# IOLERO STATEMENT IN FOLLOW-UP TO THE TRIENNIAL AUDIT 2022-2025

## I. Introduction

Pivot Consulting Group (Pivot) conducted a comprehensive Audit of the degree to which IOLERO implemented the authorities under Measure P over the three-year period from July 2022 through June 2025.

The Audit also reviewed how the Operational Agreement with the Sheriff's Office and the Letters of Agreement with the law enforcement officers' unions aligned with Measure P and affected this implementation.

The Audit then made several observations and provided 14 "Recommendations" to augment IOLERO's existing oversight functions under Measure P going forward.

## II. Audit Findings

The Audit evaluated the scope of IOLERO's implementation of Measure P and made two general findings:

1. From 2022 to 2025 IOLERO "matured into a professional and functioning civilian oversight agency that has substantially implemented the core responsibilities assigned by Measure P." (See Audit at 7; 13–14).
2. Limitations on implementing collateral aspects of Measure P were the result of IOLERO's "practical exercise of existing authorities" flowing from limited staff and resources, and was not based on any limit in the "scope of the authorities granted by Measure P." (See Audit at 7).

**Conclusion Number 1: Establishing Civilian Oversight**

IOLERO's Staff worked hard to bring about this result and are proud of this achievement.

We further acknowledge that this could not have been achieved without the professional and good-faith cooperation of SCSO which, despite some disagreements along the way, has demonstrated a broad commitment to the principle of civilian oversight.

By way of background, Measure P's hybrid civilian oversight model combines various authorities to audit, investigate and review law enforcement operations at an institutional level, into a single agency. (See NACOLE Models of Civilian Oversight of Law Enforcement "Hybrid Civilian Oversight Models and Systems") (https://www.nacole.org/models_of_oversight). The hybrid model is marked chiefly by the substantial breadth of oversight activities afforded to the civilian agency when measured against the more limited oversight authorities exercised under other oversight models.

However, from its early days IOLERO's staffing level did not match the breadth of authorities under Measure P's hybrid model. In July 2022 (the beginning of the Reporting Period) IOLERO had one full-time auditor to conduct all the substantive work required by Measure P. Thus, it was not feasible for IOLERO to effectively carry out the wide array of tasks authorized under Measure P without sacrificing quality and accuracy in each of them, and without rendering IOLERO's oversight work largely performative. A second full-time auditor and a part-time auditor were not added until June 2023.

Accordingly, IOLERO chose in July 2022 to solidify its civilian oversight function by focusing on detailed policy- and law-intensive audits and case-specific reviews. This approach was deliberative and was specifically adapted to the hybrid Measure P oversight model.

Structurally, this approach also afforded the most efficient way to build IOLERO's civilian oversight infrastructure into a permanent and self-sustaining operation governed by objective and transparent standards. Case-specific reviews are a cornerstone of Measure P and the mechanisms for conducting these reviews were substantially in place as of July 2022 under the then-recently executed Operational Agreement with SCSO and Letters of Agreement with the officers' unions.

Moreover, detailed policy-intensive audits of specific factual real-world claims often provide deeper insight into the rationale behind policy and provide a firmer foundation than abstract data alone for identifying institutional culture and trends and crafting recommendations. This method also assesses SCSO's institutional approach to law enforcement in Sonoma County by directly measuring how SCSO applies its policies in practice to County residents with real-life concerns, while taking account that SCSO officers are also subject to real-life concerns when responding to calls for service. This method further develops and preserves IOLERO's on-going institutional knowledge of policy and legal issues for future consistent application, which is a fundamental component of any effective oversight body. (See Audit at 63–64 [individual audits collectively have demonstrated capacity to drive organizational improvement]).

Finally, and perhaps most importantly, this approach was directly responsive to the unique characteristics of the Sonoma County community. The County consists of concentrated urban areas, geographically expansive rural areas, heavily forested land, extensive coastline, open waters and lakes, and open hills crossing public and private lands—all interspersed with communities of various sizes, interests and demographics. It also contains a single detention facility housing persons from across the County who have been detained by multiple law enforcement jurisdictions, and who have a range of medical and mental health needs. The Sheriff's Office must operate across all these areas where law enforcement encounters vary considerably, and detention interactions are complicated. IOLERO's approach allows it to assess SCSO law enforcement actions across this range of areas and tailor recommendations accordingly.

This approach has been a key component in IOLERO's work to bridge the gap between community expectations and law enforcement (including detention facility) practices. As reflected in NACOLE's principles for effective oversight:

> This question ["What makes for effective civilian oversight?"] has been asked by many oversight practitioners, local officials, and community and law enforcement stakeholders. In terms of oversight models, there is generally no singular "best practice" approach that will guarantee success in every instance. Instead, civilian oversight should be structured according [to] what is considered to be a "best-fit" for the particular community interested in establishing civilian oversight.

(See NACOLE, Thirteen Principles for Effective Oversight) (https://www.nacole.org/principles).

IOLERO has worked to implement this principle.

**Conclusion Number Two: Limitations on implementing other Measure P provisions was the result of IOLERO's "practical exercise of existing authorities" flowing from limited staff and resources, and it was not based on any limit in the "scope of the authorities granted by Measure P." Broader "performance auditing" of SCSO's institutional performance was similarly limited by resource constraints. (7; 17–18).**

Every agency has resource limitations. For IOLERO, Measure P addresses this by specifically providing that IOLERO's exercise of its wide range of authorities is subject to IOLERO's discretion and to staffing resources. As noted in # 1 above, beginning in 2022 IOLERO elected (with success) to leverage its limited staff through case-specific and detailed auditing, which is a primary function of IOLERO under Measure P directly connected to, and flowing from, its statutory role as a receiving agency for citizen complaints. (See Audit at 21–22 [receipt and review of citizen complaints]).

As IOLERO's detailed case-specific review developed in both process and substance, and as IOLERO's staffing increased, IOLERO expanded its implementation of Measure P to conduct independent investigative reviews of two (2) in-custody deaths which were completed in November 2024. These addressed SCSO detention facility operations, including access to medical care and constitutional issues, at a broader level than is otherwise generally conducted in the more circumscribed allegation-driven case-specific audit. (See Audit at 54–57).

IOLERO also conducted an independent investigative review of an officer-involved shooting during the Audit reporting period, although the resulting report was issued outside the Audit reporting period. IOLERO further docketed three "whistleblower" claims which were held in abeyance during the Audit reporting period while litigation progressed over IOLERO's subpoena authority in such matters.

IOLERO intends to continue independent investigative reviews and whistleblower investigations going forward in a deliberative manner building on prior work product.

Ideally, IOLERO would also like to supplement its existing oversight work using what are generally called "performance audits". These provide a quantitative measure of how well an agency is implementing specifically designated criteria and usually involves reviewing a statistically representative sample of objectively defined records to determine how compliant an agency is in documenting data or carrying out a task. The results are generally reflected as a percentage – e.g., the records showed the agency documented the required information 90% of the time. Performance audits require (i) a properly defined issue and scope that can be measured quantitatively, and (ii) access to a sufficient sample of records to conduct a statistically valid assessment.

Development and implementation of "performance audits", and other authorities identified in Measure P (including civil litigation review, items of public interest, ad hoc reporting, and development of policy recommendations) will require a continued deliberative approach in order to balance and manage IOLERO's resources.

The Audit noted the efficacy of performance audits citing three jurisdictions as examples: the Los Angeles Office of Inspector General, the San Francisco Department of Police Accountability, and the Oakland Office of Inspector General. These agencies are large and developed organizations in major metropolitan areas with much larger resources and procedures that have been developed over longer periods. (See Audit at 17–18).

IOLERO worked hard to establish itself as a permanent civilian oversight agency during the Audit period. Nevertheless, it is still nascent in relation to these other agencies and will require time to develop and implement procedures for performance audits and other review functions as resources allow. (See Audit at 19 ["additional staffing and resources would enhance IOLERO's capacity to fully implement certain oversight activities" including jail operations and systemic reviews; Recommendation # 2 at 32 [develop formal risk-based planning for systemic reviews "as resources permit"]). During this transition period, IOLERO will continue engagement with SCSO to develop a more streamlined complaint intake process. Ongoing development of substantive policy and legal issues will also result in more efficient audits of cases by newer auditors involving issues that have already been subjected to detailed analysis.

IOLERO expects that these efforts, along with the addition of two auditors in the summer of 2025, will supplement resources for IOLERO to continue implementation of the other Measure P authorities without sacrificing quality and accuracy of existing responsibilities which, as the Audit found, lie at the core of the civilian oversight process built by IOLERO during the reporting period. (See Audit at 74 [balance audit priority with organizational impact to prioritize audit framework]).

## III. Opportunities

The Audit also identified opportunities to address IOLERO's practical limitations in order to strengthen implementation of Measure P. (p.7). These are:

1. Increased communication with SCSO and the County regarding access to information;
2. Early coordination between IOLERO and SCSO during investigations; and
3. Development of procedures to support consistent application of audit expectations.

We discuss each.

**Opportunity Number 1: Increased communication with SCSO and the County regarding access to information. (See Audit at 37–42 and Recommendation # 4 [clarify process for accessing prior complaint and disciplinary material]).**

Under the NACOLE principles of civilian law enforcement oversight, "unfettered access to the subject law enforcement agency's records is vitally important for effective civilian oversight. The ability to review all records relevant to an investigation or other matters within the scope of a civilian oversight agency's authority in a timely manner is essential to providing effective, informed, and fact-driven oversight." (See Audit at 78–82 [noting differing views on procedural and substantive issues concerning information access]).

Measure P echoes this by requiring SCSO to provide IOLERO with "direct, unfettered access" to SCSO information to facilitate IOLERO's receipt, review and audit of complaints, IOLERO's independent investigative reviews, and IOLERO's review of policies, practices and training. (See Measure P § 2-394(g)).

Thus, under both Measure P and the NACOLE principles, the operative issue is whether IOLERO had "unfettered access" to SCSO information that is "relevant" to the oversight agency's investigation, review or audit.

As the Audit observed, there is some difference in opinion about whether "unfettered access" to materials "relevant" to a matter being reviewed by IOLERO means (i) access to specific information that is relevant to a specific audit, investigation, review or analysis actually being undertaken by IOLERO, or (ii) IOLERO would have general access to SCSO information for future use, determined by IOLERO alone, without the need for a showing of "relevance" to a specific review being conducted.

This distinction lies at the heart of the public discussion concerning what "unfettered access" means under Measure P. This issue will be the subject of review going forward and will be addressed in the longer-term by the permanent Director when appointed. Accordingly, we do not address this debate here.

For present purposes, we limit this discussion to IOLERO's information access under (i) above: e.g., access to information relevant to specific reviews actually being conducted by IOLERO during the Reporting Period.

**a. Case-specific audits/reviews/investigations.** IOLERO generally received access to relevant materials when conducting case-specific audits and reviews, and SCSO generally provided access to additional materials when requested by IOLERO. Information access in this context has not been an issue.

**b. Whistleblower Cases.** Disagreement arose between IOLERO and SCSO in connection with the issuance of subpoenas by IOLERO in whistleblower cases, based on the agencies' respective reading of the relevant agreements, Measure P and state law. This was resolved through the court process and is no longer at issue. Unfortunately, the legal complexity of this question did not lend itself to resolution through communication alone, but IOLERO is positioned to work collaboratively with SCSO now that this issue has been clarified by judicial review.

**c. Performance Audits.** Because IOLERO has not yet sought to conduct a "performance audit" on any specific issue, IOLERO has not requested access to SCSO information necessary to conduct such an audit.

**d. Receipt and Review of Citizen Complaints.** IOLERO's practice has been to send to SCSO every citizen complaint received by IOLERO, even where the allegations appeared facially without merit, requiring SCSO to issue a case number and investigate the matter. SCSO has raised legitimate concerns about the impact on its own limited resources and diversion of its staff from cases with more substantive issues. IOLERO is collaborating with SCSO to address this process. This could include agreed-upon access to relevant SCSO information.

**e. Administrative Interviews.** Measure P provides that IOLERO's Director may "personally sit and observe the investigative interviews of any complainant or witness in, or deputy who is a subject of, [an] administrative investigation, upon request by the director". (§ 2-394(f)). (See Audit at 82–85 [addressing procedure for observing interviews]).

To facilitate this, in 2022 SCSO equipped a room at its offices from which the Director could observe interviews through closed-circuit monitoring and provide SCSO questioners additional queries to be submitted to the interviewee.

We are not aware of a prior instance where this capability has been utilized in practice. But even if the next Director utilizes this mechanism, there are logistical barriers to be addressed. First, IOLERO is not notified of any investigation based on a complaint that was submitted directly to SCSO until after SCSO's investigation is completed, rendering this option moot in such cases. Second, for IOLERO-originated cases, the Operational Agreement provides that the Director "may contact the Sheriff's Office for periodic updates or access Sheriff's Office records to monitor the investigation's progress". However, it is difficult to determine from the complaint alone which matters raise significant issues meriting Director request for updates and attendance at an interview except for a handful of self-evident matters such as (for example) officer involved shootings. Third, the logistics of such observations need to be clarified in advance concerning, for example, how direct and follow up questions are to be submitted. Finally, this mechanism is inapplicable if SCSO does not conduct an administrative interview.

IOLERO's request to administratively interview law enforcement personnel through use of a general civil subpoena has also generated conflict. A law enforcement officer is entitled to invoke their 5th Amendment right in response to a subpoena. While SCSO in its capacity as an employer may administratively direct an employee to answer questions (known as a *Lybarger* directive), IOLERO is not a deputy's employer. SCSO has taken the position that it cannot direct officers to testify to IOLERO under a *Lybarger* directive unless/until the County and the officers' unions "meet and confer" under labor law.

Thus, the *Lybarger* and labor law issues related to directing officers to administratively testify to IOLERO are not readily amendable at this time to resolution through informal communication between SCSO, IOLERO and the County outside the "meet and confer" process.

Nevertheless, the agencies are well-positioned to engage on identifying mechanisms that could reduce the need for *Lybarger*-related interviews and which could, in some appropriate cases, eliminate the need for such interviews altogether. This could include access to additional informational sources (including records and witnesses) from which a record may be sufficiently developed to reach a conclusion on specific issues even absent an employee's testimony. In all instances, of course, the employee must always retain their due process right to provide information through an administrative interview, and there may be instances where they may be inclined to do so pursuant to an SCSO *Lybarger* directive if sufficient protections are in place as agreed to by IOLERO and SCSO.

**Opportunity Number 2: Early coordination between IOLERO and SCSO during investigations.**

As noted above, IOLERO transmits all citizen complaints to SCSO for investigation. The volume of complaints and the vagueness of many of the allegations has placed a significant burden on SCSO's Internal Affairs investigative Staff on the front end, and on IOLERO's auditing Staff on the back end. (See Recommendation # 3 at 32–33 [establish case notification and coordination process]; 86–87 [discussing direct communication between IOLERO and SCSO staff during auditing and investigative phases rather than post-audit]).

IOLERO has been working with SCSO over the past year to narrow and focus the scope of allegations to be investigated.

These discussions set in motion SCSO's use of narrower "short-form" investigation reports on claims that are largely based on factual assertions that can usually be resolved through a cursory review of records or video, giving SCSO flexibility and the ability to operate more efficiently in appropriate cases. In accordance with the Generally Accepted Government Auditing Standards (GAGAS), IOLERO audits these "short-form" investigative reports under the same standards as other investigations with the scope of auditing review tailored to the narrower scope of the allegations.

IOLERO has also met with SCSO to outline the issues to be reviewed during independent investigative reviews. IOLERO and SCSO have not yet reached agreement on this point, but IOLERO is prepared to continue this dialogue and to engage with SCSO to proactively address any issues identified by SCSO.

**OPPORTUNITY Number 3: Develop procedures to support consistent application of audit expectations.**

Beginning in 2022, IOLERO developed and implemented specific standards by which SCSO investigations would be measured. These standards were (i) "Completeness" which originate from the Penal Code and (ii) "Timeliness" which is statutorily derived from the Government Code and augmented by voluntary agreement between the agencies, and (iii) substantive findings—Exonerated, Unfounded, Sustained, or Not Sustained—which are derived from the Penal Code (except for "Not Sustained" which derives from U.S. Department of Justice guidelines, SCSO policy, and law enforcement oversight best practices).

During the first year of the Reporting Period all audits were conducted by a single auditor and approved by the Director, providing internal consistency in the establishment and application of standards. The addition of 1.5 auditors in the summer of 2023, and the lack of a managerial auditor below the Director during the following two years to coordinate auditing work-product, resulted in disparate application of standards in some cases which SCSO has correctly noted.

IOLERO is taking steps to ensure that all audits are subjected to the same standards and audit expectations. This includes the substantive findings, the scope of the investigation (Completeness), and the diligence with which the investigation is conducted (Timeliness). IOLERO is also enforcing the Timeliness standards against IOLERO's own auditing procedures, identifying when IOLERO fails to meet the standard. (See Audit at 53 and Recommendation # 7 [differentiate investigative sufficiency from opportunities for improvement]).

## IV. Professional Engagement Between IOLERO and SCSO

The Audit reviewed the level and quality of direct communications between IOLERO and SCSO as contemplated under § 2-394(g) of Measure P. Because of its importance, the Audit's conclusion is quoted in more detail:

> During the review period, the office [IOLERO] communicated directly with Sheriff's Office personnel in connection with audits, requests for information, and independent investigations. Interviews indicated that these communications generally occurred through formal channels, primarily by email, with occasional telephone conversations to address specific case related issues or requests for clarification.
>
> While these communications supported the completion of individual audits and investigations, they remained largely transactional and focused on specific matters rather than broader organizational engagement. The review found that opportunities for regular professional dialogue, collaborative problem solving, strategic planning, and relationship building outside the context of individual cases have not yet been consistently exercised or fully developed.

(Audit at 86).

The Audit also noted "friction" between IOLERO and SCSO regarding the scope and implementation of Measure P, but nevertheless observed that "both organizations continue to perform their respective responsibilities professionally and that meaningful improvements have been achieved despite these areas of disagreement." (Audit at 88).

**RECOMMENDATION: The Audit recommended an expanded and structured collaboration between IOLERO and SCSO personnel, including IOLERO staff attendance at SCSO training on issues relevant to IOLERO's oversight, periodic meetings to discuss audits, investigations, and issues, and possible joint actions to be taken by both agencies.**

IOLERO acknowledges that respective agencies can fall prey to a tendency to mistakenly view the other's good faith questioning or objection to an issue as somehow "resisting" the work of the agency.

IOLERO is not immune from this tendency of mistakenly viewing good faith objections as somehow reflecting “obstruction”. To be sure, law enforcement’s initial reluctance to submit to public scrutiny is often a major reason why communities decide to create an independent oversight agency. However, once created, the civilian oversight agency itself (IOLERO included) must be responsive to changing needs and move to the next stage of development by addressing substantive issues. This requires focused oversight agency analysis on both procedural and substantive issues, administrative, and institutional matters.

Residual law enforcement reluctance to oversight must, of course, be factored into the oversight agency’s ongoing work. But care must be taken to distinguish between (i) legitimate issues raised by oversight work, on the one hand, and (ii) law enforcement resistance to oversight, on the other hand. They are not the same thing.

Such disagreements can be reduced significantly through increased dialogue. For example, an oversight agency might modify a request for information that is desired (but not necessary) to evaluating an issue, in response to the administrative burden placed on law enforcement by the request. Law enforcement, in turn, might accommodate a broader request when the oversight agency identifies unique circumstances justifying the burden imposed. However, if instead of collaboratively discussing this issue each agency simply retreated to their respective corner without communication, each is more likely to view the other as obstructionist.

But civilian oversight is not a boxing match, and it cannot succeed if it is treated as one by either, or both, entities. Adequate communication would enable resolution of many such issues based on a common understanding of what is, and what is not, being requested and provided.

Of course, instances will arise where disagreements on principle cannot be bridged through dialogue alone. That is not surprising. In such cases, each entity will take appropriate steps to resolve the issue which could include judicial action. Each agency may also state their positions publicly, so the community is aware of the issue. But to fulfill the higher purposes of civilian oversight, all such communications should be measured, objective and professional.

Now that IOLERO has successfully implemented an oversight model through its auditing and investigative review function, communications between IOLERO and SCSO can and should go beyond the case-specific audit or investigative review context in a proactive manner.

Going forward, we hope to expand communications to address the entirety of the oversight process, including engaging on refinement of issue-identification, continued transparency and consistency in auditing and investigative standards.

## V. Jail Oversight

The Audit found that IOLERO has fully implemented Measure P’s jail oversight authorities but the current process—auditing SCSO investigations or conducting independent investigative reviews of incidents—is (as in the patrol operations) largely retrospective and driven by past events. (See Audit at 95–99).

To build upon the “strong foundation” already developed by IOLERO in jail oversight functions, the Audit recommends hiring two additional staff as “dedicated jail monitors” who would (i) conduct grievance reviews (ii) conduct early monitoring of mortality reviews (iii) conduct routine facility visits (iv) conduct systemic analysis of jail conditions and (v) release regular public reports.

As noted earlier, IOLERO has addressed detention facility issues through its audit and investigative function, resulting in the development of policy recommendations and identification of detention-specific issues. This has included detailed review of Prison Rape Elimination Act (PREA) claims, strip search protocols, classification and housing, safety checks, use of observational cells, booking and release procedures, access to medical and mental health care, access to telephones, cleanliness/sanitariness of the facility, and uses of force—to name a few.

As the Audit noted, and as we have described in our prior Annual Reports, detention facility issues differ materially from those raised in the patrol environment. Among other things the detention environment has (i) multiple layers of legal and administrative requirements (operational and facility-design) including state regulations not otherwise applicable to the patrol environment; (ii) a requirement to provide constitutionally adequate medical care to incarcerated individuals and to comply with standards issued by the National Commission on Correctional Health Care (NCCHC); and (iii) constitutional requirements concerning the overall conditions of confinement (which includes, by way of example only, inmate safety, access to hygiene, out of cell opportunities, and food quality). The constitutional issues are further complicated by differences in the constitutional standards applicable to persons incarcerated after conviction, and those incarcerated while awaiting trial (pre-trial detainees).

IOLERO agrees with the Audit that IOLERO's jail oversight can be complimented and expanded through the hiring of additional staff dedicated to jail oversight issues and processes. Doing so is not an issue of IOLERO's willingness. Rather, it is an issue of increasing funding to accommodate this aspiration.

Until additional funding is achieved, IOLERO will continue to audit and investigate jail issues under its current detailed model as expertise is developed in this area.

## VI. Concluding Observation

IOLERO Staff worked hard in the 2022-2025 Reporting Period to establish an effective civilian oversight operation in accordance with the directives of Measure P. This achievement could not have been made without the professional and good-faith cooperation and engagement of SCSO and its general commitment to civilian oversight.

IOLERO had some starts-and-stops along the way, and the Audit has identified opportunities and recommendations to augment IOLERO's oversight going forward.

As the IOLERO Interim Director, I am committed to working with SCSO during this transition to maintain the agencies' joint accomplishments, and build on them where possible, in order to present the next permanent Director with the fullest opportunity to advance civilian law enforcement oversight in Sonoma County.

Matthew Chavez
IOLERO Interim Director
September 2026