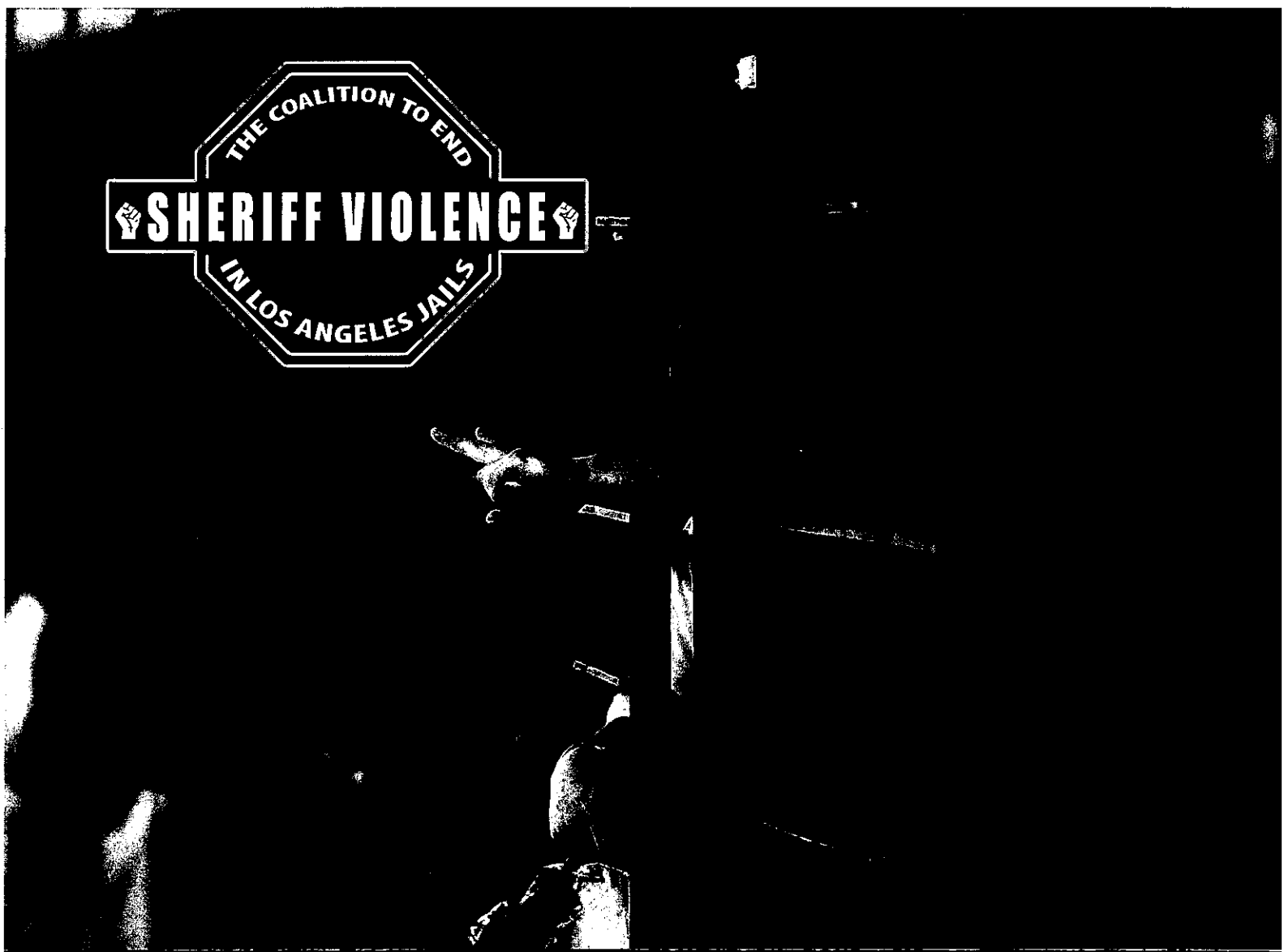


A CIVILIAN REVIEW BOARD FOR THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

A proposal by The Coalition To End
Sheriff Violence In Los Angeles Jails



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With thanks to the Coalition partners and supporters.

THE COALITION TO END SHERIFF VIOLENCE IN L.A. JAILS

Statement by: Patrisse Cullors and Mark-Anthony Johnson

State violence is a national crisis; a troubling pattern of law enforcement violence against communities of color, and poor people across the United States. This violence takes many forms; most notably physical abuse of members of these communities in their neighborhoods, in custody at local jails, or across county and state lines in any number of prisons in the United States. In the last decade, incidents of state violence have captured local, national, and international attention, while stirring up fundamental questions about the normalcy of brutality that communities of color, large in part Black and Latino communities endure by law enforcement.

Such high profile cases include the murder of Ronald Madison and James Brissette (Danziger Bridge in New Orleans, Louisiana, 2005), Sean Bell (Queens, New York, 2006), Oscar Grant (Oakland, California, 2009), Kimani Gray (Brooklyn, New York, 2013), and Carlos Oliva (City of Terrace, 2013).

Since its founding in 2012, the Coalition to End Sheriff Violence in L.A. Jails has been calling for civilian oversight of the Sheriff's Department. We understand that civilian oversight alone will not end Sheriff abuse. However, we do believe that independent civilian oversight with subpoena power,

independent investigative power, and the power to hire or fire personnel, is a necessary tool for any movement fighting to end state violence at the scale at which it exists in Los Angeles County. The movement to end state violence in the form of LASD abuse is growing daily. Additionally, the momentum necessary to win civilian oversight of the largest Sheriff's Department in the country, operating the largest jail system in the world, is reaching a pivotal point. State violence affects us all and we have a historic opportunity in Los Angeles to interrupt a long standing pattern of abuse against our loved ones in the jail system and in the streets.

THE NEED FOR A CRB

Even with the creation of an OIG, there remains a need for a high level body of nonpolitical leaders, who are held in high regard by the community and can focus *exclusively* on the time consuming task of LASD oversight. As members of the CRB, these leaders would act as the eyes and ears of the community, ensure transparency in regard to the challenges and progress of reform at the LASD, and direct the work of the OIG. As such a CRB would serve three primary functions: keeping the communities affected by sheriff violence engaged in the reform process and LASD oversight; overseeing the work of

the OIG; and providing cohesive and vigilant community-based leadership in regard to the implementation of reform.

While the CCJV determined that the BOS could arguably fill this void, BOS members have acknowledged that given their vast array of duties and the inherently political nature of their members and function, they are not the appropriate body to fill this gap.¹ In February,

Supervisor Mark Ridley-Thomas declared that "with 2 million constituents and 33 departments to oversee," BOS is simply not equipped to provide the "[l]aser-like, focused monitoring" that the Sheriff's department requires.² Instead, a CRB should be empowered to direct and work through the OIG, and to effect change within the LASD, with particular focus on the treatment of individuals within the jails.

¹ Mark Ridley-Thomas, The L.A. County Sheriff's Department Needs Civilian Oversight Now, The Huffington Post, available at http://www.huffingtonpost.com/mark-ridleythomas/la-county-sheriffs-department_b_4849394.html (last visited Apr. 22, 2014).

² Id.

INTRODUCTION

Patterns of misconduct have persisted within the Los Angeles Sheriff's Department (LASD) for decades. Serious problems of excessive force, lax oversight, deputy cliques, and a general culture of aggression have been extensively documented and met with innumerable reports and recommendations, few of which have been meaningfully implemented.³ Critics suggest that the primary responsibility for this misconduct in recent years – and in particular mounting concerns regarding excessive force by LASD personnel in the county's jails – lies squarely within the LASD's leadership. Indeed, former Sheriff Lee Baca came under increasing scrutiny as a result of these concerns and opted to retire rather than stand for reelection.⁴ While there have been oversight bodies in place tasked with rooting out such misconduct, experts believe that a lack

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³ Report of the Citizen's Commission on Jail Violence 1 (2012) [hereinafter CCJV Report], available at <http://ccjv.lacounty.gov/wp-content/uploads/2012/09/CCJV-Report.pdf>.

⁴ *Id.*

of resources among these bodies, disconnected functions, and the failure to sustain oversight through a vigilant and visible tracking of the implementation of recommendations have allowed these problems to continue largely unabated.⁵

In 2011, the Los Angeles County Board of Supervisors (BOS) created the Citizens' Commission on Jail Violence (CCJV) to conduct an in-depth review of these issues and recommend corrective action, with a particular focus on deputy use of force in the county jails.⁶ After documenting the history of problems within the LASD, the CCJV issued a comprehensive report recommending that the various oversight functions historically distributed among different bodies come together in the form of an Office of Inspector General (OIG).⁷ The BOS established an OIG and after a lengthy search selected an Inspector General (IG) to head that Office. While the OIG's duties and authority have not been fully defined, it is expected that its function and authority will largely track the CCJV recommendations.

The Coalition to End Sheriff Violence in L.A. Jails (Coalition) commends the BOS's leadership on this issue and is eager to see the OIG take on this newly consolidated independent watchdog function. However, even with the imminent launch of the OIG, the serious concerns highlighted in the CCJV's meticulous and well-supported report cannot be adequately addressed without further civilian

⁵ *Id.* at 2.

⁶ *Id.*

⁷ See generally, *id.*

oversight. The OIG cannot, alone, keep a bright spotlight on the implementation of needed reforms of the LASD. On its own, the OIG will not provide a forum for visible public hearings, which can be an invaluable tool for exposing problems and engaging LASD leadership in a dialogue about the status of reform. While the CCJV recognized that the BOS could arguably fill this void if it opted to remain engaged, events over the past year – including the criminal indictments of LASD personnel, large damage awards in civil lawsuits against LASD leaders, and a series of news stories identifying an array of ongoing scandals involving the LASD – suggest that oversight of the LASD must be delegated to an independent group of community leaders, who are singularly focused on this function.

For all these reasons, and as discussed more fully below, the Coalition urges the BOS to move toward the development of a model for the creation of a Civilian Review Board (CRB) to oversee the LASD and serve as the eyes and ears of the community. This CRB would direct the work of the IG and serve as a forum for the release of OIG reports, data and recommendations. It would also serve as a forum where the Sheriff and members of his department could present – in a transparent manner – markers of progress in the ongoing implementation of the CCJV Report and other recommendations for reform of the LASD. Finally, the Coalition further recommends that the CRB membership be allocated in a manner that affords community members with a personal stake in sheriff violence, their seat at the table.

RECOMMENDATIONS FOR THE STRUCTURE, SIZE AND FUNCTION OF THE CRB

The Coalition's proposal offers concrete recommendations for the design of a robust CRB for the LASD. It is based on comprehensive analysis by UCLA law students of CRBs across the country, with secondary research to identify and evaluate key institutional design features and best practices for such a proposed CRB within the context of the LASD. It also is based on consideration of mechanisms which may be utilized to ensure the accountability of the Sheriff to his or her constituents, and the ways in which community participation and civilian oversight of the LASD by a non-political body facilitates this objective.

STRUCTURE

The commitment of the BOS to move forward with the creation of the OIG means that Los Angeles will soon have a professional monitoring framework in place. For the reasons set forth above, the Coalition nonetheless believes that there remains a need for civilian leadership to have direct oversight over and guide the work of the OIG. Accordingly, the Coalition recommends that the CRB sit over the OIG with direct authority over it. The OIG would report directly to the CRB, and the CRB would hire and fire the OIG, within specified guidelines. Indeed, this is the model that exists in regard to the LAPD Police Commission and its oversight of the LAPD OIG. This

structure would allow the CRB to oversee the OIG's findings, both for individual incidents and broad trends, and to utilize the OIG as an investigative and research tool to inform the CRB. The findings and recommendations of the CRB would be made in a public setting and would help guide the BOS in its fiscal oversight of LASD. The CRB would also allow for a transparent institution through which the Sheriff would respond to OIG reports and recommendations, and report on the progress of reforms.

COMPOSITION

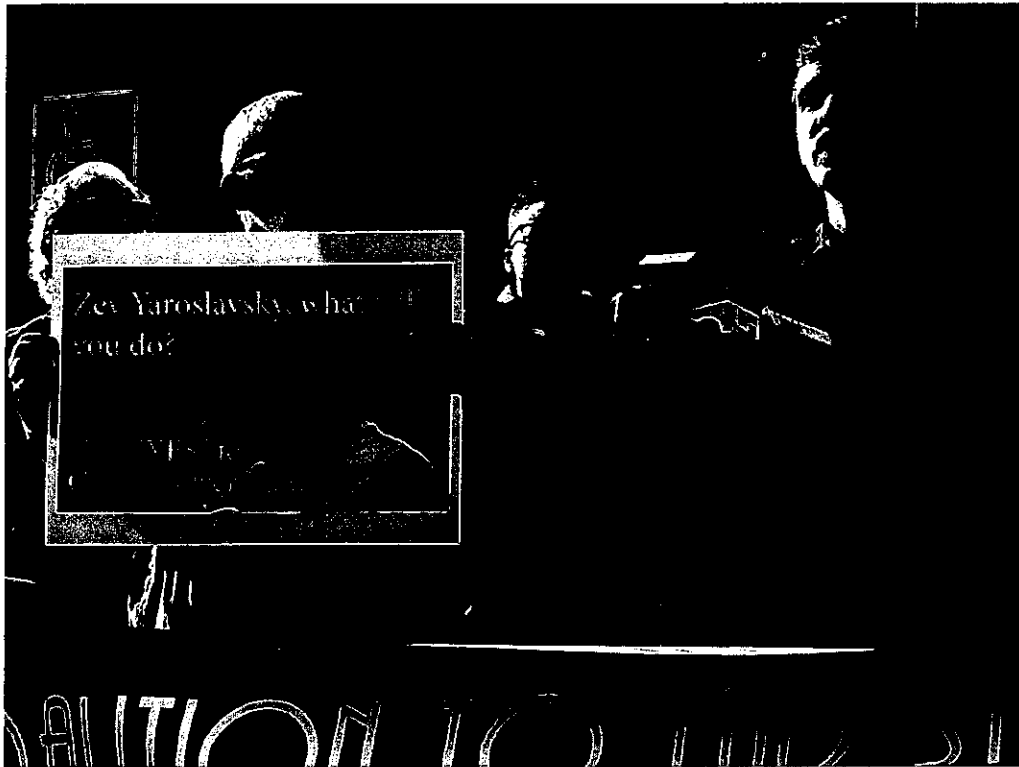
The CRB should be composed entirely of civilians to maintain its status as a community body, free from any influence or pressure from the LASD. In addition, however, the Coalition recommends creation of an expert advisory committee, or nonvoting member positions, composed of individuals with law enforcement experience and empirical researchers who can provide critical information that may help the CRB in its decision-making processes.

The CRB should be composed of nine members. Appointments to the CRB should be as follows: five members appointed (one each) by the Board of Supervisors, two members appointed by local justice systems, and two members appointed by the other CRB

members⁸ from a list of five names submitted by agreement of local community advocacy organizations. The BOS should delegate to five organizations the responsibility for convening key community advocacy organizations to reach agreement on the slate of names to present. If no agreement can be reached, the five organizations will each suggest one name. The Coalition recommends consideration of the following five entities as the lead nominating organizations, responsible for convening a larger group: (1) Dignity and Power Now/ Coalition to End Sheriff's Violence in L.A. Jails, (2) Justice not Jails – Interfaith Leaders from across Los Angeles County, (3) Empower, LA (4) those former members of the Citizens' Commission on Jail Violence who are available and willing to assist in this process, and (5) NAMI-National Alliance on Mental Illness. Nominating organizations should aim in their recommendations, and the members of the CRB should endeavor in their selections, to ensure that the appointments reflect the demographics of the jail population and the communities most substantially affected by LASD violence and served by LASD personnel.

In order for the CRB to function effectively and independently, members should be appointed for

⁸ At the outset that would mean the seven initially appointed members.



a term of five years (eventually an effort should be made to bring about staggered terms – perhaps by appointing individuals for varying initial terms), and should be subject to removal only by the BOS, and only for cause. CRB members should internally elect their own chairperson.

In addition, the CRB should hire its own Executive Director and employ any needed administrative staff. The CRB must also have its own general counsel, as well as the ability to seek external legal advice and/or *pro bono* legal assistance. The BOS must provide the CRB with adequate resources to employ staff and to function effectively.

FUNCTIONS AND DUTIES OF THE CRB

The primary function of the CRB will be to oversee and assist the

OIG in its performance of the following:

Investigative Review

The OIG should review investigations that have been conducted by the LASD to ensure that the investigations are prompt, fair, and adequate and that the investigative and disciplinary functions of the LASD are operating effectively. The Coalition recognizes, however, that the OIG will not have adequate resources to review all LASD investigations. Instead, with the guidance and direction of the CRB, the OIG will need to prioritize where it focuses its attention. Particular attention should be paid to cases involving death, major uses of force, and force against particularly vulnerable populations, such as the mentally ill.

The CRB will have an oversight role to play in making sure that cases are being properly, promptly and fairly investigated by the LASD, and adequately reviewed by the

OIG. The CRB should hold public meetings twice a month, with the IG present, during which community members could discuss complaints or commendations they have. The OIG should follow up on citizen complaints to make sure that the LASD investigates them. Additionally, the CRB should staff a 24-hour hotline for people to call in complaints of LASD misconduct. When someone calls who has already formally triggered an LASD investigation, the OIG should follow up to make sure that the investigation is occurring and is being adequately conducted.

Additionally, as suggested by the CCJV report, the OIG should conduct its own independent investigations for “particularly sensitive cases.”⁹ These would likely include cases where the LASD as a whole is implicated, such as corruption allegations, where allegations have been made regarding or involving LASD leadership or its internal affairs personnel. These would also include cases of sufficiently high profile that the public interest would be better served by an independent OIG investigation.

Finally, the OIG and CRB should review the adequacy of discipline imposed by the LASD. In particular, the CRB should have authority to assess and opine on the propriety of LASD discipline; comment on the LASD discipline guidelines and matrix; comment on the integrity, timeliness and efficacy of the discipline process; and recommend reform where appropriate.

Policy Review

Oversight of policies in need of change will ensure that the CRB,

⁹ CCJV REPORT, *supra* note 1, at 178.

working with the OIG, can make practical changes that reduce the risk of future misconduct within LASD. In reviewing LASD policy and procedures, the OIG must examine how these function both in theory and in practice, with special attention paid to whether mandated reporting and documentation mechanisms are actually operational.

Jail Monitoring

The CRB should also oversee the OIG's jail monitoring authority. To that end, the OIG must be given sufficient resources to serve as a full-time jail monitor, with adequate staff members focused exclusively on this purpose. In serving this function, the OIG as well as members of the CRB must be given complete access to jail facilities, with the ability to inspect any part of the jails at any time without prior notice. The OIG must have access to all relevant LASD files and the opportunity to review discipline reports and use of force reports. The OIG must also have authority to conduct private, confidential, and anonymous interviews with any prisoner or deputy who wishes to speak with the office.¹⁰

To remain accountable to the community, the OIG should issue periodic reports and recommendations to the CRB summarizing its investigations, policy recommendations, and jail monitoring observations. When reporting on particular investigations to the CRB, victims and/or victims' families should be able to attend the session and offer



public comments. After receiving approval by the CRB, all such reports should be presented directly to the BOS and be made accessible to the general public.

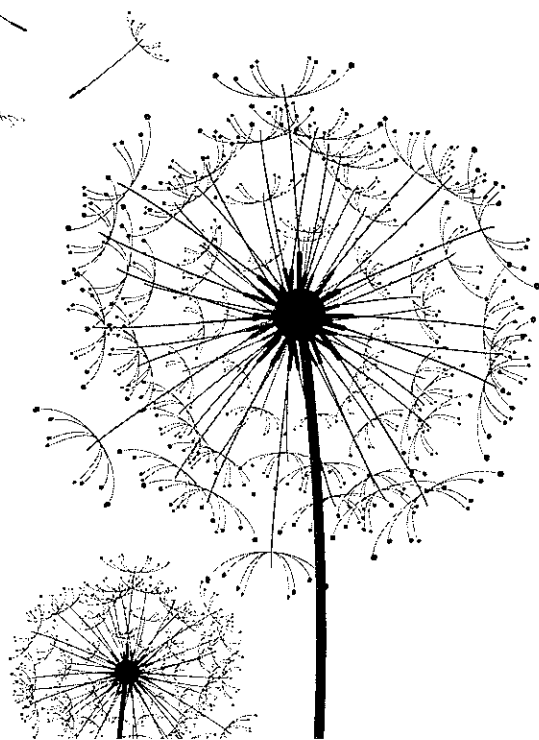
ACCOUNTABILITY OF THE SHERIFF

The incoming Sheriff and the LASD must be accountable to the community, and the CRB and OIG are important means of ensuring this accountability. To facilitate this accountability, the Sheriff must be required to respond publicly to OIG and CRB findings and recommendations. He or she must do so in writing, and in public, and must provide evidence of progress. The Sheriff should be required to attend CRB meetings and to respond to the OIG, CRB and community members in this forum. The Sheriff should be required to utilize metric reporting to track the LASD's performance and reform, as well as to provide close scrutiny of important issues.

COMMUNITY PARTICIPATION

The community has a legitimate interest in the work of the LASD, the Sheriff, the OIG and the CRB. The creation of a civilian-constituted CRB to operate as the eyes and ears of the community facilitates community participation, but broader involvement is also required. The CRB must provide the community members with information regarding their rights, and means for their participation in LASD oversight. It must also provide the community with information about the activities of the LASD, and CRB and OIG oversight of the LASD. This information should be accessible and culturally appropriate. It is critical that the community is able to raise issues with the CRB and the Sheriff at CRB meetings, and the CRB must make the record of these meetings available to the public.

The Coalition recognizes that some of these recommendations will require changes to governing law and regulations and further research is required to identify the necessary changes.



¹⁰ See Barbara Attard, *Oversight of Law Enforcement is Beneficial and Needed – Both Inside and Out*, 30 Pace L. Rev. 1548, 1557 (2010).

TIMING AND RECOMMENDED NEXT STEPS


The Coalition recognizes that the issues addressed in this proposal are complex and that other proposals will be submitted to the BOS (including by the new IG, County Counsel and the Interim Sheriff). We are also aware that a member of the California Assembly has introduced a bill that could provide a vehicle for statutory changes to empower and facilitate the creation of a CRB. Finally, we are cognizant of the fact that a new Sheriff will take office at the end of this year and – while nearly every candidate has gone on record as supporting

the notion of a CRB – the new Sheriff (as well as new members of the BOS) may well want to have input into the structure that is created.

While it would be preferable to see a CRB in place before the OIG is operational, the Coalition believes that the implementation of a CRB is too important and complex a process to be done in a hasty manner. As such, the Coalition believes that the recommendations set forth in this proposal – as well as the analyses to be submitted to the BOS by

other entities – should be vetted in a series of public meetings over the remainder of this year. The Coalition also encourages the BOS to consider engaging other outside experts in this process. On a parallel track, the Coalition intends to work with others to research possible statutory changes that could enhance the efficacy of both the OIG and a CRB. With the benefit of this process and additional research, stakeholders can make an informed decision about how to move forward with crafting the best possible model for a CRB.





We are the dandelions.
We are beautiful weeds
rising from ghetto
neighborhoods!
Locked up in cages.
Our spirits won't fit in
their cages.

#riseofthedandelion



The Coalition to End Sheriff Violence in L.A. Jails is a grassroots multiracial organization bringing together community organizations, health providers, clergy, attorneys, community residents, friends and families and survivors of the brutality inside L.A. jails to fight for real accountability. We are proposing a People's Civilian Review Board comprised wholly of citizens that has subpoena power, where citizen complaints are reviewed and investigated, and recommendations for disciplinary or policy action are made by the board.

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