

REMARKS OF COMMISSIONER ROBERT BONNER¹
Hearing of Citizens' Commission on Jail Violence
September 28, 2012

Thank you, Judge Baird - -

Our Commission's report is addressed to the Board of Supervisors, but in my view it is primarily addressed to Sheriff Baca.

Only the Sheriff can take these recommendations and implement them. These recommendations, no matter how good and sound they are, mean absolutely nothing without implementation. Or put differently, if the Sheriff does not latch onto these recommendations, if he does not take them to heart and make them his own, these recommendations *ain't goin' nowhere*.

So, I am speaking directly to the Sheriff because he is *the* person who must be the primary agent of change if these reforms are to be adopted and ingrained into the DNA of the Sheriff's Department.

You can read the findings of this Commission. They document a persistent and recurrent use of excessive and unnecessary force within the County Jail, particularly Men's Central Jail, going back at least 6 or 7 years and probably much longer.

The very first sentence of our report states and I quote:

[READ FIRST SENTENCE OF REPORT]

This is a harsh assessment. But we pulled no punches, and regrettably it is justified.

I hasten to add, it is justified even if we discount entirely the anecdotal stories of the many inmates who have come forward. We have not attempted to determine credibility or adjudicate any individual case. The Commission's finding is justified, however, based on the statements of current and former members of the Sheriff's Department, the statistical data and the observations of watchdog agencies, such as Special Counsel and the Office of Independent Review.

I do want to say, though, that you cannot run a jail without using some, appropriate levels of force from time to time. The Commission is not living in some sort of ivory tower. And I understand the dangers that Deputy Sheriffs assigned to Custody face and the legitimate concerns for their own personal safety.

Our report is very critical of the Sheriff and his leadership and management style, especially when it comes to the Use of Force (UoF) issue within the jail. He testified right there, and he said he was *unaware* of the UoF problem until recently, until last fall. His senior managers kept him in the dark. Well, they did him a great disservice.

¹ Mr. Bonner speaks extemporaneously from time to time and occasionally varies from the written text. He reserves the right to do so.

The fact is that the Sheriff does not seem to be someone, as a manager, who wanted to hear about problems. Like the proverbial ostrich, he seems to have had his head in the sand, happy to deal with other issues, ones that perhaps interested him more, but not minding the store when it came to running the jail in accordance with lawful and sound UoF policy.

And yet, even though his subordinates did not inform him of problems relating to the use of excessive force, of cliques of Deputies operating in the jail, of inadequate training and supervision, of a culture of aggressiveness, -- *no one* has been disciplined, *no one* demoted. As someone said, "no heads have rolled."

Some have suggested that our Commission call for the Sheriff to resign.

Although this was considered, we rejected such an approach.

And -- I speak here only for myself -- the reason we rejected this approach is twofold:

1. The Commission's reforms require the Sheriff and his leadership, or *they won't happen*, and
2. I believe -- and I think my fellow Commissioners concur -- that Sheriff Baca can and will effect these changes. I know him to be a thoughtful man who wants to do the right thing.

I hope that I am not proven wrong. I truly hope that my faith in Sheriff Baca is not misplaced.

I take heart because, as our report notes, the Sheriff has taken charge starting last Fall.

To his credit, he *has* focused on the UoF problem in the jails and he has had some positive results. As our report documents, UoF, and particularly, *significant* UoF incidents have fallen dramatically since last Fall. And that is welcome news. Indeed, one might ask: If the Sheriff has already instituted reforms that will have a *lasting* impact on reducing and eliminating unnecessary and unreasonable force, why have we bothered?

The reason we have taken the time to assemble a comprehensive set of reforms designed to eliminate excessive force against inmates is quite simple: the steps taken by the Sheriff to date will *not* have a *lasting* effect, -- repeat, will not have a lasting effect -- without more fundamental change along the lines that we are recommending.

The modest steps taken by the Sheriff are *not* permanent, institutional reforms. They are band aids, -- meant to staunch the bleeding. They are temporary, at best.

For example, he set up the Commanders Management Task Force (CMTF), and it has helped him focus on this issue. But the CMTF is not a long term fix, and indeed it will ultimately confuse and undermine responsibility and accountability.

As we have recommended, a longer term fix will be achieved only by having an Assistant Sheriff in charge of the Jails, in charge of Custody, and one with experience and expertise, who must be responsible for and directly accountable to the Sheriff for the running of the jails and UoF within them.

The Sheriff has recently revised the Department's UoF policy to make clear that use of force is a last resort, not a first resort. The new policy clarifies that they should be attempts to de-escalate a situation if that can be done. This is commendable. But what it needed, as we have recommended, is a clear expression of the totality of a UoF policy in one place, one that is consistent with Constitutional requirements, and how it applies in custodial settings. Then, there needs to be training to gain adherence to that policy. And when that policy is not followed, there must be swift and certain discipline.

Lasting reform will not be accomplished through inmate education programs or through Town Hall-type meetings. They may or may not be useful for other purposes, but they have very little to do with making cultural and institutional changes that will really have an impact on reducing and eliminate the inappropriate use of force.

So, if the Sheriff's reforms to date are not particularly significant, why the dramatic drop in UoF incidents. The answer, ladies and gentlemen, is that most of that drop occurred because the leader of the organization, the Sheriff, finally *focused* on this issue. He made it one of his *highest priorities*. And it was clear to everyone in the Sheriff's Department that he wanted something done to put an end to excessive force within the jail.

How long will the Sheriff stay focused on this issue, some have asked?

He will need to keep that focus, otherwise the County and its taxpayers will be paying out tens of millions of dollars in judgments and settlements that they should not have to. He needs to keep that focus or too many inmates will suffer unnecessary physical injuries and brutality.

But besides keeping this as one of his highest priorities, the Sheriff needs to institute *real* reforms, *real* change of the type we have recommended. And change is not easy.

The solution to the problem requires significant, profound institutional and cultural change.

It requires a Sheriff's Department that truly values the Custody mission. That views it as at least of equal importance to its law enforcement mission. Yet the current Mission Statement of the Department does not even mention Custody or the jails.

It is not just this glaring absence from its mission statement, everything about the LASD underscores the notion that Custody is *not* the real work, it is *not* the important work of the Department. From hiring, training, to assignment policies, to use of a Custody assignments as punishment for deputies who have screwed up on Patrol (and I know this reportedly has changed), to short term assignments for supervisors assigned to the jail, - - all of this reinforces the internal "cultural" view that Custody is secondary, it is career "dead time", and so on. This must change.

One of our recommendations relates to how to keep the spotlight on. And it is our recommendation to create an office of Inspector General who will be independent of the Sheriff and report to the Board of Supervisors. Just a brief word about our proposal to create an OIG.

As noted recently in an LA Times article, it isn't that there haven't been any "watchdog" or oversight entities over the Sheriff's Department.

There is the office of Special Counsel.

The Office on Independent Review

The Office of Ombudsman.

And there are ACLU "monitors" in the jail.

All of them have failed. This may be a case of too many watchdogs. All of them, I believe, were well intentioned, but there were gaps in their responsibilities and in other ways they overlapped, in some instances they lacked the resources to do the job. None of them actually monitored statistical data on a regular basis, data that would have raised "red flags", that would have indicated a UoF problem.

In a nutshell, our proposal is to eliminate all of these watchdog entities and create one with the authority, the independence, the resources to actually monitor, investigate and report on this issue, - - as well as how the Sheriff is doing in implementing our proposed reforms.

And so, looking broadly at our recommendations, they are designed to change the structure and culture of the LASD,- - how the LASD recruits and trains, makes assignments, promotes, and disciplines. But at their core, these recommendations are about *cultural change*,- a change within the Sheriff's Department *that values the Custody mission and those who work in Custody.*

The philosophy that needs to be ingrained into the culture of the Sheriff's Department is that UoF is a *last*, not a first resort. It is a culture that truly treats inmates with dignity, consistent with the Core Values of the Department. It does not rely on "jailhouse justice" and it rejects the need for a "This-is-our-House" mentality. There would be zero tolerance for deputy cliques and subcultures.

This will require *agents of change*. Many of them. Right down to the first line supervisors, the Sergeants. They are all important.

But the primary Agent of Change must be the Sheriff himself.

If this cultural shift and these structural changes we've recommended do not occur, we, or in reality some other Commission like us, will be back in another 5 or 10 years.

And history will have repeated itself.

If you don't believe me, read chapter 2 of our report, a chronicle of reforms recommended by various watchdog groups that were never acted upon, that were allowed to lie fallow.

And so, I will end my remarks by paraphrasing the great American philosopher George Santayana:

"Those who do not know and understand history are condemned to repeat it."

Let's not do that.