

SHERIFF OVERSIGHT BOARD AND OFFICE OF INSPECTOR GENERAL

MUNICIPAL ADVISORY COUNCIL PRESENTATION
OFFICE OF THE COUNTY COUNSEL

Government Code § 25303

Government Code § 25303 sets forth the authority of the Board of Supervisors over county officials, and the Sheriff specifically. It provides:

“The board of supervisors shall supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county, and particularly insofar as the functions and duties of such county officers and officers of all districts and subdivisions of the county relate to the assessing, collecting, safekeeping, management, or disbursement of public funds. It shall see that they faithfully perform their duties, direct prosecutions for delinquencies, and when necessary, require them to renew their official bond, make reports and present their books and accounts for inspection. (Emphasis added.)

This section shall not be construed to affect the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the sheriff and district attorney of a county. ***The board of supervisors shall not obstruct the investigative function of the sheriff of the county*** nor shall it obstruct the investigative and prosecutorial function of the district attorney of a county. ***[Emphasis added.]***

Nothing contained herein shall be construed to limit the budgetary authority of the board of supervisors over the district attorney or sheriff.”

AB 1185

- AB 1185 added Section 25303.7 to the Government Code, effective January 1, 2021.
- In concert with the Board's authority in Government Code Section 25303, AB 1185 authorizes the creation, either by board of supervisors' action or vote of county residents, of a sheriff oversight board and/or an office of the inspector general.
- AB 1185 grants subpoena powers to the chair of the sheriff oversight board and the inspector general.
- AB 1185 does not extend any new authority to the Board of Supervisors.

What Is the Role of an Oversight Board?

Government Code § 25303.7 defines the contours of the Sheriff Oversight Board:

- **To assist** the board of supervisors with its duties required pursuant to Section 25303 that relate to the sheriff.
- The members of the sheriff oversight board shall be **appointed** by the board of supervisors.
- The Oversight Board is comprised of **civilians** (i.e., not sworn or law enforcement personnel).
- The board of supervisors shall designate one member to serve as the **chairperson** of the board.
- The chair of the sheriff oversight board shall issue a subpoena or subpoena duces tecum whenever the oversight board deems it necessary or important to examine the following:
 - Any person as a witness upon any subject matter within the jurisdiction of the oversight board.
 - Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff's department.
 - Any books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff's department.
- Compliance with oversight board subpoenas is enforced by Superior Court action.

Limitations on Oversight Boards

AB 1185 (Government Code Section 25303.7) provides that:

“The exercise of powers under [section 25303.7] or other investigative functions performed by a board of supervisors, sheriff oversight board, or inspector general vested with oversight responsibility for the sheriff shall not be considered to obstruct the investigative functions of the sheriff.” (emphasis added)

It remains to be seen how courts may harmonize the above language with the following in Section 25303:

“This section shall not be construed to affect the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the sheriff and district attorney of a county. The board of supervisors shall not obstruct the investigative function of the sheriff of the county nor shall it obstruct the investigative and prosecutorial function of the district attorney of a county.”

What Is the Role of the Office of Inspector General?

- Government Code § 25303.7(c) defines the role of the Office of the Inspector General:

“To assist the board of supervisors with its duties required pursuant to Section 25303 that relate to the sheriff.”
- The inspector general shall have the independent authority to issue a subpoena or subpoena duces tecum whenever the inspector general deems it necessary or important to examine the following:
 - Any person as a witness upon any subject matter within the jurisdiction of the board.
 - Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff's department.
 - Any books, papers, or documents in the possession of or under the control of a person or officer relating to the affairs of the sheriff's department.
- Compliance with subpoenas is enforced by Superior Court action.

Sheriff Oversight Board

- ❑ **Creation** – Section 12(e) of the County of Alameda Charter authorizes the Board of Supervisors “to provide, by ordinance, for the creation of offices, boards and commissions other than those required by constitution and laws of the State, and for the appointment of persons to fill such offices, boards and commissions, and to prescribe their powers and duties and fix their compensation.” (emphasis added)
- ❑ **Code of Ordinances** – an ordinance would codify a new Chapter 2.134 establishing the “Alameda County Sheriff Oversight Board”.
- ❑ **Ordinance** – drafted based upon direction from Board of Supervisors on September 19, 2023, and June 18, 2024

Sheriff Oversight Board

Board of Supervisors' Direction for the Oversight Board (OB):

- Number of members - 9 members: 1 from each BOS District (1st Supervisorial District nominee may not be a resident of Dublin); 3 at-large nominated by an Advisory Selection Panel, one of the 3 must be from unincorporated area of County; and 1 at-large member nominated by Dublin City Council
- Term and term limits – 4-year terms, limited to 12 consecutive years (3 full terms)
- Stipends - \$100 per meeting up to \$1,200 per calendar year
- Eligibility requirements – resident of Alameda County; not an employee of the County or a law enforcement agency; no former ACSO employees; not adverse to County in litigation; not a mediator in a County matter.
- Removal – by majority vote of the Board of Supervisors (Admin. Code § 2.64.040)
- Training (mandatory) program – within 60 days after appointment
- Brown Act body? Yes, with public meetings at least monthly.
- Annual report to Board of Supervisors with independent evaluation every 3-years.
- The OB may have independent legal counsel.

Office of the Inspector General

- Code of Ordinances** – the draft ordinance would codify a new Chapter 2.135 establishing the “Alameda County Office of the Inspector General” or “OIG” and create the positions of Inspector General and Executive Director.
- Inspector General** – The Inspector General or “IG” is the executive officer of the OIG.
- Structure:**
 - The IG will be a County employee selected and appointed by the Board of Supervisors.
 - The IG reports directly to the Board of Supervisors and is subject to their direction and control.
 - Within the OIG is the position of Executive Director. The Executive Director is the liaison between the OIG and the Oversight Board.
 - The OIG may have independent legal counsel.
- Duties of the IG:**
 - Establish rules and regulations for the conduct of the OIG.
 - Supervise the employees of the OIG, including the Executive Director.
 - Establish a form and maintain a log for all complaints received.
 - Notify in writing any complainant of the disposition of their complaint.

Oversight Board Powers and Duties

- Review and make recommendations to the Board of Supervisors (BOS) and Sheriff on the Sheriff's Office's operational policies and procedures.
- Investigate, through the OIG, and make recommendations to the BOS and Sheriff on systemic sheriff-related issues or complaints.
- Review policy recommendations made by outside entities/individuals, at the request of the BOS or Sheriff, and report whether recommendations should be implemented.
- At the request of the BOS or Sheriff, serve as a mediator to resolve disputes between the Sheriff's Office and members of the community or organizations within Alameda County.
- Obtain community input and feedback on specific incidents involving the use of force, detention conditions, or other civil rights concerns.
- Convey to the BOS and Sheriff community complaints, concerns or positive feedback.
- Work with and assist the OIG in soliciting community input on issues investigated by the IG.

Oversight Board Powers and Duties

- Function as a bridge between the Sheriff's Office and the community.
- Must seek the input of the Sheriff prior to making recommendations to the BOS.
- Serve only in an advisory capacity to the BOS, without the authority to manage/operate or direct the activities of Sheriff's Office or county employees or contractors.
- Receive and consider requests for inspections of jail facilities operated by the Sheriff and direct the OIG to conduct such inspections.
- Not participate in or advise on Sheriff's Office disciplinary matters and transmit to the OIG and the Sheriff any complaint received by the Oversight Board.
- Not interfere with matters that are under active investigation by the Sheriff's Office.
- The Oversight Board is not authorized to take any action that affects the wages, hours, or working conditions of any county employee represented by a recognized employee organization, as defined in Government Code Section 3501(b).

OIG Powers and Duties

- Monitor the Sheriff's Office's detention and law enforcement operations; conditions of confinement, provision of health services, and use of force in the county jail; use of force in law enforcement operations; compliance with civil rights laws; and response to inmate/public complaints.
- Monitor matters relevant to county jail health services policies and procedures that directly affect the medical and behavioral assessment and treatment of inmates.
- Regularly conduct research and make policy recommendations to the BOS, the Sheriff, and the Oversight Board, all as determined by a BOS approved annual work plan.
- Periodically review use of force patterns, trends, and statistics, investigations of use of force incidents and allegations of misconduct, and disciplinary decisions.
- As it pertains to sworn personnel, monitor and review (but not interfere with) investigations of incidents involving: any shooting involving sworn personnel; any in-custody death; any duty-related incident resulting in a death or serious bodily injury; any incident in which uniformed personnel are under investigation for, or charged with, homicide, assault, kidnapping, or unlawful sexual behavior; or any incident in which sworn personnel are under investigation for, or are charged with, a crime or violation in which a use of force or threatened use of force is an element of the offense.

OIG Powers and Duties

- As it pertains to in-custody medical health services, monitor and review investigations involving any in-custody death; any duty-related incident during which results in death or serious bodily injury; or serious neglect of persons in the county jail as it pertains to their mental and physical health.
- Review the quality of audits and inspections conducted by the Sheriff's Office and conduct periodic audits and inspections consistent with professional guidelines for the conduct of such audits. Supplement and not supplant or interfere with internal auditing and monitoring conducted by the Sheriff's Office.
- Regularly communicate with the public, the Oversight Board, the BOS, and the Sheriff regarding the operations of the Sheriff's Office.
- Investigate specific incidents involving Sheriff's personnel, while not interfering with active investigations by the Sheriff's Office.
- Accept and consider complaints in evaluating policies and practices, developing recommendations, and making reports.

OIG Powers and Duties

- Refer complaints relating to specific conduct of sworn Sheriff's personnel to the Sheriff's Office.
- Recommend mechanisms to provide positive recognition and incentives to employees who perform duties in an exemplary fashion.
- Provide ombudsman services by functioning as a liaison with the public and advocating for citizens who file complaints with the OIG or Oversight Board. The ombudsman shall not participate in OIG investigations.
- Transmit to the Sheriff any complaint received by the OIG.
- Not interfere with matters that are under active investigation by the Sheriff's Office.
- Not take any action that affects the wages, hours, or working conditions of any county employee, represented by a recognized employee organization, as defined in Government Code Section 3501(b).

Next Steps

- ❑ July 23, 2024 -- BOS Regular Meeting – Introduction and First Reading of Ordinance
- ❑ Meet and Confer with Bargaining/Labor Unions
- ❑ Return to BOS for Second Reading after good faith bargaining concludes

QUESTIONS?
