

MOTION BY SUPERVISOR MARK RIDLEY-THOMAS

MARCH 21, 2017

Improving Accountability within the Civil Service Hearing Process

The County of Los Angeles (County) is committed to maintaining a diverse and skilled workforce dedicated to serving its residents with courtesy, integrity and excellence. The great majority of its more than 100,000 employees meet these high standards.

On April 26, 2016, the Board of Supervisors (Board) approved a series of steps that would begin the process of reforming the civil service hearing process. These steps were initiated to ensure that the process protects the rights of workers without endangering public safety. County employees engaged in tasks that directly impact public safety, including exercising the powers of a peace officer and/or custodial control, or as a mandated reporter, including, but not limited to social workers, paramedics, psychiatrists, etc., must be held to the highest standards of the law. Consistent with the Board’s stated principles and values, civil service rules must reinforce the primary importance of public safety.

Appellate court decisions clearly state that protection of the public’s safety is a critical function of civil service rules. These cases reflect that certain public service positions require absolute trustworthiness and when an employee is dishonest, they are no longer qualified to hold such a position and must be discharged or reassigned to a non-public safety position. This is especially true of peace officers who have been entrusted to protect, honor, and preserve fundamental rights and liberties guaranteed by the United States Constitution. The job of peace officer simply cannot be entrusted to anyone who is not scrupulously honest.

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MOTION BY SUPERVISOR MARK RIDLEY-THOMAS
MARCH 21, 2017
PAGE 2

The United States Constitution and the United States Supreme Court (*in Brady v. Maryland*) require the prosecution to turn over all exculpatory evidence to the defendant in a criminal case. Only material evidence that may change the outcome of the criminal case if shared, need be disclosed. Exculpatory evidence includes, for example, evidence that might reflect negatively on a witness' testimony, such as leniency agreements made with witnesses in exchange for testimony. Exculpatory evidence also includes evidence that the witness has lied in the past. A "Brady List" is a list kept by the District Attorney of police officers and Sheriff's deputies who have sustained a record for knowingly lying or acting dishonestly. District Attorneys, Sheriffs and Police Chiefs should track and prepare "Brady Lists" to comply with their constitutionally mandated duties, to avoid the risk of liability and to protect communities and municipalities.

The Peace Officer's Bill of Rights was amended effective January 1, 2014, to provide due process to peace officers who are accused of no longer being qualified witnesses and authorizes Civil Service Commissions throughout the State of California to decide whether an officer should be fired as a result of conduct that makes him or her no longer a credible witness. However, County civil service rules currently do not prescribe a procedure for the receipt of such evidence as required by Government Code section 3305.5 or direction on how to consider the evidence consistent with case law. Accordingly, there should be consideration for the amendment of Civil Service Rule 18.02 to provide for compliance with Government Code section 3305.5.

I THEREFORE MOVE THAT THE BOARD OF SUPERVISORS:

Direct the Chief Executive Officer (CEO), in consultation with County Counsel, the Sheriff, the District Attorney, the Chief Probation Officer, the Inspector General, the Executive Officer of the Board of Supervisors, the Department of Human Resources, and other Department directors deemed necessary and appropriate, to report back in writing within 60 days with:

1. A review and analysis of Civil Service Rule 18.02 and recommendations on whether the Rule should be amended to allow discharges, reductions or reassignments of Los Angeles County employees to different positions if they are

**MOTION BY SUPERVISOR MARK RIDLEY-THOMAS
MARCH 21, 2017
PAGE 3**

found to previously have made false statements, misrepresentations and omissions of material facts in internal investigations; and

2. An assessment of which County positions/classifications might be appropriately subject to a Brady List or the Amended Civil Service Rule including, but not limited to, those positions with peace officer status, custodial duties, and mandated reporting responsibilities that require a high degree of honesty and directly impact public safety. This assessment should be done after the CEO and appropriate representatives meet and confer with unions representing affected positions regarding Civil Service Rule 18.02 to consider which positions should be subjected to the Rule if it is amended.

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(DJJ)