

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Sophia Kittler, Liaison to the Board of Supervisors, Mayor's Office  
Anne Pearson, Deputy City Attorney, Office of the City Attorney  
John Arntz, Director, Department of Elections  
LeeAnn Pelham, Executive Director, Ethics Commission  
Paul Miyamoto, Sheriff, Sheriff's Department

FROM: Victor Young, Assistant Clerk, Rules Committee *Victor Young*  
Board of Supervisors

DATE: July 10, 2020

SUBJECT: CHARTER AMENDMENT INTRODUCED  
November 3, 2020 Election

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On July 9, 2020, the Board of Supervisors' Rules Committee amended the following Charter Amendment for the November 3, 2020, Election. This matter is being referred to you in accordance with Rules of Order 2.22.4.

### **File No. 200514**

**Charter Amendment (Third Draft) 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; at an election to be held on November 3, 2020.**

Please review and submit any reports or comments you wish to be included with the legislative file.

If you have any questions or concerns, please call me at (415) 554-7723 or email: victor.young@sfgov.org. To submit documentation, please forward to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Andres Power, Mayor's Office  
Rebecca Peacock, Mayor's Office  
Kanishka Cheng, Mayor's Office  
Patrick Ford, Ethics Commission  
Johanna Saenz, Sheriff's Department  
Katherine Johnson, Sheriff's Department  
Nancy Crowley, Sheriff's Department

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

2

3 **Describing and setting forth a proposal to the voters at an election to be held on November**

4 **3, 2020, to amend the Charter of the City and County of San Francisco to create the**

5 **Sheriff’s Department Oversight Board to advise and report findings and recommendations**

6 **to the Sheriff and the Board of Supervisors regarding Sheriff’s Department operations; to**

7 **create the Sheriff’s Department Office of Inspector General, under the direction of an**

8 **Inspector General appointed by the Oversight Board, to investigate complaints of non-**

9 **criminal misconduct by employees and contractors of the Sheriff’s Department and in-**

10 **custody deaths, develop policy recommendations for the Sheriff’s Department, and report**

11 **quarterly its findings, results, and recommendations to the Sheriff and the Oversight**

12 **Board.**

13

14 Section 1. The Board of Supervisors hereby submits to the qualified voters of the City

15 and County, at an election to be held on November 3, 2020, a proposal to amend the Charter of

16 the City and County by adding Section 4.137 and revising Section 15.105, to read as follows:

17 NOTE: **Unchanged Charter text and uncodified text** are in plain font.

18 **Additions** are *single-underline italics Times New Roman font*.

19 **Deletions** are ~~*strike-through italics Times New Roman font*~~.

20 **Asterisks** (\* \* \* \*) indicate the omission of unchanged Charter subsections.

21 **SEC. 4.137. SHERIFF’S DEPARTMENT OVERSIGHT.**

22 *(a) Establishment of Oversight Board.*

23 *(1) The Sheriff’s Department Oversight Board (“SDOB”) is hereby established.*

24 *The SDOB shall consist of seven members. The Board of Supervisors shall appoint four*

25

1 members (to Seats 1, 2, 3, and 4), and the Mayor shall appoint three members (to Seats 5, 6, and  
2 7). Seat 4 shall be held by a person with experience in labor representation.

3 (2) Members shall serve four-year terms, beginning at noon on March 1, 2021;  
4 provided, however, the term of the initial appointees to Seats 1, 3, and 5 shall expire at noon on  
5 March 1, 2023, whereas the term of the initial appointees to Seats 2, 4, 6, and 7 shall expire at  
6 noon on March 1, 2025.

7 (3) No person may serve more than three successive terms as a member. No  
8 person having served three successive terms may serve as a member until at least four years  
9 after the expiration of the third successive term. Service for a part of a term that is more than  
10 half the period of the term shall count as a full term; further, this subsection (a)(3) makes no  
11 distinction between the two-year terms referenced in subsection (a)(2) and four-year terms.

12 (4) Members may be removed from office only for official misconduct under  
13 Article XV.

14 (5) All members shall complete a training and orientation on custodial law  
15 enforcement, constitutional policing, and Sheriff's Department ("SFSD") policies and  
16 procedures, within 90 days of assuming office for their first term. The Sheriff or the Sheriff's  
17 designee shall prescribe the content of and shall administer the training and orientation  
18 regarding SFSD patrol and custodial law enforcement, policies and procedures. SFSD shall  
19 develop the training content based on guidelines recommended by the National Association of  
20 Civilian Oversight for Law Enforcement ("NACOLE") or successor association, the Bar  
21 Association of San Francisco or successor association, and/or the American Civil Liberties  
22 Union, and SFSD shall consult with the Department of Police Accountability, Public Defender,  
23 and the District Attorney in developing the training content.

24 (b) SDOB Powers and Duties. The SDOB shall:  
25

1 (1) Appoint, and may remove, the Inspector General in the Sheriff's Department  
2 Office of Inspector General ("OIG"), established in subsection (d).

3 (2) Evaluate the work of the OIG, and may review the Inspector General's  
4 individual work performance.

5 (3) Compile, evaluate, and recommend law enforcement custodial and patrol best  
6 practices.

7 (4) Conduct community outreach and receive community input regarding SFSD  
8 operations and jail conditions, by holding public meetings and soliciting input from persons  
9 incarcerated in the City and County.

10 (5) Prepare and submit a quarterly report to the Sheriff and Board of Supervisors  
11 regarding the SDOB evaluations and outreach, and OIG reports submitted to SDOB.

12 (6) By March 1 of each year, prepare and present to the Board of Supervisors or  
13 a committee designated by the President of the Board, an annual report that includes a summary  
14 of SDOB evaluations and outreach, and OIG reports submitted to SDOB, for the prior calendar  
15 year.

16 (c) In performing its duties, the SDOB may hold hearings, issue subpoenas to witnesses  
17 to appear and for the production of evidence, administer oaths, and take testimony.

18 (d) Establishment of Office of Inspector General. There is hereby established the  
19 Sheriff's Department Office of Inspector General ("OIG"), which shall be a department under  
20 the SDOB, and separate from the Sheriff's Department. The OIG shall be headed by the  
21 Inspector General, appointed by the SDOB as set forth in subsection (b)(1). The Inspector  
22 General shall be exempt from civil service selection, appointment, and removal procedures.

23 (e) OIG Powers and Duties. The OIG shall:

24 (1) Receive, review, and investigate complaints against SFSD employees and  
25 SFSD contractors; provided, however, that the OIG shall refer complaints alleging criminal

1 misconduct to the District Attorney, and refer complaints alleging violations of ethics laws to the  
2 Ethics Commission.

3 (2) Investigate the death of any individual in the custody of the SFSD. The OIG  
4 shall refer evidence of criminal misconduct regarding any death in custody to the District  
5 Attorney. Notwithstanding such a referral, the OIG may continue to investigate a death in  
6 custody unless OIG's investigation will interfere with a criminal investigation conducted by the  
7 District Attorney, or any law enforcement agency to which the District Attorney may refer the  
8 evidence of criminal misconduct.

9 (3) Recommend disciplinary action to the Sheriff where, following an  
10 investigation pursuant to subsection (e)(1) or (e)(2), the OIG determines that an employee's  
11 actions or omissions violated law or SFSD policy; provide notice of and a copy of the  
12 recommendation, the reasons for the recommendation, and supporting records, to the extent  
13 permitted by State or federal law, to the employee; and make available to the public any records  
14 and information regarding OIG's disciplinary recommendations to the extent permitted by State  
15 or federal law.

16 (4) Develop and recommend to the Sheriff an SFSD use of force policy and a  
17 comprehensive internal review process for all use of force and critical incidents.

18 (5) Prepare and submit a quarterly report to the Sheriff and the SDOB regarding  
19 OIG investigations that includes the number and type of complaints under subsection (e)(1)  
20 filed; trend analysis; the outcome of the complaints; any determination that the acts or omissions  
21 of an employee or contractor, in connection with the subject matter of a complaint under  
22 subsection (e)(1), or a death in custody under subsection (e)(2), violated law or SFSD policy; the  
23 OIG's recommendations, if any, for discipline; the outcome of any discipline recommendations;  
24 and the OIG's policy recommendations under subsection (e)(4).

1                   (6) Monitor SFSD operations, including the provision of services to incarcerated  
2 individuals, through audits and investigations, to ensure compliance with applicable laws and  
3 policies.

4                   (f) In performing its duties, the OIG may hold hearings, issue subpoenas to witnesses to  
5 appear and for the production of evidence, administer oaths, and take testimony. The OIG also  
6 may request and the Sheriff shall require the testimony or attendance of any employee of the  
7 SFSD.

8                   (g) Cooperation and Assistance from City Departments. In carrying out their duties, the  
9 SDOB and OIG shall receive prompt and full cooperation and assistance from all City  
10 departments, officers, and employees, including the Sheriff and SFSD and its employees, which  
11 shall, unless prohibited by State or federal law, promptly produce all records and information  
12 requested by the SDOB or OIG, including but not limited to (1) personnel and disciplinary  
13 records of SFSD employees, (2) SFSD criminal investigative files, (3) health information  
14 pertaining to incarcerated individuals; and (4) all records and databases to which the SFSD has  
15 access, regardless of whether those records pertain to a particular complaint or incident. The  
16 Sheriff also shall, unless prohibited by State or federal law, allow the OIG unrestricted and  
17 unescorted access to all facilities, including the jails. The SDOB and OIG shall maintain the  
18 confidentiality of any records and information it receives or accesses to the extent required by  
19 local, State, or federal law governing such records or information.

20                   In carrying out their duties, the SDOB and OIG shall cooperate and collaborate with  
21 organizations that contract with SFSD to provide legal services to incarcerated individuals.

22                   (h) Budget and Staffing. Subject to the fiscal, budgetary, and civil service provisions of  
23 the Charter, the OIG staff shall include no fewer than one investigator for every 100 sworn  
24 SFSD employees. No SDOB or OIG staff, including the Inspector General, shall have been  
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1 employed previously by a law enforcement agency or a labor organization representing law  
2 enforcement employees.

3 (i) Nothing in this Section 4.137 shall prohibit, limit, or otherwise restrict the Sheriff or  
4 the Sheriff's designee from investigating the conduct of an employee or contractor of the SFSD,  
5 or taking disciplinary or corrective action permitted by City or State law.

6 (j) Nothing in this Section 4.137, including but not limited to subsections (f) and (g), is  
7 intended to or shall be interpreted to abrogate, interfere with, or obstruct the independent and  
8 constitutionally and statutorily designated duties of the Sheriff, including the Sheriff's duty to  
9 investigate citizens' complaints against SFSD personnel and the duty to operate and manage the  
10 jails, the California Attorney General's constitutional and statutory responsibility to oversee the  
11 Sheriff, or other applicable State law. In carrying out their duties, the SDOB and OIG shall  
12 cooperate and coordinate with the Sheriff so that the Sheriff, the SDOB, and the OIG may  
13 properly discharge their respective responsibilities.

14  
15 **SEC. 15.105. SUSPENSION AND REMOVAL.**

16 (a) ELECTIVE AND CERTAIN APPOINTED OFFICERS. Any elective officer, and  
17 any member of the Airport Commission, Asian Art Commission, Civil Service Commission,  
18 Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors,  
19 Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal  
20 Transportation Agency Board of Directors, Port Commission, Public Utilities Commission,  
21 Recreation and Park Commission, Fine Arts Museums Board of Trustees, ~~Taxi Commission~~, War  
22 Memorial and Performing Art Center Board of Trustees, Board of Education or Community  
23 College Board is subject to suspension and removal for official misconduct as provided in this  
24 section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified  
25 person to discharge the duties of the office during the period of suspension. Upon such



1 suspension, the Mayor shall immediately notify the Ethics Commission and Board of  
2 Supervisors thereof in writing and the cause thereof, and shall present written charges against  
3 such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their  
4 next regular meetings following such suspension, and shall immediately furnish a copy of the  
5 same to such officer, who shall have the right to appear with counsel before the Ethics  
6 Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five  
7 days after the filing of written charges. After the hearing, the Ethics Commission shall transmit  
8 the full record of the hearing to the Board of Supervisors with a recommendation as to whether  
9 the charges should be sustained. If, after reviewing the complete record, the charges are  
10 sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the  
11 suspended officer shall be removed from office; if not so sustained, or if not acted on by the  
12 Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission,  
13 the suspended officer shall thereby be reinstated.

14 (b) BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD  
15 OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, SHERIFF'S  
16 DEPARTMENT OVERSIGHT BOARD, AND ENTERTAINMENT COMMISSION. Members of  
17 the Building Inspection Commission, the Planning Commission, the Board of Appeals, the  
18 Elections Commission, the Ethics Commission, the Sheriff's Department Oversight Board, and  
19 the Entertainment Commission may be suspended and removed pursuant to the provisions of  
20 subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's  
21 appointees and the appointing authority shall act in place of the Mayor for all other appointees.

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23 APPROVED AS TO FORM:  
24 DENNIS J. HERRERA, City Attorney

25 By: /S/ Jon Givner  
JON GIVNER, Deputy City Attorney

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