

ORDINANCE NO. 2024-____

AN ORDINANCE ADDING CHAPTERS 2.134 AND 2.135 TO THE ALAMEDA COUNTY ORDINANCE CODE, ESTABLISHING THE ALAMEDA COUNTY SHERIFF OVERSIGHT BOARD, AN OFFICE OF INSPECTOR GENERAL, AND AN INSPECTOR GENERAL

WHEREAS, state law establishes in each county an elected sheriff with authority to preserve the peace and to participate in crime prevention, rehabilitation of persons convicted of crimes, and the suppression of delinquency; and

WHEREAS, state law mandates each sheriff to take charge of and be the sole and exclusive authority to keep the county jail and the prisoners in the county jail; and

WHEREAS, state law mandates that the board of supervisors supervise the official conduct of all county officers, including the elected sheriff, particularly as the functions and duties of county officials relate to the assessing, collecting, safekeeping, management, or disbursement of public funds; and

WHEREAS, each board of supervisors must see that county officials, including the sheriff, faithfully perform their duties and, when necessary, require them to make reports and present their books and accounts for inspection; and

WHEREAS, state law provides that the board of supervisor's oversight duties shall not be construed to affect the independent and constitutionally and statutorily designated investigative function of the sheriff and expressly prohibits the board of supervisors from obstructing the sheriff's investigative functions; and

WHEREAS, Section 13 of Article V of the California Constitution and Government Code section 12560 provide that the California Attorney General has direct supervision of sheriffs in the investigation, detection, prosecution, and punishment of crime in their respective counties; and

WHEREAS, state law also provides that nothing in the statutes recognizing the sheriff's independent authority shall be construed to limit the budgetary authority of the board of supervisors over the sheriff; and

WHEREAS, state law authorizes the board of supervisors to establish a sheriff oversight board and an office of the inspector general to assist the board of supervisors with its duties as they relate to the sheriff; and

WHEREAS, Section 12(e) of the Charter of the County of Alameda imposes upon the board of supervisors the duty to provide, by ordinance, for the creation of offices, boards and commissions, to appoint persons to fill such offices, boards and commissions, and to prescribe their powers and duties and fix their compensation;

NOW, THEREFORE, the Board of Supervisors of the County of Alameda hereby ordains as follows:

SECTION I

Chapter 2.134 of the Alameda County Ordinance Code is added as follows:

Chapter 2.134 – Sheriff Oversight Board

2.134.010 - Sheriff Oversight Board; At-Large Member Advisory Selection Panel.

- A. There is established an Alameda County Sheriff Oversight Board, referred to in this chapter as the “Oversight Board”.
- B. The Oversight Board shall consist of seven (7) members appointed by the board of supervisors. One member shall be selected from each of the five (5) supervisorial districts. Two (2) at-large members will be appointed by the board of supervisors from a pool of candidates nominated by an Advisory Selection Panel. Oversight Board membership should reflect the diversity of Alameda County.
- C. The board of supervisors shall establish a five (5) member Advisory Selection Panel with each member of the board of supervisors appointing one (1) member to the Advisory Selection Panel. The sole duty of the Advisory Selection Panel is to select and nominate individuals to serve as at-large members of the Oversight Board. The Advisory Selection Panel will provide a list of at least two (2) candidates for each vacant at-large Oversight Board position. If the Advisory Selection Panel fails to nominate eligible candidates within sixty (60) days of the occurrence of a vacancy, then the board of supervisors may fill the vacancy without a nominee from the Advisory Selection Panel.
- D. Each Oversight Board member may serve a term of four (4) years. No member may serve more than three (3) full consecutive terms unless the term limitation is waived by the board of supervisors. Initial terms shall be staggered by random selection, with four (4) members serving an initial term of four (4) years and three (3) members serving an initial term of two (2) years.
- E. Any vacancy on the Oversight Board shall be filled by the board of supervisors in the same manner as the original appointment. Any person appointed to fill a vacancy shall serve for the unexpired term of the member they succeed.
- F. Oversight Board members shall serve at the pleasure of the board of supervisors and may be removed at any time by a majority vote of the board of supervisors.
- G. The board of supervisors shall designate one (1) member of the Oversight Board to serve as chair. The chair shall serve as the Oversight Board’s liaison to the board of supervisors and the Inspector General (as established in Section 2.135.010).
- H. A majority of the members shall constitute a quorum and a majority vote of the members in attendance shall be required for the Oversight Board to act.
- I. Members of the Oversight Board shall be residents of Alameda, Santa Clara, San Mateo, Contra Costa, San Joaquin, and Stanislaus counties, or the City and County of San Francisco. No person may be a member of the Oversight Board if they are: a current employee of the County of Alameda; a current employee of a law enforcement agency; a former sworn employee of the Alameda County Sheriff’s Office; a party or their legal counsel in pending

litigation adverse to the County of Alameda; individuals serving as court appointed monitors in a matter involving the County of Alameda; or current contractors of Alameda County.

- J. The Oversight Board shall meet at least once each calendar month, at a time and location to be established by the Oversight Board. The Oversight Board shall hold an annual organizational meeting during the month of January. At each annual meeting, the Oversight Board shall elect a vice chair and such other officers as it deems appropriate.
- K. The Oversight Board shall, with the advice and assistance of county counsel, prepare and adopt rules and regulations for the conduct of its business.
- L. The Oversight Board shall comply with the Ralph M. Brown Act, the California Public Records Act, the Public Safety Officer's Procedural Bill of Rights, and all other applicable California and federal laws.
- M. Members of the Oversight Board shall be eligible to receive a stipend of one hundred dollars (\$100.00) for each meeting they attend, not to exceed a total of twelve hundred dollars (\$1,200.00) in any calendar year. The provision of a stipend triggers the obligation of Oversight Board members to comply with the ethics and sexual harassment training requirements in California Government Code sections 53235 and 53237.1.
- N. Members of the Oversight Board will be included in the county's conflict of interest code and expected to complete and file the California Fair Political Practice Commission (FPPC) Statement of Economic Interest (Form 700).
- O. Each Oversight Board member must complete a training and orientation program within sixty (60) days of appointment. Failure to complete the training may result in disqualification of the member. The training program should cover constitutional policing, including such topics as use of force, firearms, custody, patrol, and mental health issues. The program will be designed by the Office of Inspector General ("OIG") Executive Director in accordance with Section 2.135.050.C.
- P. The sheriff, or a senior ranking member of the sheriff's office, designated by the sheriff, may attend and participate in all meetings of the Oversight Board, but shall not have voting rights.

2.134.020 – Powers and Duties of the Sheriff Oversight Board.

The Oversight Board shall, on its own or at the request of the board of supervisors or the sheriff, without interfering with the sheriff's independent constitutional and statutory authority or the Attorney General's supervisory authority over the sheriff, including the sheriff's investigative functions:

- A. Review, analyze, and where appropriate solicit input, and make recommendations to the board of supervisors and the sheriff on the sheriff's office's operational policies and procedures that affect the community or make recommendations to create additional operational policies and procedures affecting the community and request a response from the sheriff to the Oversight Board's recommendation.
- B. Investigate, through the OIG established in Chapter 2.135, analyze, solicit input and make recommendations to the board of supervisors and the sheriff on systemic sheriff-related issues or complaints affecting the community.

- C. Review policy recommendations made by outside entities or individuals, at the request of the board of supervisors or the sheriff, or recommendations made in third party reports that in the judgment of the Oversight Board merit its analysis, and report to the board of supervisors or the sheriff whether recommendations should be implemented by the board of supervisors or the sheriff or, if the recommendations are being implemented, the status of implementation. The Oversight Board's reports shall contain an analysis supporting its recommendations and it shall seek the input of the sheriff before implementing or publishing reports.
- D. At the request of the board of supervisors or the sheriff, serve as a mediator to help resolve ongoing disputes between the sheriff's office and members of the community or organizations within Alameda County.
- E. Obtain community input and feedback on specific incidents involving the use of force, detention conditions, or other civil rights concerns regarding the sheriff's office, convey to the board of supervisors and the sheriff community complaints, concerns or positive feedback received by the Oversight Board, and, where appropriate, make recommendations.
- F. Work with and assist the OIG in soliciting community input and feedback on issues being investigated by the Inspector General.
- G. Function as a bridge between the sheriff's office and the community by providing the public an additional means of giving input to the sheriff, obtaining answers from the sheriff to community concerns about the sheriff's operations, practices and activities, bringing an additional perspective to the sheriff's office's decision-making to ensure a balance between the sometimes competing factors of ensuring public safety and constitutional, civil and human rights, and communicating community concerns to the sheriff.
- H. Seek the input of the sheriff prior to making recommendations to the board of supervisors.
- I. Serve only in an advisory capacity to the board of supervisors, and without the authority to manage or operate the sheriff's office or direct the activities of sheriff's office or county employees or contractors, including imposition of discipline.
- J. Receive and consider requests for inspections of jail facilities operated by the sheriff and direct the OIG to conduct such inspections.
- K. Not participate in or advise on sheriff's office disciplinary matters and transmit forthwith to the OIG and the sheriff any complaint received by the Oversight Board.
- L. Not interfere with matters that are under active investigation by the sheriff's office.
- M. 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).

2.134.030 – Subpoena Power; Confidential Information

- A. The board of supervisors authorizes the chair of the Oversight Board, with the advice of the county counsel, to issue a subpoena or a subpoena duces tecum in accordance with Sections 1985 to 1985.4 of the Code of Civil Procedure, as amended, when the Oversight Board deems it necessary or important to examine the following:
 - 1. Any person as a witness upon any subject matter within the jurisdiction of the Oversight Board.

2. Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff's office.
 3. 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 office
- B. Prior to issuing any subpoena, the Oversight Board shall make good faith efforts to obtain the required information on a voluntary basis and shall consider alternatives proposed by the holder of the information.
- C. The confidentiality of peace officer personnel records, inmate medical and mental health records, other protected health information of inmates, and all other privileged or confidential information received by the Oversight Board in connection with the discharge of its duties shall be safeguarded and maintained by the Oversight Board as required by law.
- D. The Oversight Board will work with county counsel to establish a process that enables the sharing of confidential information with appropriate county officials and entities in accordance with applicable law, when the Oversight Board determines that there is a need to share such information. Except as otherwise required by law, neither the Oversight Board nor any of its members shall disclose to any non-county entity or individual any confidential or privileged information.

2.134.040 - Cooperation and Assistance from County Agencies

The board of supervisors directs all officers and employees of the County of Alameda to cooperate with the Oversight Board in the lawful discharge of its duties and, to the extent permitted by law, promptly to supply copies of requested documents and records to the Oversight Board so that the Oversight Board may fully and properly perform its duties.

2.134.050 – Annual Report; Independent Evaluation

- A. The Oversight Board shall prepare and submit to the board of supervisors and make available to the public, subject to applicable privileges and protections, an annual report of the previous fiscal year. The annual report will be prepared and submitted no later than July 1 of each calendar year. The annual report shall contain background information about the Oversight Board, identify the Oversight Board members, and detail the activities of the Oversight Board during the previous fiscal year.
- B. At the end of the third year of the Oversight Board's creation and every three (3) years thereafter, the board of supervisors may undertake an independent third-party evaluation of the Oversight Board and oversight system, including the OIG, IG and Executive Director of the OIG. This evaluation should include a candid assessment of the strengths, weaknesses, successes, failures, and challenges of the Oversight Board and oversight system with recommendations for system improvement.

SECTION II

Chapter 2.135 of the Alameda County Ordinance Code is added as follows:

Chapter 2.135 – Office of Inspector General

2.135.010 – Office of the Inspector General; Inspector General

- A. There is established an Alameda County Office of the Inspector General, referred to in this chapter as the “OIG”. The OIG shall report to the board of supervisors and be subject to its direction and control.
- B. Establishment of the OIG does not change any reporting structures and the OIG shall not exercise administrative oversight or authority, or otherwise manage or direct operations of any county agency, department, office or entity subject to its monitoring.
- C. The executive officer of the OIG is the Inspector General, referred to in this chapter as the “IG”. The IG shall be selected and appointed by the board of supervisors.
- D. The board of supervisors shall determine, in consultation with the IG and the county administrator, the appropriate staffing of and budget for the OIG.

2.135.020 – Powers and Duties of the Office of the Inspector General.

The OIG shall, on its own or at the request of the board of supervisors or the sheriff, without interfering with the sheriff’s or Attorney General’s independent constitutional and statutory authority, including the sheriff’s investigative functions:

- A. Monitor the sheriff’s office’s detention and law enforcement operations, conditions of confinement in the county jail, the provision of health services in the county jail, the use of force in the county jail and in law enforcement operations, compliance with civil rights laws, and the sheriff’s office’s response to inmate and public complaints related to law enforcement, county jail operations, or conditions of confinement, including the provision of services to inmates and the conduct of employees, contractors, volunteers, and others who provide such services.
- B. Monitor matters relevant to county jail health services policies and procedures that directly affect the medical and behavioral assessment and treatment of inmates.
- C. Regularly conduct research and make policy recommendations to the board of supervisors, the sheriff, and the Sheriff Oversight Board (established in Chapter 2.134), all as determined by a board of supervisors approved annual work plan.
- D. Periodically review the sheriff’s office’s use of force patterns, trends, and statistics, the sheriff’s office’s investigations of use of force incidents and allegations of misconduct, and the sheriff’s office’s disciplinary decisions.
- E. As it pertains to sworn sheriff’s office personnel, the OIG shall monitor and review investigations of incidents, but shall not interfere with active investigations of the sheriff’s office, involving: any shooting involving sworn personnel, whether duty-related or not; any in-custody death; any duty-related incident during which, or as a result of which, a person dies or suffers serious bodily injury; any incident, whether or not duty-related, in which uniformed personnel are under investigation for, or charged with, homicide, assault, kidnapping, or unlawful sexual behavior; or any incident, whether duty-related or not, in which sworn personnel are under investigation for, or are charged by any jurisdiction with, a crime or violation in which a use of force or threatened use of force is an element of the offense.

- F. As it pertains to in-custody medical health services, monitor and review investigations involving any in-custody death; any duty-related incident during which, or as a result of which, a person dies or suffers serious bodily injury; or any serious neglect of persons in the county jail as it pertains to their mental and physical health.
- G. Review the quality of audits and inspections conducted by the sheriff's office and conduct periodic audits and inspections of the sheriff's office consistent with professional guidelines for the conduct of such audits. It is the intent of the board of supervisors that the OIG should supplement and not supplant or interfere with internal auditing and monitoring conducted by the sheriff's office.
- H. Regularly communicate with the public, the Sheriff Oversight Board, the board of supervisors, and the sheriff regarding the operations of the sheriff's office.
- I. Investigate specific incidents involving sheriff's office personnel when requested by, or with the authorization of, the sheriff, provided that the OIG investigation shall not interfere with matters that are under active investigation by the sheriff's office.
- J. Accept complaints, including anonymous complaints, and consider such complaints in evaluating policies and practices, developing recommendations, and making reports under this Chapter 2.135. The OIG shall inform the public of its policies and procedures regarding anonymous complaints.
- K. With the permission of the complainant (other than an anonymous complainant), refer complaints relating to specific conduct of sworn sheriff's personnel to the sheriff's office for action pursuant to Penal Code Section 832.5.
- L. Recommend mechanisms to provide positive recognition and incentives to employees who perform duties in an exemplary fashion (for example, proper and appropriate use of force, integrity, professionalism, and other matters that frequently may be the subject of complaints).
- M. Subject to available staffing and funding, perform the functions set forth in Section 2.134.020 subdivisions B (investigate systemic issues), F (community feedback), and J (jail inspections) when requested by the Sheriff Oversight Board.
- N. Provide ombudsman services by functioning as a liaison with the public and advocating for citizens who file complaints with the OIG or Sheriff Oversight Board. The ombudsman shall not participate in OIG investigations.
- O. Transmit forthwith to the sheriff any complaint received by the OIG.
- P. Not interfere with matters that are under active investigation by the sheriff's office.
- Q. 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).

2.135.030 – Powers and Duties of the Inspector General.

As executive officer of the OIG, the Inspector General shall

- A. In consultation with the county counsel, establish rules and regulations for the conduct of the Office of the Inspector General.

- B. Supervise the employees of the OIG, including the Executive Director.
- C. Establish a form and maintain a log for all complaints received, including the name, address, and telephone number of the complainant (unless anonymous) as well as a copy of the complaint and the date of referral to the sheriff's office and other relevant county agency or department head.
- D. Notify in writing any complainant of the disposition of their complaint.

2.135.040 – Subpoena Power; Confidential Information

- A. The board of supervisors authorizes the IG, with the advice of the county counsel, to issue a subpoena or a subpoena duces tecum in accordance with Sections 1985 to 1985.4 of the Code of Civil Procedure, as amended, when the IG deems it necessary or important to examine the following:
 - 1. Any person as a witness upon any subject matter within the jurisdiction of the OIG.
 - 2. Any officer of the county in relation to the discharge of their official duties on behalf of the sheriff's office.
 - 3. 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 office.
- B. Prior to issuing any subpoena, the IG shall make good faith efforts to obtain the required information on a voluntary basis and shall consider alternatives proposed by the holder of the information.
- C. The confidentiality of peace officer personnel records, inmate medical and mental health records, other protected health information of inmates, and all other privileged or confidential information received by the OIG and IG in connection with the discharge of their duties shall be safeguarded and maintained by the OIG and IG as required by law.
- D. The OIG and IG shall work with county counsel to establish a process that enables the sharing of confidential information with appropriate county officials and entities in accordance with applicable law, when it is determined by the IG that there is a need to share such information. Except as otherwise required by law, neither the IG nor the OIG shall disclose to any non-county entity or individual any confidential or privileged information.

2.135.050 – Executive Director

- A. There is within the Office of the Inspector General an Executive Director. The Executive Director shall be selected, on the advice and recommendation of the IG, and appointed by the board of supervisors. The Executive Director shall report to the IG.
- B. The Executive Director is responsible for providing technical and administrative support to the Sheriff Oversight Board, including acting as a liaison between the Oversight Board and the board of supervisors, the OIG, the sheriff's office, and the public; organizing, planning and coordinating Oversight Board activities; preparing reports for the Oversight Board; and, working with the IG to implement the directives of the Oversight Board.

C. In consultation with the IG, the Executive Director will design the training and orientation program required for members of the Oversight Board in Section 2.134.010.

2.135.060 - Cooperation and Assistance from County Agencies

The board of supervisors directs all officers and employees of the county to cooperate with the OIG and the IG in the discharge of their duties and, to the extent permitted by law, promptly to supply copies of requested documents and records to the OIG or IG so that the OIG and the IG may fully and properly perform their respective duties.

2.135.070 – Conformity with Applicable Law

- A. Neither the OIG, the IG, nor the Executive Director shall have any supervisory, administrative, managerial, operational, or other authority over the functions or personnel in the sheriff’s office or any other agency, department, or entity that is subject to monitoring.
- B. At no time shall the OIG, the IG, or the Executive Director interfere with the independent constitutional and statutory authority of the sheriff or the Attorney General, including the sheriff’s investigative functions. Notwithstanding any provision of this Chapter 2.135 to the contrary, all provisions of this Chapter 2.135 shall be interpreted to be consistent with this subsection and all applicable federal, state, and local laws, including the county Charter, governing such conduct, including provisions regarding the confidentiality of peace officer and health records.

SECTION III

Before the expiration of 15 days after its adoption by the Board of Supervisors, this ordinance shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of Alameda.

This ordinance was adopted by the Board of Supervisors of the County of Alameda, State of California, on the ___ day of _____, 2024, by the following called vote:

- AYES:
- NOES:
- EXCUSED:
- ABSTAINED:

President of the Board of Supervisors
County of Alameda, State of California

ATTEST:
Anika Campbell-Belton,
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM:
DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Andrea L. Weddle
Chief Assistant County Counsel

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