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Economy & Efficiency Commission Presentation

Editorial Note: Although every effort has been made to insure the accuracy of the material in this presentation, the scope of the material covered and the discussions undertaken lends itself to the possibility of minor transcription misinterpretations.

PRESENTATION BY

Mr. Steve Cooley

Los Angeles County District Attorney

Topic: State of the District Attorney's Office

June 7, 2001

Chairman Philibosian introduced the Los Angeles County District Attorney, Mr. Steve Cooley. Mr. Cooley began his career with the District Attorney's Office about twenty-six years ago. During most of that time he was a winning trial prosecutor, served as a reserve police officer from 1972 to 1978, and most recently was head deputy of the Welfare Fraud Division in the Los Angeles County District Attorney's Office. He won nearly two-thirds of the vote to obtain his present office.

Mr. Cooley began his presentation by providing employee statistics, the organization chart of the D. A.'s Office, a discussion of his priorities and comments on major public concerns.

As of May 30, 2001, the criminal side of the Office of the District Attorney employed 1,036 deputy district attorneys, 243 district attorney investigators and 815 support staff, totaling 2,094. As of the fall of 2000, the Bureau of Family Support Operations employed 127 deputy district attorneys, 1,036 family support officers, 26 district attorney investigators and 416 support staff, totaling 1,605. Therefore, at the present time, there are approximately 3,700 D. A. employees. The Family Support Operations will be leaving the D. A.'s Office effective July 1, 2001. A new County Department of Child Support enforcement will be formed and scrutinized by the state. This change will enable the District Attorney's Office to focus on its core mission.

In the year 2000 the gross budget was \$225 M, and the gross budget request for the year 2001, is \$246 M of which \$140 M each year is from outside revenue. The net operating cost to the County is approximately \$100 M per year.

Mr. Cooley brought to the Commission's attention the organization chart of the Los Angeles County District Attorney's Office. A new Bureau of Fraud and Corruption Prosecution has been created, consolidating divisions that have a fraud component. This Bureau had previously been considered a secondary region of Special Operations with no identity. Included in the Bureau of Fraud and Corruption Prosecution are: (1) the Justice System Integrity Division, designed to investigate and prosecute allegations of criminality by anyone within the justice system: judges, attorneys, superior court clerks, etc. among the 25,000 law enforcement officers in L. A. County; and (2) the Public Integrity Division, designed to investigate and prosecute the fraudulent conduct of any elected or appointed governmental official who violates his/her duty while in public office and/or corruption within public institutions. Both of these divisions were formed from the Special Investigations Division.

Another function of the Public Integrity Division is to enforce the Brown Act. This act has been in operation since 1952, requiring that designated public meetings "be in public," absent clear and relatively narrow exceptions. The LAUSD incidents are cases in point - where Belmont related real estate transactions were discussed in closed, secret meetings.

Mr. Cooley has requested funding from the Board of Supervisors for the creation of an Organized Crime Division, which is a part of the core mission of any prosecutorial agency (i.e., gathering of intelligence, evidence, and criminal prosecutions). Organized crime has not been confronted for a decade and the District Attorney's Office must play a role in addition to that of the U. S. Attorney's Office. Another budget request made to the Board was to fund a Rollout Program (the District Attorney Response Team, a separate entity with investigative experience, which gathers reliable evidence and then makes an independent decision dealing with an officer-involved-shooting). Rollout formerly received funding under a one-year federal grant.

Mr. Cooley has also requested \$1.8 M from the Board of Supervisors for code enforcement in unincorporated areas. The D.A.'s Office has done an inadequate job, particularly in the first and fifth supervisorial districts where there are many areas that require ordinance and code enforcement, because prosecutors, investigators, and support staff are lacking.

Mr. Cooley consolidated a number of smaller, related items under the newly formed Community Prosecutions Division, located within the Bureau of Prosecution Support Operations, these were: Quality of Life Deputy D.A.s; the Strategy Against Gang Environments (SAGE) i.e. gang injunctions; the Hearing Officer Program; and the Contract Cities Program (ordinance enforcement for the 88 cities and some unincorporated areas).

Mr. Cooley emphasized that to have a good justice system product the "esprit de corps" and the morale must be high in a law enforcement organization. He concluded that these were the highlights of the operation of the District Attorney's Office and opened the floor to questions.

Commissioner Lucente asked if Mr. Cooley could comment on the involvement of the District Attorney's Office regarding the implementation of the Consent Decree. Mr. Cooley replied that he had written a three-page amicus letter to the federal judge, which included a number of specific suggestions. Other than the letter, the D.A.'s Office is not involved, except indirectly. Mr. Cooley did not believe that ultimate reform would come from a federal judge trying to implement a Consent Decree, which is complicated and costly. Reform would come from within justice system departments of Los Angeles County. Mr. Cooley has taken major reform steps, such as developing a Brady Policy for countywide implementation.

Commissioner Fuhrman asked for an explanation of the Brady Policy. Mr. Cooley responded that the Brady Policy involves the prosecutor's constitutional duty to disclose information to a criminal defendant that may be of assistance to the defendant. Often law enforcement agencies have information, relative to a particular officer and his/her credibility, which the D.A.'s Office must turn over to the defense. Historically, the defense counsel through a Pitchess Motion has obtained such information. During the course of the Rampart situation, the Los Angeles Police Department did not keep their files in such a way that information was being discovered and disclosed appropriately. There was a question as to whether a Pitchess Motion was adequately fulfilling the District Attorney's Brady obligation. Mr. Cooley formed a Brady Policy working group to figure out a resolution: members included front line law enforcement; law enforcement management, deputy district attorneys and other lawyers (including an ethics professional) and a leading defense attorney, Gigi Gordon, under the leadership of the Honorable Larry Waddington, a retired judge.

Mr. Cooley stated that a written policy for prosecutors would be available, when they detect, or suspect criminality. Commissioner Fuhrman asked, what happens when they "suspect" as opposed to "detect"? Mr. Cooley replied that it was a matter of defining probable cause and developing a response based upon the kind of information that they observe. A "raw guess" that an officer is lying needs to be backed up with something substantive. Commissioner Fuhrman stated that one could argue that some of the prosecutors had a "gut sense" that something was wrong. Mr. Cooley agreed, and gave the example of Deputy District Attorney Michael Kraut who had, on two separate occasions, caught Raphael Perez lying. Mr. Kraut tried to report this, but no policy was in place. Thus the D. A.'s Office did not request an investigation. Sixteen months later the Perez Case exploded.

In another area, there is now a uniform policy being reviewed by Sheriff Baca, Chief Parks and the Los Angeles County Police Chiefs which will enable all law enforcement agencies in Los Angeles County to refer allegations of suspected criminality by any of their employees to the D. A.'s Office. There has never been a clearly written directive for front line law enforcement in the 151-year history of Los Angeles County. Formerly, there were many avenues of referral: the local representative of the District Attorney, Special Investigations Division, and other specialized divisions depending on the nature of the crime. This appears to have resulted in confusion. The head deputy of the Justice Integrity Division will now log in the information and evaluate which division will handle and track all such allegations. This is a step toward reform and restoration of public confidence.

Mr. Cooley stated that Rollout funding is imperative. There are 46 law enforcement agencies, and a number of districts that have police forces. Virtually everyone (except four municipal agencies) has signed on for Rollout. Most of the shootings are justified, lawful and in many cases heroic. The public needs to have an independent entity rendering public judgment after the evaluation of competent evidence. If it is not available at the scene, it will be at the grand jury. The Rollout Program was not in operation for four years. The Margaret Mitchell Case was resolved after two years in the grand jury. Reforms will come from those of us within the system: i.e., our law enforcement management and a recently formed law enforcement ethics group.

Commissioner Thompson wondered how the District Attorney's office could handle the multitude of Fair Political Practices' complaints, i.e. employees of Compton Community College using the return address of the college as a fund raising tool by a political candidate running in Carson. In another instance board members from one college were also board members in other colleges and were all being paid by the taxpayers' money. Mr. Cooley stated that printing something at the school district is a violation of Penal Code 424, unlawful use of taxpayers' money. The situation needs to be written up and sent to the D. A. 's Office. It will then be investigated if there appears to be substantial evidence. Another possible code violation is Penal Code 1090. This code provides that people cannot engage in a conflict of interest while in office.

Commissioner Padilla had questions concerning the Student Attendance Review Board (SARB), as to how Mr. Cooley sees youth in general, and the issues of the Mayor's race. Mr. Cooley said that each candidate towards the end of the election accuses each other of a multitude of illegal activities, such as a violation of various campaign election laws that deal with restrictions on independent campaign expenditures. Some allegations may have merit, and some issues may be referred back to the City Elections Ethic's Commission, which has enforcement responsibility. If there is evidence of criminal acts, there will be an investigation.

Mr. Cooley stated that on the organization chart the Act Program has been in operation for several years. It has a significant commitment of prosecutors and resources from the Crime Prevention Program to abolish chronic truancy, and works with the SARBs. However, one of the failings of these programs is that they are not studied to see whether they are cost effective, or otherwise. Mr. Cooley has appointed a distinguished group of outside experts who within the next several months will review and evaluate crime prevention and youth intervention programs within the District Attorney's Office. Individuals involved will have to explain in front of this "blue ribbon" committee what their program does, how they achieve their goals, and how they measure their performance.

Mr. Cooley will be terminating a program created by his predecessor called the Crime Prevention Foundation with the help of County Counsel. It was funded with several hundred thousand dollars of diverted fines from criminal environmental prosecutions. In the future, these foundations may have problems with the franchise tax board and the I.R.S. Any politician who runs for office must disclose by law contributions of \$100.00 or more. However, foundation disclosure laws do not exist and, therefore, have potential for abuse.

Commissioner Barcelona stated that since every school district has the responsibility of acting in the best interests of their students, does Mr. Cooley see any positive outcome for the students from the Belmont situation? Mr. Cooley replied that yes there was a positive outcome, because the situation will never happen again. When the District Attorney's Office gets through with its investigation, and can expose the circumstances to the public of how the most expensive school (\$200 M) never built occurred, then that will be a benefit. A lot of mistakes and mischief were combined to produce this situation. Mr. Cooley's predecessor stated that no crime had been committed, however Mr. Cooley said there was a great need for a criminal

investigation.

Commissioner Fuhrman noted that Mr. Cooley mentioned using the grand jury for investigations. One of the Economy and Efficiency Task Forces had been looking at the current structure of the grand jury and is considering a recommendation of going from the bifurcated grand jury back to the original system of a single grand jury. Has the current thirty-day time limit on the criminal grand jury been an impediment to any investigations? Mr. Cooley replied that although it was an impediment to the Belmont investigation, the District Attorney's Office was able to handle that by changing the rules on the one-month limitation. If there had been the regular standing grand jury with both the civil and criminal responsibilities sitting for a year, the D. A.'s Office would not have been confronted with the need for a solution. A one-year criminal grand jury may be necessary for serious probes of corruption, but must also be unassailable in terms of its makeup and selection.

A continuing, protracted and expensive litigation over the ethnic makeup of the grand jury was the reason for the bifurcation. Perhaps, historically the selection of grand jurors did not reflect the makeup of the county, but there have been many improvements in terms of changing the selection process. As long as there is larger pool of qualified ethnically diverse candidates, his recommendation would be to return to the single grand jury.

Commissioner Fuhrman asked whether there had been a problem that could not be worked around? Mr. Cooley stated, no; but it did take some time to work around a problem that did occur. There are legal restrictions, two grand juries cannot issue criminal indictments. Commissioner Padilla asked whether there was a standing subcommittee needed for a year. Mr. Cooley responded that in order to get a grand jury indictment fourteen (14) of twenty-three (23) votes were needed.

Commissioner Andes mentioned that his understanding of foundations was that they have to divest a certain percent of the interest of their funds each year (around 4%). Did that apply to the Crime Prevention Foundation? Mr. Cooley replied that he did not know about the divestiture rules and perhaps that is why there should be no foundations, the rules are not understood. The District Attorney's Office will be eliminating 100% of the funds this year.

Commissioner Baltierrez asked what are the criteria for distinguishing whether a foundation is connected to a political individual? The other question was: could the money from the foundation be given back to the politicians? Mr. Cooley responded that under the Crime Prevention Foundation Charter the funds were for youth services and crime prevention programs. The funds were obtained from corporate polluters in felony cases, and often the judges restricted the funds to be used for environmental remediation or causes. The District Attorney is doing a complete audit to figure out what the court orders were. The court orders will be followed, and a modification will be obtained for more flexibility. Several Crime Prevention Foundation Board members agreed that it should be discontinued, and evaluated as to how to spend the money consistent with the charter. Every foundation has a charter that is filed with the State of California, and must operate within the designated purposes of the charter. The funds will be distributed to the appropriate organizations consistent with the 1993 established charter.

Commissioner Baltierrez asked if some of the funds could be expended to politicians so that they can run their campaigns? Mr. Cooley replied that they might be fronts for purely political activity. It is an area for potential political abuse, and many are using the foundations. Commissioner Fuhrman noted that on the other side, the foundations are a tool to bring needed funds for economic development to small communities. Some may have political ramifications for sponsoring politicians, but may actually be providing jobs. Mr. Cooley commented that foundations, themselves, are vehicles for good works i.e., domestic violence groups, children's advocacy groups, anti-hate crime activities, the assistance league. These people are effecting good work in Los Angeles County and are probably more efficient than government enterprises. However, when the foundations are used for political aggrandizement and money laundering, then there is a problem.

Chairman Philibosian thanked Mr. Cooley for his presentation, which was recognized by the E & E Commissioners for his comments.

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