

LEGISLATIVE DIGEST

(First Draft - 5/24/2016)

[Charter Amendment - Independent Investigations Bureau in the Office of the District Attorney]

Describing and setting forth a proposal to the voters, at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to designate an Independent Investigations Bureau in the Office of the District Attorney as the primary agency to investigate criminal conduct arising out of critical incidents in the City involving officer-involved use of force, upon the District Attorney's establishment of the Bureau; to provide for development of a protocol between the District Attorney and Chief of Police to staff and coordinate the Bureau; and to establish the Independent Investigations Bureau Fund for the operation of the Bureau and require that an amount equal to 0.34% of the annual budgets of the Police Department and Sheriff's Department and funds for additional costs of the Bureau be allocated annually to the Fund, for so long as the District Attorney maintains the Bureau.

Existing Law

Charter section 6.103 defines the District Attorney's duties and includes the duty to investigate all allegations of violations of law that the District Attorney has the power to prosecute. Charter section 4.127 defines the Police Department's duties and includes the duty to preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California, and the City. Both the District Attorney and the Police Department share the duty to investigate possible criminal conduct arising out of law enforcement officers' use of force, including officer-involved shootings.

Amendments to Current Law

This Charter Amendment would amend Charter section 6.103 to designate an Independent Investigations Bureau ("Bureau") in the District Attorney's Office as the primary agency to investigate criminal conduct arising out critical incidents if the District Attorney elects to establish a Bureau provided that (1) the District Attorney notifies the Chief of Police, Police Commission, Board of Supervisors and the Mayor of the establishment of the Bureau and (2) either the District Attorney and the Chief of Police agree to a protocol governing the Bureau's investigations or, if there is no agreement, the City enacts an ordinance specifying the protocol. If the District Attorney establishes and provides notice of the Bureau and its protocol is developed either by agreement or through an ordinance enacted by the City, this Charter Amendment would prohibit the Police Department from investigating possible criminal conduct arising out critical incidents. The Charter Amendment would define critical incidents to include a law enforcement officer's use of force while on or off duty, and only in which one or more of

the following occurs: (A) a covered officer intentionally discharges a firearm at a person, (B) a covered officer unintentionally discharges a firearm at a person resulting in the death or great bodily injury of a person, (C) a person in the custody or control of a covered officer dies, including deaths following an arrest, detention, or foot or vehicle pursuit, or (D) a covered officer uses force on a person resulting in that person's death or great bodily injury. "Great bodily injury" and "firearm" are defined by reference to the Penal Code. This Charter amendment also would add Charter section 16.132 establishing the Independent Investigations Bureau Fund for the operation of the Bureau and require that an amount equal to 0.34% of the annual budgets of the Police Department and Sheriff's Department be allocated annually to this fund, for so long as the District Attorney maintains the Bureau and that additional costs to establish and operate the Bureau, subject to the Controller's approval, be appropriated by the Mayor and the Board of Supervisors.

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