

No. A171763

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**IN THE COURT OF APPEAL OF THE STATE OF  
CALIFORNIA  
FIRST APPELLATE DISTRICT, DIVISION FIVE**

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INDEPENDENT OFFICE OF LAW ENFORCEMENT REVIEW AND  
OUTREACH,  
*Appellant,*

v.

SONOMA COUNTY SHERIFF'S OFFICE AND SONOMA COUNTY DEPUTY  
SHERIFF'S ASSOCIATION,  
*Respondents.*

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Appeal from Sonoma County Superior Court  
Case No. 24CV04208  
Hon. Bradford DeMeo

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**APPLICATION FOR LEAVE TO FILE BRIEF  
OF *AMICI CURIAE* AND [PROPOSED] BRIEF OF  
*AMICI CURIAE* IN SUPPORT OF APPELLANT  
INDEPENDENT OFFICE OF LAW  
ENFORCEMENT REVIEW AND OUTREACH**

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## APPLICATION

The American Civil Liberties Union of Northern California (ACLU NorCal), the California Coalition for Sheriff Oversight (CCSO), and the Law Enforcement Action Partnership (LEAP) respectfully apply for permission to file the attached *Amici Curiae* brief under Rule of Court 8.200(c).

ACLU NorCal is an affiliate of the national ACLU, a nationwide nonprofit, nonpartisan organization with approximately two million members dedicated to preserving and protecting the principles of liberty and equality embodied in the state and federal Constitutions and related statutes. ACLU NorCal, together with other California-based ACLU affiliates, has over 100,000 total members. ACLU NorCal, as a legal organization and on behalf of its members, has a longstanding commitment to the principles of law enforcement oversight, transparency, and access to public records, and has often participated as *amicus curiae* in related cases.<sup>1</sup>

CCSO is a statewide coalition formed in 2023 from county-

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<sup>1</sup> For example, ACLU NorCal submitted briefs *amicus curiae* in *County of Sonoma v. Public Employment Relations Board* (2022) 80 Cal.App.5th 167, Case No. A163100; *Walnut Creek Police Officers' Assn. v. City of Walnut Creek* (2019) 33 Cal.App.5th 940; *Bakersfield Police Officers Assn. v. City of Bakersfield* (Super. Ct. Kern Cty. Apr. 5, 2019), Case No. BCV-19-100718; *San Francisco Police Officers' Assn. v. City and County of San Francisco* (Super. Ct. San Francisco Cty. Mar. 29, 2019), Case No. CPF-19-516573; *Los Angeles Police Protective League v. City of Los Angeles* (Super. Ct. Los Angeles Cty. Mar. 18, 2019), Case No. 18STCP0495; *Carlsbad Police Officers Association v. City of Carlsbad* (Super. Ct. San Diego Cty. Jan. 28, 2019), Case No. 37-2019-00005450-CU-WM-CTL.



based organizations working to create or to strengthen local sheriff oversight. CCSO is currently comprised of organizations spanning twelve (12) counties across California including Sonoma County. The organization representing Sonoma County to CCSO is the Sonoma County Coalition for Law Enforcement Accountability Now (CLEAN). Sonoma County Measure P was a county ballot measure that expanded IOLERO's powers including the authority to receive and to investigate whistleblower complaints as well as subpoena power. CLEAN is the successor organization to the Campaign in Support of Measure P founded after the Measure's passage in 2020.

LEAP is a nonprofit organization whose members include police, prosecutors, judges, corrections officials, and other law enforcement officials advocating for criminal justice and drug policy reforms that will make our communities safer and more just. Founded by five police officers in 2002 with a sole focus on drug policy, today LEAP's speakers bureau numbers more than 200 criminal justice professionals advising on police community relations, incarceration, harm reduction, drug policy, and global issues. Through speaking engagements, media appearances, testimony, and support of allied efforts, LEAP reaches audiences across a wide spectrum of affiliations and beliefs, calling for more practical and ethical policies from a public safety perspective.

As co-sponsors of Sonoma County Measure P, ACLU NorCal and CLEAN are keenly interested and knowledgeable about the purposes and intent of Measure P, particularly regarding its strengthening of sheriff oversight in Sonoma

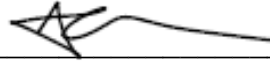
County with the passage of AB 1185. ACLU and its California affiliates have supported passage and implementation of state laws that increase law enforcement transparency and accountability including Assembly Bill 1185 (passed 2020). LEAP has supported these efforts on a national scale. Additionally, ACLU NorCal is actively involved in helping to establish and strengthen mechanisms for civilian oversight of law enforcement throughout the Northern California region. CCSO supports this work on a statewide level. ACLU NorCal also frequently seeks and litigates public records requests to improve relationships between law enforcement agencies and their communities through heightened transparency. ACLU NorCal and CCSO have been at the forefront of civilian sheriff oversight statewide including uniform implementation and interpretation of AB 1185.

The proposed *amici curiae* brief addresses the central issues before this Court based on prospective *amici*'s interest, experience, and expertise in this area: the applicability of AB 1185 and Measure P in Sonoma County, what constitutes a civilian sheriff oversight body, and the importance of subpoena power to such bodies.

No party or counsel for any party in this matter has authored any part of the accompanying proposed brief of *Amici Curiae*, nor has any person or entity made any monetary contributions to fund the preparation or submission of this brief.

Dated: August 18, 2025

Respectfully submitted,



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## **BRIEF OF AMICI CURIAE**

### **INTRODUCTION**

This case concerns the power of local governments to effectively oversee their law enforcement agencies by means of civilian review bodies equipped with subpoena power. In 2020, the California legislature enacted Assembly Bill 1185 (AB 1185), codified at Government Code section 25303.7, authorizing counties to create civilian boards and office of inspector generals for sheriff oversight and requiring that any such bodies be delegated subpoena power.<sup>2</sup> The Legislature passed this bill in recognition of the need for subpoena authority for any civilian sheriff oversight body to perform its essential functions including independent investigations.

Sonoma County has a pervasive history of abuse of force by its Sheriff's Department. The officers and deputies of its law enforcement agencies have killed a staggering 100-plus civilians in the past 25 years alone, and there has been scant accountability for these and other incidents of misconduct. To address this problem, the County created the Independent Office of Law Enforcement Review and Oversight (IOLERO), a civilian oversight body to oversee the Sheriff. As initially structured, IOLERO lacked subpoena authority and proved ill-equipped to carry out its duties. Shortly after passage of AB 1185, however, Sonoma County voters passed Measure P, expressly delegating

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<sup>2</sup> Gov. Code, § 25303.7, subds. (b) and (c)(2).

the Board of Supervisors’ subpoena power to IOLERO for purposes of investigation.<sup>3</sup>

Despite the clear language and purpose of both AB 1185 and Measure P, however, the superior court below held that IOLERO lacks subpoena power. The court’s reasoning—that Letters of Agreement (“LOA”)<sup>4</sup> between the County and Respondent Sheriff Associations exclude the subpoena power and somehow supersede local and state law—is wrong on multiple fronts. Appellant IOLERO ably briefs why the LOA do not, in fact, exclude subpoena authority. Here, *amici* focus on the impropriety of reading the LOA to subvert state and county law. In particular, the history of both the State and County enactments make plain that civilian oversight bodies absolutely require subpoena authority to fulfill their purpose, and the Sonoma County voters passed Measure P for this reason precisely. The superior court’s decision improperly thwarts the intent of the Legislature in passing AB 1185 and the will of the Sonoma County voters to redress Sheriff Department violence by means of civilian oversight. The decision must be reversed.

## **BACKGROUND**

For the Court’s benefit, *amici* provide additional context surrounding Sonoma County residents’ long-fought desire to

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<sup>3</sup> Measure P is codified as Sonoma County Mun. Code, § 2-392 *et seq.* Section 2-394, subd. (b)(5)(ix) authorizes IOLERO to “[i]ndependently subpoena records or testimony, as the director deems appropriate, to complete an adequate investigation.”

<sup>4</sup> LOA included as 1CT33-43 [LOA]. (Appellant’s Opening Brief at p. 18, n.4.)

impose effective oversight over its Sheriff's Department, culminating in the passage of Measure P. In particular, Measure P was preceded by decades of excessive force in Sonoma County without meaningful accountability, and prior reform efforts had been ineffective. The County thus identified civilian oversight in the form of IOLERO, and when that alone proved insufficient, voters enacted Measure P to delegate subpoena power. The County's goals and substantial efforts for meaningful reform of the Sheriff's Office are thus entirely pinned on Measure P and the subpoena authority of IOLERO.

(a) Historical Violence by the Sonoma County Sheriff's Department.

Sonoma County residents have suffered significant violence at the hands of law enforcement dating back many years. This is evident first in the sheer number and frequency of incidents involving deadly force. Sonoma County Sheriff's Department is scored 29 out of 100 due its use of force levels among other factors by the National Police Scorecard project.<sup>5</sup> Over an approximately three-year period between 1995 and 1998, for example, Sonoma County law enforcement officers and deputies were involved in

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<sup>5</sup> National Police Scorecard, *Sonoma County Sheriff's Department Scorecard* <<https://policescorecard.org/ca/sheriff/sonoma-county>> (as of July 30, 2025).

the deaths of 17 people.<sup>6</sup> From 2000 to March 2021, law enforcement killed 91 people, an average of almost five per year.<sup>7</sup>

The County's use of force problem is also apparent from the cruelty displayed in several high-profile cases, including:

- the killing of 16-year old Jeremiah Chass while in crisis by Sonoma County Sheriff's deputies in 2007.<sup>8</sup>
- the killing of 13-year-old Andy Lopez who was carrying a toy gun when he was shot eight times by Sonoma County Sheriff's deputy Erick Gelhaus in 2013.<sup>9</sup>

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<sup>6</sup> California Advisory Committee, Report, *Community Concerns About Law Enforcement in Sonoma County*, U.S. Commission on Civil Rights (May 2000), "Chapter 2: Community Concerns." All chapters of the report are available at <https://www.usccr.gov/files/pubs/sac/ca0500/main.htm> (as of July 30, 2025).

<sup>7</sup> Sonoma County Com. on Human Rights, *Resolution Calling for Investigation of White Supremacist Affiliations and Beliefs in Local Law Enforcement Agencies* (March 23, 2021) <<https://sonomacounty.gov/commission-on-human-rights-meeting-may-25-2021>> (as of Aug. 18, 2025).

<sup>8</sup> Sonoma County Com. on Human Rights, *Human Rights Violations in Santa Rosa, California: Policing the Black Lives Matter Protests* (July 2020) <[https://sonomacounty.gov/Main%20County%20Site/General/Sonoma/BCCs/Boards%2C%20Commissions%2C%20Committee/Human%20Rights/\\_Documents/Report-BLM-Human-Rights-Abuses-July2020.pdf](https://sonomacounty.gov/Main%20County%20Site/General/Sonoma/BCCs/Boards%2C%20Commissions%2C%20Committee/Human%20Rights/_Documents/Report-BLM-Human-Rights-Abuses-July2020.pdf)> (as of Aug. 18, 2025).

<sup>9</sup> Sernoffsky, *Sonoma County to Pay \$3 Million to Family of Andy Lopez, Boy Killed by Deputy*, SF Gate (Dec. 18, 2018) <<https://www.sfgate.com/crime/article/Sonoma-County-to-pay-3-million-to-family-of-boy-13475609.php>> (as of Aug. 18, 2025); *Estate of Lopez v. Gelhaus* (N.D. Cal. 2016) 149 F.Supp.3d 1154, 1164-65.

- the death by suicide of Glen Swindell during a Sonoma County Sheriff's SWAT raid in 2014 based on falsified information.”<sup>10</sup>

- the assault of veteran Fernando del Valle with batons and tasers by Sonoma County Sheriff's deputies in 2016.<sup>11</sup>

- the assault and unjustified detention of La'Marcus McDonald by Sonoma County Sheriff's deputies and Windsor police officers in 2019.<sup>12</sup>

- the killing of David Ward by Sonoma County Sheriff's deputy Charles Blount in 2019.<sup>13</sup>

- the assault and maiming of Jason Anglero-Wyrick through tasers, canines, and other uses of force by Sonoma County Sheriff's deputies in 2020.<sup>14</sup>

The history of abuse of force is also compounded by racial prejudice against residents of color. As Sonoma County racial demographics shifted, racial prejudice by law enforcement

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<sup>10</sup> *Estate of Swindell v. Cty. of Sonoma* (N.D. Cal. Jan. 7, 2016) 2016 WL 80556 at \*1-2.

<sup>11</sup> Ravani, *Former Sonoma County Deputy Probed in Taser Use on Military Vet*, S.F. Gate (Oct. 21, 2016) <<https://www.sfgate.com/bayarea/article/Former-Sonoma-County-deputy-probed-in-Taser-use-10059879.php>> (as of Aug. 18, 2025).

<sup>12</sup> *McDonald v. Cty. of Sonoma* (N.D. Cal. 2019) 506 F.Supp.3d 969, 976-77, 983-84, 986.

<sup>13</sup> Carrega, *Man Dead After Alleged Excessive Force by Sonoma County Police Who Thought He Had Stolen His Own Car*, ABC News (Dec. 24, 2019) <<https://abcnews.go.com/US/man-dead-alleged-excessive-force-sonoma-county-police/story?id=67912794>> (as of Aug. 18, 2025).

<sup>14</sup> Sonoma County Com. on Human Rights, *Human Rights Violations in Santa Rosa*, *supra* n.8.



increased.<sup>15</sup> Racial prejudice has resulted in further erosion of trust in law enforcement and an increased desire for increased transparency and accountability.

(b) Law Enforcement Resistance to Reform.

Sonoma County law enforcement has consistently frustrated efforts at accountability and reform. In the 1990s, a Sonoma County Grand Jury found that several local law enforcement agencies did not make citizen complaint forms

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<sup>15</sup> *Id.* at p. 2 (“This Commission has received numerous reports that law enforcement agencies regularly engage in arbitrary stops and questioning of BIPOC [Black, Indigenous, and People of Color] residents, and that racial profiling is understood to have been the standard procedure of all LEAs [law enforcement agencies] in Sonoma County for generations. . . . [Community members report] disrespectful behavior, aggression, racial slurs, escalation, interrogation, physical violence and assault.”); *compare* California Advisory Committee, *Community Concerns, supra* n.6, “Chapter 1: Introduction” (in 1996, Latinx population was 12%, Black population was 1%, Indigenous population was 1%, and Asian population was 3%) *with* United States Census Bureau, *Sonoma County, California* <<https://data.census.gov/all?q=sonoma+county>> (as of Aug. 18, 2025) (in 2021, Latinx population was 27%, Black population was 2%, Indigenous population was 2%, and Asian population was nearly 5%); California Advisory Committee, *Community Concerns, supra* n.6, “Chapter 1: Introduction” (Pia Jensen, Councilwoman for the City of Cotati, stated bluntly, “[O]ur police aren’t ready to deal with the influx [and] the changes.”); Sonoma County Com. on Human Rights, *Human Rights Violations in Santa Rosa, supra* n.8, at p. 2; Wilder, *Annual IOLERO Report Finds Holes in Sonoma County Sheriff’s Office’s Internal Misconduct Investigations*, *The Press Democrat* (Nov. 30, 2021) <<https://www.pressdemocrat.com/article/news/annual-iolero-report-finds-holes-in-sonoma-county-sheriffs-office-internal/>> (as of Aug. 18, 2025); Sonoma County Com. on Human Rights, *Resolution, supra* n.7.

available or otherwise educate the public as to how to register a complaint, and when citizens nonetheless did so, their complaints were frequently ignored.<sup>16</sup> Unresponsiveness was officially authorized in some jurisdictions.

County law enforcement agencies have not only failed to properly investigate allegations of misconduct; overwhelmingly, they have defended abuses of force by their members, almost universally finding them justified while declining to impose professional or criminal sanctions.<sup>17</sup>

Even in the wake of substantial civil settlements, law enforcement agencies in the County have denied wrongdoing and resisted reform. For instance, despite paying out \$1.75 million for the killing of Jeremiah Chass, the Sonoma County Sheriff “said there was no reason to change the training of deputies in responding to mental health calls.”<sup>18</sup> In the shooting of Andy Lopez, the County spent five years and approximately \$1.4 million litigating against the Lopez family, but after finally

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<sup>16</sup> California Advisory Committee, *Community Concerns*, *supra* n.6, “Chapter 2: Community Concerns.”

<sup>17</sup> *See, e.g.,* Silvy, *Sonoma County Sheriff’s Office Insurance Premium Increase Tied to Excessive Force Settlements*, *The Press Democrat* (Sept. 8, 2020) <<https://www.pressdemocrat.com/article/news/sonoma-county-sheriffs-office-insurance-premium-increase-tied-to-excessive/>> (as of Aug. 18, 2025) (discussing the killing of 13-year-old Andy Lopez by Sonoma County Sheriff’s deputy Gelhaus who was cleared by an internal investigation that found Gelhaus and his partner “were actually victims of Lopez’s crime, which was ‘brandishing’ a [toy] weapon.” The Department later promoted Gelhaus.).

<sup>18</sup> Sonoma County Com. on Human Rights, *Human Rights Violations in Santa Rosa*, *supra* n.8, at p. 4.

settling for \$3 million, the Sheriff's Department refused to acknowledge wrongdoing or impose any reforms.<sup>19</sup> The Sheriff and County's "failure to address the persistent use of excessive force effectively condoned officers' disregard for constitutional rights."<sup>20</sup> Such incidents have not only terrorized the community, they have cost the County millions in litigation expenses.<sup>21</sup>

(c) Creation of IOLERO.

In the late 1990s, community members advocated for and ultimately obtained a hearing before the California Advisory Committee to the U.S. Civil Rights Commission.<sup>22</sup> After listening

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<sup>19</sup> Chavez, *Sonoma County to Pay \$3 Million to Settle Lawsuit Over Andy Lopez Shooting*, The Press Democrat (Dec. 18, 2018) <<https://www.sonomanews.com/article/news/sonoma-county-to-pay-3-million-to-settle-lawsuit-over-andy-lopez-shooting/>> (as of Aug. 18, 2025).

<sup>20</sup> *McDonald*, *supra* n.12, 506 F.Supp.3d 969 at pp. 976-77, 983-84, 986 (holding that La'Marcus McDonald could proceed with claims of supervisory liability against Sonoma County Sheriff Mark Essick and municipal liability against the County for injuries arising from excessive force by deputies).

<sup>21</sup> Silvy, *Insurance Premium Increase*, *supra* n.17 (the Sonoma County Sheriff's Office was a defendant in 15 active civil suits in 2020, "a recent low" as compared to 17 in 2019, 23 in 2017, and 26 in 2016); Gogola, *Systemic Sadism at the Sonoma County Sheriff's Office*, The Nation (Dec. 10, 2021) <<https://www.thenation.com/article/politics/police-brutality-sonoma-county/>> (as of Aug. 18, 2025) (since 2011, the County has paid more than \$10 million in civil settlements. As a result of these payouts and related litigation costs, the County's insurance premiums have risen sharply—by \$2.7 million, or 46%, in 2020 alone. This increase exceeds that of 16 other California counties, "including all nine in the Bay Area, Los Angeles County[,] and other counties of similar size to Sonoma County," revealing Sonoma County to be an outlier relative to excessive force).

<sup>22</sup> Callahan, *ACLU Forum Airs Allegations of Brutality, Racial*

to extensive testimony, the Committee prepared a detailed report of its findings and recommendations, noting “a highly polarized and charged atmosphere in respect to police-community relations” marked by “[d]istrust and fear of law enforcement by the community.”<sup>23</sup> The Committee was “appalled at the number of deadly incidents”<sup>24</sup> and concluded that “policies on use of force should be revisited.”<sup>25</sup> Noting “inadequate accountability . . . and a perception of disinterest in complaint handling,”<sup>26</sup> as well as “frequent requests for the creation of civilian or citizen review boards or commissions,”<sup>27</sup> the Committee recommended that all municipalities carefully consider this option while specifically recommending “that such boards be implemented in Rohnert Park, Santa Rosa, and for the county sheriff.”<sup>28</sup> County law enforcement agencies “rejected such proposals,” however, “calling current review procedures adequate.”<sup>29</sup>

Reform advocates broke through following the killing of Andy Lopez in 2013, which “led to significant public unrest and ruptured relations between some parts of the Sonoma County

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*Profiling, Abuse of Authority*, The Press Democrat (Oct. 28, 2007) <<https://www.pressdemocrat.com/article/news/aclu-forum-airs-allegationsof-brutality-racial-profiling-abuse-of-authori/>> (as of Aug. 18, 2025).

<sup>23</sup> California Advisory Committee, *Community Concerns*, *supra* n.6, “Letter of Transmittal.”

<sup>24</sup> *Id.* at “Chapter 4: Conclusions.”

<sup>25</sup> *Id.* at “Chapter 5: Recommendations.”

<sup>26</sup> *Id.* at “Chapter 4: Conclusions.”

<sup>27</sup> *Id.* at “Letter of Transmittal.”

<sup>28</sup> *Id.*

<sup>29</sup> Callahan, *ACLU Forum Airs Allegations of Brutality*, *supra* n.22.

community and Sonoma County law enforcement.”<sup>30</sup> The County government “responded by establishing a Task Force to study options for healing community rifts through community policing, community engagement and law enforcement accountability models,” and the resulting proposal “was to establish a new, independent County office charged both with civilian review of law enforcement, and outreach to and education of the community.”<sup>31</sup> In May 2015, the Community and Local Law Enforcement Task Force (CALLE) Task Force provided an extensive final report to the Board of Supervisors with detailed recommendations for improved Sheriff transparency, accountability, and public trust based on community input, research, and prior recommendations.<sup>32</sup> In 2016, the Board of Supervisors adopted Ordinance No. 6174 establishing the Independent Office of Law Enforcement Review and Oversight (“IOLERO”).<sup>33</sup>

Among the first civilian sheriff oversight bodies in California, IOLERO was formed with the explicit purpose to:

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<sup>30</sup> IOLERO, Annual Report 2016-17, at p. 15. All IOLERO Annual Reports are available for download at <<https://sonomacounty.ca.gov/IOLERO/Annual-Reports/>> (as of Aug. 14, 2025).

<sup>31</sup> *Id.* at p. 14. For more detail on this history, see records and reports of the Community and Local Law Enforcement (CALLE) Task Force <<https://sonomacounty.ca.gov/IOLERO/Community-and-Local-Law-Enforcement-Task-Force/>> (as of Aug. 18, 2025).

<sup>32</sup> See reports of the CALLE Task Force, *supra* n.31.

<sup>33</sup> Sonoma County Ord. No. 6174 <<https://sonomacounty.ca.gov/IOLERO/Legal-Authority/>> (as of Aug. 14, 2025).

[P]rovide an objective, independent and appropriate review and audit of law enforcement administrative investigations, which include allegations of misconduct by [the Sheriff-Coroner]; to provide an alternate site for members of the public to file complaints against employees of law enforcement agencies, including the Sheriff's Office; to propose thoughtful policy recommendations to the Sheriff-Coroner; to help increase transparency of law enforcement operations, policies and procedures; and to conduct outreach to and engage the communities of Sonoma County.<sup>34</sup>

Importantly here, however, the 2016 enabling ordinance specified that IOLERO was not authorized to “[c]ompel by subpoena the production of any documents or the attendance and testimony of any witnesses.”<sup>35</sup> Since becoming operational, IOLERO has provided independent audits of Sheriff's Department Internal Affairs Complaints, provided public reporting, conducted community outreach, and reviewed and made recommendations concerning Sheriff's Department policies.

(d) IOLERO Faulters Absent Subpoena Power.

IOLERO has proved incapable of meeting its objectives as originally conceived in large part because of the absence of subpoena power. Because IOLERO lacks the power to compel production of information or documents, it is dependent on law enforcement agencies for cooperation, which has not been forthcoming. Indeed, by its terms, the Ordinance creating IOLERO requires it to provide documents and information to law

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<sup>34</sup> *Id.* at § 2-394(a)(1)-(4).

<sup>35</sup> *Id.* at § 2-394(c)(3).

enforcement agencies, but the requirement is not reciprocal: “the sheriff’s cooperation is voluntary.”<sup>36</sup> And while the parties’ Operational Agreement contemplates that the Sheriff’s Department will cooperate, it has consistently failed to do so. IOLERO’s Annual Reports document that investigative files provided to IOLERO by the Sheriff’s Office were consistently incomplete, late, or both.<sup>37</sup> This is consistent with a general pattern of hostility directed towards IOLERO by the Sheriff’s Department. For example, the Sheriff’s Department has engaged in attacks on IOLERO’s “credibility and motives,” as well as those of the former director.<sup>38</sup> And, “in response to an IOLERO report identifying ongoing, significant deficiencies in the Sheriff’s investigations of alleged deputy misconduct, the Sheriff recommended eliminating IOLERO entirely.”<sup>39</sup>

Relatedly, IOLERO was likewise hamstrung by its inability to subpoena documents from third parties. Former IOLERO director Jerry Threet noted the significance of this shortcoming in a case in which IOLERO “reviewed a complaint involving allegations a deputy lied . . . about not being on his phone when

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<sup>36</sup> Chavez, *Retired Sonoma Couty Sheriff’s Office Watchdog Seeks Ballot Measure to Expand Former Agency*, The Press Democrat (Oct. 19, 2019)

<<https://www.pressdemocrat.com/article/news/retired-sonoma-county-sheriffs-office-watchdog-seeks-ballot-measure-to-exp/>> (as of Aug. 18, 2025).

<sup>37</sup> See, e.g., IOLERO, Annual Report 2019-20, *supra* n.30, at p. 48 (Complaint 19-C-0018).

<sup>38</sup> Gogola, *Systemic Sadism*, *supra* n.21.

<sup>39</sup> Sonoma County Com. on Human Rights, *Human Rights Violations in Santa Rosa*, *supra* n.8, at p. 6.

he crashed with the complainant's car while on the job.”<sup>40</sup> In that matter, IOLERO repeatedly requested that the Sheriff's Department subpoena the officer's cellphone records, but it failed to do so until after the records were destroyed.<sup>41</sup> As a result, IOLERO's ability to affect change was limited to points of agreement with the County's law enforcement agencies, which have been few.<sup>42</sup>

Meanwhile, law enforcement misconduct in the County continued unabated. Insofar as the County created IOLERO to address such problems, the absence of subpoena power proved a critical shortcoming.

(e) Measure P.

In the fall of 2019, Sonoma community groups and organizations including CLEAN began to discuss and draft proposals to clarify and expand the power of IOLERO. These efforts culminated in the drafting of a prospective ballot initiative to:

[E]nhance the oversight authority and independence of the IOLERO to review and analyze complaints against the Sonoma County Sheriff's Office (Sheriff-Coroner), expand the

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<sup>40</sup> Chavez, *Watchdog Seeks Ballot Measure*, *supra* n.36.

<sup>41</sup> *Id.*

<sup>42</sup> See, e.g., IOLERO, Annual Report 2019-20, *supra* n.30, at p. 4 (“The only power given to IOLERO is the authority to objectively audit the Sheriff's internal affairs investigations and make recommendations that the Sheriff is free to adopt or not adopt. IOLERO does not have the legal authority to release the audits to the public. IOLERO is not equipped with resources or the legal authority to regulate the Sheriff's Office, by county ordinance or state law. . . Thus, when IOLERO seeks change from the Sheriff, it can only do so by getting buy-in from the Sheriff's Office”).



role and independence of the Community Advisory Council (CAC), compel production of records and witnesses, and require a triennial review of IOLERO's performance of its duties.<sup>43</sup>

In June 2020, the Board of Supervisors established an ad hoc committee to explore possible amendments to the existing draft initiative. This process resulted in Measure P, a ballot initiative included in the November 2020 election. Measure P included several changes to IOLERO, which former director Threet summarized as including four pillars: “independence,” “adequate resources,” “clear authority,” and “unfettered access.”<sup>44</sup> Measure P explicitly granted IOLERO with subpoena authority, reversing the prohibition in the 2016 enabling ordinance.<sup>45</sup> Measure P also provided clear authority to IOLERO by compelling independent investigation of all complaints of serious misconduct,<sup>46</sup> permitting IOLERO to make recommendations of

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<sup>43</sup> Sonoma County, *Local Ballot Measure: P*, “Sonoma County Counsel’s Impartial Analysis of Measure P” <[https://sonomacounty.gov/Main%20County%20Site/General/Sonoma/Sample%20Dept/Divisions%20and%20Sections/A%20Service/Services/A%20Service/\\_Documents/\\_2020/Measure%20P-IOLERO-November%203-2020.pdf](https://sonomacounty.gov/Main%20County%20Site/General/Sonoma/Sample%20Dept/Divisions%20and%20Sections/A%20Service/Services/A%20Service/_Documents/_2020/Measure%20P-IOLERO-November%203-2020.pdf)> (as of Aug. 18, 2025).

<sup>44</sup> Threet, *Evelyn Cheatham Effective IOLERO Ordinance Brief Summary*, Sonoma County Gazette (Mar. 16, 2020) <<https://www.sonomacountygazette.com/sonoma-county-news/evelyn-cheatham-effective-iolero-ordinance-brief-summary-by-jerry-threet/>> (as of Aug. 18, 2025).

<sup>45</sup> Sonoma County Mun. Code, § 2-394, subd. (b)(5)(ix) (authorizing IOLERO to “[i]ndependently subpoena records or testimony, as the director deems appropriate, to complete an adequate investigation”).

<sup>46</sup> *Id.* at § 2-394, subd. (b)(2).

discipline,<sup>47</sup> and mandating cooperation by the Sheriff's Department in all investigations and audits.<sup>48</sup> And Measure P authorized IOLERO to receive and to investigate whistleblower complaints.<sup>49</sup>

The full language of Measure P was submitted to the Board of Supervisors, and on August 6, 2020, the Supervisors unanimously approved Measure P to be placed on the ballot.<sup>50</sup> In the November 2020 election, Measure P passed with nearly 65% of the vote.<sup>51</sup>

(f) PERB Litigation and the Decision Below.

Weeks after the Board of Supervisors approved Measure P, the Sonoma County Deputy Sheriffs' Association (DSA) filed an unfair labor practice charge before the Public Employment Relations Board (PERB) seeking to invalidate several provisions of Measure P under the Meyers-Miliias-Brown Act (MMBA) for the County's alleged failure to first meet and confer. The parties ultimately resolved their disputes through meet and confer and negotiation of terms memorialized in Letters of Agreement (LOA) in 2022 and 2023.<sup>52</sup> Notably, in its decision concluding that the

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<sup>47</sup> *Id.* at § 2-394, subd. (b)(4).

<sup>48</sup> *Id.* at § 2-394, subd. (e).

<sup>49</sup> *Id.* at § 2-394, subd. (b)(3).

<sup>50</sup> IOLERO, Annual Report 2020-21, *supra* n.30, at p. 6; Sonoma County Board of Supervisors Meeting Minutes (Aug. 6, 2020) <<https://sonoma-county.legistar.com/Calendar.aspx>> (as of Aug. 18, 2025).

<sup>51</sup> IOLERO, Annual Report 2020-21, *supra* n.30, at p. 5.

<sup>52</sup> *County of Sonoma* (2023) PERB Dec. No. 2772a-M <<https://d2wu03uw2y008c.cloudfront.net/wp-content/uploads/20230821122355/decision-2772Ma.pdf>> (as of Aug. 18, 2025).

LOA resolved the parties’ dispute, PERB stated that Measure P “delegates to IOLERO the BOS’ authority to subpoena testimony.”<sup>53</sup> The LOA likewise provides that “[i]n furtherance of conducting an independent investigation, IOLERO may. . . [s]ubpoena testimony and/or documents as deemed necessary ***pursuant*** to Ordinance 6333 [Sonoma County Measure P] and Government Code section 25303.7 [AB 1185].”<sup>54</sup>

After years of delay due to DSA’s litigation, IOLERO began to operate under its Measure P powers in 2023. In 2024, IOLERO received a whistleblower complaint against the Sheriff’s Office and sought documents from several personnel files. On April 30, 2024, IOLERO Director John Alden issued subpoenas to the Sheriff’s Office’s Administrative Services Officer and Records Custodian, to which the Sheriff refused to respond.

On July 9, 2024, IOLERO filed this contempt action to enforce the subpoenas. After a hearing, the Superior Court denied IOLERO’s request to initiate contempt proceedings and denied the request for an order to show cause.<sup>55</sup> The Court found that the LOA “supersedes” both Measure P and AB 1185, and that, *under the LOA*, “IOLERO has not been specifically

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<sup>53</sup> *Id.* at p. 21 (“SCC § 2-394(b)(5)(ix) delegates to IOLERO the BOS’ authority to subpoena testimony. But Measure P is silent about whether any employee subpoenaed by IOLERO to testify in an investigation will be paid if the interview takes place outside of the employee’s duty hours. Thus, it is foreseeable that an employee called to testify during off-duty hours would not be paid for that time.”).

<sup>54</sup> LOA at § IV(D)(iii) (emphasis added).

<sup>55</sup> “Decision” refers to the Sept. 19, 2024 Findings and Order After Hearing issued by the court below, unless otherwise stated.

designated as either an inspector general or sheriff oversight board, so the Court does not find that there is enough evidence to support that IOLERO is ‘inspector general.’”<sup>56</sup> Based on that erroneous analysis, the Court “[did] not find that IOLERO is granted with subpoena power under the Amended LOA, which controls IOLERO’s authority over Whistleblower complaints and details the required procedure for processing these complaints.”<sup>57</sup>

Despite its public approval at the ballot and parallel state authority, Sonoma County residents have been waiting for over five years for IOLERO to be allowed to use its expanded powers including subpoena power.

## ARGUMENT

The Superior Court erred in its interpretation and application of AB 1185 and Measure P. The plain text and legislative history of AB 1185 covers bodies existing before its passage and requires that sheriff oversight bodies have subpoena power. Sonoma County created just such a body in 2016, and residents passed Measure P to give IOLERO this exact authority—in alignment with AB 1185. The LOA does not and cannot supersede state law and thus, IOLERO has subpoena authority which the superior court was required to enforce. By refusing to do so, the court below frustrated democratic efforts to

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<sup>56</sup> Decision at pp. 6, 8 (“By its own terms, the LOA supersedes Ord. 6333 and [Gov. Code section] 25303.7. ... Therefore, this Court finds that the LOA is the controlling statement of the role and authority of IOLERO on the issues before this Court.”).

<sup>57</sup> *Id.* at p. 8.

increase transparency and accountability in law enforcement, and its decision must be reversed.

(a) AB 1185 Mandates Subpoena Power for Civilian Oversight Bodies.

AB 1185 mandates subpoena power to local civilian oversight entities without exception. The text states that the chair of a sheriff oversight board “**shall** issue a subpoena or subpoena duces tecum . . . whenever the body deems it necessary or important to examine the following:

- (a) Any person as a witness upon any subject matter within the jurisdiction of the board.
- (b) Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff’s department.
- (c) Any books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff’s department.”<sup>58</sup>

Likewise, an inspector general “**shall** have the independent authority to issue a subpoena or subpoena duces tecum.”<sup>59</sup>

“Ordinarily, the term ‘shall’ is interpreted as mandatory and not permissive.”<sup>60</sup> And the Legislature’s choice of the mandatory “shall” stands in stark contrast to use of the permissive “may” elsewhere in section 25303.7, for instance in subdivision (a)(1), which provides that “[a] county may create a sheriff oversight

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<sup>58</sup> Gov. Code, § 25303.7, subd. (b)(1) (emphasis added).

<sup>59</sup> *Id.* at subd. (c)(2).

<sup>60</sup> *See, e.g., Amir v. Superior Court* (2018) 26 Cal.App.5th Supp. 1, 7 (citing *People v. Standish* (2006) 38 Cal.4th 858, 869).

board.”<sup>61</sup> “[W]hen the Legislature has, as here, used both ‘shall’ and ‘may’ in close proximity in a particular context, we may fairly infer the Legislature intended mandatory and discretionary meanings, respectively.”<sup>62</sup> The text thus makes plain that a county may, in its discretion, create a civilian board and office of inspector general (IG) to oversee the sheriff’s department, but that if it does so, the board and IG **must** have subpoena power. The Court’s “fundamental task is to ascertain the Legislature’s intent and effectuate the law’s purpose, giving the statutory language its plain and commonsense meaning.”<sup>63</sup> AB 1185 is clear and unambiguous that subpoena power is mandated for civilian sheriff oversight bodies.

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<sup>61</sup> Gov. Code, § 25303.7, subd. (a)(1) (“A county **may** create a sheriff oversight board, either by action of the board of supervisors or through a vote of county residents, comprised of civilians to assist the board of supervisors with its duties required pursuant to Section 25303 that relate to the sheriff” [emphasis added]); see, e.g., *Severson & Werson, P.C. v. Sepehry-Fard* (2019) 37 Cal.App.5th 938, 946 (citations omitted).

<sup>62</sup> *Tarrant Bell Property, LLC v. Superior Court* (2011) 51 Cal.4th 538, 542 (citations omitted).

<sup>63</sup> *Kaanaana v. Barrett Business Services, Inc.* (2021) 11 Cal.5th 158, 168 (further explaining that when “the language is clear, courts must generally follow its plain meaning unless a literal interpretation would result in absurd consequences the Legislature did not intend”[citation omitted]); see also *In re D.S.* (2012) 207 Cal.App.4th 1088, 1097 (“[Statutory] language is construed in the context of the statute as a whole and the overall statutory scheme, and courts give significance to every word, phrase, sentence and part of an act in pursuing the legislative purpose” [citation omitted].).

Though the statutory text is clear, the legislative history nonetheless reinforces it.<sup>64</sup> AB 1185 was introduced and passed while numerous counties—including, as detailed above, Sonoma County—were fighting over the ability of civilian oversight bodies to access law enforcement records.<sup>65</sup> After years of documented

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<sup>64</sup> *People v. Cornett* (2012) 53 Cal.4th 1261, 1265 (The plain language controls but “courts may consider various extrinsic aids, including the purpose of the statute, the evils to be remedied, the legislative history, public policy, and the statutory scheme encompassing the statute” [citation omitted].).

<sup>65</sup> Sacramento Bee Editorial Board, *A Grand Jury Said It’s Time to Rein in Sheriff Jones. Will County Supervisors Act?*, Sacramento Bee (July 22, 2019) <<https://www.sacbee.com/opinion/article232846262.html#storylink=cpy>> (as of Aug. 18, 2025) (discussing grand jury report and recommendations made after Sacramento County Sheriff investigated for misconduct including locking the County’s Inspector General out of the jails and from accessing records); Blakinger, *After Years-Long Fight, Ex-Sheriff Agrees to Comply with Subpoenas, Testify on Deputy Gangs*, LA Times (Dec. 26, 2023) <<https://www.latimes.com/california/story/2023-12-26/after-years-long-fight-former-sheriff-agrees-to-comply-with-subpoena-from-oversight-commission>> (as of Aug. 18, 2025); Stoltze, *Sheriff Villanueva Will Defy a Subpoena Related to Allegations He Harassed Officials Who Criticized Him*, LAist (Sept. 20, 2021) <<https://laist.com/news/criminal-justice/sheriff-villanueva-to-defy-subpoena-on-harassment-of-oversight-officials-civilian-oversight-commission>> (as of Aug. 18, 2025); Sonenshein, *Newsom Should Sign Police Reform Bill Granting Civilian Oversight of Sheriff’s Departments*, CalMatters (Sept. 22, 2020) <<https://calmatters.org/justice/2020/09/newsom-should-sign-police-reform-bill-granting-civilian-oversight-of-sheriffs-departments/>> (as of Aug. 18, 2025); Los Angeles County Measure R (2020) (amending L.A. County Sheriff Civilian Review Commission including subpoena power) <[https://www.lavote.gov/docs/rccc/election-info/03032020\\_Proposed-Ordinance-of-Measure-R.pdf?v=4](https://www.lavote.gov/docs/rccc/election-info/03032020_Proposed-Ordinance-of-Measure-R.pdf?v=4)> (as of Aug. 18, 2025).

barriers to accessing records and evidence necessary for civilian sheriff oversight work despite existing authorities, the Legislature stepped in to ensure that such bodies “have the authority to properly review the actions of Sheriffs, provide transparency to citizens and create opportunities for real change.”<sup>66</sup>

Further evidence of legislative intent lies in AB 1185’s relation to the California Supreme Court’s decision in *Dibb v. County of San Diego* (1994) 8 Cal.4th 1200. There, a taxpayer challenged San Diego’s civilian sheriff oversight board and its power of subpoena. The Court held that the county charter properly assigned subpoena power and controlled, but the decision left open whether non-charter counties, or counties whose charter was silent, could delegate subpoena power to civilian oversight bodies under state law.<sup>67</sup> In passing AB 1185, at a time when the question in *Dibb* assumed increased importance, the Legislature specifically answered it: State law not only permits subpoena power for civilian bodies that oversee county sheriff’s departments, it requires it.<sup>68</sup>

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<sup>66</sup> California Assembly Committee on Public Safety AB 1185 Bill Analysis, Comments – Author’s Statement (April 2, 2019) <[https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200AB1185](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1185)> (as of Aug. 18, 2025).

<sup>67</sup> *Dibb*, *supra*, 8 Cal.4th 1200 at pp. 1217-18.

<sup>68</sup> See AB 1185 Senate Floor Analysis, Senate Rules Committee (July 28, 2020), at p. 5 (“This bill codifies *Dibb* to the extent that it applies to charter counties, providing statutory authority for that which a county is already able to do under its own charter. In addition, this bill clarifies that general law counties have the statutory authority to create sheriff-specific oversight boards and inspector general offices that both have statutory subpoena



Finally, but critically, nothing in AB 1185’s text or legislative history requires that a county use specific terminology, staff titles, or other requirements to avail itself of the authority already vested by the Government Code. The extrinsic evidence supports that AB 1185 is intended to apply broadly including to existing civilian sheriff oversight entities and to general law counties.<sup>69</sup> Extension of the subpoena power is accordingly functional: a county that creates a civilian body to oversee its sheriff’s department accordingly, and automatically, imbues it with the power to issue subpoenas.<sup>70</sup>

(b) IOLERO Is a Sheriff Oversight Entity.

IOLERO is unambiguously a sheriff oversight entity within the meaning of AB 1185. The mission of IOLERO is:

- 1) To provide an objective, independent and appropriate review and audit of law enforcement administrative investigations of employees, which may include allegations of

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power.”)

<[https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200AB1185](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1185)> (as of Aug. 18, 2025).

<sup>69</sup> California Assembly Committee on Public Safety AB 1185 Bill Analysis, *supra* n.66, at pp. 4-5 (discussing the bill as a codification of existing law and explaining “Nonetheless, this bill would provide statutory authority to general law counties that wish to establish sheriff oversight boards and inspector general offices, and give general law counties the ability to equip those entities with subpoena power.”).

<sup>70</sup> “Substance rather than form should be considered if strict adherence to form would result in injustice, or absurd and unjust results would follow from a literal interpretation of the language.” *Golden v. City of Oakland* (1975) 49 Cal.App.3d 284, 291.

misconduct, by the Sonoma County Office of the Sheriff-Coroner [];

- 2) To provide an alternate site for members of the public to file complaints against employees of law enforcement agencies, including the sheriff's office;
- 3) To provide independent investigations of employees of the sheriff-coroner where an investigation by that office is found by IOLERO to be incomplete or deficient in some way;
- 4) To propose thoughtful policy recommendations to the sheriff-coroner;
- 5) To increase transparency of law enforcement operations, training, policies and procedures; and
- 6) To conduct outreach to and engage the communities of Sonoma County so as to foster a culture of accountability and communication between the community and the sheriff-coroner while improving community relations and enhancing public confidence in policing and corrections services provided by the sheriff-coroner.<sup>71</sup>

As a result, there can be no serious question that IOLERO, by virtue of its purpose and function, is a sheriff oversight body, and thus, it *must* have subpoena power under AB 1185.

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<sup>71</sup> Sonoma County Mun. Code, § 2-392, subd. (d)(1)-(5).

And with Measure P, the voters of Sonoma County made explicit that IOLERO *does* have subpoena power. The text of Measure P is straightforward: IOLERO is empowered to “independently subpoena records or testimony . . . to complete an adequate investigation.”<sup>72</sup> The legislative history is in accord. As noted, IOLERO had long been frustrated by its reliance on the voluntary cooperation of the Sheriff’s Department.<sup>73</sup> The Sonoma County Sheriff’s Department intentionally obfuscated production of witnesses and records to IOLERO, resulting in IOLERO’s chronic inability to independently investigate allegations of misconduct.<sup>74</sup> Furthermore, the net result of this futility was a failure to reign in misconduct, including incidents of violence and excessive force, which were the reason the County created IOLERO in the first place.<sup>75</sup> Thus, there is no question that the Sonoma County voters intended to create a civilian oversight body with subpoena power consistent with AB 1185.

(c) The Superior Court’s Decision Is Contrary to Law and Threatens Meaningful Civilian Oversight.

The superior court concluded that IOLERO does not have subpoena power because the LOA allegedly does not include the

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<sup>72</sup> Sonoma County Mun. Code, § 2-394, subd. (b)(5)(ix).

<sup>73</sup> Sonoma County Mun. Code, § 2-394, subd. (c)(3). *See, e.g.*, IOLERO, Annual Report 2019-20, *supra* n.30, at p. 4.

<sup>74</sup> *Id.*

<sup>75</sup> Sonoma County, “Impartial Analysis of Measure P,” *supra* n.43; *see* records and reports of the CALLE Task Force, *supra* n.31.

requisite language. As IOLERO ably explains in its briefing, this conclusion rests on a mistaken premise, insofar as the superior court misreads the LOA.<sup>76</sup> Regardless, the superior court’s decision cannot stand because it misreads AB 1185 and Measure P, and those statutory enactments, not the LOA, control. As discussed, AB 1185 does not contain any “magic words” requirement but instead compels subpoena power for any body that fulfills the function of sheriff oversight. The Legislature was specifically motivated by an intent to resolve the problem of county law enforcement interfering with civilian oversight by obstructing access to critical evidence. In Sonoma County, the voters created IOLERO, and strengthened it through Measure P, for the express purpose of reigning in a wayward sheriff’s department—one which, like others that served as the impetus for AB 1185, had effectively neutered IOLERO by depriving it of the evidence necessary to perform independent investigations. The State and County legislation thus fit hand in glove to authorize the subpoena power delegated to IOLERO.

The superior court, however, ignored all of this, disregarding the text and purpose of both AB 1185 and Measure P. Instead, it incorrectly concluded that “[b]y its own terms, the LOA supersedes Ord. 6333 and [Gov. Code section] 25303.7.” Yet the LOA itself acknowledges the supremacy of state law: “Where there is a conflict between Ordinance 6333 and this Agreement, this Agreement shall control, *as permitted by State law.*”<sup>77</sup>

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<sup>76</sup> Appellant’s Opening Br. at pp. 41-50.

<sup>77</sup> LOA at § III(A) (emphasis added); Decision at p. 8.

Furthermore, the LOA is not in conflict because it recognizes the subpoena power of IOLERO and IOLERO's authority "to act as a ***receiving and investigative agency for whistleblower complaints*** involving the Sheriff's Office" and the power of IOLERO to "[s]ubpoena testimony and/or documents as deemed necessary pursuant to Ordinance 6333 and Government Code section 25303.7."<sup>78</sup>

Simply put, the LOA references and relies on Measure P and state law. The superior court thus committed legal error when it exclusively applied the LOA's terms. Assuming, *arguendo*, that the LOA did purport to supersede state law by its own terms, however, the LOA is a labor contract that is limited to the scope of bargaining and applicable only to unit members.<sup>79</sup> It is blackletter law that a contractual agreement may not supersede State law.<sup>80</sup> The superior court cited no authority to distinguish this law in the present circumstances, and indeed, there is none.

Absent this Court's intervention, the decision below will kneecap efforts to bring transparency and accountability to local

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<sup>78</sup> LOA at §§ IV(D)(iii), V (emphasis added); Appellant's Opening Br. at pp. 41-50.

<sup>79</sup> LOA at § I ("This Letter of Agreement is entered into by and between Sonoma County and the Sonoma County Deputy Sheriffs' Association [] following the parties' meet and confer sessions pursuant to Section 3500 et. seq. of the California Government Code.").

<sup>80</sup> If a contract is "[c]ontrary to an express provision of law," the contract is unlawful. (Civ. Code, § 1667, subd. (1).) Unlawful contracts are considered void. (Civ. Code, §§ 1598, 1599; *Koenig v. Warner Unified School Dist.* (2019) 41 Cal.App.5th 43, 54-55.)

law enforcement, not only in Sonoma County but statewide. Many counties enacted civilian sheriff oversight before AB 1185's passage.<sup>81</sup> And with the passage of AB 1185, more counties are creating civilian sheriff oversight structures or amending them to include subpoena power, but it is uncertain whether these counties are complying with the superior court's new "magic words" requirement.<sup>82</sup> The decision below thus imperils subpoena

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<sup>81</sup> See, e.g., San Diego County Citizen Law Review Board established in 1990 (more information available at <<https://www.sandiegocounty.gov/clerb/>> (as of Aug. 18, 2025)) and Los Angeles Civilian Oversight Commission established in 2016 (more information available at <<https://coc.lacounty.gov/who-we-are>> (as of Aug. 18, 2025)). Furthermore, civilian *police* oversight bodies at the city-level who have subpoena power may face similar challenges if the decision below is not overturned. See, e.g., Berkeley Mun. Code, § 125 (20)(c) (subpoena power of the Director of Police Accountability and Berkeley Police Accountability Board); see also, e.g., Oakland Measure S1 (2020) amending the Oakland City Charter § 604(b)(3) (Oakland Police Commission subpoena power).

<sup>82</sup> See, e.g., County of Marin, Press Release, *Ordinance on Civilian Oversight of Sheriff's Office Introduced* (Oct. 30, 2024) <<https://www.marincounty.gov/news-releases/ordinance-civilian-oversight-sheriffs-office-introduced>> (as of Aug. 18, 2025); San Mateo County, Resolution Establishing an Independent Civilian Advisory Commission on the Sheriff's Office <<https://sanmateocounty.legistar.com/View.ashx?M=F&ID=12512250&GUID=EA181DDC-F74E-410B-837C-2B66990FE7DA>> (as of Aug. 18, 2025); Fernandez, *Supervisors Approve Civilian Oversight over Alameda County Sheriff*, KTVU News (Sept. 18, 2024) <<https://www.ktvu.com/news/supervisors-vote-oversight-alameda-county-sheriff>> (as of Aug. 18, 2025); Rubin, *Monterey County Will Consider Creating Civilian Oversight for the Sheriff, and They Want to Hear from You*, Monterey County Now (July 23, 2023) <[https://www.montereycountynow.com/opinion/mcnow\\_intro/monterey-county-will-consider-creating-civilian-oversight-for-the](https://www.montereycountynow.com/opinion/mcnow_intro/monterey-county-will-consider-creating-civilian-oversight-for-the)

power in numerous jurisdictions in direct contravention of the legislative purpose behind AB 1185.

And as the Legislature implicitly recognized, without subpoena power, civilian bodies overseeing law enforcement are doomed to fail. Civilian oversight bodies can be effective. Empirical evidence demonstrates that civilian review bodies who are empowered to conduct independent investigations “may be able to improve the quality of internal investigations,” and relatedly, increase public confidence in the policing function:

A . . . strength of the investigation-focused model is its ability to increase public faith in the integrity of the investigations process, especially in the aftermath of significant public scandals involving the police. Available public opinion research demonstrates strong public support for the independent investigation of serious complaints against police officers. . . . [T]his model may reassure a community that investigations are unbiased, thorough and that civilian perspectives are represented both within the complaint investigation process and upon review of completed investigations.<sup>83</sup>

But national experts conclude that five elements are essential to the effectiveness of such bodies, namely “independence”; “adequate jurisdictional authority”; “*unfettered access to records*”; “*full*

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sheriff-and-they-want-to-hear/article\_939e9432-2a7e-11ee-a4a6-57b3683deed3.html> (as of Aug. 18, 2025).

<sup>83</sup> Angelis et al., *Civilian Oversight of Law Enforcement: Assessing the Evidence* (2016) at p. 25

<[https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE\\_AccessingtheEvidence\\_Final.pdf](https://d3n8a8pro7vhmx.cloudfront.net/nacole/pages/161/attachments/original/1481727974/NACOLE_AccessingtheEvidence_Final.pdf)> (as of August 12, 2025).

*cooperation*”; and “*access to law enforcement executives and internal affairs staff*.”<sup>84</sup> Scholars have similarly noted that:

A civilian complaint review board will be only as strong as its authority to conduct independent investigations, and at the heart of such authority must be the ability to subpoena witnesses and documents, including internal police disciplinary documents, medical records, surveillance footage, and other materials relevant to an investigation. Subpoena authority will also allow the board to order a person to testify before it.<sup>85</sup>

In other words, the promise of civilian oversight is predicated on subpoena power, as both the Legislature and the voters of Sonoma County recognized.

Independent investigations are even more critical for whistleblower cases. Measure P expanded IOLERO’s authority to receive and to investigate whistleblower complaints with a formal Whistleblower program planned in 2022.<sup>86</sup> “[W]hile protections for whistleblowers in other government agencies and the private sector have increased in the past few decades, reforms in policing still lag far behind.”<sup>87</sup> Because of the unique dynamics, independent investigation into law enforcement whistleblower

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<sup>84</sup> *Id.* at pp. 36-41.

<sup>85</sup> Ofer, *Getting It Right: Building Effective Civilian Review Boards to Oversee Police* (2016) 46 Seton Hall L.Rev. 1033, 1046.

<sup>86</sup> IOLERO, Annual Report 2021-22, *supra* n.30, at pp. 7, 12.

<sup>87</sup> Duret, *They Exposed Police Misconduct. Now They’re Paying a Steep Price*, The Marshall Project (Aug. 3, 2024) <<https://www.themarshallproject.org/2024/08/03/police-congress-corruption-whistleblower>> (as of Aug. 18, 2025).



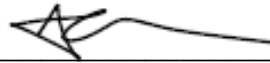
complaints is necessary and critical.<sup>88</sup> This Court should reverse the erroneous decision below to ensure that IOLERO and other civilian sheriff oversight agencies throughout the state can continue to fill this important role.

### CONCLUSION

For the foregoing reasons, *Amici* respectfully request that this Court reverse the Superior Court’s decision below and enforce IOLERO’s subpoenas.

Dated: August 18, 2025

Respectfully submitted,



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<sup>88</sup> See, e.g., Government Accountability Project, *Breaking The Blue Wall of Silence: The Vital Role of Whistleblower Protections for Law Enforcement Officers* (May 2022), at p. 25 (listing “independent investigations of [whistleblower] disclosures” as one of four cornerstones to accountability)  
<[https://whistleblower.org/wp-content/uploads/2022/05/NewMayGovAcctProj\\_Blue-Wall-of-Silence-Report231.pdf](https://whistleblower.org/wp-content/uploads/2022/05/NewMayGovAcctProj_Blue-Wall-of-Silence-Report231.pdf)> (as of Aug. 18, 2025).

### **CERTIFICATE OF WORD COUNT**

Pursuant to Rule 8.204(c)(1) of the California Rules of Court and in reliance on the word count of the computer program used to prepare this Proposed *Amici Curiae* Brief, counsel certifies that the text of this brief (including footnotes) was produced using 13-point type and contains 6,931 words. This total includes footnotes but excludes the tables required under Rule 8.204(a)(1), the cover information required under Rule 8.204(b)(10), the Certificate of Interested Entities or Persons required under Rule 8.208, the Application to File *Amici Curiae* Brief required under Rule 8.520(f), this certificate, and the signature blocks. (See Rule 8.204(c)(3).)

Dated: August 18, 2025

By:   
Allyssa “Victory” Villanueva, Esq.

## **PROOF OF SERVICE**

I, Kassie Dibble, declare that I am over the age of eighteen and not a party to the above action. My business address is 39 Drumm Street, San Francisco, CA 94111. My electronic service address is kdibble@aclunc.org. On August 18, 2025, I served

### **APPLICATION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE AND [PROPOSED] BRIEF OF AMICI CURIAE IN SUPPORT OF APPELLANT INDEPENDENT OFFICE OF LAW ENFORCEMENT REVIEW AND OUTREACH**

BY ELECTRONIC TRANSMISSION OR U.S. MAIL: I caused to be transmitted to the following case participants a true electronic copy of the document via this Court's TrueFiling system or a hard copy of the document via U.S. Mail as indicated:

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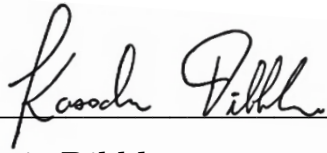
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on

August 18, 2025 at San Francisco, CA.



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