

Charter Language (Existing)

For the Chief of Police

Sec. 701.1 Qualifications for Chief of the Police Department.

Candidates for the office of Chief of Police shall meet the minimum eligibility and qualification requirements imposed by state law upon candidates for the office of sheriff. (Added by electors at an election held March 7, 2000, Charter Chapter 11 of the State Statutes of 2000)

Sec. 906 Chief of the Police Department.

The Chief of Police shall have power and be required to:

- (a) Preserve the public peace;
- (b) Execute and return all process issued to him/her by legal authority; and
- (c) Exercise all the powers that are now or may hereafter be conferred upon sheriffs and other police officers by the laws of the State. (Amended by electors at an election held March 7, 2000, Charter Chapter 11 of the State Statutes of 2000)

For the City Manager (Just Powers and Duties Related)

Sec. 802 Powers and duties.

The City Manager shall be chief executive officer and the head of the administrative branch of the City government. He/she shall be responsible to the City Council for the proper administration of all affairs of the City and to that end, subject to the personnel provisions of this Charter, he/she shall have power and shall be required to:

- (a) Appoint and remove, subject to the Civil Service provisions of this Charter, all officers and employees of the City, except as otherwise provided by this Charter, and except as he/she may authorize the head of a department or office to appoint and remove subordinates in such department or office. No person related to the City Manager by blood or by marriage shall be eligible for office or employment in the City.
- (b) Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption.
- (c) Manage the City-owned water and power departments in a business-like manner, charging equitable rates for the services furnished and building up the properties so as to conserve their

value and increase their capacity as needed by the City.

(d) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.

(e) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her desirable.

(f) Make investigations into the affairs of this City, or any department or division thereof, or any contract, or the proper performance of any obligation to the City.

(g) Submit to the City Council at each meeting for its approval, the list of all claims and bills approved for payment by him/her.

(h) Perform such other duties as may be prescribed by this Charter or required by him/her by the City Council, not inconsistent with this Charter. (Amended by electors at an election held March 7, 2000, Charter Chapter 11 of the State *Statutes of 2000*)

Sec. 803 Rules and regulations.

The City Manager may prescribe such general rules and regulations as he/she may deem necessary or expedient for the general conduct of the administrative offices and departments of the City under his/her jurisdiction. (Amended by electors at an election held March 7, 2000, Charter Chapter 11 of the State *Statutes of 2000*)

Sec. 804 Manager pro tempore.

The City Manager shall appoint, subject to the approval of the City Council, one of the other officers of the City to serve as Manager Pro Tempore during any temporary absence or disability of the City Manager.

Sec. 805 Participation in Council action.

The City Manager and such other officers of the City as may be designated by the City Council, shall be accorded a seat at the City Council table and shall be entitled to participate in the deliberations of the City Council, but shall not have a vote.

GRG Notes re Charter Language:

--For Chief

--This is pretty sparse language.

--Most notable omission: Doesn't say the elected Chief is the "Department Head" of the SCPD, although the titles of these Sections does say "Chief of the Police **Department**"

--Nothing to compare it to in other Charters, because we have the only elected Police Chief in the state

--Need to do research regarding what "powers" are conferred upon "sheriffs and other police officers by the laws of the State" but preliminary Westlaw research is provided below.

--For City Manager

--Need to discuss further with CMO

--I've already drafted some preliminary changes and tendered to CM for review.

Relevant City Code Provisions

Here's the language from the City Code re SCPD. Main provision that backs up the concept of the Chief of Police as the head of SCPD department is highlighted in yellow. I don't think the rest is that relevant for current purposes (or even accurate, just like the City Attorney's Office info is way off in its description of how the office is organized) but is provided for context.

Chapter 2.80 POLICE DEPARTMENT

§ 2.80.010 Organization generally – Chief of Police.

§ 2.80.015 Chief of Police – Compensation.

§ 2.80.020 Assistant Chief of Police placed in unclassified service.

§ 2.80.030 Field operations division.

§ 2.80.040 Investigations division.

§ 2.80.045 Special operations division.

§ 2.80.050 Administrative services division.

§ 2.80.051 Community service officer.

§ 2.80.060 State aid in training policemen, etc. – Standards to be followed, etc.

§ 2.80.070 Unclaimed property – Disposition generally – Notice and sale – Disposition of funds, etc.

§ 2.80.080 Military equipment policy.

§ 2.80.010 Organization generally – Chief of Police. [1]

The Police Department shall be under the direct supervision of the Chief of Police who shall be elected by the voters for a term of four years. The Police Department shall be organized into the divisions as provided in this chapter.

(Ord. 947; Ord. 1150 § 2, 10-11-1966; Formerly § 2-55)

[1]

Charter reference – Duties and powers of Chief of Police, Charter § 906.

§ 2.80.015 Chief of Police – Compensation.

Commencing on July 1, 2019, and every two years on July 1st thereafter, the compensation of the Chief of Police shall be set by a Salary Setting Commission consisting of five members to be appointed by the Civil Service Commission, as set forth in City Charter Section 702. The City Council shall take all necessary legislative action to implement the salary set by the Salary Setting Commission.

(Ord. 1988 § 1, 10-9-2018)

§ 2.80.020 Assistant Chief of Police placed in unclassified service.

The office of Assistant Chief of Police is hereby placed in the unclassified service of the Police Department of the City.

(Ord. 947; Formerly § 2-56)

§ 2.80.030 Field operations division.

The functions of the field operations division shall be under the immediate supervision of a police captain who shall be in the unclassified service. The duties and responsibilities of this division shall be as follows:

(a)

Suppression of criminal activity, responding to routine and emergency calls, investigation of criminal activities, recovery of stolen property, regulation of criminal and noncriminal conduct and the apprehension of offenders.

(b)

Accident investigation, reports for the correction of traffic hazards.

(c)

Enforce traffic laws, issuing citations.

(d)

Identify and attempt to resolve continuing issues, requiring police resources, that can be reduced or eliminated through problem-solving techniques, community involvement, and coordination of government services.

(Ord. 947; Ord. 1119; Ord. 1150 § 2, 10-11-1966; Ord. 1712 § 1, 3-10-1998; Formerly § 2-57)

§ 2.80.040 Investigations division.

The functions of the investigations division shall be under the immediate supervision of a police captain who shall be in the unclassified service. The duties and responsibilities of this division shall be as follows:

(a)

Investigating criminal complaints, interrogating suspects, apprehension of misdemeanants and felons, securing warrants, examining and presenting valid evidence to the courts in cooperation with the district attorney's office, and filing on the disposition of cases.

(b)

Insuring the proper tracking and service of all arrest warrants forwarded to the Police Department for action, and the prompt service of all witness subpoenas that are necessary to secure the attendance of named individuals in court for criminal cases.

(c)

Participate in County-wide task forces focusing on specialized problems such as auto theft, narcotics enforcement, high-tech investigations, sexual predators, and other community problems lending themselves to multi-jurisdictional involvement.

(Ord. 947; Ord. 1119; Ord. 1150 § 3, 10-11-1966; Ord. 1712 § 1, 3-10-1998; Formerly § 2-58)

§ 2.80.045 Special operations division.

The functions of the special operations division shall be under the immediate supervision of a police captain who shall be in the unclassified service. The duties and responsibilities of this division shall be as follows:

(a)

Manage and coordinate the police response to all significant special events in the city where a police presence is necessary to ensure safety, maintain order or prevent disruptions.

(b)

Provide oversight, training, and management to the department's Special Response Team, ensuring that the team remains ready and prepared to provide services as necessary.

(c)

Provide oversight, training, recruitment, and management to the Per Diem Police Officer Special Event classification, including maintenance of Peace Officer Standards and Training compliance records.

(d)

Liaison with federal, state and local law enforcement partners to gather intelligence and information on criminal activity. Ensure that intelligence information is used to enhance the safety and security of all persons and events.

(Ord. 1977 § 1, 2-20-2018)

§ 2.80.050 Administrative services division.

The function of the administrative services division shall be under the immediate supervision of a police captain who shall be in the unclassified service. The duties and responsibilities of this division shall be as follows:

(a)

Maintain a training program for the Police Department, assist as directed in the background investigation of new applicants.

(b)

Provide planning and research for the Police Department.

(c)

Properly keep and maintain criminal records, receive and file complaints, teletypes and all other material received by the Police Department pertaining to law enforcement and vehicle maintenance for the Police Department.

(d)

All radio and telephone communication for the Police Department.

(e)

Receive and account for all property coming into the possession of the Police Department, the booking and safe detention or transportation of all prisoners.

(f)

Assist all police personnel in the solution of crimes and supply information as requested by other members of the Police Department.

(g)

Execution and control of all process papers.

(h)

Provide a reception function for the public where they can receive assistance and make reports either by phone or in person.

(i)

Establish and maintain a crime prevention program and school services program.

(j)

Provide traffic control at major crosswalks or near school crossings, etc., by utilizing part-time adult crossing-guards, and organization of safety patrols and bicycle safety program.

(Ord. 947; Ord. 1119; Ord. 1150 § 2, 10-11-1966; Ord. 1712 § 1, 3-10-1998; Formerly § 2-59)

§ 2.80.051 Community service officer.

A "community service officer" is a non-sworn employee of the Police Department, authorized by the Chief of Police to:

(a)

Issue infraction citations for violations of the City Municipal Code and the **California Vehicle Code**; and

(b)

Issue misdemeanor citations for violations of the City Code when the employee has reasonable cause to believe that the person to be cited has committed a misdemeanor in their presence.

(Ord. 1733 § 3, 5-4-1999)

§ 2.80.060 State aid in training policemen, etc. – Standards to be followed, etc.

The City shall, in declaring that it desires to qualify to receive aid from the State under the provisions of Part 4, Chapter 1 (entitled "Commission on Peace Officer Standards and Training"), Section 13500 et seq. and Section **13522** of the Penal Code, adhere to the standards, recruitment and training established by the California Commission on Peace Officer Standards and Training while receiving such aid.

(Ord. 966; Formerly § 2-61)

§ 2.80.070 Unclaimed property – Disposition generally – Notice and sale – Disposition of funds, etc.

Any and all unclaimed property in the possession of the Police Department of the City of Santa Clara, except unclaimed bicycles, shall be held by the Police Department for a period of at least six months, and unclaimed bicycles shall be held by the Police Department for a period of at least three months, and thereafter such property will be sold at public auction to the highest bidder, and notice of such sale shall be given by the Chief of Police at least five days before the

time fixed therefor, by publication once in an official newspaper of said City. All funds realized from the sale of any such property shall be promptly paid to the Director of Finance for the general fund of the City.

(Ord. 654; Ord. 1071; Formerly § 2-62)

§ 2.80.080 Military equipment policy.

(a)

The City Council has made the following determinations:

(1)

The military equipment inventoried and presented to the City Council is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;

(2)

The proposed military equipment use policy ("policy") will safeguard the public's welfare, safety, civil rights, and civil liberties;

(3)

The equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety (if any);

(4)

Prior military equipment use complied with the applicable equipment use policy (which included equipment now defined as military equipment) that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(b)

The Police Department has submitted a proposed policy to the City Council and has made those documents available on the Police Department's website for at least 30 days prior to the public hearing concerning the military equipment at issue.

(c)

The policy was considered by the City Council as an agenda item in an open session of a regular meeting, noticed in accordance with the Ralph M. Brown Act, at which public comment was permitted.

(d)

The policy shall be made publicly available on the Police Department's website for as long as the military equipment is available for use.

(e)

The Police Department shall submit an annual military equipment report to the City Council, containing the information required in Cal. Gov't Code § 7072 (as that section may be amended or renumbered), and the City Council shall determine whether each type of military equipment identified in that report has complied with the standards for approval set forth in subsections **(a)(1)** through **(a)(4)** of this section.

(f)

The City Council shall review the ordinance codified in this section along with the annual military equipment report, and vote on whether to renew it on an annual basis at a regular meeting, by adoption of a written Resolution, in accordance with Cal. Gov't Code § 7071(e)(2) (as that section may be amended or renumbered).

(g)

The City Council approves the use of the policy, and finds that it satisfies the requirements of Cal. Gov't Code § 7070(d) (as that section may be amended or renumbered).

(Ord. 2042 § 1, 3-22-2022; Ord. 2084, 1/27/2026)

Preliminary Research Regarding Duties and Powers of Sheriffs and Police Officers

From Westlaw "Co-Counsel" Search. The following has not yet been analyzed by CAO. Relevant information is highlighted in yellow.

California law establishes comprehensive statutory frameworks governing the powers and duties of both sheriffs and police officers, with sheriffs' responsibilities primarily codified in the California Government Code and peace officer authority detailed in the California Penal Code. The sheriff's role is constitutionally mandated, while police officers derive their authority from municipal and statutory provisions.

Constitutional and Statutory Foundation for Sheriffs

The California Constitution requires each county to have an elected sheriff and mandates that the Legislature provide for county powers and an elected sheriff (West's Ann.Cal.Const. Art. 11, § 1)[1]. Sheriffs are enumerated as county officers under California Government Code Section 24000 (West's Ann.Cal.Gov.Code § 24000)[2]. The fundamental duty of sheriffs is set forth in Government Code Section 26600, which provides that "[t]he sheriff shall preserve peace, and to accomplish this object may sponsor, supervise, or participate in any project of crime prevention, rehabilitation of persons previously convicted of crime, or the suppression of delinquency" (West's Ann.Cal.Gov.Code § 26600)[3].

Peacekeeping and Law Enforcement Authority

Sheriffs possess broad authority to maintain order and enforce laws. Government Code Section 26604 grants sheriffs the power to "command the aid of as many * * * inhabitants of * * * the sheriff's county as he or she thinks necessary in the execution of his or her duties" (West's Ann.Cal.Gov.Code § 26604)[4]. The Attorney General exercises direct supervision over sheriffs and may require written reports concerning investigation, detection, and punishment of crime, and may direct sheriffs' activities relative to crime investigation or detection (West's Ann.Cal.Const. Art. 5, § 13)[5], (West's Ann.Cal.Gov.Code § 12560)[6].

Custody and Jail Management Responsibilities

California Government Code Section 26605 establishes that sheriffs have sole and exclusive authority to keep county jails and prisoners, stating that "the sheriff shall take charge of and be the sole and exclusive authority to keep the county jail and the prisoners in it" (West's Ann.Cal.Gov.Code § 26605)[7]. This authority is further detailed in Penal Code Section 4000, which provides that "[t]he common jails in the several counties of this state are kept by the sheriffs of the counties in which they are respectively situated" for purposes including detention of persons charged with crime and confinement of persons sentenced to imprisonment (West's Ann.Cal.Penal Code § 4000)[8].

Court-Related Duties

Sheriffs have mandatory court attendance obligations under Government Code Section 69922, which requires that "the sheriff shall attend all superior court sessions held within his or her county" except for noncriminal, nondelinquency actions unless the presiding

judge determines attendance is necessary for public safety (West's Ann.Cal.Gov.Code § 69922)[9]. Court security services provided by sheriffs include bailiff functions, patrolling hallways, and other security measures within court facilities (West's Ann.Cal.Gov.Code § 69922)[9].

Peace Officer Status and Authority

Penal Code Section 830.1 designates sheriffs, undersheriffs, and deputy sheriffs as peace officers whose authority extends to any place in the state for public offenses committed within their political subdivision or when in fresh pursuit (West's Ann.Cal.Penal Code § 830.1)[10]. Deputy sheriffs in certain counties performing custodial duties have peace officer authority extending statewide while engaged in their employment duties (West's Ann.Cal.Penal Code § 830.1)[10]. Reserve or auxiliary deputy sheriffs designated by local ordinance or resolution possess full peace officer powers and duties as provided by Section 830.1 when they qualify under specified training requirements (West's Ann.Cal.Penal Code § 830.6)[11].

Police Officer Powers and Duties

Police officers derive their authority from Penal Code Section 830.1, which establishes that chiefs of police and police officers appointed by chiefs of police are peace officers whose authority extends to any place in the state for public offenses committed within their employing political subdivision (West's Ann.Cal.Penal Code § 830.1)[10]. Municipal police departments may adopt policies regarding various law enforcement responsibilities, including protocols for officers' duties and mandated reporting requirements (West's Ann.Cal.Penal Code § 368.6)[12].

In summary, California law comprehensively defines sheriffs' and police officers' powers through constitutional provisions, Government Code sections addressing peacekeeping and jail management, and Penal Code provisions establishing peace officer status and statewide authority for law enforcement functions.

Commentary on This Question

In California, the powers and duties of sheriffs and police officers are governed principally by statutes within the Government and Penal Codes. Sheriffs generally serve as the chief law enforcement officers in their counties, with duties that include preserving the peace, enforcing criminal laws, investigating crimes, providing security for courts, serving warrants, and transporting prisoners. Although common law also informs a sheriff's authority, statutory provisions define and may modify their powers and responsibilities within their jurisdiction (70 Am. Jur. 2d Sheriffs, Police, and Constables § 31)[13]. Deputies and reserve officers may be appointed with peace officer powers, but these authorities are restricted to specific assignments or durations as authorized under Penal Code §§ 830.1, 830.6, and 832.6 (California Subpoena Handbook § 5:4)[14].

Police officers, whether employed by cities or counties, hold statutory peace officer powers to enforce laws and make arrests, including arrest authority without a warrant in certain circumstances (California Subpoena Handbook § 5:4)[14], (2 Wharton's Criminal Procedure § 23:21 (14th ed.))[15]. These powers extend to on-duty and, in some respects, off-duty conduct, where officers retain obligations to preserve public peace and protect lives continuously (70 Am. Jur. 2d Sheriffs, Police, and Constables §

31)[13]. Moreover, California's Government Code §§ 68096.1 to 68097.10 address the payment and regulation of witness fees for peace officers subpoenaed to testify, reinforcing their formal recognition as state officers with defined procedural and investigatory duties (California Subpoena Handbook § 5:4)[14].