. (PIVOT audit @ 38.)

Thirdly, the limits to access that impede IOLERO's ability to conduct contemporaneous independent investigations fall short of Measure P's explicit directives. (PIVOT audit @ 38.)

C. Access to employees' prior complaint and disciplinary history

The audit concluded that "IOLERO has limited access to the historical information necessary to fully exercise" its authority to independently and systematically review an employee's prior complaint and disciplinary authority. (PIVOT audit @ 41.) This violates both the letter and spirit of Measure P and creates mistrust in the public, which has a vested interest in seeing that its employees conduct themselves appropriately and within the bounds of the law and policy.

Conclusion

[1] One IOLERO attorney estimated this occurred in as many as half the cases the attorney audited.

Best practices in civilian oversight are defined by the National Association for Civilian Oversight of Law Enforcement (NACOLE). Its Unfettered Access to Information principle reads:

> Unfettered access to the subject law enforcement agency's records is vitally important for effective civilian oversight. The ability to review all records relevant to an investigation or other matters within the scope of a civilian oversight agency's authority in a timely manner is essential to providing effective, informed, and fact-driven oversight. Similarly, agencies performing correctional oversight must have unfettered access to facilities and staff. Without timely and reliable access to department records, information, and facilities, oversight practitioners and volunteers cannot make decisions that meaningfully address areas of concern.

Although IOLERO has done an admirable job implementing the goals and provisions of Measure P, it has done so without the unfettered access necessary to conduct truly meaningful oversight.

We urge the Board of Supervisors to require that the Sheriff-Coroner and IOLERO meet to review the PIVOT audit, and to report in writing to the BOS and the public on the issues of "direct, unfettered access" to files and information as required by Measure P.

Thank you.

Sincerely,

Lorena Barrera & Nancy Pemberton
Chairperson & Vice Chairperson
on behalf of the Community Advisory Council