

PUBLIC SAFETY COMMITTEE REPORT relative to an analysis of the City Attorney's revised filing guidelines for direct citations issued by the Los Angeles Police Department (LAPD).

Recommendation for Council action, as initiated by Motion (Englander – Parks):

APPROVE the LAPD report to the Board of Police Commissioners dated December 12, 2013 (attached to the Council file) relative an analysis of the City Attorney's revised filing guidelines for direct citations issued by the LAPD.

Fiscal Impact Statement: None submitted by LAPD. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted.

### SUMMARY

On August 20, 2013, Council considered Motion relative to the City Attorney's revised filing guidelines for direct citations. Motion states that on May 22, 2013, the Los Angeles City Attorney issued an interoffice memorandum listing crimes that may be filed as misdemeanor or infraction offenses, stating that all violations on the list "that are cited on a written notice to appear without an accompanying narrative shall be deemed infractions." Further, it states that the law enforcement agency "should also include a brief statement of the reason that the charge should be prosecuted as a misdemeanor," when the law enforcement agency seeks that one of the listed crimes be prosecuted as such.

Motion goes on to state that on July 25, 2013, in response to this memorandum, the LAPD issued a similar memorandum, stating that "effective immediately, all violations (of an attached list) and cited on written notices to appear, will be deemed to be infractions." According to LAPD's memorandum, a narrative containing sufficient information to support the charge if Department personnel seek to have one of the sections prosecuted as a misdemeanor. Upon reading the memos, it can easily be assumed that discretion is taken away both from the officer and the prosecuting attorney in pursuing misdemeanor criminal charges when they are warranted.

Due to the confusion caused by this difference in wording between the two memos, clarification is needed according to the Motion movers. They recommend that Council request an analysis from the LAPD and the City Attorney relative to this matter, and that the LAPD delay implementation of the Department's July 25th memo. Council referred Motion to the Public Safety Committee for consideration.

In the December 12, 2013, report to the Board of Police Commissioners, LAPD analyzes the revised filing guidelines. According to the Department, the revised City Attorney guidelines allow police officers to cite any of the violations listed in the memorandum as an infraction or a misdemeanor. The City Attorney memorandums are "guidelines." Prosecutors retain the discretion to deviate from the guidelines, as appropriate, based on the facts of a case and any mitigating circumstances.

LAPD goes on to report that the City Attorney's list is not final and sections may be added or removed, as deemed necessary. Most importantly, law enforcement still has the discretion to pursue a misdemeanor filing for any of the "wobblette" offenses, with sufficient articulation and accompanying documentation. LAPD has determined that the memorandums standardize and codify existing filing practices within the City Attorney's Office and provide the flexibility to meet the public safety needs of the diverse communities throughout the City of Los Angeles. On December 17, 2013, the Board approved LAPD's report.

At its meeting held January 24, 2014, the Public Safety Committee recommended that Council approve LAPD's report relative to the City Attorney's revised filing guidelines for direct citations.

Respectfully Submitted,

PUBLIC SAFETY COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
ENGLANDER:	YES
BUSCAINO:	ABSENT
BONIN:	YES
O'FARRELL:	YES
MARTINEZ:	ABSENT

**-NOT OFFICIAL UNTIL COUNCIL ACTS-**