



COUNTY OF LOS ANGELES OFFICE OF INSPECTOR GENERAL

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INSPECTOR GENERAL

April 17, 2023

Re: Establishing an Office of the Inspector General for San Francisco

To whom it may concern,

I have been asked to speak on the matter of establishing an Office of the Inspector General for San Francisco and I am writing to share some thoughts to provide some background on my experience and perspective as to this subject.

To begin with, my opinions are my own. They do not represent the position of Los Angeles County or any of the officials in it. They are simply my thoughts based on my personal experience in this role which I hope may help you in setting up your office.

The use of inspectors general for law enforcement oversight at the local level is comparatively new. Historically they have been most used to avoid fraud and mismanagement of federal bureaucracies. Accordingly, San Francisco's plan to provide oversight of custody operations is closer to the federal model than what has been implemented in Los Angeles, where we oversee patrol operations, probation services, and occasionally other county functions, in addition to custody operations. This is an important distinction because there is at least a chance that the task you have set for your inspector general will be easier to accomplish than I imagine and some of what I have to say will be wrong. I hope that is the case.

In recent years, sheriffs have locked out two Inspectors General from access to jails. The first instance occurred in Sacramento. In that case, the inspector general issued a report the sheriff did not like, and his response was to bar the inspector general from the jails. This act was unlawful but was not countered by the Sacramento Board of Supervisors and the inspector general was ultimately removed. In Los Angeles the sheriff targeted me and other public officials for criminal accusations also due to reporting on the conduct of his department. Not long after, the state legislature passed Government Code section 25303.7, which significantly increased the authority of inspectors general in California. The Los Angeles sheriff locked me out of the jails shortly before being voted out of office after wide publication of a variety of misconduct, both of his department and of his own.

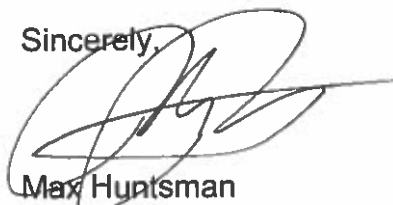
The role of an inspector general is to independently and precisely investigate and report upon management of an agency. This role requires expertise, determination, and governmental support. If one is missing, it is not likely to be successful.

As to expertise, I believe the salary you have selected for your inspector general is likely too low to attract the level of expertise most likely to help you succeed. For reference, the non-management lawyers in my office earn a comparable rate. It is possible you might find a committed expert willing to accept the salary, of course, but you will still need to staff the office with lower paid employees and ask the same sacrifice of them. Navigating the nuances of PREA compliance, constitutional mandates on conditions of confinement, statutory schemes regarding employee rights, and the newly emerging field of governmental law relating to inspectors general makes hiring a lawyer a wise default. A non-lawyer can certainly excel in the position with appropriate legal support, but the person chosen would need to have an exceptional skill set. Determination, a personal characteristic which can lead to independence even when a position is not officially independent as is the case under your charter, is particularly important for situations such as the lock-outs I described. Whistleblowers are never popular, and when you employ someone to be a perpetual whistleblower, you'll want someone with a stubborn streak if you want them to keep blowing the whistle loudly enough to warn you of problems. Otherwise, you will get what I have heard disparagingly referred to as "oversight theater": the appearance of oversight without real effect.

Finally, it is important to note that the inspector general you will be hiring will have little or no insulation from direct political retaliation for unpopular reports. Some experts have advocated a term in office for an inspector general to address this concern. In Los Angeles the inspector general is hired and fired by the Board of Supervisors, rather than a subordinate body, providing some insulation. As a comparison of the Sacramento lock-out and the Los Angeles lock-out shows, that may not be enough insulation. For your charter scheme to be effective it will be important to ensure that the process for selecting an inspector general itself is independent and thorough and that the elected and appointed officials overseeing this process remain committed to thorough and independent analysis.

I hope these thoughts are helpful and I look forward to answering any questions you may have next month.

Sincerely,

A handwritten signature in black ink, appearing to read "Max Huntsman", written over a circular scribble.

Max Huntsman
Inspector General

MH:sf