

## **COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE**

### **MINUTES OF THE January 17, 2018 MEETING**

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 739  
Los Angeles, California 90012

#### **MEMBERS AND ALTERNATES PRESENT**

Chair: Sheila Kuehl, Supervisor, Third District and Chair of the County Board of Supervisors

Cynthia Banks, Director, County Department of Workforce Development, Aging and Community Services

Reaver Bingham for Terri McDonald, County Chief Probation Officer

\*Steve Carmona for Charlie Beck, Chief, Los Angeles Police Department

Kenneth Clayman, Acting County Public Defender

Beatriz Dieringer, California League of Cities

Peter Espinoza, Director, Office of Diversion and Reentry

Janice Fukai, County Alternate Public Defender

\*Thomas Giles for David Marin, Field Office Director, U.S. Immigration and Customs Enforcement

Scott Gordon, Supervising Judge, Criminal Division, Superior Court

\*Kimberly Guillemet for Eric Garcetti, Mayor, City of Los Angeles

Kelly Harrington for Jim McDonnell, Sheriff

\*Jason Hasty for Debra Duardo, Superintendent, County Office of Education

Christa Hohmann, Directing Attorney, Post Conviction Assistance Center

Dan Jeffries for Mike Feuer, Los Angeles City Attorney

Cosme Lozano, President, Southeast Police Chiefs Association

Cosme Lozano for Bob Guthrie, President, Los Angeles County Police Chiefs Association

Mary Marx for Jonathan Sherin, Director, County Department of Mental Health

Jonathan McCaverty for Mary Wickham, County Counsel

Edward McIntyre for Rodney Gibson, Chair, County Quality & Productivity Commission

Emilio Mendoza for Bobby Cagle, Director, County Department of Children and Family Services

William Montgomery for Scott Minnix, Director, County Internal Services Department

\*Bryan Oh for Richard Llewellyn, Interim Los Angeles City Administrative Officer

Sam Ohta, Assistant Supervising Judge, Criminal Division, Superior Court

Chris O'Quinn, Chief, Southern Division, California Highway Patrol

Ezekiel Perlo, Directing Attorney, Indigent Criminal Defense Appointments Program

Devallis Rutledge for Jackie Lacey, District Attorney and Vice Chair of CCJCC

Robin Toma, Executive Director, County Human Relations Commission

\*David Turla for Sachi Hamai, County Chief Executive Officer

\*Andrea Welsing for Barbara Ferrer, Director, County Department of Public Health

Lance Winters for Xavier Becerra, California Attorney General

**\*Not a designated alternate**

**I. CALL TO ORDER / INTRODUCTIONS**

Chair Sheila Kuehl, County Supervisor, Third District

The meeting was called to order at 12:00 p.m. by Los Angeles County Supervisor Sheila Kuehl, Chair of CCJCC.

Self-introductions followed.

Los Angeles County Alternate Public Defender Janice Fukai announced that Erika Anzoategui has been appointed as Chief Deputy in her office. Ms. Anzoategui replaces Bruce Brodie, who recently received a judicial appointment to the Superior Court.

**II. APPROVAL OF THE MINUTES**

Chair Sheila Kuehl, County Supervisor, Third District

There were no requests for revisions to the minutes of the November 15, 2017 meeting. A motion was made to approve the minutes.

**ACTION: The motion to approve the minutes of the November 15, 2017 meeting was seconded and approved without objection.**

**III. CHAIR'S OPENING REMARKS**

Supervisor Kuehl assumed the position of Chair of the County Board of Supervisors in December 2017. As Chair of the Board of Supervisors, she will also be serving as the Chair of CCJCC during this year.

Supervisor Kuehl remarked upon some of the criminal justice related-issues that she is particularly interested in and in which this County is in the process of addressing, including Bail Reform, which will require collaboration and coordination among organizations represented on this committee, and juvenile justice.

The Supervisor added that she looks forward to working with the members of this committee both in this current year and in the years to follow.

**IV. EXECUTIVE DIRECTOR'S REPORT**

Mark Delgado, Executive Director, Countywide Criminal Justice Coordination Committee

Mark Delgado, Executive Director of the Countywide Criminal Justice Coordination Committee (CCJCC), provided the Executive Director's Report to the committee.

## Public Safety Realignment Team

The Public Safety Realignment Team (PSRT) was established by the Board of Supervisors to coordinate the County's implementation of Public Safety Realignment (AB 109). Chaired by the Chief Probation Officer and comprised of multiple agencies, PSRT meets regularly to address legal, custody, supervision, and treatment coordination issues in order to enhance realignment implementation.

PSRT submitted a mandated report to the California Board of State and Community Corrections (BSCC) in December 2017 and provided that report to the Board of Supervisors at its January 16, 2018 meeting as part of PSRT's regular updates to the Board. Mr. Delgado noted that many of the departments represented on CCJCC participated in the development of the report.

The BSCC report submission provides a broad summary of key issues identified by departments in the areas of supervision, custody, and rehabilitative/treatment services, as well as key system-wide goals for the current year. The report can be accessed at the following link: [goo.gl/JVdGr9](http://goo.gl/JVdGr9).

## Justice Automated Information Management System (JAIMS)

The Information Systems Advisory Body (ISAB) is a subcommittee of CCJCC that facilitates data sharing across multiple criminal justice systems in the region and addresses key requirements for justice systems integration. In 2014, ISAB developed the Justice Automated Information Management System (JAIMS) – a CCJCC-sponsored initiative – as a statistical reporting platform to consolidate justice data and help measure justice outcomes and programmatic impacts.

In September 2017, ISAB contracted with Gartner for an assessment of the current reporting environment and recommendations for ISAB's reporting and analytics strategy. Gartner engaged stakeholders from ISAB member departments and the County's Chief Executive Office in order to understand current resources, challenges, and opportunities in this space. Gartner is finalizing its recommendations into a Strategic Roadmap and is conferring with ISAB and member departments over the coming week. There may be an update to CCJCC on this initiative at a future meeting.

**ACTION: For information only.**

## **V. LOS ANGELES COUNTY ANNUAL REPORT ON HATE CRIMES**

Robin Toma, Executive Director, County Human Relations Commission

Robin Toma, Executive Director of the County Human Relations Commission, appeared before CCJCC to make a presentation on the Commission's 2016 Annual Hate Crime Report (released in November 2017).

Mr. Toma noted that this report covers hate crimes in the County of Los Angeles, but does not include those incidents of hate that do not rise to the level of a crime. Additionally, the report only covers those crimes that fit the definition of a hate crime under the state's penal code.

There were a total of 482 hate crimes in this County in 2016, which is virtually unchanged from the total of 483 hate crimes in 2015. However, this represents a continued elevated level over the previous three years. Mr. Toma noted that 2015 had seen an increase of 24% over 2014.

Mr. Toma surmised that the increase in hate crimes in 2015 may have been a result of terrorist attacks that occurred that year in Paris and San Bernardino. Innocent people may have been targeted for hate crimes in reaction to those events.

Statewide, hate crimes increased 11% in 2016 and 10% in 2015.

The largest number of hate crimes reported in 2016 took place in the San Fernando Valley Service Planning Area (SPA) Region II, followed by the Metro SPA Region IV. However, if one accounts for population, the highest rate was in the Metro SPA, followed by West SPA Region V.

There was a 67% increase in the number of hate crimes in which there was evidence of white supremacist ideology. About 22% of hate crimes involved white supremacist ideology, and 12 cases were both gang-related and had evidence of white supremacist ideology. (A total of 9% of all hate crimes involved gangs.)

Overall hate crimes during the post-election period in 2016 were also analyzed. It was found that there were 82 hate crimes from November 8<sup>th</sup> through December 31<sup>st</sup>. In comparison, there were 43 hate crimes during this same period in 2012, 47 in 2013, 51 in 2014, and 75 in 2015.

Mr. Toma reiterated that the increase in hate crimes in 2015 (in this case, during the final two months) over that of 2014 may be explained by the reaction to the terrorist attacks that year. As a result, he stated that it may be understating the impact of the of the Presidential Election on the number of hate crimes to note that there was only an increase of 9% between the last two months of 2015 and the last two months of 2016.

Further, he added that a number of hate crimes in the post-election period of 2016 specifically reference the election in the occurrence of the crime.

Overall for 2016, hate crimes in which Latino/as targeted African Americans decreased by 41%. Additionally, only a third were committed by gang members, which compares to nearly half the previous year.

Racial hate crimes declined 2% and comprised 46% of all hate crimes reported in 2016. Anti-black crimes declined 19%, but still made up nearly half of all racially motivated hate crimes.

There were 31 anti-transgender hate crimes in 2016, which was a 72% increase from the previous year. Mr. Toma reported that 97% of these hate crimes were violent crimes. He added that anti-transgender hate crimes almost always are the most violent of the any of the major targeted groups.

The County Human Relations Commission has taken a number of actions in responding to hate crimes and in trying to prevent future hate crimes. These include the following events:

- In December 2016, a special meeting of Network Against Hate Crime (NAHC) was held to gather and share information on best practices, and to coordinate responses to hate crimes. This was followed in January 2017 by a follow-up special meeting of NAHC.
- A Countywide Youth Conference entitled “Rising Up Against Hate” was held in the Spring of 2017.
- Community hearings on policing and human relations were held in different parts of the county in the Winter and Spring of 2017.
- A Southern California Regional Human Relations Summit was held in the Fall of 2017. This brought together Human Relations and partner agencies from throughout the Southern California region to share information and experiences from the past year and to discuss future plans.
- The Los Angeles County Human Relations Commission also participated in a nationwide gathering of Human Relations Agencies during the Summer of 2017. This was held in Seattle, Washington.

In addition, a CCJCC task force on hate crimes produced a report on hate crime outreach and response, which includes best practice recommendations for law enforcement agencies.

The task force was co-chaired by the Sheriff’s Department and the Human Relations Commission, and it included representation from law enforcement, community, school, and other governmental agencies. The Commission is promoting the use and adoption of the recommendations in this report.

The task force report is available on the Human Relations Commission website.

Another important recommendation is to continue to support the development and implementation of the Campaign to be Stronger Together/kNOw HATE. This is

intended to increase the awareness and reporting of hate activity (including hate crime), education, support, and response.

The full 2016 Hate Crime Report can be accessed at the Human Relations Commission website.

**ACTION: For information only.**

**VI. SB 395 – LEGAL COUNSEL REQUIREMENT FOR CUSTODIAL INTERROGATION OF YOUTH**

Ramon Quintana, Division Chief, Public Defender's Office

Casey Lilienfeld, Head Deputy, Public Defender's Office

Rourke Stacy, Deputy Public Defender

Ramon Quintana, Division Chief with the Juvenile Division of the Public Defender's Office, appeared before CCJCC to make a presentation on Senate Bill 395 (SB 395), which created Welfare and Institutions Code (WIC) Section 625.6, a new law requiring legal counsel for custodial interrogation of youth.

Casey Lilienfeld, Head Deputy of Juvenile at the Public Defender's Office, and Deputy Public Defender Rourke Stacy joined Mr. Quintana in this presentation.

SB 395 took effect on January 1<sup>st</sup> of this year. It requires that youth aged 15 or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving *Miranda* rights.

In response to this new law, the Public Defender's Office has scheduled attorneys to be on call at all hours of the day, every day, who can be contacted by law enforcement.

Mr. Quintana introduced Deputy Public Defender Rourke Stacy to provide more information about the law.

Ms. Stacy emphasized that SB 395 does not relate to the arrest of a youth or spontaneous statements made by the youth. Instead, it is only about interrogation and when a youth is about to waive his or her *Miranda* rights. Absent the public safety exception, it mandates consultations with attorneys prior to interrogation (for youth aged 15 and under), and the consultations cannot be waived.

Probation officers in the normal course of their duties are exempt from SB 395. In addition, failure to comply does not result in an automatic suppression, but shall be considered by the Court in adjudicating the admissibility of statements.

Given that SB 395 consultations occur before *Miranda* rights are waived, SB 395 is triggered when law enforcement wants to interrogate. Ms. Stacy explained that the *Miranda* decision mandated that interrogation cannot commence until *Miranda* rights have been provided to the suspect. Therefore, SB 395 is triggered when *Miranda*

advisements are necessary for interrogation. The public safety exception and booking questions are two exceptions to this.

SB 395 is not triggered by WIC Section 625 *Miranda* advisements when there is no intent to interrogate.

The three key components of *Miranda* are custody, interrogation, and a state actor. All three need to be present before SB 395 is triggered.

A youth is in custody if he or she is not free to leave. Case law holds that custody is a deprivation of freedom of movement. Ms. Stacy noted that youth may perceive that they are in custody even when an adult would realize that he or she is free to leave.

Interrogation refers to express questioning or its functional equivalent. Also, the questioning has to be incriminatory in nature to constitute interrogation. Questions about the crime would be incriminatory in nature, but questions about the youth's medications, special education issues, or living arrangements are not considered incriminatory.

Ms. Stacy stated that research has shown that a significant percentage of youth who have contact with law enforcement have a much higher incidence of one or more of the following:

- Cognitive, developmental delays
- Learning disabilities
- Mental health issues
- Trauma

The implication of this is that many of the youth that law enforcement officers, defense attorneys, and social workers will be interacting with may suffer from one or more of these issues. As a consequence, the youth that are involved in the context of an SB 395 situation may not have the level of understanding that one might assume from their age.

With respect to diversion, Ms. Stacy stated that SB 395 has minimal if any impact on youth who may qualify for diversion. One reason for this is that the nature of diversion screening questions is not incriminatory. These questions often seek background information to assess needs for services and do not relate to the underlying crime. Further, most youth who qualify for diversion screening qualify for being released from custody. As long as either custody or incriminatory questioning is eliminated, then SB 395 is not impacted.

Ms. Rourke introduced Casey Lilienfeld to discuss the protocol that the Public Defender's Office has developed for SB 395.

Mr. Lilienfeld advised the committee that, because SB 395 is new for all stakeholders, the Public Defender's Office is still adjusting to the protocol as different situations arise. There will likely be continuing questions that will need to be resolved.

The Public Defender's Office is distributing informational flyers to law enforcement agencies. These flyers provide telephone numbers to call during either business hours or after hours to receive assistance with an SB 395 situation.

During business hours (Monday through Friday, from 8:00 a.m. to 5:00 p.m.), calls may be made to the Appellate Department where support staff will obtain contact information and contact the juvenile supervisor assigned to *Miranda* duty that week. There is a roster of juvenile supervisors who are assigned to *Miranda* duty and who will either personally respond to the calls or assign the consultation to another lawyer.

The SB 395 consultation may be conducted in-person or telephonically, depending on the assessment of the lawyer handling the call. If conducted in-person, there will be a delay between the initial call and the consultation due to travel time, etc.

For any time outside of normal business hours (i.e., nights, weekends, and holidays), the call will initially go to the County Operator. The call will then go to the attorney who is assigned to *Miranda* duty during the shift that the call comes in. Consultations may be provided in-person or telephonically.

The Public Defender's Office received 16 calls in the first 16 days of this new law.

Mr. Lilienfeld thanked County Alternate Public Defender (APD) Janice Fukai and Cyn Yamashiro of the Independent Juvenile Defender Program (IJDP) of the Los Angeles County Bar Association for their assistance. Conflict checks can be performed during business hours. In the event that there is a conflict in which the minor is being represented by one of those two other organizations, the Public Defender's Office will refer the case to them. The APD and IJDP have agreed to take the referral and handle the call in these situations.

Andrea Pott of the District Attorney's Office inquired as to the protocol if an attorney for the Public Defender's Office handles a call during after hours and a conflict is discovered the following day. Mr. Lilienfeld stated that the consultation during after hours would only concern *Miranda* rights, not a full representation of the case. So this is for a limited purpose. If a case is later filed and there is a conflict, the appropriate organization would then represent the minor.

Supervisor Kuehl inquired as to whether a minor has a right to insist that a parent or legal guardian be present during an interrogation. Ms. Rourke stated that juveniles do not have this right in California. In reply to a follow-up question, she confirmed that school police can interrogate a minor at school without a parent or legal guardian being present. She added, however, that individual schools may differ in terms of their internal policies.



Supervisor Kuehl thanked Mr. Quintana, Ms. Rourke, and Mr. Lilienfeld for their presentation. She noted the importance of coordination among different organizations in order to implement this efficiently. This should be considered with any training that is done in connection with this new law.

Mr. Delgado reported that this information will be presented to the Los Angeles County Police Chiefs Association at its next monthly meeting.

**ACTION: For information only.**

**VII. OTHER MATTERS / PUBLIC COMMENT**

A public comment was made by Mr. Joseph Maizlish.

**VIII. ADJOURNMENT**

The meeting was adjourned at 11:51 p.m.