

OFFICE OF INSPECTOR GENERAL

Address: 312 S. Hill Street 3rd floor
Los Angeles, CA 90013
Phone: (213) 974-6100

SUBPOENA DUCES TECUM FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS

BEFORE THE LOS ANGELES COUNTY OFFICE OF INSPECTOR GENERAL

LOS ANGELES COUNTY INSPECTOR GENERAL, TO:

**Alex Villanueva, Sheriff
Los Angeles County Sheriff's Department, Hall of Justice
211 West Temple Street
Los Angeles, CA 90012**



- 1. **YOU ARE ORDERED TO APPEAR AS A WITNESS** at the date, time, and place shown in the box below **UNLESS** your appearance is excused as indicated in box 2b below or you make an agreement with the person named in item 3 below.

- a. **Date:** April 22, 2022 **Time:** 10:00 a.m.
- b. **Address:** Office of Inspector General, 312 S. Hill Street 3rd floor, Los Angeles, CA 90013

Note: Your testimony will be taken on oral examination before a certified shorthand reporter authorized to administer oaths in the State of California. Your testimony may also be audio recorded if you consent.

- 2. **YOU ARE:**
 - a. Ordered to appear in person and to produce the records described in the declaration on page two of the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
 - b. Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian of records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope your name, and the date, time, and place from item 1 in the box above. (3) Place this first envelope in the outer envelope, seal it, and mail it to the Office of Inspector General at the address in item 1.

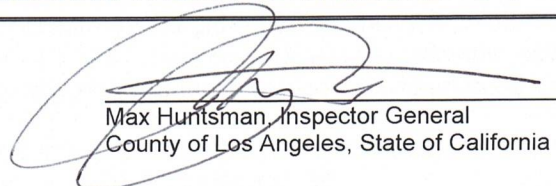
- 3. **IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:**

Name of subpoenaing attorney: Inspector General Max Huntsman b. Telephone number: 213-974-6100

- 4. **Witness Fees:** You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 3.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY A COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: 4/7/22


Max Huntsman, Inspector General
County of Los Angeles, State of California

DECLARATION IN SUPPORT OF SUBPOENA DUCES TECUM FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS

1. I, Max Huntsman, declare I am the Los Angeles County Inspector General.
2. The witness has possession of or is in control of the documents, electronically stored information, or other things listed below, and shall produce them at the time and place specified in box 1 of the Subpoena Duces Tecum for Personal Appearance and the Production of Documents, Electronically Stored Information, and Things.

Definitions and Instructions:

- “Documents and Information” includes, without limitation, all documents, files, records, books, papers, writings, and video and audio recordings.
- “Communications” means, without limitation, any type of communication using any form or media, including but not limited to email, instant messenger service, text message, voicemail message, or any other computerized and/or electronic transmission, as well as any written, typed, taped, or recorded communication of any kind.
- When a request uses the words “related to” or “relating to,” it should be read to seek all documents, files, records, books, papers, writings, video and audio recordings, and/or Communications (as defined) that state, mention, contain, describe, discuss, reflect, refer to, or indicate, in whole or in part, the items sought in that category.

Documents, Electronically Stored Information, Communications, and Things Sought:

- a) All Communications to, or from, any employee of the Sheriff’s Department relating to the use of force against Enzo Escalante at the San Fernando Courthouse on March 10, 2021.
 - b) All Communications to, or from, any employee of the Sheriff’s Department relating to whether and how to conduct the investigation of the use of force against Enzo Escalante at the San Fernando Courthouse on March 10, 2021, and/or the investigation of the reporting of the use of force to the Office of Inspector General or any other party.
 - c) All Documents and Information, including but not limited to any electronic evidence, records, and/or logs, from March 10, 2021, to the date of this subpoena, of any employee in the Sheriff’s Department command staff including, but not limited to, Sheriff Villanueva, former Chief LaJuana Haselrig, Undersheriff Tim Murakami, Assistant Sheriff Limon, Lieutenant Blanchard, and/or any other aides to Sheriff Villanueva, related to the viewing of video of the use of force against Enzo Escalante on March 10, 2021, including any electronic and/or paper evidence of any viewing of the video prior to November 18, 2021.
3. Good cause exists for the production of the documents, electronically stored information, communications, or other things described in paragraph 2 for reasons including but not limited to the following:

The Los Angeles County Board of Supervisors (“BOS”) created the Office of Inspector General (“OIG”) as part of and to assist the BOS in its duty to supervise the official conduct of Los Angeles County officers. (See Los Angeles County Code § 6.44.190 (“Section 6.44.190”).) Under Government Code section 25303, the BOS has the duty to supervise the Los Angeles County Sheriff’s Department (“Sheriff’s Department”) and the Sheriff.

The Board delegated broad oversight authority to the OIG. The OIG’s “scope [of authority] includes matters relevant to the policies, procedures, practices, and operations of the” Sheriff’s Department. (*Id.*)

The OIG is permitted under its ordinance to conduct an “inquiry” or “investigation,” among other things. (*Id.* § 6.44.190.C.) An “inquiry” consists of “gathering of information as in monitoring, but with the goal of obtaining additional information regarding a potential problem area.” (*Id.*) An “investigation” is a “formal gathering of information targeted at producing actionable information regarding an employee [or] employees.” (*Id.*) “In

accordance with Government Code section 25303, the OIG shall have access to [the Sheriff's Department's] information; documents; materials; facilities; and meetings, reviews, and other proceedings necessary to carry out the OIG's duties under this section." (*Id.* § 6.144.190.A.)

Government Code section 25303.7 explicitly provides for the creation of inspectors general and civilian oversight commissions, explicitly provides for them to possess subpoena power, and explicitly provides that inquiries or investigations conducted by oversight boards "shall not be considered to obstruct the investigative functions of the sheriff." (Gov't Code § 25303.7(d).) The Inspector General may "examine . . . [a]ny person as a witness upon any subject matter with [its] jurisdiction [or] [a]ny books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff's department" when the Inspector General "deems it necessary or important." (Gov't Code §§ 25303.7(b)(1)(A) & (C), (c)(2).)

The Sheriff's Department and its employees "shall cooperate with the OIG and promptly provide any information or records requested by the OIG, including *confidential peace officer personnel records*, juvenile records, *medical and mental health records*, and *protected health information necessary for the OIG to carry out its duties*. The OIG may direct the manner in which information is provided." (L.A. Cty. Code § 6.44.190.I.) (Emphasis added).

The documents, electronically stored information, communications, and other things in paragraph 2 of the subpoena duces tecum are sought in furtherance of the Inspector General's obligations to aid and facilitate the BOS's responsibility to supervise the Sheriff and the Sheriff's Department and to ensure that the Sheriff's conduct complies with the law.

Specifically, the OIG is investigating allegations that the Sheriff's Department has improperly failed to investigate and/or has attempted to cover up a Sheriff's deputy's use of force against Enzo Escalante on March 10, 2021 at the San Fernando Courthouse. The Los Angeles Times recently published leaked security video of the incident. In the video, Mr. Escalante is seen striking Deputy Douglas Johnson before being taken to the ground by Johnson and other deputies. Mr. Escalante is then handcuffed and while still face down on the ground, Deputy Johnson places his knee on the back of the head/neck area of Mr. Escalante for three minutes. (See, <https://www.latimes.com/california/story/2022-03-25/sheriff-deputy-force-coverup>).

According to the L.A. Times, "Department officials had worried at the time about the negative publicity that could come from a deputy kneeling on a handcuffed man's head, 'given its nature and its similarities to widely publicized George Floyd use of force,'" according to an internal report by a commander critical of the cover-up. The July 2021 internal report by the commander indicated that the Department elected not to pursue criminal charges against Mr. Escalante to avoid drawing attention to the incident. (See, <https://www.latimes.com/california/story/2022-04-06/sheriff-villanueva-criminal-investigation-leak-deputy-kneeling-on-suspect>)

The OIG has learned of allegations that video of the referenced incident was handed over to Division Chief LaJuana Haselrig, who then personally played the video for Sheriff Villanueva and Undersheriff Tim Murakami, Assistant Sheriff Limon, and the Sheriff's aide, Lieutenant Blanchard. OIG is aware of allegations that this occurred before the date that Sheriff Villanueva has publicly claimed to have first learned of the incident, November 18, 2021.

The OIG has also learned of allegations that the Sheriff's Department has initiated a criminal investigation into the reporting of facts relating to these matters to the Office of Inspector General and other third parties for the purpose of suppressing reporting of potential misconduct.

In a recent interview with Fox 11 News, Sheriff Villanueva stated that the disclosure of the video was a theft of investigative material, and that a criminal investigation into the source of the leak was on-going. (See, <https://www.foxla.com/video/1053052>)

If these allegations are true, the conduct could potentially violate several laws, including but not limited to:

- The First Amendment of the United States Constitution (*See, e.g. Garcetti v. Ceballos*, 547 U.S. 410 (2006) (While a public employer can regulate on-duty speech, the 1st Amendment protects some public speech by employees about their employment including the public reporting of misconduct);
- The Fourth and Fourteenth Amendments of the United States Constitution protect against police seeking charges without probable cause. (*See, e.g., Thompson v. Clark*, 596 U.S. (2022).)
- The Fourth, Eighth, and Fourteenth Amendments to the United States Constitution prohibiting the use of excessive force.
- California Labor Code section 1102.5 prohibiting an employer from retaliating against employees who report potential violations of law to a governmental agency.
- California Penal Code section 13670 prohibiting law enforcement gangs, including groups of peace officers who engage in a pattern of on duty illegal behavior or behavior which violates fundamental principles of professional policing, and provides for inspector general investigation.
- California Penal Code section 13510.8, which provides for decertification of a peace officer who participates in a law enforcement gang or fails to cooperate with an investigation of potential police misconduct after January 1, 2022.
- California Penal Code section 518, which prohibits threatening a public official to influence official duties

4. The documents, electronically stored information, or other things described in paragraph 2 are material to the issues involved in this matter for the following reasons:

Paragraph 3, which also sets forth the materiality of the documents, electronically stored information, or other things sought in this matter, is incorporated herein in its entirety.

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

Dated this 7th day of April 2022



Max Huntsman, Inspector General

**PROOF OF SERVICE OF SUBPOENA
SUBPOENA DUCES TECUM FOR PERSONAL APPEARANCE AND THE PRODUCTION OF
DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS**

1. I served this Subpoena for Personal Appearance by personally delivering a copy to the person served as follows:
 - a. Person served (name):
 - b. Address where served:
 - c. Date of delivery:
 - d. Time of delivery:
 - e. Witness fees (check one):
 - (1) were offered or demanded and paid. Amount\$ _____
 - (2) were not demanded or paid
 - f. Fee for service\$ _____

2. I received this subpoena for service on (date): _____
3. Person serving:
 - a. Not a registered California process server.
 - b. California sheriff or marshal.
 - c. Registered California process server.
 - d. Employee of independent contractor of a registered California process server.
 - e. Exempt from registration under Business and Professions Code section 22350(b).
 - f. Registered professional photocopier.
 - g. Exempt from registration under Business and Professions Code section 22451.
 - h. Name, address, telephone number and, if applicable, county of registration and number.

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

Date: _____

 _____
(Signature)