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Date November 12, 2021

TO: Supervisor Hilda L. Solis, Chair
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FROM: Max Huntsman
Inspector General

REPORT BACK ON FURTHER PROTECTIONS FOR SURVIVING FAMILIES FROM LAW ENFORCEMENT HARASSMENT AND RETALIATION (ITEM NO. 14, AGENDA OF JULY 27, 2021) RE FEASIBILITY OF THE CREATION OF AN OFFICE OF LAW ENFORCEMENT STANDARDS

On July 27, 2021, the Board of Supervisors (Board) adopted a motion which, in part, instructed the Inspector General, in collaboration with the Chief Executive Officer, County Counsel, Sheriff, District Attorney, Public Defender and Alternate Public Defender to report back on the feasibility of creating an independent Office of Law Enforcement Standards as detailed in the Office of Inspector General's February 2021 report, *Los Angeles County Sheriff's Department: Review and Analysis of Misconduct Investigations and Disciplinary Process* (February 2021 Report).¹

The February 2021 Report recommended that all functions and positions currently allocated to the Sheriff's Department's Professional Standards Division be transferred to the newly created Office of Law Enforcement Standards, including the Internal Affairs Bureau, the Advocacy Unit, and the Risk Management Bureau.

This report back addresses the following areas related to the feasibility of creating an independent Office of Law Enforcement Standards:

1. Input from Stakeholders
2. Overview of Estimated Costs

¹Office of Inspector General Report: *Los Angeles County Sheriff's Department: Review and Analysis of Misconduct Investigations and Disciplinary Process* (February 2021);
https://oig.lacounty.gov/Portals/OIG/Reports/IIPublicReport_Body2.pdf?ver=qMyIxzky_EwrtHn0JWrOw%3d%3d

3. Structural Hurdles to Implementation
4. Discussion of other Investigation/Monitoring Models

Background:

The February 2021 report detailed significant lapses that remain in the Sheriff's Department disciplinary system noting the following deficiencies:

- Inconsistencies in selecting the cases and employees to be investigated.
- Untimely, hurried, and incomplete investigations.
- An adjudication process that yields widely disparate findings for similar conduct.
- The uncertainty that discipline is actually imposed.

There is strong cultural resistance on the part of the Sheriff's Department's managers and executives to change the disciplinary system.

As noted in the February 2021 Report, those living in jurisdictions policed by the Sheriff's Department have expressed a lack of confidence in the discipline process, including that Sheriff's Department personnel are not appropriately disciplined.

Among the reforms recommended in the February 2021 Report is that all functions and positions currently allocated to the Sheriff's Department Professional Standards Division be transferred to the newly created Office of Law Enforcement Standards (OLES), including the Internal Affairs Bureau, the Advocacy Unit, and the Risk Management Bureau. The February 2021 Report further recommended that the OLES have independent discretion and authority to initiate investigations into allegations of Sheriff's Department employee misconduct and the exclusive authority to conduct those investigations. Additionally, the February 2021 Report recommended that the OLES would ideally reside within the Department of Human Resources and be funded by monies transferred from the Sheriff's Department's budget.

As part of its report back on *Protecting Surviving Families from Law Enforcement Harassment and Retaliation*² in July of this year, the Office of Inspector General again recommended the creation of the OLES as means of ensuring that all alleged misconduct, including allegations of Sheriff's Department harassment and intimidation of the families who lost a loved one as a result of a fatal use of force, are fully and thoroughly investigated and that all complaints be sent to the OLES for possible investigation.

² Office of Inspector General *Report Back on Protecting Surviving Families from Law Enforcement Harassment and Retaliation*; (July 2021);

https://oig.lacounty.gov/Portals/OIG/Reports/Report_on_Protect_ing_Surviving_Families.pdf

In order to assess the feasibility of creating the OLES, the Office of Inspector General conferred with representatives from the Chief Executive Office, County Counsel, Auditor-Controller, Department of Human Resources, Sheriff's Department, District Attorney, Public Defender, and Alternate Public Defender. The Office of Inspector General also met with county stakeholders currently engaged in public complaints against the Sheriff's Department. All county departments and community stakeholders indicated a willingness to work with the OLES. While the Sheriff's Department expressed an initial willingness to discuss the creation of the OLES, Sheriff's Department executives did not engage in a dialogue about misconduct investigations, discipline, or the creation of the OLES.

Using the staffing numbers and yearly recurring costs of the Sheriff's Department's Professional Standards Division³ as a general guide, we estimate that the creation of an OLES that replaces all functions and positions currently allocated to the Sheriff's Department Professional Standards Division requires moving as many as 166 positions, consisting of both sworn and non-sworn personnel, with an allocated budget ranging from \$58.6 million to \$63.4 million per year.

During this feasibility assessment, the Office of Inspector General consulted with County Counsel about structural and legal hurdles to the implementation of an OLES. County Counsel will provide a separate report with its opinion on possible immediate action to bolster the current system of discipline and ways to overcome some of the obstacles that currently exist.

Given that there are hurdles to the creation of an OLES, the Office of Inspector General then surveyed different complaint investigations systems from across the country as temporary or permanent alternatives. We present three examples of alternative models of investigating public complaints of police misconduct. Although each of these systems would present their own unique budgetary and structural barriers to implementation within the County, they represent examples of different approaches to the third-party investigation of police misconduct that the Board may wish to consider.

Lastly, we present an Intensive Real-time Monitoring model, which may avoid many of the structural hurdles to implementation of the other investigative models, be less costly to maintain, and still address the primary concerns of community and County stakeholders.

³ The term "Professional Standards Division" (PSD) as used in this report back refers to all PSD units with the exception of the Internal Criminal Investigations Bureau (ICIB). ICIB conducts internal criminal investigations within the Sheriff's Department and was specifically excluded from the Office of Inspector General's transfer of functions recommendation in the February 2021 Report.

Input from Stakeholders:

Office of Inspector General representatives met and conferred with representatives from the District Attorney's Office, the Office of the Public Defender, Alternate Public Defender, the American Civil Liberties Union, and the National Lawyers Guild. Each of these organizations was open and receptive to working with an OLES and provided valuable insights into what they feel are necessary components of a successful OLES.

Both the American Civil Liberties Union and the National Lawyers Guild expressed strong support for third-party independent administrative investigations of Sheriff's Department staff. They also emphasized the urgent need for the creation of a safe space in which community members are able to submit complaints about the Sheriff's Department without fear of intimidation, harassment, or retaliation. The current complaint process is perceived to be a "black box" in which complaints are submitted, but meaningful follow-up and tangible results are lacking in most instances. Both organizations expressed concerns over the quality of Sheriff's Department investigations into complaints received from the public and strongly asserted the need for third-party review and verification of the complaint process.

The District Attorney's Office also receives complaints from the public about law enforcement personnel. However, it generally forwards these complaints to the law enforcement agencies for self-investigation. The District Attorney's Office lacks the staffing to investigate or follow-up on these complaints. An OLES could act as a central clearinghouse of all public complaints against the Sheriff's Department received by county departments, tracking complaints, investigations, and outcomes. A central clearinghouse for complaints would assist with the District Attorney's compliance with its *Brady*⁴ obligations. The District Attorney's Office noted that it is not able to verify that the information received from the Sheriff's Department is complete despite the fact that it continuously seeks complete and accurate *Brady* information from the Sheriff's Department. An OLES with access to Sheriff's Department administrative records would be able to verify that the Sheriff's Department was fully complying with its *Brady* obligations. To meaningfully engage with an OLES, the District Attorney's Office would need additional DDA III or IV positions.

⁴ In *Brady v. Maryland* (1963) 373 U.S. 83, the United States Supreme Court held that the prosecution in a criminal case has a constitutional duty to disclose to the defense all material exculpatory evidence. Later in *Giglio v. U.S.* (1972) 405 U.S. 150, the Supreme Court ruled exculpatory evidence also includes information that could be used to impeach the credibility of prosecution witnesses, including officers. Examples of *Brady/Giglio* information include evidence of untruthfulness; prior inconsistent statements; and evidence of bias. Criminal defense attorneys must have *Brady* information to prepare an adequate defense of their clients. Failure to provide potentially exculpatory information is a violation of a defendant's right to due process. Prosecutors must have this information to determine if there are questions about a deputy's credibility that must be provided to the defense and to analyze the strength of their cases. The Los Angeles District Attorney's Office has requested all such information from the Sheriff's Department.

Representatives from the Public Defender and Alternate Public Defender were interested in how an OLES could partner with their ongoing *Brady*⁵, *Pitchess*⁶, and California Public Records Act⁷ request efforts to obtain all the information to which their attorneys are entitled to prepare their cases. However, they questioned whether an OLES can be effective before the underlying issues of access to records between the County/Office of Inspector General and the Sheriff's Department are resolved. Moreover, the Public Defender and Alternate Public Defender questioned the independence of the OLES and the objectivity of its findings if the Sheriff is allowed to select the chief of the OLES as recommended in the February 2021 Report.⁸

Both organizations cautioned that a verified system of timely and good faith Sheriff's Department compliance with information and/or access requests must be established before the expenditure of county funds to create an OLES. Currently, the Office of the Public Defender has just two attorneys staffed to track *Brady*, *Pitchess*, and California Public Records Act compliance issues by law enforcement agencies throughout the County of Los Angeles. The Alternate Public Defender has only one attorney staffed to monitor these issues. The advent of body-worn cameras in law enforcement has resulted in an exponential increase in the discovery request workloads for line attorneys in both organizations and thus increased the need for timely and good faith compliance by the Sheriff's Department. In order to engage and integrate meaningfully with an OLES, additional attorney positions will undoubtedly be needed. However, the exact number of attorney positions needed will depend upon the scope and breadth of work ultimately shouldered by the OLES.

The Office of Inspector General sought input from the Sheriff's Department's Professional Standards Division on the feasibility of creating of an OLES. The Professional Standards Division was open to discussing how an OLES might integrate

⁵ See note 4, above.

⁶ In California, a criminal defendant may seek the disclosure of police personnel files which potentially contain exculpatory information by way of a two-step "Pitchess Motion" procedure. In the first step, the requester must petition the court, showing good cause for release of the records or information sought and materiality to the subject matter of the pending litigation. The second step commences if a judge believes the threshold issues of good cause and materiality are met. If so, a judge will hold an in-camera hearing to review the pertinent documents and determine what information, if any, will be disclosed.

⁷ Pursuant to SB1421 which amended California Penal Code section 832.7, certain categories of previously confidential peace officer records relating to discharges of firearms, uses-of-force resulting in death or great bodily injury, sustained findings of sexual assault, and sustained findings of dishonesty are now available to the public via a California Public Records Act request. Both the Office of the Public Defender and the Alternate Public Defender have submitted multiple CPRA requests to the Sheriff's Department seeking Penal Code section 832.7 information. Amendments to Penal Code section 832.7 are effective on January 1, 2022 makes additional records subject to disclosure via a CPRA.

⁸ While the February 2021 Report recommends that the Chief of OLES be appointed by the Sheriff and ratified by the Civilian Oversight Commission, there are alternatives regarding who could have the appointing authority. Because the Office of Inspector General is not opining on the legal and structural obstacles, we have not suggested alternatives in this report back.

with Sheriff's Department operations; however, it noted that structural hurdles such as collective bargaining agreements, budget constraints, and civil service rules might negatively impact the actual feasibility of implementing an OLES into the Sheriff's Department's and the County's current administrative framework. At the Office of Inspector General's invitation, the Professional Standards Division agreed to provide its analysis of these issues in writing. By a letter to the Board dated November 10, 2021, the Sheriff's Department provided input on the creation of an OLES. A copy of the letter was provided to the Office of Inspector General by email on that same date.

Lastly, the Office of Inspector General met with the Department of Human Resources (DHR). As the County's subject matter expert in administrative rules and procedure, DHR is the recommended department to house the OLES. DHR expressed interest in integrating Sheriff's Department administrative cases into its operations. DHR is currently reviewing the feasibility of creating an OLES and formulating an initial assessment.

Overview of Estimated Costs:

The July 27, 2021, motion instructs the Office of Inspector General to assess the cost, operations and other relevant information related to the creation of an independent Office of Law Enforcement Standards. The Office of Inspector General identified three general cost components to generate an estimate of the possible costs associated with establishing and operating an OLES: (1) staffing, (2) operational, and (3) startup costs.

We based our estimates of these costs largely on the current staffing and budget of the Department's Professional Standards Division, excluding the costs of the Internal Criminal Investigations Bureau.⁹ These estimates are only intended to provide a rough indication of the potential costs associated with the formation of an OLES.¹⁰ Ultimately, the funding necessary to establish and operate the OLES will depend on the organizational structure and scope of investigations the Board chooses to implement.

Staffing:

⁹ The Office of Inspector General bases these estimates on information obtained from the Sheriff's Department, Chief Executive Office, Department of Human Resources, and the Auditors-Controller's Office.

¹⁰ Please note that several factors limit our ability to estimate these costs with precision. For example, the Professional Standards Division does not investigate all Sheriff's Department cases of alleged misconduct. The Professional Standards Division only investigates cases of alleged misconduct that meet specific criteria determined by the severity, complexity and/or far-reaching scope of the allegations. Some cases of alleged misconduct as well as many complaints from the public are investigated by Department staff at individual stations/jails. As a result, the estimates set forth in this report back do not reflect the costs associated with investigating these additional cases/complaints. On the other hand, the Risk Management Bureau and the Advocacy Unit within the Professional Standards Division provide support for other units and other non-internal affairs functions within the Sheriff's Department. The costs estimates set forth in this report include the total costs to fund the operations of these units because we were unable to assess the percentage of work these units devote purely to issues of alleged misconduct.

The Office of Inspector General’s February 2021 Report recommends that all functions and positions currently allocated to the Professional Standards Division¹¹ should be transferred to an OLES including the Internal Affairs Bureau, the Advocacy Unit and Risk Management Bureaus. Therefore, the Office of Inspector General considered the most recent budgeted positions for the Professional Standards Division available, excluding the staff of the Internal Criminal Investigations Bureau, to provide a general baseline for the potential staffing requirements of an OLES. For the Fiscal Year 2018/2019 there were a total of 166 positions budgeted to Professional Standards Division¹² and related units consisting of the following:

Position	Budgeted Positions
ADMINISTRATIVE SERVICES MANAGER I	4
ADMINISTRATIVE SERVICES MANAGER II	2
CAPTAIN	2
CLINICAL PSYCHOLOGIST II	0
COMMANDER	2
DEPARTMENTAL EMPLOYEE RELATIONS REP	1
DEPUTY SHERIFF	20
DIRECTOR, BUREAU OPERATIONS, SHERIFF	1
DIVISION CHIEF, SHERIFF/UC/	1
HEALTH PROG COORDINATOR, PUBLIC SAFETY	1
INTERMEDIATE CLERK	2
INTERMEDIATE TYPIST-CLERK	5
LAW ENFORCEMENT TECHNICIAN	3
LIEUTENANT	14
MANAGEMENT SECRETARY V	1
OPERATIONS ASSISTANT I, SHERIFF	7
OPERATIONS ASSISTANT II, SHERIFF	16
OPERATIONS ASSISTANT III, SHERIFF	10
SECRETARY III	1
SECRETARY V	2
SENIOR CLERK	1
SENIOR SECRETARY III	1
SENIOR SECRETARY V	2
SENIOR TYPIST-CLERK	5
SERGEANT	59
SHERIFF STATION CLERK II	1

¹¹ Unless specifically included, when referring to the Professional Standards Division in this section, it is meant to refer to all its units with the exception of the Internal Criminal Investigations Bureau (ICIB). ICIB conducts internal investigations of criminal conduct within the Sheriff’s Department.

¹² We have requested the budgeted positions for the current fiscal year (2021/2022) from the Department’s Personnel Administration Bureau and to date have not received this information.

SR DEPARTMENTAL EMPL RELATIONS REP	2
Total	166

The Office of Inspector General’s February 2021 Report recommends that the OLES should be “adequately staffed...by developing and instituting a rational staffing plan,” taking into account the number of complaints to be reviewed, cases completed, hours required to complete a case, and the number of days in which a case is desired to be completed. Accordingly, the staffing levels listed above should serve as a starting point, subject to the requirements of the Board¹³.

Operational Costs:

“Operational Costs” are the costs necessary to fund the OLES on a recurring yearly basis. These costs are largely dependent on the amount of staffing assigned to the proposed OLES. Operating costs include items such as salaries, office expenses, rent, and all other recurring periodic costs. To estimate the operational costs for an OLES, the Office of Inspector General reviewed the operational costs incurred by the Professional Standards Division.

The Office of Inspector General analyzed financial data for the past five fiscal years¹⁴ consisting of *Expenditure Summaries*¹⁵ and other reports. According to these reports, the Professional Standards Division incurred a total of \$66.4 million in gross operating costs with a net county cost of \$63.4 million, while the five-year average of these costs totaled \$61.9 and \$58.6 million respectively. Accordingly, the Office of Inspector General estimates that the yearly operational cost (net county cost) for a newly created OLES would range from \$58.6 to \$63.4 million.¹⁶ This estimated range was derived by using the five-year average net county cost as the lower end estimate and the latest fiscal year (FY2021) net county cost as the upper end of the estimate.

The following chart sets forth approximate operating costs by category:

¹³ The above positions do not include any positions from other Sheriff’s Department units or other County Departments that help support the PSD.

¹⁴ FY 2016/2017, FY 2017/2018, FY 2018/2019, FY 2019/2020, and FY 2020/2021.

¹⁵ Expenditure summaries are reports derived from the County’s eCap system.

¹⁶ These estimates assumes that the OLES will generate the same revenue through state and federal funding and reimbursement for services currently being generated by the PSD.

Professional Standards Division Revenue & Expenditures						
Classification	FY2017	FY2018	FY2019	FY2020	FY2021	5-Year Avg.
Revenue	\$3,964,613	\$3,544,940	\$2,934,063	\$2,785,886	\$3,010,025	\$3,247,906
Expenditures						
Salaries & Employee Benefits	27,694,141	30,586,197	32,555,759	33,940,164	36,235,948	32,202,442
Services & Supplies	29,959,801	28,074,305	27,374,824	32,178,429	30,217,282	29,560,928
Other Charges	15,000	607,228	50,484	108,000	5,742	157,291
Capital Assets-Equipment	(2,782)	-	70,562	12,942	11,714	23,109
Gross Total	57,666,160	59,267,731	60,051,629	66,239,535	66,470,686	61,939,148
Intrafund Transfers	0	0	0	0	0	0
Net Total	57,666,160	59,267,731	60,051,629	66,239,535	66,470,686	61,939,148
Net County Cost	53,701,546	55,722,790	57,117,566	63,453,649	63,460,661	58,691,242

**Note: "Revenue" generated by the Professional Standards Division comes in the form of grants received by Federal, State and other governmental sources and from charges for services and other miscellaneous revenue. Last fiscal year, the Professional Standard Division generated a total of 3.0 million dollars while the 5-year average totaled \$3.2 million.

Salaries & Employee Benefits: These expenses include salaries, cafeteria plans, medical & dental insurance, retirement, and all other employee benefits. In the latest fiscal year, Salaries & Employee Benefits totaled \$36.2 million while the 5-Year Average totaled \$32.2 million.

Services & Supplies: These expenses include categories such as administrative services, office expenses, communications, information technology, insurance, maintenance, professional services, rents, training, travel, and other expenses. This category is the second largest expense for the Professional Standards Division. Last fiscal year, this expense totaled \$30.2 million while the 5-year average was slightly lower at \$29.5 million.

Other Charges: These expenses include items such as judgments and damages, taxes, and contributions to other governmental agencies.

Capital Assets-Equipment: This category is reserved for major purchases such as computer mainframes, machinery, office furniture, telecommunications equipment, vehicles, and other purchases for which the useful life spans several fiscal years. Note, that this amount will be greatly increased for an OLES to reflect the necessary start-up costs discussed below.

Start-Up Costs:

“Startup Costs” reflect the costs of the infrastructure purchases necessary to implement an OLES. The actual start-up funding necessary to establish an OLES will depend on the organizational structure and scope of the OLES’ investigatory responsibilities that the Board chooses to transfer or assign to it. Although we cannot provide the precise start-up costs, we have identified some foreseeable expenses: information technology infrastructure, communications infrastructure, vehicles, miscellaneous personal equipment, office furniture and supplies, hiring and training of staff, case management software, leases, and relocation expenses.¹⁷

Because the February 2021 Report recommends that the OLES be created within the Department of Human Resources (DHR), DHR is reviewing the recommendations in the February 2021 Report and creating a preliminary estimate of startup costs.

Summary:

Using the Professional Standards Division’s recurring requirements as a guide, the Office of Inspector General estimates that an OLES may require as many as 166 positions consisting of both sworn and non-sworn positions and an allocated budget ranging from \$58.6 to \$66.4 million.

In addition, the establishment of an OLES will require initial capital outlays for “start-up” costs that will fund the purchase of major assets necessary to begin operations. The actual costs required to implement an OLES will depend on the functions and scope of operations ultimately assigned to the OLES by the Board.

Other Investigation Models:

The Office of Inspector General conducted a survey of different complaint investigation models from across the country to provide the Board examples of alternative methods of investigating complaints of police misconduct. We identified three general variations of third-party complaint investigation: (1) New York’s Civilian Complaint Review Board; (2) Chicago’s Civilian Office of Police Accountability; and (3) Seattle’s Office of Police Accountability. Each of these investigative models have their own unique budget issues and structural barriers to implementation within the County; however, they represent examples of different approaches to the third-party investigation of police misconduct that the Board may wish to consider.

¹⁷ Any charges by the Sheriff’s Department or any other county department for services rendered to facilitate transfer and establishment of the OLES.

New York Civilian Complaint Review Board

The Civilian Complaint Review Board (CCRB) is an all-civilian agency, independent from the New York Police Department (NYPD), that oversees certain types of complaints against NYPD officers. The investigative jurisdiction over complaints is split between civilian oversight (CCRB) and the NYPD's Internal Affairs Bureau (IAB). The CCRB is empowered to receive, investigate, mediate, hear, make findings, and recommend action on complaints against NYPD officers alleging four types of misconduct: excessive or unnecessary force, abuse of authority, discourtesy, and offensive language. The NYPD's IAB investigates complaints of corruption, perjury, and off-duty criminal conduct. When IAB receives a complaint that falls within the CCRB's jurisdiction, it refers the case to CCRB. Likewise, when the CCRB receives a complaint that is outside its jurisdiction, it refers the complaint to IAB.¹⁸

The CCRB Board has a 15-member Board which governs the CCRB with five seats appointed by the Mayor, five appointed by the City Council, three designated by the Police Commissioner, one appointed by the Public Advocate, and the Chair is jointly appointed by the Mayor and City Council. No member of the board may have a law enforcement background, other than those designated by the Police Commissioner, and none may be public employees or serve in public office. Board members serve three-year terms, which can be renewed.¹⁹

The CCRB Board is responsible for reviewing and evaluating all completed investigations in order to make findings on the allegations contained in each complaint. The CCRB Board is also responsible for analysis of complaints to determine the need for change in police department policies, procedures, or training, and reporting findings and recommended solutions to the Police Commissioner and the public. Finally, the CCRB Board is responsible for overseeing agency operations through specialized committees and setting agency policies.²⁰

When CCRB finishes an investigation, a closing report and the entire case file is given to a panel comprised of three CCRB Board members—one mayoral designee, one city council designee, and one police commissioner designee. This panel decides whether the allegations against the NYPD officer(s) are substantiated.²¹ When the CCRB substantiates a complaint, the case is referred with a disciplinary recommendation to

¹⁸ See, CCRB FAQ numbers 1-3 at <https://www1.nyc.gov/site/ccrb/about/frequently-asked-questions-faq.page> (accessed on September 1, 2021).

¹⁹ For a discussion about CCRB Board appointments and core responsibilities, see <https://www1.nyc.gov/site/ccrb/about/the-board.page> (accessed on September 1, 2021).

²⁰ Ibid.

²¹ "Substantiated" means there is sufficient credible evidence to believe that the subject officer committed the alleged act without legal justification. Substantiated cases are sent to the police department with a disciplinary recommendation. See, CCRB Case Outcomes at <https://www1.nyc.gov/site/ccrb/investigations/case-outcomes.page> (accessed on September 1, 2021).

the Police Commissioner. Only the Police Commissioner has the authority to decide the level of discipline and impose punishment on an officer.²²

There are approximately 35,000 sworn officers in the New York City Police Department. The CCRB's Fiscal 2021 Executive Budget totals approximately \$19.5 million and supports 212 civilian positions of varying job descriptions.²³ As a point of comparison, the Los Angeles County's Public Safety website indicates that the Sheriff's Department employs approximately 10,000 deputies.²⁴

Chicago Civilian Office of Police Accountability

The Civilian Office of Police Accountability (COPA)²⁵ is an independent agency within the City of Chicago responsible for the intake of all complaints regarding allegations of misconduct by Chicago Police Department (CPD) members. COPA is staffed by civilian investigators and headed by a civilian Chief Administrator who is appointed to a four-year term. COPA receives complaints from residents and individual police officers, as well as incident notifications from the Chicago Police Department. Some of these complaints fall within COPA's investigative jurisdiction, whereas others fall within the investigative jurisdiction of the CPD's Bureau of Internal Affairs (BIA).²⁶ The complaints are sorted and classified based on which investigative body has jurisdiction over the matter.

COPA is responsible for all citizen complaints including complaints of excessive force, domestic abuse, coercion and verbal abuse. COPA is also responsible for investigating allegations of bias based verbal abuse, death or serious bodily injury in custody, domestic violence, excessive force, improper search and seizure, firearm discharge, taser discharge that results in death or serious bodily injury, pattern or practices of misconduct, and unlawful denial or access to counsel.

The BIA investigates all other complaints of police misconduct, including but not limited to criminal misconduct, operational violations, theft of money or property, planting of drugs, and substance abuse.

After COPA completes an investigation, it may sustain the allegations and recommend discipline. The CPD Superintendent may then agree or disagree with COPA's findings; however, the ultimate decision maker as to the findings and discipline is the Chicago

²² See, New York Civil Service Law § 75(4); see also CCRB FAQ number 6 at <https://www1.nyc.gov/site/ccrb/about/frequently-asked-questions-faq.page> (accessed on September 1, 2021).

²³ See, Note of the Fiscal 2021 Executive Budget for the Committee on Public Safety at <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2020/05/CCRB-Budget-Note.pdf> (accessed on September 1, 2021).

²⁴ See, Los Angeles County Public Safety website at <https://lacounty.gov/residents/public-safety/sheriff/> (accessed on September 1, 2021).

²⁵ See, <https://www.chicagocopa.org/> (accessed on September 1, 2021).

²⁶ For an explanation of COPA's investigative jurisdiction see, <https://www.chicagocopa.org/investigations/jurisdiction/> (accessed on September 1, 2021). COPA's jurisdiction is defined by a municipal ordinance that was enacted on October 6, 2016. See, <http://www.chicagocopa.org/wp-content/uploads/2016/07/COPA-Ordinance.pdf> (accessed on September 1, 2021).

Police Board.²⁷ The Chicago Police Board (CPB) is an independent civilian body that reviews and decides disciplinary matters presented to it by COPA and the Superintendent of CPD. If the CPB finds that an officer is “guilty” of an administrative charge(s), the CPB will determine the level of discipline and refer the matter back to the CPD Superintendent for imposition of the discipline.²⁸ The nine members of the CPB are private citizens appointed by the Mayor with the advice and consent of the City Council.²⁹

The 2021 budget for COPA is approximately \$18,390,058 dollars.³⁰ COPA is staffed by approximately 147 employees of various job descriptions (including attorneys, investigators, analysts, and support staff) to oversee a police department with over 12,000 sworn officers.

Seattle Office of Police Accountability

In 2017, the Seattle City Council passed legislation implementing a three-pronged oversight system comprised of the Office of Police Accountability,³¹ the Community Police Commission,³² and the Office of Inspector General for Public Safety.³³ Each of these offices provides separate but complimentary police oversight functions. The Office of Police Accountability investigates allegations of police misconduct. The Community Police Commission provides community input on policing and police reform. And the Office of Inspector General for Public Safety conducts civilian audits of the management, practices, and policies of the Seattle Police Department and Office of Police Accountability.

The Office of Police Accountability (OPA) is an independent, civilian-led police oversight agency that investigates allegations of Seattle Police Department (SPD) employee misconduct. The OPA does not investigate allegations of criminal law violations. While it is civilian-led, OPA employs a hybrid model that utilizes both SPD sergeants and civilian investigators. OPA has nine SPD sergeants on staff who conduct administrative misconduct investigations and an additional 14 civilian staff members.³⁴

²⁷ See, Chicago Police Board website at <https://www.chicago.gov/city/en/depts/cpb.html> (accessed on September 1, 2021).

²⁸ See, COPA: Investigative Process Step 4: CPD Command Channel Review & Chicago Police Board Process at: <https://www.chicagocopa.org/investigations/investigative-process/> (accessed on September 1, 2021).

²⁹ For an overview of the discipline process, please see the link to a video created by the Chicago Police Board at: <https://www.chicago.gov/content/dam/city/depts/cpb/PoliceDiscipline/CPBVideo.mp4> (accessed on September 1, 2021).

³⁰ See, City of Chicago 2021 Budget Overview, p. 128 at https://www.chicago.gov/content/dam/city/depts/obm/supp_info/2021Budget/2021OVERVIEWFINAL.pdf (accessed on September 1, 2021).

³¹ Seattle Office of Police Accountability at <https://www.seattle.gov/opa> (accessed on September 1, 2021).

³² Seattle Community Police Commission at <https://www.seattle.gov/community-police-commission> (accessed on September 1, 2021).

³³ Seattle Office of Inspector General at <http://www.seattle.gov/oig> (accessed on September 1, 2021).

³⁴ For a brief history overview of the Seattle OPA see this brief introductory video: <https://www.seattle.gov/opa/about-us/what-we-do> (accessed on September 1, 2021).

Once an investigation is complete, the OPA director reviews the case and decides whether there is a violation of SPD policies. If the OPA director finds a violation of SPD policy, that finding and an OPA discipline recommendation is submitted to the SPD Chief of Police for review. The Chief of Police determines the level of discipline to impose. In addition to its investigative duties, OPA engages with the community about police oversight, recommends SPD policy revisions, and monitors serious uses of force. OPA is physically and operationally outside of SPD, but still within the administrative framework of SPD. This allows OPA to have access to the SPD-controlled data, evidence, and personnel information necessary for the thorough and timely handling of complaints.

The Community Police Commission (CPC) is comprised of 21 community members. The CPC is designed to be completely independent of the Mayor, City Council, and Seattle Police Department. Originally, the CPC was created pursuant to a federal consent decree in 2013 and made permanent in 2017.³⁵ The CPC reviews and provides input on the police accountability system, police services, and SPD's policies and practices.

The Seattle Office of Inspector General (SOIG) provides oversight of the Seattle Police Department as well as the Office of Police Accountability. In providing systemic oversight, the SOIG's work falls into three main categories: (1) auditing and systemic review of the SPD and OPA; (2) oversight of OPA by reviewing OPA complaint handling and conducting investigations of allegations against OPA staff; and (3) policy work by working with SPD and partners to improve policies and practices in support of best practices. The SOIG's focus on systems distinguishes SOIG from OPA, which primarily handles complaints against individual officers.³⁶

There are approximately 1433 sworn officers in the Seattle Police Department.³⁷ The OPA's budget for Fiscal Year 2020 was \$4,693,492.³⁸ The OPA employs a mix of 26 sworn and civilian staff.

As noted above, each of the three investigative models discussed would present their own unique budgetary and structural issues to implementation within Los Angeles County. However, each model represents a different approach to third-party investigations of reported police misconduct that the Board may wish to consider.

³⁵ *States of America v. City of Seattle*, 12 Civ. 1282(JLR);

https://www.seattle.gov/Documents/Departments/Police/Compliance/Consent_Decree.pdf (accessed on September 1, 2021).

³⁶ See, About the Office of Inspector General at <http://www.seattle.gov/oig/about> (accessed on September 1, 2021)

³⁷ See, SPD Fact Sheet at <https://www.seattle.gov/police/about-us/about-the-department/departement-fact-sheet> (accessed on September 1, 2021).

³⁸ *Exploring the Divestment/Reinvestment Approach to Policing: an ACLU-WA Blog Series*, Mina Barahimi Martin, ACLU Washington, October 26, 2020 at <https://www.aclu-wa.org/story/follow-the-money-policing-series> (accessed on September 1, 2021).

Intensive Real-time Monitoring Model

Stakeholder input regarding public complaints against the Sheriff's Department largely focused on a lack of transparency into the process and concerns over the integrity of the investigations conducted by the Sheriff's Department. Stakeholders noted that once a complaint was submitted, they received little or no feedback from the Sheriff's Department. Moreover, there is no mechanism in place to verify that the investigations were conducted in a thorough and unbiased manner. Stakeholders urged for the establishment of a system of third-party verification and qualitative oversight of the Sheriff's Department's complaint investigation process. Moreover, stakeholders emphasized the need for the creation of a safe space in which community members can submit complaints against the Sheriff's Department without fear of intimidation, harassment, or retaliation.

Based on input from community and County stakeholders and our own analysis, the Office of Inspector General formulated an Intensive Real-time Monitoring model to address stakeholders' concerns, while sidestepping many of the structural hurdles presented by the civilian complaint investigation models. There are four core elements to Intensive Real-time Monitoring:

1. Centralized intake and tracking of all public complaints;
2. Active qualitative monitoring of the Sheriff's Department investigation process to ensure the full and fair investigation of complaints;
3. Real-time monitoring of all IAB/Unit Level administrative cases; and
4. Data aggregation and tracking of non-confidential statistics to provide the Board and community stakeholders with real-time complaint data to empower all community stakeholders to participate in the oversight process.

Centralized Intake and Tracking of Complaints:

The OLES could serve as a central clearinghouse for all public complaints alleging misconduct by the Sheriff's Department. Safe spaces for community members can initially be created by installing complaint submission kiosks at each Sheriff's station and by adding complaint submission modules to all relevant County websites – Sheriff's Department, Inspector General, District Attorney's Office, Civilian Oversight Commission, Probation, Public Defender, and Alternate Public Defender.

All submitted complaints would be routed to the OLES for processing. The community member submitting the complaint could select the oversight entities to which the complaint would be forwarded – for example: Sheriff's Department, Inspector General, District Attorney's Office, and the Citizen's Oversight Commission. Complainants would

also have the option of choosing to allow disclosure to defense counsel for the complainant,³⁹ the Public Defender and Alternate Public Defender's offices, and to the press or community stakeholder groups if any requests for the information are made.

The OLES would then serve as a point of contact from which community members could receive updates of non-confidential information on the status of their complaints. The OLES would be able to track the status of all public complaints against the Sheriff's Department and follow-up where necessary.

Active qualitative monitoring of the Sheriff's Department investigation process to ensure full and fair investigations

OLES inspectors could monitor the status of complaints as they move through the investigative process to ensure that the investigations are thorough, fair, and comply with all standards of best practices. The OLES could publish non-confidential information and statistical metrics in periodic reports to inform the community and the Board of the quality of the Sheriff's Department's complaint investigation efforts.

Real-time monitoring of all IAB/Unit Level administrative cases

Likewise, OLES inspectors could also monitor the status of IAB/Unit Level administrative cases in real-time to ensure that internal investigations are thorough, fair, and comply with all standards and best practices.

Data aggregation and tracking of non-confidential statistics for Board and Public Review to provide the Board and community stakeholders real-time complaint data and empower community stakeholders to participate in the oversight process.

The non-confidential statistics and public reports generated by OLES oversight efforts could be aggregated on a public on-line dashboard to provide statistical tracking of the type and locations of occurrence of complaints received by the OLES. Over time, this dashboard would provide an important tracking and trend analysis tool for the community and the Board.

OLES public reports and the on-line dashboard would also provide community partners with access to timely complaint data to aid in their own oversight efforts. In this way, the Board could leverage the energy and talents of community partners to help in the County's overall oversight efforts.

³⁹ While complaints are often made through or with the knowledge of the complainant's counsel, there are times that complaints are submitted without defense counsel's knowledge.

After ensuring that all necessary safeguards are in place to maintain the confidentiality of the information on Sheriff's Department databases, the OLES could leverage its own oversight capabilities through data analytics by obtaining "read-only" or "view only" access to County-maintained Sheriff's Department databases. Accessing these databases via a County-maintained portal would ensure that only authorized individuals are permitted entry. In addition, "read-only" or "view only" access to these databases would ensure that Sheriff's Department data could not be altered or destroyed by OLES review.

The Office of Inspector General estimates that Intensive Real-time Monitoring could be implemented by an OLES staffed by 24 inspectors, 4 attorneys, 4 paralegals, and an appropriate amount of management and support staff.

Conclusion:

While the recommendation in the February 2021 Report as well as the other investigative models discussed above present options which differ in cost and ease of implementation, whichever investigative model the Board chooses to implement, the ultimate feasibility of the chosen model will depend on the timely and good faith compliance with information and/or access requests by the Sheriff's Department. Without good faith access to Sheriff's Department files, any version of an OLES is unlikely to succeed.

MH:SN:sg

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