



REGULAR MEETING AGENDA

PUBLIC SAFETY REFORM AND OVERSIGHT COMMISSION

VIRTUAL MEETING

Thursday, February 10, 2022 5:30

P.M.

Join the meeting at: <https://bluejeans.com/540059081/0079>

Call to Order Roll

Call

NOTICE IS HEREBY GIVEN that a regular meeting of the PUBLIC SAFETY REFORM AND OVERSIGHT COMMISSION will be held at 5:30 p.m., on THURSDAY, February 10, 2022, VIA TELECONFERENCE PURSUANT TO EXECUTIVE ORDER N-29-20 ISSUED BY, GOVERNOR GAVIN NEWSOM at <https://bluejeans.com/540059081/0079> for the purpose of only conducting the following business.

Please note that Agenda Items may be reordered during the meeting at the discretion of the body.

Please note that Translation services will be available for this meeting through the online video application.

1. Special Agenda Items

- a. Introduction and swearing in of Paul Winnemore, ex-officio and non-voting member of the commission as appointed by City Council on January 25th, 2022.

2. Consent Calendar

- a. Approval of Minutes of January 13, 2021 Regular Commission Meeting

3. Study Session –

- a. Pier Vendors. Discussion of public safety implications relating to the micro-vendors operating on or near Santa Monica Pier. Presentations by City officials or SMPD re issues and expected responses; presentation re perspective of micro-vendors, and small business owners.

- b. Complaint intake process. (Vice Chair Devermont, Accountability Systems Committee) Discussion of proposed reforms to complaint intake process. (Draft Proposal attached.)
 - c. The Commission's Committee process. (Commissioner Miller) With several committees now active or becoming active, it seems an opportune time to review our committee process and make sure Commissioners' and Committee Chairs' expectations are in alignment as to process. Review where we stand regarding the one Commission work product produced to date---the 5/31 report. What have we learned from these experiences? How will we apply that learning to committee work moving forward?
4. Continued Items -no items
5. Administrative Proceedings - none
6. Staff Administrative Items
- a. Receive and file status update or staff report on the status of requests to staff to schedule meetings with City Council, City Manager, and Police Chief re Final PSROC Report to City Council re May 31, 2020 events (approved by PSROC November 11, 2021).
7. Public Hearing – none
8. Resolutions - none
9. Written Communications
10. Public Safety Reform and Oversight Commission Member Discussion Items
- a. Action Item. (Vice Chair Devermont). Discussion of City compliance with Los Angeles District Attorney's requested disclosure timeline concerning certain SMPD information; practices of City Attorney office re disclosures of certain SMPD information. Potential recommendations and actions regarding same. Translation services will be available.
 - b. Action Item. (Commissioner Miller) Discussion and potential action requesting the City Council to allocate \$150,000 in additional funding to the Public Safety Reform and Oversight Commission. \$100,000 would be for an independent expert or consultant to support the needs of the Commission and its Committees. \$50,000 would be for Commission work directed towards research on enhancement of officer wellness and mental health.
 - c. Action item. (Commissioner Miller) Discussion and potential action requesting the City Council to revisit the name of this Public Safety Reform and Oversight Commission and

either reaffirm the original name, with its emphasis on reform and oversight, or rename the Commission in accordance with the current Council's view of this Commission's purpose.

- d. Accountability Systems standing committee. Status of Committee work. (Vice Chair Devermont) See Attachments A-D
 - a. Proposal from Inspector General to undertake a complaint investigations audit (See Attachment E)

Protests and Crowd Management Systems standing committee. Status of Committee work. (Commissioner Scott)

- e. Reimagining Public Safety standing committee. Status of Committee work. (Commissioner Miller)
- f. Use of Force Systems standing committee. Status of Committee work. (Chair Brown)
- g. Action Item. (Commissioner Centeno). Discussion and potential action regarding request that the Commission instruct the Inspector General to review the status of the 44 recommendations in the OIR Group report concerning the events of May 31, 2020 and return to the Commission with a finding.

11. Public Input: The Commission will provide time for additional public input on matters within its purview on items that were not on the agenda. State law prohibits the Commission from taking any action on items not listed on the agenda, including issues raised under this agenda item.

Adjournment

STANDARDS OF BEHAVIOR THAT PROMOTE CIVILITY AT ALL PUBLIC MEETINGS:

- Treat everyone courteously
 - Listen to others respectfully
 - Give open-minded consideration to all viewpoints
 - Focus on the issues and avoid personalizing debate
1. Embrace respectful disagreement and dissent as democratic rights, inherent components of an inclusive public process, and tools for forging sound decisions

This agenda is available in alternate formats upon request. If you require any special disability related accommodations (i.e. sign language interpreting, language interpretation, etc.), please contact the City Manager's Office via Lisa.Parson@smgov.net at least 1 day prior to the scheduled meeting.

This agenda is subject to change up to 72 hours prior to a regular meeting. Please check the agenda for prior to the meeting for changes.

Transportation Information: This meeting is being held virtually. No in person access is available.



INTRODUCTION

On November 18, 2021, the Public Safety Reform and Oversight Commission (PSROC) Accountability Systems Standing Committee held a meeting to obtain information regarding Santa Monica Police Department's (SMPD) policies and processes for receiving and adjudicating internal and external complaints. Sergeant Artis Williams and Craig Haney, both employees of SMPD Internal Affairs (IAD), appeared before the commission, fielded questions from the commissioners transparently, and were forthcoming with requested information. As a result of our inquiries and investigations, the committee has identified process gaps that should be addressed to improve SMPD'S processing of complaints.

1. Complaints are not processed to allow for proper oversight due to too much discretion being placed on the supervisor on duty.
2. SMPD lacks a proper system for tracking and taking complaints made in person.
3. SMPD lacks a process for receiving complaints not arising out of an individual officer's conduct but concerning policy or the department's conduct as an entity.
4. SMPD lacks transparency regarding the status and resolution of complaints.

SMPD SUPERVISORS ADJUDICATING COMPLAINTS CREATES POTENTIAL FOR MISHANDLING

Under current SMPD policy, if a supervisor on duty determines a complaint does not contain a potential policy violation, that supervisor may dismiss the complaint without making a record or referring the complaint to IAD. In this instance, a history

of the complaint or the interaction with a supervisor is not documented. Such a policy creates the potential for mishandling of complaints for many reasons. All complaints should be directed to IAD for resolution to negate these potentials. SMPD's policy book is voluminous. There are over 150 different sections, with many sections containing close to 20 pages of dense material. This policy manual is independent of California's Penal Code, Health and Safety Code, Business and Professions Code, Vehicle Code, Welfare and Institutions Code, Santa Monica's local ordinances, and the United States Constitution. A supervisor, and every officer, should have a working knowledge of these laws. As a result, the average supervisor will not be an expert on SMPD's policy manual.

A supervisor's job requires being a jack of all trades, but complaint processing requires a master of policy. IAD is the master of SMPD policy. IAD's primary duty is the analysis and enforcement of SMPD policy. Within IAD are the experts on SMPD policy. As such, they are the most appropriate to determine whether a complaint contains a possible policy violation. It is suitable for a supervisor to receive a complaint, but IAD should adjudicate.

Outside policy manual expertise, other areas of concern exist in immediate supervisors fielding complaints. Bias is a prominent area of concern. Policing is a challenging and taxing occupation. Officers will see horrors and face physical confrontations most citizens do not commonly encounter. As a result, a bond will develop amongst those who wear a badge. That bond is one of the safety nets that keep officers working. They become friends and, in many ways, a family. They see each other outside of work, go to each other's homes, attend fellow officers' children's birthday parties and other activities that strengthen the necessary bond. This bond, however, can make it difficult for the supervisor to fairly adjudicate a complaint against the officer who attended the supervisor's child's birthday. Bias is inescapable. It would be abnormal for there not to be bias in such a

circumstance. Therefore, the supervisor determining the existence of a possible policy violation should not be the officer so closely interacting with the subject of the complaint because the potential existence for bias creates the potential for an unfair analysis of the complaint.

Bias manifests itself in the complaint process outside the mere determination of whether a violation of policy is at issue. When a civilian seeks to file a complaint about a policy violation, often the supervisor will say to the complaining civilian, "is it okay if I just talk to the officer." This option for supervisors is seen acted upon in the most recent youtube video (link below) and was conveyed to the Accountability Systems committee by SMPD at the November 18, 2021 meeting. The committee was informed this is a method that can avoid discipline for the disorderly officer. The misconduct goes unreported and vanishes. The cure to this potential bias is for all complaints to be referred to IAD as they document their investigations for violation of policies.

Determination of the absence of a policy violation isn't the only way complaints fail to make it to IAD. Mr. Haney and Sgt. Williams informed the commission that IAD is the last resort for misconduct. Often, misconduct falls into a "living entry." If enough living entries are compiled to draw a picture of a pattern of misconduct, a complaint is referred to IAD for investigation. By then, however, numerous civilians may have been unfairly treated. If IAD is involved in the first stages, there might not be the need for multiple living entries.

Also, relieving supervisors of the role of deciding whether a potential violation has occurred can ease tension between supervisors and those they supervise. If adjudication is out of the supervisor's jurisdiction, there won't be a tension causing issue, thus allowing for a more harmonious working relationship.

SMPD MUST DEVELOP A FORM AND TRACKING SYSTEM FOR CIVILIANS TO SUBMIT COMPLAINTS

The procedures for filing a complaint in person appear to be unclear to many SMPD's officers. Citizens have been told they cannot:

- 1) File a complaint in person
- 2) File a complaint anonymously, and
- 3) Access a specific complaint form because it does not exist.

Mr. Haney and Sgt. Williams informed the commission that all three representations were false. Below are just two recordings of citizens being misinformed on these issues while trying to file a complaint. It should be noted that although the officer in the latest recording (4/25/21) was not educated as to all the methods of filing a complaint, the officer acted in a professional manner and in no way tried to subvert the filing of a complaint.

1. https://www.youtube.com/watch?v=UmehH_I10Po&t=29s
2. https://www.youtube.com/watch?v=T-wQH_Ych3o&t=14s

Mr. Haney and Sgt. Williams informed the commission complaints can be filed in person, online, or telephonically. While having these three avenues available is appropriate, specific procedures in obtaining and processing complaints need reform.

Consistent with an issue discussed earlier in this report, SMPD does not maintain a tracking system for those complaints a supervisor determines not to contain an alleged policy violation. Such complaints may be common, but tracking and proper record keeping is the only way to determine whether such authority is exercised appropriately. If a supervisor is the only person who hears a complaint without a record of who brought the complaint, what the complaint was, and its

resolution, there is no method for audit. Each complaint should be assigned a tracking number. The officer receiving the complaint should give the complainant a copy of the complaint. If the complaint is obtained through telephone or email, a summary should be mailed or emailed back to the complainant (assuming the complaint was not made anonymously) with a request to verify that the complaint summary is accurate. A tracking number should also be contained in the response. Also, the complainant should have a limited time to add or detract from the issued complaint.

Furthermore, complainants cannot currently track their complaints. The commission recommends that SMPD set up an online portal where complainants can check the status of their complaints. Categories, at a minimum, should be "received," "processing," and "adjudicated," with the most information the law allows disclosed.

SMPD did inform the commission that sustained complaint findings and discipline are publicly available on the website. PSROC commends SMPD for such transparency. Guests told the commission that all discipline and sustained findings (from internally and externally initiated investigations) resulting from conduct in 2020 were published on the website. Unfortunately, this led to an unsettling discovery. At a prior commission meeting, former SMPD Chief Jacqueline Seabrooks told the commission she estimated 15 officers were disciplined for body camera violations that occurred on May 31, 2020.

SMPD's website appears not to list a single officer disciplined for body camera violations since May 31, 2020. PSROC believes this to be, at best, inaccurate. At worst, it was a deliberate attempt to mislead the commission.

SMPD currently has a form for filing complaints in person despite citizens being told such a document does not exist. The form is a near-empty document that allows for a narrative. Guests informed PSROC SMPD had used a more

detailed form in the past but felt the personal interview allowed for a more detailed and thorough investigation.

PSROC believes the public is best served by a combination of both methods of receiving complaints. A form is valuable alongside the personnel interview. The form can provide a record (a copy handed to the complainant) of the complaint and a tracking number. If one cannot fill out a form, the person who would then conduct the investigatory interview should assist. If a complainant wishes to only fill out the form without talking to an officer, that should be an option. At no point should a complainant be given a paper with directions on how to file a complaint and subsequently dismissed. To allow for further streamlining, the form should contain the following questions:

1. Is your complaint about a specific SMPD officer?
2. Is your complaint about SMPD as a police force?
3. Do you feel your complaint concerns a violation of SMPD policy?
4. Do you think your complaint concerns a violation of the law?
5. Does your complaint involve an officer's use of excessive force?
6. Does your complaint involve an officer being dishonest?
7. Does your complaint involve a violation based on race or gender?
8. Does your complaint involve an officer's interaction with a member of the public?
9. Does your complaint involve an officer's interaction with another officer?

This is not an exhaustive list, and obviously, other questions would be required. After the initial questions, an additional page for a narrative should be provided to ensure no information was missed. The officer taking the complaint should review the information with the complainant to check for accuracy, ask additional questions to see if any information should be supplemented, and provide the complainant a copy containing the tracking number. The officer

receiving the complaint should inform each complainant on how to check the status of each complaint.

COMPLAINTS SHOULD NOT BE LIMITED TO THE CONDUCT OF INDIVIDUAL OFFICERS

PSROC was told that only complaints about specific officers' conduct will be evaluated and adjudicated for merit. Such a policy disallows SMPD an avenue by which to receive input from its public as to unwise policies or wise amendments of those policies. Allowing for such complaints regarding the entire department or its policies would be another tool by which SMPD could keep in closer contact with the impressions of the Santa Monica citizenry. At a minimum, this is a lost opportunity.

IN CERTAIN AREAS OF THE COMPLAINT PROCESS, SMPD IS SUCCEEDING

PSROC commends SMPD for implementing certain practices in the complaint process. Mr. Haney is a civilian; not a sworn California peace officer. This allows for a process that includes the perspective of a civilian, not just a police officer. As stated above, SMPD publishes the results of their complaint investigation online for the public. This is a level of transparency not found in most police departments.

Also, for the most part, SMPD has been cooperative and forthcoming with guests and materials requested of the commission, allowing PSROC to properly investigate and recommend reforms to the complaint process.

**SMPD ACKNOWLEDGES THE NEED FOR IMPROVEMENT IN THEIR PROCESSING
AND TRACKING OF COMPLAINTS, AND HAS BEGUN REFORMS**

As of this writing, the commission has been informed of SMPD's intent and efforts to address concerns highlighted in this report. First and foremost, SMPD is developing a tracking system for all complaints, not just those sent to IAD. Although not completed, one concept would have IAD notified of all complaints filed through the tracking system, even if they are not referred directly to their department. They would have the ability to take action on any complaint they see fit. The new system will allow an audit of the proper handling of all SMPD complaints regardless of resolution. SMPD has expressed

Second, SMPD now has a form available for complaints. It is not a permanent form as it is still being composed and hopefully will have all the content recommended in this report.

CONCLUSION

PSROC makes the following recommendations for reforms to SMPD's complaints process:

1. Disallow immediate supervisor adjudication.
2. All complaints should be submitted to IAD.
3. Disallow a supervisor from using counseling in place of referring a complaint to IAD.

4. Require all deviations from policy and misconduct be submitted to IAD for investigation.
5. SMPD should track all complaints irrespective of an allegation as to an alleged policy violation.
6. Require all officer's to be trained and informed about the proper complaint process.
7. SMPD should create a form allowing for the effortless submission of in person complaints.
8. SMPD should train officers on how to receive a complaint in conjunction with the newly created form.
9. SMPD should provide all complainants with a copy of the complaint and a tracking number whereby complainants can check the complaint status online.

PSROC thanks SMPD for their cooperation with the commission.



POLICY STATEMENT

You have the right to make a complaint against a member of the Santa Monica Police Department for any improper conduct. California law requires this agency to have a procedure to investigate citizens' complaints. You have the right to a written description of this procedure. This agency may find after the investigation that there is not enough evidence to warrant action on your complaint; even if that is the case, you have the right to make the complaint and have it investigated if you believe that a member of this Department behaved improperly. Citizen complaints and any reports or findings related to complaints must be retained by this agency for at least five years. The Santa Monica Police Department will investigate all alleged acts of misconduct on the part of any member of the Police Department.

DECLARACIÓN DE PRINCIPIOS

Usted tiene el derecho de hacer una queja en contra de un empleado del Departamento de Policía de Santa Monica por cualquier conducta inapropiada. La ley de California requiere que esta agencia tenga un procedimiento para investigar quejas de la ciudadanía. Usted tiene el derecho de obtener una descripción de este procedimiento por escrito. Esta agencia puede que encuentre, después de la investigación, que no hay suficiente evidencia para tomar acción en su caso; aunque fuera así, usted tiene el derecho de hacer la queja y que se investigue, si usted cree que un oficial se portó indebidamente. Las quejas del público y cualquier otro reporte o resultado relacionado con la queja las conserva esta agencia por lo menos cinco años. El Departamento de Policía de Santa Mónica investiga toda alegación de mala conducta de cualquier miembro del Departamento de Policía.

SECTION 1 (Complainant to complete this section)

Complainant's Full Name			Sex	Age	Bus. Phone	Mobile Phone
Street Address		City		State	Zip	Home Phone
Location of Incident		Date Occurred		Time Occurred		
Witness #1			Address			
City	State	Zip	Home Phone	Bus. Phone	Mobile Phone	
Witness #2			Address			
City	State	Zip	Home Phone	Bus. Phone	Mobile Phone	



City of
**Santa
Monica**



SECTION 2 (Complainant to complete this section)

Complaint Narrative

In the space below, please explain in your own words exactly what the employees did or did not do that you believe was wrong. Be sure to include any witnesses and the employee's name and badge number, if known, in your description of the occurrence. Use any additional pages (Complaint Narrative Continuation) as needed for your statement. Please number and sign at the bottom of each additional page.

Large empty area for writing the complaint narrative, ending with a line for the complainant's signature.

COMPLAINANT'S SIGNATURE

SECTION 3 (SMPD Personnel Only)

Complaint Received by		Date Received		
Initial Interview by (if conducted at time complaint received)	Badge #	Date	Time	
Complaint handled by:	<input type="checkbox"/> Supervisor	<input type="checkbox"/> Internal Affairs		
Authorized by:	Date:			



City of
**Santa
Monica**



Complaint Narrative Continuation

A large rectangular area with horizontal dashed lines for writing a complaint narrative.

PAGE

COMPLAINANT'S SIGNATURE

[REDACTED]

From: Diana M. Teran
Sent: Wednesday, April 14, 2021 4:39 PM
To: george.cardona@santamonica.gov
Cc: [REDACTED]
Subject: Letter dated April 2, 2021 in response to request for Brady Information from Santa Monica PD
Attachments: Open Pending Cases with Santa Monica PD Witnesses as of 20210413.xlsx

Dear Mr. Cardona,

The letter you wrote to Mr. Gascon was forwarded to me as I have been collaborating with the Chiefs in Los Angeles County on the issue of Brady Compliance along with Head Deputy District Attorney Brian Schirn and Deputy-in-Charge Jacob Yim. Thank for your detailed response to our February 17, 2021 letter requesting the names and serial numbers of Santa Monica Police department employees who may have Brady material in their personnel files. We appreciate your commitment to collaborate with our office on ensuring compliance with all discovery obligations in criminal cases. Based on your suggestion that we make a specific inquiry on pending cases identifying particular current or former SMPD officers who are potential witnesses in cases, we are hereby making the request for all of the officers listed in the attached spreadsheet of pending cases. Additionally, at the time a case is filed with our office involving SMPD officers, we are hereby requesting that we be provided with an alert on any officers who have potential Brady material in their personnel file. The information/alerts should be sent to DCU@da.lacounty.gov with the full name of the officer, employee/badge number, and corresponding case number. Hopefully this arrangement can both alleviate your concerns and help us satisfy our joint Brady obligations. Alternatively, if you would like to simply create an additional Brady column on the attached spreadsheet and place a check mark beside the name of any officer's with potential Brady material in their personnel file and then send it to the email referenced above, that will work as well.

If you have any questions, please feel free to reach out to me at either of the telephone numbers below.

Respectfully,



Diana M. Teran (she/her/hers)
Special Advisor to District Attorney George Gascón
Los Angeles Office of the District Attorney
211 West Temple Street, 12th Floor
Los Angeles, CA 90012

Office telephone: [REDACTED]

Cellular telephone: [REDACTED]

CONFIDENTIALITY NOTICE: This communication, with its contents, may contain confidential, attorney work-product, and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use, or disclosure is prohibited and may violate applicable laws, including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.



GEORGE GASCÓN
LOS ANGELES COUNTY DISTRICT ATTORNEY

HALL OF JUSTICE
211 WEST TEMPLE STREET, SUITE 1200 LOS ANGELES, CA 90012-3205 (213) 974-3500

February 17, 2021

Interim Chief Jacqueline Seabrooks
Santa Monica Police Department
333 Olympic Dr
Santa Monica, CA 90401

Dear Interim Chief Seabrooks

The Los Angeles County District Attorney's Office (LADA) is committed to an effective and ethical system of justice. Central to the fairness of our justice system is the prosecutor's affirmative statutory and constitutional duty to provide exculpatory information to the defense. (*Brady v. Maryland* (1963) 373 U.S. 83, Penal Code § 1054.1(e).) Exculpatory information includes impeachment evidence of prosecution witnesses. (*Giglio v. United States* (1972) 405 U.S. 150.)

As you know, law enforcement agencies working with prosecutors are held by law to be a part of the larger prosecution team. Favorable evidence known to the law enforcement side of the prosecution team is imputed to the trial prosecutor. A prosecutor has the duty to learn of any favorable evidence known to the others acting on the government's behalf in the case. When law enforcement fails to communicate impeachment information to the prosecutor, the prosecution remains accountable for the consequence. Such consequences can include sanctions and the reversal of convictions, as a *Brady* violation implicates the accused individual's right to due process. Such negative consequences also ultimately hurt victims of crime if criminal cases are dismissed or convictions are reversed due to *Brady* violations.

Senate Bill 1421 (SB 1421), which became law on January 1, 2019, modified Penal Code sections 832.7 and 832.8, to deem the following four categories of peace officer records to be non-confidential and subject to disclosure under a public records act (PRA) request:

- (1) Discharge of a firearm at a person;
- (2) Use of force resulting in death or great bodily injury;
- (3) A "sustained finding" of sexual assault against a member of the public; and
- (4) A "sustained finding" of dishonesty.

The LADA has previously filed an SB 1421 PRA request with your agency and continues to seek all available records. However, the receipt of the above information which is also available to the public is insufficient to satisfy our *Brady* obligations.

On August 26, 2019, in *Association for Los Angeles Deputy Sheriffs (ALADS) v. Superior Court* (2019) 8 Cal. 5th 28, the California Supreme Court held that maintaining the confidentiality of personnel records from the public is markedly different from a law enforcement agency sharing *Brady* information with the rest of the prosecution team. The Court specifically held that a law enforcement agency does not violate confidentiality by sharing with prosecutors the identity of potential witnesses on the *Brady* list even when the list is generated from confidential personnel information.

The “*Brady* list” in the *ALADS* case was prepared by the Los Angeles Sheriff’s Department from internal personnel records and included only the names and employee numbers of deputy sheriffs with impeachment information in eleven enumerated categories:

- (1) Immoral Conduct;
- (2) Bribes, Rewards, Loans, Gifts, Favors;
- (3) Misappropriation of Property;
- (4) Tampering with Evidence;
- (5) False Statements;
- (6) Failure to make Statements and/or Making False Statements During Departmental Internal Investigations;
- (7) Obstructing an Investigation/Influencing a Witness;
- (8) False Information in Records;
- (9) Policy of Equality— Discriminatory Harassment;
- (10) Unreasonable Force; and
- (11) Family Violence.

The Court found that the law enforcement agency may share this information [regarding an officer’s name and serial/employee number], for the limited purpose of ensuring *Brady* compliance with prosecutors. Disclosure of the name and serial/employee number of an officer allows the prosecutor to have the requisite good cause to make an appropriate *Pitchess/Brady* motion, a practice described as “laudable” and in effect in other counties throughout the state. The investigation relating to the misconduct is not turned over to the prosecution or defense except upon order of the court and with any protective orders deemed appropriate.

The LADA seeks a strong collaborative approach with your agency in obtaining *Brady* information in order to preserve the integrity of the justice system and safeguard against due process violations. **This letter shall serve as a request under *Brady v. Maryland* for the names and serial and/or employee numbers of current and former deputies/officers who have engaged in acts of moral turpitude, including but not limited to deputies/officers with sustained findings for misconduct involving the eleven general categories listed above.**

Interim Chief Jacqueline Seabrooks
February 17, 2021
Page Three

Please provide the list of names and/or employee numbers for the deputies/officers referenced above within 30 days to the Discovery Compliance Unit via email to: DCU@da.lacounty.gov or mail to: 320 W. Temple Street, Suite 540, Los Angeles, CA 90012.

Very truly yours,



George Gascón
District Attorney



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF PROSECUTION SUPPORT OPERATIONS
POST-CONVICTION LITIGATION AND DISCOVERY DIVISION
DISCOVERY COMPLIANCE UNIT

GEORGE GASCÓN • District Attorney
JOSEPH F. INIGUEZ • Interim Chief Deputy District Attorney
VICTORIA L. ADAMS • Assistant District Attorney

RONALD GELTZ • Director

May 25, 2021

Chief Jacqueline Seabrooks
Santa Monica Police Department
333 Olympic Drive
Santa Monica, CA 90401

Dear Chief Seabrooks,

Thank you for your department's continued cooperation and response to our February 2021 request for officer *Brady* information. The Los Angeles County District Attorney's Office ("LADA") is committed to working with law enforcement to develop a process to receive exculpatory information involving law enforcement witnesses based upon *Brady v. Maryland* (1963) 373 U.S. 83, *Association for Los Angeles Deputy Sheriffs v. Superior Court* (2019) 8 Cal. 5th 28, "ALADS," and Penal Code § 1054.1(e). Pursuant to ALADS, law enforcement does not violate *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 by sharing with prosecutors limited information such as the identity of potential witnesses on open cases with *Brady* information. See *Id.* at p. 43. Limited disclosure to the prosecutor, on a case-by-case basis, of an officer's name and serial number, allows the prosecutor to have the requisite good cause to make an appropriate *Pitchess* motion. See *Id.* at 36, citing *People v. Superior Court (Johnson)* (2015) 61 Cal.4th 969, 721.

LADA has been working with law enforcement sources over the last few months to identify and create a system to receive *Brady* alerts/names of officers with potential *Brady* material in their personnel files under ALADS. If an agency provides a list of all the names of officers with potential *Brady* information in their personnel files who have pending cases and updates the list on a monthly basis, their obligation under ALADS is satisfied. For those agencies who are unable to provide such a list, their obligation can be satisfied as follows:

First, LADA is herein providing a list of officers who are witnesses and/or potential witnesses on current, ongoing LADA prosecutions. Further, LADA is enclosing instructions to provide your agency access to LADA's case management system, PIMS Inquiry, so that your agency may have the ongoing real-time ability to identify which officers are listed as witnesses on current prosecutions.

Hall of Records
320 West Temple Street, Suite 540
Los Angeles, CA 90012
(213) 974-5060
Fax (213) 217-5104

Second, if you are not an agency that is providing a list, the LADA is asking for an indication as to whether any officers on the list of current prosecutions have discoverable, exculpatory information in their personnel files. If an officer has potential *Brady* information in their personnel file, the LADA is also asking for the date of the alleged misconduct. Correspondence with this information may be forwarded to DCU@da.lacounty.gov or mailed to: The Discovery Compliance Unit, 320 W. Temple Street, Suite 540, Los Angeles, CA 90012. Please contact LADA with any questions or concerns as we seek to work collaboratively with law enforcement during this process.

Additionally, if your agency is not providing a list of officers with potential *Brady* material in their personnel files, at the time of filing we ask that the filing officer provide any *Brady* alerts on officers who are potential witnesses in the case by emailing the information to DCU@da.lacounty.gov or by providing the information in writing to the Deputy District Attorney who files the case who will in turn send the alert to the Discovery Compliance Unit. Please return all completed PIMS applications to the Discovery Compliance Unit at the above email address.

Again, we thank the Santa Monica Police Department for your cooperation and commitment to transparency. Please contact Deputy-in-Charge Jacob Yim for any further assistance at jyim@da.lacounty.gov.

Very truly yours,

George Gascón
District Attorney

By

Jacob Yim
Deputy-in-Charge
Discovery Compliance Unit



City of
**Santa
Monica**

Office of the City Attorney
City Hall
1685 Main Street, Room 310
Santa Monica, California 90401
George S. Cardona, Interim City Attorney
george.cardona@santamonica.gov

April 2, 2021

VIA UNITED STATES MAIL

George Gascon
Los Angeles County District Attorney
211 West Temple Street, Suite 1200
Los Angeles, California 90012

Re: Request for Disclosure of Santa Monica Police Department Information

Dear Mr. Gascon:

This letter responds to the February 17, 2021 letter that your office sent to the Santa Monica Police Department (“SMPD”) requesting that the SMPD disclose to your office the “names and serial and/or employee numbers of current and former deputies/officers who have engaged in acts of moral turpitude, including but not limited to deputies/officers with sustained findings for misconduct involving” eleven general categories provided in the letter. Your letter identified this request as being made pursuant to *Brady v. Maryland* (1963) 373 U.S. 83 (“*Brady*”). Your letter, however, did not identify any particular pending prosecutions in connection with which you seek the requested information, or any particular SMPD officers who are potential witnesses in any such prosecutions. In the absence of any such specific information, the Santa Monica Police Officers Association (“SMPOA”), the organization that represents SMPD Officers, has objected to the SMPD providing the requested information. While we certainly share your desire to ensure compliance with prosecutorial obligations under *Brady* and its progeny, our review of the case on which your letter relies as support for your request, *Association for Los Angeles Deputy Sheriffs v. Superior Court* (2019) 8 Cal. 5th 28 (hereafter “*ALADS*”) leads us to believe that in the absence of such specific information, or consent by the SMPOA on behalf of the officers it represents, the statutes requiring us to maintain the confidentiality of officer personnel records continue to govern, and preclude us from complying with your request.

As an initial matter, we wish to confirm that SMPD is committed to collaborating with your office to ensure compliance with all discovery obligations in criminal cases, including those arising under *Brady* and its progeny, which impose a constitutional obligation on the part of prosecutors and the law enforcement agencies working with them on particular cases to ensure that all exculpatory information is provided to the defense. *ALADS* addressed the interplay between *Brady* obligations and the California statutes that require that, except in specified circumstances, police officer personnel records be maintained in confidence. As discussed

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below, while *ALADS* would permit us to disclose certain information regarding specific officers under limited circumstances, we do not read it as authorizing us to provide all of the information your letter requests.

In *ALADS*, the California Supreme Court held that a law enforcement agency would not violate the “so-called Pitchess statutes” (including in particular Penal Code Section 832.7) by sharing with prosecutors, even in advance of any *Pitchess* motion, the fact “that an officer, who is a potential witness in a pending criminal prosecution, may have relevant exonerating or impeaching material in that officer’s confidential personnel file.” (*ALADS*, 8 Cal. 5th at 56.) Even where a department has prepared a “Brady list” for its own internal use, however, the Supreme Court did not hold that such lists may be disclosed to prosecutors. To the contrary, the Supreme Court held that any such list remains “confidential to the extent it was derived from confidential records” (*Id.* at 43), and its holding appears to limit its authorization of “*Brady* alerts” to the circumstances where a particular officer has been identified as a potential witness in a particular case.

As the Supreme Court also made clear, this limitation on disclosure does not apply to information in officer personnel files subject to SB 1421. (*Id.* at 45-47.) But the categories of information subject to disclosure under SB 1421 are, as your letter itself makes clear, narrower than the 11 categories of information as to which your letter seeks a general disclosure. As your letter notes, the City has been providing you with information subject to SB 1421 – as discussed below, we will continue to do so.

In light of the above, consistent with the holding in *ALADS*, to permit your prosecutors to comply with their discovery obligations under *Brady* and its progeny, when your prosecutors make a specific inquiry identifying a particular current or former SMPD officer as a potential witness in a particular case, SMPD will notify your office whether the identified officer has any relevant exonerating or impeaching material in the officer’s personnel file. The initial disclosure will not include the substance of the relevant information, the disclosure of which will continue to require a *Pitchess* motion to the court. The only exception being if the information is already publicly available under Penal Code § 832.7(b) (SB 1421).

In addition, SMPD will continue to release to your office records that are subject to disclosure under SB 1421 concerning former and current officers. In response to your office’s public records request for records pursuant to SB 1421, which request covers a ten year period, we have released records to your office that pertain to: (1) the discharge of a firearm at a person; (2) use of force resulting in great bodily injury; and (3) a “sustained finding” of dishonesty. The City has dedicated a significant amount of time and resources to locate, review, and redact a voluminous amount of records covering a ten-year period to identify responsive records and exclude information that must be withheld pursuant to Penal Code § 832.7 (b), such as the names of complainants and witnesses to preserve their anonymity.

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If you have additional authority that you believe supports the request made in your letter, please let us know. Please direct any such authority, or any additional requests relating to this matter, to the City Attorney's Office. Please notify me should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "George S. Cardona". The signature is written in a cursive style with a large initial "G".

George S. Cardona
Interim City Attorney

cc: Discovery Compliance Unit, DCU@da.lacounty.gov
Jacqueline Seabrooks, Chief of Police



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To: Public Safety Reform and Oversight Commission
From: Michael Gennaco, Inspector General for City of Santa Monica
Date: February 3, 2022
Subject: Proposed Complaint Investigations Audit

The Accountability Systems Standing Committee of Santa Monica’s Public Safety Reform and Oversight Commission (“PSROC”) is currently reviewing the Santa Monica Police Department’s complaint process and is actively considering recommendations designed to improve it. OIR Group is well-versed in this important aspect of police accountability. Our past experience includes the audit of hundreds of actual complaints as handled by a range of law enforcement agencies. With this in mind, we believe that qualitative audits into how external complaints are actually received, tracked, assigned, investigated, and reviewed will shed additional light into the effectiveness and fairness of SMPD’s current approach.

As you know, the PSROC does not have access to confidential complaint investigations under the terms of Santa Monica’s oversight ordinance. However, in our capacity as the Inspector General (“IG”), OIR Group has been provided the authority to access such information. The IG thus has a unique opportunity to review, evaluate, and assess SMPD’s performance in this area and thereby contribute to the PSROC’s current deliberations.

Accordingly, the IG recommends that the PSROC authorize it to conduct an independent audit into SMPD’s complaint investigations. Our proposed audit would encompass 10 randomly requested complaints received by SMPD, as well

as any subsequent evidence and documentation produced by the Department in its investigation. Upon completion of the audit, the IG will report its findings and recommendations to the PSROC in a public report to be shared with the Santa Monica community.

We expect that the results of such an audit will coincide well with the PSROC's interest in ensuring that public complaints about SMPD performance are taken seriously, investigated thoroughly, and resolved appropriately. We would evaluate intake, tracking, investigative quality, and outcomes with this goal in mind. Our hope is that any substantive and procedural insights we can offer will assist the PSROC in making its complaint review project a valuable enhancement to SMPD accountability and public trust.

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