

**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. HOT member 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:

- 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

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".

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.

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
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

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".