

**[Exempt From Filing Fee  
Government Code § 6103]**

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES**

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11 HON. ALEX VILLANUEVA, SHERIFF OF  
LOS ANGELES COUNTY,  
12  
13                                   Petitioner,  
14                                   vs.  
15 COUNTY OF LOS ANGELES,  
16                                   Respondent.

Case No. **21STCP00900**  
  
**PETITION FOR PEREMPTORY WRIT  
OF MANDATE QUASHING SUBPOENA  
ON SHERIFF ALEX VILLANUEVA AND  
FOR ISSUANCE OF A PROTECTIVE  
ORDER**  
  
(CCP §§ 1987.1 and 2025.420)

19                   PETITIONER Hon. Alex Villanueva, Sheriff of Los Angeles County, hereby submits a  
20 petition for writ of mandate quashing the subpoena issued by the Inspector General of the County  
21 of Los Angeles and for issuance of a protective order preventing any interview of him.

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**FIRST CAUSE OF ACTION—PETITION FOR WRIT OF MANDATE**

1. The Honorable Sheriff Alex Villanueva, Sheriff of Los Angeles County, seeks a writ of mandate or other appropriate relief quashing the subpoena issued by the Inspector General of the County of Los Angeles (“COLA”).

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this Petition pursuant to Code of Civil Procedure sections 1085, 1987.1, and 2025.420, and Article 1, Section 3 of the California Constitution.

3. The actions alleged in this Petition all occurred in Los Angeles County, California. Any records that are subject to this Petition are situated within Los Angeles County.

**THE PARTIES**

4. **Petitioner** Hon. Alex Villanueva is the elected Sheriff of Los Angeles County.

5. **Respondent** the County of Los Angeles is a public entity subdivision within the State of California.

6. On March 2, 2021, the Inspector General, Max Huntsman, caused to be served on the Los Angeles County duly elected Sheriff, Hon. Alex Villanueva, a subpoena to interview Sheriff Villanueva under oath for 90 minutes at the office of the Inspector General. (Exh. 1.) On January 22, 2021, the Inspector General had emailed the Sheriff asking him to meet on a date that was inconvenient for the busy Sheriff. (Exh. 2.) Sheriff Villanueva had responded that he was not available on the unilaterally set date and proposed that the Inspector General provide written questions for him and his staff to respond to. (Exh. 3.)

7. The proposed topic of the interview meeting is “deputy secret societies.” Sheriff Villanueva had previously appeared before the County’s Civilian Oversight Commission (“COC”) on December 18, 2020, for slightly more than one hour and answered all the COC’s questions about “deputy secret societies” under his administration and the policies and procedures he had implemented during his administration. The Sheriff again appeared before the COC on January 21, 2021, and the COC posed no questions re “deputy secret societies,” but the Sheriff did ask for feedback about a video he had provided about this topic. The purported justification for this new

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1 meeting is that the Inspector General did not have an opportunity to speak with the Sheriff directly  
2 at the COC meeting, to “obtain necessary information to provide the feedback you requested” about  
3 the video, whatever that means.

4 8. The Inspector General pointed out in his cover letter to Sheriff Villanueva  
5 accompanying the subpoena that the California Department of Justice is also investigating the  
6 Sheriff’s Department on the same topic. The COC has received a detailed 54-page report from the  
7 Loyola Law School Center for Juvenile Law & Policy entitled “50 Years of Deputy Gangs in the  
8 Los Angeles County Sheriff’s Department; Identifying Root Causes and Effects to Advocate for  
9 Meaningful Reform.” Apparently, in October 2020, the Office of Inspector General completed  
10 another report on this issue: “Analysis of the Criminal Investigation of the alleged Assault by the  
11 Banditos.” Now the Inspector General is again investigating this same issue: “We intend to ask  
12 questions regarding deputy secret societies” (Exh. 1.)

13 9. The cover letter accompanying the subpoena says nothing about the video or policies.  
14 Rather than use a less intrusive means of obtaining information, such as a series of questions or  
15 interviewing lower legal Sheriff personnel who are involved in the day to day implementation of  
16 the policies and practices of the Sheriff’s Department, the Inspector General is leap-frogging right  
17 to the top and threatening Sheriff Villanueva that “any statement you make during our meeting may  
18 be used in a future criminal proceeding against you.” (Exh. 1.)

19 10. The Inspector General is relying on newly-enacted Government Code section  
20 25303.7 (added by AB 1185 in 2020) and Los Angeles County Code section 6.44.190, granting the  
21 Inspector General power to issue subpoenas. However, Petitioner believes the present subpoena is  
22 too broad, harassing, and not within the scope of the authority granted by State law and County  
23 ordinance. Moreover, the law is clear that Constitutional officers and government agency heads are  
24 not subject to depositions (let alone unfettered questioning under oath per subpoenas) absent  
25 compelling reasons, and that same rule applies to officials summoned to testify as third parties. As  
26 such, Sheriff Villanueva seeks an order quashing the subpoena and a protective order to stop the  
27 interview from going forward.

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**THE APPLICABLE STATUTES**

11. Government Code section 25303.7 (“Section 25303.7”) provides:

(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.

(2) The members of the sheriff oversight board shall be appointed by the board of supervisors. The board of supervisors shall designate one member to serve as the chairperson of the board.

(b) (i) The chair of the sheriff oversight board shall issue a subpoena or subpoena duces tecum in accordance with Sections 1985 to 1985.4, inclusive, of the Code of Civil Procedure whenever the board 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.

(2) A subpoena shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure.

\* \* \*

(c) (1) A county, through action of the board of supervisors or vote by county residents, may establish an office of the inspector general, appointed by the board of supervisors, to assist the board of supervisors with its duties required pursuant to Section 25303 that relate to the sheriff.

(2) The inspector general shall have independent authority to issue a subpoena or subpoena duces tecum subject to the procedure provided in subdivision (b).

1 (d) The exercise of powers under this section or other investigative functions  
2 performed by a board of supervisors, sheriff oversight board, or inspector general  
3 vested with oversight responsibility for the sheriff shall not be considered to obstruct  
4 the investigative functions of the sheriff.

5 A full text of the statute is attached as Exh. 4.

6 12. The language of subsection (d) leaves open at what point the use of the subpoena  
7 power might be considered overly burdensome, too expansive or intrusive, or inconsistent with the  
8 provisions of the Civil Code and other provisions of California law. It also does not address the  
9 possibility of the subject matter of subpoenas exceeding the jurisdiction of a board of supervisors as  
10 it exists either under Government Code section 25303 (“Section 25303”) or within the permissible  
11 reach of a legislative subpoena, such as entirely personal inquiries or purely political issues with no  
12 relevance to duties, budget appropriation, or legislation.

13 13. Section 25303 provides:

14 The board of supervisors shall supervise the official conduct of all county officers,  
15 and officers of all districts and other subdivisions of the county, and particularly  
16 insofar as the functions and duties of such county officers and officers of all districts  
17 and subdivisions of the county related to the assessing, collecting, safekeeping,  
18 management, or disbursement of public funds. It shall see that they faithfully  
19 perform their duties, direct prosecutions for delinquencies, and when necessary,  
20 required them to renew their official bond, make reports and present their books and  
21 accounts for inspections.

22 This section shall not be construed to affect the independent and constitutionally and  
23 statutorily designated investigative and prosecutorial functions of the sheriff and  
24 district attorney of a county. The board of supervisors shall not obstruct the  
25 investigative functions of the sheriff of the county nor shall it obstruct the  
26 investigative and prosecutorial function of the district attorney of a county.

27 Nothing contained herein shall be construed to limit the budgetary authority of the  
28 board of supervisors over the district attorney or sheriff.

1 14. Petitioner contends that the issuance of the subpoena by the Inspector General to the  
2 Sheriff directly, without trying to use lesser intrusive measures such as written questions or  
3 interviewing lower level Sheriff Department personnel, is in excess of the authority of Section  
4 25303.7 ,is overbroad and unduly intrusive and disruptive to the duties of the Sheriff, and is contrary  
5 to the public interest. This Petition seeks to have the subpoena quashed and a protective order issued  
6 preventing the Inspector General from interrogating him under oath for 90 minutes as threatened.

7 **THE OFFICE OF THE SHERIFF**

8 15. The Sheriff is a constitutionally-created office, elected by the voters. (Cal. Const.,  
9 art. XI, §§ 1(b), 4(c).) Among other duties, the Sheriff has the sole and exclusive authority to keep  
10 the county jail and the prisoners in it. (Gov. Code, § 26605; see also *id.* §§ 26600-26778 [defining  
11 sheriff’s other powers and duties].)

12 16. Because the Sheriff is an elective office, the supervisory authority of the County’s  
13 Board of Supervisors (“BOS” or “Board”) is limited to ensuring the Sheriff “faithfully performs the  
14 duties of the office, and *does not permit the board to control, directly or indirectly, the manner in*  
15 *which the duties are performed.* [Citations.]” (*Connolly v. County of Orange* (1992) 1 Cal.4th 1105,  
16 1113, fn. 9 [county assessor], italics added.) Instead, the state Constitution gives *the Attorney*  
17 *General* direct supervision over the Sheriff, as well as district attorneys. (Cal. Const., art. V, § 13.)

18 17. A BOS “has no inherent powers” at all, but instead may “exercise only those powers  
19 expressly granted it by Constitution or statutes and those necessarily implied therefrom. (Cal. Const.,  
20 art. XI, § 1; [citations].)” (*Hicks v. Board of Supervisors* (1977) 69 Cal.App.3d 228, 242.) Thus,  
21 while a BOS is authorized “to supervise county officers” to ensure they perform their own duties  
22 (Gov. Code, § 25303), it “has no power to perform county officers’ statutory duties for them or  
23 divert the manner in which duties are performed [citation].” (*Hicks*, at p. 242 [BOS cannot prevent  
24 district attorney from incurring necessary expenses for crime detection]; accord, *People v. Langdon*  
25 (1976) 54 Cal.App.3d 384, 388-390 [BOS unlawfully infringed on county clerk’s selection of  
26 qualified jurors and justice court’s authority to excuse jurors], both cited with approval in *Connolly*,  
27 *supra*, 1 Cal.4th at p. 1113, fn. 9.)

28 18. The BOS also has only *limited subpoena powers* pursuant to statute:

1 “Whenever the board of supervisors deems it necessary or important to examine any  
2 person as a witness upon any subject or matter within the jurisdiction of the board,  
3 or *to examine any officer of the county in relation to the discharge of his official*  
4 *duties as to the receipt or disposition by him of any money, or concerning the*  
5 *possession or disbursement by him of any property belonging to the county, or to*  
6 *use, inspect, or examine any books, account, voucher, or document in the possession*  
7 *or under the control of the person or officer relating to the affairs or interests of the*  
8 *county, the chairman of the board shall issue a subpoena, in proper form,*  
9 *commanding the person or officer to appear before it, at a time and place therein*  
10 *specified, to be examined as a witness. The subpoena may require the person or*  
11 *officer to produce all books, papers, and documents in his possession or under his*  
12 *control, relating to the affairs or interests of the county.” (Gov. Code, § 25170, italics*  
13 *added.)*

14 19. The foregoing analysis is necessary because the authority provided in Section  
15 25303.7 must be read in conjunction with the other statutes and Constitutional provisions. Any  
16 subpoena power must have and does have boundaries and limits. Wastefully and purposefully  
17 impairing and disrupting the leadership of an organization, specifically here the Sheriff, exceeds the  
18 reach of valid legislative subpoena power.

19 **AUTHORITY FOR A PETITION TO QUASH AND PROTECTIVE ORDER**

20 20. Under California Code of Civil Procedure section 1987.1(a), the court, upon motion  
21 and opportunity to be heard, may make an order quashing a subpoena and may make any other order  
22 as may be appropriate to protect the person from unreasonable or oppressive demands, including  
23 unreasonable violations of the right of privacy of the person. “One of the powers which has always  
24 been recognized as inherent in courts, which are protected in their existence, their powers and  
25 jurisdiction by constitutional provisions, has been the right to control its order of business and to so  
26 conduct the same that the rights of all suitors before them might be safeguarded. This power has  
27 been recognized as judicial in its nature, and as being a necessary appendage to a court organized to  
28 enforce rights and redress wrongs.” (*Rice v. Superior Court* (1982) 136 Cal.App.3d 81, 90, quoting

1 *Lorraine v. McComb* (1934) 220 Cal. 753, 756. (internal citations omitted).) “We have often  
2 recognized the ‘inherent powers of the court... to insure the orderly administration of justice.’”  
3 (*Walker v. Superior Court* (1991) 53 Cal. 3d 257, 266.)

4 21. The general rule in California and federal court is that agency heads and other top  
5 governmental executives are not subject to deposition questioning absent compelling reasons.  
6 (*Nagle v. Superior Court* (1994) 28 Cal.App.4th 1465, 1467-1468; *Deukmejian v. Superior Court*  
7 (1983) 143 Cal.App.3d 632, 633; *State Board of Pharmacy v. Superior Court* (1978) 78 Cal.App.3d  
8 641, 644-645 (*State Board of Pharmacy*); *Church of Scientology of Boston v. IRS* (D.Mass. 1998)  
9 138 F.R.D. 9, 12.) The rule applies to officials summoned to testify as third parties as well as those  
10 who are named defendants. (*State Board of Pharmacy, supra*, 78 Cal.App.3d at p. 643, 144; *Nagle*  
11 *v. Superior Court, supra*, 28 Cal.App.4th at p. 1468.)

12 “The general rule is based upon the recognition that ‘... an official’s time and the  
13 exigencies of his everyday business would be severely impeded if every plaintiff  
14 filing a complaint against an agency head, in his official capacity, were allowed to  
15 take his oral deposition. Such procedure would be contrary to the public interest,  
16 plus the fact that ordinarily the head of an agency has little or no knowledge of the  
17 facts of the case.’” (*Nagle v. Superior Court, supra*, 28 Cal.App.4th at p. 1458.)

18 22. The Inspector General has not attempted to use less intrusive methods or sources for  
19 the information he seeks. He has rejected the Sheriff’s offer to provide detailed answers that can be  
20 clarified and researched by submitting written requests. He simply says written questions will  
21 require follow up and be inefficient and interfere in the Office of Inspector General’s efforts to  
22 obtain necessary information. Of course, getting the detailed information may reduce the need for  
23 interrogating the Sheriff or for the Sheriff to have to research the information and come back.  
24 Moreover, interviewing the Sheriff directly will afford the Inspector General opportunity for “gotcha  
25 moments” to try to embarrass the Sheriff since the Inspector General told the COC he intended to  
26 question the Sheriff about “inconsistencies.”

27 23. During this time of heightened urgency and increase in crime and concern over the  
28 public as well as the jails for COVID, an elected leader like Sheriff Villanueva needs to focus on



1 protecting the public safety. This order by the Inspector General will pull the Sheriff away from  
2 and interfere with his other duties of public service. Lower-ranking members of the Sheriff’s staff  
3 would have some knowledge of the policies and practices at issue and how they are being  
4 implemented. As such, the Inspector General must make at least some showing that other methods  
5 and sources for obtaining this information have been tried and proved unproductive. Without proper  
6 limitations, quite frankly, the Inspector General can simply subpoena anybody and everybody  
7 unchecked.

8 24. While most of the case law dealing with apex protection has generally arisen in the  
9 context of depositions associated with pending lawsuits, the doctrine applies with equal force here.  
10 The Inspector General here has acted as if he has unfettered and unbridled power to subpoena anyone  
11 he wants. Clearly his power is not unlimited.

12 25. In *Deukmejian v. Superior Court* (1983) 143 Cal.App.3d 632, 635, the court  
13 explained that a busy public official should not be required to give evidence in his official capacity  
14 in the absence of “compelling reasons” and granted a peremptory writ in the first instance ordering  
15 the superior court to quash a notice to appear directed at the Governor as such a requirement should  
16 be discouraged as contrary to the public interest. (See also *State Board of Pharmacy, supra*, 78  
17 Cal.App.3d at pp. 644-646 [issuing peremptory writ of mandate directing superior court to quash  
18 subpoena for deposition of Attorney General].)

19 26. In *Board of Dental Examiners v. Superior Court* (1976) 55 Cal.App.3d 811, 813-  
20 814, the court issued a writ of prohibition to prevent the deposition of members of a state licensing  
21 board.

22 “As we observed 40 years ago: ‘the administrative head of a large executive  
23 department should not be called upon personally to give testimony by deposition ...  
24 unless a clear showing is made that a proceeding is essential to prevent prejudice or  
25 injustice to the party who would require it.’ *State Board of Pharmacy*, at p. 645,  
26 quoting *Wirtz v. Local 30, Internat. Union of Operating Engineers* (S.D.N.Y. 1963)  
27 34 F.R.D. 13, 14.)” (*Contractors’ State License Board v. Superior Court* (2018) 23  
28 Cal.App.5th 125, 132.)

1           27.       Thus, where a party seeks to depose a high government official, and the official  
2 moves for a protective order, the burden is on the deposing party to show that compelling reasons  
3 exist for permitting the deposition (*See Liberty Mutual Ins. Co. v. Superior Court* (1992) 10  
4 Cal.App.4th 1282, 1289 [deposition of corporate president].) The party seeking to question the  
5 high-ranking Constitutional officer or agency head must meet the following criteria; “First, the  
6 deposing party must show that the government official ‘has direct personal *factual* information  
7 pertaining to material issues in the action ....’ ([*Westly v. Superior Court* (2004) 125 Cal.App.4th  
8 907,] 911, italics added.) Second, the deposing party must also show ‘the information to be gained  
9 from the deposition is not available through any other source. (*Ibid.*).’” (*Contractors’ State License*  
10 *Board*, 23 Cal.App.5th at 132.)

11           28.       Accordingly, there should be limitations on questioning a Sheriff directly pursuant  
12 to Section 25303.7, and case law governing the questioning of “apex executives” is clearly  
13 applicable. In *Contractors’ State License Board v. Superior Court, supra*, 23 Cal.App.5th at 128,  
14 the Court of Appeal addressed a challenge to a notice of deposition seeking the “apex deposition”  
15 of the Board’s secretary and chief executive officer. The Court of Appeal concluded that under  
16 well-established California law, the head of a government agency generally is not subject to  
17 deposition.

18           “The rule prohibiting the deposition of agency heads and other highly placed public  
19 officials is grounded on the concern that such proceedings will consume the officials’  
20 time and hamper them in the conduct of government business. (*Nagle, supra*, 28  
21 Cal.App.4th at p. 1468; see *State Board of Pharmacy, supra*, 78 Cal.App.3d at p. 644  
22 [“It is patently in the public interest that the Attorney General be not *unnecessarily*  
23 hampered or distracted in the important duties cast upon him by law.”].) This  
24 concern is present whether the official gained the information sought while in his or  
25 her present position or while serving in prior, lower ranking positions at the agency.  
26 (See *Deukmejian, supra*, 143 Cal.App.3d at p. 634 [Governor alleged to have  
27 personal knowledge of prison conditions based on prior service as a state legislator  
28 and years of service in the Attorney General’s office].)” (*Id.* at 133.)

1           “An exception to the rule exists *only* when the official has direct personal factual  
2 information pertaining to material issues in the action and the deposing party shows  
3 the information to be gained from the deposition is not available through any other  
4 source.’ (*Westly v. Superior Court* (2004) 125 Cal.App.4th 907, 911.)” (*Id.* at 128,  
5 italics added in *Westly*.)

6           29.     The *Contractors’ State License Board* court also relied upon *Nagle, supra*, which  
7 noted, “The general rule is based upon the recognition that ‘... an official’s time and the exigencies  
8 of his everyday business would be severely impeded if every plaintiff filing a complaint against an  
9 agency head, in his official capacity, were allowed to take his oral deposition. Such procedure  
10 would be contrary to the public interest, plus the fact that ordinarily the head of an agency has little  
11 or no knowledge of the facts of the case.’”

12           30.     Once the Sheriff files this petition for a protective order and order quashing the  
13 subpoena, the burden then shifts to the party seeking to question, to establish that it is necessary for  
14 the executive to be deposed to the exclusion of lesser intrusive means for obtaining for information  
15 sought. As noted above, Section 25303.7 incorporates procedures set forth in the Code of Civil  
16 Procedure with respect to subpoenas. This adoption should also logically include the mechanisms  
17 for this challenge.

18           31.     Most recently, a Federal District Court granted a protective order preventing  
19 Governor Newsom’s deposition and the depositions of two other former State government officials  
20 from going forward in a federal action where the governor is an actual defendant, relying on the  
21 apex doctrine. (*Givens v. Newsom* (E.D.Cal. Jan. 7, 2021) 2021 U.S.Dist.Lexis 3135, \*10-\*23.)  
22 The federal law is analogous to state law.

23           32.     It is well recognized that when one seeks the testimony of a high-ranking government  
24 official, there is “tremendous potential for abuse or harassment.” (*Apple Inc. v. Samsung*  
25 *Electronics. Co., Ltd.* (N.D.Cal. 2012) 282 F.R.D. 259, 263.) Apex depositions are generally not  
26 permitted absent “extraordinary circumstances,” because “high ranking officials have greater duties  
27 and time constraints than other witnesses and . . . without appropriate limitations, such officials will  
28 spend an inordinate amount of time tending to pending litigation.” (*Thomas v. Cate* (E.D.Cal. 2010)

1 715 F.Supp.2d 1012, 1048

2 33. Therefore, courts are to consider whether there are “extraordinary circumstances”  
3 that justify deposing, or in this case are interviewing under oath, the high-ranking officials, based  
4 on “(1) whether the deponent has unique first-hand, non-repetitive knowledge of the facts at issue  
5 in the case; and (2) whether the party seeking the deposition has exhausted other less intrusive  
6 discovery methods.” (*Ibid.*; see *Coleman v. Schwarzenegger* (E.D. Cal. Sept. 15, 2008, No. CIV S-  
7 90-0520-LKK-JFM-P) 2008 U.S.Dist.Lexis 70224, \*23 [to show extraordinary circumstances,  
8 plaintiffs must show that proposed high-ranking deponents “possess personal knowledge of facts  
9 critical to the outcome of the proceedings and that such information cannot be obtained by other  
10 means”].) In addressing the “extraordinary circumstances” factor, courts look to whether no other  
11 person possesses the information in question, such as “lower-ranking members” of the Sheriff’s  
12 Department or his administration, and whether “such information may not be obtained by other  
13 means.” (*Coleman*, 2008 U.S.Dist.Lexis 70224, at \*27.) “When the Governor acts within the  
14 parameters of his official duties by, for example, issuing orders . . ., it is likely that other lower-  
15 ranking members of his office or administration would have relevant information about his actions.”  
16 (*Ibid.*)

17 34. Thus far, the Inspector General has refused any less intrusive methods or sources for  
18 the information he seeks, and has dismissively stated it will simply be “inefficient to use written  
19 questions.” As was the case in *Coleman*, Sheriff Villanueva is also confident that lower-ranking  
20 members of his staff would have some knowledge of the policies at issue.

21 35. The Inspector General has not described efforts “to determine whether the  
22 information is otherwise available and the extent to which their efforts failed to uncover such  
23 information.” (*Coleman*, 2008 U.S.Dist.Lexis 70224, at \*28.) In *Givens, supra*, the plaintiffs  
24 argued that their proposed “limited deposition” of the Governor will be less intrusive than a “bitterly  
25 drawn-out battle of interrogatories, objections, and motions to compel.” The court rejected that  
26 argument as unconvincing that deposing the Governor will be the least burdensome method of  
27 obtaining information. Especially in this time of heightened urgency and need for State leaders to  
28 focus on protecting public health and safety, the Inspector General must make at least some showing

1 other than methods and sources of discovery have been tried and proved unproductive. (See  
2 *Thomas*, 715 F.Supp.2d at 1048.)

3 **PRAYER FOR RELIEF**

4 Petitioner prays that this Court issue a preemptory writ of mandate quashing the subpoena  
5 served on Sheriff Villanueva and issuing a protective order preventing an interview by the Inspector  
6 General on March 25, 2021 or at any time; award Sheriff Villanueva his costs incurred in this action;  
7 and award such other or further relief as this Court may deem just and proper.

8 DATED: March 19, 2021

BALLARD ROSENBERG GOLPER & SAVITT, LLP

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11 By: \_\_\_\_\_  
12 LINDA MILLER SAVITT  
13 Attorneys for Petitioner Hon. Alex Villanueva, Sheriff  
14 of Los Angeles County  
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# **Exhibit 1**



# COUNTY OF LOS ANGELES OFFICE OF INSPECTOR GENERAL

## MEMBERS OF THE BOARD

HILDA L. SOLIS  
HOLLY J. MITCHELL  
SHEILA RUEHL  
JANICE HAHN  
KATHRYN BARGER

MAX HUNTSMAN  
INSPECTOR GENERAL

February 25, 2021

Alex Villanueva, Sheriff  
Los Angeles County Sheriff's Department  
Hall of Justice  
211 West Temple Street  
Los Angeles, CA 90012

**Re: Subpoena to Appear Before the Office of Inspector General**

Dear Sheriff Villanueva:

We write regarding your letter dated January 25, 2021.

I requested meetings with you directly to discuss the Sheriff's Department's policies and procedures regarding deputy secret societies. During your January 21, 2021, appearance before the Civilian Oversight Commission (COC), you asked for feedback on a video you provided to us, discussing the Department's policy on membership in deputy secret societies. We asked to meet with you to, among other things, obtain necessary information to provide the feedback you requested.

Although your letter stated that you were not available to meet the week after my January 22, 2021 email, we were disappointed that you did not indicate your availability to meet on any other date. Instead, you asked that we provide written questions, which you or your "staff" would answer. We are unable to accept your proposal because your participation is required for us to understand the Department's policies and procedures. Members of your staff have consistently told the Civilian Oversight Commission that only you can address ultimate questions of policy for the Department.

Moreover, as you know, written questions are no substitute for in-person questioning. Among other things, we would not be able to ask follow-up questions to written answers or be able to clarify the responses. Indeed, answers to the first set of written questions undoubtedly would result in us sending additional questions, the answers to which may require yet further clarification. Proceeding in this fashion would be inefficient for all of us and would interfere in the Office of Inspector General's efforts to obtain necessary information regarding this important topic.

Please note that although you have provided information to the COC, the Office of Inspector General has had little to no opportunity to speak with you directly regarding any of the

Alex Villanueva, Sheriff  
Page 2

Department's policies or procedures since you took office more than two years ago. Like the COC, we are sincerely interested in establishing a strong and positive working relationship with the Department that will serve the public's interest in transparency and enhance community trust.

Your letter asserts that you have Peace Officer Bill of Rights Act ("POBRA") protections for the meeting we requested. Although we do not believe POBRA applies here, you would be free during our meeting to assert any lawful right or privilege you may have, including any rights afforded to you under the Fifth Amendment of the United States Constitution.

We confirm that you are welcome to be accompanied by a representative of your choice during our meeting. Your representative may be an attorney or anyone else you choose. If you choose someone other than an attorney, please identify the representative before our meeting. This is to ensure that the person you select is not part of an investigation the Office of Inspector General is conducting. You or your representative may record the meeting.

We intend to ask questions regarding deputy secret societies. This topic describes the nature of the investigation being conducted by the Office of Inspector General. I would conduct the questioning during our meeting.

As you know, the California Department of Justice is investigating whether the Los Angeles County Sheriff's Department has "engage[d] in a pattern or practice of conduct . . . that deprives any person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States or by the Constitution or laws of California." *See* Civil Code § 52.3, subd. (a). The investigation currently appears to be civil in nature but the Department of Justice is, of course, free to expand its investigation. The Office of Inspector General does not conduct criminal investigations. It is possible, however, that any statement you make during our meeting may be used in a future criminal proceeding against you. As noted above, you are welcome to have counsel present during our meeting, and you may consult with counsel in determining whether to assert any lawful right or privilege you may have.

Because you did not accept our invitation to appear voluntarily, we have issued the attached subpoena. The subpoena requires you to appear before the Office of Inspector General on March 25, 2021, at 10:00 a.m. Your appearance will be virtual via Microsoft Teams, and we have included below instructions for you to join the meeting. These instructions also will be emailed to you at [avillan@lasd.org](mailto:avillan@lasd.org). We anticipate that your appearance will last approximately 90 minutes.

Please note that the subpoena is for you to appear personally, not for a "person most knowledgeable."

Following are instructions for you to appear via Microsoft Teams:



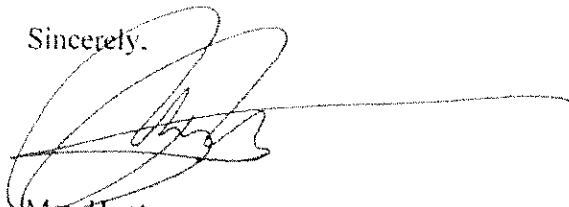
Alex Villanueva, Sheriff  
Page 3

1. A calendar invitation for you to join a Teams meeting with Inspector General Max Huntsman will be sent to [avillan@lasd.org](mailto:avillan@lasd.org). A printout of the invitation is attached for your convenience.
2. To join the meeting, first accept the calendar invitation sent by email, then on March 25, 2021, go to your calendar and click on the calendar entry for the meeting.
3. Cursor down on the page where you will see the words **Microsoft Teams meeting**. Under that will be a prompt to **Join on your computer or mobile app** and then a link that will appear as *Click here to join the meeting*.
4. Clicking on that link will allow you to join the meeting and appear virtually as set forth in the subpoena.

To facilitate your appearance, we will email you a test invitation by March 18, 2021, for you to appear on March 22, 2021, 3 days prior to your appearance date of March 25, 2021. This will provide you or your staff an opportunity to test the instructions set forth above to appear virtually, ask any questions you may have about the instructions, and, if necessary, seek technical assistance. We have participated in Teams meetings with other members of the Sheriff's Department and do not anticipate that you will have any difficulty. Assistance may also be found by going to the Microsoft support page (<https://support.microsoft.com/en-us/office/join-a-teams-meeting-078e9868-f1aa-4414-8bb9-ce88e9236ee4>) for instructions on joining a Teams meeting. Please let us know if you have any questions or if there is anything else we can do to facilitate your appearance.

If you have any logistical questions regarding the subpoena, including the date and time set for your appearance or how to appear virtually, please have your staff contact Acting Chief Deputy Dara Williams before March 22, 2021. If you have any other questions, please call me at 213-974-6100.

Sincerely,



Max Huntsman  
Inspector General

Attachments (Subpoena for Personal Appearance & Microsoft Teams Invitation)

**OFFICE OF INSPECTOR GENERAL**

Address: 500 West Temple Street  
Los Angeles, CA 90012  
Phone: (213) 974-6100

**SUBPOENA FOR PERSONAL APPEARANCE**

**BEFORE THE LOS ANGELES COUNTY  
OFFICE OF INSPECTOR GENERAL**

THE LOS ANGELES COUNTY OFFICE OF INSPECTOR GENERAL, TO  
(name, address, telephone number, and email address of witness, if  
known): **Sheriff Alex Villanueva**  
**Los Angeles County Sheriff's Department, Hall of Justice,**  
**211 West Temple Street, Los Angeles, CA 90012**



1. YOU ARE HEREBY ORDERED, PURSUANT TO GOVERNMENT CODE SECTION 25303.7, TO APPEAR AS A WITNESS before the Los Angeles County Inspector General at the date, time, and place shown below UNLESS you make an agreement with the person named in item 2:

a. Date: March 25, 2021

Time: 10:00 a.m

- b. Address. *During the COVID-19 pandemic, in lieu of appearing in person, please appear virtually via Microsoft Teams by accepting the calendar invitation sent to [avillan@lasd.org](mailto:avillan@lasd.org); then on the day of your appearance, click on the calendar entry to the meeting and join the meeting by clicking on the link that will appear as Click here to join the meeting. Please also see the detailed instructions set forth in the attached cover letter.*

Note: Your testimony will be taken on oral examination before a certified shorthand reporter authorized to administer oaths in the State of California. Your testimony may also be audio recorded if you consent.

2. IF YOU HAVE ANY QUESTIONS REGARDING THIS SUBPOENA, INCLUDING THE DATE AND TIME SET FOR YOUR APPEARANCE OR HOW TO APPEAR VIRTUALLY, PLEASE CONTACT THE FOLLOWING PERSON BEFORE THE DATE AND TIME ON WHICH YOU ARE TO APPEAR:

a. Name of subpoenaing attorney: Inspector General Max Huntsman

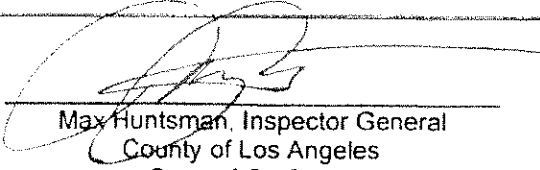
b. Telephone number: 213-974-6100

3. **Witness Fees**: You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person name in item 2.

**DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY A COURT.  
YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND  
ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.**

Date issued: \_\_\_\_\_

2/25/21

  
\_\_\_\_\_  
Max Huntsman, Inspector General  
County of Los Angeles  
State of California

(Proof of Service on Reverse)

Page 1 of 2


**SUBPOENA FOR PERSONAL APPEARANCE**

**PROOF OF SERVICE OF SUBPOENA FOR PERSONAL APPEARANCE**

1. I served this Subpoena for Personal Appearance by personally delivering a copy to the person served as follows:
  - a. Person served (name):
  - b. Address where served:
  
  - c. Date of delivery:
  - d. Time of delivery
  - e. Witness fees (check one):
    - (1)  were offered or demanded and paid. Amount .....\$ \_\_\_\_\_
    - (2)  were not demanded or paid
  - f. Fee for service .....\$ \_\_\_\_\_
  
2. I received this subpoena for service on (date): \_\_\_\_\_
3. Person serving:
  - a.  Not a registered California process server.
  - b.  California sheriff or marshal.
  - c.  Registered California process server.
  - d.  Employee of independent contractor of a registered California process server
  - e.  Exempt from registration under Business and Professions Code section 22350(b)
  - f.  Registered professional photocopier
  - g.  Exempt from registration under Business and Professions Code section 22451
  - h. Name, address, telephone number and, if applicable, county of registration and number

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

Date: \_\_\_\_\_

 \_\_\_\_\_  
(Signature)

## Williams, Dara

---

**Subject:** Subpoena for Testimony - Sheriff Alex Villanueva  
**Location:** Microsoft Teams Meeting

**Start:** Thu 3/25/2021 10:00 AM  
**End:** Thu 3/25/2021 11:30 AM

**Recurrence:** (none)

**Meeting Status:** Meeting organizer

**Organizer:** Williams, Dara  
**Required Attendees:** Max Huntsman

---

## Microsoft Teams meeting

### Join on your computer or mobile app

[Click here to join the meeting](#)

### Or call in (audio only)

+1 213-204-2922, 826 349 552# United States, Los Angeles

Phone Conference ID: 826 349 552#

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

---

# **Exhibit 2**

---

**From:** Huntsman, Max <[mhuntsman@oig.lacounty.gov](mailto:mhuntsman@oig.lacounty.gov)>  
**Sent:** Thursday, January 21, 2021 6:07 PM  
**To:** Villanueva, Alex  
**Cc:** OIG Executive Staff; Anand Harvinder; Alexandra Zuiderweg  
**Subject:** Re: Email to sheriff

---- This message is from an EXTERNAL SENDER - be CAUTIOUS, particularly with links and attachments ----

---

Dear Sheriff Villanueva,

My apologies on the draft. It was meant to go to Alexandra Zuiderweg. Please ignore for now and we'll send it formally tomorrow.

Max

Sent from my iPhone

> On Jan 21, 2021, at 5:50 PM, Max Huntsman <[maxhuntsman@me.com](mailto:maxhuntsman@me.com)> wrote:  
>  
> I plan on sending the email below tomorrow, should anyone see any typos.  
>  
> Dear Sheriff Villanueva,  
>

> Thank you for the information you provided at yesterday's Sheriff's Civilian Oversight Commission.

As

> you observed, the Office of Inspector General has not responded to the release of your video discussing the Sheriff's Department policy on membership in deputy secret societies. I do have some questions regarding the policy and am writing to schedule a meeting for next week in order to ask those questions. Because of COVID-19 restrictions, I will schedule the meeting on Microsoft Teams. Please let my staff know your availability.

>

> Because of constraints on your time, you were not able to address some questions that Commissioner

> Priscilla Ocen had regarding COVID-19 policies and practices at the Sheriff's Department. Please let me know your availability to answer those questions. I have some additional questions on the same topic as well. The next COC meeting is on February 18, 2021 and I would like for our meeting to take place at

> least a week prior to that date to avoid unnecessary duplication with questions asked at the meeting. As

> with the meeting on deputy secret societies, I will schedule the meeting on Microsoft Teams.

>

> Thank you for your anticipated compliance with these requests which will obviate the need for the  
> issuance of subpoenas.

>

> Best regards,

> Max Huntsman

>

> Max Huntsman

> Sent from my iPhone

# **Exhibit 3**





# OFFICE OF THE SHERIFF



COUNTY OF LOS ANGELES

**HALL OF JUSTICE**

ALEX VILLANUEVA, SHERIFF

January 25, 2021

Max Huntsman, Inspector General  
County of Los Angeles  
Office of Inspector General  
312 South Hill Street, Third Floor  
Los Angeles, California 90013

Dear Mr. Huntsman:

## RESPONSE TO JANUARY 22, 2021, EMAIL

This letter is in response to your email sent to me on Friday, January 22, 2020. As you are aware, I have attended two Civilian Oversight Commission (COC) meetings to address the Novel Coronavirus (COVID-19) matters in the jails. I was told the request for my presence at this meeting was to provide general information regarding my visions, practice, and policies.

At the first meeting on December 18, 2020, the COC did not address that topic with me. As such, I agreed to voluntarily return and was present at the next meeting on January 21, 2021. I responded to the COC's questions for one hour and fifteen minutes, which was longer than I was scheduled to attend. Most of the questions dealt with specific data and numbers, and were more appropriately addressed and answered by Assistant Sheriff Bruce Chase.

My schedule does not permit me to meet with you next week, but if you or Ms. Ocen have additional questions, my staff or I will be happy to research the answers and provide them to you in writing.

I heard your remarks to the COC during the January 21<sup>st</sup> meeting and you commented you intended to ask me about inconsistencies between what I told the COC and the video briefing regarding deputy sub-groups. Please identify and detail those inconsistencies in order for me to research what, if any, discrepancies there were. I will be happy to provide clarity on this issue, however, if it is your intent to interrogate me or to investigate me in any manner, I remind you I have Peace Office Bill of Rights Act (POBRA)

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

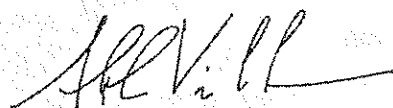
*A Tradition of Service*  
— Since 1850 —

protections and Government Code Section 3303 applies. If we were to meet, I will need my attorney present. (*Blue v. Office of Inspector General (2018) 23 Cal. App. 5th 138, 161* ["The test for whether an employee has a right to representation during an interview is an objective one. In a case involving Inspector General interviews with Department of Corrections and Rehabilitation employees, it turns on whether or not a reasonable person in the plaintiffs' position, having been informed by the interviewer that he or she was not under investigation for any potential wrongdoing, would nevertheless believe he or she was under investigation for something that could lead to punitive action (Gov. Code, § 3303) or that the facts of the case could lead to punitive action against him or her."])

I have fully cooperated with the COC. I believe further inquiries regarding this matter can be satisfactorily handled by written questions and a researched response from the Los Angeles County Sheriff's Department. Providing me with your concerns in writing will be a lesser intrusive means of obtaining information so I can devote my time to efforts towards law enforcement.

Should you have further questions, you can contact me at (213) 229-3000.

Sincerely,



ALEX VILLIANUEVA  
SHERIFF

AV:GG:aa  
(Sheriff's Office)

c: Supervisor Hilda L. Solis, Chair, Board of Supervisors  
Supervisor Holly J. Mitchell, Second District, Board of Supervisors  
Supervisor Sheila Kuehl, Third District, Board of Supervisors  
Supervisor Janice Hahn, Fourth District, Board of Supervisors  
Supervisor Kathryn Barger, Fifth District Board of Supervisors  
Rodrigo A. Castro-Silva, County Counsel  
Brian K. Williams, Executive Director, Civilian Oversight Commission  
Timothy Murakami, Undersheriff  
Steven Gross, Assistant Sheriff

# **Exhibit 4**



**AB-1185 County board of supervisors: sheriff oversight.** (2019-2020)

**As Amends the Law Today**

**As Amends the Law on Nov 18, 2020**

**SECTION 1.** *Section 25303.7 is added to the Government Code, to read:*

**25303.7. (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.*

*(2) The members of the sheriff oversight board shall be appointed by the board of supervisors. The board of supervisors shall designate one member to serve as the chairperson of the board.*

*(b) (1) The chair of the sheriff oversight board shall issue a subpoena or subpoena duces tecum in accordance with Sections 1985 to 1985.4, inclusive, of the Code of Civil Procedure whenever the board 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.*

*(2) A subpoena shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure.*

*(3) (A) If a witness fails to attend, or in the case of a subpoena duces tecum, if an item is not produced as set forth therein, the chair or the chair authorized deputy issuing the subpoena upon proof of service thereof may certify the facts to the superior court in the county of the board.*

*(B) The court shall thereupon issue an order directing the person to appear before the court and show cause why they should not be ordered to comply with the subpoena. The order and a copy of the certified statement shall be served on the person and the court shall have jurisdiction of the matter.*

*(C) The same proceedings shall be had, the same penalties imposed, and the person charged may purge themselves of the contempt in the same way as in a case of a person who has committed a contempt in the trial of a civil action before a superior court.*

*(c) (1) A county, through action of the board of supervisors or vote by county residents, may establish an office of the inspector general, appointed by the board of supervisors, to assist the board of supervisors with its duties required pursuant to Section 25303 that relate to the sheriff.*

*(2) The inspector general shall have the independent authority to issue a subpoena or subpoena duces tecum subject to the procedure provided in subdivision (b).*

*(d) The exercise of powers under this section or other investigative functions performed by a board of supervisors, sheriff oversight board, or inspector general vested with oversight responsibility for the sheriff shall not be considered to obstruct the investigative functions of the sheriff.*