ANALYSIS

This ordinance amends Title 2 - Administration of the Los Angeles County Code by repealing Chapter 2.37, relating to the Ombudsman, in its entirety. This ordinance also amends Title 6 - Salaries of the Los Angeles County Code by adding Section 6.44.190, relating to the Office of Inspector General.

JOHN F. KRATTLI
County Counsel

By _____
MICHELE JACKSON
Senior Deputy County Counsel
Law Enforcement Services Division

MJJ:cn
03/13/14 (requested)
03/19/14 (revised)

ORDINANCE NO. 2014-0034

An ordinance amending Title 2 – Administration and Title 6 - Salaries of the Los Angeles County Code, relating to the Ombudsman and the Office of Inspector General, respectively.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 2.37 is hereby repealed in its entirety:

~~**2.37 OMBUDSMAN**~~

~~**2.37.010 - Creation—Functions.**~~

~~There shall be created a department of the county, which shall be known as the "office of ombudsman." The office of ombudsman shall perform the following duties with regard to complaints concerning the sheriff's department and duties with regard to other county departments and agencies as the board of supervisors may direct:~~

~~A. Facilitate Timely Investigation of Complaints. Upon complainant request, the ombudsman, having been selected as such by the board of supervisors and the sheriff, shall inquire whether complaints involving sheriff's personnel are being investigated in a timely fashion, and will communicate to the complainant the progress of an investigation and its results to the extent permitted by law.~~

~~B. Review Complaint Investigations. The ombudsman will review unfounded or unresolved complaint investigations upon complainant request except as outlined below.~~

~~C. Select Reviewing Judge from Panel. Whenever a complaint concerning allegedly excessive force resulting in hospital examination or treatment, or, in addition, such other complaints as the sheriff determines may be appropriate for submission to a panel~~

~~judge, has been determined to be unfounded or unable to be resolved and the complainant requests a review of those findings, the ombudsman shall select and assign a retired judge from the panel of retired judges approved by and authorized by the board of supervisors and the sheriff to review the records in connection with the adjudication of the complaint.~~

~~D. Access Within Sheriff's Department and Final Determination. The ombudsman and judges will be provided sufficient access within the sheriff's department to be able to perform the assigned functions. The ombudsman or reviewing judge will either determine that the investigation was sufficient and that the findings are appropriate, or will return it to the sheriff's department with a written explanation as to why he or she feels it is deficient. The sheriff will make the final determination as to whether additional investigation or modification to the findings are appropriate.~~

~~2.37.020 - Ombudsman—Appointment and authority.~~

~~A. The office of ombudsman shall be under the direction of the ombudsman who shall be a person of great integrity and independence selected by the sheriff and the board of supervisors. The ombudsman shall be an appointive county officer. The ombudsman and panel judges shall not have independent investigative authority and are not empowered to initiate or conduct investigations or interview witnesses. The ombudsman will not become involved in reviewing criminal investigations, nor will the ombudsman so involve any member of the panel of judges.~~

~~B. The ombudsman shall refer any complaint of dissatisfaction to one of the judges in any case which represents a conflict of interest to him. In any case in which reviewing~~

~~a specific case could create a conflict of interest for a judge, the designated judge shall notify the ombudsman to select another judge.~~

~~C. The ombudsman and panel judges shall be considered confidential employees and, as such, shall be bound by the same restrictions that apply to employees of the sheriff's department regarding the sharing or divulging of information relative to administrative investigations or their dispositions.~~

~~2.37.030 - Complainant waiver.~~

~~In any case in which a complainant involves the ombudsman in a review of his or her complaint, the complainant must formally waive his or her right to subpoena the ombudsman and or panel judge as a witness in any future legal action involving their complaint, other complaints or the complaint review process. This waiver shall also extend to all files kept by the ombudsman or any panel judge. In performing tasks under this chapter the panel judges are presiding at quasi-judicial proceedings performing quasi-judicial functions within the meaning of Evidence Code Section 703.5. The only public record of action of the ombudsman or any panel judge is the written finding that the investigation was sufficient and that the sheriff's findings are appropriate, or the written explanation to the sheriff as to why the panel judge feels it is deficient. All other records or communications are to be kept confidential as "official information" acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed to the public within the meaning of Evidence Code Section 1040, and the ombudsman and panel judges shall assert the privilege provided for by that section on the grounds that it has been determined that disclosure of the information is against~~

~~the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.~~

SECTION 2. Section 6.44.190 is hereby added to read as follows:

6.44.190 OFFICE OF INSPECTOR GENERAL

A. As part of the Board of Supervisors' duty to supervise the official conduct of the Sheriff under Government Code section 25303, the Office of Inspector General ("OIG") is created in the department of the Board of Supervisors. The OIG is created to facilitate the Board of Supervisors' responsibility without interfering with the Sheriff's investigative functions. The OIG shall focus on matters relevant to department-wide policies and procedures and shall not interfere with criminal, personnel, and other investigations by the Sheriff's Department.

B. The OIG shall provide independent and comprehensive oversight, monitoring of, and reporting about the Sheriff's Department and its jail facilities as set forth in this Section under the leadership of an Inspector General appointed by the Board of Supervisors.

C. The OIG shall have four primary functions: (1) monitoring the Sheriff's Department's operations, conditions in the jail facilities, and the Sheriff's Department's response to inmate and public complaints related to the Sheriff's Department operations; (2) periodically reviewing the Sheriff's Department's use of force patterns, trends, and statistics, the Sheriff's Department's investigations of force incidents and allegations of misconduct, and the Sheriff's Department's disciplinary decisions; (3) reviewing the quality of audits and inspections conducted by the Sheriff's Department and conducting its own periodic audits and inspections; and (4) regularly communicating

with the public, the Board of Supervisors, and the Sheriff's Department regarding the Sheriff's Department's operations. Complaints relating to specific conduct shall be referred, with the permission of the complainant, to the Sheriff's Department for action pursuant to Penal Code section 832.5.

D. Without interfering with the Sheriff's investigative functions, the OIG shall have the authority to investigate specific incidents involving Sheriff's Department personnel only in the following circumstances:

(1) when requested by, or with authorization of, the Sheriff;

(2) when the Inspector General determines that the Sheriff's Department has not adequately investigated an incident; provided, however, that the Inspector General shall first meet and confer with the Sheriff and afford the Sheriff's Department the opportunity to investigate the incident further before the OIG conducts an investigation pursuant to this subpart; or

(3) when the Board of Supervisors makes a formal request to the Inspector General for privileged legal advice pertaining to a claim or lawsuit arising out of the actions of the Sheriff's Department or its personnel.

E. The Inspector General shall report directly to, and serve as an agent of, the Board of Supervisors and shall make regular reports to the Board of Supervisors on the Sheriff's Department's operations. Such reports to the Board of Supervisors shall be public reports, except to the extent they relate to confidential personnel or otherwise privileged matters. The OIG shall work under the direction of the Inspector General, who shall be an attorney licensed by the State Bar of California. The Inspector General shall serve as special counsel to the Board of Supervisors and have an attorney-client

relationship with the Board of Supervisors when requested by the Board to provide privileged legal advice pertaining to a claim or lawsuit arising out of the actions of the Sheriff's Department or its personnel.

F. The Sheriff's Department and all other County departments shall cooperate with the OIG and promptly supply any information or records requested by the OIG, including confidential peace officer personnel records necessary for the OIG to carry out its duties; provided, however, that the OIG shall not have the authority to compel Sheriff's Department personnel involved in a specific incident to respond to questions concerning that incident without the authorization of the Sheriff.

G. The confidentiality of peace officer personnel records and all other privileged or confidential information received by the OIG in connection with the discharge of the OIG's duties shall be safeguarded and maintained by the OIG as required by law or as necessary to maintain any applicable privileges or the confidentiality of the information. The OIG shall not disclose, without the Sheriff's authorization, any of the Sheriff's Department's confidential personnel, investigative, or disciplinary information unless such information is already a matter of public record or the disclosure is to the Board of Supervisors in response to a formal request by the Board of Supervisors for privileged legal advice pertaining to a claim or lawsuit arising out of the actions of the Sheriff's Department or its personnel.

[237010MJCC]

SECTION 3. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.

Don Knabe
Chairman

ATTEST:

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of August 12, 2014 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	Ayes		Noes
Supervisors	Gloria Molina	Supervisors	None
	Mark Ridley-Thomas		
	Zev Yaroslavsky		
	Don Knabe		
	Michael D. Antonovich		

Effective Date: September 11, 2014

~~Operative Date:~~

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:
RICHARD D. WEISS
Acting County Counsel

By _____
Richard D. Weiss
Acting County Counsel

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