



Office of the Los Angeles City Attorney  
Hydee Feldstein Soto

April 30, 2026

The Honorable City Council  
City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

**Re: Possible Charter Changes to the Structure of the City Attorney's Office**

Honorable Members of the City Council:

One of the many important questions pending before you is whether the civil work of the Office of the City Attorney should be handled by someone elected by the people or appointed by the Mayor and City Council. The recent Charter Reform Commission recommended dividing the City Attorney's Office into a civil office headed by an appointed municipal attorney and a separate criminal office headed by an elected prosecutor. While this suggested change in the organization of the City's legal officials will not impact any portion of my time in office, I am committed to the superiority of this Office's current structure over the Commission's and other alternatives. This is not a matter of mere political preference. The Commission's proposed foundational change would erode the people's fundamental right to select an independent arbiter of law, to ensure that the City speaks with a unified voice on its legal obligations, and to provide an elected City Attorney with the power and independence to serve as a vital safeguard on the functioning of constitutional and charter compliant governance. The current structure of the City Attorney's Office should be maintained.

As set forth below, there have been several efforts over the decades to create an appointed City Attorney responsive to the elected Councilmembers, efforts that were wisely and resoundingly rejected by City policy makers who decided to preserve the City Attorney's independence as an elected City officer. Moreover, the only jurisdiction that has a "split office" is Long Beach and even there, *both* the Long Beach prosecutor *and* the Long Beach City Attorney are elected officials, preserving their independence and accountability to the voters. Before looking at other models, however, there are two threshold issues to consider.

### Cost of Dividing the City Attorney's Office

The cost of dividing the City Attorney's office into separate civil and criminal offices is unknown but undoubtedly substantial, surely in the millions and likely in the tens of millions of dollars. There are likely to be at least some substantial and unnecessary redundancies, duplications and inefficiencies in administrative support, training, back office accounting, payroll, cash, human resources, staffing, technology, equipment, and union bargaining terms. Fiscal concerns have played a role in prior decisions to maintain the unity of the City Attorney's Office, as discussed below, but in this case, the cost of these fundamental changes and duplications is unknown and, at this point, unstudied. In the fiscally delicate times the City currently navigates, these costs at least should be quantified before any serious consideration is given to dividing the office of City Attorney.

### Representing The People

Dividing the City Attorney's office into separate civil and criminal entities would jeopardize the working relationship between the City's elected representatives and the People's prosecuting authority and would sever the relationship between the City's municipal attorney and the voters across the City. Under the current Charter, the City Attorney serves as both civil municipal attorney and as criminal prosecutor who may prosecute misdemeanors, which includes violations of the City's Municipal Code. In the role of prosecutor, the City Attorney's client is the People, not the City, and the City Attorney may not and does not take prosecuting instructions from the City's elected political officials as a matter of professional responsibility, ethics, and law. Nonetheless, the City Attorney in setting prosecutorial policies for the enforcement of misdemeanors within City limits and in determining whether to prosecute violations of our Municipal Code as misdemeanors, infractions, or citations draws on experience and familiarity with the ordinances drafted by the Office, the legislative intent in passing our municipal laws, and this Council's assessments of the City's priorities.

This Office works on a daily basis with Council members, the Mayor, and the City departments on myriad issues and projects, including drafting sections of the Municipal Code to address civic problems Council members have identified. After dividing the City Attorney's office, the prosecuting attorney would lack a working relationship with the Council members and other City offices and departments and would lack the deep

understanding of their priorities which currently informs the City Attorney's independent prosecutorial judgement. The prosecutor's and Council's priorities are more likely to conflict, and the criminal prosecutor would no longer have any role in crafting the Municipal Code sections they are called on to interpret and enforce, raising the opportunities for conflict and misunderstandings. Those conflicts are minimized by the current structure where the interpretation and understanding of the Municipal Code sections are harmonized by Council-informed work that the City Attorney performs in drafting those same sections.

The handling of affirmative litigation and certain other classes of legal actions could become ongoing problems if the City Attorney's office were divided. Unfair Competition Law actions (so-called "Section 17200" cases), False Advertising cases ("Section 17500" cases) and nuisance abatement actions are all filed in the name of the People of the State of California.

Section 17200 cases are authorized for any illegal practices of state or municipal law and are chargeable as any of (i) a civil action on behalf of the People where the underlying conduct is unlawful either under State or Municipal law or both; (ii) a criminal misdemeanor action under state law on behalf of the People; or (iii) a criminal misdemeanor action, an infraction or an administrative citation under the Municipal Code. The proposal to separate the criminal and civil sides of the Office leaves these important public rights and affirmative civil litigation in limbo. The Office as presently constituted can draw upon the combination of tools to select the best one available for any particular situation and that flexibility and effectiveness is all the more important as the law has evolved in today's environment. Splitting the Office would seem to roll back much of the progress we have made in effectively enforcing our laws and public rights by affirmative litigation and civil prosecutions.

Section 17500 cases and nuisance abatement actions also may be filed as either civil or criminal actions. Who would be authorized to bring such actions, the civil City Attorney or the criminal City Prosecutor, or both? In some nuisance abatement actions, such as for environmental contamination, the City may file a civil action for damages (for example, to recoup the City's past remediation expenses), while a concurrent action for abatement (i.e., to remediate the current and ongoing nuisance) must be filed in the name of the People. An example of such a concurrent action is the City and People's case (brought in one lawsuit) against Monsanto for PCB contamination, which resulted in a settlement for \$35 million, all of which went to reimbursing the City for past remediation expenses, and to funding City departments' future remediation efforts. Coordinating such actions becomes more complicated, if not impossible, if the Office is divided.

Additionally, certain conduct may give rise to both civil claims (through 17200, 17500, or public nuisance) and criminal claims. If separate civil and criminal actions are brought concurrently, the civil action is typically held in abeyance until the criminal prosecution is completed. Currently, the single civilly- and criminally-empowered City Attorney may decide which, or both, type of actions to file in such cases depending on

which course is more likely to remedy the problem being addressed. A criminal action against a corporate entity requiring proof “beyond a reasonable doubt” may be less effective than a civil action for both injunctive relief and large civil penalties requiring proof to the standard of “more likely than not”. For example, the Office made the strategic decision to file a nuisance action in the name of the City (not the People) against numerous opioid manufacturers and distributors. That action has so far yielded \$35 million in settlement payments to the City, with tens of millions of dollars in additional settlement payments expected in the coming years. Dividing the office may result in two offices with overlapping jurisdiction over such claims, each with very different objectives. Overarching strategic decision making, however, would no longer be possible. To the Council members’ consternation, more effective civil actions, including those that could make the City whole financially, could be substantially delayed or even thwarted if the prosecuting attorney pursued less effective criminal actions, or actions that result in remedies directed solely to the People.

#### History of Past Efforts to Create an Appointed City Attorney

While there have been times when City policy makers considered whether to change the Los City Attorney to an appointed position, with more or less debate, the City policy makers ultimately decided to protect the independence of the City’s legal advisor. In the few instances where the City chose to place a proposal for an appointed City Attorney on the ballot, the voters rejected the idea, soundly, which is why the civil legal advisor to the City has been an elected position for more than 176 years, dating back to the election of the first City Attorney on April 1, 1850.

In 1912, for example, the National Municipal League and the Los Angeles Charter Reform Committee convened a conference to undertake a comprehensive review of the City’s Charter. Their primary goal was to reform the government and to professionalize the operations of City departments by implementing a civil service system for City officers and department managers. As part of the push for a robust civil service program, the draft language included a proposal to make the City Attorney an appointed civil servant along with other City officials. Despite many progressive provisions that were included in the overall reform package, the proposal was soundly defeated at the ballot box by, according to some news reports, a 2-1 margin.

In 1923, the voters elected a “Board of Freeholders” to review, reform, and rewrite the 1889 Charter. The board was the functional equivalent to your appointed Charter Reform Commission and their goal was to modernize city government by tackling corruption, ensuring greater efficiency, and improving representation for a rapidly growing population. During the 1925 Charter debates, Mayor George E. Cryer and City Attorney Jess E. Stephens openly debated the organization of the City Attorney’s Office. Mayor Cryer insisted that the City Attorney should be an appointee of the Mayor so that “harmony among the various departments and officers of the city might be achieved.”

With the result of the 1912 election still in recent memory, the Board of Freeholders rejected the Mayor's proposal in their final draft language, which was placed on the ballot and approved by the voters. The work of the board resulted in the creation of the 1925 Charter, which, in addition to keeping the City Attorney as an elected office, brought about the creation of the 15-member City Council and the adoption of citizen commissions as the heads of Charter-created departments.

In 1951, the Commission on Reorganization of the City Government, more commonly known as the Little Hoover Commission, was established by Mayor Fletcher Bowron and the City Council to address structural issues of governance resulting from the rapid growth of the City during and after World War II. The commission's work was codified into a collection of policy recommendations for the City's leaders. One of the issues that the commission studied was how the City Attorney should be selected. Notably, the initial draft of the Little Hoover report, released in 1951, recommended that the City Attorney be appointed by the Mayor and confirmed by the City Council. The argument in support of this recommendation was that the Mayor, as the city's chief executive, needed an attorney who would not be independent or political and who was administratively aligned with the City's elected leadership to ensure efficient governance. There was intense public pushback to this proposal after the draft report was released. As a result, when the commission produced its final report in 1953, they ultimately recommended that the City Attorney remain an elected official. The change in recommendation was driven by the belief that the City Attorney must serve as an independent "check and balance" on both the Mayor and the City Council.

In 1969, the City created another Charter reform commission, which was headed by Dr. Henry Reining Jr., the Dean of the Center for International and Public Affairs at the University of Southern California. The "Reining Commission" sought to modernize the then-44-year-old Charter, which many officials felt had become "obsolete" and "cluttered" by the one-off amendments that had been adopted over the preceding years. The commission's proposed Charter overhaul would have strengthened the Mayor's power to manage city departments and given the Mayor the power to appoint and remove general managers. Like the reform efforts referenced above, this commission examined the role of the City Attorney. Initially, the commission chose to keep the City Attorney as an elected officer to balance what would have been the increased power of the Mayor. One year later, the commission decided to retain the then-current Mayor-City Council system, which prompted the members to propose having the City Attorney be appointed by the Mayor, subject to confirmation by the City Council. The Reining Commission's thinking was that the City Attorney could become a political obstacle to the goals of the City's policy makers. When this proposal was put to the voters in 1971, it was rejected once again.

In June 1984, the City Council's Charter and Elections Committee took up the question of whether to make the Office appointed as well as whether to separate out the criminal function of the Office. In the preceding months, City Council members had been criticizing then-City Attorney Ira Reiner for "politicizing" the office and focusing on a

personal agenda separate from the interests of the City. During a public meeting of the City Council, the City Attorney had openly criticized police officers who were serving in an intelligence and surveillance unit of the Los Angeles Police Department, which was accused of spying on more than 200 political, religious, labor, and civic organizations. City Attorney Reiner opposed the proposed Charter changes arguing that the City Attorney should be “beholden to no one with respect to either appointment or removal, except the electorate.” The City Council eventually dropped the issue despite putting other reform measures on the ballot that year.

During the 1999 Charter reform process, multiple proposals to appoint the City Attorney, in some form or another, were considered. One of the leading proposals from that period mirrors that which is being considered by this Honorable Body today. Specifically, on June 10, 1998, a deputy mayor for Mayor Richard Riordan testified before the Appointed Charter Reform Commission to present the Mayor’s proposal to split the City Attorney’s Office in three by having: 1) an elected City Prosecutor; 2) an appointed General Counsel to be selected by the Mayor; and 3) and an appointed Legislative Counsel to be selected by the City Council. As stated during the deputy mayor’s testimony, Mayor Riordan’s “objectives” were: 1) “to provide City leadership with the tools they reasonably need to fulfill their duties and responsibilities;” and 2) “to retain an elected prosecutor accountable to the people.” Of course, in phrasing the objectives in this way, the Mayor tacitly confirmed that an appointed city attorney is not “accountable to the people.”

About one week later, Vice Chair of the Elected Charter Reform Commission Chester Widom introduced a recommendation to split the office in three by having: 1) an elected City Prosecutor; 2) an appointed General Counsel to be selected by the Mayor; and 3) and an appointed Legislative Counsel to be selected by the City Council. City Attorney James K. Hahn objected to the idea, reasserting the same argument made many times over the prior 100 years, that an elected City Attorney provides an independent voice directly “accountable to the people.” Specific to the proposal of an appointed City Attorney, legislative counsel, and elected City Prosecutor, City Attorney Hahn argued that each office could work at cross purposes. Specifically, he wrote at the time:

“Instead of efficiency, this [proposal] would create chaos. In instances where the lawyers for the Mayor and City Council disagree, the only possible arbiter would be a court of law. It is difficult to imagine how deciding disputes between the Mayor and the Council by having them sue each other would increase the efficiency and responsiveness of our city government. Furthermore, such a proposed system begs the question of who represents the city departments, the Mayor’s attorney or the City Council’s attorney.

. . . One can imagine that the [appointed City Attorney] would get direction from the Mayor and other department heads to prepare, conceptually, programs that require legislation and enforcement

mechanisms. The preparation of that program would be conducted between the [appointed City Attorney] and the authorized general manager or representative of the Mayor. That program would then be presented to the City Council who would work with the Legislative Counsel to prepare the appropriate legislation to implement the program. The positions of the [appointed City Attorney] and Legislative Counsel could differ on the law.

There is no mechanism for resolving the potential conflict. Whether or not the differences are resolved, following the preparation of the language by the Legislative Counsel, the legislation could be adopted by the City Council. Once the legislative program is implemented, any enforcement of the provisions of the legislation would be the responsibility of the [elected City Prosecutor] through criminal prosecution. There is no mechanism for ensuring that the prosecutor will agree with either the [appointed City Attorney] or the Legislative Counsel over the meaning, application, interpretation and enforcement of the new law. It does not take an expert in law office management to understand that the disconnect between [appointed City Attorney], Legislative Counsel, and the Prosecuting City Attorney is not only likely, but it is built into the system. The division between these three offices and their various functions is, at best, too expensive and at its worst is ... counterproductive. Such a system would not lead to good public policy and would not serve the people of the City of Los Angeles well.”

Finally, on June 28, 2011, a motion was approved by the City Council to instruct the Chief Legislative Analyst (CLA) to prepare a report which reviewed the various models for providing legal criminal and civil services to California cities and to the extent where relevant across the country. This motion was introduced by then-Councilmember Jan Perry, who asserted that then-City Attorney Carmen Trutanich had moved beyond providing legal advice on various planning-related issues to outright political advocacy.

On November 28, 2011, the CLA issued a report to the City Council reviewing “several” municipal legal services models. The CLA report was referred to the City Council’s Budget and Finance Committee for consideration on November 29, 2011. A few months later, while the CLA report was pending, both then-Mayor Antonio Villaraigosa and former Council President Paul Krekorian voiced separate concerns about the City Attorney’s role in governance, with the latter going so far as to propose a ballot measure that would have allowed the CLA to hire attorneys to perform the function of a legislative counsel. Nevertheless, no final action was ever taken on either the Perry or Krekorian motions and the Council Files expired on September 10, 2013 and February 10, 2015 respectively.

Concerns Expressed About this Office During the Current Charter Reform Process

Echoing the past, much of the debate in the present moment has been framed as an opportunity to depoliticize the office. Of course, elections can “politicize” a public office, but everything in local government is inherently political. The practical exercise of power by those in office is often only checked by the voters at the ballot box.

Consider the profound political implications of your vote: when a municipal attorney’s livelihood depends on “serving at the pleasure” of the Mayor and City Council, there is an innate, human pressure to harmonize legal advice with the political goals of the appointing officials. Even if entirely lawful and ethical, there is no individual official who can stand for the “right” answer for the City as a whole. As City Attorney Hahn stated in his testimony before the 1999 Charter Reform Commission, an elected attorney is the “least politicized” option available in that the elected City Attorney is responsible to no one but the voters and is not subject to the changes in the political composition of Council or the Mayor. Keeping the Office of the City Attorney as a unified, elected office provides independence to the City Attorney and ensures that the person tasked with interpreting and enforcing the City’s laws is directly accountable to the people those laws are meant to serve and regulate. It also ensures that each office and department receives the same advice regardless of whether it is something they want to hear.

The primary example advanced by the Charter Reform Commission of how the office is politicized and why the office should be appointed is the Venice Dell project. Specifically, Charter Reform Commission staff stated that, prior to taking office, I submitted a written public comment to the City Council asking the Councilmembers to consider the cost of the project and the fact that the development contract had been granted without appropriate competitive bidding. I was a private citizen and candidate for office when I wrote that comment and it has had no bearing on how I have carried out my legal and ethical obligations as City Attorney. To the extent I could do so publicly, I have explained the legal and other issues involving the Venice Dell project in a public report available in Council File 25-0169. More importantly, we should not conflate any particular project with the global issues of Charter reform.

Besides Venice Dell, throughout the years, there have been many contentious matters where one officer or department in the City vehemently opposes a policy direction taken by another officer or department. Those intracity disputes are often settled by the City Attorney’s Office based on strict interpretations of the law as to who has the Charter authority to make the ultimate policy decision. Sometimes this Office must advise that a proposed action is unlawful or that a disfavored duty is nevertheless mandatory, often subjecting this Office to criticism.

For example, in his letter to the Charter Reform Commission, former City Attorney Burt Pines wrote that during his administration in the 1970s, this Office issued an opinion to the Civil Service Commission concluding that the City could no longer disqualify

applicants for police officer positions solely because they had engaged in private homosexual conduct. This opinion was issued over the vehement opposition of Police Chief Ed Davis. While there were no directly controlling cases, and no other municipal law office had reached such a conclusion, this Office determined that constitutional privacy principles were evolving in that direction and that this exclusionary policy could not be legally sustained.

Similarly, in his testimony to the 1999 Charter Reform Commission, then-City Attorney James Hahn discussed a contentious dispute between the Mayor and City Attorney. Specifically, there was a question whether the representatives to the Elected Charter Reform Commission would be elected by a plurality, or like other offices, would need to receive more than 50% of the vote or face a runoff. The Mayor vehemently argued for a plurality guaranteeing a single election for the volunteer candidates, which, as a policy matter, the City Attorney supported to spare the commission candidates the time and effort of a runoff. But City Attorney Hahn's legal position was that a 50%+1 vote was required under the Voting Rights Act to ensure proper representation. Some reports even indicated that the dispute might have contributed to Mayor Riordan's recommendation to make this Office an appointed one later in the same process.

The status of the City Attorney as an independently elected official has been key to my ability to do this job and to represent the City and its people as a whole rather than caving to political pressure. During the course of my time in office, I have been able to provide honest, accurate legal advice to the Mayor, City Council, Controller and departments – even when that advice is unwelcome – precisely because I am an independently elected officeholder with an ultimate duty to the public. I have been able to lawfully defend the City as a vigorous advocate – even when that defense is unpopular. As a prosecutor, I have independently administered criminal justice, balancing an individual's liberty interests, constitutional due process and public safety, without fear or favor, irrespective of what a particular councilmember may want. As an elected City Attorney, I also can advance and have prioritized the rights of the public and the people in civil prosecution and litigation with independence, fairness and consistency.

An appointed City Attorney, serving at the pleasure of the Mayor and City Council, faces enormous political pressure on all of these issues, behind closed doors, cloaked in privilege without an independent voice. This is why past policy makers – the public servants who sat in your very seat in the decades before you – realized that having an appointed attorney (or attorneys, plural, as is currently being proposed for many offices and commissions) removes power from the voters, erodes the checks and balances of our Charter and ultimately harms the City as a whole.

In the words of Former City Attorney Burt Pines, the proposal is not only “fundamentally undemocratic” but “will impose substantial and unnecessary costs on taxpayers”. One or more appointed City Attorneys, each of whom fears the loss of their employment, results in:

1) the potential for the City to splinter as different officers receive conflicting advice from different counsel;

2) legal opinions that would be framed from the parochial and political perspective of the particular bodies and officials that request the opinion and control the appointment of the lawyer rendering the opinion;

3) the loss of the City Attorney to serve as arbiter between competing departments, particularly in jurisdictional conflicts, leaving those conflicts to inconsistent positions within the City (which increases liability to third parties) or generating intracity litigation wasting taxpayer dollars on both sides of the dispute and abdicating the City's sovereignty to the judiciary;

5) the ability of a plaintiff to divide and conquer by using conflicting opinions to harm the city's legal defense in litigation; and

6) increased overhead costs for the City legal representation.

As Professor Erwin Chemerinsky told the Charter Reform Commission at its meeting on September 6, 2025, the City is best served by not moving away from an elected City Attorney, because they are "essential" as a separate check "on government power." I agree, and I respectfully ask that you do too.

Sincerely,



Hydee Feldstein Soto  
Los Angeles City Attorney