

LEGISLATIVE DIGEST

[Charter Amendment - Sheriff Department Oversight Board and Inspector General]

Describing and setting forth a proposal to the voters at an election to be held on November 3, 2020, to amend the Charter of the City and County of San Francisco to create the Sheriff's Department Oversight Board to advise and report findings and recommendations to the Sheriff and the Board of Supervisors regarding Sheriff's Department operations; to create the Sheriff's Department Office of Inspector General, under the direction of an Inspector General appointed by the Oversight Board, to investigate complaints of non-criminal misconduct by employees and contractors of the Sheriff's Department and in-custody deaths, develop policy recommendations for the Sheriff's Department, and report quarterly its findings, results, and recommendations to the Sheriff and the Oversight Board.

Existing Law

The Sheriff is a state constitutional officer with duties and powers under state law. State law defines the Sheriff's powers in broad terms. Under state law, the Sheriff shall preserve the peace, and arrest and take before a local magistrate all persons who commit crime. The Sheriff is a peace officer and has all powers and responsibilities of a peace officer, including the power to arrest. In addition, state law requires that the Sheriff take charge of and be the sole and exclusive authority to keep the county jail and the prisoners in it.

State law grants to the Board of Supervisors the power and duty to supervise the official conduct of all county officers, including the Sheriff. However, state law places limits on the Board's power and duty to supervise the Sheriff. State law expressly prohibits the Board's obstruction or interference with the Sheriff's independent constitutional and statutorily designated investigative and prosecutorial functions. And the Board of Supervisors has no power to control the Sheriff in the performance of their duties under state law.

Amendments to Current Law

This proposal is a Charter amendment that would create the Sheriff's Department Oversight Board ("SDOB") and the Sheriff's Department Office of Inspector General ("OIG"). The OIG would be a department separate from the Sheriff's Department ("SFSD"). The Board of Supervisors would appoint four members, and the Mayor would appoint three members.

The SDOB would advise and make recommendations to the Sheriff and Board of Supervisors concerning SFSD operations and report its findings and recommendations, based in part on OIG investigations, quarterly to the Sheriff and the Board of Supervisors. Annually, the SDOB would prepare and present to the Board of Supervisors Public Safety and Neighborhood

Services Committee a summary of SDOB evaluations and outreach, and OIG reports submitted to SDOB, for the prior calendar year.

The OIG would receive, review and investigate complaints against SFSD, its employees and contractors, and other City employees serving persons in SFSD custody, investigate in-custody deaths, and recommend a SFSD use of force policy and a SFSD internal review process for use of force and critical incidents.

In carrying out their duties, both the SDOB and OIG could hold hearings, and subpoena witnesses and documents.

All City Departments, including SFSD, would be required to cooperate with the SDOB and OIG. But the proposal would not require the Sheriff to cooperate with any SDOB or OIG request or investigation if that request or investigation obstructed or interfered with the Sheriff's constitutional or statutorily designated duties.

The proposal would specify that OIG staff include no fewer than one investigator for every 100 sworn SFSD employees, and one attorney, and that no SDOB or OIG staff, including the Inspector General, have been employed previously by a law enforcement agency or a labor organization representing law enforcement employees.

Nothing in the proposal would prohibit, limit, or otherwise restrict the Sheriff from investigating the conduct of an employee or contractor of the SFSD, or taking disciplinary or corrective action permitted by City or State law.

The proposal also would not grant the SDOB or the OIG the authority to hire, fire, or discipline personnel in the SFSD, manage or operate the SFSD, issue directives to the Sheriff or any SFSD employee or contractor, or set policy for the SFSD. The proposal would authorize the SDOB and OIG only to advise and make recommendations to the Sheriff and Board of Supervisors concerning SFSD operations, complaints against employees and contractors of the Sheriff, and in-custody deaths.