

1 MELANIE P. OCHOA (SBN 284342)

2 mpochoa@aclusocal.org

3 ADRIENNA WONG (SBN 282026)

4 awong@aclusocal.org

5 DAE KEUN KWON (SBN 313155)

6 akwon@aclusocal.org

7 TIFFANY M. BAILEY (SBN 319886)

8 tbailey@aclusocal.org

9 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
10 OF SOUTHERN CALIFORNIA

11 1313 W. 8th Street

12 Los Angeles, CA 94111

13 Telephone: (213) 977-9500

14 Facsimile: (213) 977-5297

15 *Attorneys for Proposed Amici Curiae*

16
17
18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
20

21 Case No. 23STCP01745

22 ASSOCIATION FOR LOS ANGELES
23 DEPUTY SHERIFFS,

24 *Plaintiff and Petitioner,*

25 v.

26 COUNTY OF LOS ANGELES; ROBERT
27 LUNA, Sheriff of the County of Los Angeles;
28 OFFICE OF THE INSPECTOR GENERAL
OF THE COUNTY OF LOS ANGELES;
MAX HUNTSMAN, Inspector General of the
County of Los Angeles, and DOES 1 – 20,

Defendants and Respondents.

**EX PARTE APPLICATION TO FILE
BRIEF OF AMICI CURIAE IN
SUPPORT OF RESPONDENTS'
OPPOSITION TO PETITIONER'S
APPLICATION FOR PRELIMINARY
INJUNCTION**

Accompanying Documents: [PROPOSED]
BRIEF OF AMICI CURIAE IN SUPPORT
OF RESPONDENTS' OPPOSITION TO
PETITIONER'S APPLICATION FOR
PRELIMINARY INJUNCTION;
DECLARATION OF MELANIE OCHOA

Hearing Date: June 27, 2023

Hearing Time: 8:30 AM

Dept.: 85

Judge: Hon. James C. Chalfant

1 **APPLICATION TO FILE BRIEF OF AMICI CURIAE**

2 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:**

3 Amici Curiae American Civil Liberties Union of Southern California, Check the Sheriff, Dignity
4 and Power Now, and California Immigrant Policy Center respectfully submit this application for leave
5 to file the attached Amici Curiae Brief in Support of Respondents’ Opposition to Petitioner’s
6 Application for Preliminary Injunction, to be heard on June 29, 2023, at 9:30 AM, in Department 85 at
7 the Stanley Mosk Courthouse.

8 The application for preliminary injunction by Petitioner Association for Los Angeles Deputy
9 Sheriffs (“ALADS”) presents a legally meritless and deeply troubling effort to further shield deputy
10 gangs within the Los Angeles County Sheriff’s Department (“LASD”). Amici seek leave of the Court to
11 submit the attached brief explaining why the Court should deny ALADS’s application for preliminary
12 injunction.

13 **THE PROPOSED AMICI CURIAE BRIEF WOULD ASSIST THE COURT IN DECIDING
14 THIS MATTER**

15 Pursuant to Rules 8.200 and 8.520(f) of the California Rules of Court,¹ amici respectfully submit
16 this application for permission to file an amici curiae brief in the present action in support of
17 Respondents’ Opposition to Petitioner’s Application for Preliminary Injunction. Amici respectfully
18 contend that this brief would assist the Court in deciding this matter by expanding on the balance of
19 harms at stake and Petitioner’s inability to prevail on the merits. The proposed amici curiae brief will
20 address how the public interest will be harmed by the issuance of a preliminary injunction, which courts
21 recognize to be an especially weighty consideration where, as here, a plaintiff seeks to enjoin the
22 government from performing its duties to protect the public. Specifically, the brief will discuss (1) the
23 significant and ongoing harm LASD deputy gangs have inflicted upon the community; (2) how an
24 injunction would undermine the will of the Legislature and electorate who recently enacted measures to
25 bolster the Office of Inspector General’s (“OIG”) oversight of LASD and to eradicate deputy gangs; (3)
26 how the public interest will be harmed by the issuance of a preliminary injunction; and (4) how the

27 ¹ The California Rules of Court do not specify a procedure for seeking permission to file an amicus curiae brief in Superior
28 Court. Counsel for amici curiae have therefore followed the rules governing appellate litigation. In addition, as directed by
the clerk of Department 85, counsel file this ex parte application for leave to file the proposed amici curiae brief.

1 constitutional, privacy, and labor law arguments espoused by Petitioner are meritless. The proposed
2 brief is attached hereto as Exhibit A. Additionally, pursuant to Rule 3.1204 of the California Rules of
3 Court, a declaration by counsel regarding notice is enclosed as Exhibit B. No party or counsel for any
4 party authored the proposed amici curiae brief, nor did any outside entity fund its preparation.

5 **INTEREST OF AMICI CURIAE**

6 The American Civil Liberties Union of Southern California (“ACLU SoCal”) is a nonprofit,
7 nonpartisan civil liberties organization with more than 110,000 members dedicated to the principles of
8 liberty and equality embodied in both the United States and California constitutions and our nation’s
9 civil rights laws. As the Southern California regional affiliate of the national American Civil Liberties
10 Union, ACLU SoCal serves to protect the civil rights and civil liberties of people who live in Southern
11 California. ACLU SoCal has actively advocated for greater civilian oversight and accountability of the
12 Sheriff and LASD, including the eradication of LASD deputy gangs. To this end, ACLU SoCal has
13 been a founding and core member organization of the Check the Sheriff coalition and has supported
14 local and state efforts towards those accountability and oversight goals. These efforts include the
15 community-driven Los Angeles County ballot Measure R (2020), which granted the Sheriff Civilian
16 Oversight Commission (“COC”) subpoena power to legally compel the production of information from
17 LASD, and Assembly Bill 1185 (McCarty 2019), which clarified the authority of California counties to
18 establish sheriff oversight boards and offices of inspector general and grant those entities subpoena
19 power.

20 The Check the Sheriff coalition—comprising organizations and individuals directly impacted by
21 LASD violence and misconduct—has worked tirelessly to bring awareness to LASD’s harms to the
22 community and to advocate for legal and policy change to strengthen civilian oversight and
23 accountability. Check the Sheriff has been integral to highlighting deputy gang abuses and the targeted
24 harassment of surviving families of individuals killed by LASD deputies. Notably, with Measure A in
25 2022, Check the Sheriff developed the first sheriff-related Los Angeles County charter amendment in 20
26 years. Alongside more than 120 community and labor organizations, Check the Sheriff urged the Los
27 Angeles County Board of Supervisors (“Board of Supervisors”) to place Measure A on the November
28

1 2022 ballot, which passed and authorized removal of a Sheriff by a 4/5 vote of the Board of Supervisors
2 for serious violations of the public trust—such as refusing to stop deputy gangs from brutalizing our
3 communities.

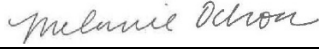
4 Led by individuals directly impacted by incarceration, Dignity and Power Now (“DPN”) is a
5 nonprofit organization working to end state violence and mass incarceration. DPN has advocated
6 extensively for measures that hold LASD accountable for misconduct and abuses, particularly those
7 perpetrated by LASD deputy gangs. DPN’s advocacy for independent civilian oversight of LASD was
8 fundamental in the Board of Supervisors’ creation of the COC. As a member of the Reform LA Jails
9 coalition, DPN was a core supporter of Los Angeles County ballot Measure R and developed a training
10 program to equip staff and volunteers with the skills needed to mobilize voters. DPN has also served an
11 important role as a hub for families directly impacted by LASD deputy gang violence to participate in
12 healing conversations and community building.

13 California Immigrant Policy Center (“CIPC”) is a nonprofit immigrants’ rights organization that
14 has advocated for policies and legislation that uphold the dignity of immigrants and advance racial,
15 social, and economic justice. CIPC has played a central and essential role in advancing a progressive
16 statewide immigrant justice agenda. Over the past few years, CIPC has expanded its agenda to include
17 strengthening sheriff oversight and accountability. As such, CIPC has supported various state legislative
18 efforts, including advocating for Assembly Bill 1185 and co-sponsoring Senate Bill 271 (Wiener 2021),
19 which would have allowed registered voters to run for Sheriff.

1 DATED: June 26, 2023

2
3 ACLU FOUNDATION OF SOUTHERN
CALIFORNIA

4
5 By: 
6 DAE KEUN KWON

7 By: 
8 MELANIE P. OCHOA

9 *Attorneys for Amici Curiae*

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

1 MELANIE P. OCHOA (SBN 284342)
mpochoa@aclusocal.org
2 ADRIENNA WONG (SBN 282026)
awong@aclusocal.org
3 DAE KEUN KWON (SBN 313155)
akwon@aclusocal.org
4 TIFFANY M. BAILEY (SBN 319886)
tbailey@aclusocal.org
5 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
6 OF SOUTHERN CALIFORNIA
1313 W. 8th Street
7 Los Angeles, CA 94111
Telephone: (213) 977-9500
8 Facsimile: (213) 977-5297

9 *Attorneys for Proposed Amici Curiae*

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

13
14 ASSOCIATION FOR LOS ANGELES
DEPUTY SHERIFFS,

15 *Plaintiff and Petitioner,*

16 v.

17
18 COUNTY OF LOS ANGELES; ROBERT
LUNA, Sheriff of the County of Los Angeles;
19 OFFICE OF THE INSPECTOR GENERAL
OF THE COUNTY OF LOS ANGELES;
20 MAX HUNTSMAN, Inspector General of the
County of Los Angeles, and DOES 1 – 20,

21 *Defendants and Respondents.*
22
23
24
25
26
27
28

Case No. 23STCP01745

**[PROPOSED] BRIEF OF AMICI
CURIAE IN SUPPORT OF
RESPONDENTS' OPPOSITION TO
PETITIONER'S APPLICATION FOR
PRELIMINARY INJUNCTION**

Hearing Date: June 27 2023

Hearing Time: 8:30 AM

Dept.: 85

Judge: Hon. James C. Chalfant

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES 9

INTRODUCTION 15

BACKGROUND 16

I. The Harm Inflicted on the Community by LASD Deputy Gangs is Severe and Pervasive. 16

II. The Los Angeles Community and California Legislature Have Established Necessary Civilian Oversight of LASD and Demanded the Eradication of LASD Deputy Gangs..... 22

III. The OIG’s Requests to Suspected Deputy Gang Members Were Limited..... 24

ARGUMENT 26

I. The Balance of Harms Weighs Heavily Against ALADS Because It Cannot Establish Interim Harm While a Preliminary Injunction Would Necessarily Cause Grave Harm to the Public. 27

a. A Preliminary Injunction Would Cause Grave Harm to the Public Interest..... 27

b. ALADS’s Arguments That Its Deputies Will Suffer Interim Harm Are Based on Pure Speculation and Fail to Demonstrate a Need for or Entitlement to a Preliminary Injunction. 30

II. ALADS Is Not Likely to Prevail on the Merits. 32

a. Investigation into Deputy Gang Membership and Activity by the OIG Is a Question of Public Safety Outside the Scope of Bargaining..... 32

b. *Pitchess* Protections for Deputy Personnel Files Would Not Apply to Interviews that Are Not Conducted by the Employing Agency. 35

c. ALADS Cannot Establish Any Violation of Constitutional Rights. 37

CONCLUSION..... 40

1 **TABLE OF AUTHORITIES**

2 **CASES**

3 *Assn for L.A. Deputy Sheriffs v. County of L.A.*

4 (2008) 166 Cal.App.4th 33, 35

5 *Assn of Orange County Dpty Sheriffs v. County of Orange*

6 217 Cal.App.4th 33, 34

7 *Berkeley Police Assn. v. City of Berkeley*

8 (1977) 76 Cal.App.3d 35

9 *Biehunik v. Felicetta*

10 (1971) 441 F.2d 38

11 *Building Material & Construction Teamsters’ Union v. Farrell*

12 (1986) 41 Cal.3d 32

13 *Bus Riders Union v. Los Angeles Cnty Metro. Trans. Agency*

14 (2009) 179 Cal.App.4th 31

15 *Claremont Police Officers Assn. v. City of Claremont*

16 (2006) 39 Cal.4th 32, 35

17 *Common Cause v. Bd. of Supervisors*

18 (1989) 49 Cal.3d 26

19 *Copley Press, Inc. v. Super. Ct.*

20 (2006) 39 Cal.4th 36

21 *Cota v. Cty of Los Angeles*

22 (1980) 105 Cal.App.3d 27, 28

23 *Crim. Justice Attorneys Assn. of Ventura County., Charging Party, v. County. of Ventura, Respondent,*

24 45 PERC ¶ 87 34

25 *Hernandez, et al. v. County of L.A.*

26 Superior Ct. L.A., 2023, No. 19STCV33158 21

27 *Kirkpatrick v. City of Los Angeles*

28 (1986) 803 F.2d 38

1	<i>Korean Philadelphia Presbyterian Church v. California Presbytery</i>	
2	(2000) 77 Cal.App.4th	30,31
3	<i>Long Beach Police Officers Assn. v. City of Long Beach</i>	
4	(2014) 59 Cal.4th	36
5	<i>Los Angeles Police Protective League v. Gates</i>	
6	(1984) 579 F.Supp.	38
7	<i>O’Connell v. Superior Court</i>	
8	(2006) 141 Cal.App.4th	28, 29
9	<i>P.O.S.T. v. Super. Ct.,</i>	
10	(2007) 42 Cal.4th	36
11	<i>Pasadena Police Officers Assn. v. City of Pasadena</i>	
12	(1990) 51 Cal.3d	35
13	<i>People ex rel. Reisig v. Acuna</i>	
14	(2010) 182 Cal.App.4th	28, 30
15	<i>San Francisco Police Officers' Assn. v. San Francisco Police Com.</i>	
16	(2018) 27 Cal.App.5th	32
17	<i>San Francisco v. Market Street Ry. Co.</i>	
18	(1950) 95 Cal.App.2d	31
19	<i>San Jose Peace Officer’s Association v. City of San Jose</i>	
20	(1978) 78 Cal.App. 3d	32, 34
21	<i>Tahoe Keys Property Owners’ Assn. v. State Water Resources Control Bd.</i>	
22	(1994) 23 Cal.App.4th	27, 28
23	<i>Teamsters Agric. Workers Union v. Internal Brotherhood of Teamsters</i>	
24	140 Cal.App.3d	28
25	<i>United States v. Anthony</i>	
26	(W.D.Va. Jan. 31, 2019, No. 4:18-cr-00012) 2019 U.S.Dist.LEXIS 15589	39
27	<i>Vo v. City of Garden Grove</i>	
28	(2004) 115 Cal.App.4th.....	27

1	<i>White v. Davis</i>	
2	(2003) 30 Cal.4th	26
3	<u>STATUTES</u>	
4	Cal. Gov. Code § 3303.....	34
5	Cal. Gov. Code § 25303.....	23, 24, 29
6	Cal. Gov. Code § 3504.....	32
7	Cal. Gov. Code § 13510.8.....	25,29
8	Los Angeles County Code § 6.44.190	passim
9	Los Angeles County Code § 5.04.090.	32
10	Los Angeles County Code § 6.44.190	25, 29
11	Penal Code § 13670	passim
12	Penal Code § 832.7	31
13	Penal Code § 832.8	36
14	<u>MEDIA AUTHORITIES</u>	
15	Blakinger, <i>“To me they’re punks”</i> : <i>Grieving families air concerns at town hall on deputy “gangs”</i> , L.A.	
16	Times (Apr. 15, 2023) < https://www.latimes.com/california/story/2023-04-15/oversight-committee-	
17	holds-community-meeting-on-deputy-gangs >.....	20
18	Blakinger, <i>Ex-deputies involved in Guardado shooting indicted federally in separate abuse case</i> , L.A.	
19	Times, (Apr. 13, 2023) < https://www.latimes.com/california/story/2023-04-13/sources-ex-deputies-	
20	involved-in-andres-guardado-shooting-indicted-in-unrelated-case >.....	20
21	Blakinger, <i>Judge rules sprawling lawsuit claiming abuses by East L.A. deputy gang can move forward</i> ,	
22	L.A. Times (May 4, 2023) < https://www.latimes.com/california/story/2023-05-04/judge-rules-	
23	sprawling-lawsuit-claiming-abuses-by-east-l-a-deputy-gang-can-move-forward >.	18
24	Blakinger, <i>New deputy ‘gang’ forming in L.A. County Sheriff’s Department, lawsuit alleges</i> , L.A. Times	
25	(Feb. 8, 2023).....	19
26	Blakinger, <i>Special counsel urges sheriff to ban the ‘cancer’ of deputy gangs</i> (hereinafter Blakinger 1),	
27	L.A. Times (Mar. 2, 2023) < https://www.latimes.com/california/story/2023-03-02/la-me-deputy-	
28	gangs-report >.	19

1 Cagle, *Whistleblower Testifies Deputy Who Shot Gardena Teen Was “Chasing Ink”*, Spectrum News 1
2 (Aug. 30, 2020). <[https://spectrumnews1.com/ca/la-west/public-safety/2020/08/30/whistleblower-
4 testifies-deputy-who-shot-gardena-teen-was--chasing-ink--](https://spectrumnews1.com/ca/la-west/public-safety/2020/08/30/whistleblower-

3 testifies-deputy-who-shot-gardena-teen-was--chasing-ink--)>..... 20
5 City News Service, *Father sues for fatal shooting of son – by East L.A. Deputy who is allegedly
6 ‘Banditos’ member*, The Eastsider (June 26, 2020)
7 <[https://www.theeastsiderla.com/neighborhoods/east_los_angeles/father-sues-for-fatal-shooting-of-
9 son---by-east-l-a-deputy-who/article_e15233f4-b7f5-11ea-96e5-db92cda23b87.html](https://www.theeastsiderla.com/neighborhoods/east_los_angeles/father-sues-for-fatal-shooting-of-

8 son---by-east-l-a-deputy-who/article_e15233f4-b7f5-11ea-96e5-db92cda23b87.html)> 21
10 Hamilton, *Former Los Angeles County Sheriff Lee Baca is now a prison inmate in Texas*, L.A. Times
11 (Feb. 5, 2020) <[https://www.latimes.com/california/story/2020-02-05/former-los-angeles-county-
13 sheriff-lee-baca-is-now-a-prison-nmate-in-texas](https://www.latimes.com/california/story/2020-02-05/former-los-angeles-county-

12 sheriff-lee-baca-is-now-a-prison-nmate-in-texas)>. 20
14 Lau, *Cop Group with Matching Skull Tattoos Costs Taxpayers \$7 Million in Fatal Shooting*, L.A. Times
15 (June 18, 2019) <[https://www.latimes.com/local/lanow/la-me-sheriff-tattoo-settlement-20190618-
17 story.html](https://www.latimes.com/local/lanow/la-me-sheriff-tattoo-settlement-20190618-

16 story.html)> 18
18 O’Connor & Daunt, *The Secret Society Among Lawmen*, L.A. Times (Mar. 24, 1992)
19 <<https://www.latimes.com/archives/la-xpm-1999-mar-24-mn-20461-story.html>>. 17
20 Ormseth, *Family of Andres Guardado Sues Sheriff’s Department, Deputies Involved in Fatal Shootings*,
21 L.A. Times (Sept. 1, 2020) < [https://www.latimes.com/california/story/2020-09-01/andres-guardado-
23 fatal-shooting-sheriffs-deputies-lawsuit](https://www.latimes.com/california/story/2020-09-01/andres-guardado-

22 fatal-shooting-sheriffs-deputies-lawsuit)> 20
24 Stoltze, *Inquest Into Deputy’s Fatal Shooting of Andres Guardado: Both Deputies, 2 Detectives Plead
25 the 5th*, LAist, (Nov. 30, 2020) <[https://laist.com/news/coroner-inquest-andres-guardado-deputy-
27 shooting-deputies-detectives-5th-amendment](https://laist.com/news/coroner-inquest-andres-guardado-deputy-

26 shooting-deputies-detectives-5th-amendment)>. 20
28 Swell, *L.A. County to pay \$10 million to man whose murder conviction was overturned*, L.A. Times
29 (July 19, 2016) <[https://www.latimes.com/local/lanow/la-me-ln-francisco-carrillo-settlement-
31 20160719-snap-story.html](https://www.latimes.com/local/lanow/la-me-ln-francisco-carrillo-settlement-

30 20160719-snap-story.html)>;..... 22
32 Tchekmedyan, *Compton Executioners deputy gang lied about guns and hosted inking parties, deputy
33 says*, L.A. Times (Aug. 21, 2020) <[https://www.latimes.com/california/story/2020-08-20/lasd-gangs-
35 who-are-the-compton-executioners](https://www.latimes.com/california/story/2020-08-20/lasd-gangs-

34 who-are-the-compton-executioners)> 18

REPORTS

1 Center for Juvenile Law & Policy, Loyola Law School, 50 Years of Deputy Gangs in the Los Angeles
2 County Sheriff’s Department: Identifying Root Causes and Effects to Advocate for Meaningful
3 Reform (Jan. 2021) <<https://lmu.app.box.com/s/ho3rp9qdbmn9aip8fy8dmmukjjgw5yyc>>. passim
4 Check the Sheriff Coalition, *No Justice No Peace: The Los Angeles County Sheriff’s Department*
5 *Targeted Harassment of Grieving Families* (May 2021)
6 < <https://www.checkthesheriff.com/reports>> 21
7 Inspector General Max Huntsman, *Report Back on Inquiry as to the Harassment of Families by LASD*
8 *Patrol Operations Staff Following a Fatal Use of Force by LASD* (Nov. 17, 2020) <[https://assets-us-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/c2a13941-c476-4266-93d4-598903cf733e/FatalForceHarassmentCOCReportBack.pdf)
9 [01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/c2a13941-c476-4266-93d4-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/c2a13941-c476-4266-93d4-598903cf733e/FatalForceHarassmentCOCReportBack.pdf)
10 [598903cf733e/FatalForceHarassmentCOCReportBack.pdf](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/c2a13941-c476-4266-93d4-598903cf733e/FatalForceHarassmentCOCReportBack.pdf)> 21
11 Inspector General Max Huntsman, *Report Back on Protecting Surviving Families from Law*
12 *Enforcement Harassment and Retaliation* (July 7, 2021) <[https://assets-us-01.kc-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0a5c0ab3-855a-492a-a9db-5643722e64cb/Report_on_Protecting_Surviving_Families.pdf)
13 [usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0a5c0ab3-855a-492a-a9db-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0a5c0ab3-855a-492a-a9db-5643722e64cb/Report_on_Protecting_Surviving_Families.pdf)
14 [5643722e64cb/Report_on_Protecting_Surviving_Families.pdf](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0a5c0ab3-855a-492a-a9db-5643722e64cb/Report_on_Protecting_Surviving_Families.pdf)> 21
15 James G. Kolts, *Kolts Commission Report* (hereinafter Kolts Report) (July 1992)
16 <<https://clearinghouse.net/doc/10910/>> 17
17 *Report of the Citizens’ Commission on Jail Violence* (Sept. 2012) <[https://ccjv.lacounty.gov/wp-](https://ccjv.lacounty.gov/wp-content/uploads/2012/09/CCJV-Report.pdf)
18 [content/uploads/2012/09/CCJV-Report.pdf](https://ccjv.lacounty.gov/wp-content/uploads/2012/09/CCJV-Report.pdf)>. 17, 18
19 Samuel Peterson, RAND Corporation, *Understanding Subgroups Within the Los Angeles County*
20 *Sheriff’s Department: Community and Department Perceptions with Recommendations for Change*, at
21 <https://www.rand.org/pubs/research_reports/RRA616-1.html > 19
22 Sheriff Civilian Oversight Commission, *Report and Recommendations of the Special Counsel to Sheriff*
23 *Civilian Oversight Commission Regarding Deputy Gangs and Deputy Cliques in the Los Angeles*
24 *County Sheriff’s Department* (hereinafter Special Counsel Report) (Feb. 2023)
25 <[https://file.lacounty.gov/SDSInter/bos/commissionpublications](https://file.lacounty.gov/SDSInter/bos/commissionpublications/report/1138014_DeputyGangsSpecialCounselReporttoCOC3.2.2023.PDF.PDF)
26 [/report/1138014_DeputyGangsSpecialCounselReporttoCOC3.2.2023.PDF.PDF](https://file.lacounty.gov/SDSInter/bos/commissionpublications/report/1138014_DeputyGangsSpecialCounselReporttoCOC3.2.2023.PDF.PDF)> passim

27 **OTHER AUTHORITIES**

28 COC Chair Sean Kennedy Letter to Sheriff Robert Luna, May 10, 2023. 20

1 ALADS MOU 34

2 Assembly Bill 1185 (McCarty 2020)..... 24

3 Assembly Bill 958 (Gipson 2021) 23, 28

4 L.A. County Bd. Of Supervisors, Motion 19-4773: Expanding Authority to Investigate Deputy Secret
5 Societies (July 23, 2019)..... 21

6 L.A. County Bd. Of Supervisors, *Motion 2004: Taking Action: Further Protections for Surviving*
7 *Families from Law Enforcement Harassment* (July 27, 2021) <[https://assets-us-01.kc-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/7ee1b1c1-d79d-480d-a01e-db5e4444f467/160375.pdf)
8 [usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/7ee1b1c1-d79d-480d-a01e-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/7ee1b1c1-d79d-480d-a01e-db5e4444f467/160375.pdf)
9 [db5e4444f467/160375.pdf](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/7ee1b1c1-d79d-480d-a01e-db5e4444f467/160375.pdf)>;..... 21

10 L.A. County Sheriff Civilian Oversight Commission, *Motion requesting investigation into harassment*
11 *following a fatal use of force* (Nov. 19 2019) <[https://assets-us-01.kc-usercontent.com/0234f496-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0da11112-413f-4307-b5dd-8bcebaedb03a/Motion-HarassmentofFamilies11-19-19OIGandLASD_003_.pdf)
12 [d2b7-00b6-17a4-b43e949b70a2/0da11112-413f-4307-b5dd-8bcebaedb03a/Motion-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0da11112-413f-4307-b5dd-8bcebaedb03a/Motion-HarassmentofFamilies11-19-19OIGandLASD_003_.pdf)
13 [HarassmentofFamilies11-19-19OIGandLASD_003_.pdf](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0da11112-413f-4307-b5dd-8bcebaedb03a/Motion-HarassmentofFamilies11-19-19OIGandLASD_003_.pdf)>. 21

14 L.A. Cty. Sheriff’s Department Policy, 3-03/500.00 38

15 Phippen Declaration..... 25

16 Public Safety Officers Procedural Bill of Rights Act (“POBRA”)..... 34

17 Sen. Bill No. 2 (2021-2022 Reg. Session)..... 24

18
19
20
21
22
23
24
25
26
27
28

1 harm to ALADS, the balance of those harms weighs heavily against ALADS’s requested injunction. An
2 injunction in this matter would not preserve the status quo but instead heighten the harms against the
3 community while also undermining municipal and state laws designed to eradicate law enforcement
4 gangs. **Finally**, ALADS simply cannot prevail on the merits as investigatory actions by an oversight
5 body are outside the scope of bargaining under the Meyers-Milias-Brown Act (“MMBA”); *Pitchess* is
6 wholly inapplicable here; and any potential privacy and Fourth Amendment rights must yield to the
7 greater government and public interest in ensuring that law enforcement is not engaging in criminal
8 conduct, particularly conduct that injures the rights and dignity of the public.

9 **BACKGROUND**

10 **I. The Harm Inflicted on the Community by LASD Deputy Gangs is Severe and Pervasive.**

11 The harms caused by LASD deputy gangs are persistent, severe, and well documented. Multiple
12 investigations have uncovered that some of the worst perpetrators of on-the-job misconduct and violence
13 among LASD’s ranks are members of criminal gangs who violate the civil and constitutional rights of
14 community members and enforce a code of silence within LASD.³ These groups have tattoos, hand
15 signals, and rituals that are similar to a criminal street gang, and they foster a culture of abuse and
16 impunity that resists reforms and encourages excessive use of force against Black and brown community
17 members.⁴ They encourage an “us-versus-them” attitude, not just with the public, but with other non-
18 gang deputies, operate in secrecy, lie in reports to protect each other, and belittle deputies unwilling to
19 engage in such acts.⁵ Deputy gang members use threats, intimidation, and violence to deter and punish
20 other deputies who report misconduct.⁶ They have even given orders not to provide backup to
21 disfavored deputies.⁷ Deputy gangs are pervasive county-wide, but are especially prominent in Black
22 and brown communities, where deputies perceive it is acceptable to violate community members’ civil
23 and constitutional rights.⁸ In the community, deputy gang members threaten and actively engage in

24 ³ Loyola Report, *supra*, at p. 42.

25 ⁴ *Id.* at p. 4.

26 ⁵ Sheriff Civilian Oversight Commission, *Report and Recommendations of the Special Counsel to Sheriff Civilian Oversight*
27 *Commission Regarding Deputy Gangs and Deputy Cliques in the Los Angeles County Sheriff’s Department* (hereinafter
28 Special Counsel Report) at p. 11 (Feb. 2023) <https://file.lacounty.gov/SDSInter/bos/commissionpublications/report/1138014_DeputyGangsSpecialCounselReporttoCOC3.2.2023.PDF.PDF>.

⁶ *Ibid.*

⁷ *Id.* at p. 10.

⁸ Loyola Report, *supra*, at pp. 41-42.

1 violence, conduct illegal searches and seizures, falsify reports and charges, plant weapons, and even
2 celebrate deputy shootings of community members.⁹ Most disturbingly, they create rituals that glorify
3 violence, such as recording all deputy shootings in an official book, celebrating with “shooting parties,”
4 and authorizing deputies who have shot a community member to add embellishments to their common
5 gang tattoos.¹⁰ They also promote racism, with a federal judge finding that members of a deputy gang
6 he described as a “neo-Nazi, white supremacist gang” engaged in racially-motivated hostility.¹¹

7 Deputy gangs, which emerged in the 1970’s, have consistently comprised “more aggressive
8 deputies, who take on an identity as “hard chargers.”¹² In 1991, in response to two decades of ongoing
9 misconduct and community uproar, the Los Angeles County Board of Supervisors (“Board of
10 Supervisors”) created the Kolts Commission to conduct a sweeping inquiry into “the policies, practices
11 and procedures of the Sheriff’s Department . . . as they related to allegations of excessive force”¹³
12 A year later, led by former Los Angeles County Superior Court Judge James G. Kolts, the Kolts
13 Commission issued its report, acknowledging that the crisis of “deputy gangs is inflammatory and
14 should not be allowed to fester,” and recommending that officials “identify, root out, and punish
15 severely any gang-like behavior.”¹⁴

16 Subsequent commissions have issued similar scathing critiques and recommendations. In 1999,
17 the United States Commission on Civil Rights issued a report highlighting the violence and trauma
18 inflicted by deputy gangs on communities of color and people struggling with mental illness and urged
19 LASD to eradicate deputy gangs.¹⁵ In 2012, the Citizens’ Commission on Jail Violence (“CCJV”), a
20 blue-ribbon commission again formed by the Board of Supervisors, found extreme deputy violence in
21 the jails, often perpetrated or protected by deputy gangs, including the “3000 Boys.”¹⁶ The CCJV noted

23 _____
24 ⁹ Special Counsel Report, *supra*, at p. 11.

25 ¹⁰ *Ibid.*

26 ¹¹ O’Connor & Daunt, *The Secret Society Among Lawmen*, L.A. Times (Mar. 24, 1992)

27 <<https://www.latimes.com/archives/la-xpm-1999-mar-24-mn-20461-story.html>>.

28 ¹² James G. Kolts, *Kolts Commission Report* (hereinafter Kolts Report) at p. 328 (July 1992)

<<https://clearinghouse.net/doc/10910/>>.

¹³ *Id.* at p. 1.

¹⁴ *Id.* at p. 32.

¹⁵ Special Counsel Report, *supra*, at p. 7.

¹⁶ *Report of the Citizens’ Commission on Jail Violence* (Sept. 2012) at p. 102 <<https://ccjv.lacounty.gov/wp-content/uploads/2012/09/CCJV-Report.pdf>>.

1 that a culture of tolerance and even “tacit approval” of “violent [gangs]” exists within LASD.¹⁷ It
2 sharply criticized LASD for ignoring the problem and allowing deputy gang members to use excessive
3 force to the point of breaking bones of inmates in the county jails.¹⁸ The CCJV found that LASD
4 “rarely finds or meaningfully punishes dishonesty and failure to report force incidents, and it takes
5 months (or even years) to address deputy misbehavior,” and “for years management has known about
6 and condoned deputy [gangs] and their destructive subcultures . . . contribut[ing] to force problems in
7 the jails as well as numerous off-duty force incidents involving deputies.”¹⁹

8 According to a 2021 report by the Center for Juvenile Law and Policy at Loyola Law School, at
9 least 18 deputy gangs have emerged within LASD.²⁰ These have included the 2000 Boys, 3000 Boys,
10 Banditos, Cavemen, Cowboys, Executioners, Grim Reapers, Jump Out Boys, Little Devils, Spartans,
11 Regulators, Rattlesnakes, Pirates, Vikings, and Wayside Whities.²¹ In the East Los Angeles station, the
12 Banditos are a racist, sexist, and violent deputy gang, excluding women from membership and targeting
13 Latino community members and Latino deputies for abuse.²² Notably, in a serious 2018 incident at
14 Kennedy Hall, Banditos deputy gang members brutalized new arrivals to the East Los Angeles station.²³
15 In the Compton station, the Executioners deputy gang is another exclusive, racist, and violent deputy
16 gang whose tattoos depict a skull with a Nazi-style helmet.²⁴ The Executioners do not admit Black
17 deputies, and its members have also assaulted other deputies, in addition to abusing the civil and
18 constitutional rights of community members.²⁵ The Sheriff Civilian Oversight Commission (“COC”)
19 Special Counsel investigation over the past two years has revealed that Banditos and Executioners
20 deputy gang members retaliate against LASD management and decisions they disfavor by engaging in

21 ¹⁷ *Id.* at p. 101.

22 ¹⁸ *Id.* at p. 72.

23 ¹⁹ *Id.* at p. 95.

24 ²⁰ Loyola Report, *supra*, at p. 4.

25 ²¹ *Id.* at pp. 24-25; Special Counsel Report, *supra*, at p. 3.

26 ²² Loyola Report, *supra*, at pp. 5-6.

27 ²³ *Id.*, at pp. 6-7; see also Blakinger, *Judge rules sprawling lawsuit claiming abuses by East L.A. deputy gang can move forward*, L.A. Times (May 4, 2023) <<https://www.latimes.com/california/story/2023-05-04/judge-rules-sprawling-lawsuit-claiming-abuses-by-east-l-a-deputy-gang-can-move-forward>>.

28 ²⁴ Loyola Report, *supra*, at p. 10; see also Tchekmedyan, *Compton Executioners deputy gang lied about guns and hosted inking parties, deputy says*, L.A. Times (Aug. 21, 2020) <<https://www.latimes.com/california/story/2020-08-20/lasd-gangs-who-are-the-compton-executioners>>; Lau, *Cop Group with Matching Skull Tattoos Costs Taxpayers \$7 Million in Fatal Shooting*, L.A. Times (June 18, 2019) <<https://www.latimes.com/local/lanow/la-me-sheriff-tattoo-settlement-20190618-story.html>>.

²⁵ Loyola Report, *supra*, at pp. 10-12.

1 deliberate work slowdowns, which have led to proven increases in response times and higher numbers of
2 unanswered calls for services.²⁶

3 Another recent report commissioned by the Board of Supervisors found not only that deputy
4 gangs continue to exist but that they are also actively recruiting.²⁷ According to this RAND Corporation
5 report, as many as 15 to 20 percent of deputies belong to deputy gangs, with this number steadily
6 rising.²⁸ In fact, evidence indicates the formation of newer deputy gangs, including in the East Los
7 Angeles station²⁹ and in the jails.³⁰ These deputy gangs have been permitted to persist, and even grow,
8 in large part because ALADS has protected deputy gang members. As reflected in the COC Special
9 Counsel’s investigation, ALADS has shielded deputies engaging in deputy gang activities involving
10 serious misconduct against other deputies.³¹ For example, in the Kennedy Hall incident, ALADS
11 backed the Banditos deputy gang members, even though the victims were also deputies.³² This
12 protection and broader impunity surrounding deputy gang membership and their documented campaign
13 of retaliation against deputies who attempt to come forward have all sent a clear message: that violence
14 against the public or even against non-compliant members of LASD is tolerated, if not affirmatively
15 encouraged.

16 Deputy gang members violate the civil and constitutional rights of community members while
17 shielding themselves from accountability by enforcing a strict code of silence.³³ This impunity is
18 facilitated by the presence of deputy gang members within LASD management and administration. For
19 example, former Sheriff Lee Baca, who oversaw rampant and extreme violence in the jails, much of it
20 perpetuated by deputy gangs, made Paul Tanaka, the most notorious member of the Lynwood Vikings

21 _____
22 ²⁶ Special Counsel Report, *supra*, at pp. 11, 15-16, 21.

23 ²⁷ Samuel Peterson, RAND Corporation, *Understanding Subgroups Within the Los Angeles County Sheriff’s Department: Community and Department Perceptions with Recommendations for Change*, at p. xi (2021)
<https://www.rand.org/pubs/research_reports/RRA616-1.html>.

24 ²⁸ See Special Counsel Report, *supra*, at p. 34; see also Blakinger, *Special counsel urges sheriff to ban the ‘cancer’ of deputy gangs* (hereinafter Blakinger 1), L.A. Times (Mar. 2, 2023) <<https://www.latimes.com/california/story/2023-03-02/la-me-deputy-gangs-report>>.

25 ²⁹ Blakinger, *New deputy ‘gang’ forming in L.A. County Sheriff’s Department, lawsuit alleges*, L.A. Times (Feb. 8, 2023)
<<https://www.latimes.com/california/story/2023-02-08/new-deputy-gang-forming-in-l-a-county-sheriffs-department-lawsuit-alleges>>.

26 ³⁰ Special Counsel Report, *supra*, at p. 10; see also Blakinger 1, *supra*.

27 ³¹ Special Counsel Report, *supra*, at pp. 35-37.

28 ³² *Id.* at p. 37.

³³ *Id.* at p. 41.

1 deputy gang, his Undersheriff.³⁴ Both Baca and Tanaka went to federal prison for obstructing a federal
2 civil rights investigation.³⁵ Additionally, former Sheriff Alex Villanueva’s chief of staff admitted under
3 oath to having been a tattooed member of the Grim Reapers deputy gang in South Los Angeles.³⁶

4 In the last five years, LASD deputies purportedly seeking membership and power in these deputy
5 gangs have been responsible for the murder of multiple community members. On June 18, 2020, 18-
6 year-old Andres Guardado was working as a security guard when LASD deputies Miguel Vega and
7 Christian Hernandez inexplicably pursued him on foot.³⁷ Deputy Vega fatally shot Guardado in the
8 back five times.³⁸ An LASD whistleblower, Austreberto Gonzalez, testified under oath that both
9 deputies were “chasing ink” at the time of Guardado’s killing, meaning they were seeking initiation into
10 the Executioners.³⁹ Yet, the LASD homicide detectives who led the investigation into Guardado’s
11 murder never asked either deputy if they were affiliated or were seeking affiliation with a deputy gang.⁴⁰
12 Instead, indicating that they feared incriminating themselves, the detectives pleaded the Fifth
13 Amendment during the first coroner’s inquest in 30 years, which had been precipitated by former Sheriff
14 Villanueva’s placing a security hold on Guardado’s autopsy.⁴¹ Both deputies Vega and Hernandez have
15 since been federally indicted for conspiracy, witness tampering, falsifications of records, and deprivation
16 of rights, relating to their kidnapping of 24-year-old Jesus Alegria three months before the killing of
17 Guardado.⁴² In 2018, LASD deputies Nikolis Perez and Johnathan Rojas, two alleged prospects of the
18 Banditos deputy gang, fatally shot 21-year-old Anthony Vargas in the back thirteen times, killing him.⁴³

19 ³⁴ Loyola Report, *supra*, at pp. 27-28.

20 ³⁵ Hamilton, *Former Los Angeles County Sheriff Lee Baca is now a prison inmate in Texas*, L.A. Times (Feb. 5, 2020)
<<https://www.latimes.com/california/story/2020-02-05/former-los-angeles-county-sheriff-lee-baca-is-now-a-prison-nmate-in-texas>>.

21 ³⁶ Special Counsel Report, *supra*, at p. 56.

22 ³⁷ Ormseth, *Family of Andres Guardado Sues Sheriff’s Department, Deputies Involved in Fatal Shootings*, L.A. Times (Sept.
1, 2020) <<https://www.latimes.com/california/story/2020-09-01/andres-guardado-fatal-shooting-sheriffs-deputies-lawsuit>>.

23 ³⁸ *Ibid.*

24 ³⁹ Cagle, *Whistleblower Testifies Deputy Who Shot Gardena Teen Was “Chasing Ink”*, Spectrum News 1 (Aug. 30, 2020).
<<https://spectrumnews1.com/ca/la-west/public-safety/2020/08/30/whistleblower-testifies-deputy-who-shot-gardena-teen-was--chasing-ink-->>.

25 ⁴⁰ COC Chair Sean Kennedy Letter to Sheriff Robert Luna, May 10, 2023.

26 ⁴¹ Stoltze, *Inquest Into Deputy’s Fatal Shooting of Andres Guardado: Both Deputies, 2 Detectives Plead the 5th*, LAist, (Nov.
30, 2020) <<https://laist.com/news/coroner-inquest-andres-guardado-deputy-shooting-deputies-detectives-5th-amendment>>.

27 ⁴² Blakinger, *Ex-deputies involved in Guardado shooting indicted federally in separate abuse case*, L.A. Times, (Apr. 13,
2023) <<https://www.latimes.com/california/story/2023-04-13/sources-ex-deputies-involved-in-andres-guardado-shooting-indicted-in-unrelated-case>>.

28 ⁴³ Blakinger, *“To me they’re punks”*: *Grieving families air concerns at town hall on deputy “gangs”*, L.A. Times (Apr. 15,
2023) <<https://www.latimes.com/california/story/2023-04-15/oversight-committee-holds-community-meeting-on-deputy-gangs>>.

1 In 2019, deputy Perez shot and killed another young man, Jorge Serrano.⁴⁴ That same year, LASD
2 deputy Hector Soto Saavedra, another alleged Banditos prospect, killed 18-year-old Paul Rea.⁴⁵
3 Deputies Rojas, Perez, and Soto Saavedra are all named defendants in a lawsuit alleging these deputies,
4 as members of the Banditos, harassed and brutalized their co-workers.⁴⁶

5 After the deaths of their loved ones, surviving families have been continuously harassed and
6 surveilled by deputies, including alleged deputy gang members. Multiple families, including the
7 families of Paul Rea and Anthony Vargas, have reported LASD deputies slowly and repeatedly drive by
8 their homes, follow family members home from public meetings, damage items at their loved ones'
9 memorial sites, verbally harass family members, and park outside of their workplaces.⁴⁷ In more
10 extreme cases, family members have reported being targeted for arrest and unlawful search and
11 seizure.⁴⁸ This harassment has a profound emotional impact on these families and seeks to chill their
12 First Amendment right to advocate for themselves and their communities. Separate investigations
13 directed by the COC and the Board of Supervisors have confirmed that the harassment these families
14 have faced is not a series of isolated events, but rather an ongoing problem symptomatic of the violent
15 and adversarial culture of these deputy gangs.⁴⁹

16 Besides the devastating human cost to Los Angeles County residents, with lives and loved ones

17 ⁴⁴ City News Service, *Father sues for fatal shooting of son – by East L.A. Deputy who is allegedly 'Banditos' member*, The
18 Eastsider (June 26, 2020) <https://www.theeastsiderla.com/neighborhoods/east_loz_angeles/father-sues-for-fatal-shooting-of-son---by-east-l-a-deputy-who/article_e15233f4-b7f5-11ea-96e5-db92cda23b87.html>.

19 ⁴⁵ Levin, *Los Angeles sheriff's department faces a reckoning after another police shooting*, The Guardian (July 20, 2020)
<<https://www.theguardian.com/us-news/2020/jul/01/los-angeles-sheriffs-department-reckoning-police-shootings>>.

20 ⁴⁶ *Hernandez, et al. v. County of L.A.* (Superior Ct. L.A., 2023, No. 19STCV33158.)

21 ⁴⁷ See generally Check the Sheriff Coalition, *No Justice No Peace: The Los Angeles County Sheriff's Department Targeted*
22 *Harassment of Grieving Families* (hereinafter Check the Sheriff Report) (May 2021) <
<https://www.checkthesheriff.com/reports>>; see also Levin, *'We're terrorized': LA sheriffs frequently harass families of*
people they kill, says report, The Guardian (May 2, 2021) <<https://www.theguardian.com/us-news/2021/may/04/los-angeles-sheriffs-harass-families-of-victims-report>>.

23 ⁴⁸ Check the Sheriff Report, *supra*, at p. 6.

24 ⁴⁹ See L.A. County Bd. Of Supervisors, *Motion 2004: Taking Action: Further Protections for Surviving Families from Law*
Enforcement Harassment (July 27, 2021) <[https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/7ee1b1c1-d79d-480d-a01e-db5e4444f467/160375.pdf)
[b43e949b70a2/7ee1b1c1-d79d-480d-a01e-db5e4444f467/160375.pdf](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0a5c0ab3-855a-492a-a9db-5643722e64cb/Report_on_Protect_ing_Surviving_Families.pdf)>; Inspector General Max Huntsman, *Report Back on*
Protecting Surviving Families from Law Enforcement Harassment and Retaliation (July 7, 2021) <[https://assets-us-01.kc-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0a5c0ab3-855a-492a-a9db-5643722e64cb/Report_on_Protect_ing_Surviving_Families.pdf)
[assets-us-01.kc-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/c2a13941-c476-4266-93d4-598903cf733e/FatalForceHarassmentCOCReportBack.pdf)
[usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/c2a13941-c476-4266-93d4-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/c2a13941-c476-4266-93d4-598903cf733e/FatalForceHarassmentCOCReportBack.pdf)
[598903cf733e/FatalForceHarassmentCOCReportBack.pdf](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/c2a13941-c476-4266-93d4-598903cf733e/FatalForceHarassmentCOCReportBack.pdf)>; see also L.A. County Sheriff Civilian Oversight Commission,
Motion requesting investigation into harassment following a fatal use of force (Nov. 19 2019) <[https://assets-us-01.kc-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0da11112-413f-4307-b5dd-8bcebaedb03a/Motion-Harassmentoffamilies11-19-19OIGandLASD_003_.pdf)
[usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0da11112-413f-4307-b5dd-8bcebaedb03a/Motion-](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0da11112-413f-4307-b5dd-8bcebaedb03a/Motion-Harassmentoffamilies11-19-19OIGandLASD_003_.pdf)
[Harassmentoffamilies11-19-19OIGandLASD_003_.pdf](https://assets-us-01.kc-usercontent.com/0234f496-d2b7-00b6-17a4-b43e949b70a2/0da11112-413f-4307-b5dd-8bcebaedb03a/Motion-Harassmentoffamilies11-19-19OIGandLASD_003_.pdf)>.

1 taken from loving families, the harms from the failure to root out deputy gangs have spilt over into our
2 criminal legal system, “where willful non-disclosure and false statements infect the fairness of criminal
3 and civil proceedings.”⁵⁰ County taxpayers have also been harmed, with settlements related to deputy
4 gangs costing at least \$55 million since 1990.⁵¹ As illustrative of these interconnected costs, Franky
5 Carrillo was wrongfully convicted and spent 20 years in prison after being framed by LASD deputy
6 Craig Ditsch, whose inked membership in the Lynwood Vikings deputy gang had not been disclosed to
7 the defense before trial.⁵² Mr. Carrillo’s case cost county taxpayers \$10 million, and it demonstrates
8 how the harms of deputy gangs to the Los Angeles County court system and county taxpayers are
9 further exacerbated by the human cost—that is, the countless community members abused, brutalized,
10 and even killed by deputy gang members over the decades and the ensuing community trauma that
11 persists to this day.

12 **II. The Los Angeles Community and California Legislature Have Established**
13 **Necessary Civilian Oversight of LASD and Demanded the Eradication of LASD**
14 **Deputy Gangs.**

15 The OIG’s attempted investigation into deputy gangs is compelled by recent changes in state and
16 local law created to strengthen oversight of sheriff’s departments and provide additional tools to address
17 deputy misconduct, particularly misconduct perpetuated by deputy gangs. Against the backdrop of the
18 ongoing harms perpetrated by deputy gangs and ignored by LASD administration, the public has
19 demanded significant intervention. Community and legislative efforts have led to decisive actions to
20 establish stronger civilian oversight of LASD to address the scourge of deputy gangs, especially their
21 hostility and violence towards Black and brown communities. In particular, the OIG and COC were
22 created as civilian oversight bodies in response to community outrage at unlawful conduct perpetuated
23 by deputies, including deputy gang violence in the jails that had been sanctioned by Sheriff Baca.
24 Established in 2014, the OIG facilitates the Board of Supervisors’s responsibility to supervise the Sheriff
25 and oversee LASD, “promote[s] constitutional policing and the fair and impartial administration of

26 ⁵⁰ Loyola Report, *supra*, at p. 45.

27 ⁵¹ *Id.* at 33. This figure only rises if accounting for pending and newly filed lawsuits and administrative claims, in addition to
outside litigation counsel paid with county taxpayer resources to defend the misconduct of deputy gangs. *Ibid.*

28 ⁵² Swell, *L.A. County to pay \$10 million to man whose murder conviction was overturned*, L.A. Times (July 19, 2016)
<<https://www.latimes.com/local/lanow/la-me-ln-francisco-carrillo-settlement-20160719-snap-story.html>>; Loyola Report,
supra, at p. 48.

1 justice,” and serves as the investigative arm of the COC.⁵³

2 Continued willful misconduct or outright refusal to address the deputy gang crisis within LASD
3 have necessitated further expansions of local oversight. For example, former Sheriff Jim McDonnell’s
4 refusal to provide information necessary for the COC to fulfill its functions necessitated the community-
5 driven Measure R county ballot measure in March 2020 granting the COC subpoena power. Before
6 Measure R, in direct response to rising concerns around deputy gangs, the Board of Supervisors
7 expanded the investigative powers of the OIG.⁵⁴ As part of this expansion, in accordance with
8 Government Code section 25303, the OIG was given the power to access all LASD “information;
9 documents; materials; facilities; and meetings, reviews, and other proceedings necessary to carry out the
10 OIG’s duties,” including to promote constitutional policing and to provide “independent and
11 comprehensive oversight, monitoring of, and reporting about” LASD, its employees, and its
12 contractors.⁵⁵ The OIG was also granted “the authority to investigate matters involving” LASD and its
13 employees when “the Inspector General makes a factually based determination that such investigation is
14 necessary and appropriate.”⁵⁶ In addition, “[t]he OIG shall not disclose any confidential records,
15 including peace officer personnel[] records, juvenile records, medical and mental health records, or
16 protected health information, unless the disclosure is permitted by law,” and the OIG’s sharing of
17 information, including confidential information, with COC staff, ad hoc committees of the COC, and the
18 Board of Supervisors “does not constitute a disclosure.”⁵⁷

19 At the state level, the Legislature and the Governor have recognized the crisis of law
20

21 ⁵³ Gov. Code § 25303; L.A. County Code § 6.44.190.A-B.

22 ⁵⁴ In reaction to reports of an FBI investigation into LASD’s deputy gangs, the Board of Supervisors unanimously moved to
23 expand the OIG’s investigative powers “in order to help [the Board of Supervisors] understand the full extent of these secret
24 societies.” L.A. County Bd. Of Supervisors, Motion 19-4773: Expanding Authority to Investigate Deputy Secret Societies
25 (July 23, 2019) available at <[https://file.lacounty.gov/SDSInter/bos/supdocs/141158.pdf#search=%22Expanding
26 %20Authority%20to%20Investigate%20Deputy%20Secret%20Societies%22](https://file.lacounty.gov/SDSInter/bos/supdocs/141158.pdf#search=%22Expanding%20Authority%20to%20Investigate%20Deputy%20Secret%20Societies%22)>. The Board of Supervisors justified their
27 decision by explaining that “secret societies are a dangerous problem. They not only erode public trust in law enforcement
28 and undermine the chain of command, we are concerned that they promote racism, sexism, and violence. In addition, they
are a significant liability to Los Angeles County and the cities that contract with the Sheriff’s Department for the actions of
deputies who choose to belong to one of these secret societies . . .” *Ibid.* “We, therefore move that the Board of Supervisors
direct County Counsel, in consultation with the Inspector General, to develop recommendations to expand the authority of
the Inspector General to investigate deputy secret societies within the Sheriff’s Department, as well as grant the Inspector
General the ability to issue subpoenas in their ongoing review of matters involving the Sheriff’s Department . . .” *Ibid.*

⁵⁵ L.A. County Code § 6.44.190.A-B; L.A. County Ordinance No. 2020-07 (hereinafter L.A. County Ordinance.)

⁵⁶ L.A. County Code § 6.44.190.G-G(2); L.A. County Ordinance, *supra*.

⁵⁷ L.A. County Code § 6.44.190.J; L.A. County Ordinance, *supra*.

1 enforcement gangs and the urgent need for greater civilian oversight over sheriffs’
2 departments. Specifically, Assembly Bill 1185 (McCarty 2020) added section 25303.7 to the
3 Government Code which gives all California counties the power to establish sheriff oversight boards,
4 including offices of inspector general, and to grant these entities subpoena power.⁵⁸ Assembly Bill 958
5 (Gipson 2021) addressed deputy gangs directly by establishing Penal Code section 13670 to make
6 participation in law enforcement gangs a basis for termination and compelling officers to participate in
7 any investigation into these gangs by an inspector general.⁵⁹ Notably, in enacting Penal Code section
8 13670, the Legislature singled out LASD deputy gangs and found that such law enforcement gangs have
9 “undermin[ed] California’s movement to enhance professional standards of policing” and have been
10 “damaging to the trust and reputation of law enforcement throughout California.”⁶⁰ The Legislature
11 further found that rooting out law enforcement gangs is required to “[b]uilding and preserving trust
12 between California communities and law enforcement agencies” while acknowledging that “[t]rust
13 between our communities and law enforcement is dependent on an institutional reconciliation of the
14 historical traumas perpetrated by law enforcement gangs.”⁶¹

15 Finally, Senate Bill 2 (Bradford 2021) added and amended several sections to the Civil,
16 Government, and Penal Codes, comprehensively establishing a statewide system to decertify or suspend
17 officers who have committed serious misconduct, expressly including participation in a law enforcement
18 gang and failure to cooperate with an investigation into potential police misconduct.⁶² These bills were
19 designed to assist California counties and communities with establishing greater sheriff oversight and
20 reflect the Legislature’s commitment to eradicating law enforcement gangs. As a result, the OIG has
21 been afforded broad authority under both state and municipal law to fulfill its oversight purpose and
22 investigate deputy gangs.

23 **III. The OIG’s Requests to Suspected Deputy Gang Members Were Limited.**

24 ALADS’s application for a preliminary injunction stems from the OIG’s limited requests to 35
25 suspected members of the Banditos or Executioners deputy gangs. These deputies were selected

26 ⁵⁸ Gov. Code § 25303.7.

27 ⁵⁹ See Assem. Bill No. 958 (Reg. Sess. 2021-2022).

28 ⁶⁰ Assem. Bill No. 958, *supra*, at § 1(a).

⁶¹ Assem. Bill No. 958, *supra*, at §§ 1(c), 1(e).

⁶² Sen. Bill No. 2 (2021-2022 Reg. Session).

1 because the OIG had specific, articulable bases for suspecting their membership in a deputy gang and
2 was utilizing its authority to identify deputy gang membership and ensure compliance with prohibition
3 of these gangs under Penal Code section 13670.⁶³ The OIG letters to the 35 suspected deputies directed
4 them to “appear in person to participate in an interview to be conducted by the Office of Inspector
5 General concerning the presence of law enforcement gangs in the Los Angeles County Sheriff’s
6 Department.”⁶⁴ The letters asked the deputies to “bring a photograph of any tattoos on [their] left or
7 right leg from the area of the ankle to the knee and a photograph of any tattoo anywhere on [their] body
8 that has any symbol or images,” which demonstrate membership in either the Banditos or the
9 Executioners.⁶⁵ The letters then followed with a series of questions that deputies should expect to
10 answer at their interview, which generally seek to uncover if the deputies have either a Banditos or
11 Executioners tattoo, and if so, the circumstances surrounding their tattoos and membership in the deputy
12 gang.⁶⁶ The questions included a request to show each leg below the knee and raised the possibility of
13 the OIG photographing each leg below the knee if a deputy “did not bring a photo or the photo [was]
14 insufficient.”⁶⁷

15 The OIG letters cited the prohibition on deputy gangs under both Penal Code section 13670(b)
16 and the relevant decertification provisions included in Government Code section 13510.8, as well as the
17 statutory requirement for deputies to comply with investigations into deputy gang activity.⁶⁸ The OIG
18 further cited its authority under Los Angeles County Code section 6.44.190 to conduct investigations
19 under the municipal code provisions setting forth the powers and duties of the OIG.⁶⁹ In particular,
20 section 6.44.190.I of the Los Angeles County Code establishes that LASD and its employees “shall
21 cooperate with the OIG and promptly provide any information or records requested by the OIG . . .
22 necessary for the OIG to carry out its duties. The OIG may direct the manner in which information is
23 provided.”⁷⁰

24 _____
25 ⁶³ Huntsman Decl. ¶ 13; see also Office of Inspector General County of Los Angeles, *Analysis of the Criminal Investigation*
of the Alleged Assault by the Banditos (Oct. 2020) at p. 29.

26 ⁶⁴ Phippen Decl. ¶ 4, Ex. 1 at p. 1.

27 ⁶⁵ *Id.* at p. 2.

28 ⁶⁶ *Id.* at p. 3.

⁶⁷ *Ibid.*

⁶⁸ *Id.* at p. 1.

⁶⁹ *Ibid.*

⁷⁰ L.A. County Code § 6.44.190.I.

1 As part of this investigation, the OIG made clear that deputies who attended the interview would
2 be free to assert their Fifth Amendment rights, as is consistent with other investigations into deputy
3 misconduct.⁷¹ The OIG’s letters expressly provided that, if the deputies invoked their Fifth Amendment
4 rights, they would not be compelled to testify or provide any statements, or even to show their
5 tattoos.⁷² The OIG did not commit to taking any specific action if deputies invoked this right. Instead,
6 the OIG stated only that it would confer with the District Attorney and the Sheriff and determine
7 whether it may seek to compel a statement, as deemed appropriate.⁷³

8 ARGUMENT

9 A preliminary injunction is “an extraordinary remedy” that should be granted “with great caution
10 and only where it appears that sufficient cause for hasty action exists.” (*West v. Lind* (1960) 186
11 Cal.App.2d 563, 565; see also *Wilkins v. Owen* (1958) 157 Cal.App.2d 603, 606 [injunction is “an
12 extraordinary remedy” that courts have “consistently proceeded with great caution” in granting,
13 requiring “a clear showing that the threatened and impending injury is great, and can be averted only by
14 injunction”].) Yet, ALADS seeks this “extraordinary remedy” without showing the realistic prospect of
15 an impending injury and in a premature bid to deter the County from any meaningful attempt to address
16 ALADS members’ illegal and perniciously harmful deputy gang activities. This is an inappropriate use
17 of the preliminary injunction process and a threat against public safety.

18 Courts evaluate two interrelated factors when deciding whether or not to issue a preliminary
19 injunction: “(i) the likelihood that the party seeking the injunction will ultimately prevail on the merits of [its]
20 claim, and (ii) the balance of harm presented, i.e., the comparative consequences of the issuance and
21 nonissuance of the injunction.” (*Common Cause v. Bd. of Supervisors* (1989) 49 Cal.3d 432, 441-442.) “To
22 obtain a preliminary injunction, a plaintiff ordinarily is required to present evidence of the irreparable injury
23 or interim harm that it will suffer if an injunction is not issued pending an adjudication of the merits.” (*White*
24 *v. Davis* (2003) 30 Cal.4th 528, 554.) Because ALADS fails to make the requisite showing of irreparable
25 interim harm, because the balance of harms weighs heavily against it, and because it is not likely to
26 prevail on the merits, its motion for a preliminary injunction must fail.

27 ⁷¹ Phippen Decl., *supra*, ¶ 4, Ex. 1 at p. 2.

28 ⁷² *Ibid.*

⁷³ *Ibid.*

1 **I. The Balance of Harms Weighs Heavily Against ALADS Because It Cannot Establish**
2 **Interim Harm While a Preliminary Injunction Would Necessarily Cause Grave**
3 **Harm to the Public.**

4 When weighing the relative balance of harms, courts consider “the interim harm that the plaintiff is
5 likely to sustain if the injunction were denied as compared to the harm that the defendant is likely to suffer if
6 the preliminary injunction were issued,” taking into account the adequacy of other remedies; the degree of
7 irreparable injury that denying the injunction will cause; the necessity to preserve the status quo; and the
8 effect on the public interest or on the interests of third parties. (*Vo v. City of Garden Grove* (2004) 115
9 Cal.App.4th 425, 435.) Where, as here, a petitioner seeks to enjoin public officers in the performance of
10 their duties, the public interest—specifically, the harm associated with deterring or delaying respondents
11 in the performance of duties to protect the public—must be considered in the balance of harms. (*Tahoe*
12 *Keys Property Owners’ Assn. v. State Water Resources Control Bd.* (1994) 23 Cal.App.4th 1459, 1472–
13 1473, citing *Cota v. Cty of Los Angeles* (1980) 105 Cal.App.3d 282, 292.)

14 ALADS has failed to provide any persuasive evidence that its members will suffer irreparable
15 injury unless a preliminary injunction is issued. On the other hand, granting the injunction ALADS
16 seeks would delay and deter County officials from performing important duties to ensure constitutional
17 and lawful policing by rooting out deputy gangs, which would cause grave harm to the public interest.
18 As such, the balance of harms here weighs heavily towards denial of the preliminary injunction.

19 **a. A Preliminary Injunction Would Cause Grave Harm to the Public Interest.**

20 ALADS seeks to enjoin the OIG from performing its official duties to address illegal deputy
21 gangs—a serious and persistent problem that inflicts grievous harm to Los Angeles County community
22 members, concentrated particularly in communities where the most vulnerable populations reside.
23 ALADS’s application for a preliminary injunction must be denied because the harms to the public from
24 deterring and delaying the OIG’s performance of its duties will far outweigh the speculative harm
25 ALADS contends would be incurred by the OIG’s preliminary investigation of deputies who it has
26 reason to believe are actively violating the law by their continued involvement in illegal deputy gangs.
27 (See *Tahoe Keys, supra*, 23 Cal.App.4th at p.1473 [affirming denial of preliminary injunction that
28 attempted to prevent public agency from addressing “a matter of significant public concern,” because
“provisional injunctive relief which would deter or delay defendants in the performance of their duties

1 would necessarily entail a significant risk of harm to the public interest.”.)

2 Presently, LASD deputy gangs cause significant harm to the public, including through well-
3 documented acts of violence up to and including killing of civilians, intimidation, false charges, illegal
4 search and seizures, and other violations of the civil and constitutional rights of community members.
5 (See *supra* pp. 16-22.) Courts have recognized that the harms to the public caused by these kinds of
6 gang activities are substantial and weigh heavily in balancing the interests affected by a preliminary
7 injunction. (See *People ex rel. Reisig v. Acuna* (2010) 182 Cal.App.4th 866, 882-883 [in considering a
8 preliminary injunction, harms to the public caused by gangs engaged in violence, witness intimidation,
9 and instilling fear in the community outweighed constitutional interests identified by the opposing
10 party].) LASD deputy gangs also cause harm to the County and its institutions; as the Board of
11 Supervisors has stated, deputy gangs “not only erode public trust in law enforcement and undermine the
12 chain of command” but also “promote racism, sexism, and violence,” “intimidate . . . other deputies,”
13 and “are a significant liability to Los Angeles County.”⁷⁴ Settlements related to deputy gangs have cost
14 county taxpayers at least \$55 million since 1990. (*Supra* p. 22.) Moreover, a recent COC Special
15 Counsel investigation revealed Banditos and Executioners deputy gang members retaliate against LASD
16 management by engaging in deliberate work slowdowns, which have led to proven increases in response
17 times and higher numbers of unanswered calls for services. (*Supra* p. 19.) These harms to the public
18 must be considered in the balancing of harms that would result if the preliminary injunction is granted.
19 (See *O’Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1471 [vacating preliminary injunction
20 where trial court failed to consider countervailing public policy interests]; *Teamsters Agric. Workers*
21 *Union v. Internal Brotherhood of Teamsters*, 140 Cal.App.3d 547, 555 (1983) [“[W]hen injunctive relief
22 is sought, consideration of public policy is not only permissible but mandatory.”]; *Cota v. Cty of Los*
23 *Angeles, supra*, 105 Cal.App.3d at p. 292 [“Where injury would result to the public, an additional reason
24 arises for refusal to grant injunctive relief.”].)

25 There is a timely and urgent need for the OIG to investigate and identify deputy gang members,
26 consistent with recently-enacted law. Deputy gang membership, which has been estimated at 15 to 20
27 percent of LASD deputies, is on the rise, and newer deputy gangs are being formed. (*Supra* p. 19.) As

28 ⁷⁴ L.A. County Bd of Supervisors, *Motion 19-4773, supra*.

1 the Legislature declared in enacting Penal Code section 13670, “protecting the integrity of law
2 enforcement as an institution will require agencies to proactively root out” officers who participate,
3 formally or informally, in deputy gang behavior. (See Assembly Bill 958 (2021), *available at*
4 https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=20210220AB958.)

5 Enjoining the OIG from performing its affirmative duty to “root out” LASD’s corrosive deputy
6 gangs would cause grave harm to the public interest because state and local elected officials, spurred by
7 their constituencies, recognized that dealing with deputy gangs through civilian oversight mechanisms
8 was a necessary strategy to both protect the public and improve the dwindling trust in LASD. Allowing
9 ALADS to prevent the OIG from fulfilling its statutory duties grants this special interest organization
10 veto power over the will—and the well-being—of the people. The status quo is an OIG that is
11 empowered under state and local law to take investigative actions to address deputy gangs, including
12 identifying its existing members. An injunction would not preserve this status quo, but rather
13 immediately and indefinitely deprive community members of the benefits of inspector general oversight.
14 (See Penal Code §§ 13670(b), 13510.8; Government Code § 25303.7(c)(1)-(d); L.A. County Code §
15 6.44.190.) Further, delaying this investigation provides ample opportunities for deputies to interfere
16 with or destroy evidence, such as by covering or even possibly removing tattoos reflecting their
17 participation in the Banditos or Executioners. In any investigation involving civilians, informing the
18 targets not only that they are subjects but also of the specific evidence in their possession that is
19 sought—and then enjoining the investigating agency from completing that investigation—would
20 undoubtedly be recognized as impeding the investigation and perhaps preventing any effective
21 investigation from taking place. In balancing the harm to the public from granting ALADS’s proposed
22 injunction, the Court should consider the very real possibility that it would completely thwart the
23 purposes of the investigation by providing deputies who have already violated the public trust by
24 participating in violent and secretive deputy gangs with ample opportunity to conceal the fact of their
25 involvement and thereby prevent the OIG from performing its function under state and local law. (See
26 *O’Connell, supra*, 141 Cal.App.4th at p. 1471 [trial court erred in failing to take into account the
27 public’s interest in the enforcement of standards adopted by the Legislature as interest that would be
28 harmed by a preliminary injunction].)

1 **b. ALADS’s Arguments That Its Deputies Will Suffer Interim Harm Are Based on**
2 **Pure Speculation and Fail to Demonstrate a Need for or Entitlement to a**
3 **Preliminary Injunction.**

4 On the other side of the balance, ALADS fails to show that the 35 suspected deputy gang
5 members who received interview requests from the OIG will suffer any interim injury in the absence of
6 a preliminary injunction, much less irreparable injury significant enough to outweigh the significant
7 harms to the broader public interest that such an injunction would cause. The OIG simply asked these
8 deputies to appear for interviews about its ongoing investigation into deputy gangs and to bring
9 photographs of any tattoos with a symbol or image associated with the Banditos or the Executioners.
10 Importantly, the OIG made clear that deputies attending an interview will be free to assert their Fifth
11 Amendment rights and if they do so, they *will not be compelled* at that time to testify, provide any
12 statements, or show their tattoos. (Pippen Decl. ¶ 4, Ex. 1, p. 2.) There is no evidence at this time
13 clearly establishing when or how the OIG would even seek to compel a statement at a later stage, and
14 ALADS’s argument that deputies would be compelled, or that such compulsion would violate the
15 deputies’ rights, is purely speculative. “An injunction cannot [be] issue[d] in a vacuum based on the
16 proponents’ fears about something that may happen in the future. It must be supported by actual
17 evidence that there is a realistic prospect that the party enjoined intends to engage in the prohibited
18 activity.” (*Korean Philadelphia Presbyterian Church v. California Presbytery* (2000) 77 Cal.App.4th
19 1069, 1084, as modified (Feb. 9, 2000.) As no interview has yet to take place, and the suspected
20 deputies remain free to exercise their Fifth Amendment rights, ALADS’s claim that its 35 members with
21 ties to deputy gangs will suffer interim constitutional harm without an injunction is simply unfounded.

22 Similarly, although ALADS makes a passing reference to “potential” disciplinary action or loss
23 of peace officer certification, it fails to show that any specific disciplinary action has been initiated or
24 even threatened in connection with the OIG interviews at this time. Moreover, the deputies in question
25 have no protected interest in maintaining their employment without consequence if they are indeed
26 participants in deputy gangs. (Cf. *People ex rel. Reisig v. Acuna, supra*, 182 Cal.App.4th at p. 832 [a
27 party cannot claim harm from restrictions on participating in gang activities for purposes of balancing
28 harms related to a preliminary injunction].)

 Finally, ALADS presents no evidence that there are violations or any immediate threats of

1 violations of *Lybarger* and *Pitchess* that need to be immediately enjoined. As ALADS notes, *Lybarger*
2 addresses the use of compelled statements in criminal proceedings—but no criminal case has been filed
3 or even threatened here. Moreover, while participation in deputy gangs is against the law under Penal
4 Code section 13670, the only penalty provided under law is administrative, not criminal. Penal Code
5 section 13670(b) (“Each law enforcement agency shall maintain a policy that prohibits participation in a
6 law enforcement gang and that makes violation of that policy grounds for termination.”). ALADS has
7 not produced any evidence to prove that disclosure of a tattoo that indicates membership in an
8 organization for which *membership itself is not a crime* places a deputy at imminent risk of criminal
9 prosecution, much less that the use of any statement made in the OIG’s investigation may be used
10 against them in that prosecution. Its claims about hypothetical future criminal cases are pure speculation
11 and are detached from the reality of the deputy gang provisions under state law.

12 As for the *Pitchess* statutes, which protect the confidentiality of certain deputy personnel files,
13 ALADS has adduced no evidence that the OIG intends to disclose any personnel records protected by
14 Penal Code section 832.7 in violation of state law. (See *San Francisco v. Market Street Ry. Co.* (1950)
15 95 Cal.App.2d, 648, 655 [“Injunction is not the proper remedy to prevent a person from doing an act
16 which he has never undertaken or threatened to undertake.”].) “It is well established that courts ‘may
17 not speculate on the future intention of a public agency’ . . . and ‘[a]ll presumptions of law are in favor of
18 the good faith of public officials.’” (*Bus Riders Union v. Los Angeles County Metro. Trans. Agency*,
19 (2009) 179 Cal.App.4th 101, 108 (internal citations omitted).) While ALADS dishonestly insinuates
20 that the Los Angeles County Code requires the OIG to make prohibited disclosures (Petitioner’s Brief
21 ¶13-14), the Code clearly states that “[t]he OIG shall not disclose any confidential records, including
22 peace officer personnel[] records . . . unless the disclosure is permitted by law” (L.A. County Code
23 § 6.44.190.J.) Nor is there even a scintilla of evidence that the COC has any designs to disclose the
24 contents of any protected personnel records during its public proceedings, or that the OIG imminently
25 plans to incite the COC to do so. Hollow accusations about what a party “may” do and
26 misrepresentations of law cannot justify a preliminary injunction—particularly when such a conclusion
27 must presume that government entities will violate the law in the absence of any evidence of such
28 conduct. (See *Korean Philadelphia Presbyterian Church v. California Presbytery*, *supra*, 77

1 Cal.App.4th at p. 1084.) For this reason, too, the Court should deny the injunction ALADS seeks.

2 **II. ALADS Is Not Likely to Prevail on the Merits.**

3 Additionally, ALADS’s request for a preliminary injunction must fail because it is not likely to
4 prevail on the merits.

5 **a. Investigation into Deputy Gang Membership and Activity by the OIG Is a
6 Question of Public Safety Outside the Scope of Bargaining.**

7 If the actions of the OIG are imputed to the County as manager, then the OIG’s decision to
8 investigate deputy gangs pursuant to its authority under Penal Code section 13670(b) should be found to
9 be a fundamental managerial decision and outside of the scope of collective bargaining. The OIG’s
10 investigation is primarily a matter of public safety and has no significant and adverse effect on “working
11 conditions,”⁷⁵ thus ALADS’s attempt to subject it to the MMBA is misplaced.⁷⁶

12 Under the MMBA, excepted from the “scope of representation” is the “consideration of the
13 merits, necessity or organization of any service or activity provided by law or executive order,”
14 California Government Code section 3504, commonly referred to as the “fundamental managerial or
15 policy decision” exception.⁷⁷ (*Building Material & Construction Teamsters’ Union v. Farrell* (1986) 41
16 Cal.3d 651, 660.) Decisions concerned with public safety, the public’s trust in law enforcement, and the
17 manner in which law enforcement protects the public are fundamentally managerial or otherwise outside
18 of the scope of permissible bargaining activity. For instance, in *San Jose Peace Officer’s Assn. v. City
19 of San Jose* (hereinafter “*San Jose*”) (1978) 78 Cal.App.3d 935, 948, the Court held that revising a use
20 of force policy related to discharge of firearms “clearly constitute[d] a managerial decision” outside the
21 scope of representation.⁷⁸ The Court reasoned that even though the use of force policy had some effect

22 ⁷⁵ The phrase “working conditions” is a shorthand that appears in the case law. See, e.g., *Claremont Police Officers Assn. v. City of Claremont* (2006) 39 Cal.4th 623, 638. The MMBA uses the phrase “other terms and conditions of employment.” Gov. Code § 3504.

23 ⁷⁶ Penal Code section 13670(b) specifically directs all law enforcement agencies to “cooperate” with inspector general investigations, not all of which have subpoena power. Given that this statute was intended to facilitate inspector general offices’ ability to investigate deputy gangs, it would be illogical to interpret this provision to limit the investigative tools available to these agencies that have been granted *greater* authority through the power to issue subpoenas in support of their broad oversight functions. The OIG’s authority to conduct its investigation into deputy gangs under this provision of the Penal Code compelling all law enforcement officers to cooperate thus clearly stems from a separate authority from the subpoena power ALADS contends is subject to the recent Los Angeles Employee Relations Commission (“ERCOM”) decision.

24 ⁷⁷ County law also establishes that “[n]egotiation shall not be required on any subject preempted by federal or state law.” Los Angeles County Code § 5.04.090.

25 ⁷⁸ The California Supreme Court has twice cited with approval the holding in *San Jose* as an example of a fundamental managerial or policy decision not subject to the MMBA. See *San Francisco Police Officers’ Assn. v. San Francisco Police Com.* (2018) 27 Cal.App.5th 676, 685.

1 on the safety of the officer, impinging indirectly on a term or condition of employment, it was
2 “primarily a matter of public safety,” and “few decisions could be more ‘managerial’ in nature than the
3 one which involves the conditions under which an entity of the state will permit a human life to be
4 taken.” (*Id.* at 946-47.) As such, the policy entailed “a heavy responsibility involving the delicate
5 balancing of different interests: the protection of society from criminals, the protection of police
6 officers’ safety, and the preservation of all human life if possible.” (*Id.* at 946.) This balancing of
7 interests was no place for “the bargaining table with its postures, strategies, trade-offs, modifications and
8 compromises;” rather this “delicate judgement [was] best exercised by the appropriate legislative and
9 executive officers.” (*Ibid.*)

10 Similarly, the existence and activities of civilian oversight, particularly the OIG’s investigation
11 of LASD deputy gangs pursuant to Penal Code section 13670(b), are primarily a matter of public safety
12 and therefore a fundamental managerial decision outside the scope of representation. The current and
13 long history of deputy gang abuse and violations of the public’s civil and constitutional rights
14 demonstrate the urgent and timely need for government intervention to ensure the safety of the public,
15 including the protection of human life. (See *id.* at 946-47.) In enacting Penal Code section 13670, the
16 Legislature found that law enforcement gangs, specifically including LASD deputy gangs, have been
17 “damaging to the trust and reputation of law enforcement throughout California,” and thus investigating
18 and eradicating deputy gangs is necessary to “foster greater public trust.” (*Assn. for L.A. Deputy Sheriffs*
19 *v. County of L.A.* (2008) 166 Cal.App.4th 1625, 1644, as modified (Sept. 24, 2008), as modified (Oct. 6,
20 2008).) Courts have recognized that decisions involving management’s ability to investigate
21 misconduct—and particularly decisions that are intended to improve the integrity of, or public trust in,
22 law enforcement—involve the public interest and are not subject to bargaining. (See, e.g., *ibid.* [holding
23 that prohibiting deputies from “huddling” with counsel or union representatives in groups prior to
24 investigative interviews was a fundamental managerial or policy decision because “the purpose . . . was
25 to foster greater public trust in the investigatory process”] (emphasis added); *Assn. of Orange County*
26 *Deputy Sheriffs v. County of Orange*, 217 Cal.App.4th at 45 [holding that denying deputies under
27 investigation access to their internal affairs files prior to being interviewed constituted a fundamental
28 managerial decision because it was designed “to ensure the integrity and reliability of future internal

1 affairs investigations” and “to bring the Department in line with what is considered to be the ‘best
2 practice’ in conducting internal affairs investigations”].) In adopting Penal Code section 13670, the
3 Legislature exercised the “delicate judgment” discussed in *San Jose*, and the OIG’s implementation of
4 this judgment by investigating deputy gangs cannot be “placed on the bargaining table, to be traded off
5 against increases or decreases in wages, hours, and fringe benefits.” (*San Jose, supra*, 78 Cal.App.3d at
6 p. 942.) ALADS’s assertion that it has a right to engage in negotiations to dissuade the OIG from
7 conducting the investigation authorized under state law or to compromise its effectiveness is not likely
8 to prevail.

9 Further, ALADS offers no evidence that the OIG’s investigation into deputy gangs pursuant to
10 Penal Code section 13670(b) impinge on the working conditions of the 35 suspected deputies, let alone
11 that any effects would be significant and adverse.⁷⁹ Where no legal authority or public policy creates or
12 protects any right or limitation on liability, there is no working condition, and thus no duty to bargain,
13 even where the change affects an informally established practice. (See, e.g., *Assn. of Orange County*
14 *Deputy Sheriffs*, at pp. 32, 40-44.) Neither law nor public policy establish that ALADS members are
15 entitled to be shielded from an investigation into deputy gangs by an oversight body that is otherwise
16 authorized by law. POBRA does not curb the OIG’s authority to investigate deputy gangs, (see
17 generally POBRA, Cal. Gov. Code § 3303 [establishing procedural protections for officers subject to
18 investigation]); to the contrary, the more-recently enacted Penal Code section 13670 *requires* officers to
19 cooperate with the OIG investigation. Existing law and policy, including the County’s Memorandum of
20 Understanding (“MOU”) with ALADS, actually support the deputies’ compliance with the OIG
21 investigation; specifically, the MOU acknowledges that “LASD and Bureau policy forbids all members
22 from willfully violating any Federal statute, State law or local ordinance,” and “[m]embers who violate
23 any rules, regulations or policies of the LASD or the Bureau or the County shall be subject to
24 disciplinary action up to and including discharge.” (ALADS MOU Article 28 §3(B).)

25 Finally, even if ALADS could show that the OIG’s investigation into deputy gangs affects

26 ⁷⁹ Preliminarily, the issues here do not concern wages and hours. See, e.g., *Assn. of Orange County Sheriffs*, 217 Cal.App.4th
27 at 40 (change in policy concerning investigation and possible discipline for misconduct did not concern wages and hours).
28 Yet, one of the Public Employment Relations Board (“PERB”) decisions ALADS cites, *Crim. Justice Attorneys Assn. of*
Ventura County., Charging Party, v. County. of Ventura, Respondent, 45 PERC ¶ 87 PERB Decision No. 2758-M, involves
taxation and directly concerns wages, so it is distinct from the present case.

1 working conditions, ALADS offers no evidence that any effects would be significant and adverse. In
2 particular, ALADS concedes that the OIG lacks the authority to impose discipline upon deputies. This
3 concession is fatal to ALADS’s labor claim, as it simply cannot show any significant and adverse effect
4 on working conditions. ALADS members remain free to exercise their Fifth Amendment rights. Yet,
5 assuming *arguendo* that significant and adverse effects exist, the need for the OIG’s unincumbered
6 decision-making in investigating deputy gangs pursuant to Penal Code section 13670 clearly outweighs
7 any benefit to the bargaining relationship. While ALADS’s interest in preventing an investigation in
8 which deputies retain their constitutional right to plead the Fifth Amendment is weak to nonexistent, the
9 County’s objectives, on the other hand, of ensuring the very safety of its residents and the effective
10 enforcement of the laws are among the weightiest possible. (See *Assn. for Los Angeles Deputy Sheriffs*,
11 *supra*, 166 Cal.App.4th at p. 1628 [describing the County’s “interest in public accountability” of law
12 enforcement as “significant on its face”]; *Pasadena Police Officers Assn. v. City of Pasadena* (1990) 51
13 Cal.3d 564, 568 [“Nothing can more swiftly destroy the community’s confidence in its police force than
14 its perception that concerns raised about an officer’s honesty or integrity will go unheeded or will lead
15 only to a superficial investigation.”].) Since safe, constitutional policing “needs the confidence and
16 cooperation of the community it serves,” and because “the public’s confidence in its police force”
17 requires the County to “promptly, thoroughly, and fairly investigate allegations of officer misconduct,”
18 the OIG’s investigation into deputy gangs is vital and timely. (See *Pasadena Police Officers Assn.*, 51
19 Cal.3d at p. 568.) For this reason, the County’s interest in public safety is significantly greater than
20 ALADS’s interest in bargaining, which would place an “intolerable burden” on the County (see
21 *Berkeley Police Assn. v. City of Berkeley* (1977) 76 Cal.App.3d 931, 937)—that is, the “transactional
22 cost of the bargaining process outweighs its value.” (See *Claremont Police Officers Assn. v. City of*
23 *Claremont* (2006) 39 Cal.4th 623, 638.)

24 **b. *Pitchess* Protections for Deputy Personnel Files Would Not Apply to Interviews**
25 **that Are Not Conducted by the Employing Agency.**

26 If the Court finds that the OIG, COC, and Board of Supervisors are not part of the “employing
27 agency,” then ALADS’s speculative argument that potential future disclosure may violate the *Pitchess*
28 statutes is inapposite, because *Pitchess* protections do not attach to records or information that are not

1 taken from the personnel files of the deputy’s employing agency.

2 The *Pitchess* statutes define “personnel records” that are entitled to confidentiality as “file[s]
3 maintained under that individual’s name by his or her employing agency.” (Pen. Code §§ 832.8(a);
4 832.7(a).) Courts have been clear that the term “employing agency” is, in fact, limited to the employing
5 agency or other municipal bodies that are responsible for personnel matters, such as an administrative
6 board that hears officers’ disciplinary appeals. (See *Copley Press, Inc. v. Super. Ct.* (2006) 39 Cal.4th
7 1272 (2006) [“Because the Commission, a department of the County, has been designated to provide the
8 appeal that the officer’s employer is required by law to provide in connection with taking punitive
9 action, it is reasonable to conclude that for purposes of applying the relevant statutes in this case, the
10 Commission is functioning as part of ‘the employing agency’”].) The California Supreme Court also
11 expressly held that “personnel records” cannot be read “so broadly as to include every record that might
12 be *considered* for purposes of an officer’s appraisal or discipline.” (*Long Beach Police Officers Assn. v.*
13 *City of Long Beach* (2014) 59 Cal.4th 59, 72 (emphasis in original).) To the contrary, “only the records
14 *generated* in connection with that appraisal or discipline would come within the statutory definition of
15 personnel records.” (*Id.* at 71 (emphasis in original); see also *Pasadena Police Officers Assn. v. Super.*
16 *Ct.* (2015) 240 Cal.App.4th 268, 292 [“Records related to the criminal investigation are not personnel
17 records, and do not reveal information regarding ‘advancement, appraisal, or discipline’ of a particular
18 officer. Only the [police department’s] administrative review results in a disciplinary recommendation
19 to the chief. And, only records related to that process enjoy protection under the *Pitchess* statutes.”];
20 *P.O.S.T. v. Super. Ct.* (2007) 42 Cal.4th 278, 289 [recognizing that confidentiality extends to certain
21 enumerated types of information “‘obtained from’ personnel records maintained by the employing
22 agency.”].)

23 If the OIG is an “autonomous entity,” as ALADS argues, then the OIG’s investigation into
24 deputy gang activity is not conducted by the deputies’ employing agency or any agency involved in the
25 discipline of officers. Nor are the interviews or photos the OIG requests taken from the deputies’
26 personnel files. The fact that information obtained in the OIG’s investigation may, in the future, be
27 transmitted to LASD and incorporated into its own investigation of deputies does not convert it into
28 “personnel records.” Under ALADS’s reading, any interview a deputy conducts relating to their

1 employment—whether it is a deposition in a civil proceeding, testimony in a case where the deputy is a
2 criminal defendant, or even an interview with the Los Angeles Times—is a *Pitchess* record and
3 therefore confidential. This is not the law, and the Supreme Court expressly rejected a reading that
4 would treat anything that may ultimately be considered in an officer’s appraisal as a “personnel record.”
5 Indeed, the Los Angeles County District Attorney’s Office’s analyses of deputies’ uses of force or other
6 potential misconduct are, as a matter of course, transmitted back to LASD and incorporated into
7 LASD’s analysis to determine whether it will subject the deputy to discipline; yet, the courts recognize
8 that the District Attorney’s criminal investigation is outside of the scope of *Pitchess*. Thus, either the
9 OIG, COC, and Board of Supervisors are part of the employing agency and any possible future
10 exchange of information would not be a “disclosure” and is therefore permissible under *Pitchess*, *or* the
11 OIG, COC, and Board of Supervisors are “autonomous entities” and not part of the employing agency
12 and therefore records that they create outside of the disciplinary process are not personnel files and
13 *Pitchess* simply does not apply. While ALADS’s invocation of possible future *Pitchess* violations is
14 totally speculative and inappropriate for its motion for a preliminary injunction, its argument that future
15 disclosure between those entities would constitute a *Pitchess* violation is incorrect.

16 **c. ALADS Cannot Establish Any Violation of Constitutional Rights.**

17 ALADS’s meritless constitutional arguments rely on obscuring the limited nature of the OIG’s
18 requests to the 35 deputies suspected of deputy gang involvement.

19 ALADS has no viable claim that the investigation will violate the deputies’ Fifth Amendment
20 rights. While the OIG’s letter requested that the subject deputies provide specific information about
21 their potential gang membership, it also advised the deputies that they were free to assert their Fifth
22 Amendment rights in the interviews. The deputies’ Fifth Amendment rights will therefore remain
23 intact.⁸⁰

24 Similarly, the OIG letters did not suggest any intent to “strip search” the deputies or otherwise
25 search their “private areas” for tattoos at the interviews in question, as ALADS implies. Whether a
26 legitimate privacy interest exists is a factual determination, in part dependent upon the reasonable

27 ⁸⁰ ALADS nevertheless complains that the OIG’s interview requests violate the deputies’ Fifth Amendment (and *Lybarger*)
28 rights because the OIG will not preemptively “immunize” them from criminal prosecution prior to such interviews, failing to
observe that the OIG is not a criminal prosecutor and lacks the authority to decide whether or not to criminally charge any
deputy. In other words, ALADS’ nonsensical Fifth Amendment claim is both baseless and misdirected.

1 expectation of privacy that exists with respect to the subject of the search, and ALADS’s conjecture that
2 it might require a search of deputies’ “private areas” is insufficient to find that any privacy interest is
3 implicated. There is a strong public interest, grounded in statutory authority, undergirding the OIG’s
4 request for photographs of tattoos visible on legs and arms—areas that may regularly be displayed when
5 deputies are in their work uniforms, and which prior case law has recognized do not infringe on any
6 reasonable expectation of privacy for law enforcement officers. In assessing the reasonableness of any
7 intrusion on the ALADS deputies’ Fourth Amendment and privacy rights, the Court must consider both
8 the diminished expectations of privacy that law enforcement officers have in matters pertaining to their
9 official duties, as well as the weighty countervailing interests, including the County’s and the public’s
10 interest in curbing deputy gang activities that regularly violate the Fourth Amendment and privacy rights
11 of community members. As the Court in *Biehunik v. Felicetta* (1971) 441 F.2d 228 aptly stated:

12 We do not believe that the public must tolerate failure by responsible officials to seek out,
13 identify, and appropriately discipline policemen responsible for brutal or unlawful behavior in
14 the line of duty, merely because measures appropriate to those ends would be improper if they
15 were directed solely towards the objective of criminal prosecution It is a correlative of the
16 public’s right to minimize the chance of police misconduct that policemen, who voluntarily
17 accept the unique states of watchman of the social order, may not reasonably expect the same
18 freedom from government restraints which are designed to ensure his fitness for office as from
19 similar governmental actions not so designed.

20 (441 F.2d at 230-231, accord *Kirkpatrick v. City of Los Angeles* (1986) 803 F.2d 485, 488; see also *Los*
21 *Angeles Police Protective League v. Gates* (1984) 579 F.Supp.36, 45.)

22 ALADS deputies can claim no reasonable expectation of privacy in the portion of the OIG’s
23 request for photographs of “all tattoos” that are present on their legs from the ankle to the knee, because
24 these parts of the body are often exposed on a day-to-day basis and as part of the LASD official
25 clothing. (See L.A. Cty. Sheriff’s Department Policy, 3-03/500.00 [authorizing deputies to wear
26 “uniform shorts” and specifying that “the legs shall not be longer than four inches as measured from the
27 crotch seam.”]; see also L.A. Cty. Sheriff’s Department “LASD Summer Beach Time Highlights the
28 Exciting Work of Being a Deputy,” available at <https://www.facebook.com/LosAngelesCountySheriffs>

1 Department/videos/lasd-summer-beach-team-highlights-the-exciting-work-of-being-a-deputy-
2 sheriff/2333089853384581/ [specifically advertising that deputies can wear shorts as part of recruiting
3 video showing multiple deputies' legs exposed from knee to ankle]; L.A. Cty. Sheriff's Department
4 Recruitment Instagram post, available at <https://www.instagram.com/p/CZC4SCTLfrh/> [posting photo
5 of multiple LASD deputies in training wearing shorts with legs exposed from knee to ankle].) Further,
6 the sole case cited by ALADS addressing photographs does not support its position and held that "parts
7 of the body exposed on a day-to-day basis invoke no intimate privacy interests, [and] such photographs
8 represent no invasion of personal rights." (*United States v. Anthony* (W.D.Va. Jan. 31, 2019, No. 4:18-
9 cr-00012) 2019 U.S. Dist. LEXIS 15589, at *6-9.)

10 To the extent that the OIG's request also sought images of gang tattoos that were located
11 "anywhere on [their] body," ALADS failed to demonstrate that any deputies would be impacted by this
12 request as none of the evidence it produced stated that any deputies actually possess tattoos within areas
13 other than those explicitly requested by the OIG. Nor did it identify what parts of the body it asserts
14 constitute "private areas" where it believes the lines for searches should be drawn; instead, it attempts to
15 use hypothetical and undefined "private area tattoos" to prevent the investigation of *all* tattoos, including
16 those known to be in areas where there is no expectation of privacy. Deputy gang tattoos are generally
17 intended to identify and intimidate, and, to that end, are typically in places where they can be easily
18 displayed. There is no reason to presume that any deputy who has a deputy gang tattoo actually has the
19 tattoo in a "private area," and without sufficient facts to perform the privacy assessment, ALADS cannot
20 prevail on its claim that the OIG's request implicates any actual privacy concerns. The burden is on
21 ALADS to establish that it is likely to prevail on the merits of its case, and, on this record, it has failed.
22 Moreover, even if ALADS had made a sufficient factual showing that some deputies' privacy rights
23 would be implicated by being forced to display tattoos located on their body in places where they had a
24 reasonable expectation of privacy, that is not superseded by the important governmental interests at play
25 here, and the correct remedy would be to limit the scope of the OIG investigation consistent with that
26 showing, not to prevent the investigation in its entirety. Thus, ALADS is not likely to prevail on the
27 merits of its claim that deputies' privacy rights are violated by the OIG's requests and a preliminary
28 injunction should not be granted.

1 **CONCLUSION**

2 For the foregoing reasons, the Court should deny ALADS’s application for a preliminary
3 injunction.

4
5 DATED: June 26, 2023
6

7 ACLU FOUNDATION OF SOUTHERN
8 CALIFORNIA

9 
10 By: _____
11 DAE KEUN KWON

12 By: 
13 MELANIE P. OCHOA

14 *Attorneys for Amici Curiae*
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF COMPLIANCE**

2 Pursuant to Rule 8.520 (c) of the California Rules of Court and in reliance on the word
3 count of the computer program used to prepare this Proposed Amici Curiae Brief, counsel
4 certifies that the text of this brief (including footnotes) was produced using 12-point type and
5 contains 10,498 words. This includes footnotes but excludes the tables required under Rule
6 8.204(a)(1), the cover information required under Rule 8.204(b)(10), the Certificate of Interested
7 Entities or Persons required under Rule 8.208, the Application to File Amici Curiae Brief
8 required under Rule 8.200(c)(1-3), this certificate, and the signature blocks. See Cal. Rule of
9 Court, Rule 8.204(c)(3).
10
11
12
13

14 Dated: June 26, 2023



15 _____
16 Allison Rubinfeld
17 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
18
19
20
21
22
23
24
25
26
27
28

1 MELANIE P. OCHOA (SBN 284342)
mpochoa@aclusocal.org
2 ADRIENNA WONG (SBN 282026)
awong@aclusocal.org
3 DAE KEUN KWON (SBN 313155)
akwon@aclusocal.org
4 TIFFANY M. BAILEY (SBN 319886)
tbailey@aclusocal.org
5 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
6 1313 West Eighth Street
7 Los Angeles, California 90017
Telephone: (213) 977-9500
8 Facsimile: (213) 977-5299

9 *Counsel for Proposed Amici Curiae*

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES**

13 ASSOCIATION FOR LOS ANGELES
14 DEPUTY SHERIFFS,

15 *Plaintiff and Petitioner,*

16 v.

17 COUNTY OF LOS ANGELES; ROBERT
18 LUNA, Sheriff of the County of Los Angeles;
19 OFFICE OF THE INSPECTOR GENERAL
20 OF THE COUNTY OF LOS ANGELES;
21 MAX HUNTSMAN, Inspector General of the
County of Los Angeles, and DOES 1 – 20,

22 *Defendants and Respondents.*
23
24
25
26
27
28

Case No. 23STCP01745

DECLARATION OF MELANIE OCHOA

1 I, Melanie Penny Ochoa, hereby declare:

- 2 1. I make this declaration based on my own personal knowledge and if called to testify
3 could and would do so competently as follows:
- 4 2. I am a Staff Attorney at the American Civil Liberties Union of Southern California
5 (“ACLU” or “ACLU of Southern California”). I have been employed by the ACLU for
6 the past 6 years.
- 7 3. I am counsel for proposed amici ACLU of Southern California, the Check the Sheriff
8 Coalition, Dignity and Power Now, and the California Immigrant Policy Center in the
9 above-captioned action.
- 10 4. My clients hereby apply for leave of court to file the Brief of Amici Curiae in opposition
11 to Petitioner Association for Los Angeles Deputy Sheriffs’ (“ALADS”) request for a
12 preliminary injunction.
- 13 5. My office learned that ALADS filed its motion for a temporary restraining order to enjoin
14 the investigation by the Office of Inspector General into deputy gang activity on after that
15 motion had been granted on June 5, 2023.
- 16 6. My office consulted the California Rules of Court and Rules of Civil Procedure, but there
17 are no specific rules pertaining to the submission of amicus briefs in the Superior Court.
18 On June 9, 2023, Angelica Lujan, a paralegal for ACLU, contacted the clerk of
19 Department 85 to determine whether the chambers had a preferred process for the
20 submission of amicus briefs. She was directed to file an ex parte application for leave to
21 file the amicus.
- 22 7. On June 21, 2023, around 2:30 p.m., I contacted counsel for respondents to inform them
23 that we intended to file an ex parte application to file a brief on behalf of amici curiae and
24 to inquire whether they would oppose our application. I was not able to speak directly to
25 any counsel, but I left messages on the voicemails of Ms. Valerie Alter and Mr. Jason
26 Kearnaghan. Around 2:45 p.m., I contacted counsel for petitioners to provide the same
27 notice. I left a message on the voicemail of Mr. Jacob Kalinski. At around 2:50 p.m., I
28

1 followed up with emails to counsel for both petitioners and respondents informing them
2 of our intent to file and asking them to inform us of whether they intended to oppose. I
3 received notice via email from petitioners that they would oppose our application and
4 notice from respondents that they would not oppose.

5 8. On June 22, 2023, I informed counsel for both parties via email that we would appear for
6 the ex parte on June 26, 2023.

7 9. On June 23, 2023, at 7:50am Ms. Lujan electronically filed the brief, but it was rejected
8 by the clerk for missing court fees at 10:30am. She filed the brief again with the correct
9 fees and document type, but it was rejected again because the clerk noted that per general
10 order Ex Parte applications and all documents in support thereof must be electronically
11 filed no later than 10:00 a.m. the court day before the Ex Parte hearing.

12 10. On June 23, I informed counsel for both parties via email that we would appear for the ex
13 parte on June 27, 2023.

14
15 I declare under penalty of perjury of the laws of the State of California and the United States that
16 the foregoing is true and correct to the best of my knowledge and belief. Executed this 26th day of
17 June 2023 in Los Angeles, California.

18 

19 _____
20 Melanie Penny Ochoa