

FINAL TA August 22, 2024

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MARIN, STATE OF CALIFORNIA, ESTABLISHING THE CIVILIAN OVERSIGHT COMMISSION AND OFFICE OF INSPECTOR GENERAL FOR OVERSIGHT OF THE MARIN COUNTY SHERIFF'S OFFICE

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ORDAINS AS FOLLOWS:

SECTION 1. Findings

The Board of Supervisors makes the following findings:

1. Government Code § 25303.7 authorizes the Board of Supervisors to establish a sheriff oversight board and Office of Inspector General to assist the Board with its duties required under § 25303 that are related to the Sheriff.
2. The Marin County Civil Grand Jury released a report in June 2022 recommending that the Board of Supervisors should create a citizen oversight board to establish county oversight of the Marin County Sheriff's Office ("MCSO"), provide a forum for residents to share feedback regarding Sheriff operations in the community, and to build trust between the MCSO and the communities it serves.
3. Government Code § 25303 states that the Board of Supervisors shall supervise the official conduct of all County officers and see that they faithfully perform their duties.
4. Government Code § 25303 makes clear that its provisions shall not be construed to affect or obstruct the independent and constitutionally and statutorily designated investigative and prosecutorial functions of the MCSO and District Attorney.
5. After public process, including development of a Community Outreach Working Group, conducting public surveys and focus groups, holding meetings, and consulting with the Office of Equity, MCSO, and National Association for Civilian Oversight of Law Enforcement, the Community Outreach Working Group developed recommendations on a preferred oversight structure pursuant to Government Code § 25303.7.
6. The Board of Supervisors desires to establish an independent community oversight structure for the MCSO with the goal of cultivating trust, transparency, and accountability, based on a foundation of the best practices in civilian oversight and oversight models for other jurisdictions nationwide.
7. The Marin County Sheriff's Office is committed to partnering with Marin communities to provide leadership and excellence in public safety; how the Sheriff's Office provides those services is critical to its success and working closely with the community in identifying and solving problems facing the

community is essential to providing quality service.

8. The Board of Supervisors has determined that it is appropriate to establish a Civilian Oversight Commission and Office of Inspector General to accomplish the duties and responsibilities set forth below.
9. The Board of Supervisors is establishing the Civilian Oversight Commission to provide the public an opportunity to directly participate in the oversight process of the MCSO. The Civilian Oversight Commission's purpose is to initiate, build and maintain a trusting relationship between members of the public and the MCSO through transparent, respectful, just, and accountable oversight that is rooted in public safety, justice, and accountability. The Civilian Oversight Commission will work in collaboration with the MCSO and the Office of Inspector General to fulfill this purpose.
10. The Board of Supervisors is establishing the Office of Inspector General to promote a constructive, community-centered culture within the MCSO through reviewing its policies, procedures, and operations and making recommendations. The Office of Inspector General will work collaboratively with and administratively support the Civilian Oversight Commission. The Office of Inspector General will review, monitor, and recommend improvements to MCSO practices, policies, training, and procedures – including how the MCSO handles complaints.

SECTION 2. Chapter 2.37 of the Codified Ordinances of the County of Marin is hereby added to read as follows:

Chapter 2.37 - CIVILIAN OVERSIGHT COMMISSION AND OFFICE OF INSPECTOR GENERAL

Section 2.37.010 – Civilian Oversight Commission.

A Civilian Oversight Commission (hereinafter "COC") is hereby established as a Board of Supervisors Discretionary Committee. The COC shall assist in the oversight of the Marin County Sheriff's Office (herein after "MCSO"). The COC's assistance in this function is a delegation of such authority held by Board of Supervisors pursuant to Government Code §§ 25303 and 25303.7. In providing such assistance, the COC will collaborate with the Office of Inspector General (herein after "OIG") and may direct the OIG as is enumerated herein. The COC will also provide input in the hiring process of the Inspector General, and consult on performance evaluations of the Inspector General, as specified herein.

Section 2.37.020 – Duties and Powers.

The duties and powers of the COC shall be as follows:

1. With the advice, assistance, and support of the OIG, establish bylaws and a code of conduct that is consistent with County policy and to be reviewed and approved by the Board of Supervisors.

2. Participate in the interview process of Inspector General candidates and provide candidate feedback. The COC will provide feedback on the effectiveness of the OIG to the Office of the County Executive (OCE) for the purpose of the OCE's annual performance review of the Inspector General.
3. Establish, in collaboration with the OIG, an independent and accessible procedure for community member complaints regarding the MCSO (hereinafter "OIG Complaints") that will be forwarded to the MCSO for investigation.
4. Maintain confidentiality in accordance with all applicable laws, including the Public Safety Officer Procedural Bill of Rights Act.
5. In collaboration with the OIG, conduct ongoing community outreach and engagement with all communities within the County.
6. Subject to the Operational Agreement described in Section 2.37.110.16, receive and review completed peace officer complaint, misconduct, and use of force investigations to the extent allowed by law, this ordinance, and procedures established by the COC and OIG, and create public reports consistent with all applicable laws allowing for such disclosure, as well as this ordinance, and procedures established by the COC and OIG.
7. With the advice, assistance, and support of the OIG, develop and carry out a system and process to actively and continually monitor, report, and issue recommendations regarding MCSO compliance with all applicable policies, procedures, training, practices, and governing laws.
8. To the extent permitted by law, inform the public of the status of investigations into officer-involved shootings and use of force investigations.
9. Produce annual public reports detailing the COC's community engagement efforts and other work. All public reports shall disclose information regarding specific incidents or MCSO personnel only to the extent permitted by all applicable laws and protecting the confidentiality of complainants and witnesses.
10. Develop procedures to require updates from the MCSO as to all officer-involved shooting or use of force investigations, as permitted by law.
11. Direct the OIG to collect and analyze data or information required to fulfill the COC duties, and once received, publicly report data as permitted by all applicable laws governing such disclosure.
12. Upon a two-thirds vote of the body of the COC, issue a subpoena pursuant to all requirements in Government Code § 25303.7(b), to compel the production of information documents, or testimony when deemed necessary by the COC and related to the COC's powers and duties, to the extent permitted by law.
13. Recommend additional duties for the OIG to the County Executive.

Section 2.37.030 – Organization and Administration.

- 1. Meetings.** The COC shall meet at least once each quarter at a regularly established time and place unless modified at a prior public meeting or if a meeting needs to be cancelled due to a lack of a quorum. All meetings shall be public.
- 2. Composition.** The COC shall be composed of nine (9) members that are Marin County residents (“Commissioners”). The Board of Supervisors shall endeavor to broadly reflect and represent the diversity of residents of the County in their nominations, including varying ethnicities, race, sexual orientation, economic status, age, religion, citizenship status, housing/residence status, and lived experience with the criminal justice system, as well as demonstrated interest in civil rights, immigrant rights, disability rights/mental health, racial equity, social justice, and/or public safety in the county.
- 3. Qualifications.** Commissioners should have a demonstrated interest in public service and/or experience serving the community. The Board of Supervisors shall endeavor to appoint at least one (1), but no more than two (2) Commissioner(s) who shall have previous law enforcement experience. The Commissioner(s) with law enforcement experience must also meet the following criteria:
 - a.** They have not worked as a sworn law enforcement officer within the last four years, and they have not worked as a sworn law enforcement officer in Marin County within the last eight years.
 - b.** They have certified that they have never engaged in serious misconduct (as defined in Penal Code § 13510.8(b) or subsequent enactment) while serving as a sworn law enforcement officer.
 - c.** They have never been employed as sworn law enforcement in the Marin County Sheriff's Office.
- 4. Application and Appointment.**
 - a.** Five (5) of the nine (9) Commissioners shall be nominated and appointed by the Board of Supervisors, one for each supervisorial district. Residency shall be evaluated at the time of appointment only.
 - b.** Four (4) of the nine (9) Commissioners shall be appointed by the Board of Supervisors at-large.
 - c.** Upon appointment, commissioners shall take an oath of office and certify they have not been convicted of a serious and/or violent felony in the last ten years (as defined in Penal Code §§ 667.5 and 1192.7 or subsequent enactment).

5. **Appointment of Chairperson.** The Board of Supervisors delegates its authority to appoint one commissioner as Chairperson pursuant to Government Code § 25303.7(a)(2) to the COC.
6. **Term.** Initially, the Board of Supervisors shall appoint four (4) Commissioners in accordance with Section 2.37.030 4. b. to serve a three (3) year term, three (3) Commissioners to serve a two (2) year term, and two (2) Commissioners to serve a one (1) year term. Thereafter, all Commissioner terms shall be three (3) years. Commissioners may serve a maximum of two (2) consecutive terms.
7. **Stipend.** Stipends shall be paid to Commissioners in accordance with County policy.

Section 2.37.040 – Organization Training.

The COC shall establish, in collaboration with the OIG and MCSO, a required training curriculum to ensure Commissioners possess necessary expertise to carry out the COC's mandates. The COC shall work with the OIG and the MCSO to update the training requirements as needed to stay relevant with the changing landscape of law enforcement. Training is to be conducted by experts on the topics listed herein and by others knowledgeable about effective practices in civilian oversight of law enforcement. Training may include, but is not limited to, the following example topics:

1. Public meeting laws, including the Brown Act and the California Public Records Act, ethics, implicit and explicit bias, sexual harassment, and cultural competency.
2. De-escalation/non-escalation techniques and philosophy.
3. Rehabilitative and restorative justice principles.
4. Behavioral health diversion implementation plan.
5. MCSO operations, policies, practices and procedures, case management systems, and deputy training.
6. Relevant MCSO facts, such as patrol staffing, calls for service, and crime data/statistics.
7. Information specific to jail operations and conditions of confinement pursuant to the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution, the United Nations Standard Minimum Rules for the Treatment of Prisoners, and California Code of Regulations Title 15 Minimum Standards for Local Detention Facilities.
8. Law enforcement oversight, community policing, and constitutional principles of policing.
9. Public Safety Officers Procedural Bill of Rights Act, and other relevant state and local laws including those related to law enforcement personnel actions

(e.g., Penal Code § 832.7; Penal Code § 148.6).

10. Labor related meet and confer policy and process.
11. Ride-a-longs, jail visits, community police academies, re-entry simulations, and other equivalent immersive experiences.
12. The criminal justice process (detentions, bookings and arrest, interaction with Immigration and Customs Enforcement officials, etc.).
13. Trauma-informed approaches, healing practices, peace officer stress, and Mental Health First Aide.
14. Investigative techniques, data analysis and policy writing.
15. Training regarding interaction with and support of diverse communities.

Section 2.37.050 – Access to Information and Confidentiality.

1. **Access to Information.** The COC and Commissioners may only be provided and/or disclose (including disclosure in the form of reports to the public, whether written or verbal) confidential, privileged, or otherwise protected information or records (including peace officer personnel records and information and medical and mental health records and information) as is permitted by law, allowed through a process established by the COC in consultation with County Counsel's Office, and as necessary to fulfill its oversight functions. The COC and the OIG may not request and shall not be provided with an employee's photograph, home address, personal telephone number, personal email address, or medical records.
2. **Confidentiality.** The confidentiality of peace officer personnel records, medical and mental health records of incarcerated individuals, other protected health information, and all other privileged or confidential information received by the COC in connection with the discharge of its duties shall be safeguarded and maintained by the COC as required by law, including the Public Safety Officers Procedural Bill of Rights Act (Government Code § 3300 et seq.), Penal Code §§ 832.5 and 832.7 et seq., and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and as necessary to maintain any applicable privileges or the confidentiality of the information.
3. **Conflicts.** In the event of an actual or perceived conflict on a specific matter, the COC may recommend to the County Executive's Office that it contract with outside legal counsel to exclusively represent it on the specific matter, as necessary and in accordance with the COC's powers and duties.

Section 2.37.100 – Office of Inspector General

In order to fulfill its MCSO oversight functions, the OIG shall have access to information in the same manner as the Board of Supervisors has in its oversight functions pursuant to Government Code § 25303. The Inspector General shall be an at-will employee

of the County appointed by the County Executive, and the OIG will be within the County Executive's Office.

Section 2.37.110 – Duties and Powers.

The duties and powers of the Office of Inspector General shall be as follows:

1. Establish, in collaboration with the COC, an OIG Complaint process for complaints regarding the MCSO from sources both internal and external to MCSO, including privacy protections for complainants and a procedure for handling anonymous complaints. OIG Complaints will be forwarded to the MCSO for investigation.
2. Raising community awareness of the OIG Complaint process, including how to file a complaint.
3. Tracking the OIG Complaint process from submission to MCSO through completion of the investigation by the MCSO.
4. Performing ongoing analysis of complaint trends.
5. In collaboration with the COC, recommending changes to MCSO policy, practices, training, and procedures based upon evidence-based effective practices.
6. In collaboration with the MCSO Oversight Commission Sheriff liaison, develop procedures to ensure the OIG and COC are notified of all formal and informal complaints filed directly with the MCSO, with redactions as required by law.
7. In collaboration with the COC, conduct ongoing community outreach and engagement with all communities within the County.
8. Report to the COC regarding officer-involved shootings and use of force investigations, to the extent permitted by law.
9. Provide staff support to the COC, including staffing COC meetings and coordinating all required and specialized training for the COC.
10. Produce public reports no less than annually detailing the work of the COC and the OIG.
11. Develop a procedure to provide for the OIG's active and continual monitoring of the MCSO's compliance with all applicable policies, procedures, training, and/or practices, and governing laws, and issuing recommendations based thereon.
12. Initiate an independent investigation set forth in this ordinance.
13. Issue subpoenas, pursuant to Government Code § 25303.7(c)(2), to compel the production of information documents, or testimony when deemed necessary to

the OIG's oversight function and to the extent permitted by law. The person filling the Inspector General position shall sign the subpoena. The OIG shall develop procedures for compliance with any issued subpoena that shall comply with California law.

14. Conduct unannounced visits to the jail accompanied by the Sheriff's liaison or designee.
15. Develop procedures with the Sheriff's liaison for release of information, including body-worn camera footage.
16. In collaboration with the MCSO, develop an "Operational Agreement" which establishes procedures for the exchange of information between the OIG and MCSO regarding peace officer complaint, misconduct, and use of force from the time complaints are received through completion of investigations. The Operational Agreement, as well as all other COC and OIG policies and procedures required by this Ordinance, will be implemented in accordance with the meet and confer requirements of the Meyers-Milias Brown Act (Government Code section 3500 et seq.)

Section 2.37.120 – Access to Information and Confidentiality.

Consistent with the terms of the Operational Agreement, MCSO and all County departments, divisions, and programs shall cooperate with the OIG and promptly provide all information or records requested by the OIG, including, to the extent permitted by law, peace officer personnel records, medical and mental health records of incarcerated individuals, and related records as necessary for the OIG to carry out its duties. The OIG shall not have access to the employee's home address, personal telephone number(s), personal email address(es), medical records, social security number, banking information, or the names of the employee's spouse, domestic partner, parents, siblings, or any dependents.

The confidentiality of peace officer personnel records, medical and mental health records of incarcerated individuals, other protected health information, and all other privileged or confidential information received by the COC and OIG in connection with the discharge of its duties shall be safeguarded and maintained by the OIG as required by law, including the Public Safety Officers Procedural Bill of Rights Act (Government Code § 3300 et seq.), Penal Code §§ 832.5 and 832.7 et seq., and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and as necessary to maintain any applicable privileges or the confidentiality of the information, including keeping documents in locked file cabinets and electronic information and records in encrypted files.

The OIG shall establish a process that enables the sharing of confidential information with appropriate County officials and employees in accordance with applicable law, when it is determined by the OIG that there is a need to share such information. Except as otherwise required by law, the OIG shall not disclose any confidential information outside of the County.

Section 2.37.130 – Community Outreach

The OIG, with the assistance of the COC, is responsible for community outreach and engagement with the communities within the County, with an emphasis on those within the primary responsibility of the MCSO, including:

1. Conducting community surveys pertinent to oversight of MCSO.
2. Ensuring multilingual (to the same extent as the Marin Registrar of Voters must follow pursuant to the California Elections Code) and ADA accessible communications.
3. Providing relevant content and outreach materials on the COC's website.
4. Collaborating with the COC and County staff to provide a community forum to gather concerns pertinent to incident-specific MCSO actions when deemed necessary, as well as using other resources to conduct outreach.
5. Ensuring the community has access to and is educated about oversight and the complaint processes.

Section 2.37.200 – OIG Complaint Procedure

The COC and OIG each have a duty to jointly develop an independent and accessible procedure for community member complaints regarding the MCSO, referred to herein as OIG Complaints. The complaint procedure shall be an alternative to directly submitting a complaint through the MCSO's complaint procedure. The complaint procedure should consider incarcerated individuals and their families and/or representatives and anonymous complaints. This complaint procedure shall comply with all applicable laws with respect to notifying the MCSO of the complaint.

The OIG Complaint procedure shall include a process for accepting internal and external complaints regarding the MCSO, and procedures to keep complaints anonymous and/or confidential as needed. The complaint procedure shall include measures designed to protect the complaining party. The COC shall review, on an ongoing basis and in conjunction with the OIG, the effectiveness of this complaint process and propose adjustments as needed.

OIG Complaints relating to specific conduct of peace officers shall be referred, with notice to the complainant (unless such complaint is anonymous), to the MCSO for action pursuant to Penal Code § 832.5.

Section 2.37.210 – Independent Investigations

Subject to the Operational Agreement, upon review of a completed complaint investigation by the MCSO's Internal Affairs Department, the COC may determine that the completed investigation is deficient because additional information is necessary and/or that the completed investigation is insufficient. In such cases, the OIG, in consultation with designees of the COC, shall identify specific areas of concern and may take the following actions to the extent permitted by law:

1. Request additional information not originally contained in the complaint investigation file be forwarded to the OIG for review, and/or
2. Return the investigation to the MCSO's Internal Affairs Unit for further investigation of the allegations.

The MCSO shall provide the information within a reasonable amount of time as determined by the COC and OIG and/or complete the further investigation.

If the investigation is deemed deficient after being returned, the Inspector General can refer the matter to the COC. Upon review, the COC can, to the extent permitted by law and upon a two-thirds vote of the body, direct the OIG to work with the County Executive's Office to contract with an independent investigator to conduct an independent investigation, unless doing so would violate the time limits set forth in the Public Safety Officers' Procedural Bill of Rights Act. The independent investigator shall have the same access to information as the OIG. The independent investigation report shall be provided to the OIG and the OIG shall report to the COC the results, in accordance with all applicable laws.

Section 2.37.220 – Reporting

The OIG, with input from the COC, should develop a procedure to provide for the OIG's active and continual monitoring of the MCSO's compliance with all applicable policies, procedures, training, and/or practices, and governing laws, and issuing recommendations based thereon. This procedure shall include:

1. Reviewing MCSO's policies, procedures, training, and practices; auditing data patterns and trends from discipline issued by the MCSO for its peace officers; and monitoring MCSO facilities –including the jail – and addressing issues of concern to the community, MCSO, and the Board of Supervisors.
2. Reporting issues uncovered during monitoring of MCSO to the COC, and potentially providing recommendations.
3. Submitting recommendations to the MCSO and/or the Board of Supervisors after the COC has an opportunity to provide review and feedback.
4. Requiring the MCSO to respond to the recommendations with specificity and in writing within thirty (30) days from the date of submission to the MCSO.
5. In the event the OIG, COC, and MCSO are unable to resolve a disagreement regarding the recommendations, the parties will contact the County Executive to help resolve the issue, and the County Executive will notify the Board of Supervisors of unresolved issues as appropriate.

Additionally, the OIG and COC should produce public reports no less than annually detailing the work of the COC and the OIG, including, but not limited to: reviews completed, identified patterns and trends; recommendations for changes to policies, procedures, training, and/or practices; status updates on the implementation of any agreed upon changes to policies, procedures, training, and/or practices; community

engagement activities; data related to complaints received by the COC and MCSO; investigation outcomes, crime reports and statistics related to MCSO's jurisdiction, including but not limited to RIPA data; identified statistics or measures that may be relevant to MCSO oversight but are currently missing, unreported, or underreported; and trainings attended. County Counsel will review any public reports prepared by the OIG and/or COC prior to public release to ensure compliance with State laws, including but not limited to any privacy and/or confidentiality rights of employees.

Section 2.37.230 – Effectiveness Assessment

The OIG and the COC shall, in consultation with each other, jointly prepare a self-assessment of their effectiveness. The self-assessment shall be conducted initially at the end of the third (3rd) year of the establishment of the COC and OIG, and thereafter every five (5) years.

1. First, the County Executive's Office shall solicit community feedback regarding the COC and OIG.
2. Next, COC shall schedule a public meeting for the purpose of gathering additional feedback from the public for use in the self-assessment.
3. Then, the OIG and the COC shall jointly prepare a confidential draft self-assessment. The self-assessment should be detailed and include: (a) a candid assessment of the strengths, opportunities, successes, and challenges of the COC and OIG; (b) recommended revisions to the COC and OIG's responsibilities and/or authority; and (c) recommendations on improvements regarding oversight operations.
4. The draft self-assessment shall be submitted to the County Executive's Office and the Sheriff for review.
5. The COC and the OIG shall review any feedback from the County Executive, the results of the community feedback obtained, and Sheriff to finalize the self-assessment, submit it to the Board of Supervisors and release it to the public.

Section 2.37.300 – Conformity with Applicable Law

The COC and OIG shall not have any supervisory, administrative, managerial, operational, or other authority over the functions or personnel in any of the departments or entities that are the subject of its oversight. In addition, at no time shall the COC or OIG interfere with the independent constitutional and statutory authority of MCSO, including MCSO's investigative functions. Notwithstanding any provision of this Chapter to the contrary, all provisions of this Chapter shall be interpreted to be consistent with this subsection and all applicable federal, state, and local laws governing such conduct, and including provisions regarding the confidentiality of peace officer and health records.

Further, the Operational Agreement required by Section 237.110 (16) of this Ordinance, as well as all other COC and OIG policies and procedures required by this Ordinance, will be implemented in accordance with the meet and confer requirements of

the Meyers-Milias Brown Act (Government Code section 3500 et seq.).

Section 2.37.310 – Severability

This Chapter and all of its provisions are severable. Should any section, subsection, sentence, clause, phrase, or word of this Chapter be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the Chapter as a whole, or any portion thereof, other than the portion declared to be unconstitutional or invalid.