

PROBATION E-GRAM



Official publication, L.A. County Probation Officers Union, Local 685, AFSCME/AFL-CIO.

September 30, 2016

Local 685 Responds to *LA Times* Editorial "Starting From Scratch at the L.A. County Probation Department"

[Click here](#) to read the facts on the Settlement Agreement

Dear *Los Angeles Times* Editor:

For nearly 50 years, California law has required that public agencies negotiate with certified employee representatives regarding wages, hours, and other terms and conditions of employment. L.A. County's former Chief Probation Officer, Jerry Powers, violated this law in early 2013 when he unilaterally denied promotions to sworn officers with past discipline without an agreed upon promotional policy as required by law. The L.A. County Deputy Probation Officers Union, AFSCME Local 685, pushed to enforce the law by demanding that Powers engage in legally required negotiations; however, Powers flatly refused. Further, Powers refused to provide any information about his criteria for denying promotions, such as what level of discipline, how far back in time, and for how long would an employee be denied a promotion. Local 685 filed legal challenges with the County's Employee Relations Commission and a court lawsuit based upon California's Peace Officer Bill of Rights.

As has been widely reported, Powers resigned amid a cloud of allegations that he improperly hired a mistress to a sensitive top Probation Department post. Less press-worthy were his persistent violations of labor law and inability to properly staff the Probation Department* to the detriment of the public's safety. Nevertheless, his personal and managerial failures were both contributing factors to his forced resignation. Upon Powers' hasty departure, the Board of Supervisors called upon Probation veteran Cal Remington to clean up Powers' mess while they searched for a permanent replacement.

One of Interim Chief Probation Officer Remington's tasks was to resolve outstanding labor law violations, including the illegal denial of promotions, and to establish concrete policies for promotions going forward. After lengthy negotiations, Local 685 agreed to a strict policy, based on that used in the L.A. Sheriff's Department, that denies

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Calendar of Events

General Memb. Meeting

Thursday, Oct. 13, 2016
7:30pm

Stewards' Meeting

Thursday, Oct. 27, 2016
7:30pm

Meetings are held at the Local 685 office

3701 Wilshire Blvd.
Suite 510
Los Angeles, CA 90010

Send Us Your Stories!

We welcome any story ideas - anything from success with a probationer, to the birth of a child or retirement of a co-worker, to the effect of staffing shortages or workload requirements on your ability to do your job.

Please email your story ideas to Cookie Lommel at clommel@afscme685.com.

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promotions to sworn officers with serious discipline issues. The new policy does allow promotions for employees with low-level discipline that do not impact his or her future work performance.

In May 2016, County Counsel approved the final draft of the Settlement Agreement, which was then submitted to the Department and the Union for review and approval with the full knowledge of the Chief Executive Office. In negotiating this agreement, the L.A. County Probation Department, County Counsel, and the Chief Executive Office were all acting on behalf of and under the authority of the Board of Supervisors. In order to finalize the strict new promotional policy, the outstanding cases required settlement. Local 685 reached an agreement with the Probation Department to promote employees who had been illegally denied promotions.

It is important to note that the majority of officers denied promotions by Powers had five days or less discipline (for example, for tardiness or minor absenteeism) and their discipline dated back more than 5 years. The settlement denied employees back pay, which they were likely to receive if these cases had gone to trial, and all promoted officers are required to serve a one-year Probationary Period.

In summary, former Chief Powers refused to engage in lawfully-required negotiations with the Union for more than three years, while the interim administration successfully negotiated a policy within a few months. The process used to negotiate this Settlement Agreement mirrors processes used Countywide, day in and day out, to resolve labor-management issues at the County of Los Angeles. Local 685 stands by this agreement and rejects any effort to overturn this or any other negotiated agreement, regardless of pressure from a third party such as the *Los Angeles Times*.

Ralph Miller, President
L.A. County Probation Officers' Union
AFSCME Local 685

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*The L.A. County Auditor-Controller recently issued a report on hiring and promotional practices under Powers. Upon reviewing the facts, the Auditor-Controller concluded that Powers failed to hire and promote a sufficient number of employees to keep up with attrition and the growing demands on the Department under AB 109. The audit also found that the Probation Department hired and promoted fewer employees, and it took substantially longer to complete these processes, than other benchmark comparison County agencies.

[Click here](#) to read the *Los Angeles Times* Editorial (9/28/16)

[Click here](#) to read the Los Angeles Times article entitled "Under pressure from union, L.A. County makes it easier for probation workers with discipline problems to get promotions" (9/25/16)

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- * Health Club Discounts
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Classroom Learning

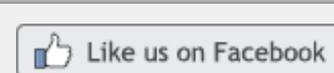
- See AFSCME programs for info

Women's Leadership & Training

Additional Resources

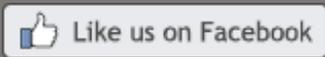
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Agreement on Promotions

- Of the total number of employees who had prior discipline that were promoted - as attributed to Chief Remington - 21 were promoted in 2015 when Powers was Chief.
- In 2016, County Counsel continued negotiations with Local 685 over establishing a Department-wide Discipline Policy for sworn officers and resolving several Unfair Labor Practice charges filed against Powers.
- In May 2016, County Counsel approved the final draft of the Settlement Agreement and Release, which contained the confidentiality provision and provided that the Probation Department promote an additional 35 employees with low level prior discipline.
- Many of the employees promoted received minor levels of discipline, some over five years ago, and have since received "competent" and "very good" performance evaluations.
- Unlike Chief Powers, the Interim Chief negotiated a Department-specific Discipline Policy with Local 685 that withholds promotions going forward for sworn employees that were disciplined for prescribed time frames that bears relation to the level of discipline imposed.
- The Settlement Agreement and Release is favorable to the County as it avoids retroactive pay to employees under circumstances where a Hearing Officer or a court could award back pay liability.
- All employees promoted are required to serve a one-year Probationary Period.
- The Settlement Agreement provides for the Union to withdraw several Unfair Labor Practice charges that were filed with ERCOM and an appeal that had been filed with the 2nd District Court of Appeals.
- Many of the employees had over twenty years of service and one single incident of discipline in their careers.
- Staff in the Chief Executive Office Employee Relations Division were aware of the settlement agreement negotiations and filed a Letter with ERCOM requesting that the Unfair Labor Practice charges, which were settled in the Settlement Agreement and Release, be withdrawn pursuant to the terms of the Settlement Agreement.
- The manner and procedure in which these cases were settled is a generally accepted method of resolving departmental operational specific labor disputes in the County of Los Angeles. These types of settlements are rarely, if ever, brought to the Board for approval.
- Approximately 25 employees are covered by the terms and conditions of the Settlement Agreement and Release but have not been promoted.



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