

# Independent Civilian Advisory Commission on the Sheriff's Office

- Regular Meeting -  
September 4, 2024



# Item 1: Roll Call



# Item 2: General Public Comment

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**General Public Comment** – *This item is reserved for persons wishing to address the Independent Civilian Advisory Commission on a topic within the jurisdiction of the Commission but that is not on the agenda. Public comments on matters on the agenda shall be heard at the time the matter is called.*

***The Commission may not discuss or take action on items not on the agenda.***



# Item 3: Presentation



## Introduction to Sheriff's Office Data Dashboard



# Item 4: Presentation



## On-Boarding Foundational Information: Laws Related to Oversight of the Sheriff's Office



# Oversight of the Sheriff's Office

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ICAC Meeting September 4, 2024

# Presentation Framework

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1. AB 1185 and Existing Models
2. Existing oversight by persons, organizations and public agencies
3. New legislation relevant to oversight

# AB 1185

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- Adopted 2020
- Effective 2021
- “Codified” in the Government Code



# AB 1185 (Authority)

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- Government Code 25303.7. (a) (1): Oversight Board

AND/OR

- Government Code 25303.7. (c) (1): Office of Inspector General

# Case study: Santa Clara

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- Not under AB 1185
- Created by Ordinance in 2018
- Contracted with “Inspector” in 2019 and services began in 2020.
- Monitors, reviews, makes recommendations
- Advised by an advisory commission

# Case study: Redwood City

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- Police Advisory Committee formed in 2021
- 11 Members
- No Subpoena power
- No inspector general
- Advisory to the Chief of Police
- Reviews policies and community concerns and receives and annual report

# Case Study: Sonoma

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- Not under 1185
- Now an Inspector General with Subpoena Power and
- Community Advisory Council
- Created in 2016
- Provided more authority in 2020 via a voter initiative
- Put on pause due to failure to meet and confer with unions
- Reached agreements with the unions in June 2022

# Existing Law/Entities Related To Oversight

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- Electors    Controller    Media
- BOS    Grand Jury    Coroner
- Sheriff    POST    US DOJ
- District Attorney    BSCC    Media
- CA Attorney General    Dept. of Health
- Judges and Lawyers (civil and criminal) (federal and state)

# Sheriff

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- Penal Code 832.5 requires Sheriffs to investigate complaints from members of the public and follow a publicly available policy. See [https://www.smcsheriff.com/sites/default/files/content\\_files/commendation\\_complaint.pdf](https://www.smcsheriff.com/sites/default/files/content_files/commendation_complaint.pdf)
- The Sheriff tracks all uses of force and looks for patterns of use
- The Sheriff has implemented a customer service survey for every person who has contact with her deputies in the field

# Policy 1011

## **1011.1 PURPOSE AND SCOPE**

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the San Mateo County Sheriff's Office. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

## **1011.2 POLICY**

The San Mateo County Sheriff's Office takes seriously all complaints regarding the service provided by the San Mateo County Sheriff's Office and the conduct of its members.

The San Mateo County Sheriff's Office will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this San Mateo County Sheriff's Office to ensure that the community can report misconduct without concern for reprisal or retaliation.

# Policy 1011

## **1011.3 PERSONNEL COMPLAINTS**

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of a San Mateo County Sheriff's Office policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be

considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the San Mateo County Sheriff's Office.



# Electors

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- Article XI Section 1 of the California Constitution requires that the County Sheriff be elected

# California Attorney General

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- Has direct supervisory responsibility and powers under the Constitution and State Law. Cal. Const., art. V, § 13.
- “The Attorney General has direct supervision over the sheriffs of the several counties of the state, and may require of them written reports concerning the investigation, detection, and punishment of crime in their respective jurisdictions. Whenever the Attorney General deems it necessary in the public interest the Attorney General shall direct the activities of any sheriff relative to the investigation or detection of crime within the jurisdiction of the sheriff, and may direct the service of subpoenas, warrants of arrest, or other processes of court in connection therewith.” Cal. Government Code Section 12560.
- Also investigates misconduct, both specific and systemic. See Cal. Civ. Code §52.3; See, e.g., <https://oag.ca.gov/news/press-releases/attorney-general-bonta-announces-stipulated-judgment-bakersfield-police>

# District Attorney

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- Right to review personnel files under Penal Code 832.7
- Is obligated to track and inform the defense whenever a witness officer has engaged in conduct that might be material to the defense. *Brady v. Maryland* 373 U.S. 83 (1963)
- Investigates potential criminal conduct by officers and prosecutes when the evidence supports it
- Investigates all deaths in the in the field not investigated by the Attorney General and all deaths in jail

# Coroner

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- Independently elected
- Investigates all causes of death for deaths involving law enforcement.  
Government Code 27491

# Controller

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- Independently Elected
- The Internal Audit Division conducts independent audits, evaluations, and analyses to assist County management to improve efficiency and effectiveness of programs and functions, and safeguard County assets and meet reporting requirements.

# Board of Supervisors

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- Supervises Conduct of County Officers. Government Code 25303
- Maintains a whistleblower program. See <https://www.smcgov.org/hr/whistleblower-program>
- Investigates allegations of serious misconduct of elected officials. Ordinance Code Chapter 2.04

# US DOJ

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- Brings enforcement actions against law enforcement agencies with a pattern and practice of civil rights violations under federal law. See, e.g.,
- <https://www.justice.gov/crt/us-v-city-los-angeles-consent-decree-introduction>
- Also investigates complaints against law enforcement. See, e.g., [www.ojp.gov/sites/g/files/xyckuh241/files/media/document/ca-10-ocr-0669.pdf](http://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/ca-10-ocr-0669.pdf)

# Commission on Peace Officer Standards and Training

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- Sets selection and training standards for peace officers (Penal code 13500, et seq.)
- Adopts Regulations (Title 11, Division 2 of the California Code of Regulations)



# Board of State and Community Corrections

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- Penal Code 6204, et seq.
- Regulates jails (Title 15, Division 1 Chapter, Subchapter 4)
- Conducts regular inspections
- Develops standards for selection and training of correctional officers

# Judges & Lawyers

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- The County is periodically sued for civil rights violations, which are handled by both the state and federal courts
- Private Defenders can and do also regularly raise allegations of unlawful arrest and force in criminal court. If found to be meritorious, those allegations are further investigated for discipline
- Inmates can and do bring court petitions for “habeas corpus” to challenge jail conditions, which are decided by the courts

# Grand Jury

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- Removed Sheriff in Santa Clara (Government Code 3060)
- Reports regularly on law enforcement oversight issues (see, e.g.):
- <https://www.sanmateo.courts.ca.gov/system/files/ripa.pdf>
- [https://www.sanmateo.courts.ca.gov/system/files/multilingual\\_access.pdf](https://www.sanmateo.courts.ca.gov/system/files/multilingual_access.pdf)
- [https://www.sanmateo.courts.ca.gov/system/files/body\\_camera.pdf](https://www.sanmateo.courts.ca.gov/system/files/body_camera.pdf)
- <https://www.sanmateo.courts.ca.gov/system/files/inmatewelfaretrustfund.pdf>

# Media

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- Public Records Act requests

# Significant New Oversight-Related Legislation

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- SB 2 (Decertification)
- SB 16 (Personnel Records)
- AB 748 (Video)
- AB 953 (Anti-discrimination)
- AB 1196 (Use of Force; tactics)
- SB 98 (Press Access)
- SB 519 (In-Custody Death Inspector)
- AB 48 (Use of Force; equipment)
- AB 481 (Equipment)
- AB 490 (Use of Force; tactics)
- AB 26 (Use of Force; policy)
- AB 1506 (Use of Force; AG review)
- AB 750 (Police Reports)
- AB 268 (Corrections Policies)

# SB 2: Peace Officer Decertification and more

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- Took Effect in 2022
- Provides for **independent review** of disciplinary investigations/decisions by the Sheriff's Office as well as **independent investigations** of complaints of misconduct
- Lots of components and this presentation will not cover all of them
- <https://post.ca.gov/sb-2>

# RIPA

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- Racial and Identity Profiling Act
- Sheriff began collecting data as required in 2022
- Sheriff began reporting data as required last year
- See <https://post.ca.gov/Racial-and-Identity-Profiling-Act>

# Transparency

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- SB 16 (makes disciplinary records involving serious misconduct public and much more)
- SB 748 (requires release of video re uses of force resulting in GBI or death)
- AB 98 (provides access to the press to enter closed areas during 1<sup>st</sup> Amendment activity)
- AB 481 (requires “Military Equipment” policies and Board Approval of purchase of “Military Equipment”)



# SB 519: Death Reviews

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- Took effect in July 2024
- Creates the position of Director of In-Custody Death Review
- Reviews all deaths occurring in the jail
- Requires Director to make recommendations to Sheriffs
- Requires Sheriff to respond to the recommendations publicly

# Use of Force

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- AB 26 (eff. 2022) (requirements of UOF policy)
- AB 48 (eff. 2022) (limits use of certain weapons to disperse a protest)
- AB 490 (eff. 2022) (prohibits techniques or transport methods with substantial risk of positional asphyxia)
- AB 1196 (eff. 2021) (prohibits carotid restraint)

# AB 1506

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- Required Attorney General review of certain Use of Force
- Took effect in July 2021
- See <https://oag.ca.gov/ois-incidents>

# Item 5: Commissioner and Liaison Announcements

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**All public comments should be sent to:**

**[ICACFeedback@smcgov.org](mailto:ICACFeedback@smcgov.org)**



# Item 6: Adjournment



Next meeting: September 18, 2024  
at the Regional Operations Center  
6:30 – 8:30 pm

