



Meeting Minutes

Independent Office of Law Enforcement Review and Outreach (IOLERO)

Community Advisory Council (CAC)

April 2, 2018, 5:30pm-7:30pm

PRMD Public Hearing Room, 2550 Ventura Ave., Santa Rosa CA 95403

CAC Members: Joanne Brown, Rick Brown (Vice-Chair), Emilia Carbajal, Evelyn Cheatham (Chair), Elizabeth Cozine, Alma Roman Diaz, Jim Duffy, Ramon Meraz, Maria Pacheco, (two vacancies).

1. CALL TO ORDER

Chair Cheatham called the meeting to order at 5:27pm.

2. ROLL CALL

All the members were present.

3. ANNOUNCEMENTS; ADJUSTMENTS TO AGENDA; BRIEF MEMBER REPORTS (up to 10 minutes)

Member Duffy suggested that the CAC table at the annual Juneteenth festival in Santa Rosa. In addition, he voiced his support for adding a discussion of Senate Bill 1421, introduced by state Sen. Nancy Skinner, to the June CAC agenda. Member Duffy mentioned the recent death of a suspect during a law enforcement encounter in Sonoma, and that the CAC review of Use of Force policies will likely include Taser use. He suggested that the CAC try to incorporate as much public feedback as possible into a Use of Force policy recommendation. He then mentioned the recent decision by the Sheriff's Office to participate in the COPS television show. Member Duffy then suggested that the Sheriff's Office missed an opportunity to use the CAC as a public venue to garner feedback on this decision, and he encouraged the Sheriff's Office to avail themselves of the CAC as a public forum in the future.

Member Cozine also referenced the law enforcement involved fatality in Sonoma, and that she would like to review the Sheriff's Office Taser and Maximum Restraint policies once the group commences their use of force review.

Member Rick Brown described a New York Times article detailing research that communities which have lower levels of cooperation with ICE have lower levels of crime. In addition, communities with higher numbers of immigrants also have lower levels of crime. He stated that the use of evidence-based research should serve as the foundation for future CAC policy recommendations, which was also the approach that the CAC adopted with their immigration policy recommendation.

4. CAC ANNUAL PRIORITIES (up to 30 minutes) – discussion & possible action item

- Report of Working Group (up to 10 minutes)

Member Rick Brown introduced the item and encouraged the CAC members to add any areas they would like to see discussed. He directed the CAC members to provide their responses to IOLERO staff in advance of the next meeting.

- Discussion among CAC members of possible future goals of CAC (up to 10 minutes)

Member Duffy stated he would like to add the following topic areas: Law Enforcement Assisted Diversion for individuals with substance abuse issues and an Early Warning System for Sheriff's

Office employees. He stated that the Early Warning System is an internal mechanism based on qualitative data that law enforcement agencies use to track the actions and behaviors of employees in an effort to reduce allegations of misconduct, uses of force, and critical incidents.

Member Pacheco stressed the import of “face to face” community outreach.

Member Joanne Brown emphasized the need for outreach, particularly in the area of educating the public about Sheriff’s Office policies & procedures that are under review by the CAC.

- Public Comment (up to 10 minutes)
*Public Comment speakers:
There was no public comment on this item.*

5. SONOMA COUNTY SHERIFF’S ELECTION CANDIDATE FORUM (up to 30 minutes)— discussion & possible action item

- Report of Working Group (up to 10 minutes)
Member Duffy introduced the item by confirming the participation of all three candidates, providing an update on the list of co-sponsors for the event, describing outreach efforts, and the number of questions that had been submitted for the candidates. He requested that other CAC members assist with outreach efforts. Member Duffy then described the proposed format for the event, which will feature a lightening round of yes/no questions, long form questions, and a chance for the candidates to ask questions of each other.
- Discussion from CAC members (up to 10 minutes)
Member Carbajal then described the Working Group’s efforts to secure a moderator for the event, and some of the challenges associated with finding someone who hasn’t endorsed a candidate or otherwise has a conflict of interest. She then suggested that Member Rick Brown, who previously offered to moderate, could serve as the event moderator. Finally, she stated that the Working Group is open to having more than one moderator to help facilitate the event. Member Joanne Brown stated she would be willing to moderate as well.
- Public Comment (up to 10 minutes)
*Public Comment Speakers:
Nancy Burrington
Ana Salgado*

Member Rick Brown moved to accept the Working Group’s proposed format for the forum and this was seconded by Member Duffy. The motion passed on a 9-0 vote.

Member Duffy made a motion to have Members Rick Brown and Joanne Brown moderate the forum and this was seconded by Member Cozine. The motion passed on a 9-0 vote.

6. HOMELESS POLICIES WORKING GROUP (up to 30 minutes)—discussion

- Homeless Policies Working Group Progress Report (up to 10 minutes)
Member Carbajal introduced this item, which included an overview of the group’s work to date and their recommendations (see attached document for the recommendation in its entirety). Members Pacheco and Roman-Diaz then detailed the individual recommendations that they were responsible for crafting.

- Discussion from CAC members (up to 10 minutes)
Member Rick Brown asked Director Threet what the timeline would be for reviewing the CAC's recommendation and issuing a separate Director's recommendation to the Sheriff's Office. Director Threet estimated that he would issue his recommendation in late June or early July, as he will be busy with existing workload and the upcoming budget hearings until that time.

Member Rick Brown then asked Lt. Naugle for an update on the status of the Sheriff's Office draft homeless policy. Lt. Naugle stated that he is not working on that particular policy so he couldn't provide an update. Lt. Naugle then stated that he felt the Working Group's policy recommendation was excellent and welcomed this format for future policy recommendations.

- Public Comment (up to 10 minutes)
*Public Comment speakers:
Ilona Reitzner*

Member Rick Brown moved to accept the recommendations as amended and this was seconded by Member Pacheco. The motion passed on 9-0 vote.

7. REVIEW/APPROVAL OF MARCH 5, 2018, DRAFT MINUTES (up to 5 minutes)

Member Duffy made a motion to adopt the March 5, 2018, draft meeting minutes and this was seconded by Member Joanne Brown; the motion passed 7-0 with Members Cozine and Roman-Diaz abstaining.

8. IOLERO DIRECTOR'S REPORT (up to 5 minutes)

Director Threet detailed a recent in-custody death of a suspect during an encounter with deputies in the Sonoma Valley. He cautioned that the investigation is underway and not all the details are known; therefore, the CAC should refrain from coming to any conclusions until all the evidence has been presented.

He then described a recent focus group in the Russian River area with homeless individuals that he participated in. Approximately 14 homeless individuals gathered to share their experiences and perceptions around local law enforcement. Director Threet described how many of the participants feel that they aren't actually heard or respected when they interact with law enforcement, and that they avoid interacting with law enforcement given this discomfort.

9. GENERAL PUBLIC COMMENT (up to 15 minutes): Public comment for items not listed on the agenda

- Public comment is normally limited to three minutes per person, unless adjusted by the Chair.
There was no public comment on this item.

10. ADJOURNMENT

The meeting adjourned at approximately 7:09pm.

Sheriff's Department Homeless Policy Recommendations by the Working Committee of the Community Advisory Council to the Independent Office of Law Enforcement Review

March 28, 2018

We would like to thank everyone who has supported the CAC for the past few months in providing much needed education, information, and thoughtful points, questions, and feedback for all of us to review. A small working committee comprised of Maria Pacheco, Ramon Meraz, Alma Roman Diaz, and Emilia Carbajal, got together and congregated all of the information above and conducted our own research into issues relating to law enforcement and people facing homelessness.

We quickly learned that homelessness is a community-wide issue which needs to be addressed in a coordinated manner through the collaboration and efforts of homeless advocates, mental health professionals, health care agencies, community-based organizations and other public and private agencies. However, knowing that law enforcement does play a prominent role in how homelessness is viewed and treated in our community we decided to focus on the scope of the CAC's role- to provide recommendations to the IOLERO in its effort to in turn provide recommendations to the Sheriff's Department. We generated draft policy recommendations concerning the Sheriff's Department interaction with people experiencing homelessness in Sonoma County. Our understanding is that the Sheriff's Department is currently working on a draft policy concerning this very topic. We have based our recommendations on current successful programs utilized by other law enforcement agencies in the US, research, testimony by homeless individuals and community members.

Thus, the following are recommendations to the Sheriff Department's Homeless policy for Sonoma County:

1. The Sheriff's office will develop a Homeless Outreach Team (HOT) comprised of officers who have received training on issues specific to homelessness and are comfortable/compassionate with that population. (<http://www.calea.org/calea-update-magazine/issue-107/colorado-springs-police-department-s-hot-program-providing-outreach-> . These designated officers can host community meetings with homeless individuals, advocates, service providers and community partners (i.e. members of Homeless Action! And/or volunteers), mental health professionals and social workers to develop realistic solutions. The emphasis is to enhance communication and trust between law enforcement, homeless individuals and service providers. <https://www.policeone.com/iacp-2017/articles/435016006-IACP-Quick-Take-How-H-O-T-cops-are-helping-the-homeless/>
2. New officers will receive a 2hour training, (Homeless 101) which can be sponsored by a legal clinic for the homeless and includes presentations by previous homeless individuals, information on the homeless bill of rights, constitutional rights and local resources. This training will include how officers approach homeless individuals who call in for assistance. The individual's needs will be addressed without reference to their state of homelessness. <http://wraphome.org/wp-content/uploads/2017/10/EnglishHBRUpdatedVersionOctober2017.pdf>, http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0601-0650/sb_608_bill_20150227_introduced.html
3. All Sheriff deputies will have resource cards which include available shelters, medical services, mental health hotline, homeless help line, 24-hour shelter hotline and community advocacy group contact information. This information will be revised annually. <https://www.hhs.gov/programs/social-services/homelessness/resources/index.html#ResourcesforPersonsExperiencingHomelessness>
4. The Sheriff's Department will prioritize other resources for funding such as grants. Specifically, HOT members can apply for grants specifically for homeless services. A high percentage of homeless individuals have mental health/substance abuse issues, there is money available to provide services. <https://www.samhsa.gov/grants>
5. Continue collaborating with Sonoma County Behavioral Health Division to train deputies in Crisis Intervention and De-escalation. A 4 day/32-hour training which started in 2008 and expand hours or have on call services. <http://www.sonoma-county.org/health/services/citmst.asp>

6. The Detention Administration shall designate one or more officers to work with the homeless population and homeless services. The officers shall have available homeless affidavits waivers for free California birth certificates and free California ID. The officer shall certify homeless status on affidavits. The affidavits will be placed in inmates valuable property and released to inmate upon release.

7. Personal property Storage

One of the most challenging aspects of not having a home is the storage and maintenance of personal property. The protection of a home, no matter how small it may be, allow people to maneuver their daily lives with the comfort of knowing that everything they have worked hard to obtain is safely kept from exposure to environmental and social elements. But for some, this is a privilege they do not have. There are members in our community that do not have a home and must carry and protect everything they own at all times such as birth certificates, toiletries, medications, cell phones, photos, blankets, tents, and other belongings.

The risk of losing or having such property destroyed often comes up when a law enforcement agent is tasked with interacting with the individual or the individual's personal belongings in a public space. As many know, personal property is subject to Constitutional protections. To date, there is no Sheriff's Department policy on law enforcement interaction with homeless individuals and their property.

However, since 2017, Sonoma County has seen the Sheriff's Department embrace the need to change and or adopt new policies for the often unrecognized, vulnerable, and underrepresented residents of this county and that includes individuals who do not have a home. Currently, the Sheriff's Department is working on a policy to address law enforcement interaction with the homeless community in Sonoma County.

Sonoma County residents have a special opportunity to provide feedback in anticipation of this upcoming policy. One of the recommendations made by the public, experts, and other concerned residents at the last three Community Advisory Council meetings is the need for a policy concerning the storage of valuable property.

There have been instances in other cities such as San Francisco¹, Fresno², and Los Angeles³ in which law enforcement agencies were discovered and/or determined by courts to have destroyed property in violation of Fourth, Fifth, and Fourteenth Amendment protections. The goal of this community is for such violations not to occur in Sonoma County.

Thus, to avoid the practice of summarily confiscating and destroying unabandoned possessions of homeless persons living within Sonoma County and to comply with Fourth⁴, Fifth, and Fourteenth Amendment protections⁵ for all individuals⁶, the following procedures are recommended with respect to personal property:

¹ On June 9, 2016, the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, ACLU of Northern California, Wilmer Cutler Pickering Hale and Dorr, LLP submitted a demand letter to then Mayor Edwin Lee alleging fourth amendment and due process violations when on February 13, 2016, City workers from the Department of Public Work and the California Highway Patrol officers were captured on video disposing homeless persons' tents into a garbage truck on Division Street. <http://www.lccr.com/wp-content/uploads/Final-Signed-Demand-Letter.pdf>

² Kincaid v. City of Fresno, 244 FRD. 497 (2008) <https://www.clearinghouse.net/chDocs/public/PB-CA-0005-0016.pdf>; for disposition post-case settlement see First Report of Settlement Administrator (2008) https://www.aclunc.org/sites/default/files/asset_upload_file850_8469.pdf and Second Report of settlement Administrator (2009) <https://www.aclunc.org/sites/default/files/2009.05.21%20Second%20Report%20of%20Settlement%20Administrator.pdf>

³ Lavan v. City of Los Angeles, 693 F.3d 1022 (2012) 9th Cir.

⁴ Miranda v. City of Cornelius, 429 F.3d (2005) 9th Cir, p. 864: A city ordinance authorizing property impounds does not in an of itself determine the reasonableness of the seizure under the Fourth Amendment.

⁵ Fuentes v. Shevin, 407 U.S. 67, 86 (1972); Ingraham v. Wright, 430 U.S. 651, 672 (1977).

⁶ Cal. Civ. Code §§ 655, 663, 671 California law recognized the right of ownership of personal property, a right held by "[a]ny person, whether citizen or alien".

- Ensure adequate and prominent public notice before enforcement, including direct interaction with persons to explain the ordinances, location of storage facilities, and location of services.
 - Prior to issuing a citation regarding personal property persons shall receive an initial warning with information regarding available storage, if available.
 - If the individual does not remove personal property law enforcement per the applicable city or county ordinance must provide a written pre-removal notice, the notice must contain a 1) general description of personal property to be removed; 2) the location from which the personal property will be removed; 3) the date and time the notice was posted. The pre-removal notice must be left in a prominent place for any property taken on the belief that it is abandoned, including advising where the property is being kept and when it may be claimed by the rightful owner.⁷
 - The address where the removed personal property will be located must include a telephone number and the internet website of the city or law enforcement agency through which a person may receive information as to impounded personal property.⁸
- Upon removal of stored personal property, the notice must be conspicuously posted in the area where such property was removed. The written notice must contain the following: 1) a general description of the personal property removed; 2) the date and approximate time the personal property was removed; 3) a statement that the personal property was stored in a public area in violation of the city or county's applicable ordinance; 4) the address where the personal property will be located, including a telephone number and internet website of the city or law enforcement agency through which the person may receive information regarding their personal property; 5) A statement that impounded Personal Property may be discarded if not claimed within the applicable number of days pursuant to city or county ordinance.⁹
- Provide a process where the property owner is given an opportunity to be heard and argue against the taking as part of their right under the 5th and 14th amendment.¹⁰ Such a right to this process must be adequately described in all notices given to affected individuals.¹¹
- Allow affected individuals to authorize a third party to collect personal belongings on the individual's behalf and a reasonable opportunity to make such arrangements before the confiscation or destruction of such property.
- Provide a reasonably extended grace period for individuals to reclaim personal property if the individual is incarcerated or allow the individual to make arrangements for a third party to collect belongings in trust.
- Create a list of valuables that must not be confiscated or destroyed but stored as part of the individual's effects including:
 1. cell phone
 2. wallets, purses
 3. medicine
 4. dentures
 5. medical equipment (e.g. crutches, wheelchairs, walker)
 6. personal papers & documents
 7. tents
 8. sleeping bags
 9. blankets
 10. bags/backpacks
 11. shoes
 12. socks
 13. clothes

⁷ Lavan v. City of Los Angeles, 693 F.3d 1022 (2012) 9th Cir.

⁸ Los Angeles, [California, Municipal Code art. 6, ch. V, §56.11](#). The Los Angeles ordinance is cited to reflect the source for the language recommendation.

⁹ Id.

¹⁰ Clement v. City of Glendale, 518, F.3d 1090, 1093 9th Cir. 2008), "[t]he government may not take property like a thief in the night; rather, it must announce its intentions and give the property owner a chance to argue against the taking".

¹¹ City of West Covina v. Perkins, 525 U.S. 234, 240 (1999). Law enforcement required "to take reasonable steps to give notice that the property has been taken so the owner can pursue available remedies for its return".

14. rain gear
15. tarps
16. other camping equipment, including camp stoves, pots, dishes & utensils
17. working bicycles
18. bicycle and other carts
19. vehicles
20. tools/toolboxes