

Date Created:	March 23, 2017
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Attachments:	

1 ..Title

2 AN ORDINANCE relating to the office of law enforcement
3 oversight; amending Ordinance 15611, Section 2, as
4 amended, and K.C.C. 2.75.010, Ordinance 15611, Section
5 3, as amended, and K.C.C. 2.75.020, Ordinance 215611,
6 Section 4, as amended, and K.C.C. 2.75.030, Ordinance
7 15611, Section 5, as amended, and K.C.C. 2.75.040,
8 Ordinance 15611, Section 8, as amended, and K.C.C.
9 2.75.070 and Ordinance 1438, Section 3(c), as amended,
10 and K.C.C. 2.16.060, adding new sections to K.C.C. chapter
11 2.75 and repealing Ordinance 15611, Section 6, as amended,
12 and K.C.C. 2.75.050 and Ordinance 15611, Section 7, as
13 amended, and K.C.C. 2.75.060.

14 ..Body

15 STATEMENT OF FACTS:

16 1. The creation and maintenance of an independent civilian office of law
17 enforcement oversight is an essential means of assuring integrity,
18 transparency, and accountability in law enforcement and of fostering
19 community trust in, and respect and support for, the sheriff's office.

20 2. In 2015 the people of King County amended the King County Charter
21 to include Section 265 affirming the foundation and role of the office of
22 law enforcement oversight.

23 3. The King County Code related to the office of law enforcement
24 oversight and the department of public safety should be updated to reflect
25 Section 265 of the King County Charter.

26 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

27 SECTION 1. Ordinance 15611, Section 2, as amended, and K.C.C. 2.75.010 are
28 each hereby amended to read as follows:

29 The definitions in this section apply throughout this chapter unless the context
30 clearly requires otherwise.

31 A. ~~((“Command staff” means those sheriff’s employees who are responsible for the~~
32 ~~chain of command or line of supervision from shift, unit or precinct levels through division~~
33 ~~command level, including the sheriff.~~

34 B. ~~“Director” means the director of the office of law enforcement oversight or the~~
35 ~~director’s designee.~~

36 C. ~~“Critical incident review” means the written findings of a shooting review board~~
37 ~~or an accident review board conducted by the sheriff’s office.~~

38 D. ~~“Internal investigations unit” means the unit within the sheriff’s office~~
39 ~~responsible for internal investigations, or its successor.~~

40 E. ~~“Office” means the office of law enforcement oversight created under this~~
41 ~~chapter.~~

42 F. ~~"Serious matter" means allegations of serious misconduct as defined in the~~
43 ~~Sheriff's Office General Orders Manual as currently written or hereinafter amended.~~

44 G. ~~"Sustained complaint" means a complaint where, as the result of an~~
45 ~~investigation, the allegation is supported by sufficient factual evidence and was a violation~~
46 ~~of policy.))~~ "Administrative investigation" means an internal investigation of alleged
47 misconduct by an employee.

48 B. "Certification review" means the monitoring and examination of an
49 administrative investigation in order to determine whether the investigation was thorough,
50 complete, accurate, timely, objective and in compliance with sheriff's office procedures,
51 and that findings are consistent with the investigation and sheriff's office policies, rules,
52 procedures, practices and general orders.

53 C. "Complaint" means any communication to the sheriff's office or the oversight
54 office alleging possible misconduct by an employee.

55 D. "Concern" means any matter involving use of force or misconduct by an
56 sheriff's office employee, or otherwise related to the sheriff's office operations, training,
57 policies, rules, procedures, practices or general orders related to the work of the oversight
58 office, that is not the subject of a complaint.

59 E. "Director" means the director of the office of law enforcement oversight or the
60 director's designee.

61 F. "Employee" means the sheriff and any person whether paid, unpaid, temporary,
62 permanent, intern, probationary, volunteer, appointed, non-appointed, commissioned or
63 non-commissioned, who is employed or supervised by the sheriff's office.

64 G. "Finding" means a determination made at the conclusion of an administrative
65 investigation of whether the alleged misconduct was or was not proved by the applicable
66 standard of proof.

67 H. "Intake classification" means the decision made as to whether a complaint
68 should be investigated, transferred to an employee's supervisor for follow-up or not acted
69 upon. Intake classifications also identify each misconduct allegation and associated
70 named employee or employees, whether the matter will be investigated by the sheriff's
71 office or the oversight office and whether mediation or an alternative resolution is
72 appropriate.

73 I. "Misconduct" means any violation of a law or a sheriff's office or other
74 applicable policy, procedure, rule or regulation.

75 J. "Oversight office" means the office of law enforcement oversight.

76 K. "Sheriff's office" means the department of public safety, including all divisions
77 and units of the department.

78 SECTION 2. Ordinance 15611, Section 3, as amended, and K.C.C. 2.75.020 are
79 each hereby amended to read as follows:

80 The office of law enforcement oversight is hereby established within the legislative
81 branch, in accordance with Section 265 of the King County Charter. The office of law
82 enforcement oversight is ~~((an investigative agency as that term is used in RCW 42.56.240.~~
83 ~~The office's roles, responsibilities and authorities are prescribed in this chapter. Decisions~~
84 ~~about the functions and implementation of the office should be the result of a collaborative~~
85 ~~process that involves, at a minimum, the executive, the council, the prosecuting attorney,~~
86 ~~the sheriff and the labor organizations that represent sheriff's office employees))~~ established

87 to represent the interests of the public and increase confidence in King County police
88 services through independent civilian oversight of the sheriff's office and all of its
89 employees. The organization and administration of the oversight office shall be
90 sufficiently independent to assure that no interference or influence external to the office
91 shall adversely affect independent and objective review and analysis by the office. The
92 office of law enforcement oversight is an investigative agency as that term is used in RCW
93 42.56.240.

94 SECTION 3. Ordinance 215611, Section 4, as amended, and K.C.C. 2.75.030 are
95 each hereby amended to read as follows:

96 A. The director shall be appointed by a majority of the council to implement and
97 manage the authorities of the oversight office.

98 B. The ~~((executive shall conduct))~~ director shall be selected by the council through
99 a nationwide search ~~((for the director to identify candidates with the following~~
100 ~~characteristics:~~

101 ~~1. A reputation for integrity and professionalism, as well as the ability to maintain~~
102 ~~a high standard of integrity in the office;~~

103 ~~2. An understanding of and a commitment to the responsibilities of the office;~~

104 ~~3. Demonstrated leadership and a history of effective management and~~
105 ~~administration;~~

106 ~~4. The ability to gain the trust and respect of sheriff's office employees;~~

107 ~~5. The ability to work effectively with the executive, council, prosecuting attorney~~
108 ~~and sheriff, as well as other public agencies, labor organizations, private organizations and~~
109 ~~citizens;~~

110 ~~6. An openness to innovation and new ideas;~~
111 ~~7. Sensitivity to and knowledge of the particular needs and concerns of minorities~~
112 ~~and women in a law enforcement setting;~~
113 ~~8. The ability to work effectively under pressure with controversial issues and the~~
114 ~~ability to effectively communicate with diverse groups;~~
115 ~~9. No history of employment in the sheriff's office;~~
116 ~~10. A history that includes the establishment of a reputation for even handedness~~
117 ~~and fairness in dealing with both complainants and regulated parties; and~~
118 ~~11. The selected director must pass a complete criminal background check prior~~
119 ~~to confirmation.~~

120 ~~B. Candidates for appointment shall be selected by a committee of five members~~
121 ~~that shall recommend three candidates for the director position to the council. The~~
122 ~~selection committee shall be composed of: one member appointed by the King County~~
123 ~~Police Officers' Guild; one member appointed by the Puget Sound Police Managers'~~
124 ~~Association; one member appointed by the chair of the county council; and one member~~
125 ~~appointed by the county executive. The fifth member shall be appointed by the other four~~
126 ~~members. If none of the three recommended candidates has the support of a majority of the~~
127 ~~council, the council may direct by motion the commencement of a new recruitment and~~
128 ~~recommendation process)) through a merit-based selection process.~~

129 C. The director shall serve a term of four years, unless removed for cause at any
130 time by ~~((motion approved by))~~ a majority of the council, and shall be considered ~~((by the~~
131 ~~county council))~~ for reappointment at the end of each term of office.

D. The director, consistent with the Organizational Motion of the council ~~((with consultation of the council))~~ and within the amount available or budgeted by appropriation, may employ staff or use the services of consultants as may be necessary for conduct of the oversight office's duties. ~~((These employees or contractors must pass a complete criminal background check before employment.))~~

SECTION 4. Ordinance 15611, Section 5, as amended, and K.C.C. 2.75.040 are each hereby amended to read as follows:

In order to ~~((ensure the integrity of the sheriff's complaint and investigations processes and to ensure resolution of citizen and employee initiated complaints:~~

~~A. The office shall receive complaints from any complaining party concerning the sheriff's office, track complaints received and transmit the complaints to the internal investigations unit;~~

~~B. In addition to complaints received by the office, the internal investigations unit shall provide copies of all other complaints to the office within three business days;~~

~~C. The office shall not conduct independent disciplinary investigations, but may participate in interviews as provided in K.C.C. 2.75.060;~~

~~D. The office shall be provided a copy of any letter or other notification to an officer informing them of actual discipline imposed as a result of an internal affairs investigation or the notice of finding if the complaint is not sustained;~~

~~E. The office shall be notified by the internal investigations unit within five business days of the completion of an internal investigation. The office, in addition to the sheriff's office's written notice of finding letter to the complainant, may send a closing letter to the complainant))~~ instill confidence and public trust in the fairness and integrity of the

155 police accountability system, the sheriff's office and its employees, the oversight office
156 shall have the authority to:

157 A. Receive and consider complaints and concerns, and:

158 1. Refer the complaint to the sheriff's office with or without an intake
159 classification recommendation; or

160 2. Conduct an investigation of the complaint or concern and transmit the
161 associated review, analysis and findings to the sheriff and if the investigation is about the
162 sheriff, to the council and executive;

163 B. Review, and agree with or make changes to all proposed intake classifications
164 before the sheriff's office investigating or closing any complaint. The decision of the
165 oversight office for intake classifications shall be final;

166 C. Conduct a certification review of any administrative investigation before the
167 sheriff's office notifies the subject employee of the findings;

168 D. Review and make timely recommendations to the sheriff regarding any changes
169 to sheriff's office policies, rules, procedures or general orders, before their implementation,
170 unless the sheriff determines that urgent circumstances require implementation before such
171 review and recommendations, in which case the oversight office shall provide
172 recommendations following implementation;

173 E. Conduct systemic reviews and issue conclusions and recommendations to the
174 sheriff regarding sheriff's office operations, training, policies, rules, procedures, practices or
175 general orders related to the work of the oversight office;

176 F. Conduct outreach and engagement activities;

177 G. Develop and publish reports related to the work of the oversight office, trends in
178 police practices and the complaint handling process. All reports published by the oversight
179 office shall be electronically filed with the clerk of the council for distribution to all
180 councilmembers;

181 H. Develop and publish an annual report that includes analyses, recommendations
182 and conclusions relating to all phases of the sheriff's complaint handling process, related
183 findings and final status of complaints; and

184 I. Review and, at the discretion of the oversight office, report on or conduct
185 systemic reviews related to the findings of King County inquests involving a sheriff's office
186 employee.

187 SECTION 5. The following are each hereby repealed:

188 A. Ordinance 15611, Section 6, as amended, and K.C.C. 2.75.050; and

189 B. Ordinance 15611, Section 7, as amended, and K.C.C. 2.75.060.

190 NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 2.75 a
191 new section to read as follows:

192 The oversight office is authorized to obtain all relevant information in a timely
193 manner as necessary to fulfill the authorities of K.C.C. 2.75.040, including:

194 A. Access to all relevant employees, facilities, systems, documents, files, records,
195 data, interviews, hearings, boards, trainings and meetings;

196 B. Access crime scenes and related follow-up investigations, in a manner so as to
197 protect the integrity of the scene; and

198 C. Notification from the sheriff's office regarding the current status of all
199 complaints as follows:

- 200 1. When a complaint is received;
- 201 2. When a complaint is given a proposed intake classification, but before the
- 202 complaint is classified;
- 203 3. Of the date, time and location of any interview that is conducted as part of an
- 204 administrative investigation;
- 205 4. When an administrative investigation is complete, but before the subject
- 206 employee is notified by the sheriff's office of the findings;
- 207 5. When findings and recommendations are issued;
- 208 6. When and what discipline is recommended;
- 209 7. When any change in classification of a complaint is made; and
- 210 8. Completion of any additional investigative steps requested by the oversight
- 211 office.

212 NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 2.75 a

213 new section to read as follows:

214 A. The oversight office may issue a subpoena to compel any person to appear, give

215 sworn testimony or produce documentary or other evidence reasonable in scope and

216 relevant to the matter under inquiry and limited to the matters associated with the authority

217 granted under K.C.C. 2.75.040.A.2.

218 B. A person required by the oversight office to provide information shall be paid

219 the same fees and allowances, in the same manner and under the same conditions, as are

220 extended to witnesses whose attendance has been required in the courts of this state,

221 excepting that city or county employees who are receiving compensation for the time that

222 they are witnesses shall not be paid the set fees and allowances.

223 C. A person who, with or without service of compulsory process, provides oral or
224 documentary information requested by the director shall be accorded the same privileges
225 and immunities as are extended to witnesses in the courts of this state.

226 D. Any witness in a proceeding before the oversight office shall have the right to
227 be represented by counsel.

228 E. If a person fails to obey a subpoena, or obeys a subpoena but refuses to testify
229 when requested concerning any matter under examination or investigation at the hearing,
230 the director may petition the superior court of King County for enforcement of the
231 subpoena. The petition shall be accompanied by a copy of the subpoena and proof of
232 service, and shall set forth in what specific manner the subpoena has not been complied
233 with, and shall ask an order of the court to compel the witness to appear and testify before
234 the oversight office. The court upon such a petition shall enter an order directing the
235 witness to appear before the court at a time and place to be fixed in the order, and then and
236 there to show cause why the witness has not responded to the subpoena or has refused to
237 testify. A copy of the order shall be served upon the witness. If it appears to the court that
238 the subpoena was properly issued and that the particular questions that the witness refuses
239 to answer are reasonable and relevant, the court shall enter an order that the witness appear
240 at the time and place fixed in the order and testify or produce the required papers and on
241 failing to obey the order the witness shall be dealt with as for a contempt of court.

242 SECTION 8. Ordinance 15611, Section 8, as amended, and K.C.C. 2.75.070 are
243 each hereby amended to read as follows:

244 The oversight office, in collaboration with the sheriff's office, shall establish and
245 administer a voluntary officer-citizen mediation or alternative dispute resolution program.

The program shall provide ~~((an))~~ alternative methods to resolve citizen complaints by allowing willing citizens and officers to meet under the guidance of a professional mediator to otherwise discuss and resolve their differences. The oversight office and the sheriff's office shall establish standards and guidelines for determining when a particular complaint may be referred to mediation. ~~((Serious complaints are excluded from the use of mediation to resolve allegations. Prior to the complainant agreeing to utilize the mediation process to resolve the complaint, the office shall explain the mediation process to the complainant, including that if the officer participates in good faith, the officer will not be subject to discipline and the complaint will be administratively dismissed.))~~

SECTION 9. Ordinance 1438, Section 3(c), as amended, and K.C.C. 2.16.060 are each hereby amended to read as follows:

A. The department of public safety, as identified in the Section 350.20.40 of the King County Charter, and managed by the King County sheriff, may also be known and cited in the King County Code and in other usage as the office of the sheriff. Employees managed by the King County sheriff may be referred to in the King County Code or otherwise, as King County police, King County officer~~((s))~~ or deputy sheriff.

B. The department of public safety is responsible to keep and preserve the public peace and safety including the discharge of all duties of the office of sheriff under ~~((S))~~state law, except those duties relating to jails and inmates which are performed by other departments of county government. The functions of the department include:

1. Oversee a crime prevention program, investigate crimes against persons and property and arrest alleged offenders~~((s))~~;

268 2. Execute the processes and orders of the courts of justice and all other
269 mandated functions required by law((?));

270 3. In coordination with the office of emergency management, plan and
271 coordinate resources for the public safety and welfare in the event of a major emergency
272 or disaster((?));

273 4. Provide service and administrative functions which support but do not
274 duplicate other governmental activities, and which have the potential to be fiscally self-
275 supportive((?));

276 5. Investigate the origin, cause, circumstances and extent of loss of all fires, in
277 accordance with RCW 43.44.050. Fire investigations shall be conducted under the
278 direction of the fire investigation supervisor, who shall also be considered an assistant
279 fire marshal for the purposes of chapter 43.44 RCW. The functions of the fire and arson
280 investigation unit include, but are not limited to: investigation and determination of the
281 origin and cause of fires; preparation of detailed informational, investigative and
282 statistical reports; conducting criminal follow-up investigations, including detection,
283 apprehension and prosecution of arson suspects; providing expert testimony in court for
284 criminal and civil cases; maintenance of records of fires; preparation and submission of
285 annual reports to the county sheriff and other entities as required by chapters 43.44 and
286 48.50 RCW; and

287 6. Consistent with the office of law enforcement oversight carrying out its
288 authorities as identified in Section 365 King County Charter and K.C.C. chapter 2.75:

289 a. provide the office of law enforcement oversight all relevant information in a
290 timely manner, including:

291 (1) access to all relevant employees, facilities, systems, documents, files,
292 records, data, interviews, hearings, boards, trainings and meetings;

293 (2) access to crime scenes and related follow-up investigations, in a manner so
294 as to protect the integrity of the scene; and

295 (3) notifications regarding the current status of all complaints consistent with
296 2.75.050.C.; and

297 b. proceed with sheriff's office complaint handling procedures based on the
298 office of law enforcement oversight's concurrence with or changes to sheriff's office
299 proposed intake classifications of complaints;

300 c. provide the oversight office with a reasonable opportunity to comment on all
301 administrative investigations before notifying the subject employee of the findings;

302 d. provide the oversight office with a reasonable opportunity to comment on all
303 sheriff's office policies, rules, procedures or general orders before implementation;
304 however, if the sheriff determines that urgent circumstances require implementation before
305 receiving recommendations, the oversight office shall provide recommendations following
306 implementation;

307 e. annually, after receiving a recommendation from the office of law
308 enforcement oversight, establish or update pilot projects and policies and procedures for
309 implementation of the authorities of K.C.C. chapter 2.75, including such things as
310 timelines and processes for achieving K.C.C. 2.16.060.B.6.a., b., c. and d., and records
311 management and controls.

312 C. The sheriff, to carry out the duties under subsection B. of this section, may
313 establish the functions for the following divisions:

- 314 1. Office of the sheriff;
315 2. Patrol operations division;
316 3. Support services division;
317 4. Criminal investigation division;
318 5. Professional standards division;
319 6. Sound Transit division, which provides services to the Central Puget Sound
320 Regional Transit Authority; and
321 7. Metro Transit division, which provides services to the King County
322 department of transportation, transit division.

323 SECTION 10. A. Any provision of this ordinance that would establish a working
324 condition that is a mandatory subject of collective bargaining shall not apply to members
325 of any bargaining unit until the county has satisfied its bargaining obligation with respect
326 to the provision.

327 B. In the event of a conflict between the provisions of this ordinance and a
328 collective bargaining agreement, the provisions of the collective bargaining agreement
329 shall govern for those affected employees.