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Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN MATEO**

13 SHERIFF CHRISTINA CORPUS, an individual,
14
15 Petitioner,
16
17 v.
18 COUNTY OF SAN MATEO BOARD OF
SUPERVISORS; MARK CHURCH, in his
19 official capacity as CHIEF ELECTIONS
OFFICER & ASSESSOR, and DOES 1-10,
20
21 Respondent.

Case No.: 25-CIV-00244
**PETITIONER'S BRIEF IN SUPPORT OF
WRIT OF MANDAMUS AND REQUEST
FOR INJUNCTIVE RELIEF**
Hearing Date: February 26, 2025
Time: 9:00 AM
Dept: 28
Judge: Nicole S. Healy

22 In advance of the February 26 hearing on the petition for writ, Sheriff Corpus submits this brief,
23 a declaration by Christopher R. Ulrich, and a compendium of evidence with the relevant exhibits for the
24 Court's consideration.
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1 **I. INTRODUCTION**

2 Measure A is the result of the Board of Supervisor’s unlawful actions against Sheriff Corpus,
3 and this Court can and should put a stop to it.

4 **II. PROCEDURAL HISTORY**

5 On December 13, 2024, Murphy, Pearson, Bradley, & Feeny (“MPBF”) is retained by San
6 Mateo County to represent Sheriff Christina Corpus. (Declaration of Christopher R. Ulrich (“Ulrich
7 Decl.”) ¶2.) Prior to December 13, 2024, San Mateo County Counsel was advising all of the parties in
8 this matter. (Ulrich Decl., ¶3.)

9 Sheriff Corpus filed her petition for writ and complaint on January 10, 2025.

10 **III. STATEMENT OF FACTS**

11 **A. Measure A: The Proposed Charter Amendment and the Board’s Overreach**

12 Unlike its neighbors to the north, San Francisco, and to the south, Santa Clara, San Mateo County
13 does not have a sheriff’s oversight agency, or another similar body that independently oversees the
14 sheriff. Supervisors Corzo and Mueller are trying to make themselves one. Instead, they have a biased
15 Board who are attempting to run roughshod on Sheriff Corpus and her rights.

16 **1. Timeline of the Board’s investigation**

17 The Board of Supervisor’s formal investigation into Sheriff Corpus began around July 10, 2024,
18 when they retained Judge Cordell to investigate Sheriff Corpus and her office. In their September 12
19 public statement, the Board stated, “we have commissioned Judge LaDoris Cordell to lead an
20 independent investigation into the numerous complaints brought forward by both sworn and professional
21 staff members of the San Mateo County Sheriff’s Office. This investigation is distinct and separate from
22 the ongoing inquiries into unfair labor practice complaints filed with the Public Employment Relations
23 Board.” (Exhibit 1, Board September 12, 2024, Statement.) Ever eager to lift themselves high while
24 disparaging Sheriff Corpus, in a September 23 statement, the Board stated, “[t]he San Mateo County
25 Board of Supervisors is committed to upholding due process and ensuring public trust in the County and
26 Sheriff’s Office. We remain committed to the ongoing investigation into the dozens of allegations made
27 regarding the Sheriff’s Office.” (Exhibit 2, Board September 23, 2024, statement.)

28 Around November 12, Judge Cordell submitted her report to the Board, and that day, the Board

1 made a public statement that Judge Cordell “sustained” several allegations against Sheriff Corpus.
2 (Exhibit 3, Board November 12, 2024, statement.) On November 13, the Board took a vote of no
3 confidence in Sheriff Corpus, demanded her resignation, and terminated the position of “executive
4 director of administration” in her office. (Exhibit 4, Board November 13, 2024, statement; Exhibit 5,
5 text of no confidence resolution.)

6 On November 19, 2024, the board voted unanimously to adopt an ordinance, later numbered
7 4899, calling a special election on March 4, 2025, for the purpose of amending the charter. (Exhibit 6,
8 audio/video recording of meeting; Exhibit 6A, transcript of recording.) The board voted unanimously at
9 the second reading on December 3, 2024. (Exhibit 7, audio/video recording of meeting; Exhibit 7A,
10 transcript of recording; Exhibit 8, Measure A.)

11 **2. Measure A**

12 Now titled, “Measure A,” the proposed amendment states:

13 The Board of Supervisors may remove a Sheriff from office for cause, by a four-fifths vote, after
14 a Sheriff has been:

- 15 (1) Served with a written statement of alleged grounds for removal; and
- 16 (2) Provided a reasonable opportunity to be heard regarding any explanation or
17 defense.

18 The proposed amendment is tailored to Sheriff Corpus, and it would sunset at the end of Sheriff
19 Corpus’ first term. Measure A reads, “Section 412.5 shall sunset and be of no further force and effect as
20 of December 31, 2028 unless extended by voters of San Mateo County.”

21 **3. The Board decided to set Measure A for the March 4, 2025, which is a small
22 election**

23 The Board set the vote on Measure A for March 4, 2025, and Measure A is the only measure on
24 the ballot San Mateo county ballot. There are seven other elections in California that date, and they are
25 nothing like Measure A. (Exhibit 9, California Secretary of State’s 2025 County Administered
26 Elections.)

27 **4. The Board’s authority to investigate and make changes**

28 The Board conducted its investigation into Sheriff Corpus on the authority of San Mateo County

1 Ordinance § 2.14.070 & 2.14.080. Section 2.14.070 directs the Board to receive employee or citizen
2 complaints against county employees where improper financial activity is alleged, and the ordinance
3 directs the District Attorney or County Counsel to receive complaints about other improper activity.
4 Section 2.140.080 details the process by which the Board may direct the County Counsel to plan and
5 conduct an investigation into the alleged misconduct.

6 **B. Supervisors Corzo and Mueller’s Bias: They Decided They Already Know All the Facts,
7 and They Have Decided What the Consequences Should Be**

8 A review of Supervisor Corzo and Mueller’s public statements made in advance of their
9 November 19 and December 3 votes show their bias. The recordings and transcripts of the November
10 19 and December 3 meetings leave no room for debate, and the Court should review that evidence.
11 Sheriff Copus includes some notable quotes here.

12 On November 3, Supervisor Corzo stated, “I think it’s important that every single member who
13 is concerned about this charter amendment and who has not read the report because if you have then you
14 would know that there are hard facts. There is clear evidence. There is documentation proving the
15 corruption that is happening right now in the sheriff’s office. Personally, I am a truth teller. I will say it
16 even when I disagree with others. I will say it even when it hurts.” (Exhibit 6, Exhibit 6A, 4:26-5:5.)

17 On December 3, Corzo stated,

18 So, I’d like to set the record straight on a few misconceptions that I’ve
19 heard in the community, specifically about the report. And I want to make
20 sure people understand that this is an independent human resources
21 investigation. As someone who served for many years on a school board,
22 I have seen many of these kinds of investigations done.

23 And I want to be really clear that these are not popularity contests. These
24 are not meant to be a platform for anyone being investigated, for anyone
25 to have their cheerleaders give character references. These kinds of
26 investigations are done to investigate serious allegations and then make
27 determinations based on credibility and facts about whether these kinds of
28 allegations are sustained, unfounded or even inconclusive.

29 And through the years, I have seen many of these kinds of reports
30 determine that there wasn’t enough evidence to determine whether
31 something was sustained or unfounded. And even, you know, as a board
32 member, as a school board member, I’ve seen these kinds of investigations
33 come back as inconclusive when personally I thought that the allegations
34 were credible and that the complainants were credible. But that’s not the
35 case here.

1 I have never in my seven years as an elected official seen an investigation,
2 first of all, that has 15 allegations that are being investigated. I want people
to understand how rare that is. That is not normal.

3 And I think it speaks to the level of severity of what is happening in our
4 sheriff's office. Twelve of the fifteen allegations were sustained. And I
5 also want to explain to the public that these kinds of investigations are not
necessarily required to be done by a former judge like we had in this
report.

6 (Exhibit 7, Exhibit 7A, at 2:22-3:12.)

7 For his part, on November 3, Supervisor Mueller stated,

8 And Supervisor Corzo, I highly respect you as a woman of color. So, I
9 actually, I know in my heart that's not the case, and I know if Judge
10 Cordell was here to defend her report, she also would make that case
strongly.

11 (Exhibit 6, Exhibit 6A, at 2:9-14.)

12 Mueller went on to say,

13 The homophobic slurs text that she went to great length to deny the day
14 we presented the report. We have the phone now, and we verified she sent
15 that text. It continues to strengthen as we go through all of the evidence
16 presented. The strength of that 400-page report is standing up. And I know
it's hard to accept. It's hard for us to accept. But we've had longer to do
so.

17 (Exhibit 6, Exhibit 6A, at 7:17-26.)

18 **IV. THE COURT'S AUTHORITY TO RULE**

19 **A. Basis for Petition for Writ**

20 "A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or
21 person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an
22 office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office
23 to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal,
24 corporation, board, or person." (Code Civ. Proc., § 1085.) "The writ must be issued in all cases where
25 there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon
26 the verified petition of the party beneficially interested." (Code Civ. Proc., § 1086).

27 This Court has jurisdiction to hear this writ of mandamus petition because Petitioner has no other
28 "plain, speedy, and adequate remedy" available to her in the ordinary course of law. (Code Civ. Proc.,

1 §§ 1068, 1085, 1086, and 1094.5, quoting § 1068.)

2 **B. The Court Has Authority To Enjoin the Chief Elections Officer From Issuing Ballots**
3 **That Include Measure A and Taking Any Further Actions To Hold the Election on**
4 **March 4, 2025**

5 The judiciary has long held the power to invalidate legislation where the legislature has exceeded
6 their grant of authority. (See *Fletcher v. Peck* (1810) 10 U.S. 87, 130.) (The Court doubted how far it
7 can inquire into the improper motives of legislatures when passing an act, but that was not the basis for
8 invalidating the law in question.) (“If the majority of the legislature be corrupted, it may well be doubted,
9 whether it be within the province of the judiciary to control their conduct, and, if less than a majority act
10 from impure motives, the principle by which judicial interference would be regulated, is not clearly
11 discerned.”)

12 A court may invalidate legislation when there is a constitutional, statutory or charter provision
13 prohibiting a local legislative body from exercising its legislative power. (*City and County of San*
14 *Francisco v. Cooper* (1975) 13 Cal.3d 898, 905.) (The Court noted the role of the electorate in reviewing
15 legislative judgment absent that authority.)

16 A court may properly grant a writ of mandate directing that an invalid measure not be put on an
17 election ballot. (*Senate of State of Cal. v. Jones* (1999) 21 Cal.4th 1142, 1146.) (*California Trial Lawyers*
18 *Assn. v. Eu* (1988) 200 Cal.App.3d 351, 355 abrogated on other grounds by *Lewis v. Superior Court*
19 (1999) 19 Cal.4th 1232.) “Preelection review is proper for challenges that go to the power of the
20 electorate to adopt the proposal in the first instance.” (*Legislature of State of California v. Weber* (2024)
21 16 Cal.5th 237, 252.) (See also *Hernandez v. County of Los Angeles* (2008) 167 Cal.App.4th 12, 23)
22 (where the Court did not question its authority when evaluating whether to grant a writ of mandamus to
23 prevent implementation a ballot measure proposing to amend the charter by the governing body).)

24 “The presence of an invalid measure on the ballot...will confuse some voters and frustrate others,
25 and an ultimate decision that the measure is invalid, coming after the voters have voted in favor of the
26 measure, tends to denigrate the legitimate use of the [process].” (*Weber*. at 253.) (Internal quotations
27 omitted.)

28 Other jurisdictions have clearly established a court’s authority to enjoin the submission of a
charter amendment to voters that conflicts with public law. (See *Board of Sup’rs of Elections of Anne*

1 *Arundel County v. Smallwood* (1990) 327 Md. 220, 247.) (“This court has consistently taken the position
2 that the submission to the voters of a proposed charter amendment, in conflict with public general law,
3 should be enjoined.”)

4 “Where it is proposed to hold an election for the submission of a measure to the popular vote,
5 and that measure will be wholly void and inoperative even if adopted by the people, the courts may, at
6 the instance of a resident taxpayer, enjoin the holding of the election upon the ground that it will be a
7 useless expenditure and waste of public funds.” (*Harnett v. Sacramento County* (1925) 195 Cal. 676,
8 683.)

9 California case law is clear that an election held on an unauthorized day is void and inoperative.
10 (*Atwell Island Water Dist. v. Atwell Island Water Dist.* (2020) 45 Cal.App.5th 624, 635 as modified (Feb.
11 27, 2020) (partially published).) Time is of the essence of every election, and requirements as to time
12 are mandatory. An election not held on the proper day is held without authority and is void.” (28
13 Cal.Jur.3d (2019) Elections, § 151, citing *People ex rel. Vesev v. Church* (1856) 6 Cal. 76, 78 [election
14 of county officers was void because held at a time not authorized by any law].) *Daniels v. Tergeson*
15 (1989) 211 Cal.App.3d 1204, 259 Cal.Rptr. 879 also confirms that elections held on improper dates are
16 void. (*Id.* at p. 1208, 259 Cal.Rptr. 879.) In that case, the court explained: “The effect of irregularities in
17 elections depends on whether the violated statute is mandatory or directory. A violation of a mandatory
18 provision vitiates an election. ... [¶] ... Provisions relating to the time and place of holding elections ...
19 are mandatory. (*Ibid.*)

20 Here, this Court has authority to grant the writ of mandamus directing that Measure A not be put
21 on the March 4, 2025 ballot because (1) the election timing requirements of Elections Code sections
22 1415 and 9255 are mandatory, the sections require setting the election on a statewide general election
23 date, and therefore the election is void; and (2) Measure A will be wholly void and inoperative even if
24 adopted because the bias in the quasi-judicial proceedings.

25 **V. ARGUMENT**

26 **A. The March 4, 2025 Election Is Invalid Because the Board Lacked Authority Under** 27 **Elections Code Sections 1415 and 9255 To Set the Vote on a Substantive Change to the** 28 **San Mateo County Charter on a Date Not Concurrent With a Statewide General Election**

California’s body of laws concerning elections—the statutory scheme of California Elections

1 Code and the Government Code, the California Constitution, the jurisprudence covering the state’s
2 compelling interest in widespread voter turnout in elections of statewide concern, and the recognized
3 role of counties as an agent of state policy—strongly supports interpreting sections 1415(a)(1) and
4 9255(b)(1) to require elections on amendments to county charters proposed by the county’s governing
5 legislative body to be held on statewide general election dates. (Elec. Code, §§ 1415(a)(1) and
6 9255(b)(1).) As discussed further below, the legislative intent of the bills amending sections 1415 and
7 9255 was to address attempts by a governing body to increase their own power through a charter
8 amendment without the voters’ approval. The pertinent Elections Code sections are as follows:

9 ***Elec. Code, § 1415:***

10 (a)(1) Except as provided in paragraph (2), a city or city and county charter
11 proposal proposed by the governing body of a city or city and county on its own motion
12 that qualifies pursuant to Section 9255 shall be submitted to the voters at the next
13 established statewide general election pursuant to Section 1200 occurring not less than
14 88 days after the date of the order of election.

13 ***Elec. Code, § 9255:***

14 (b) Except as provided in paragraph (2) of subdivision (a) of Section 1415, the
15 following city or city and county charter proposals shall be submitted to the voters at an
16 established statewide general election pursuant to Section 1200, provided there are at least
17 88 days before the election:

16 (1) A proposal to adopt a charter, or an amendment or repeal of a charter,
17 proposed by the governing body of a city or a city and county on its own motion.

17 ***Elec. Code, § 1200:***

18 The statewide general election shall be held on the first Tuesday after the first
19 Monday in November of each even-numbered year.

20 The plain text of Elections Code sections 1415 and 9255 both refer to “city or city and county.”

21 However, Government Code section 23722 conflicts with Elections Code sections 1415 and 9255 with
22 respect to when a county can set an election to amend its charter.

23 ***Gov. Code, § 23722:***

24 Upon the presentation of a petition, or upon its own submission of a proposal to
25 amend or repeal the charter, the governing body shall submit the amendment or
26 amendments proposed or the question of the repeal of the charter to the eligible registered
27 voters of *the county at a special election* held on the next established election date not
28 less than 88 days after the presentation of the petition, or submission of the proposal.

27 ***Elec. Code, § 356:***

28 “Special election” is an election, the specific time for the holding of which is not
prescribed by law.”

1 “In interpreting a statute, our primary goal is to determine and give effect to the underlying
2 purpose of the law. “(*Goodman v. Lozano* (2010) 47 Cal.4th 1327, 1332, *as modified* (Mar. 30, 2010).)
3 “Our first step is to scrutinize the actual words of the statute, giving them a plain and commonsense
4 meaning. If the words of the statute are clear, the court should not add to or alter them to accomplish a
5 purpose that does not appear on the face of the statute *or from its legislative history*” (*Id.*) (Internal
6 quotations omitted.)

7 However, ‘the “plain meaning” rule does not prohibit a court from determining whether the literal
8 meaning of a statute comports with its purpose or whether such a construction of one provision is
9 consistent with other provisions of the statute.’” (*County of San Bernardino v. City of San Bernardino*
10 (1997) 15 Cal.4th 909, 943, 64.) To determine the most reasonable interpretation of a statute, we look to
11 its legislative history and background. (*Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 543, 67.)

12 “The ‘plain meaning’ rule ... does not require courts to automatically adopt the literal meaning
13 of a statutory provision.” (*Rando v. Harris* (2014) 228 Cal.App.4th 868, 880-881.) Thus, where a literal
14 construction would frustrate the purpose of the statute, that construction is not adopted. (*Arias v. Superior*
15 *Court* (2009) 46 Cal.4th 969, 979 [nonliteral construction of Prop. 64 adopted based on evidence of
16 underlying purpose and voter intent]; *Bob Jones University v. United States* (1983) 461 U.S. 574, 586,
17 103 S.Ct. 2017 [a well-established canon of statutory construction provides that literal language should
18 not defeat the plain purpose of the statute].)” (*Riversiders Against Increased Taxes v. City of Riverside*
19 (2024) 104 Cal.App.5th 250, 260, *review denied* (Oct. 30, 2024).)

20 “Further, courts will not adopt a literal construction when it produces absurd consequences.” (*Id.*)
21 (citing *Woo v. Superior Court* (2000) 83 Cal.App.4th 967, 975, 100 Cal.Rptr.2d 156.)

22 When the plain reading of the text frustrates the intent of the legislation, the Court must look to
23 the broader structure of legislation. (*King v. Burwell* (2015) 576 U.S. 473, 475.)

24 In *King*, the plain reading of the statute did not include the words “or federal” in reference to
25 which exchanges allowed for tax credits. (*Id.* at 485.) The United States Supreme Court in *King* held that
26 the legislative intent of the statutory scheme took priority over a strict plain reading of the text. (*Id.* at
27 497.) (“In this instance, the context and structure of the Act compel us to depart from what would
28 otherwise be the most natural reading of the pertinent statutory phrase.”) The Court reasoned that had

1 the legislature intended to exclude the category in question, it would have prominently done so. (*Id.*)
2 (“Had Congress meant to limit tax credits to State Exchanges, it likely would have done so in the
3 definition of ‘applicable taxpayer’ or in some other prominent manner.”)

4 The *King* Court noted that even when “the meaning of the phrase...may seem plain ‘when viewed
5 in isolation’ such a reading turns out to be ‘untenable in light of [the statute] as a whole.’” (*King v.*
6 *Burwell* (2015) 576 U.S. 473, 497) (quoting *Whitman v. American Trucking Assns., Inc.* (2001) 531 U.S.
7 457, 468.) “But when read in context, “with a view to [its] place in the overall statutory scheme,” the
8 meaning of the phrase [in dispute] is not so clear. (*Brown & Williamson*, 529 U.S., at 133, 120 S.Ct.
9 1291 (internal quotation marks omitted).” (*King v. Burwell* (2015) 576 U.S. 473, 487.)

10 The Court continued [we] “must do our best, bearing in mind the fundamental canon of statutory
11 construction that the words of a statute must be read in their context and with a view to their place in the
12 overall statutory scheme.” (*King v. Burwell* (2015) 576 U.S. 473, 492.) The Court’s “duty after all, is to
13 construe statutes, not isolated provisions.” (*Id.* at 486.) The *King* Court acknowledged that even though
14 arguments for the plain-reading of the statute were strong, but the statutory scheme and context
15 compelled a different conclusion. (*King v. Burwell* (2015) 576 U.S. 473, 476.)

16 **1. The legislative intent of Elections Code sections 1415 and 9255**

17 In 1994, the California Legislature passed Senate Bill (“SB”) 1547, which along with SB 1200
18 in 1996, reorganized the Elections Code and established sections 1415 and 9255. (1994 Cal. Legis. Serv.
19 Ch. 920 (S.B. 1547) (1996 Cal. Legis. Serv. Ch. 1143 (S.B. 1200).)

20 In 2011, the California Legislature passed Assembly Bill (“AB”) 1344. AB 1344 amended
21 several sections of the Elections Code and the Government Code, including Elections Code section 9255.
22 Most crucially, section 10 of AB 1344, quoted below, demonstrates the Legislature’s intent for the
23 amended sections to apply to counties:

24 SEC. 10. The Legislature finds and declares that the fiscal integrity
25 and stability of local governmental agencies in this state, including charter
26 cities and charter counties, have a direct impact on the long-term well-
27 being of all the residents of this state. The likelihood of businesses locating
28 to or staying in the state is affected by the perception of a functioning,
transparent, and practical governmental structure in the local
governmental bodies in California. Therefore, the Legislature finds and
declares that to ensure the statewide integrity of local government, *the*
provisions of this act are an issue of statewide concern. Therefore, this

1 *act shall apply to all counties and cities, including charter counties,*
2 *charter cities, and charter cities and counties.”*

3 (2011 Cal. Legis. Serv. Ch. 692 (A.B. 1344).)

4 The legislature in particular was concerned with abuse of power by public officials including a
5 governing body amending its charter to increase its own power. (2011 Cal. Legis. Serv. Ch. 692 (A.B.
6 1344) (See Legislative Counsel’s Digest, § (1) “This bill would also require a proposal to adopt a charter,
7 whether submitted to the voters by a charter commission or the legislative body of a city or city and
8 county to include in the ballot description an enumeration of new city powers as a result of the adoption
9 of the charter, including, but not limited to, *whether the city council will, pursuant to an adopted*
10 *charter, have the power to raise its own compensation and the compensation of other city officials*
11 *without voter approval.”*)

12 The Legislative Counsel’s Digest, section (5) also demonstrates the intent of the legislature in
13 enacting AB 1344 to ensure that counties are protected from power grabs by their governing bodies:

14 “(5) The bill would express a legislative finding and declaration that, *to*
15 *ensure the statewide integrity of local government*, the provisions of the
16 act are an issue of statewide concern and that, therefore, *all counties and*
17 *cities, including charter counties*, charter cities, and charter cities and
18 counties, would be subject to the provisions of the bill.”

19 (2011 Cal. Legis. Serv. Ch. 692 (A.B. 1344).)

20 In 2013 Senate Bill 311 passed which amended Elections Code section 9255 again and along
21 with Elections Code section 1415 to require elections on substantive amendments to a charter proposed
22 by a governing body to be heard only at general statewide elections, which are those “held on the first
23 Tuesday after the first Monday in November of each even-numbered year.” (2013 Cal. Legis. Serv. Ch.
24 184 (S.B. 311); Elections Code § 1200.) Senator Padilla introduced SB 311, and its explicit purposes
25 was stated in part to:

26 *...eliminate the option* of submitting a city or city and county charter or
27 a proposal to amend or repeal a charter to the voters *at a statewide*
28 *primary or regularly scheduled municipal election* except for city or city
and county charter proposals to amend or repeal a charter that are proposed
by voter petitions, as specified, which the bill would require to be
submitted to the voters at the next regularly scheduled general
municipal election or at any established statewide general or statewide
primary election occurring not less than 88 days after the date of the order
of election.

(*Id.*)

The legislative history of arguments in support of SB 311 included the following:

1 It is clear that measures such as city charters that promote local
2 control should rightfully promote local voter participation in their
3 development and adoption. By putting these important measures before
4 the voters during statewide general elections, SB 311 will increase local
5 voter participation in the decision to adopt or reject a charter. By ensuring
6 voters are aware of and participate in the election to adopt a charter,
7 a city council is more likely to address issues of concern raised by voters
8 before the election.

9 (*Id.*)

10 **2. Legislative history of Government Code section 23722**

11 In contrast to Elections Code sections 1415 and 9255, Government Code section 23722 is a much
12 older statute that became operative “upon adoption by the people of Assembly Const. Amend. No. 29,
13 1969, at a special election consolidated with the primary election held on June 2, 1970.” Government
14 Code section 23722 became subordinated to SB 1546, which was another reorganization bill that was
15 made necessary by the renumbering under SB 1547. (1994 Cal. Legis. Serv. Ch. 923 (S.B. 1546) (“This
16 bill would declare that the changes made by this bill are necessitated by the reorganization of the
17 Elections Code by SB 1547 of the 1993–94 Regular Session.”))

18 Government Code section 23722 has not been amended since it was reorganized in 1994 as a
19 result of SB 1547, which established Elections Code section 9255. When viewed in this context, it is
20 apparent that Elections Code sections 9255 and 1415 were meant to be the controlling statutes, and
21 Government Code section 23722 was forgotten in the renumbering of the Elections and Government
22 Codes. The conflict between Government Code section 23722 and Elections Code sections 9255 and
23 1415 simply went unnoticed in the shuffle.

24 When viewed in the context of the legislative history, the legislative intent for the statutory
25 scheme for California election law becomes clear. The Legislature intended to require substantive
26 changes to county charters submitted by the governing body of a county to be held on statewide general
27 election dates, i.e., “the statewide general election shall be held on the first Tuesday after the first
28 Monday in November of each even-numbered year” as stated in Elections Code section 1200. The
Legislature knew that a general statewide election date will have a higher voter turnout; If a county board
of supervisors wanted to change the governing document that defined their authority, then the election
on such an important matter must be held on a date most likely to have the largest voter turnout.

1 **3. Statutory scheme of the Elections Code, the Government Code, the limited**
2 **autonomy of counties relative to cities, and the role of counties as a branch of state**
3 **policy all point to the inclusion of counties in Elections Code sections 1415 and**
4 **9255**

5 While the legislative history alone is enough to show that the legislature intended Elections Code
6 sections 1415 and 9255 to apply to counties, the entire statutory scheme of the California Elections Code
7 and Government Code evinces an intent by the California Legislature to correct a problem of state-wide
8 concern: substantially lower turnout in off-cycle elections. (See Elec. Code, div. 14, ch. 1.7 §§ 14050-
9 14057 (“VPRA”), California Attorney General Opinion No. 16-603, July 11, 2017, 100
10 Ops.Cal.Atty.Gen. 4 (2017); Stats. 2013, ch. 184, § 2; Elec. Code, §§ 1415, 9255, 9260 (“S.B. 311”);
11 Gov. Code, §§ 34457, 34458.)

12 “California’s off-cycle elections generally have a substantially lower voter turnout than its on-
13 cycle elections.” (100 Ops.Cal.Atty.Gen. 4, (2017), citing Berry & Gersen, *The Timing of*
14 *Elections* (Winter 2010) 77 U of Chi.L.Rev 37, 55 & fn. 66.) “In 2015, faced with the problem of
15 substantially lower voter turnout in off-cycle elections, the Legislature enacted the California Voter
16 Participation Rights Act (“[VPRA]”). (100 Ops.Cal.Atty.Gen. 4 (2017).) The VPRA requires any
17 “political subdivision” whose elections have a “significant decrease in voter turnout” to hold its elections
18 on a statewide election date. (Elec. Code, § 14052(a).) The VPRA defines “political subdivision” as “a
19 geographic area of representation created for the provision of government services, including, but not
20 limited to, a city, a school district, a community college district, or other district organized pursuant to
21 state law.” (Elec. Code, § 14051(a).)

22 “With certain exceptions, the powers and functions of the counties have a direct and exclusive
23 reference to the general policy of the state and are, in fact, but a branch of the general administration of
24 that policy.” (*Los Angeles County v. City of Los Angeles* (1963) 212 Cal.App.2d 160, 164.) Counties are
25 the primary political subdivision of the state responsible for carrying out elections. (Elec. Code, §
26 10509.)

27 The general policy of the State of California to increase voter turnout is supported by the principle
28 that “‘ultimately the people of the State of California’ are its ‘highest sovereign power.’” (*City and*
County of San Francisco v. Regents of University of California (2019) 7 Cal.5th 536, 560) (quoting

1 *Oakland Paving Co. v. Hilton* (1886) 69 Cal. 479, 514, 11 P. 3.)

2 The California Constitution, with respect to the treatment of counties, does not differentiate
3 between the treatment of consolidated city-counties and a standalone county. (See Cal. Const., art XI,
4 §§ 1 & 4.) A consolidated city-county has the powers and duties of both a city and a county making it
5 functionally equivalent to a county in its legal capacities, even though its structure might differ. (Cal.
6 Const., art XI § 6(b).) (“A charter city and county is a charter city and a charter county”) (Government
7 Code § 23004.)

8 A city has more autonomy than a county and a city’s powers supersede a county’s powers. (See
9 Cal. Const., art. XI, § 6.) (“*People v. Minor* (2002) 96 Cal.App.4th 29, 40) (“While charter cities are
10 granted broad authority over “municipal affairs,” there is no corresponding grant of authority and
11 autonomy over the ‘county affairs’ of charter counties.”) (“the “version of ‘home rule’ afforded to a
12 charter city is substantially more expansive” than that granted to charter counties.) (quoting *Dibb v.*
13 *County of San Diego* (1994) 8 Cal.4th 1200, 1207.)

14 Here, the inclusion of “city and county” in EC sections 1415 and 9255 clearly covers government
15 entities that are combined city and counties. With respect to its treatment under the law as applied
16 counties, a combined city and county is equal to any other county in the state. The legislature did not
17 find anything inherent in a county as a political subdivision of the state that would exclude counties from
18 the mandates of EC sections 1415 and 9255 when combined with a city.

19 As charter cities have more autonomy than counties, it is an absurd result to hold that a county
20 has the autonomy to set an off-cycle election amending its charter while a charter city lacks that same
21 autonomy under EC sections 1415 and 9255.

22 Like in *King*, the plain reading of Government Code has some appeal. However, like *King*, the
23 context and structure of the overall statutory scheme of the California Elections Code, the California
24 Constitution, the legislative intent of sections 1415 and 9255, and the state-wide and public interest in
25 high voter turnout –especially for elections substantively amending a political body’s governing
26 documents—compel interpreting EC 1415 and 9255 to apply to standalone counties in addition to city
27 and counties. To interpret otherwise leads to an incongruent result where counties are given more
28 autonomy than charter cities and a county, the largest subdivision of the state responsible for its

1 administration of its policy, is allowed to undermine the state’s interest in wide-spread voter turnout.

2 **B. Measure A Is the Result of the Board’s Quasi-Judicial Action, and Because Supervisors**
3 **Corzo and Mueller Are Biased, Measure Is Invalid**

4 There can be no reasonable debate that as currently made up, even if Measure A passes, the Board
5 cannot lawfully exercise it against Sheriff Corpus because Supervisors Corzo and Mueller are biased.
6 The procedure stated by both state law and Measure A itself requires the Board to act in a quasi-judicial
7 capacity, and because of their bias, Corzo and Mueller are disqualified. Thus, even if passed, the Board
8 will never attain the four votes needed to remove Sheriff Corpus from office. If this court denies this
9 petition for writ, and the voters pass measure A, Sheriff Corpus will brief this argument in full. In the
10 meantime, a similar analysis applies to the Board’s actions culminating in the December 3 vote. Leading
11 up to that vote, the Board elected to engage in a quasi-judicial process to investigate Sheriff Corpus and
12 then it exercised its discretion to vote on Measure A, and the Board should be held to the quasi-judicial
13 standard.

14 **1. The Board’s December 3, 2024, vote was not exclusively a quasi-legislative act, and**
15 **instead it was the culmination of a quasi-judicial proceeding against Sherriff**
16 **Corpus.**

16 Local legislatures wear many hats, sometimes acting in a quasi-legislative capacity, and
17 sometimes acting in a quasi-judicial capacity. (*Petrovich Development Company, LLC v. City of*
18 *Sacramento* (2020) 48 Cal.App.5th 963; *Beverly Hills Unified Sch. Dist. v Los Angeles County Metro.*
19 *Transp. Auth.* (2015) 241 Cal.App.4th 627, 670–671.) In *Petrovich*, the Court of Appeal explained,
20 “[m]ost of us think of city councils as legislative bodies. But city councils sometimes act in an
21 *adjudicatory* capacity, that is, they sit in a role similar to judges.” (*Petrovich, supra*, 48 Cal.App.5th 963,
22 citing to *Woody’s Group, Inc. v. City of Newport Beach* (2015) 233 Cal.App.4th 1012, 1021.)

23 A legislative body acts in its quasi-judicial capacity when it oversees “a proceeding in which by
24 law a hearing is required to be given, evidence is required to be taken, and discretion in the determination
25 of facts is vested in the inferior tribunal, corporation, board, or officer.” (Code Civ. Pro. § 1094.5.)

26 “Quasi-legislative acts involve the adoption of rules of general application on the basis of broad
27 public policy, while quasi-judicial acts involve the determination and application of facts peculiar to an
28 individual case. Quasi-legislative acts are not subject to procedural due process requirements while those

1 requirements apply to quasi-judicial acts regardless of the guise they may take....” (*Save Civita Because*
2 *Sudberry Won't v. City of San Diego* (2021) 72 Cal.App.5th 957, 983) (internal citation omitted).)

3 Here, this Board applied the specific facts of the allegations against Sheriff Corpus to make the
4 determination on December 3, 2024 that Measure A should be put on the ballot. Even a cursory review
5 of the transcripts of the December 3, 2024, hearing demonstrates this vote was about the specific facts
6 relating to Sheriff Corpus. The Board proposed Measure A specifically to target Sheriff Corpus. The
7 Sheriff’s name is brought up multiple times throughout the hearing. There is almost no discussion about
8 the broad public policy of amending the county’s charter.

9 While traditionally a board’s consideration and vote on an ordinance would be quasi-legislative,
10 this Board invoked its quasi-judicial authority under Section 2.14, and it engaged in a quasi-judicial
11 process, which lead up to and culminating in the December 3 vote. San Mateo County Ordinance 2.14
12 affords the Board with the authority to investigate Sheriff Corpus, and to take necessary steps to address
13 alleged improper activity, but it also imposes procedural rules on the Board consistent with a quasi-
14 judicial proceeding. Section 2.14 requires that evidence be taken, which the Board did, albeit suspect
15 and unreliable evidence. The Board then held two meetings where they invited testimony from Sheriff
16 Corpus, they then announced their findings on the facts, and then consistent with Section 2.14, they
17 voted to advance Measure A as a prophylactic measure against the conduct they allege. This was quasi-
18 judicial.

19 The fact that Measure A is tailored exclusively to Sheriff Corpus’ term in office further supports
20 this process being a quasi-judicial action. Measure A is unusual in that it would amend San Mateo’s
21 charter, but it would sunset at the end of Sheriff Corpus’ term. Nowhere did the Board discuss the concept
22 of general oversight of law enforcement or that office. Instead, the facts that the Board considered and
23 relied on when exercising their discretion were related exclusively to Sheriff Corpus and her
24 administration.

25 Significantly, the alleged evidence supporting the board’s findings and passage of Measure A is
26 the result of an investigation and findings sustained by a retired superior court judge. This was de facto
27 a judicial act. Contrary to the Board’s expected argument, this is not a case where the quasi-judicial
28 “attributes of the proceeding” were superfluous, and not required by law. (*See Beverly Hills Unified Sch.*

1 *Dist. v Los Angeles County Metro Transp. Auth.* (2015) 241 Cal.App.4th 627.) Sure, to pass an ordinance,
2 the Board did not *need* to take evidence or exercise its discretion on the facts, but the Board did so, and
3 once they invoked Section 2.14, the Board was required to do so.

4 **2. Supervisors Corzo and Mueller’s bias is patent and obvious, and the Board’s**
5 **December 3, 2024, vote is invalid.**

6 When legislators act in their quasi-legislative capacity, their motive, bias, and even corruption
7 may be irrelevant to whether the legislation is lawful; instead, the legality of the legislature is evaluated
8 by the text. (See *City and County of San Francisco v. Cooper* (1975) 13 Cal.3d 898; *Fletcher v. Peck*
9 (1810) 10 U.S. 87.) However, when legislators are acting in their quasi-judicial capacity, they must
10 comport themselves like judges, and biased legislators are disqualified from participating. (*Petrovich,*
11 *supra*, 48 Cal.App.5th 963, citing to *Woody’s Group, Inc. v. City of Newport Beach* (2015) 233
12 Cal.App.4th 1012, 1021.) When functioning in a quasi-judicial capacity, legislators must be “neutral and
13 unbiased.” (*Woody’s, supra*, 233 Cal.App.4th at p. 1021, quoting *BreakZone Billiards v. City of Torrance*
14 (2000) 81 Cal.App.4th 1205, 1234.) “Allowing a biased decision maker to participate in the decision is
15 enough to invalidate the decision.” (*Woody’s, supra*, 233 Cal.App.4th at p. 1022.)

16 The law does not require proof of actual bias, but there must not be an unacceptable probability
17 of actual bias on the part of a municipal decision maker. (*Petrovich, supra*, Cal.App.5th at p. 973, quoting
18 *Woody’s, supra*, 233 Cal.App.4th at p. 1022.) However, “a party seeking to show bias or prejudice on
19 the part of an administrative decision maker [must] prove the same with concrete facts.” (*BreakZone,*
20 *supra*, at p. 1237.)

21 Here, Supervisors Corzo and Mueller’s bias is patent and obvious, and the Board’s December 3,
22 2024, vote is invalid. They have made up their minds about the facts and the appropriate remedy, and
23 they cannot serve as finders of the fact, or of the appropriate remedy, if any. The universe of evidence is
24 limited to their public statements, and Sheriff Corpus encourages the Court to consider it in detail.

25 **C. Even If the Board’s Decision Vote to Advance Measure A to the Ballot Was Quasi-**
26 **Legislative, Supervisors Corzo and Mueller’s Bias and Blind Reliance on Judge Cordell’s**
Findings Render It Invalid

27 While a petition for writ from a quasi-judicial action is governed by Code of Civil Procedure §
28 1094.5, a petition for writ from a legislative action is governed by traditional mandamus, pursuant

1 Section 1085. A court reviews the legislature’s actions by the arbitrary and capricious standard. (*State*
2 *Bd. of Chiropractic Examiners v. Superior Court* (2009) 45 Cal.4th 963, 977.)

3 Here, if the Court disagrees that Section 1094.5 applies, it should find that the Board acted
4 arbitrarily and capriciously when it voted to advance Measure A because Supervisors Corzo and Mueller
5 were biased, and had already made up their minds.

6 **D. As a Sworn Peace Officer, Sheriff Corpus Was Entitled to Due Process, Including an**
7 **Administrative Appeal, Before the Board Took the Punitive Action of Voting to Advance**
8 **Measure A to the Ballot**

9 Peace officers, including elected sheriffs, are entitled to the protections of the Public Safety
10 Officers Procedural Bill of Rights Act (“PSOPBRA”) before punitive action is taken. (Government Code
11 § 3300 et seq.; Penal Code § 830.1.) The legislature’s express findings when passing the PSOPBRA
12 were that “the rights and protections provided to peace officers under this chapter constitute a matter of
13 statewide concern [and] that effective law enforcement depends upon the maintenance of stable
14 employer-employee relations, between public safety employees and their employers.” (Gov. Code §
15 3301.) Critically, Section 3304(b) states, “[n]o punitive action, nor denial of promotion on grounds other
16 than merit, shall be undertaken by any public agency against any public safety officer who has
17 successfully completed the probationary period that may be required by his or her employing agency
18 without providing the public safety officer with an opportunity for administrative appeal.”

19 For many of the same reasons that Measure A is invalid because it was the culmination of a quasi-
20 judicial proceeding and Supervisors Corzo and Mueller are biased, it also is invalid because the Board
21 has denied Sheriff Corpus her PSOPBRA rights. By voting affirmatively on December 3, the Board took
22 a punitive action against Sheriff Corpus, and she has not been afforded an administrative appeal.

23 **1. The Board’s punitive actions**

24 A *punitive action* “means any action that may lead to dismissal, demotion, suspension, reduction
25 in salary, written reprimand, or transfer for purposes of punishment.” (Gov. Code §§ 3304 & 3251(c).)
26 Courts are to strictly construe the phrase “*may lead to*” dismissal or other adverse employment
27 consequence enumerated by Section 3304, and the action need not actually lead to those consequences.
28 (*Caloca v. County of San Diego* (1999) 72 Cal.App.4th 1209, 1220; *Gordon v. Horsley* (2001) 86
Cal.App.4th 336; *Otto v. Los Angeles Unified School Dist.* (2001) 89 Cal.App.4th 985.) In *Caloca v.*

1 *County of San Diego* (1999) 72 Cal.App.4th 1209, a Citizens law enforcement review board's (CLERB)
2 findings of serious misconduct by sheriff's deputies regarding shooting deaths of two individuals and
3 detention of a third constituted a "punitive action," thus entitling deputies to administrative appeals
4 pursuant to the Public Safety Officers Procedural Bill of Rights Act, even though CLERB's conclusions
5 were inconsistent with sheriff's department's own findings and conclusions; human resources official
6 opined that a single blemish on a deputy's record could prevent advancement, and that the CLERB
7 findings of misconduct were sufficiently serious to have an adverse career impact

8 Similarly, in *Gordon v. Horsley* (2001) 86 Cal.App.4th 336, the court found that a county deputy
9 sheriff had a right to administratively appeal sheriff's restricting his peace officer powers to arrest and
10 to carry a concealed firearm off-duty, which sheriff imposed as a disciplinary sanction, as those
11 restrictions were punitive.

12 Here, the Board took many punitive actions against Sheriff Corpus. As early as September, the
13 Board made public their investigation and some of the allegations. After the Board released the report to
14 the public, they disparaged Sheriff Corpus, and claimed the allegations were sustained. On November
15 13, the Board then took a vote of no confidence, issued a resolution calling for Sheriff Corpus to resign,
16 and terminated a civilian position in her office. On November 19, they disparaged Sheriff Corpus, and
17 voted on the ordinance. They repeated that process on December 3, which led to Measure A being placed
18 on the ballot, and the ultimate punitive action. Measure A is finely tailored to Sheriff Corpus, the Board's
19 expressed purpose was to take an action that may lead to the dismissal of Sheriff Corpus, and it sunsets
20 after her first full term.

21 **2. No administrative appeal**

22 "The purpose of the administrative appeal requirement is to ensure a peace officer subjected to
23 punitive action has the opportunity to establish a formal record of the circumstances surrounding [their]
24 termination and to attempt to convince the employing agency to *reverse its decision*, either by
25 demonstrating the falsity of the charges which led to punitive action, or through proof of mitigating
26 circumstances." (*Morgado v. City and County of San Francisco* (2017) 13 Cal.App.5th 1, 7) (internal
27 quotations omitted) (emphasis in original.)

28 While the precise details of the administrative appeal procedure are left to be formulated by the

1 local agency, “courts have concluded that Section 3304 requires that a peace officer receive an
2 evidentiary hearing before a neutral fact finder to challenge the punitive action.” (*Morgado, supra*, 13
3 Cal.App.5th at 7; quoting *Gordon v. Horsley, supra*, 86 Cal.App.4th at p. 347, internal citations omitted;
4 see also, *Caloca v. County of San Diego* (Caloca I) (1999) 72 Cal.App.4th 1209, 1223.) The law is also
5 clear that the administrative appeal provided by the PSOBRA requires “an independent re-examination
6 of an order or decision made.” (*Stanton v. City of West Sacramento* (1991) 226 Cal.App.3d 1438, 1443,
7 quoting *Doyle v. City of Chino* (1981) 117 Cal.App.3d 673, 679.) At a minimum, the re-examination
8 must be conducted by someone who has not been involved in the initial determination. (*Giuffre v. Sparks*
9 (1999) 76 Cal.App.4th 1322, 1330; *Runyan v. Ellis* (1995) 40 Cal.App.4th 961, 966; *Stanton v. City of*
10 *West Sacramento, supra*, 226 Cal.App.3d at 1443; *Doyle v. City of Chino, supra*, 117 Cal.App.3d at
11 679.)

12 Prior to the Board’s punitive actions, Sheriff Corpus was not afforded the administrative appeal
13 to which she is entitled. Even worse, the Board is not a neutral and unbiased body, and could never fairly
14 hear an administrative appeal. Instead, for all the reasons discussed above, Supervisors Corzo and
15 Mueller were impermissibly biased, and had already made up their minds about the facts and what they
16 thought about the appropriate remedy.

17 If the Board takes the opposing side on this argument, and it argues that the Board’s actions
18 leading up to and including the December 3 vote were not punitive, then eventually it must contend with
19 the logical fallout of that argument. Even if those steps were not punitive, a future vote to remove Sheriff
20 Corpus would be. The problem the Board faces is that there is no neutral body available to hear the
21 allegations or the administrative appeal, and there is nothing this biased Board can do to change that. By
22 the words of Measure A, the Board must have a hearing at which time Sheriff Corpus may respond, and
23 once they vote on removal, their vote is final. Measure A does not require the Board present evidence,
24 does not specify the burden of proof, and does not allow for any review after the Board decides. Thus,
25 by its own words, Measure A denies Sheriff Corpus an administrative appeal, and even the Board’s prior
26 actions were not punitive action, Measure A cannot in the future be exercised consistent with Sheriff
27 Corpus’ PSOPBRA rights.

28

1 **VI. CONCLUSION**

2 This Court has the authority to grant Petitioner’s writ of mandamus and enjoin Respondents from
3 taking any further actions or using any public resources to hold the election on March 4, 2025, on
4 Measure A. Secondly, there is substantial support for this Court to grant the writ both in law and on the
5 facts. Measure A is void and inoperative even if it passes because the March 4, 2025, election date is an
6 unauthorized date. Elections Code sections 1415 and 9255 require that Measure A to be held a statewide
7 general election date because it is a substantive amendment to the San Mateo County Charter proposed
8 by the governing body of the County.

9 Additionally, Measure A is void and inoperative because the process leading up to and including
10 the December 3, 2024, vote was quasi-judicial and the patent and obvious biases of certain members of
11 renders their vote invalid as well as violates Sheriff Corpus’s due process rights and PSOPBRA rights.
12 While demonstrated in transcripts attached as exhibits, these biases can be thoroughly substantiated at
13 an evidentiary hearing where the testimony of Supervisor Mueller, Supervisor Corzo, and County
14 Executive Callagy is taken. Also at an evidentiary hearing, additional evidence can be presented
15 supporting the Sheriff’s contentions that the March 4, 2025, election on Measure A is invalid and a waste
16 of taxpayer resources.

17 The Court is empowered under *Harnett* to save the County valuable resources and enjoin the
18 holding of the election upon the ground that it will be a useless expenditure and waste of public funds.¹
19 As argued above, the March 4, 2025 election on Measure A is void and inoperative. Even if Measure A
20 is allowed to go to public vote and passes, this Board’s future vote will undoubtedly be a quasi-judicial
21 act and void for the bias of the Supervisors.²

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26 ¹ For example, the costs for an off-cycle municipal election in the City of Redondo Beach were estimated
27 to be about \$588,000 to \$593,000; about 6 times more expensive than the costs of elections held on the
statewide general election date. (*City of Redondo Beach v. Padilla* (2020) 46 Cal.App.5th 902, 907.)

28 ² The Sheriff can support this contention in further briefing if that becomes necessary.


1 DATED: February 7, 2025

MURPHY, PEARSON, BRADLEY & FEENEY

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