

STRICKEN AS OF 8/11/2020
AMENDED COPY AS OF 3/5/2020

Intro. Res. No. 1099-2020
Introduced by Legislators Trotta and Piccirillo

Laid on Table 2/11/2020

**RESOLUTION NO. -2020, ADOPTING LOCAL LAW
NO. -2020, A CHARTER LAW TO ESTABLISH AN
INDEPENDENT OFFICE OF INSPECTOR GENERAL FOR
SUFFOLK COUNTY**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on February 11, 2020, a proposed local law entitled, "**A CHARTER LAW TO ESTABLISH AN INDEPENDENT OFFICE OF INSPECTOR GENERAL FOR SUFFOLK COUNTY**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2020, SUFFOLK COUNTY, NEW YORK

**A CHARTER LAW TO ESTABLISH AN INDEPENDENT OFFICE OF
INSPECTOR GENERAL FOR SUFFOLK COUNTY**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that Suffolk County is one of the largest municipal entities in the nation, with a population that exceeds that of eleven states.

This Legislature also finds and determines that the County provides a tremendous range of services to its residents, from policing to public works to environmental protection and public health monitoring.

This Legislature further finds and determines that given the size, scope and breadth of services rendered, there are often opportunities for fraud, waste, misconduct and mismanagement to occur.

This Legislature finds that in recent years, incidents of misconduct, waste and abuse involving various elements of Suffolk County government have been discovered, reported upon by the media and addressed through policy changes initiated by this Legislature.

This Legislature also finds that the convictions in the past several years of former Chief of Police James Burke, former Suffolk County District Attorney Thomas Spota and former Chief of the District Attorney's Corruption Bureau Christopher McPartland highlight how substantial public corruption is in this County.

This Legislature determines that it has become clear that greater change and oversight is essential to identify and eradicate instances of fraud, waste, abuse and corruption at the County level to protect public integrity of government and safeguard the use of taxpayer dollars.

This Legislature further determines that the recent tragic death of Thomas Valva also brings forth questions of possible misconduct and mismanagement on the part of County departments involved with his case which are of tremendous consequence and the utmost importance.

This Legislature finds that the establishment of an independent investigatory authority for Suffolk County is essential to ensuring that the County is subject to necessary oversight and held accountable for living up its mandates to serve and protecting its residents, especially those who are the most vulnerable in our society.

This Legislature also finds that an Independent Office of Inspector General at the County level would provide critical accountability and oversight to County government and would be able to identify, investigate and deter fraud, waste, mismanagement, misconduct and abuse.

Therefore, the purpose of this law is to amend SUFFOLK COUNTY CHARTER and the SUFFOLK COUNTY ADMINISTRATIVE CODE to establish an Office of the Inspector General to provide accountability and oversight of all County operations and to investigate instances of fraud, waste, mismanagement and abuse to promote transparency and efficiency in County Government.

Section 2. Amendment.

I. The SUFFOLK COUNTY CHARTER is hereby amended by the addition of a new Article "L", to read as follows:

**ARTICLE XLI.
OFFICE OF THE INSPECTOR GENERAL**

§ 41-1. Office of the Inspector General Established.

- A) There shall be an Independent Office of the Inspector General. The Inspector General will be appointed by an affirmative vote of at least 2/3 of the entire membership of the County Legislature for a five (5) year term.

- B) The Inspector General shall have the following minimum qualifications:
 - 1) have at least ten years of experience in any one or a combination of the following fields:
 - a. as a federal, state, or local law enforcement officer/official or prosecutor;
 - b. as a federal or state court judge;
 - c. as an inspector general, certified public accountant, or internal auditor;

- d. as a person with progressive supervisory and managerial experience in an investigative public agency similar to an inspector general's office;
 - e. as a person responsible for regulatory and compliance issues whether in the public or private sector;
 - 2) has managed and completed complex investigations involving fraud, theft, deception and conspiracy;
 - 3) has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary;
 - 4) has not been employed by the County during the two (2) year period immediately prior to the selection unless such employment has been with the Suffolk County office in the Inspector General; and
 - 5) has not been an officer of a political party for the ten (10) years preceding their appointment.
- C) The mission of the Inspector General shall be to ensure the integrity of Suffolk County government and to provide increased accountability and oversight of County operations, to detect and prevent fraud, waste, abuse and illegal acts in County operations or programs administered or financed by the County, to promote transparency, efficiency and integrity in County government and to assist in improving efficiency and effectiveness in County government administration.
- D) The Office of the Inspector General will investigate, review, study analyze, audit and make recommendations relating to the operations, policies, rules and procedures associated with all areas of County government.
- E) The Inspector General, within the appropriations made therefor and in the conformity with applicable Suffolk County laws, rules and regulations, may appoint such investigators, attorneys, analysts and support staff as may be authorized by the County Legislature.

II. The SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended by the addition of a new Article 41 to read as follows:

**ARTICLE XLI.
OFFICE OF THE INSPECTOR GENERAL**

§ A41-1. Definitions.

- A) "Office" shall mean the Suffolk County Office of Inspector General.
- B) "Inspector General" shall mean the appointed head of the Office.
- C) "County Agencies" shall mean all County agencies, departments, commissions, boards, and instrumentalities.

§ A41-2. Authority, Powers and Responsibilities.

In furtherance of its mission, the Inspector General is authorized and empowered to:

- A) To receive, investigate, review, evaluate, hear, and recommend action upon complaints of misconduct, fraud, waste, mismanagement or abuse made by any person against any elected official of the County of Suffolk or any County agencies, including Commissioners, Directors and any County employee.
- B) To investigate allegations of fraud, waste, abuse, mismanagement, misconduct, malfeasance, misfeasance, nonfeasance, wrongdoing, conflict of interest, unethical conduct, and/or improprieties made against any official, employee, or member of any department, board, division, or agency listed in paragraph (A) of this section.
- C) To subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of such duties, responsibilities, and powers as may be provided for in this Article.
- D) To enforce Chapter 71 of the SUFFOLK COUNTY CODE by investigating such changes in an employee's work situation as may be related to an employee having provided information under that chapter; by determining whether a personnel action, as defined in Section 71 of the SUFFOLK COUNTY CODE, has been taken as a reprisal against such an employee; and by taking such action as may be necessary and sufficient to prevent or reverse any such action or reprisal against any such employee, whether or not such employee has specifically operated within the performance of his or her duties. This authority shall include the power to investigate such changes in an employee's work situation as may be related to an employee having made allegations, or provided information, of corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct, violations of law, and/or incompetence against public officials, County employees, or elected officials. This power shall include the authority to determine whether a personnel action, as defined in Section 71-5 of the SUFFOLK COUNTY CODE, has been taken as a reprisal against such an employee and the authority to take such action as may be necessary and sufficient to prevent or reverse any such action or reprisal against any such employee, whether or not such employee has specifically operated within the performance of his or her duties.
- E) To conduct such hearings as it shall deem necessary and sufficient to complete a fair and impartial review of such complaints and allegations as shall be made.
- F) To maintain verbatim transcripts of such hearings as may be held.
- G) To issue determinations, make findings, and/or recommend civil actions, criminal actions, no action, or further hearings, as the case may be, in connection with any such allegations and/or complaints.
- H) To subpoena information from any law enforcement agency regarding the criminal history of any individual in connection with any such investigation.
- I) To hire such individuals, staff, and employees as shall be necessary to conduct the business of the Office, subject to the approval of necessary and adequate appropriations by the County of Suffolk.

- J) To refer such matters as it deems necessary and appropriate to pertinent prosecutorial agencies.
- K) To refer such matters as it deems necessary and appropriate to the Suffolk County Board of Ethics for either public or private opinions concerning possible conflicts of interest and/or unethical conduct or for full consideration by the Board.
- L) To refer such matters as it deems necessary and appropriate to the Suffolk County Human Rights Commission.
- M) To prosecute or bring such legal actions and proceedings as shall be necessary to implement the provisions of this law.

§ A41-3. Selection Process of Inspector General.

- A) The County Legislature shall create a legislative committee within the County Legislature for the purpose of maintaining general supervision of and liaison with the Office of the Office of the Inspector General. The membership of such committee shall be as follows: the Presiding Officer of the County Legislature, the Minority Leader, the Chairman of the Budget and Finance Committee, one member appointed by the Presiding Officer and one member appointed by the Minority Leader. Before the Inspector General is appointed pursuant to the provisions of this section, the committee shall publish a notice that a vacancy exists in such office and shall interview potential candidates for appointment to such office. The committee shall by majority vote approve nominees for the position of Inspector General.
- B) No one may be interviewed for the position of Inspector General until an advertisement has been placed in a newspaper designed as the official newspaper of the County.
- C) In the event that the County Legislature seeks to reappoint the same individual who occupies the position of Inspector General, the requirements as to the setting forth of qualifications, public notice and interviewing that are described in this section shall not apply and such reappointment may occur at any time after November 1st of the last year of the director's term.
- D) The Legislature, by the enactment of a procedural resolution, shall appoint or reappoint the Inspector General by an affirmative vote of two-thirds (2/3) of the entire membership of the County Legislature.

§ A41-4. Restrictions.

- A) The Office shall establish internal guidelines and rules to protect, preserve, and safeguard the confidentiality and integrity of pertinent documents, evidence, testimony, records, and materials obtained or uncovered in the normal course of its work in a manner that is consistent with the normal procedures of pertinent prosecutorial agencies.
- B) Notwithstanding anything herein contained to the contrary, this law shall not be construed to prevent investigation or prosecution of any County employee for alleged violations of law by a duly constituted court having jurisdiction, a grand jury, a district

attorney, another law enforcement agency, or any other pertinent prosecutorial agency after referral by the Office to that pertinent prosecutorial agency, nor shall this section be construed to permit any County employee to be fined, reprimanded, removed, suspended, or dismissed, except upon written charges after such charges have been examined, heard, and investigated by the appropriate department head, or deputy, delegated such authority. Nothing contained herein shall be construed as preventing parallel investigations by appropriate authorities or agencies of any County employee for alleged violations of law.

- C) No officer or employee of the County of Suffolk shall take any adverse personnel action as defined in Section 71-5 of the SUFFOLK COUNTY CODE with respect to another officer or employee of the County of Suffolk in retaliation for his or her making a report of action concerning corrupt or other criminal activity, conflict of interest, mismanagement, or a violation of authority to the Office.
- D) No officer or employee of the County of Suffolk shall prevent, seek to prevent, interfere with, obstruct, or otherwise hinder any study or investigation being conducted pursuant to this Article. Any violation of this paragraph shall constitute a basis for suspension or removal from office or employment.
- E) Every officer and employee of the County of Suffolk shall cooperate fully with the Office.

§ A41-5. Reports.

The Inspector General shall publish and deliver finalized reports and make recommendations to the Legislators, the County Executive, the County Comptroller and the County Board of Ethics. Notwithstanding any other provisions of this article, whenever the Inspector General determines that it is appropriate to publish and deliver a report or recommendation which contains findings as to the person or entity being reported on or who is subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the findings. Such person or entity, who is the subject of a finding, report or recommendation resulting from an investigation or review, shall have twenty-one (21) calendar days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized. In the case of an audit, such person or entity shall have twenty-eight (28) calendar days to submit a written explanation or rebuttal of the audit findings or before the report or recommendation is finalized. The Inspector General shall grant reasonable extensions of time for providing a written explanation or rebuttal upon written request. Such timely submitted written explanation or rebuttal shall be attached by the Inspector General to the finalized report or recommendation. The requirements of this section shall not apply when the Inspector General, in conjunction with the District Attorney or United States Attorney, determines that supplying the affected person or entity with such report would jeopardize a pending or potential criminal investigation.

§ A41-6. Annual Reporting.

- A) Not later than March 31st or each year, the Inspector General shall prepare and publish a written annual report summarizing the activities of the office during the immediately preceding fiscal year. The report shall be furnished to the County Executive, and the County Comptroller as well as the Presiding Officer and the Minority Leader of the County Legislature. The annual report shall be posted with a link on the Inspector General's web page. The annual report shall include, but not be limited to:

- 1) a description of significant abuses and deficiencies relating to the administration of programs and operations disclosed by investigations, audits, reviews, examinations or other activities during the reporting period; and
 - 2) a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses or deficiencies identified, identification of each significant recommendation described in previous annual reports on which corrective action has not been completed, and a summary of each audit, investigation, review, and examination completed during the reporting year,
- B) The Inspector General shall meet with representatives of the Majority and Minority delegation of the Suffolk County Legislature upon request or every six (6) months to review the previous six (6) month's activities and the Inspector General's plans and objectives for the upcoming six (6) months.

§ A41-7. Removal.

- A) The Inspector General may be removed only for good cause based upon specific charges of the following:
- 1) derelection or neglect of duty; or
 - 2) malfeasance or abuse of power or authority; or
 - 3) ethical misconduct.
- B) The removal process shall be initiated by the County Legislature by procedural resolution. An affirmative vote of two-thirds (2/3) of the entire membership of the County Legislature shall be required to present the Inspector General with the charges and to proceed to final public hearings before the County Legislature. The County Legislature shall transmit a copy of the charges to the Inspector General at least sixty (60) days prior to any public hearings which shall be convened by the County Legislature. The Inspector General shall have an opportunity to be heard in person and by his or her counsel at the final public hearings prior to the votes being taken on his or her removal. The Inspector General may only be removed upon the affirmative vote of fourteen (14) members of the entire membership of the County Legislature finding the Inspector General guilty of the specified charges. A record of the proceedings, together with the charges and finding thereon, shall be filed with the Clerk of the Legislature. The Inspector General shall be deemed removed by operation of law without a public hearing in the event the Inspector General is convicted or enters a guilty plea or no contest plea to a state or federal felony.

§A41-8. Penalties.

Any person who:

- 1) retaliates against, punishes, threatens, harasses, or penalizes, or attempts to retaliate against, punish, threaten, harass, or penalize any

person for assisting, communicating or cooperating with the Inspector General; or

- 2) knowingly interferes, obstructs, impedes or attempts to interfere, obstruct or impede in any investigation, audit, review or examination conducted by the Inspector General:

shall be guilty of an unclassified misdemeanor and subject to imprisonment for a term of no longer than one (1) year and a fine of no more than ten thousand (\$10,000) dollars, in addition to any other penalty provided by law. Any potential violation of this section shall be referred to the District Attorney for investigation and prosecution.

III. Chapter 71 of the SUFFOLK COUNTY CODE is hereby amended as follows:

CHAPTER 71.
EMPLOYEES MAKING ALLEGATIONS OF MISCONDUCT, PROTECTION OF

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§ 71-3. Complaints Regarding and Investigation of Improper Government Action.

Any employee may in good faith provide information on any matter involving improper government action to:

- 1) The County Executive.
- 2) The County Personnel Officer.
- 3) The Presiding Officer of the Legislature.
- 4) The Comptroller.
- 5) The District Attorney.
- 6) The Chairman of the [Labor, Workforce and Affordable Housing] Government Operations, Personnel, Information Technology and Diversity Committee or any successor committee.
- 7) The Inspector General.

[(7)](8) Any federal or state authority.

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Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(26) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as routine or continuing administration and management not including new programs or major reordering of priorities that may affect the environment. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect on January 1, 2021.

[] Brackets denote deletion of existing language.
___ Underlining denotes addition of new language.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: