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10 The Association of Deputy District Attorneys for  
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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF LOS ANGELES  
14

15 THE ASSOCIATION OF DEPUTY  
DISTRICT ATTORNEYS FOR LOS  
ANGELES COUNTY,  
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Plaintiff and Petitioner,  
17

vs.  
18

19 GEORGE GASCÓN, in his official capacity  
as District Attorney for the County of Los  
Angeles; LOS ANGELES COUNTY  
20 DISTRICT ATTORNEY'S OFFICE; and  
DOES 1 through 50, inclusive,  
21

Defendants and Respondents.  
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Case No. 20STCP04250

Assigned for All Purposes to:  
Hon. James C. Chalfant, Dept. 85

**PETITIONER AND PLAINTIFF'S  
REQUEST FOR JUDICIAL NOTICE**

Filed Concurrently with Petitioner's Reply in  
Support of OSC Re: Preliminary Injunction

Judge: Hon. James C. Chalfant  
Date: February 2, 2021  
Time: 1:30 p.m.  
Dept.: 85

Action Filed: December 30, 2020  
Trial Date: None Set

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1 notice of the bylaws of the San Bernardino County Employees Retirement Association”);  
2 *Coalition for a Sustainable Delta v. F.E.M.A.*, 711 F. Supp. 2d 1152, 1170 (E.D. Cal. 2010)  
3 (“Judicial Notice may be taken of the Coalition’s articles of incorporation and bylaws.”);<sup>1</sup>  
4 *Verisign, Inc. v. Internet Corp. For Assigned Names and Numbers*, 2004 WL 2095696, at \*6 (C.D.  
5 Cal. Aug. 26, 2004) (taking judicial notice of “the Bylaws in effect at the time of these events”);  
6 *OSO Grp., Ltd. v. Bullock & Assoc., Inc.*, 2009 WL 2422285 at \*2 (N.D. Cal. Aug. 6, 2009)  
7 (taking judicial notice of bylaws because they were “capable of accurate and ready determination  
8 by resort to sources whose accuracy cannot reasonably be questioned”). As such, this Court  
9 should take judicial notice of Exhibit 15.

## 10 **II. Exhibit 15 Is Judicially Noticeable Under Section 452**

11 This Court may also take judicial notice of “[r]egulations and legislative enactments issued  
12 by or under the authority of . . . any public entity in the United States” and “[o]fficial acts of the  
13 legislative, executive, and judicial departments of . . . any state of the United States. Cal. Evid.  
14 Code § 452(b)-(c). Judicial notice of such facts and propositions is mandatory “if the party  
15 requests it and: (a) Gives each adverse party sufficient notice of the request, through pleadings or  
16 otherwise, to enable such adverse party to prepare to meet the request; and (b) Furnishes the court  
17 with sufficient information to enable it to take judicial notice of the matter.” *Id.* § 453.

18 Courts have routinely found that public entities’ written policies and employee manuals are  
19 proper subjects for judicial notice under Evidence Code section 452 subdivisions (b) and (c). *See*  
20 *Physicians Comm. for Responsible Medicine v. Los Angeles Unified School Dist.*, 43 Cal. App. 5th  
21 175, 183 (2019) (taking judicial notice of public school board policies); *In re Marriage of*  
22 *LaMoure*, 198 Cal. App. 4th 807, 812 (2011) (granting request for judicial notice of California’s  
23 Department of Child Support Services manual of policies and procedures); *Watts v. Civil Service*

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24  
25 <sup>1</sup> Federal Rule of Evidence 201, which governs judicial notice, is consistent with California  
26 Evidence Code section 452. *See Scott v. JPMorgan Chase Bank, N.A.*, 214 Cal. App. 4th 743, 753  
27 n.2 (2013) (“Rule 201(b) of the Federal Rules of Evidence, which permits judicial notice of a fact  
28 that is ‘not subject to reasonable dispute because it . . . can be accurately and readily determined  
from sources whose accuracy cannot reasonable be questioned,’ is akin to California Evidence  
Code section 453, subdivision (h) . . .”).

1 *Bd. (Kennelly)*, 59 Cal. App. 4th 939, 943 (1997) (taking judicial notice of “the Personnel Manual  
2 of Rules of the City of Oakland”); *Buddha v. City of Ashland*, 325 F. App’x. 486, 487 (9th Cir.  
3 2009) (taking judicial notice of city policy on copyright infringement). As such, this Court should  
4 take judicial notice of written policy manual of the Los Angeles County’s District Attorney’s  
5 office, attached as Exhibit 16.

6 **III. Conclusion**

7 For the foregoing reasons, Petitioner respectfully requests the Court take judicial notice of  
8 Exhibits 14-15.

9  
10 DATED: January 26, 2021

Respectfully submitted,

11 BROWNE GEORGE ROSS  
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14 Thomas P. O’Brien  
15 David J. Carroll  
16 Matthew O. Kussman



17 By: \_\_\_\_\_

Eric M. George

18 Attorneys for Plaintiff and Petitioner The Association of  
19 Deputy District Attorneys for Los Angeles County  
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## EXHIBIT 14

**BYLAWS  
OF THE ASSOCIATION OF DEPUTY DISTRICT  
ATTORNEYS** A-22

(APPROVED BY THE BOARD OF DIRECTORS 08-28-18)\*

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ARTICLE I  
NAME, AFFILIATIONS, PLACE OF BUSINESS, AND PURPOSE

Section 1. Name

1.1.1 The organization shall be known as the Association of Deputy District Attorneys (hereinafter, ADDA).

1.1.2 The ADDA is responsible for representing Bargaining Unit 801, certified by The Los Angeles County Employee Relations Committee (ERCOM) on March 24, 2008.

Section 2. Principal Office

1.2 The ADDA's board of directors shall fix the principal place of business of the ADDA at any place within Los Angeles County, California.

Section 3. Purpose

The purpose of the ADDA is:

1.3.1 To meet and confer in good faith with Los Angeles County District Attorney (LADA) management and Los Angeles County on behalf of its members concerning wages, hours, all other terms and conditions of employment, issues arising under the terms and conditions of employment, and matters arising under the Memorandum of Understanding and applicable state law;

1.3.2 To promote the welfare of the membership and to provide a voice in the determination of the terms and conditions of employment particularly through the collective bargaining process;

1.3.3 To promote legislation beneficial to the ADDA, the deputies that it represents and other organizations consistent with the goals of the ADDA and the furtherance of the administration of justice and public safety;

1.3.4 To promote career service in government;

1.3.5 To provide research and educational services and activities designed to assist members and other organizations consistent with the goals of the ADDA;

1.3.6 To foster cooperation among members and organizations consistent with the goals of the ADDA;

1.3.7 To the extent required by law and as provided in the Memorandum of Understanding, provide representation in grievance and disciplinary proceedings

to members of the bargaining unit upon request of the represented class member, as long as the member has no other representative;

1.3.8 To endorse in elections and for offices as the board determines.

## ARTICLE II MEMBERSHIP AND DUES

### Section 1. Membership

2.1.1 Membership in the ADDA is limited to Los Angeles County Deputy District Attorneys Grades I through IV.

2.1.2 An applicant for membership will become a member upon commencement of dues payment made in the manner determined by the board of directors. A member in good standing is one whose dues are not more than fifteen (15) days in arrears.

### Section 2. Membership Application

2.2 Application for membership shall be made on a standard application form as approved by the board of directors.

### Section 3. Dues

2.3.1 Membership dues shall be collected by direct payroll deduction. In the event payroll deduction is precluded by law then the board of directors shall establish an alternate method of collection.

2.3.2 Monthly dues of the ADDA shall be calculated at 0.5% of the top step base salary of each Grade (Grade I, II, III, or IV) per member.

2.3.3 Only a full-service member of the bargaining unit whose dues are current shall be considered "in good standing" and shall be eligible to participate in all activities of the ADDA.

2.3.4 If requested within thirty (30) days of last salary received, a member who has not received a salary for more than twenty (20) days in any calendar month who does not receive unemployment compensation or sick leave pay or other remuneration, may, at the discretion of the board of directors, be entitled to a dues waiver for the period of unemployment.



## ARTICLE VI BOARD MEETINGS

### Section 1. Conduct of Meetings

6.1.1 Meetings of the ADDA board shall be generally guided by Robert's Rules of Order.

6.1.2 Officers, directors, and guests shall conduct themselves in conformity with Article IV, Section 4.2 of these bylaws.

6.1.3 Officers and directors may participate in person or telephonically.

6.1.4 The presence in person of four (4) officers and directors shall constitute a quorum for the transaction of business. The quorum shall be established at the beginning of the meeting and business may continue until concluded despite the departure of any officers and directors as long as at least three (3) remain. Unless otherwise specified, any action taken must be approved by at least a majority of those present. In the event the membership of the board of directors falls below four (4) members, a majority of the remaining members may constitute a quorum to conduct business pending filling of vacancies according to these bylaws.

### Section 2. Regular Meetings

6.2.1 The board of directors shall meet at least monthly on the third Tuesday of the month. The president shall chair the meeting and establish the agenda for the meeting with the input from board members. The meeting agenda shall be sent at least five (5) days prior to the meeting by certified mail or e-mail to the last known e-mail address of the board member.

6.2.2 Any full-service member who wishes to attend a regular board meeting shall notify the secretary or his/her designee at least seven (7) business days prior to the meeting.

### Section 3. Executive Session

6.3 The ADDA board may hold any portion of its meeting as an executive session, upon the request of the president or a majority of the officers and directors present. Executive session shall be used to handle matters of a sensitive nature, including but not limited to personnel matters, litigation, or negotiating strategy. Participants at the executive session shall be limited to the board of directors, its counsel and staff, and any people designated to assist in resolution of the matter. Anyone, including a board member who has a personal interest in the outcome of any subject discussed or voted on during an executive session shall be excluded from the executive session after being given an opportunity to be heard.

THEREFORE, in the event these Bylaws are ratified by the membership:

Article V, Section 1, 5.1.1, of the new Bylaws, which calls for seven (7) directors, consisting of four (4) officers and three (3) directors, shall take precedence over Article I, 5.1.1 of the existing Bylaws.

Those members who stand for election and who receive the seven (7) highest number of votes will be deemed elected as board members.

Officers shall be elected pursuant to Section 5.1.1 of the new Bylaws.

Article V, Section 1, 5.1.2 of the existing Bylaws shall control in the event of a challenge during the nomination process.

Article V, Section 1, 5.1.4 of the existing Bylaws shall fix the minimum qualification period for this election only.

## EXHIBIT 15

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### **3.02 THREE STRIKES**

The Three Strikes law, Penal Code §§ 1170.12(a)-(d), provides a powerful tool for obtaining life sentences in cases involving habitual criminal offenders. However, unless used judiciously, it also has the potential for injustice and abuse in the form of disproportionately harsh sentences for relatively minor crimes. The Three Strikes statutory scheme appropriately authorizes the use of prosecutorial discretion in its implementation. Deputies have a legal and ethical obligation to exercise this discretion in a manner that assures proportionality, evenhanded application, predictability and consistency. Moreover, the potential for coercive plea bargaining must be avoided.

#### **3.02.01 CHARGING POLICY**

In all instances in which a third strike case is pursued as a second strike case, Penal Code § 667.5(b) priors shall be plead and proved or admitted only when the priors are for sexually violent offenses as defined in Welfare and Institution Code § 6600(b).

For Three Strikes case settlement rules, see the [Three Strikes section](#) of Chapter 12, Felony Case Settlement Policy.

### **3.03 JUVENILE CRIME CHARGING**

The Juvenile Division prosecutes all crimes committed by minors countywide. The charging standards and guidelines used in juvenile cases are the same as for adult prosecutions. Deputies should refer to the most recent edition of the [Juvenile Delinquency Practice Manual](#) published by the Office for detailed descriptions of juvenile law and procedures. In any case where a person under the age of 18 is accused of a crime, and law enforcement is seeking charges, the case shall be presented to the appropriate Juvenile Division Office for filing consideration.

The provisions of Proposition 21 involving the discretionary direct filing of juveniles in adult court under certain circumstances were abrogated by Proposition 57. Pursuant to Proposition 57 (Prop 57), only juvenile offices may consider filing charges in cases in which a minor is accused of a crime.

In order to charge a minor in adult court, the prosecution shall make a “Motion to Transfer Minor from Juvenile Court to a Court of Criminal Jurisdiction” in the appropriate juvenile court. (WIC § 707(a).) The approval of the Head Deputy of the Juvenile Division is required to authorize a Motion to Transfer.

The Juvenile Division Head Deputy shall consider the following factors:

- Degree of criminal sophistication exhibited by the minor;
- Whether the minor can be rehabilitated prior to the expiration of the juvenile court’s jurisdiction;
- The minor’s previous delinquent history;
- Success of previous attempts by the juvenile court to rehabilitate the minor;

Upon successful completion of pretrial diversion, and dismissal of the case, a disposition report need not be prepared.

Deputies shall obtain *prior* Head Deputy or Deputy-in-Charge approval and provide an explanation in the Disposition Report when:

- A defendant pleads guilty to a charge or charges that could result in less than the maximum sentence;
- A defendant, charged with multiple offenses separately punishable under Penal Code § 654, does not plead guilty to all offenses;
- A deputy strikes a special enhancement, prior conviction or probation ineligibility allegation as part of a case settlement; or
- A defendant is allowed to plead guilty to a misdemeanor.

#### **12.04 SENTENCE COMMITMENTS IN FELONY CASES**

The rights of the victim and the public are the most important considerations in making a sentence recommendation. When appropriate, deputies are encouraged to solicit input from the investigating officer regarding a sentence commitment. All sentence commitments must be based on an objective evaluation of the case and not on a particular judge's sentencing practices.

##### **12.04.01 FELONY SENTENCING GUIDELINES - CALIFORNIA RULES OF COURT**

The California Rules of Court establish the basic guidelines for any felony sentence commitment. Rule 4.420(b) provides that selection of the lower term is justified only if, after a consideration of all the relevant facts, the circumstances in mitigation outweigh the circumstances in aggravation. Accordingly, no commitment to a low term prison sentence shall be made unless both of the following requirements are met:

- The defendant and the crime(s) committed meet one or more of the circumstances in mitigation as stated in Rule 4.423; and
- The circumstances in mitigation clearly outweigh the circumstances in aggravation as stated in Rule 4.421.

Any commitment for concurrent or consecutive sentences must be based upon the criteria affecting concurrent or consecutive sentences in Rule 4.425. A "no immediate state prison" commitment must be based upon the criteria regarding probation in Rule 4.414 and the criteria affecting probation in unusual cases in Rule 4.413.

##### **12.04.02 APPROVAL FOR FELONY DISPOSITIONS**

A Disposition Report shall be prepared at the conclusion of every felony case. Within 10 business days after a case has concluded, the deputy handling the case shall prepare a Disposition Report, sign it, place it in the felony case file and submit the file to the Head Deputy, Head Deputy's designee, or Deputy-in-Charge for review. The Head Deputy, Head Deputy's

designee, or Deputy-in-Charge shall review the file to ensure it is in proper form for closing, sign the Disposition Report and forward the file to support staff for case closing.

Disposition reports are to be completed at the conclusion of every felony case with the following exceptions. Cases in which the defendant receives pretrial diversion, pursuant to Penal Code § 1000 et seq., or is sentenced pursuant to Proposition 36 are exempt from this requirement, except where one or more counts or one or more special allegations are dismissed in order to render a defendant eligible for those programs. Under those circumstances, a disposition report shall be completed. Disposition reports shall be reviewed and signed by the Head Deputy or the Head Deputy's designee.

Upon successful completion of pretrial diversion, and dismissal of the case, a disposition report need not be prepared.

A deputy shall obtain *prior* Head Deputy or Deputy-in-Charge approval and provide an explanation in the Disposition Report when:

- A defendant pleads guilty to an alternative felony charge with a misdemeanor sentence commitment; or
- A defendant pleads guilty to a felony charge with a “no immediate state prison” sentence commitment.

#### **12.04.03 SENTENCING TERMS - EXPLANATION TO DEFENDANT**

If a defendant pleads guilty to a felony charge with a sentence commitment, the deputy shall advise the defendant at the time of the plea that the People will urge the court to set aside the plea if the probation report or any other source reveals any facts or circumstances indicating the sentence was contrary to the California Rules of Court and/or Penal Code § 1192.7.

Prosecutors currently have a range of felony sentencing options available to them in criminal cases. A court can impose a grant of formal probation, with or without local jail time or prison time suspended. Alternatively, a court can impose a prison sentence, whether that is served locally or in traditional state prison. A split sentence is an intermediate ground: It is a prison term served locally in which the available time is “split” between a custodial portion (served in the county jail as local prison) and a supervisory portion (referred to as “mandatory supervision”).

If a defendant pleads guilty to a felony charge and is placed on probation, the deputy shall advise the defendant, on the record, of the possibility of a subsequent local or state prison commitment, or the imposition of a split sentence, if the defendant violates the terms or conditions of probation. The deputy shall explain the minimum and maximum local or state prison terms, including potential parole terms.

At the time of a plea, deputies shall state the disposition on the record in open court. Deputies shall not make off-the-record dispositions, agreements or understandings unless a matter legitimately requires confidentiality.

#### **12.04.04 RESTITUTION**

Deputies are to seek the maximum appropriate restitution fine and penalty assessment. In addition, deputies shall seek restitution for the victim for actual losses or damages.

#### **12.04.05 STIPULATION TO PROBABLE CAUSE**

Deputies shall not attempt to obtain a stipulation that there was probable cause to arrest a defendant in exchange for a reduction or dismissal of a criminal charge. The California Rules of Professional Conduct, Rule 3.10 (Threatening Criminal, Administrative, or Disciplinary Charges), prohibit an attorney from threatening to present a criminal charge to obtain an advantage in a civil dispute.

#### **12.04.06 CASE SETTLEMENT - VICTIM IMPACT PROGRAM CASES**

Case settlement offers on all felony cases assigned to be vertically prosecuted by the Victim Impact Program (VIP) shall be approved by the VIP Deputy-in-Charge (VIP DIC). All applicable felony case settlement policies contained in the Legal Policies Manual, special directives and general office memoranda shall be followed by the VIP DIC in making such offers. This policy does not supersede any authority given to a Head Deputy District Attorney within the Legal Policies Manual, special directives or general office memoranda, nor does it preclude the Head Deputy District Attorney's authority to make felony case settlement offers.

Before such an offer is communicated to defense counsel, all reasonable efforts shall be made to notify the victim and to provide the victim with an opportunity to be heard.

### **12.05 THREE STRIKES**

All qualifying prior felony convictions shall be alleged in the pleadings pursuant to Penal Code § 1170.12(d)(1). Prior to seeking dismissal of any strike, the prior strike case files shall be reviewed, if available, in order to fairly evaluate mitigating and aggravating factors. If it is determined that proof of a prior strike cannot be obtained or that the alleged strike is inapplicable, dismissal of the strike shall be sought after obtaining Head Deputy approval.

#### **12.05.01 THIRD STRIKE CASES**

If a defendant has two or more qualifying prior felony convictions, the case shall be filed as a third strike case when at least one of the new charged offenses is pled as a/an:

- Serious or violent felony;
- Controlled substance offense with an allegation pursuant to Health and Safety Code §§ 11370.4 or 11379.8 after being admitted or found true (weight enhancement);
- Felony offense pursuant to Penal Code § 261.5(d) (sexual intercourse by a person over 21 upon a minor under the age of 16), or pursuant to § 262 (spousal rape);
- Felony offense requiring mandatory sex offender registration pursuant to Penal Code § 290(c), other than the following: § 266 (enticing a minor into prostitution); § 285

(incest); § 286(b)(1) (sodomy with a minor); § 286(e) (sodomy while confined in state prison); § 288a(b)(1) (oral copulation with a minor); 288a(e) (oral copulation while confined in state prison); § 314 (indecent exposure); or § 311.11 (possession of child pornography).

- Offense during which the defendant used a firearm, was armed with a firearm or deadly weapon, or intended to cause great bodily injury to another person.

If the defendant has two or more qualifying prior felony convictions, but none of the new charges offenses are enumerated in 12.05.01, a number of prior convictions will qualify a defendant for three strikes sentencing. These prior convictions include:

- A sexually violent offense, as defined in Welfare and Institutions Code § 6600(b);
- Oral copulation with a child who is under 14 years of age, and who is more than 10 years younger than he or she as defined by Penal Code § 288a; sodomy with another person who is under 14 years of age and more than 10 years younger than he or she as defined by § 286; or sexual penetration with another person who is under 14 years of age, and who is more than 10 years younger than he or she, as defined by § 289;
- A lewd or lascivious act involving a child under 14 years of age, in violation of § 288;
- Homicide and attempted homicide offenses within the meaning of §§ 187 (murder) through 191.5 (vehicular manslaughter while intoxicated);
- Solicitation to commit murder as defined in § 653f;
- Possession of a weapon of mass destruction, as defined in Penal Code § 11418(a)(1);
- Assault upon a peace officer or firefighter with a machine gun as defined in § 245(d)(3);
- Any serious and/or violent felony offense punishable in California by life imprisonment or death.

If the current offense does not involve the use or possession of a firearm or deadly weapon, injury to a victim, or violence or the threat of violence, a Head Deputy may authorize seeking dismissal of a strike after consideration of all of the following:

- Remoteness of the strikes;
- Whether the strikes involved the use or possession of a weapon, injury to a victim, violence or the threat of violence;
- Whether the strikes arose from one incident or transaction; and
- Any other mitigating or aggravating factors enumerated in the California Rules of Court, Rules 4.421 and 4.423.

## **12.05.02 SECOND STRIKE CASES**

Unless the above criteria in LPM §12.05.01 for charging a third strike case are met, a case against a defendant shall be filed as a second strike case.

In all instances in which a third strike case is pursued as a second strike case, Penal Code § 667.5(b) priors shall be plead and proved or admitted only when the priors are for sexually violent offenses as defined in Welfare and Institution Code § 6600(b).



### **12.05.03 DISPOSITION REPORT**

If a Head Deputy authorizes dismissal of a strike in a third strike case, the Disposition Report shall discuss the applicability of the factors set forth in this case settlement policy.

### **12.05.04 SECOND STRIKE CASE DISPOSITIONS**

When a case is charged as a second strike case, a Head Deputy may authorize the dismissal of strike(s) in the interests of justice and agree to an appropriate prison or probationary sentence only when all of the following factors exist:

- The strike offense occurred more than 10 years ago;
- The strike offense did not involve the use or possession of a firearm or deadly weapon, injury to a victim, violence or the threat of violence;
- There exist mitigating factors enumerated in the California Rules of Court, Rules 4.421 and 4.423.

Whenever a Head Deputy authorizes the dismissal of a strike an explanation shall be included in the Disposition Report.

### **12.05.05 CASE SETTLEMENT**

The decision whether to seek dismissal of a strike shall be made at the earliest practical stage. Once that decision is made, it shall be promptly communicated to the court and defense counsel. This procedure shall be followed even if a defendant chooses to proceed to trial.

### **12.05.06 EARLY RELEASE OF SECOND STRIKE INMATES**

The California Department of Corrections and Rehabilitation (CDCR) is required to lower inmate population by granting early parole to inmates convicted of non-violent offenses who have a prior strike conviction (i.e., second strike inmates). Specifically, CDCR evaluates second strike inmates convicted of non-violent offenses to determine if parole should be granted after the inmate has served 50% of the sentence. The CDCR created a protocol that was implemented by the Board of Parole Hearings (BPH). As part of that protocol, the BPH must request a written letter from the District Attorney's Office in each second strike case where the Office objects to early parole.

The Office must provide the written response within 30 calendar days of the date of the BPH's letter notifying the Office it is considering granting early parole. Upon receipt of any correspondence from the BPH or the CDCR on early parole of second strike inmates, the deputy receiving the notice shall immediately contact the Head Deputy of the Parole Division. The Parole Division shall contact the Bureau of Victim Services to ensure efforts are made to contact any victim(s) impacted by the potential early release of the inmate.

### **12.08.03 CASE SETTLEMENT NOTIFICATION TO HATE CRIMES UNIT**

Deputies shall notify the Hate Crimes Unit of all hate crimes case settlements. Penal Code § 13023 requires local prosecutorial agencies to report all hate crimes statistics to the Attorney General's Office. The Hate Crimes Unit collects, compiles and submits these statistics.

#### *Commentary*

*Hate crimes have far-reaching social implications. Hate crimes not only harm those who are victims, but also generate concern, fear and anger within vulnerable populations and the general public. Hate crimes are serious offenses; at sentencing deputies shall emphasize the long-term damage to the victim and the community that crimes committed out of hate cause. Deputies shall make every effort to obtain a sentence that is substantial yet appropriate in light of the charges and the facts.*

### **12.09 ARMED OR VIOLENT OFFENDERS**

Defendants charged with felonies involving violence and/or weapons listed in Penal Code § 1192.7 must plead guilty to every count and admit every enhancement and special allegation sufficient to expose them to the maximum sentence. The term "maximum sentence" is the maximum sentence that can lawfully be imposed considering the court rules, case law and statutes relating to sentencing. It is Office policy that all prior felony convictions shall be alleged in the pleadings at the earliest possible time.

In any case involving violence and/or weapons in which a judge gives the defendant an "indicated" sentence lower than the maximum sentence, the deputy shall state on the record the People's opposition to the indicated sentence and require the defendant to plead guilty to all charges and admit all enhancements and special allegations.

#### **12.09.01 PRIOR APPROVAL REQUIRED FOR CASE DISPOSITION**

A Head Deputy or Deputy-in-Charge must approve any departure from this policy prior to the case disposition and then only for the following reasons:

- There is insufficient evidence to prove the charge, enhancement or special allegation;
- A necessary material witness cannot be located; or
- In exceptional cases, a reduction or dismissal is in the interests of justice.

With the exception of approving a disposition in the interests of justice, a Head Deputy may delegate approval for dispositions outlined above to a Deputy District Attorney IV.

### **12.10 DOMESTIC VIOLENCE**

#### **12.10.01 FELONY SENTENCING**

A deputy assigned to vertically prosecute a felony domestic violence case shall vigorously seek a state prison sentence or one year in the county jail if the court grants probation. A Head Deputy

Deputies shall advise defendants who plead guilty to a sexually violent offense that if the defendant is found to meet the criteria set forth in Welfare and Institutions Code §§ 6600-6602, the defendant may be involuntarily committed to state mental hospital for two years following the completion of his or her prison sentence. Moreover, the involuntary commitment may be renewed, in two year increments, for as long as the defendant continues to meet these criteria, and could result in a commitment for life.

## **12.12 ASSAULTS ON PEACE OFFICERS**

A deputy assigned to prosecute a felony assault or battery upon a peace officer shall seek a state prison sentence when the defendant:

- Used a deadly or dangerous weapon to commit the assault or battery;
- Inflicted other than a minor injury regardless of the means used; or
- Has a history of assaultive conduct or other than a minor criminal history.

If probation is appropriate, deputies shall seek a suspended state prison sentence. A Head Deputy must approve any sentencing recommendation that includes less than one year in county jail.

## **12.13 DEPARTURE FROM POLICY**

The Felony Case Settlement Policy shall be strictly adhered to in all cases enumerated in Penal Code § 1192.7. Departure from this policy may be made in cases not enumerated in Penal Code § 1192.7 in two instances:

- When the admissible evidence is legally insufficient to establish the defendant's guilt; or
- When unusual or extraordinary circumstances exist that demand a departure in the interests of justice.

Unusual or extraordinary circumstances include circumstances that will result in indirect or collateral consequences to the defendant in addition to the direct consequences of the conviction.

### *Commentary*

*Collateral consequences can, in some instances, have a greater adverse impact on a defendant than the conviction alone. When the potential collateral consequences would result in a “punishment” disproportionate to the punishment other defendants would receive for the same crime, a departure from policy may be warranted.*

*California Rules of Court Rule 4.414 lists the criteria to be considered when deciding whether to grant probation for a defendant who has suffered a felony conviction. These criteria are divided into factors relating to the crime and factors relating to the defendant. One of the enumerated factors relating to the defendant is: “The adverse collateral consequences on the defendant’s life resulting from the felony conviction.”*

*A departure from policy based on collateral consequences may only be made in unusual or extraordinary circumstances that demand a departure in the interest of justice.*

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**PROOF OF SERVICE**

**Ass'n of Deputy District Attorneys for L.A. County v. George Gascon, et al.  
Case No. 20STCP04250**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 S. Figueroa Street, Suite 2000, Los Angeles, CA 90017.

On January 26, 2021, I served true copies of the following document(s) described as **PETITIONER AND PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** On January 26, 2021, I caused a copy of the document(s) to be sent from e-mail address cubence@bgrfirm.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 26, 2021, at Los Angeles, California.



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**SERVICE LIST**  
**Ass'n of Deputy District Attorneys for L.A. County v. George Gascon, et al.**  
**Case No. 20STCP04250**

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and Los Angeles County District Attorney's  
Office