

County of Los Angeles

February 19, 2025

Dawyn R. Harrison
County Counsel



2nd District Court of Appeal
300 South Spring Street
2nd Floor, North Tower
Los Angeles, California 90013

**Re: Diana Maria Teran v. Superior Court of Los Angeles County
Amicus Brief Filing by Civilian Oversight Commissioners
Court of Appeal No. B341644 / LASC Case No. 24CJCF02649**

Dear Honorable Justices:

The County of Los Angeles ("County") and its Board of Supervisors ("Board") submit this letter in response to the Civilian Oversight Commission's ("COC") filing of a putative application to file an amicus curiae brief in this matter. The County respects and fully supports the COC's mission, as an advisory committee of the Board, to improve law enforcement oversight. However, and as the COC was advised prior to its filing this application, the COC does not have the power to file legal briefs or otherwise appear in litigation without Board approval. The COC did not seek or obtain Board approval; consequently, its actions in submitting the application are ultra vires and legally invalid. Therefore, the County is forced to respectfully request that this Court not consider the COC's application or its attached proposed amicus curiae brief. As the County has repeatedly told the COC and the COC Commissioners who authored the purported brief, the County would have no objection if the COC Commissioners submitted the application and proposed brief under their own names, in their individual capacities. Nor would the County object if this Court formally accepted the application and brief with the explicit understanding that those documents were filed on behalf of the two COC Commissioners, in their individual capacities. But as currently situated, the application and brief cannot, as explained below, be considered filings on behalf of the County.

Document received by the CA 2nd District Court of Appeal.

State law provides that a "county may exercise its powers only through the board of supervisors or through agents and officers acting under authority of the board or authority conferred by law." Cal. Gov't Code § 23005. The Board provides oversight over all county officers. Id. § 25303. In addition, the Board shall "direct and control the conduct of litigation in which the county, or any public entity of which the board is the governing body, is a party." Id. § 25203.

The County Charter makes clear that County Counsel represents the County and all County agencies and officials acting in the course and scope of their public duties. Article VI, Section 21 of the Los Angeles County Charter (providing that County Counsel shall represent and advise all County officers "in all matters and questions of law pertaining to their duties, and shall have exclusive charge and control of all civil actions and proceedings in which the County or any officer thereof, is concerned or is a party). The COC has no authority to retain counsel separate and apart from County Counsel, and indeed has no authority, separate from the County, to direct civil actions or proceedings. See id.; Cal. Gov't Code § 25203 (providing that the Board of Supervisors "shall direct and control the conduct of litigation in which the county, or any public entity of which the board is the governing body, is a party").

Neither the COC nor any of its members have any lawful authority to contract for legal services, either with Commissioner Kennedy or any outside counsel, even if for pro bono services. The Board has exclusive authority to contract for legal services on behalf of County officers and departments. See Cal. Gov't Code § 23005 ("A county may exercise its powers only through the board of supervisors or through agents and officers acting under authority of the board or authority conferred by law."); id. § 31000 ("The board of supervisors may contract for special services on behalf of. . . the county, any county officer or department," including for legal services). The Board of Supervisors has lawfully delegated that authority to County Counsel. See Los Angeles County Board Delegated Authority, Synopsis No. 39-B, Policy No. 20.170 (July 15, 1987) ("The County Counsel, until otherwise ordered, pursuant to Sections 23005 and 31000 of the Government Code and within budgeted appropriation authority, is authorized to approve contracts for legal services."). See, e.g., *Ward v. Superior Court*, 70 Cal. App. 3d 23, 32 (1977) ("[T]he county counsel's representation of county officers is analogous to the representation afforded officers of a corporation by corporate counsel.").

As set forth in the COC's own putative application, the COC was created in 2016 by act of the Board. App. 7 (citing Los Angeles County Code Title 3, Chapter 3.79, § 3.79.020). The COC is, thus, an advisory body of the Board itself. The COC is

organized under Title 3 of the County Code, which governs "advisory commissions and committees," and neither the statement of the COC's purpose or its duties provides, explicitly or implicitly, any authority to retain counsel or make legal filings without authority of the Board. Critical among the duties of the COC are to "[s]erve only in an advisory capacity to the Board of Supervisors and the Sheriff," and to "make recommendations to the Board of Supervisors and the Sheriff." Los Angeles County Code Title 3, Chapter 3.79, § 3.79.030 subs. (A), (J). Nothing in Chapter 3.79 authorizes the COC to contract for legal services—or for any other services—or to participate in litigation without the participation or supervision of the Board and County Counsel. Nothing in Section 3.79, which governs the COC, sets forth any authority for the COC to disregard the numerous state laws that delegate to the Board litigation decisions and authority to hire counsel.¹

Contrary to the COC's putative application, nothing about Measure R, passed in 2020, supplies any authority to retain counsel or participate in litigation independent of the Board or County Counsel. Measure R commands the COC to "research and draft a Comprehensive Public Safety Reinvestment Plan," Los Angeles County Code Title 3, Chapter 3.79, § 3.79.210, clarifies the COC's authority to investigate, id. § 3.79.130, and provides the COC with subpoena power, id. § 3.79.190. Nothing in Measure R purported to create more independence from the Board or County Counsel. Indeed, the essential character of the COC as an advisor to the Board remains. Even if Measure R had granted the COC such authority, an amendment to the Los Angeles County Code cannot override state laws delegating authority to the Board and to County Counsel.

In sum, County Counsel—and County Counsel alone—represents the COC, as part and parcel of its representation of the County itself. Commissioners Kennedy and Bonner do not represent the COC or the County. Those attorneys have no lawful representation of the COC or the County related to this appeal or any other matter.²

¹ State law provides only one narrow exception to the rule that county counsel must represent all county officers and agencies. But even there—where a conflict of interest prevents county counsel from representing the assessor, auditor-controller, or sheriff—it is still the board of supervisors who contracts with and employs outside legal counsel. Cal. Gov't Code § 31000.6. The COC cites no authority for the remarkable proposition that it has authority to participate in litigation and retain counsel, when every other county officer and agency in California, including even assessors, auditor-controllers, and sheriffs for whom special provision is made, lacks such authority.

² To the extent either attorney has signed a retention agreement with the COC, that contract is void. See Cal. Gov't Code § 23006 ("Any contract, authorization, allowance, payment, or liability to pay, made or attempted to be made in violation of law, is void, and shall not be the foundation or basis of a claim against the treasury of any

By this letter, the County expresses no views on the matters identified in the COC's application or proposed amicus brief, and stresses again that it respects the COC's pursuit of improved law enforcement oversight. Unfortunately, because the COC bypassed the Board, the Board simply never had an opportunity to consider the COC's desire to file an amicus in this matter. Once County Counsel learned of the COC's intention to submit this filing, it repeatedly advised the COC that it must first obtain the Board's approval and that, if the Board approved, County Counsel would make the filing on the COC's behalf. County Counsel further advised the COC that, in the alternative, Commissioner Kennedy could file the amicus brief in his individual capacity, listing his title as a Commissioner for identification purposes. The COC and Commissioner Kennedy declined both options, making the filing of the application and proposed brief a legally invalid, ultra vires act. The filing thus cannot be considered as one made on behalf of the County or even the COC. As noted above, the County would not object if the two Commissioners who authored the application and brief re-submitted the documents on their own behalf, in their individual capacities, or if this Court accepted the filing with the explicit, written understanding that the documents were submitted under the Commissioners' own names, and in their individual capacities.

Very truly yours,



DAWYN R. HARRISON
County Counsel

DRH:gl

county.”); *G.L. Mezzetta, Inc. v. City of Am. Canyon*, 78 Cal. App. 4th 1087, 1093–94 (2000) (“because the statutes in question specifically set forth the ways in which the City may enter into contracts, any other methods of contract formation—even though not explicitly prohibited by the statutes—are invalid”). The prohibition on such contracts, embodied in Government Code Section 23006 and elsewhere, applies to any and all contracts, even if services are provided without financial obligation. Only the Board may authorize attorneys to act as agents in court on behalf of a County agency, commission, or department.