



VIA EMAIL

January 6th, 2021

To:

The Honorable Members of the Alameda County Board of Supervisors:

Nate Miley, Richard Valle, David Haubert, Wilma Chan, Keith Carson.

CC: Donna Ziegler, Alameda County Counsel

Subject: Proposed Hearing Re AB-1185 Sheriff Oversight Commission for Alameda County

Dear Supervisor Miley, et al:

Oakland Privacy is pleased to hear Supervisor Miley's recent comments at the Truth Forum on December 8, 2020 regarding holding a hearing on creating a Sheriff Oversight Commission for Alameda County¹.

We are a citizens coalition that works regionally to defend the right to privacy, enhance public transparency, and increase oversight of law enforcement, particularly regarding the use of surveillance techniques and equipment. We were instrumental in the creation of the first standing municipal citizens' privacy advisory commission in the City of Oakland. We have engaged in legislative efforts with Berkeley and with several other Northern California cities and regional entities. As experts on municipal civil rights reform, we have conducted research and investigations, and developed frameworks for the implementation of civil rights policies, privacy protections and community control.

As the Board of Supervisors is aware, Assembly Bill No. 1185 was signed into law in September 2020 and authorizes each county in California to establish a sheriff oversight board to assist the board of supervisors with its duties relating to the sheriff. Sheriff oversight boards are further endowed with the power to issue subpoenas in the course of examining policies and actions of the sheriff's department.

Kevin McCarty, the author of Assembly Bill No. 1185, specified in a legislative intent letter to the Legislative Journal (copied in full below this letter) that the intent of the law is to grant supervisory authority to the County Board of Supervisors over all county officers, including the Sheriff. This letter was added to the record by the Legislature on the final day of the 2020 Legislative Session:

California law clearly states that Boards of Supervisors have the authority and responsibility to supervise the official conduct of all county officers to ensure they faithfully perform their duties (California Gov. Code § 25303). The California Supreme Court has further

¹ <https://www.berkeleyside.com/2020/12/11/alameda-county-jails-handed-44-people-over-to-ice-in-2019>

determined that Gov. Code § 25303 is inclusive of Sheriffs, as a county and its Board of Supervisors have a vested interest in how a Sheriff performs their investigative duties (Streit v. County of Los Angeles, 236 F.3d 552 (9th Cir. 2001) & Brewster v. Shasta County, 275 F.3d 803, 810 (9th Cir. 2001))

The intent of this measure and its reference to Gov. Code § 25303 is to corroborate the interpretation of existing statute and therefore to grant County Boards of Supervisors supervisory authority over all county officers, including the Sheriff.²

With this intent in mind, we urge you to use your authority to create a Sheriff Oversight Commission with subpoena power. You may, as AB-1185 allows, instead have the voters decide on the creation of such a commission through the ballot initiative process.

Creating a sheriff oversight commission is a timely action that responds to community concerns over the actions of law enforcement, and is especially urgent given the protests and outcries that have culminated this year across the United States. In Alameda County specifically, we have seen the Sheriff defying the county's non-cooperation policy with ICE, and recent calls for an audit of the Sheriff's office due to a lack of transparency. A sheriff oversight commission with subpoena power in Alameda County would greatly aid in addressing community distrust of the Sheriff and further enable the adoption of policies that reflect the wishes of the majority of Alameda County residents.

Oakland Privacy looks forward to providing input when you hold the hearing, and requests that we meet with your offices when convenient to discuss the formation of a sheriff oversight commission. Thank you for your attention and timely response.

Respectfully,

James P. Massar
Tracy Rosenberg
Members of, and on behalf of, Oakland Privacy
4799 Shattuck Avenue
Oakland CA 94609-2032
www.oaklandprivacy.org
contact@oaklandprivacy.org

² See the Assembly Daily Journal, August 31, 2020, p. 5516. The original can be found at https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/adj083120_R2.pdf and is attached as the third page to this letter.

Legislative Intent—Assembly Bill No. 1185 August 31, 2020
Sue Parker Chief Clerk of the Assembly State Capitol, Room 3196 Sacramento, California

Dear Ms. Parker:

As the author of AB 1185, I respectfully submit this letter to be printed in the Assembly Journal in order to provide clarification for the intent of the bill, as it relates to the supervisory authority of a County Board of Supervisors.

County sheriffs are the lead agencies of law enforcement officers that are vested with extraordinary authority, and the powers to detain, search, arrest, and use deadly force. Misuse of these authorities can lead—and has led—to grave constitutional violations, harms to liberty and the inherent sanctity of human life, and significant public unrest. Meaningful independent oversight and monitoring of sheriffs' departments is therefore of the utmost importance, as it increases government accountability and transparency, enhances public safety, and builds community trust in law enforcement.

AB 1185 is an important, clarifying measure which would reaffirm that a County Board of Supervisors may establish a Sheriff Oversight Board or an Office of Inspector General to review the actions of that County's Sheriff. It would also clarify that the Board and Inspector General have subpoena power, ensuring that all counties are equally able to exercise oversight over its Sheriff Department.

California law clearly states that Boards of Supervisors have the authority and responsibility to supervise the official conduct of all county officers to ensure they faithfully perform their duties (California Gov. Code § 25303). The California Supreme Court has further determined that Gov. Code § 25303 is inclusive of Sheriffs, as a county and its Board of Supervisors have a vested interest in how a Sheriff performs their investigative duties (*Streit v. County of Los Angeles*, 236 F.3d 552 (9th Cir. 2001) & *Brewster v. Shasta County*, 275 F.3d 803, 810 (9th Cir. 2001)).

The intent of this measure and its reference to Gov. Code § 25303 is to corroborate the interpretation of existing statute and therefore to grant County Boards of Supervisors supervisory authority over all county officers, including the Sheriff. Thank you for your attention to this important clarification.

Sincerely, KEVIN MCCARTY,
Assembly Member Seventh District