

Chair Gjerde and Honorable Members of the Board,

I trust by now the Board is aware of Government Code Section 25303 (included below) which recognizes that the Board of Supervisors has sole budgetary authority, including over the Sheriff and District Attorney. The Board is also mandated to supervise all county officers to assure that they are faithfully discharging their duties and may audit the finances and operations of all county departments, including the Sheriff. Section 25303 also recognizes and protects the investigative function of the Sheriff and the investigative and prosecutorial functions of the District Attorney.

There is an extensive body of case law interpreting Section 25303 that confirms that the Sheriff may not be held financially liable for budget overruns for a structurally underfunded budget nor may the Board remove the Sheriff's IT function from his purview without his approval.

It is incomprehensible to me that County Counsel has failed to advise the Board regarding the clear but somewhat conflicting parallel mandates contained in Section 25303. Had the Board been made aware of the clear implications of Section 25303 you would not be in the current situation of being sued by the Sheriff and arguing over his choice of attorney.

Every minute of public employee time and every dollar of public funds expended on this issue is a waste of time and money that is taken from other critical issues. I encourage the Board to declare that there is no intent to hold the Sheriff personally responsible for any budget overruns or to consolidate the Sheriff's Office IT with County It and therefore no conflict exists between the Sheriff and the Board.

John McCowen

CA Govt Code § 25303:

"The board of supervisors shall supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county, and particularly insofar as the functions and duties of such county officers and officers of all districts and subdivisions of the county relate to the assessing, collecting, safekeeping, management, or disbursement of public funds. It shall see that they faithfully perform their duties, direct prosecutions for delinquencies, and when necessary, require them to renew their official bond, make reports and present their books and accounts for inspection.

This section shall not be construed to affect the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the sheriff and district attorney of a county. The board of supervisors shall not obstruct the investigative function of the sheriff of the county nor shall it obstruct the investigative and prosecutorial function of the district attorney of a county.

Nothing contained herein shall be construed to limit the budgetary authority of the board of supervisors over the district attorney or sheriff.”