



Law Enforcement Oversight: Limited Independence, Authority & Access to Information Impede Effectiveness

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Executive Summary

King County's system for civilian oversight of police is relatively weak compared to models in place in jurisdictions around the United States. Civilians responsible for overseeing investigations of complaints of police misconduct in King County have less authority than their counterparts in other locations. In addition, they face barriers related to independence, access to information, and other structural and procedural issues. We make a number of recommendations for actions necessary to remove barriers that prevent more impactful oversight.

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Limited Independence, Authority & Access to Information Impede Effective Oversight

Report Highlights

July 14, 2015

Why This Audit Is Important

Effective law enforcement oversight promotes the professionalism of the King County Sheriff's Office and can help build trust with the communities it serves. King County's Office of Law Enforcement Oversight (OLEO) and the Sheriff's Internal Investigations Unit (IIU) are intended to work jointly to ensure that complaints of misconduct involving Sheriff's Office employees are properly investigated. In addition, OLEO has the authority to make systemic recommendations to improve Sheriff's Office operations. This audit of law enforcement oversight focuses on the system currently in place in King County and identifies structural impediments and other barriers to success. We consulted experts in the fields of law enforcement oversight and labor negotiations, including conducting both a survey and an expert panel, to inform our findings and recommendations.

What We Found

The system of civilian oversight currently in place in King County has limited authority compared to other oversight functions across the United States. In addition, there are significant barriers in place that undermine OLEO's independence and access to information—elements that are critical to its success. For instance, restrictions prevent OLEO from downloading and/or printing documents related to complaints and investigations, and a contract provision allows OLEO's access to these files to be cut off. This limits OLEO's access to information, making it difficult for OLEO to provide meaningful oversight. There are also problems with the way law enforcement oversight is set up that threaten the independence of oversight. Notably, OLEO operations are defined by the terms of labor contracts. Consequently, OLEO's processes and authority are defined by those it oversees, creating a conflict of interest that cannot be easily resolved.

What We Recommend

To ensure effective law enforcement oversight, we recommend that the County Sheriff and the County Executive provide OLEO with unrestricted access to information and take several steps to cement the independence of both OLEO and IIU. We also present multiple options for addressing structural impediments to OLEO's authority contained in existing labor agreements. Experts and stakeholders agree that many topics contained in the labor agreement may be more appropriately addressed in King County Code, but potential solutions are complex and will require collaboration among multiple parties with sometimes opposing interests. See Appendix 1 for a full matrix of recommended actions.

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I. Goals and Models of Civilian Oversight

Section Summary

Many civilian oversight functions around the United States share a common goal: increasing public confidence and trust in law enforcement. This goal can be achieved in many ways, and there are three main models of civilian oversight that jurisdictions throughout the country use to help ensure thorough and fair investigations of officer conduct. King County's primary civilian law enforcement oversight function, the Office of Law Enforcement Oversight (OLEO), is tasked with reviewing complaint investigations performed by the Internal Investigations Unit (IIU) of the King County Sheriff's Office. OLEO's role is to ensure these investigations are "thorough and objective." Along with OLEO, the King County Ombudsman's Office and the King County Auditor's Office also have authority to make systemic recommendations to improve the policies and practices of the Sheriff's Office. Of these three oversight entities, OLEO is the only one that focuses its oversight solely on Sheriff's Office operations.

What are the goals of civilian oversight?

The goals of a civilian oversight system depend on the circumstances underlying its creation and the community it serves. For example, a civilian oversight function established in response to a specific incident of police misconduct might differ in authority and structure from a function that is established under other circumstances. Reasons for instituting civilian oversight include ensuring thorough and fair investigations of police conduct.¹ While the particular reasons and roles of civilian oversight are unique to each community, they often include similar goals: increasing the openness and transparency of the police department's internal operations and increasing public confidence in the police's fair and consistent provision of law enforcement services.

What are King County's goals for civilian oversight?

King County's goals for civilian oversight include bolstering public confidence in IIU investigations of misconduct and increasing the level of public trust and transparency with the Sheriff's Office, as reflected in a motion passed by the King County Council regarding law enforcement oversight.² (See Exhibit 1 and Appendix 6). To meet these goals, the King County Council established OLEO as a civilian oversight function that would monitor ongoing investigations of misconduct, identify systemic issues within the Sheriff's Office, and offer recommendations for reform, along with conducting public outreach and mediation.

Initially, operational goals for OLEO included consulting with Sheriff's Office command staff and making recommendations to the Sheriff regarding

¹See, e.g., Miller, Joel, *Civilian Oversight of Policing: Lessons from the Literature*, Vera Institute of Justice May 5, 2002, pg. 3.

²Motion 12892, passed December 8, 2008.

I. Goals and Models of Civilian Oversight

findings and discipline in specific cases. Input into findings and discipline was later removed as an operational goal for OLEO.³ Later updates to King County Council labor policy identify OLEO as “an important means of assuring integrity, transparency, and accountability” and “fostering community trust” in the Sheriff’s Office through assessment of complaints, review of uses of force, and police performance auditing.⁴

Exhibit A: King County Council has articulated goals for civilian oversight.

| Civilian oversight in King County should... |
|--|
| function independently. |
| bolster public confidence and to ensure proper oversight of the King County Sheriff’s Office. |
| increase understanding, confidence, and trust between the King County Sheriff’s Office and the public. |
| ensure integrity, transparency, and accountability in law enforcement. |
| foster community trust in, and respect and support for, the King County Sheriff’s Office. |
| ensure the thoroughness, objectivity, and adequacy of those investigations and any resultant discipline. |
| identify systemic problems and opportunities for improvement. |

Source: King County ordinances and labor policy.

What are the common models of civilian oversight?

Since the organizational structure and role of oversight is unique to each jurisdiction, there are many different civilian oversight models. A publication from the National Association for Civilian Oversight of Law Enforcement (NACOLE) groups civilian oversight entities into three common models:

Investigative: civilians independently investigate complaints of police misconduct

Monitoring: civilians monitor misconduct investigations conducted by police

Auditor/Ombudsman: civilians review complaints and investigations and they also review other police practices

Investigative and monitoring models both focus on ensuring the quality of individual police misconduct investigations. Auditor/Ombudsman models tend to have broader mandates to review both individual cases and overall policing policies and practices. These three basic models of civilian oversight have many individual advantages and disadvantages (see Appendix 3 for more information).

³These procedures were eliminated in the 2008 collective bargaining agreement between King County and the King County Police Officers’ Guild, and in Ordinance 16511. See Section II.

⁴See Appendix 6 of this report for Metropolitan King County Council Labor Policy LP2012-033, approved June 18, 2012.

I. Goals and Models of Civilian Oversight

Is there a best approach to civilian oversight?

Evidence that any one civilian oversight approach or mechanism is more effective than another does not yet exist, although the role and authority of a civilian oversight function often grows over time to meet emerging community needs and expectations. Generally speaking, civilian oversight is considered a best practice in law enforcement.⁵ However, no single model or best practice exists for how civilian oversight should function or be structured.⁶ Guidance materials for those working to establish oversight tend to focus on general aspects of civilian oversight functions, such as the qualifications of oversight personnel, rather than on instructing oversight professionals on how to go about providing oversight. Academics and practitioners are working to develop evidence of the effectiveness of civilian oversight.⁷

What model of civilian oversight does King County's most closely resemble?

OLEO is a hybrid of the monitoring and Auditor/Ombudsman models. King County's civilian oversight model strongly emphasizes monitoring of complaint investigations performed by IIU. Similar to the monitoring model, OLEO is tasked with reviewing and assessing the thoroughness and objectivity of all IIU complaint investigations. However, most monitoring models make recommendations as to investigation findings and related officer discipline; OLEO does not have this authority. Similar to the Auditor/Ombudsman approach, OLEO is also supposed to provide systemic recommendations for improvement in Sheriff's Office practices. However, the Auditor/Ombudsman model generally benefits from the ability to compel evidence, which OLEO cannot do.

In addition to OLEO, other entities in King County also perform some functions related to civilian oversight of law enforcement. These include the King County Ombudsman's Office and the King County Auditor's Office. The Ombudsman's Office has authority through the King County Charter to receive complaints, conduct independent investigations, and make recommendations for improving policies and practices. This authority includes the ability to independently investigate complaints against Sheriff's Office employees. The Auditor's Office has authority to conduct performance audits of all King County departments, including the Sheriff's Office and to make recommendations for improvement.⁸ Unlike OLEO and

⁵"Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community." The Department of Justice's Office of Community Oriented Policing Services' *Interim Report of the President's Task Force on 21st Century Policing*, March 2, 2015, Recommendation 2.8.

⁶See, e.g., *President's Task Force Interim Report*, Action Items 2.8.1 and 2.8.2 at pp. 26-27.

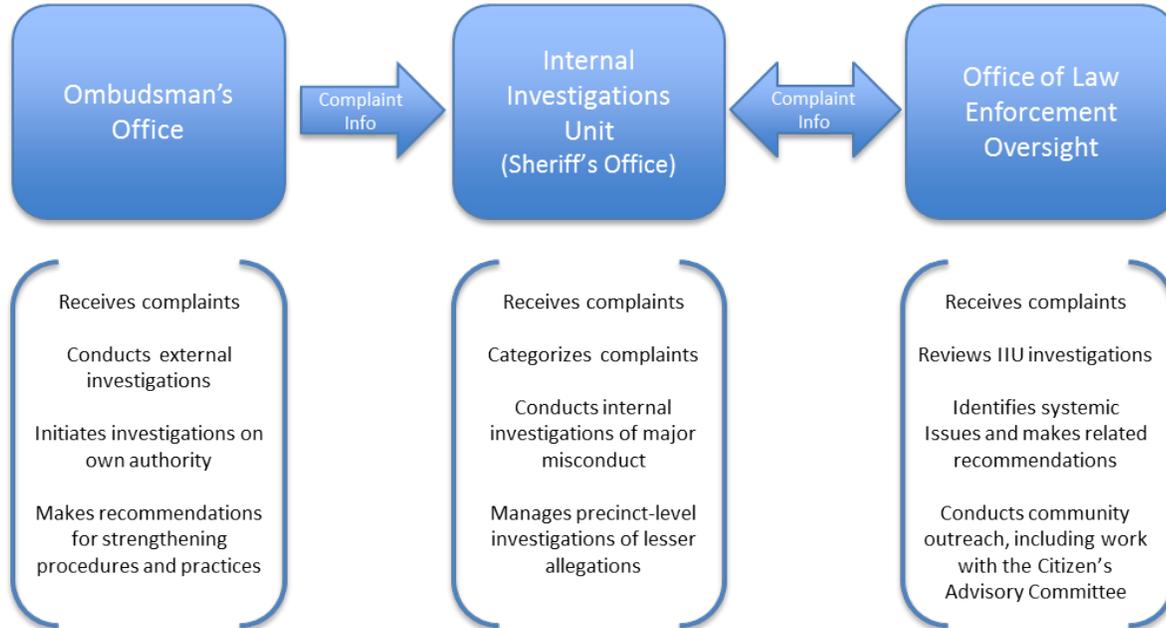
⁷See NACOLE Academic Symposium (presentation of emerging academic scholarship on effective civilian oversight), <https://nacole.org/training/academic-symposium/>.

⁸King County Code 2.20.037, Section C, requires the Auditor's Office to "review the effectiveness of the office of law enforcement oversight and make recommendations for reform when necessary."

I. Goals and Models of Civilian Oversight

Ombudsman Office, the Auditor’s Office does not receive complaints. Of these oversight entities, OLEO is the only one that focuses its oversight solely on Sheriff’s Office operations. (See Exhibit B for a simplified map of law enforcement oversight in King County. See Appendix 2 for a detailed organizational chart).

Exhibit B: King County Oversight Structures that receive complaints related to the Sheriff’s Office.



Source: King County Auditor’s Office

What methodologies did the Auditor’s Office use to develop this report?

Conducted interviews and reviewed literature. To develop this report, the King County Auditor’s Office interviewed management and key staff from OLEO, the Sheriff’s Office, the King County Prosecuting Attorney’s Office, the King County Ombudsman’s Office, and the King County Council. We also interviewed both local and national experts in the areas of law enforcement oversight and labor relations and surveyed relevant literature, including academic and professional reports (see Exhibit A in the Appendix on Objectives, Scope, and Methodology).

Survey and expert panel. To identify and assess the potential effects of the advantages and disadvantages of the current model of law enforcement oversight in King County, we developed a survey that we distributed to selected experts. We also convened a one-day expert panel attended by six experts (for more information on the survey and expert panel, see Exhibit B in the Appendix on Objectives, Scope, and Methodology). We analyzed the information gathered through both survey responses and expert panel discussion in order to identify barriers to effectiveness of law enforcement

I. Goals and Models of Civilian Oversight

oversight in King County, assess the relative magnitude of these barriers, and identify potential solutions.

Focus groups. To understand the perspectives of Sheriff's Office employees on law enforcement oversight, we conducted focus group discussions with Sheriff's Office captains, sergeants, and deputies. We held one focus group discussion with Sheriff's Office captains, and conducted one focus group each at three Sheriff's Office patrol precincts. We also interviewed the King County Police Officers' Guild president.

2. Authority of King County Oversight Entities

Section Summary

King County’s independent law enforcement oversight offices have constraints that may not reflect county goals for oversight. Both OLEO and the Ombudsman’s Office have authority to provide external oversight of investigations performed by IIU, and the Ombudsman Office has additional authority to conduct independent investigations. However, OLEO has relatively limited authority to impact individual cases. For instance, OLEO can request additional investigation, but cannot compel it. In addition, the Ombudsman’s Office findings and recommendations are not binding, tend to focus on systemic improvements, and customarily do not suggest specific disciplinary measures.

In addition, OLEO’s authority and expected practices may not reflect the county’s broader goals for law enforcement oversight, including the goal of bolstering public confidence and trust in law enforcement described in Section I of this report. Consequently, the public’s perception of OLEO’s role and the county’s ability to meet the broader goals of civilian oversight may not align with the actual limits on the authorities of its independent civilian agencies. The County Council and other stakeholders should revisit whether the authority granted to OLEO and the Ombudsman’s Office is sufficient to allow King County to achieve its stated goals for civilian oversight.

OLEO has limited authority relative to similar oversight functions elsewhere

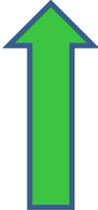
As a monitoring model of civilian oversight, OLEO has relatively limited authority, which may limit OLEO’s ability to improve the quality of law enforcement in King County. Under the King County Code, OLEO’s role in monitoring and certifying IIU misconduct investigations results in a primary deliverable – a determination from OLEO stating whether the IIU investigation was “thorough and objective.”⁹ Unlike some other monitoring models, however, OLEO cannot compel additional investigation, nor comment on investigation findings and/or discipline in individual cases or make recommendations to the Sheriff.¹⁰ As a result, OLEO’s potential impact is limited. See Exhibit C for a summary of oversight functions OLEO can perform versus possible oversight functions under the monitor model.

⁹OLEO documents and communicates these determinations via letters to both the Sheriff’s Office and to complainants.

¹⁰While OLEO is able to request that the Sheriff’s Office conduct additional investigation, the Sheriff’s Office can decline.

2. Authority of King County Oversight Entities

Exhibit C: OLEO has relatively limited monitoring authority.

| Level of Authority | What monitoring models can do | What OLEO can do | |
|--|----------------------------------|------------------|--|
| <p style="text-align: center;">High</p>  <p style="text-align: center;">Low</p> | Impose discipline | | |
| | Recommend discipline | | |
| | Make findings | | |
| | Recommend findings | | |
| | Compel investigation | | |
| | Subpoena records | | |
| | Full access to personnel records | | |
| | Request additional investigation | | |
| | Review all complaints | | |
| | See all complaints | | |
| Review and intake initial complaints | | | |

Source: King County Auditor’s Office

Each model of civilian oversight has a potential range of authorities. At a basic level, monitoring models need to be able to independently review complaints and investigations. Moving up the spectrum of authority, some monitoring functions can influence the conduct of an investigation and its outcome. For example, many monitoring functions specifically have the ability to recommend findings regarding officer investigations and broad authority to review all components of an investigation.¹¹ Some may refer cases to independent oversight boards for recommendation or other action. In this regard, OLEO’s authority is limited. OLEO monitors investigations, but it cannot publically discuss them, and it has no broader authority in individual cases beyond certifying their thoroughness and objectivity.

OLEO also has limited authority in its Auditor/Ombudsman-type responsibilities (see Exhibit D). As mentioned in Section I of this report, OLEO has the authority to conduct audits of the Sheriff’s Office and to make systemic recommendations for the improvement of Sheriff’s Office policies and practices. However, OLEO does not have authority enabling its systemic analysis and recommendation responsibilities. The Sheriff’s Office is not required, for example, to provide OLEO access to Sheriff’s Office staff, statistical data, or other information with regard to OLEO’s envisioned role of providing “police performance auditing.”

¹¹ See, e.g., Eugene, Portland, Austin profiles at NACOLE <https://nacole.org/nacole-resources/detailed-oversight-agency-profiles/>

2. Authority of King County Oversight Entities

Exhibit D: OLEO has relatively limited authority to its Auditor/Ombudsman function.

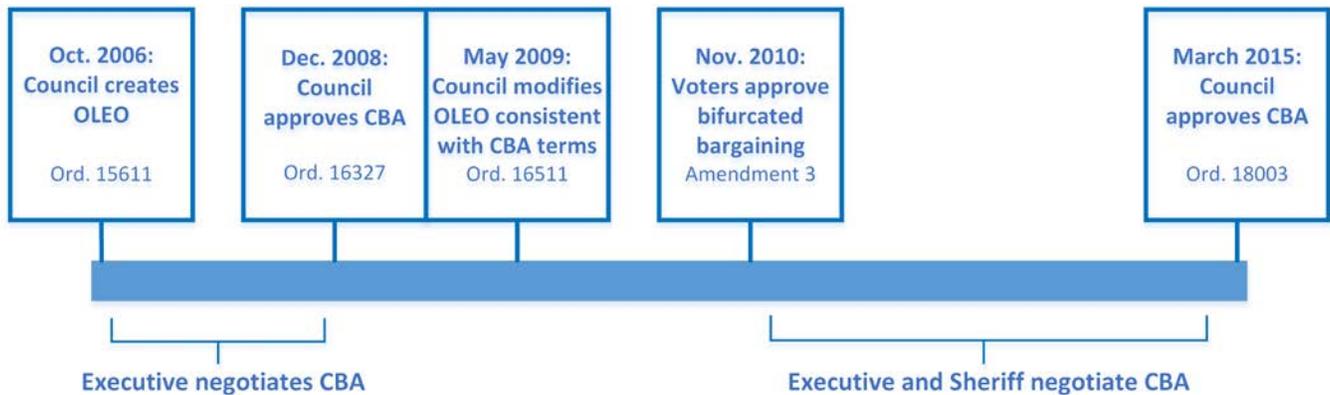
| Level of Authority | What Auditor/Ombudsman models can do | What OLEO can do |
|--|--------------------------------------|------------------|
| <p style="text-align: center;">High</p>  <p style="text-align: center;">Low</p> | Compel practice changes | |
| | Make findings | |
| | Recommend practices | |
| | Attend internal review boards | |
| | Subpoena records | |
| | Access all personnel records | |
| | Review all complaints | |
| | Review policies and procedures | |

Source: King County Auditor’s Office

OLEO’s authority has expanded somewhat since the function was created

OLEO’s authority has been expanded somewhat since the function was created in 2008 (See Exhibit E).¹² In the 2012-2016 collective bargaining agreement, the Sheriff’s Office and the King County Police Officers’ Guild (the Guild) expanded OLEO’s authority.¹³ Under the new agreement, negotiated in part by the Sheriff, OLEO can attend the scene of critical incidents and review boards regarding uses of force and driving accidents. Sheriff’s Office and OLEO officials stated that these changes represent important steps to giving OLEO the authority it requires to conduct oversight. Experts concurred that these changes are key to ensuring effective oversight in King County. However, as depicted in Exhibits C and D, OLEO’s authority remains limited.

Exhibit E: Negotiation authority in King County has changed over time.



Source: King County Auditor’s Office

¹²Responsibilities for collective bargaining have changes since OLEO’s creation, due to change to the King County Charter. In November 2010, county voters approved a charter amendment designating the Sheriff responsible for negotiating labor contract working conditions. The original OLEO ordinance, passed in 2006, was the basis for an unfair labor practice claim by the King County Police Officers’ Guild. In response, the King County Executive negotiated collective bargaining agreement provisions requiring significant changes to the OLEO ordinance. Council approved the collective bargaining agreement and the revised OLEO ordinance in December 2008 and May 2009, respectively.

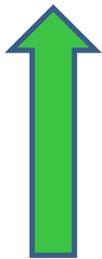
¹³In the first quarter of 2015, Guild membership ratified the agreement, King County Council approved it, and the County Executive signed it. Sheriff’s Office and OLEO have not fully established protocol and processes to establish these new allowed practices.

2. Authority of King County Oversight Entities

The Ombudsman’s Office exercises limited authority

The Ombudsman’s Office has broad authority to conduct independent investigations of the Sheriff’s Office (see Exhibit F).¹⁴ However, due to resource limitations and in deference to OLEO’s role as the county’s primary law enforcement oversight body, the Ombudsman’s Office customarily investigates only individual complaints that are reported directly to it, and with an eye toward administrative and systemic issues rather than officer discipline. According to the Ombudsman’s Office, it generally conducts oversight of IIU investigations after IIU completes them, and determines whether additional investigation by the Ombudsman’s Office is warranted.¹⁵ The Ombudsman may make a finding that an officer committed misconduct, but the finding is, by design, not binding. The Sheriff’s Office separately assesses evidence of other officer misconduct and imposes any resulting discipline, completely independently.

Exhibit F: Ombudsman’s Office has some authority to influence individual investigations.

| Level of Authority | What investigatory models can do | What the Ombudsman can do |
|---|---|---------------------------|
| <p style="text-align: center;">High</p>  <p style="text-align: center;">Low</p> | Impose discipline | |
| | Recommend discipline | |
| | Make findings | |
| | Recommend findings | |
| | Compel officer testimony | |
| | Subpoena records | |
| | Access all personnel records | |
| | Investigate all complaints | |
| | Conduct interviews and other investigations | |
| | Know of all complaints | |
| Complaint intake and review | | |

Source: King County Auditor’s Office

Matter for Council Consideration I

The King County Council may wish to consider revisiting whether the authority granted to the Office of Law Enforcement Oversight (OLEO) and the authority exercised by the Ombudsman’s Office is sufficient to allow King County to achieve its stated goals for civilian oversight. This effort could include consulting with stakeholders, developing revisions to the King County Council Labor Policy, and considering updates to related King County Code.

See Appendix I for a full matrix of recommended actions.

¹⁴The King County Ombudsman’s Office, an independent office within the legislative branch, has charter authority to investigate complaints concerning the operation of county government and to publicize recommendations regarding its findings.

¹⁵The Ombudsman’s Office may compel statements only from Sheriff’s deputies who do not assert their constitutional rights against self-incrimination. No entity outside the Sheriff’s Office, including the Ombudsman, can compel Sheriff’s Office employees to make statements by immunizing them from discipline or prosecution, like an employer such as the Sheriff’s Office can do.

3. Barriers to Effective Law Enforcement Oversight

Section Summary

There are numerous barriers to effective law enforcement oversight in King County. Full independence from the influence of outside forces and unrestricted access to information are necessary conditions for effective law enforcement oversight. These barriers can be broken into three categories:

Independence: A number of conditions prevent OLEO and IIU from being able to direct and manage their own work without outside influence.

Access to information: Numerous restrictions impede the access to information OLEO needs to conduct effective oversight of individual investigations and to identify systemic issues within the Sheriff’s Office. In addition, an incomplete system of referral between King County oversight entities does not take advantage of the unique authority of the Ombudsman’s Office and leads to inconsistent treatment of complaints.

Structure and process: OLEO and IIU both face barriers related to workload, clarity of policies and procedures, and consistency of definitions.

Law enforcement oversight entities in King County are not sufficiently independent from outside influence

Both OLEO and IIU do not have sufficient independence to direct and manage their own work without influence from outside parties.

According to experts, independence is a necessary condition for robust oversight. However, several barriers impede the independence of both OLEO and IIU and may make it difficult for either office to provide meaningful, credible oversight. These include:

- OLEO’s authority is defined through the contents of the collective bargaining agreement between the Guild and King County.
- Representatives of Sheriff’s Office sworn law enforcement personnel have disproportionate influence over the selection of the OLEO director.
- IIU does not have a space separate from other Sheriff’s Office operations from which to conduct and manage investigations.

OLEO is not sufficiently independent from Sheriff’s Office influence.

The collective bargaining agreement between the Guild and King County contains provisions that directly influence OLEO’s processes.¹⁶ For example, the collective bargaining agreement defines OLEO processes such as the timing of complaint referral and the criteria for complaint review, and requires OLEO to certify its review of cases within five business days. Many

¹⁶The King County Police Officers’ Guild is the labor union that represents Sheriff’s Office deputies and sergeants. The Guild contract with King County contains provisions that address OLEO’s conduct of its work, in Article 22.

3. Barriers to Effective Law Enforcement Oversight

of these items were included in the 2008 contract, which was negotiated before the Sheriff had the authority to bargain working conditions. While these items may be important components of OLEO operations, experts stated that these items do not belong in the collective bargaining agreement. Since oversight parameters for OLEO are included in the labor agreement, the subjects of oversight (e.g., the Sheriff’s Office and its employees) effectively control the limits of its own oversight and its operations.¹⁷ According to experts, this circumstance is likely to have a significant negative impact on OLEO’s effectiveness and undermines OLEO’s credibility.

OLEO’s authority is currently defined in both the collective bargaining agreement and in its ordinance.¹⁸ According to experts, this is problematic because it creates opportunities for inconsistencies between the two documents, and may create the impression that the community is not included in setting the parameters of OLEO’s authority. Under Washington state law, collective bargaining requirements can limit the provision of other statutory sources, such as code.¹⁹ This means that, for OLEO, the collective bargaining agreement essentially overrides any provisions in its ordinance. However, labor experts we interviewed agreed that, with a few possible exceptions, OLEO’s oversight processes are not working conditions for Sheriff’s Office employees.²⁰ (See Appendix 7 for a detailed explanation of the legal provisions underlying this topic.) However, county officials and labor experts noted that negotiating changes from previous contracts can be very difficult.

¹⁷Under King County Code, provisions in a collective bargaining agreement that conflict with other laws, e.g., county ordinances, generally control so long as they are not illegal. See K.C.C 3.12.360. Language in the collective bargaining agreement regarding OLEO’s authority is subject to the agreement’s dispute resolution provisions.

¹⁸The current collective bargaining agreement with the Guild runs through December 31, 2016.

¹⁹See, e.g., RCW 41.56.040 and 41.56.100; See also *Mason County*, Decision 3706-A (PECB, 1991) (Bad faith found where county declaration of impasse was triggered by planned adoption of a county ordinance.) However, see also *King County*, Decision 11020 (PECB, 2011), (“If a conflict exists between the provision of the King County charter, as amended by a vote of the people, and Chapter 41.56 RCW and the Court ruling cited above, the Commission would not have apparent jurisdiction to resolve the conflict of laws. Further ... it is questionable whether the Commission would be within its jurisdiction ... to order the King County Executive and Sheriff to ignore Charter Amendment 3.”).

²⁰See Appendix 7. “Working conditions” are a mandatory subject of bargaining and generally include disciplinary procedures. However, as OLEO does not perform independent investigations, or recommend findings or discipline, experts opined that the language in Article 22 may be an impediment to OLEO’s independence.

3. Barriers to Effective Law Enforcement Oversight

Recommendation 1

As it relates to the Office of Law Enforcement Oversight (OLEO), the King County Sheriff's Office, working together with stakeholders including the King County Office of Labor Relations, the King County Executive, and the Prosecuting Attorney's Office, should develop a process to ensure that any collective bargaining agreement language regarding OLEO or civilian oversight solely addresses issues of officer discipline. The Sheriff's Office should deliver a report on the process proposed to bring about these changes to contract language to the King County Council by June 2016. The report should include a proposal for how to remove subjects that relate to OLEO's internal processes from the King County Police Officers' Guild collective bargaining agreement.

See Appendix 1 for a full matrix of recommended actions.

Matter for Council Consideration 2

The King County Council may wish to consider including a statement in its official labor policy that any language regarding civilian oversight in collective bargaining agreements should solely address issues of officer discipline.

See Appendix 1 for a full matrix of recommended actions.

Having the Sheriff's Office negotiate the terms and conditions of its oversight by OLEO creates a conflict of interest

OLEO does not have sufficient opportunity to express its opinion on oversight parameters that the Sheriff's Office and the Guild may include in the collective bargaining agreement. Due to the structure of bargaining for contracts involving the Sheriff's Office, working conditions are negotiated between the represented employees and the Sheriff's Office, while the County Executive's Office of Labor Relations negotiates wages and benefits.²¹ This means that the Sheriff's Office and its employees negotiate the terms and conditions of their own oversight by OLEO, while OLEO does not have any formal method to provide input into that discussion.²² This creates a conflict of interest that may be challenging for the Sheriff's Office. Under this arrangement, the Sheriff's Office must negotiate OLEO priorities alongside other Sheriff's Office priorities.

Sheriff's Office staff reported that they consulted council labor policy and engaged with the OLEO director and staff from the King County Council during collective bargaining for the 2012 to 2016 contract with the King

²¹In 2010, King County voters approved a charter amendment granting the Sheriff authority to bargain working conditions for public safety employees. Wages and benefits for these employees are still negotiated by the King County Executive. See King County Charter, sections 890 and 898.

²²According to accepted labor practices, it is appropriate that OLEO does not directly participate in labor negotiations, since OLEO is not a party to the agreement. However, according to the Office of Labor Relations, OLEO is unique among King County entities in that the terms of its operations are codified in a collective bargaining agreement to which it is not party.

3. Barriers to Effective Law Enforcement Oversight

County Police Officers' Guild. These efforts result in both the aforementioned expansions to OLEO's authority and new limits on OLEO's access to information (see p.17).

The bargaining role of the Sheriff's Office has previously resulted in new limits to OLEO's authority. For example, in 2012, the Guild filed a series of grievances regarding the OLEO director's attendance at certain Sheriff's Office meetings. The actual contract language was silent about the director's authority to attend the meetings; nevertheless, the Sheriff at the time agreed that the director's attendance was a violation of the collective bargaining agreement terms and provided written agreement that the director would no longer be invited to attend.²³

Despite the fact that OLEO's authority is constrained by the outcome of labor negotiations, OLEO has not been invited to inform negotiations as a subject matter expert. According to NACOLE, "unless the County Executive [and the Sheriff's Office] ha[ve] an incentive to include the perspective and work of OLEO in negotiations, it is unlikely that [OLEO will attain] the goals of civilian oversight—to enhance fair and professional law enforcement responsive to community needs."

Matter for Council Consideration 3

The King County Council may wish to consider identifying mechanisms to more directly involve the Office of Law Enforcement Oversight (OLEO) in the development of King County Council labor policy for the King County Sheriff's Office as it relates to OLEO. This may include developing and documenting mechanisms for OLEO to provide comment to the King County Council regarding language pertaining to OLEO and its oversight of the Sheriff's Office.

See Appendix 1 for a full matrix of recommended actions.

Recommendation 2

The King County Sheriff's Office should take the following steps to provide the Office of Law Enforcement Oversight (OLEO) adequate opportunity to express its views on matters relating to oversight that may be included in any collective bargaining agreement.

- (a) Provide OLEO with the opportunity to act as a subject matter expert on matters pertaining to civilian oversight that may arise during contract negotiations
- (b) Inform OLEO in a timely manner of any proposed contract language related to OLEO and its oversight

²³The Sheriff at the time was Sheriff Steve Strachan.

3. Barriers to Effective Law Enforcement Oversight

- (c) Provide OLEO with the opportunity to comment as early in the process as feasible on any proposed language pertaining to OLEO’s oversight

See Appendix 1 for a full matrix of recommended actions.

OLEO’s public reporting is minimal

While OLEO does issue public reports, the office’s public reporting is minimal. At present, OLEO issues one public report a year, which the office publishes on its website. Experts suggested that public reporting and public outreach by OLEO can develop broader support and interest in OLEO. OLEO already has a requirement to report annually to the King County Council, but does not have a requirement to present its findings in public hearings before the King County Council or to report to the County Executive. Other independent offices of the King County Council have a requirement to report findings and recommendations in public hearings before the County Council. Furthermore, in some cases, the County Executive has a requirement under county code to comment in writing on any reports issued that relate to County Executive functions. These requirements could serve as a model for a requirement for the Sheriff to comment in writing on any recommendations OLEO makes to the Sheriff’s Office.

Matter for Council Consideration 4

The King County Council may wish to consider amending the ordinance for the Office of Law Enforcement Oversight (OLEO). Revisions could include: (a) a requirement for OLEO to issue its annual report to both the King County Council and the County Executive, (b) a requirement for OLEO to present all reports to the King County Council, and (c) a requirement for the King County Sheriff to respond in writing to any OLEO recommendations.

See Appendix 1 for a full matrix of recommended actions.

OLEO director hiring process creates independence issues

Two members of the five-member board in charge of selecting the OLEO director are representatives of Sheriff’s Office unions representing sworn law enforcement officers who are subject to OLEO oversight. The King County Code and the collective bargaining agreement designate one position on the hiring committee will be filled by the labor union that represents Sheriff’s Office deputies and sergeants and another will be filled by the labor union that represents Sheriff’s Office captains.²⁴

²⁴The King County Police Officers’ Guild and the Puget Sound Police Managers Association, respectively. Two other positions on the hiring committee are filled by a nominee of the King County Council and a nominee of the King County Executive. These four members meet to select the fifth member of the OLEO director hiring committee.

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Experts characterized this arrangement as a conflict of interest that undermines the independence and credibility of the selection process. Experts stated that this composition of the OLEO director hiring committee is a significant overrepresentation of the law enforcement community in the selection process and noted that those who are the subject of oversight should not have such a strong influence over the selection of the oversight director.

Matter for Council Consideration 5

The King County Council may wish to change the hiring process for the director of the Office of Law Enforcement Oversight to remove or dilute conflicts of interest in which those being overseen have an undue influence on oversight.

See Appendix 1 for a full matrix of recommended actions.

IIU is not sufficiently independent

IIU offices are located within the main Sheriff's Office headquarters, near the Sheriff's Office, which could compromise investigations.

According to experts and sworn Sheriff's Office personnel, this could have a number of bad effects, including:

- expose IIU commanders and staff to attempts to influence investigations
- discourage community members from filing complaints
- make Sheriff's Office staff feel uncomfortable about filing complaints or participating in investigations
- undermine the credibility of IIU.

The 2006 Blue Ribbon Panel recommended that the Sheriff's Office should move IIU to a location that does not house other Sheriff's Office functions. The Sheriff has stated that he does not intend to implement this recommendation (See Sheriff's Response on p.52). Experts, however, stated that it is very important for the Sheriff's Office to implement this recommendation. In addition, the United States Department of Justice along with the International Association of Chiefs of Police states that the best location for IIU would be a facility completely separate from the Sheriff's Office facility. This would allow complainants, witnesses, and subject officers to appear to interviews and interrogations without having their appearance known to the larger office population. Sheriff's Office captains concurred that moving IIU to a separate location is an important step to ensure the independence of the function. Based on similar concerns, the Seattle Police Department internal oversight function—the Office of Professional Accountability—moved its offices to a downtown location

3. Barriers to Effective Law Enforcement Oversight

completely separate from Seattle Police Department headquarters in late 2014. According to the Director of the Office of Professional Accountability, this has increased the number of complaints the office receives from police officers.

Recommendation 3

The King County Sheriff’s Office should relocate the Internal Investigations Unit to another facility or to an area of the King County Courthouse that does not house other Sheriff’s Office functions.

See Appendix 1 for a full matrix of recommended actions.

OLEO has limited access to information

OLEO does not have the unrestricted access to information that experts agree is necessary for effective oversight.²⁵ At present, there are multiple barriers to OLEO’s access to information (see Exhibit G). For instance, OLEO is not permitted to access documents that are more than two years old.²⁶ Furthermore, the OLEO director is required to notify the Sheriff in writing of any legitimate business need for records over two years old, and the Sheriff has unilateral authority to approve or deny these requests. The collective bargaining agreement does not define legitimate business need and there are no criteria in place to guide the Sheriff’s decisions.

Given current restrictions on OLEO in the collective bargaining agreement, members of the public have greater ability to access and use some records than OLEO.²⁷ According to NACOLE, oversight entities should not have constraints placed on their access to files. Furthermore, the overseen should not be able to control an oversight entity’s access to information on law enforcement actions. Other King County oversight functions—including the King County Auditor’s Office and the Ombudsman’s Office—have unrestricted access to information provided for in both the King County Charter and King County Code and do not face this challenge.

The constraints currently placed on OLEO’s access to information significantly diminish the effectiveness of oversight. For instance, the current two-year limit on file access could prevent OLEO from fulfilling its mandate to identify systemic issues within the Sheriff’s Office and make recommendations for improvement. Without the ability to look over longer

²⁵Walker, Samuel, PhD., “The New World of Police Accountability” (2005).

²⁶King County Police Officers’ Guild collective bargaining agreement, Article 22, Section 5. See Appendix 5 of this report for the full text of Article 22.

²⁷For example, the Public Records Act allows the public to access police investigatory records beyond the two-year limit.

3. Barriers to Effective Law Enforcement Oversight

periods, it could be difficult for OLEO to identify trends across incidents.

Exhibit G: There are multiple barriers to OLEO’s access to information.

| Barriers to OLEO Access to Information |
|---|
| OLEO is not allowed to look at investigation or complaint files that are more than two years old. |
| OLEO is required to formally request access to and justify its need for files more than two years old in writing, and the Sheriff has unilateral authority to approve or deny these requests. |
| OLEO is not allowed to download or print files. |
| The King County Sheriff can cut off OLEO employee access to information on investigations and complaints. |
| IIU does not produce a consistent record of investigation that is viewable to OLEO during OLEO’s review timeline. |
| OLEO does not have visibility of or input into the complaint classification process. |

Source: King County Auditor’s Office

The labor agreement reached in March 2015 between the Guild and the Sheriff’s Office includes two provisions that, taken together, have the potential to completely cut off OLEO’s access to investigation files and hence, OLEO’s ability to provide oversight. The provisions are:

OLEO will no longer be permitted to print or download files: The new labor agreement prohibits OLEO from printing or downloading investigation files from the Sheriff’s Office system. Instead, OLEO staff are limited to viewing files in the Sheriff’s Office online file system. Experts stated that this would have a very significant impact on the ability of OLEO to provide effective oversight. In particular, this limitation will make it difficult for OLEO to identify patterns of practice within the Sheriff’s Office and make systemic recommendations for improvement.

The Sheriff will have the unilateral authority to cut off OLEO employees’ access to online investigation files: The March 2015 labor agreement grants the Sheriff the authority to cut off OLEO’s access to online investigation files in the event that the Sheriff believes OLEO employees have overstepped their authority. According to the Sheriff’s Office and the Guild, this provision was put into the collective bargaining agreement as a direct result of concerns that there are insufficient accountability structures in place for the OLEO director and OLEO employees. Experts stated that the Sheriff, as head of the overseen entity, should not be able to restrict access to information. Furthermore, if there are future allegations that OLEO has violated internal rules, experts stated that there should be a process in place for an independent investigation of the matter in which a neutral party would determine the appropriate response.

3. Barriers to Effective Law Enforcement Oversight

Recommendation 4 The King County Sheriff’s Office should remove limits to Office of Law Enforcement Oversight (OLEO) access to information from all collective bargaining agreements, including the King County Police Officers’ Guild agreement. OLEO should have unrestricted access to information, including unrestricted access to files more than two years old and the ability to print and save documents to its own file systems. Provisions that allow the Sheriff’s Office to cut off OLEO access to files are among those that impede access to information and should be removed.

See Appendix 1 for a full matrix of recommended actions.

Matter for Council Consideration 6 The County Council may wish to consider taking action to provide the Office of Law Enforcement Oversight (OLEO) with unrestricted access to information. To this end, the County Council may wish to consider:

- (a) proposing an amendment to the King County Charter specifying that OLEO shall have unrestricted access to information
- (b) amending the authorizing ordinance for OLEO to clarify that OLEO should have unrestricted access to information
- (c) including a statement in its official labor policy that language limiting OLEO’s access to King County Sheriff’s Office information should not be included in collective bargaining agreements.

See Appendix 1 for a full matrix of recommended actions.

Recommendation 5 The King County Sheriff’s Office, together with the King County Council, should develop and document an alternate process to ensure accountability in situations in which Office of Law Enforcement Oversight staff may overstep the function’s authority.

See Appendix 1 for a full matrix of recommended actions.

Matter for Council Consideration 7 The King County Council may wish to consider amending the authorizing ordinance for the Office of Law Enforcement Oversight (OLEO) to clarify the process to ensure accountability in the event OLEO staff overstep the office’s authority.

3. Barriers to Effective Law Enforcement Oversight

OLEO does not have sufficient input into complaint classification

In addition to the restrictions on access to information listed above, OLEO does not have sufficient input into the classification of complaints filed against Sheriff’s Office employees. As a result, it may be possible for complaints to be classified in a manner that conceals them from independent oversight. When IIU learns of a complaint against a Sheriff’s Office employee, the IIU commander alone makes the determination to classify the complaint as an incident, which is then subject to OLEO oversight, or to classify it as a non-investigative matter or a matter for supervisory action, which are not subject to OLEO oversight. Both IIU and OLEO officials acknowledged this possibility. OLEO staff stated that while they technically could look through every complaint file in the Sheriff’s Office system to see how it is classified, they do not have the time to conduct this level of review.

Experts stated that this method of complaint classification could have a very significant negative impact on the quality and completeness of independent oversight. For instance, one expert noted that the process of determining whether and how an allegation will be investigated is as important as the actual review of the investigation.

Recommendation 6

The King County Sheriff’s Office Internal Investigations Unit (IIU) should work together with the Office of Law Enforcement Oversight (OLEO) to develop and document procedures for providing OLEO ease of visibility into the complaint classification process. For instance, the Sheriff’s Office could provide OLEO with a periodic report listing all complaints and how IIU classified them.

See Appendix 1 for a full matrix of recommended actions.

The Ombudsman’s Office has limited access to information

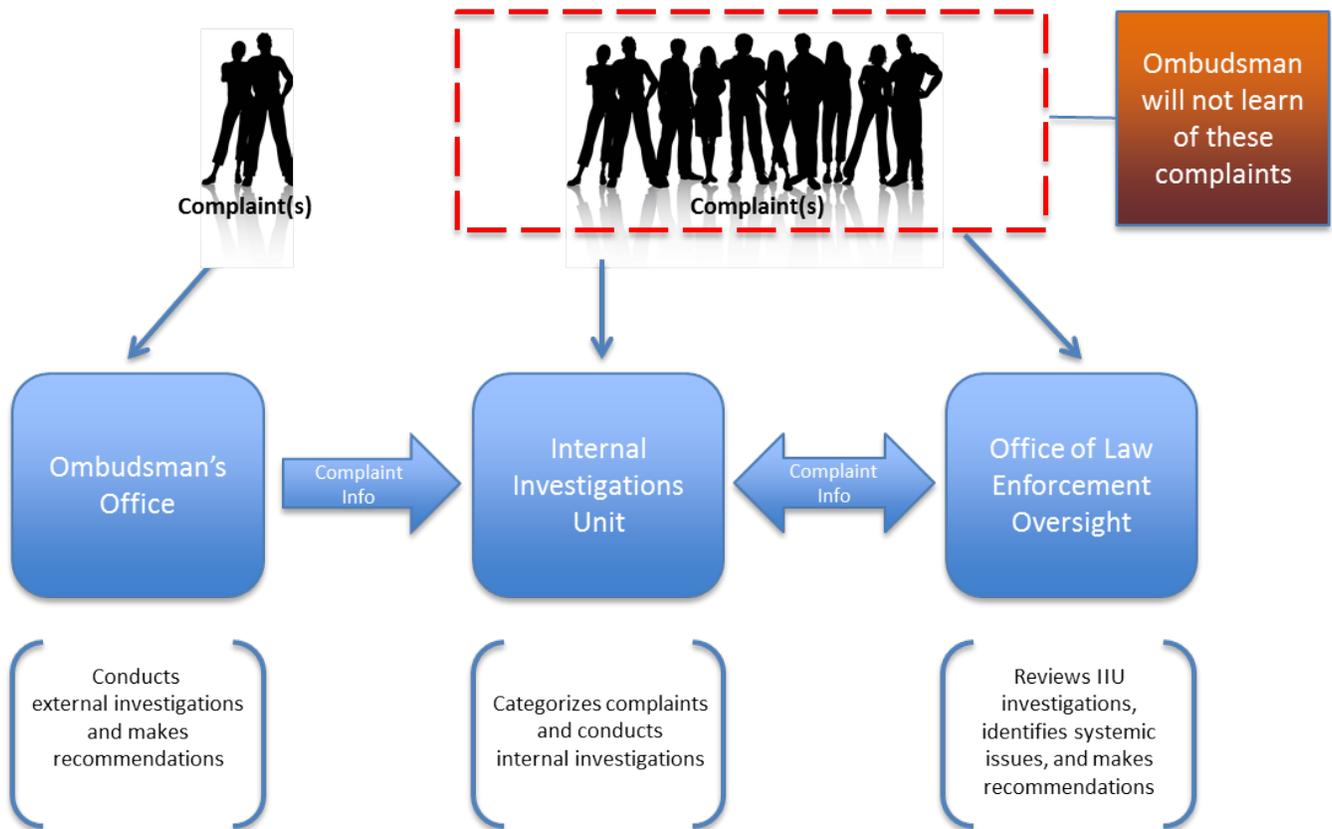
An incomplete system of complaint referral between King County law enforcement oversight entities may present a barrier to fair and equal treatment of complaints. The King County Ombudsman’s Office is unique among King County oversight entities in that it has the authority to initiate and conduct independent investigations of complaints against the Sheriff’s Office and its employees, but it typically does so only if they are filed directly with the Ombudsman’s Office.

When a community member files a complaint with the Ombudsman’s Office, the Ombudsman refers the complaint to IIU for investigation, then reviews the results of the IIU investigation and may investigate further. However, if a community member files a complaint with IIU or OLEO, there is no requirement for either office to inform the Ombudsman. In fact, there is

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evidence that if OLEO did inform the Ombudsman of a complaint, this action would be formally opposed by Sheriff’s Office labor unions. In contrast, both OLEO and IIU are required to inform one another of every complaint (see Exhibit H). In 2014, the Ombudsman was aware of approximately 80 complaints against the Sheriff’s Office, out of more than 400 total complaints filed with IIU. The Ombudsman, with its investigatory power, has more authority than OLEO and is more independent than IIU. Therefore, it is an important element of the law enforcement oversight structure in King County that should be informed of all investigations that the OLEO director believes may merit additional oversight. This is necessary so that the Ombudsman can make fully informed decisions about which allegations require investigative attention.

Exhibit H: IIU and OLEO do not share complaint information with the Ombudsman’s Office.



Source: King County Auditor’s Office

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Matter for Council Consideration 8

The King County Council may wish to consider amending code to provide the Office Of Law Enforcement Oversight with the authority and discretion to refer Internal Investigations Unit cases to the Ombudsman’s Office for additional independent review and potential investigation.

See Appendix 1 for a full matrix of recommended actions.

Structural and procedural barriers prevent both OLEO and IIU from providing effective oversight

There are several structural and procedural barriers in place that prevent OLEO and IIU from providing effective oversight. These include:

- IIU workload issues
- OLEO workload issues
- lack of policies for complaint classification
- lack of IIU timeframes
- insufficient understanding of oversight

These issues all have the potential to impact the quality and effectiveness of oversight provided by both IIU and OLEO. A better understanding of OLEO and IIU staffing needs, improved consistency in definitions, changes to IIU policies and procedures, and training for Sheriff’s Office personnel will assist in improving the quality of law enforcement oversight in King County.

Impact of growing IIU workload on quality and timing of investigations is unclear

IIU workload has grown in recent years, but the Sheriff’s Office does not have the information it needs to demonstrate the impact of this growing workload on the quality and timing of investigations. According to IIU’s 2014 annual report, the number of complaints filed with IIU grew from 685 in 2013 to 803 in 2014. According to the Sheriff, this is due to increased efforts on the part of the Sheriff’s Office to capture and log all complaints. However, the Sheriff’s Office does not have readily available information on the workload of individual IIU investigators, including hours spent on each investigation. In early 2013, the Sheriff’s Office increased IIU staff to four investigators. Yet, even as the number of complaints has increased (including an increase in major misconduct complaints), IIU data shows that there has not been a comparable rise in the number of internal investigations

In addition to investigating issues related to misconduct, the Sheriff’s Office has also chosen to have IIU handle human resources complaints.²⁸ This

²⁸According to the Sheriff’s Office, this includes complaints that fall under the equal employment opportunity statute.

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creates workload challenges that could impact the quality of investigations or contribute to IIU missing the 180-day deadline for imposing discipline as the result of an investigation. According to the Sheriff’s Office, IIU missed the 180-day deadline on eight cases in 2014. According to experts, human resources investigations require a specialized skill set that differs from the typical skill set for IIU investigations. Sheriff’s Office officials stated that having IIU conduct these investigations saves time in many cases as human resources complaints often involve violations of policy that, once uncovered, would result in a subsequent IIU investigation. In the past, both the Blue Ribbon Panel and Hillard Heintze have separately recommended that the Sheriff’s Office conduct an IIU staffing analysis.²⁹ A staffing analysis may reveal needs for more or different resource allocation within IIU.

Recommendation 7

The King County Sheriff’s Office should conduct a staffing analysis of the Internal Investigations Unit (IIU). The analysis should include information on the (a) total number of investigations, (b) types of investigations, (c) number of investigations IIU handles that are equal employment opportunity or human resources investigations, (d) number of investigations being handled by each IIU investigator, (e) number of hours required to complete each investigation, and (f) comparative information on workloads of internal investigations units from other jurisdictions.

See Appendix 1 for a full matrix of recommended actions.

OLEO does not have discretion to manage its workload

The growing number of major complaints has a direct impact on the ability of OLEO to manage its workload and provide effective oversight. The current OLEO ordinance and the collective bargaining agreement both require OLEO to review and certify every investigation conducted by IIU without regard to the seriousness of the allegation or relevance of allegations to public concerns. In addition, OLEO is required to complete its review of IIU investigations within five business days. Because of the high volume of complaints, OLEO may be unable to thoroughly review all complaints given its authorized staffing level. Furthermore, the need to focus its resources on certifying every complaint may prevent OLEO from performing other mandated functions, such as identifying and making recommendations to solve systemic issues within the Sheriff’s Office and conducting community outreach.

²⁹See Appendix 4.

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In emphasizing monitoring, King County’s law enforcement oversight model may be more resource intensive than other oversight models.

Monitoring requires sufficient resources for both the police to fully investigate complaints and for monitors to adequately review police complaint investigations. Monitoring models can therefore be more resource intensive than direct investigation or auditing models, because they require two parallel sets of staff resources. The effectiveness of monitoring models depends on sufficient independence and resources to ensure comprehensive case review and sufficient authority to oversee the integrity of the misconduct investigations.

According to experts, the current allocation of four full-time equivalents to OLEO may not be sufficient for OLEO to fulfill its mandate.³⁰ One

expert observed, “This is hugely problematic. Either [OLEO’s] mission needs to be narrowed or the staffing needs to be increased.” According to NACOLE, “...considering the five-day limit on completing reviews, even having the full complement of four employees would be inadequate for managing and completing one-hundred-fifty-plus reviews in anything but the most cursory way. Understaffing OLEO undermines its mission and its ability to effectively oversee [the Sheriff’s Office].” The question of whether OLEO has the appropriate level of resources to fulfill its mandate may be difficult to answer. Additional information and analysis may be needed regarding the amount of time and effort required for OLEO to monitor IIU investigations, collect information needed to make systemic recommendations, and conduct community outreach before a determination on the adequacy of OLEO staffing can be made.

Recommendation 8

The Office of Law Enforcement Oversight (OLEO) should conduct and document a staffing needs analysis. This analysis should include information on the outputs OLEO is responsible to create, the amount of resources each requires, and an explanation of what OLEO can produce within different budgetary scenarios. It will be necessary for OLEO to establish a baseline of operations under its new director prior to implementation of this recommendation.

See Appendix 1 for a full matrix of recommended actions.

³⁰OLEO has never been fully staffed. Since fall 2014, OLEO has been operating with one full-time staff member and one half-time interim director.

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The five-day timeframe for OLEO review of investigations is problematic, according to experts and county stakeholders. According to NACOLE, “While timeliness is important, mandating five days is unreasonable without consideration of the nature of the investigations, [their] scope and complexity, the amount of notice OLEO receives that it will have a case to review, and the OLEO workload considering its level of staffing. Therefore this severely limits the ability of OLEO to make any meaningful determination [in] all but the simplest of investigations.” Other experts stated that five days could be reasonable for some simple cases, but noted that the deadline seems overly rigid, may not provide enough time for review of complex cases, and could result in rushed review.³¹ OLEO employees indicated that the five-day timeframe stands to create workload challenges for OLEO, particularly as the number of complaints received by IIU has increased in recent years.

Recommendation 9

The Office of Law Enforcement Oversight (OLEO), together with the Internal Investigations Unit of the King County Sheriff’s Office should develop and document a proposal for how to triage OLEO oversight of investigations.

See Appendix 1 for a full matrix of recommended actions.

Matter for Council Consideration 9

Based on the output from recommendation 9, the King County Council may wish to consider amending code to provide the Office of Law Enforcement Oversight (OLEO) with (a) the authority to apply professional judgment to determine which Internal Investigations Unit investigations merit OLEO review and certification, and (b) sufficient time for OLEO to perform its investigation reviews.

See Appendix 1 for a full matrix of recommended actions.

Process for classifying complaints for investigation is not transparent

The Sheriff’s Office does not have written policies detailing criteria for complaint classification and prioritization of investigations, which could result in some complaints being insufficiently investigated. Furthermore, it presents the possibility that the Sheriff’s Office could theoretically conceal certain complaints from independent review by OLEO. As stated above, the IIU commander alone makes the determination on a case-by-case basis whether a complaint will be investigated centrally by IIU, investigated

³¹The intent of the five-day timeframe is unclear. The language regarding the five-day timeframe for certification in the King County Code immediately follows the language regarding the process for requests for further investigation; other code language requires written certifications of all cases, but does not include the five-day period. The intent may have been that the five days specifically applies only in circumstances where additional investigation was requested by OLEO.

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at the precinct level, or not investigated at all. According to the Commission on Accreditation for Law Enforcement Agencies, it is essential for internal investigation units to have written directives that clearly state which type of complaints will be investigated by an officer's supervisor and which will be investigated by internal affairs.³² While the Sheriff's Office General Orders Manual provides some examples of infractions and how they could be categorized, it does not provide specific classification criteria. As a result, IIU could misclassify serious misconduct complaints as less serious complaints, which could prevent those complaints from receiving thorough IIU investigation and OLEO review.

Recommendation 10

The Internal Investigations Unit of the King County Sheriff's Office should develop and document policies detailing criteria for complaint classification and prioritization of investigations.

See Appendix 1 for a full matrix of recommended actions.

IIU does not have interim timeframes to ensure timely progression of investigations

IIU has a 180-day deadline for completing its investigations, but does not have any interim deadlines to help ensure that investigations progress in a timely manner. Experts stated that IIU should establish timeframes for each stage of the investigation process, allowing for variation based on investigation complexity. For example, 20 days for intake, 60-90 days for investigation, and 30 days for review and potential additional investigation. NACOLE also supports the concept of timeframe targets, although it cautions against overly stringent deadlines as they may negatively impact the quality of investigations.

Without internal timeframes, IIU investigations may suffer in quality after being delayed for months and then rushed during the final weeks of the 180-day timeframe. For instance, deputies at focus group discussions reported that it often takes many months before IIU interviews deputies regarding complaints filed against them. In some cases, deputies reported not being aware that complaints were lodged against them until many months after the alleged incident. This means that it is often difficult for deputies to recall incidents about which they are being investigated. Internal timeframes are

³²See International Association of Chiefs of Police Internal Affairs Advisory Committee, *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* (2009); See also Commission on Accreditation for Law Enforcement Agencies, Inc. Standards for Law Enforcement Agencies—Chapter 52 on Internal Affairs (2006), standard 52.2.1 requires written directive(s) that provide guidelines for assignment of complaints to internal investigations versus line supervisors.

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also helpful in benchmarking and may provide IIU with useful information on where there may be challenges or inefficiencies in its workflow.

Recommendation 11

The King County Sheriff’s Office should develop and document interim timeframes to ensure the timely progression of complaint investigations conducted by the Internal Investigations Unit.

See Appendix 1 for a full matrix of recommended actions.

King County law enforcement officers do not fully understand the complaint process and the roles of key oversight entities. The Sheriff’s Office does not provide training to its officers on the complaint process and information in the Sheriff’s Office General Orders Manual does not explain the role of other agencies involved in the complaint process. This lack of formal training and updated policies and procedures was evident during discussions with officers throughout the county. Sheriff’s Office employees who attended our focus groups said that they did not fully understand the IIU investigation process, and they were unfamiliar with the structure, roles, and responsibilities of OLEO and the Ombudsman’s Office.

According to the Department of Justice and the International Association of Chiefs of Police, effective oversight requires management to establish written policies and procedures so that officers can fully understand the process for accepting, processing, and investigating complaints. The International Association of Chiefs of Police explains that when the process is unclear, officers can view the disciplinary system as unfair, which may lead to officers not cooperating with investigations.

Recommendation 12

The King County Sheriff’s Office should update its General Orders Manual to explain the role of other King County offices involved in the complaint investigation and oversight process, including the Office of Law Enforcement Oversight and the King County Ombudsman’s Office.

See Appendix 1 for a full matrix of recommended actions.

3. Barriers to Effective Law Enforcement Oversight

Recommendation 13 The King County Sheriff’s Office, together with the Office of Law Enforcement Oversight (OLEO) and the King County Ombudsman’s Office should develop, document, and implement training to ensure that all employees of the Sheriff’s Office are fully aware of policies, rules, and procedures related to the complaint process. This training should include explanations of the key roles of Internal Investigations Unit, OLEO, and the Ombudsman’s Office.

See Appendix 1 for a full matrix of recommended actions.

Conclusion

King County’s approach to civilian oversight of the King County Sheriff’s Office may be insufficient to attain the county’s broader goals for law enforcement oversight. In theory, various forms of civilian oversight can act to ensure the integrity of the officer investigations and discipline process and enhance public trust in the police. In King County, however, substantial barriers limit the effectiveness of law enforcement oversight. OLEO and IIU may not have sufficient independence to be credible or effective, while OLEO and the Ombudsman’s Office may not have sufficient access to information to perform comprehensive oversight. Further, public perceptions of OLEO’s role – safeguarding public trust in the truthfulness of the Sheriff’s Office – may not align with the actual authorities of its independent civilian oversight agencies.

The solutions to many of these challenges are not simple; many problems will require coordinated action on the part of multiple stakeholders over extended periods of time to resolve. (See Appendix 1 for a full matrix of recommended actions.) Multiple actions will be necessary to ensure unrestricted access to information and sufficient independence for OLEO. For instance, a charter amendment could clearly communicate intent for OLEO to have unrestricted access to information. In addition, there are significant legal issues that must be resolved related to OLEO’s authority and processes, which are currently defined through the process of collective bargaining. This presents the appearance of a conflict of interest, as the Sheriff’s Office and its employees are defining the terms of their own oversight. Resolution of this issue by removing superfluous topics from the collective bargaining agreement between the Guild and King County is an important first step toward improving the credibility and effectiveness of law enforcement oversight in King County.

Oversight officials, law enforcement officials, and officers all expressed common perceptions of the potential benefits of effective civilian oversight—better relations with the communities that the Sheriff’s Office serves in King County and increased credibility for the investigations performed by IIU. Only by working together will it be possible to create meaningful civilian oversight in King County.

Appendix I

Recommended Actions Matrix (by Actor)

| Actor | # | Recommended Action | Mechanism for change | Impacted Areas | Priority |
|---------------------|-----|--|--|--|-----------|
| King County Council | M6 | The County Council may wish to consider taking action to provide the Office of Law Enforcement Oversight (OLEO) with unrestricted access to information. To this end, the County Council may wish to consider: (a) proposing an amendment to the King County Charter specifying that OLEO shall have unrestricted access to information (b) amending the authorizing ordinance for OLEO to clarify that OLEO should have unrestricted access to information (c) including a statement in its official labor policy that language limiting OLEO's access to King County Sheriff's Office information should not be included in collective bargaining agreements. | Charter amendment Ordinance amendment King County Council labor policy changes | Access to information Collective bargaining | Very High |
| | M7 | The King County Council may wish to consider amending the authorizing ordinance for the Office of Law Enforcement Oversight (OLEO) to clarify the process to ensure accountability in the event OLEO staff overstep the office's authority. | Ordinance amendment | Collective bargaining Independence of oversight | Very High |
| | M10 | The King County Council may wish to consider a charter amendment to designate an agent independent of the Sheriff's Office to conduct negotiation of working conditions related to civilian oversight of law enforcement. | Ordinance amendment | Collective bargaining Independence of oversight | Very High |
| | M2 | The King County Council may wish to consider including a statement in its official labor policy that any language regarding civilian oversight in collective bargaining agreements should solely address issues of officer discipline. | King County Council labor policy changes | Collective bargaining Independence of oversight | High |

Appendix I (continued)

| Actor | # | Recommended Action | Mechanism for change | Impacted Areas | Priority |
|-------|-----------|---|--|--|----------|
| | M3 | The King County Council may wish to consider identifying mechanisms to more directly involve the Office of Law Enforcement Oversight (OLEO) in the development of King County Council labor policy for the King County Sheriff's Office as it relates to OLEO. This may include developing and documenting mechanisms for OLEO to provide comment to the King County Council regarding language pertaining to OLEO and its oversight of the Sheriff's Office. | This may include developing and documenting mechanisms for OLEO to provide comment to Council regarding language pertaining to OLEO and its oversight of the Sheriff's Office. | Collective bargaining Authority of oversight Independence of oversight | High |
| | M9 | Based on the output from recommendation 9, the King County Council may wish to consider amending code to provide OLEO with (a) the authority to apply professional judgment to determine which Internal Investigations Unit investigations merit OLEO review and certification and (b) sufficient time for OLEO to perform its investigation reviews. | Change to King County Code | Independence of oversight | High |
| | M8 | The King County Council may wish to consider amending code to provide Office of Law Enforcement Oversight with the authority and discretion to refer Internal Investigations Unit cases to the Ombudsman's Office for additional independent review and potential investigation. | Internal policies and procedures | Access to information | High |
| | M1 | The King County Council may wish to consider revisiting whether the authority granted to OLEO and the authority exercised by the King County Ombudsman's Office is sufficient to allow King County to achieve its stated goals for civilian oversight. | This effort could include consulting with stakeholders, developing revisions to the King County Council Labor Policy, and considering updates to related King County Code. | Authority of oversight | Medium |
| | M4 | The King County Council may wish to consider amending the ordinance for the Office of Law Enforcement Oversight (OLEO). Revisions could include: (a) a requirement for OLEO to issue its annual report to both the King County Council | Ordinance amendment | Independence of oversight | Medium |

Appendix I (continued)

| Actor | # | Recommended Action | Mechanism for change | Impacted Areas | Priority |
|-------------------------------------|-----------|---|---|--|-----------|
| | | and the County Executive, (b) a requirement for OLEO to present all reports to the King County Council, and (c) a requirement for the King County Sheriff to respond in writing to any OLEO recommendations. | | | |
| | M5 | The King County Council may wish to change the hiring process for the director of the Office of Law Enforcement Oversight to remove or dilute conflicts of interest in which those being overseen have an undue influence on oversight. | Ordinance amendment | Independence of oversight | Medium |
| King County Sheriff's Office | RI | As it relates to the Office of Law Enforcement Oversight (OLEO), the King County Sheriff's Office, working together with stakeholders including the King County Office of Labor Relations, the King County Executive, and the Prosecuting Attorney's Office, should develop a process to ensure that any collective bargaining agreement language regarding OLEO or civilian oversight solely addresses issues of officer discipline. | The Sheriff's Office should deliver a report on the process proposed to bring about these changes to contract language to the King County Council by June 2016. The report should include a proposal for how to remove subjects that relate to OLEO's internal processes from the King County Police Officers' Guild collective bargaining agreement. | Collective bargaining Permissive subjects | Very high |
| | R4 | The King County Sheriff's Office should remove limits to Office of Law Enforcement Oversight (OLEO) access to information from all collective bargaining agreements, including the King County Police Officers' Guild agreement. OLEO should have unrestricted access to information, including unrestricted access to files more than two years old and the ability to print and save documents to its own file systems. Provisions that allow the Sheriff's Office to cut off OLEO access to files are among those that impede access to information and should be removed. | Collective bargaining agreement changes | Collective bargaining | Very high |

Appendix I (continued)

| Actor | # | Recommended Action | Mechanism for change | Impacted Areas | Priority |
|-------|-----------|---|--------------------------------|---|----------|
| | R2 | <p>The King County Sheriff's Office should take the following steps to provide the Office of Law Enforcement Oversight (OLEO) adequate opportunity to express its views on matters relating to oversight that may be included in any collective bargaining agreement.</p> <ul style="list-style-type: none"> (a) Provide OLEO with the opportunity to act as a subject matter expert on matters pertaining to civilian oversight that may arise during contract negotiations (b) Inform OLEO in a timely manner of any proposed contract language related to OLEO and its oversight (c) Provide OLEO with the opportunity to comment as early in the process as feasible on any proposed language pertaining to OLEO's oversight | | <p>Collective Bargaining</p> <p>Authority of oversight</p> <p>Independence of oversight</p> | High |
| | R3 | <p>The King County Sheriff's Office should relocate the Internal Investigations Unit to another facility or to an area of the King County Courthouse that does not house other Sheriff's Office functions.</p> | Unit relocation | Independence of oversight | High |
| | R5 | <p>The King County Sheriff's Office, together with the King County Council, should develop and document an alternate process to ensure accountability in situations in which Office of Law Enforcement Oversight staff may overstep the function's authority.</p> | Ordinance amendment | Independence of oversight | High |
| | R7 | <p>The King County Sheriff's Office should conduct a staffing analysis of the Internal Investigations Unit (IIU). The analysis should include information on the (a) total number of investigations, (b) types of investigations, (c) number of investigations IIU handles that are equal employment opportunity or human resources investigations, (d) number of</p> | Staffing needs analysis report | Resources | High |

Appendix I (continued)

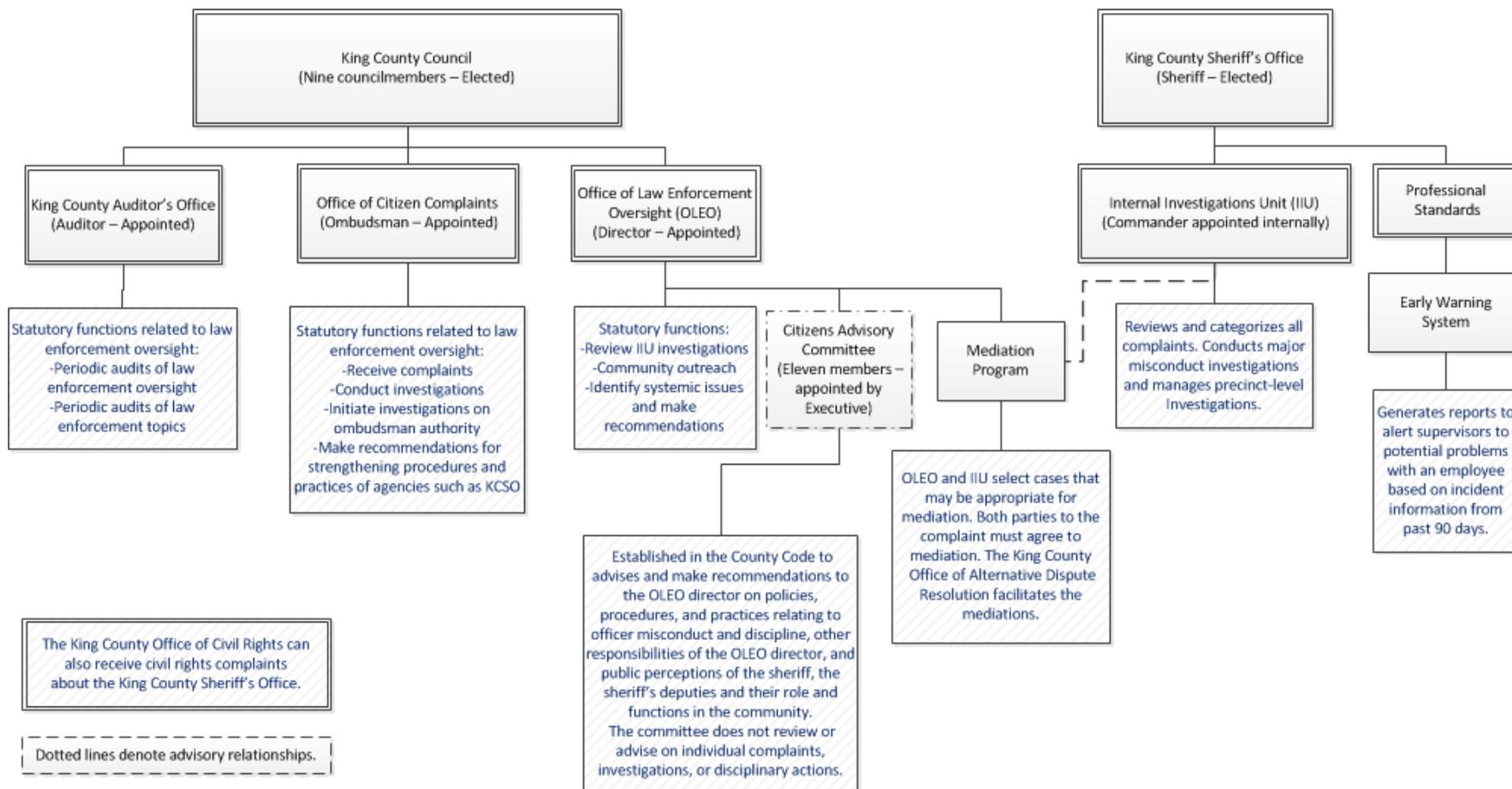
| Actor | # | Recommended Action | Mechanism for change | Impacted Areas | Priority |
|-------|------------|---|---|---|----------|
| | | investigations being handled by each IIU investigator, (e) number of hours required to complete each investigation, and (f) comparative information on workloads of internal investigations units from other jurisdictions. | | | |
| | R6 | The King County Sheriff's Office Internal Investigations Unit (IIU) should work together with the Office of Law Enforcement Oversight (OLEO) to develop and document procedures for providing OLEO ease of visibility into the complaint classification process. For instance, the Sheriff's Office could provide OLEO with a periodic report listing all complaints and how IIU classified them. | Internal policies and procedures and interoffice memoranda of agreement | Access to information | Medium |
| | R10 | The Internal Investigations Unit of the King County Sheriff's Office should develop and document policies detailing criteria for complaint classification and prioritization of investigations. | Internal policies and procedures | Procedures | Medium |
| | R11 | The King County Sheriff's Office should develop and document interim timeframes to ensure the timely progression of complaint investigations conducted by the Internal Investigations Unit. | Internal policies and procedures | Procedures | Medium |
| | R12 | The King County Sheriff's Office should update its General Orders Manual to explain the role of other King County offices involved in the complaint investigation and oversight process, including OLEO and the King County Ombudsman's Office. | Changes to General Orders Manual | Procedures Transparency of oversight | Medium |
| | R13 | The King County Sheriff's Office, together with OLEO and the King County Ombudsman's Office should develop, document, and implement training to ensure that all employees of the Sheriff's Office are fully aware of policies, rules, and procedures related to the complaint process. This training should include explanations of the | Training | Procedures Transparency of oversight | Medium |

Appendix I (continued)

| Actor | # | Recommended Action | Mechanism for change | Impacted Areas | Priority |
|--|-----------|--|--|---------------------------|----------|
| | | key roles of Internal Investigations Unit, OLEO, and the Ombudsman’s Office. | | | |
| Office of Law Enforcement Oversight | R9 | OLEO, together with the Internal Investigations Unit of the King County Sheriff’s Office should develop and document a proposal for how to triage OLEO oversight of investigations. | Proposal to King County Council (see Matter for Council Consideration 8) | Independence of oversight | High |
| | R8 | The Office of Law Enforcement Oversight (OLEO) should conduct and document a staffing needs analysis. This analysis should include information on the outputs OLEO is responsible to create, the amount of resources each requires, and an explanation of what OLEO can produce within different budgetary scenarios. It will be necessary for OLEO to establish a baseline of operations under its new director prior to implementation of this recommendation. | Staffing needs analysis report | Resources | Medium |

Appendix 2

Structure of Law Enforcement Oversight in King County



Appendix 3

Advantages and Disadvantages of Civilian Oversight Models

| Approach | Advantages | Disadvantages |
|-------------------------------|---|---|
| Investigative | <ul style="list-style-type: none"> -independent of police department -perception of accountability as investigation not conducted by police department -allows for independent findings -allows for independent discipline -focus on quality of complaint investigations | <ul style="list-style-type: none"> -depends on staff with sufficient skills and training to conduct competent investigations -requires adequate resources for investigation -can be duplicative of police internal investigations -requires ability to compel evidence -requires ability to compel officer participation -requires investigator knowledge of due process for officers -can be adversarial because due to divided police / oversight role -often limited to complaint investigations |
| Monitoring | <ul style="list-style-type: none"> -can provide feedback faster than independent investigations -allows for police to use their professional investigation skill -provides public transparency into the investigations -monitor feedback can improve the quality of investigations -can improve overall quality of investigation procedures. -allows for recommending further investigation -allows for policy recommendations | <ul style="list-style-type: none"> -depends on staff with sufficient skills and training to conduct competent monitoring -requires adequate resources for monitoring -requires sufficient authority to address problems in investigations -requires sufficient access to investigative materials to ensure comprehensive review -can be the most resource-intensive of civilian oversight models as it requires both the investigative resources of the police and review resources for the oversight function. -may have higher potential for regulatory capture |
| Auditor/ Ombudsman | <ul style="list-style-type: none"> -may review of specific complaints or investigations -may have broader mandate to recommend systemic improvements to police practices and management -may have higher potential systemic impact -can operate more flexibly and freely than the other models -greater potential impact than focus on individual complaint -can be less resource-intensive than other models | <ul style="list-style-type: none"> -depends greatly on the credibility and leadership skills of the citizen auditor -informal nature of function and role can create problems of authority and accountability -requires broad access to police agency -requires varied mix of staff skills -dependence on individual leaders can threaten continuity of quality |

Source: King County Auditor's Office analysis based on literature review

Appendix 4

Status of Recommendations, as Reported by the King County Sheriff's Office

Law Enforcement oversight and accountability systems have been the subject of a number of reports by various parties since 2006. This Appendix briefly recaps the reports issued by three main sources: the King County Sheriff's Blue Ribbon Panel, Hillard Heintze, and the Police Assessment Resource Center. It also reviews the status of implementation of selected recommendations from these sources, as reported by King County Sheriff's Office staff.

King County Sheriff's Office Blue Ribbon Panel

The King County Sheriff's Blue Ribbon Panel Report issued its first report in September 2006. The report consisted of six broad recommendations and 36 implementing actions (under the recommendations). Recommendation six was focused on establishment of independent civilian oversight function for the County. In January 2008, the Blue Ribbon Panel issued a Progress Report that reviewed the status of the six recommendations and issued four new recommendations.

Hillard Heintze LLC

Hillard Heintze LLC acted as consultants to the King County Auditor's Office for the 2012 Performance Audit of King County Sheriff's Office (KCSO) and Office of Law Enforcement Oversight (OLEO). Concurrent with the Audit, they released a report, "Policies and Procedures for Internal Affairs Investigations: An Independent Assessment", containing detailed analysis and 18 recommendations.³³

Police Assessment Resource Center

The Police Assessment Resource Center (PARC) prepared two reports for OLEO. The first, dated August 17, 2012, was "Managing the Risk of Misconduct for the King County Sheriff's Office." The second, "Review of Officer Involved Shooting of Dustin Theoharis," was issued in April of 2013.³⁴

Review Process: Auditor's Office staff compiled a "master list" of recommendations included in the reports from these three sources. We then reviewed their status as to follow-up reporting and documentation – for example, status provided in the Blue Ribbon Panel Progress Report, or materials provided in response to reporting requirements in King County Council motions. Recommendations not indicated as completed in these follow-up sources were then reviewed with KCSO staff, who provided general comments on their status as implemented, in progress, not implemented, or not planning to implement. Note that KCAO has not independently confirmed their status.

³³ Major portions of Hillard Heintze's report were utilized by KCAO staff in their 2012 Audit, but KCAO did not incorporate the report in its entirety due to compliance with generally accepted government auditing standards.

³⁴ The latter report (regarding the Theoharis shooting) contains a detailed analysis and points of critique regarding KCSO's investigation of a specific shooting incident; it does not, however, contain specific findings and/or recommendations regarding KCSO's policies and procedures.

Appendix 4 (continued)

| Source of Recommendation | Recommendation Text | Status | Reported Actions |
|--------------------------|--|-----------------|--|
| Blue Ribbon Panel | The Sheriff's Office management and supervision systems should be improved to support supervisors in making the office more accountable: | | |
| | <ul style="list-style-type: none"> • Create a program to assist employees in their professional development and attainment of career goals | Not implemented | |
| | <ul style="list-style-type: none"> • Assess the demographic distribution of officers relative to the communities they serve. The Sheriff's Office should continue and strengthen its efforts to recruit, hire, train, and promote qualified employees that reflect the ethnic, racial, and gender diversity of its service area | In progress | Increasing diversity is Sheriff's number one goal; initiating recruitment outreach efforts. see <i>Sheriff Proviso P2, Ord 17941</i> |
| | <ul style="list-style-type: none"> • Examine the Field Training Officer program to identify any systemic problems that contribute to the low retention rate of academy recruits | Implemented | Recruiting standards have been updated and improved |
| | <ul style="list-style-type: none"> • Develop a tracking system for all levels of the complaint process | Implemented | IAPro case status improved see in <i>Hillard Heintze</i> below |
| | The Sheriff's Office should improve the processes and guidelines for taking, classifying, investigating, and responding to all citizen and employee complaints: | | |
| | <ul style="list-style-type: none"> • Create an Inspectional Services Unit to evaluate and oversee policies, procedures, practices, and performance. | Implemented | Created ART and are hiring an internal auditor |
| | <ul style="list-style-type: none"> • Attain an acceptable ratio of field supervisors (sergeants) to employees (deputies) to achieve effective supervision. | Implemented | Patrol assessment improving ratio in unit assignments |
| | <ul style="list-style-type: none"> • Provide commanders on duty at all the precincts at least 18-hours-a-day, 7-days-a-week | In progress | CDO program with rotating swing shift hours and on-call |
| | <ul style="list-style-type: none"> • Increase the number of staff in the Internal Investigations Unit to levels that ensure the thorough and timely completion of investigations and the timely publishing of relevant internal management and public reports. | In progress | Focus is on completing investigations in 180 days, developing caseload data see <i>IU staffing in report at 20-21</i> |
| | The Sheriff's Office should create and strengthen organizational structures that support leadership, management, supervision, and accountability. | | |
| | <ul style="list-style-type: none"> • Move the Internal Investigations Unit to another facility or area in the King County Courthouse that does not have other Sheriff's Office functions. | Not implemented | If it is feasible, we'll do it |
| Hillard Heintze | Conduct a detailed review and assessment of staffing levels in IIU to determine whether the IIU is presently understaffed for the work it is doing and should be doing for a department the size of KCSO and for a jurisdiction the size of King County | In progress | IIU developing caseload data and started tracking hourly case data; need staffing analysis see <i>IU staffing in report at 20-21</i> |
| | Undertake a detailed review of the process KCSO uses to complete annual performance appraisals for each department member | Implemented | New evaluation form; completed before transfer |

Appendix 4 (continued)

| Source of Recommendation | Recommendation Text | Status | Reported Actions |
|--------------------------|--|-------------|---|
| | Although KCSO and the new OLEO Director are working toward creating and instituting a new Formal Mediation Process that could help address lower-level citizen complaints while reducing IIU case workload, put a plan in place to conduct an assessment of the new program one year after implementation | Implemented | Have informally assessed; needs more outreach and engagement (so parties are aware of option) |
| | Place a high priority on reviewing the training procedures provided by the Training Unit on an annual basis to ensure that mandated training is occurring that meets both KCSO's GOM requirements as well as those of the State of Washington and the Commission on Accreditation for Law Enforcement Agencies. | Implemented | ATU has program for compliance with standards and tracking officer participation |
| | Consider sending a small contingent of KCSO stakeholders and Police Guild representatives to meet with their counterparts in other major law enforcement agencies that have already been through the experience of establishing a working relationship with a new OLEO | Implemented | KCSO and SPD went to meet with LAPD in 2013 |
| | Consider the benefits of acquiring Shoot-Don't Shoot and Driver Simulator training equipment to provide training that can reduce injury, civil liability, and unnecessary use of force cases. If funding is problematic, consider acquiring such equipment jointly with a nearby law enforcement agency | Implemented | Partnered with OLEO to purchase and utilize in training |
| | Ensure the OLEO has the authority, structure, and support to fulfill its mission | N/A | Not part of KCSO duties |
| | Establish clear distinctions in writing between the roles and authorities of the OLEO and the King County Ombudsman's Office (KCOO) to ensure that OLEO has the primary role of monitoring misconduct complaints involving the KCSO as well as to ensure the OLEO does not become involved in areas of KCOO's responsibilities | N/A | Not part of KCSO duties; commented that work well with Ombudsman's Office |
| | Evaluate the process by which use of force is reviewed and documented by supervisors, ensuring that consistent adherence to GOM policies and procedures in this area are followed by all department members, including those in contract cities | Implemented | Amended forms in 2013 and 2014 to directly follow GOM |
| | Conduct a review and qualitative assessment to determine whether IIU is taking full advantage of the capabilities of its IAPro database program, particularly to determine if the program can help KCSO support an early warning system for potential misconduct | Implemented | IAPro provided training on database capabilities |
| Hillard Heintze | Explore the use of a discipline matrix when determining the varying degrees of discipline that should be levied for misconduct based upon factors that take into account the concept of progressive discipline | Implemented | Considered potential drafts but decided not to move forward with matrix for sworn officers |
| | Undertake a collaborative effort promptly to create a clear and concise policy outlining the specific roles and authorities for the new OLEO | Implemented | Included as part of IIU SOPs |
| | Allow the OLEO Director or his designee to attend the formal Shooting Review Board, once it has been established that no criminal charges will be filed against a department member involved in any deputy-involved shooting under review | Implemented | Included in new CBA |

Appendix 4 (continued)

| Source of Recommendation | Recommendation Text | Status | Reported Actions |
|---|--|----------------------------------|---|
| Police Assessment Resource Center (PARC) | We propose that the Austin (TX) Police Department's general use of force policy be used as a model for KCSO's general use of force policy | Not planning to implement | ART is growing capacity for KCSO review with training |
| | We recommend Taser International's new guidelines for targeting to be added to KCSO's Taser policy | N/A | Unsure of status at time of interview; would be included |
| | We recommend compelling a deputy to make a statement immediately after a use of force incident has occurred while the events are still fresh in the deputy's mind. Furthermore, we recommend the statement not be a written statement, but instead a recorded interview by a commanding officer | In progress | Some changes with new Use of Force policy, but not shootings; some implementation. |
| | We recommend the creation of a Use of Force Review Board | Implemented | Created UOF Board in GOM and new CBA |
| | In terms of organization, we recommend that the entire use of force case file, including all reports and documents describing the Use of Force Review Board's findings and recommendations and the Supervisor's Use of Force Review should be combined into one file by IIU | In progress | Being done with shooting reviews and will likely do so with UOF Board in future |
| | We recommend that a KCSO member interview suspects involved in use of force incidents and then include these interviews in the Use of Force Review packets | In progress | Attempt to do so, can be complicated by pending criminal charges |
| | We recommend adding the following question and space for comments to the Supervisor Use of Force Incident Review form (after number three on the form, before the Supervisor investigative steps question): Were there any reasonable alternatives for the use of force? If yes, then what are they? | In progress | In shooting review narrative, but not in GOM; may review for other UOFs in future |
| | We recommend that supervisors answer this new question (<i>above</i>) by listing potential alternatives to the reported force and then why those alternatives would have been reasonable or unreasonable in the incident | In progress | Alternatives being listed if reasonable in review materials; ART developing further |
| Police Assessment Resource Center (PARC) | We recommend that KCSO make greater use of less lethal options and that consideration of them be included in any shooting analysis | Implemented | Implementation hard to define; less lethal options discussed in shooting reviews |
| | We recommend that KCSO develop a crisis intervention team to communicate with and manage individuals who are under the influence for intoxicants, experiencing mental health issues, or suffering from an extreme emotional state | Implemented | roughly 80% of KCSO deputies have CIT response training |
| | We recommend that a deputy involved in a shooting give a formal, recorded interview prior to being relieved of duty, whether or not a statement has been provided. If the interview is entirely voluntary on the deputy's part, it may be conducted by a representative of Major Crimes. If, however, the interview is compelled, it should be conducted by IIU or a specialized team in order not to jeopardize a prosecution because of Fifth Amendment violations | Not planning to implement | There are changes in new CBA, but they are not compelling an interview; disagreement with basis for this recommendation |
| | We recommend that IIU "rollout" with Major Crimes to scenes where one or more deputies have used their firearm and conduct a parallel investigation | Implemented | IIU/ART goes to shooting scenes for policy review |

Appendix 4 (continued)

| Source of Recommendation | Recommendation Text | Status | Reported Actions |
|---|---|---------------------------|--|
| | We recommend that the King’s County Sheriff’s Office focus more of their investigation of shooting incidents on the deputy who used their firearm, witnesses, and the incident as opposed to circumstances surrounding the suspect | Implemented | reflected in new Major Crimes and ART division of roles, review board processes |
| | We recommend that incident reports regarding deputy involved shootings include more balance in details of the incident and the investigation thereafter | Implemented | Policy developed and included in CBA and GOM changes |
| | We recommend that the Shooting Review Board release a detailed, written statement that explains how the Board came to its decision and include it in the shooting review packet | Implemented | Included in shooting review memo |
| | We recommend that KCSO retain a permanent file of each Shooting Review Board hearing with notes of the proceedings | Implemented | Keeping file permanently |
| | We recommend that the King County Sheriff’s Office adopt a practice of allowing and encouraging, when appropriate, dissenting opinions in the Shooting Review Boards. Additionally, we recommend that all votes should be recorded and kept on record with other Shooting Review Board packet materials | Implemented | Included in proceedings for shooting review memos |
| | We recommend that KCSO no longer include deputies on the Shooting Review Board or on our recommended Use of Force Review Board | Not planning to implement | Not a priority for contract negotiations |
| | We recommend that KCSO remove all representatives of the Guild from all future Shooting Review Boards or our recommended Use of Force Review Board | Not planning to implement | Not a priority for contract negotiations |
| | We recommend that KCSO add a citizen member to the Shooting Review Board or our recommended Use of Force Review Board for all future reviews | Not planning to implement | Chief Deputy decides attendees, no plan for citizen; OLEO will now attend though |
| | We recommend that KCSO clearly indicate when the criminal investigation is completed to check whether the department is meeting its own deadlines and to adhere to the 30 day rule of holding a Shooting Review Board hearing after an incident | Implemented | Changing to 45 days in CBA and GOM; major challenge due to wait for completion of criminal investigation |
| | We recommend that IIU handle all complaints of KCSO employees | Implemented | Added to GOM |
| Police Assessment Resource Center (PARC) | We recommend that KCSO repeat the policy of immediately reporting criminal misconduct so that all observations of general misconduct are immediately reported as well | Implemented | Sheriff does outreach reminders on reporting |
| | We recommend that KCSO immediately end this 180 day tolling provision for administrative investigations | Not planning to implement | Disagreement; difficult for contract negotiations and 180 days ensures timely completion |
| | We recommend that KCSO create a clear written standard for all IIU investigations | Implemented | Standards are in IIU SOPs |

Appendix 4 (continued)

List of acronyms:

ART: Administrative Review Team

ATU: Advanced Training Unit

CBA: collective bargaining agreement (between sworn officers and KCSO)

CDO: command duty officer, a Captain or above who is the designated as the command officer for immediate response to incidents

CIT: crisis intervention team; CIT training teaches officers tools and techniques for assisting individuals with mental illness

GOM: General Orders Manual, the standing orders for KCSO employees (members)

IAPro: database system used to track KCSO incident and performance data, including internal investigations; IAPro is the software

IU: KCSO's Internal Investigations Unit

KCSO: King County Sheriff's Office

LAPD: Los Angeles Police Department

OLEO: Office of Law Enforcement Oversight

SOPs: standard operating procedures

SPD: Seattle Police Department

UOF: use(s) of force; officers must document certain actions as uses of force consistent with General Orders Manual requirements

Appendix 5

Article 22 of Collective Bargaining Agreement Between the King County Sheriff's Office & the King County Police Officers' Guild

ARTICLE 22: CIVILIAN REVIEW

The King County Office of Law Enforcement Oversight (OLEO) will provide a professional presence to help ensure a quality investigation in real time, and visible, independent oversight to reassure the public.

Section 1. The OLEO will actively monitor all Sheriff's Office internal investigations. In addition, OLEO may monitor any incidents involving Critical Incidents. Critical Incidents include the use of deadly force, in-custody deaths, officer-involved shootings, and any use of force or vehicular pursuit that results in death or injury requiring hospitalization.

Section 2. The OLEO may receive complaints from any complaining party, including, without limitation, citizens or employees of the Sheriff's Office. The OLEO will forward all complaints to the Internal Investigations Unit (IIU) within three business days for processing and, when appropriate, investigation. The OLEO will not conduct independent disciplinary investigations, but may participate in interviews as provided herein.

Section 3. The OLEO director/designee shall be timely notified of and have the opportunity to attend scenes of Critical Incidents requiring callout of the Criminal Investigations Division (CID) and/or the Administrative Review Team (ART). OLEO staff shall be stationed at the Command Post and interact only with the administrative team as liaison with the CID. After the initial investigation is complete and scene secured, a representative from CID will escort the OLEO representative through the scene.

Section 4. The OLEO director/designee may attend Use of Force Review Boards and Department-level Driving Review Boards as a non-voting member.

Section 5. In addition to complaints received by the OLEO, IIU will provide OLEO access to all other complaints within three business days. The KCSO will be the custodian for all KCSO investigative

Appendix 5 (continued)

records. OLEO will not print or download KCSO complaints or investigative records of any kind. The OLEO will have subsequent access to closed cases for up to two years solely for reporting purpose, unless there is a legitimate business necessity to review older files. The OLEO director will notify the KCSO in writing of such business necessity when requesting access to cases older than two (2) years. If the Sheriff determines that a member of OLEO has violated the terms of access to investigative records, the Sheriff shall have the right to deny the OLEO member further access to investigative records.

Section 6. The OLEO will have the opportunity to make a recommendation for mediation to the Sheriff, prior to investigation. In the event the Sheriff's Office, the complainant and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation. Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline and the complaint will be administratively dismissed. Good faith means that the officer listens and considers the issues raised by the complainant, and acts and responds appropriately. Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith. Moreover, any records related to mediation (other than a mediation settlement agreement) shall not be admissible in any proceeding except to enforce this section.

Section 7. Once any complaint is received by the IIU, it shall be submitted to the chain of command for review pursuant to the King County General Orders Manual Policy. When either the Sheriff or her/his designee determines that the allegations warrant investigation, such investigation shall be approved, and IIU will initiate the investigative process.

Section 8. IIU will notify the OLEO of all administrative interviews on all complaints of a serious matter (complaints that could lead to suspension, demotion or discharge) and all complaints originating at the OLEO. A single OLEO representative from the OLEO may attend and observe interviews, and will be given the opportunity to ask questions that are within the scope of permissible investigative questioning after the completion of questioning by the Sheriff's Office. The OLEO will not participate in criminal investigations of Sheriff's Office employees in any way, and will not be notified

Appendix 5 (continued)

of any part of the criminal investigation until the criminal investigation is concluded. At that point, the file shall be provided to the OLEO.

Section 9. Upon completion of internal investigations, IIU will provide access to the case file for OLEO's review. The OLEO will determine, in writing, whether the investigation was thorough and objective in the opinion of the Director of the OLEO.

Section 10. As a part of the review process, the Director of the OLEO may believe that additional investigation is needed on issues he/she deems material to the outcome. If there is any dispute between the assigned investigator(s) and the OLEO regarding the necessity, practicality or materiality of the requested additional investigation, the IIU Commander will determine whether additional investigation will be undertaken. If the OLEO is not satisfied with the determination of the IIU Commander, the matter will be submitted to the King County Sheriff, for review. If the Director of the OLEO is not satisfied with the determination of the Sheriff, the matter will be resolved by the King County Executive, whose decision will be final. Once the matter has been referred to and resolved by the Executive, the investigation will be completed consistent with the determination by the Executive. After completion of the additional investigation, or the conclusion that no further investigation will be undertaken, the OLEO will then certify whether or not, in the opinion of the Director of the OLEO, the internal investigation was thorough and objective. This determination will be made within five (5) business days. Once the above finding is entered in the investigation, the OLEO will not be involved further in the processing of that case except as provided herein.

Section 11. All final disciplinary decisions will be made by the Sheriff.

Section 12. The OLEO will 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 in the event that the complaint is not sustained.

Section 13. The OLEO will be notified by IIU within five (5) business days of case closure of all complaints of a Serious Matter and all complaints originally filed with the OLEO. The OLEO, in addition to the Sheriff's Office's written Notice of Finding letter to the complainant, may send a closing letter to the complainant. The letter may summarize the case findings within the context of this Article.

Appendix 5 (continued)

Section 14. Any complaining party who is not satisfied with the findings of the Sheriff's Office concerning their complaint may contact the OLEO to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed. In accordance with established arbitral case law, employees may not be subject to discipline twice for the same incident. In the event the investigation is re-opened and discipline imposed, the appropriate burden of establishing compliance with this section rests with the County in any subsequent challenge to the discipline. Moreover, this section is subject to the 180 day limitation contained in Article 19.9 of this Agreement

Section 15. In addition to the investigative process, the OLEO will have unimpeded access to all complaint and investigative files for auditing and reporting purposes. The OLEO is prohibited at all times and, including but not limited to, issuing written or oral reports, from disclosing the name(s) or other identifying information of employees or other individuals involved in incidents or investigations. The OLEO will immediately notify the Sheriff of any request or demand for, or court action seeking, OLEO records. Absent a court order, the OLEO is prohibited from providing information related to pending investigations to any third party because such disclosure could compromise a pending investigation. If a court order requiring disclosure is issued, OLEO shall immediately provide a copy of the order to the Sheriff. The OLEO may make statistical observations regarding the disciplinary results of sustained internal investigations, but shall not take issue with discipline imposed by the Sheriff in specific cases.

Section 16. The OLEO may recommend policies and procedures for the review and/or audit of the complaint resolution process, and review and recommend changes in Sheriff's Office policies to improve the quality of police investigations and practices. Nothing herein shall be construed as a waiver of the Guild's right to require the County to engage in collective bargaining as authorized by law.

Section 17. A committee of five (5) members (Committee) will be formed that will recommend three (3) candidates for the OLEO Director position for the Executive's consideration. The Committee shall be composed of one member appointed by the King County Police Officers' Guild; one member appointed by the Puget Sound Police Managers' Association (Captains bargaining unit); one member

Appendix 5 (continued)

appointed by the Chair of the County Council; and one member appointed by the County Executive. The fifth member shall be appointed by the other four (4) members. The committee will be responsible for ensuring that three candidates are forwarded for selection. If one of the candidates is not selected, the process shall be repeated.

Section 18. The Committee will be responsible for ensuring that the three candidates forwarded to the Executive possess the required minimum job requirements. In addition to whatever job requirements may be established by the County, one of the minimum job requirements for the OLEO will be to have a history that includes the establishment of a reputation for even-handedness and fairness.

Appendix 6

Labor Policy and County Council Statements on Goals of Civilian Oversight

King County’s 2012 Labor Policy update identified OLEO as “an important means of assuring integrity, transparency, and accountability” and “fostering community trust” in the King County Sheriff’s Office. The Office of Law Enforcement Oversight’s (OLEO) mission is to “effectively manage risk and evaluate the integrity of internal controls” through “police performance auditing, use of force review, and assessment of public and employee complaints.” The Policy provides that OLEO have authority to:

1. Identify systemic problems and opportunities for improvement, and offer recommendations to address those problems and make improvements;
2. Review and assess investigations of complaints, misconduct, uses of force, critical incidents and other matters ... to ensure the thoroughness, objectivity, and adequacy of investigations and any resultant discipline;
3. Audit internal investigation operations and any other operations, policies, and practices of [the Sheriff’s Office] necessary to carry out the goals and purposes of OLEO ...;
4. Have unimpeded and timely access to case information, investigations, scenes of critical incidents and other meetings and operations ...;
5. Conduct community outreach related to complaint and investigations process and public perceptions of the Sheriff’s Office to increase understanding, confidence, and trust between the Sheriff’s Office and the public.³⁵

Councilmember statements on goal of civilian oversight legislation:

“The ultimate goal of our legislation, from the beginning and I think in what is reflected in the amended version before you today, has always been to create a system for civilian oversight that:

1. allows for the independent civilian monitoring and evaluation of ongoing investigations in the Sheriff’s Department;
2. helps resolve investigations and ensures credibility of the discipline system;
3. allows for transparency at all levels of the investigation, complaint, and discipline systems; and allows for review of systemic problems and ensure needed policy changes are identified.”

³⁵ Metropolitan King County Council Labor Policy LP2012-033, approved June 18, 2012

Appendix 6 (continued)

| Selected Goals in County Ordinances and Statements of Labor Policy |
|--|
| Ordinance 15611 |
| An independent civilian oversight agency dedicated to the oversight of law enforcement |
| Bolster[ing] public confidence and to ensur[ing] proper oversight [of the King County Sheriff's Office] |
| A vigorous and effective internal investigation process, combined with appropriate civilian monitoring and oversight, is essential for effective law enforcement |
| A system of civilian oversight that will monitor ongoing investigations of misconduct, help resolve cases, implement methods for increasing the level of public trust and transparency, and that will identify systemic issues within sheriff's office and offer recommendations for reform |
| Ordinance 16511 |
| The office shall not conduct independent disciplinary investigations, but may participate in interviews as provided |
| Certification, whether or not, in the opinion of the OLEO Director, the internal investigation was thorough and objective |
| Labor Policy LP2012-33 |
| The creation and maintenance of an independent civilian office of law enforcement oversight is an important means of assuring integrity, transparency, and accountability in law enforcement and of fostering community trust in, and respect and support for, the King County Sheriff's Office |
| OLEO needs to be able to identify systemic problems that might occur within KCSO and make recommendations for solutions to such problems and for systemic improvements in KCSO |
| To effectively manage risk and evaluate the integrity of internal controls |
| Audit police performance, review the use of force, and conduct community outreach to explain the role of OLEO, especially in the event of high-profile use-of-force incidents and other events of particular interest to the community |
| identify systemic problems and opportunities for improvement, and offer recommendations to address those problems and make improvements |
| review and assess internal investigations of complaints, misconduct, uses of force, and critical incidents and other matters ... to ensure the thoroughness, objectivity, and adequacy of those investigations and any resultant discipline |
| have unimpeded and timely access to case information, investigations, scenes of critical incidents, and other meetings and operations as necessary |
| conduct community outreach related to complaint and investigations processes and public perceptions of the King County Sheriff's Office to increase understanding, confidence, and trust between the King County Sheriff's Office and the public |
| to negotiate collective bargaining agreements and related agreements in good faith that are consistent with, and do not undermine, the goals set forth in this policy and the OLEO operational plan |
| The Office of Law Enforcement Oversight is and should remain in the legislative branch. |
| Labor Policy 2012-35 |
| The county's bargaining agents shall make every effort to negotiate labor agreements ... consistent with the implementation of the July 24, 2012, report of the King County Auditor concerning the King County Sheriff's Office ... and the August 17, 2012, report of the Office of Law Enforcement Oversight prepared by the Police Assessment Resource Center |

Appendix 7

Permissive Subjects in Collective Bargaining

“Mandatory” versus “permissive” subjects of bargaining is fundamentally a legal issue. In labor law, “mandatory” issues are those that must be collectively bargained – the areas that management and the employees’ union are required to address within their contract. “Permissive” issues are those that can be included in a contract, but are not required to be included as a matter of law. Under Washington law, “mandatory” subjects of bargaining include wages, benefits, and working conditions.

The Public Employment Relations Commission determines what is “mandatory” versus “permissive” on a case-by-case basis. Conclusively determining whether a specific area of negotiation with regard to civilian oversight is “permissive” ultimately requires either agreement between the parties (presently the King County Police Officers’ Guild and the King County Sheriff’s Office) or litigation (i.e., the unfair labor practice arbitral process and any further review by the Commission, and/or court review under the process in Washington law).³⁶

Officer discipline procedures are a mandatory subject of bargaining.³⁷ However, management has the right – and in many cases, duty – to investigate employee conduct and take corrective action, consistent with legal requirements,³⁸ including aspects of investigations as relates to an employee’s rights to union representation and investigation,³⁹ and standards of “just cause.”⁴⁰ When management introduces new investigative methods that can result in discipline, those methods may have to be bargained.⁴¹ Still, management has a general prerogative to conduct its investigations subject to these principles⁴², and individual disciplinary decisions are not mandatory subjects of bargaining.⁴³

As such, many of the present functions and activities of the Office of Law Enforcement Oversight (OLEO) may have a tenuous relationship with the requirements of collective bargaining under

³⁶“The Commission applies a balancing test on a case-by case basis to determine whether an issue is a mandatory subject of bargaining. In deciding whether a duty to bargain exists, there are two principal considerations: (1) the extent to which managerial action impacts the wages, hours, or working conditions of employees; and (2) the extent to which managerial actions are deemed to be an essential management prerogative. The inquiry focuses on which characteristic predominates. The Supreme Court in *City of Richland* held that ‘the scope of mandatory bargaining is limited to matters of direct concern to employees’ and that ‘managerial decisions that only remotely affect ‘personnel matters’ and decisions that are predominately ‘managerial prerogatives,’ are classified as non-mandatory subjects.’” *City of Mountlake Terrace*, [Decision 11702](#) (PECB, 2013) (internal citations omitted), citing *International Association of Fire Fighters, Local 1052 v. PERC*, 113 Wn.2d 197, 200 (1989) (*City of Richland*).

³⁷*City of Yakima*, Decision 3503-A (PECB, 1990), *aff’d* 117 Wn.2d 655 (1991)

³⁸See, e.g., *NLRB v. J. Weingarten, Inc.*, 420 U.S. 251 (1975); *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532 (1985), *Garrity v. New Jersey*, 385 U.S. 493 (1967)

³⁹See, e.g., *State - Washington State Patrol*, [Decision 11863](#) (PECB, 2013)

⁴⁰The “Just Cause” standard established in *Enterprise Wire* (46 LA 359, 1966) involves seven factors commonly used to evaluate whether an employee’s discipline is reasonable based on the circumstances of investigation into their conduct. See <http://www.hawaii.edu/uhowo/clear/home/EnterpriseWire.html>.

⁴¹ See, e.g., *Snohomish County*, [Decision 9678](#) (PECB, 2007) (reviewing the principles of management prerogative versus working conditions in *King County*, Decision 9495 (PECB, 2006) and *Colgate-Palmolive Co.*, 323 NLRB 82 (1997))

⁴² See, e.g., Article 2 of the [KCPOG contract](#) regarding “Management Rights”

⁴³ See, e.g., *City of Seattle*, [Decision 9938-A](#) (PECB, 2009)

Appendix 7 (continued)

Washington law. Under OLEO’s authorizing ordinance, it does not conduct independent disciplinary investigations,⁴⁴ and must protect the identifying information of employees involved in investigations.⁴⁵ Under the Guild collective bargaining agreement, it is categorically prohibited from “taking issue with the discipline imposed by the Sheriff in specific cases.”⁴⁶ All final disciplinary decisions are made by the Sheriff. OLEO cannot conduct independent investigations or direct additional investigation by IIU, and instead may request it of the Internal Affairs Unit – with right of appeal to the Sheriff and, potentially, the Executive.⁴⁷ Therefore, it is hard to identify exactly where OLEO’s activities affect those mandatory subjects of bargaining of “direct concern to employees,” given OLEO’s role is limited to investigations and discipline. Much of language regarding OLEO in the Guild collective bargaining agreement effectively limits OLEO’s activities to non-mandatory subjects, rather than addressing activities that would clearly be mandatory conditions of bargaining – for example, direct participation in determining officer discipline.⁴⁸

Public Records Act

The circumstances of public access to records have changed since OLEO was first included in the collective bargaining agreement in 2008. For example, under the Public Records Act, a member of the public could theoretically request records of an investigation, review those records (with redacted identifying information), and then write a letter to the Sheriff regarding their assessment of the investigation – including commenting on discipline.⁴⁹ The Guild collective bargaining agreement does not expressly allow OLEO to do any of those things. Limiting the civilian oversight function to less access to records and information than that of the public presents reputational risks for the County.

⁴⁴ See K.C.C. 2.75.040 C

⁴⁵ K.C.C. 2.75.060 A “[OLEO] shall protect all documents and information regarding specific investigations or officers as required by law.”

⁴⁶ See King County Police Officers’ Guild contract, Article 22, Section 15 (in Appendix 5)

⁴⁷ See K.C.C. 2.75.060 E and Guild Article 22, Section 10

⁴⁸ See, for example, Appendixes D and E of the [Seattle Police Officers’ Guild contract with the City of Seattle](#). The contract places no direct limits on the authority of the Director of the Office of Public Accountability or the Office of Public Accountability Auditor as to directing and/or requesting additional investigation; procedures for grieving violations of confidentiality by members of the Office of Public Accountability Review Board require notice to the President of the City Council, with copies to the Mayor, the Chair of the [Council] Public Safety Committee and the Chief of Police.

⁴⁹ See, e.g. *Sargent vs. Seattle Police Department* <https://www.courts.wa.gov/opinions/pdf/874174.pdf>

Sheriff's Response

SHERIFF

KING COUNTY

KING COUNTY SHERIFF'S OFFICE
516 Third Avenue, W-116
Seattle, WA 98104

John Urquhart
Sheriff

June 22, 2015

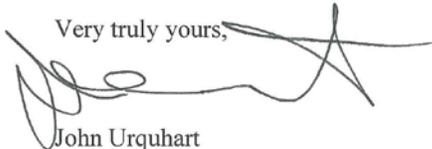
KyMBER Waltmunson, County Auditor
Metropolitan King County Council
King County Courthouse
516 Third Avenue, Room W-1033
Seattle, WA 98104-3272

RE: Response to Proposed Final Report: Law Enforcement Oversight: Limited Independence, Authority, and Access to Information Impede Effectiveness

Dear Ms. Waltmunson:

Thank you for the hard work of your team on the drafting of the final report. Attached to this letter you will find the Sheriff's Office response to the recommendations from the Auditor's Office.

Very truly yours,



John Urquhart
Sheriff



Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness

List of Recommendations

| Recommendation | Agency Position | Schedule for Implementation | Comments |
|---|------------------------------|-----------------------------|---|
| <p>Recommendation #1 As it relates to the Office of Law Enforcement Oversight (OLEO), the King County Sheriff's Office, working together with stakeholders including the King County Office of Labor Relations, the King County Executive, and the Prosecuting Attorney's Office, should develop a process to ensure that any collective bargaining agreement language regarding OLEO or civilian oversight solely addresses issues of officer discipline. The Sheriff's Office should deliver a report on the process proposed to bring about these changes to contract language to the King County Council by June 2016. The report should include a proposal for how to remove subjects that relate to OLEO's internal processes from the King County Police Officers' Guild collective bargaining agreement.</p> | <p>Do not concur.</p> | <p>N/A</p> | <p>Recommendation #1 encompasses issues bargained by a prior King County Executive, and approved by a prior King County Council. While there are certainly changes that need to be made in labor contracts that pertain to OLEO, it makes no sense to "telegraph" the County's position on revisions prior to formal contract talks.</p> <p>The Sheriff's Office was very successful in getting positive contract changes affecting OLEO via the normal bargaining process. A heavy-handed, my-way-or-the-highway approach is seldom conducive when bargaining labor contracts, <u>especially</u> when trying to change previously negotiated issues.</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
 Page 2 of 12

| Recommendation | Agency Position | Schedule for Implementation | Comments |
|---|----------------------|-----------------------------|--|
| <p>Recommendation #2 The King County Sheriff's Office should take the following steps to provide the Office of Law Enforcement Oversight (OLEO) adequate opportunity to express its views on matters relating to oversight that may be included in any collective bargaining agreement.</p> <p>a) Provide OLEO with the opportunity to act as a subject matter expert on matters pertaining to civilian oversight that may arise during contract negotiations</p> <p>b) Inform OLEO in a timely manner of any proposed contract language related to OLEO and its oversight</p> <p>c) Provide OLEO with the opportunity to comment as early in the process as feasible on any proposed language pertaining to OLEO's oversight</p> | <p>Concur</p> | <p>N/A—See comments.</p> | <p>The process suggested by the Auditor in Rec. #2 was employed in early negotiations of the current contract. In fact, KCSO's initial proposal for changes to Article 22 (OLEO provision) included <u>all</u> of the OLEO Director's recommendations.</p> <p>The former OLEO Director was invited and did provide input in the bargaining process, and he was briefed several times.</p> <p>Unfortunately these wholesale changes brought meaningful bargaining to a standstill for almost a year. The largest impediment to making headway on prior OLEO proposals was the fact that KCSO's initial proposal was a cut and paste of the former Director's wish list. This was viewed as overwhelmingly broad and indefensible, creating bad will from the start of</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
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| Recommendation | Agency Position | Schedule for Implementation | Comments |
|--|------------------------------|-----------------------------|--|
| | | | <p>negotiations. Clearly, the former director had significant input and impact on the bargaining process, as we anticipate future directors will have that was well.</p> <p>Finally, the King County Council or appropriate committee was briefed <u>at least 10 times</u> on the progress and issues of bargaining and had ample opportunity to weigh in.</p> |
| <p>Recommendation #3 The King County Sheriff's Office should relocate the Internal Investigations Unit to another facility or to an area of the King County Courthouse that does not house other Sheriff's Office functions.</p> | <p>Do not concur.</p> | <p>N/A</p> | <p>Since the 2006 Blue Ribbon Panel, complaints are now much more widely accepted. That is, it is much easier to file a complaint than it was nearly 10 years ago. KCSO now accepts anonymous complaints. KCSO now accepts complaints online. KCSO accepts complaints at any precinct. KCSO works with complainants and</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
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| Recommendation | Agency Position | Schedule for Implementation | Comments |
|----------------|-----------------|-----------------------------|---|
| | | | <p>witnesses to interview them over the phone or at a separate location if preferred.</p> <p>The Auditor's report takes the position that a co-located IIU may "discourage community members from filing reports." However any community member can file a complaint in several ways...none of which involves coming into the IIU office.</p> <p>The Auditor's report takes the position that a co-located IIU may "expose IIU commanders and staff to attempts to influence investigations." However there is little or no opportunity for command staff to influence the outcome on an investigation, since the location is in an area close to the Sheriff, there is</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
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| Recommendation | Agency Position | Schedule for Implementation | Comments |
|----------------|-----------------|-----------------------------|---|
| | | | <p>oversight as to who might be “visiting”. If IIU was at a remote location, or even elsewhere in the Courthouse there would be no oversight of who was visiting.</p> <p>The Auditor’s report takes the position that a co-located facility “undermines the credibility of IIU,” yet offers no insight as to why that might occur.</p> <p>Finally, the report cites the fact that SPD has moved its internal investigations function to a separate building, but fails to note the fact that KCSO’s operations are spread out geographically over an area 17 times larger than the city limits of Seattle. A KCSO deputy coming downtown to speak with IIU is not subjected to the same scrutiny an officer in a metropolitan police department would</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
 Page 6 of 12

| Recommendation | Agency Position | Schedule for Implementation | Comments |
|--|--|-----------------------------|---|
| | | | be in a more densely-staffed environment. |
| <p>Recommendation #4 The King County Sheriff's Office should remove limits to Office of Law Enforcement Oversight (OLEO) access to information from all collective bargaining agreements, including the King County Police Officers' Guild agreement. OLEO should have unrestricted access to information, including unrestricted access to files more than two years old and the ability to print and save documents to its own file systems. Provisions that allow the Sheriff's Office to cut off OLEO access to files are among those that impede access to information and should be removed.</p> | <p>Partially concur—but mostly not.</p> | <p>N/A</p> | <p>The Sheriff's Office is willing to bargain access to files more than two years old.</p> <p>Otherwise, as stated in Rec. #1, King County cannot unilaterally remove bargained issues from its contracts.</p> <p>Furthermore, The provisions related to OLEO's restrictions on printing and saving files on its own systems were bargained <i>specifically at the request</i> of King County Council staff due to the "public records nightmare" created by the activities of the former OLEO director, Charles Gaither.</p> <p>Finally, the Department of Justice (DOJ)</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
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| Recommendation | Agency Position | Schedule for Implementation | Comments |
|---|-----------------------------|-----------------------------|--|
| | | | <p>requires the Sheriff's Office to shut off access to files that are accessed inappropriately (i.e. outside of policy.)</p> <p>So whether that is codified in the collective bargaining agreement as it is now, is moot.</p> |
| <p>Recommendation #5 The King County Sheriff's Office, together with the King County Council, should develop and document an alternate process to ensure accountability in situations in which Office of Law Enforcement Oversight staff may overstep the function's authority.</p> | <p>Do not concur</p> | <p>N/A</p> | <p>There is no need for this proposal since an accountability process already exists. The OLEO Director reports to the King County Council and it is their responsibility to resolve issues with their employee.</p> <p>To suggest that the Sheriff's Office should have a role in "reining in" or disciplining OLEO flies in the face of public confidence in the process and the independence of OLEO from the Sheriff's Office.</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
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| Recommendation | Agency Position | Schedule for Implementation | Comments |
|--|----------------------|---|--|
| | | | |
| <p>Recommendation #6 The King County Sheriff's Office Internal Investigations Unit should work together with the Office of Law Enforcement Oversight (OLEO) to develop and document procedures for providing OLEO ease of visibility into the complaint classification process. For instance, the Sheriff's Office could provide OLEO with a periodic report listing all complaints and how IIU classified them.</p> | <p>Concur</p> | <p>According to the Auditor's report, this depends on OLEO resources.</p> | <p>Also depends on IIU resources in the form of providing the suggested "periodic report."</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
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| Recommendation | Agency Position | Schedule for Implementation | Comments |
|---|--------------------------------|--|---|
| <p>Recommendation #7 The King County Sheriff's Office should conduct a staffing analysis of the Internal Investigations Unit (IIU). The analysis should include information on the (a) total number of investigations, (b) types of investigations, (c) number of investigations IIU handles that are equal employment opportunity or human resources investigations, (d) number of investigations being handled by each IIU investigator, (e) number of hours required to complete each investigation, and (f) comparative information on workloads of internal investigations units from other jurisdictions.</p> | <p>Partially Concur</p> | <p>Depends on Council action; See comments.</p> | <p>An analysis described in Rec. #7 would be impossible utilizing existing resources. To be successful, KCSO would need appropriated funding for an outside consulting agency to conduct a staffing analysis.</p> <p>In conjunction to Rec. #7, the Auditor states in the audit narrative that KCSO has "chosen to have IIU handle human resources complaints." This is not correct. The KCSO EEO Coordinator handles those specialized investigations, and sometimes IIU sergeants sit in to address policy violations if they arise. That is the only way those violations can be addressed on a timely basis due to the 180 day rule.</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
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| Recommendation | Agency Position | Schedule for Implementation | Comments |
|---|------------------|-----------------------------|--|
| <p>Recommendation #10 The Internal Investigations Unit of the King County Sheriff's Office should develop and document policies detailing criteria for complaint classification and prioritization of investigations.</p> | N/A | N/A | <p>Complaint classification is <u>already</u> documented under GOM 3.03.030.</p> <p>The Auditor's Report cites CALEA requirements, yet the Sheriff's Office has been entirely CALEA compliant for several years, including under this recommendation.</p> |
| | | | <p>See the explanation under Rec. 11 for a response regarding the prioritization of investigations.</p> |
| <p>Recommendation #11 The King County Sheriff's Office should develop and document interim timeframes to ensure the timely progression of complaint investigations conducted by the Internal Investigations Unit.</p> | Partially Concur | January 2016 | <p>Most investigations take a maximum of 60 days to complete. Investigations at the precinct level must be completed within 30 days. Delays sometimes occur outside the control of IIU. However a better analysis would be helpful. A historical perspective will come from KCSO's internal auditor.</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
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| Recommendation | Agency Position | Schedule for Implementation | Comments |
|---|-----------------------------|-----------------------------|---|
| <p>Recommendation #12 The King County Sheriff's Office should update its General Operations Manual to explain the role of other King County offices involved in the complaint investigation and oversight process, including OLEO and the King County Ombudsman's Office.</p> | <p>Do not concur</p> | <p>N/A</p> | <p>The GOM is already 876 pages long, and the KCPOG contract is 122 pages in length and the King County Police Officers Management Association's contracts is similar. Both contain pages-long descriptions of OLEO.</p> <p>In addition, the 18-page IIU Standard Operating Procedures (SOP's) are on the KCSO Intranet site and available to all employees. These SOP's detail <u>exactly</u> how an investigation will be conducted.</p> <p>KCSO is reticent to add additional "fluff" within the GOM that will not be useful to department members. Labor representatives for Sheriff's Office members are sufficient for informing their members regarding any additional details regarding</p> |

Sheriff's Response (continued)

Proposed Final Report – Law Enforcement Oversight: Limited Independence, Authority and Access to Information Impede Effectiveness
 List of Recommendations
 Page 12 of 12

| Recommendation | Agency Position | Schedule for Implementation | Comments |
|--|----------------------|-----------------------------|---|
| | | | OLEO and the Ombudsman's Office. |
| <p>Recommendation #13 The King County Sheriff's Office, together with the Office of Law Enforcement Oversight (OLEO) and the King County Ombudsman's Office should develop, document, and implement training to ensure that all employees of the Sheriff's Office are fully aware of policies, rules, and procedures related to the complaint process. This training should include explanations of the key roles of Internal Investigations Unit, OLEO, and the Ombudsman's Office.</p> | Do not concur | N/A | <p>See comments related to Rec. #12 above.</p> <p>In addition, KCSO is seriously under-funded for all training. Since information on OLEO and the Ombudsman is available from other sources, at this time added training would be redundant and therefore not prudent at this time.</p> |

Office of Law Enforcement Oversight Response



King County

Office of Law Enforcement Oversight

401 Fifth Avenue, Room 131
Seattle, WA 98104-1818

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TTY Relay: 711

oleo@kingcounty.gov

www.kingcountv.gov/oleo

June 23, 2015

KyMBER Waltmunson
King County Auditor
516 Third Ave, Room W-1033
King County Courthouse
Seattle, WA 98104

Dear Ms. Waltmunson:

The Office of Law Enforcement Oversight (OLEO) appreciates the efforts your office has made to review the system of civilian oversight in King County. While your report identified many barriers and hurdles yet to be taken in order to achieve true oversight of the King County Sheriff's Office, during this period of transition, we will defer any management decisions to the new OLEO Director.

Sincerely,

Patti Cole-Tindall
Interim Director, Office of Law Enforcement Oversight

Office of Law Enforcement Oversight Response (continued)

| Recommendation | Agency Position | Schedule for Implementation | Comments |
|---|-----------------|---|--|
| <p>Recommendation #8 The Office of Law Enforcement Oversight (OLEO) should conduct and document a staffing needs analysis. This analysis should include information on the outputs OLEO is responsible to create, the amount of resources each requires, and an explanation of what OLEO can produce within different budgetary scenarios. It will be necessary for OLEO to establish a baseline of implementation of this recommendation.</p> | Concur | Approaching how to address recommendations 9 and 10 in addition to the implementation schedule should appropriately be determined by the new OLEO Director. | The nationwide recruitment effort for an OLEO Director began June 2015. Potential candidates are currently being identified and will ideally be in their new role by the 3 rd or 4 th quarter of 2015. |
| <p>Recommendation #9 OLEO, together with the Internal Investigations Unit of the King County Sheriff's Office should develop and document a proposal for how to triage OLEO oversight of investigations.</p> | Concur | Approaching how to address recommendations 9 and 10 and creating an implementation schedule should appropriately be determined by the new OLEO Director. | The nationwide recruitment effort for an OLEO Director began June 2015. Potential candidates are currently being identified and will ideally be in their new role by the 3 rd or 4 th quarter of 2015. |

Executive Response



King County

Dow Constantine

King County Executive
401 Fifth Avenue, Suite 800
Seattle, WA 98104-1818

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www.kingcounty.gov

June 17, 2015

KING COUNTY AUDITOR

JUN 18 2015

RECEIVED

Kymer Waltmunson
King County Auditor
Rm. W-1033
C O U R T H O U S E

Dear Ms. Waltmunson:

Thank you for the opportunity to review and comment on the proposed final report on Office of Law Enforcement Oversight (OLEO).

I support the overarching goal that guided the King County Council to establish OLEO, an independent, civilian oversight agency, to promote integrity, transparency, and accountability thereby fostering the community's trust in the Sheriff's Office. OLEO accomplishes this goal by monitoring investigations for thoroughness and adequacy, identifying systemic problems that provide opportunity for improvement, and by providing community outreach and mediation.

However, as the report correctly points out, provisions under the collective bargaining agreements covering employees in the Sheriff's Office impede on OLEO by impacting its functions and authority, and independence.

As the Sheriff is now responsible for bargaining working conditions, my office no longer has direct authority to advance collective bargaining proposals that would relieve the impediments that impact OLEO. Nonetheless, my office is fully prepared to support the Sheriff and the Council in advancing proposals that addresses the barriers that constrain OLEO, tempered by the realities of collective bargaining and state labor law. Our collective goal, working collaboratively with the guilds, associations, and unions representing employees in the Sheriff's Office, should be to achieve and promote the goals envisioned by the Council when it established OLEO and to address the barriers identified in the report.

If you have any questions regarding our audit response, please contact Patti Cole-Tindall, Director, Office of Labor Relations, at 206-263-2878.



*King County is an Equal Opportunity/Affirmative Action Employer
and complies with the Americans with Disabilities Act*

Executive Response (continued)

KyMBER Waltmunson
June 17, 2015
Page 2

Thank you for collaborating on this important work.

Sincerely,



 Dew Constantine
King County Executive

cc: Fred Jarrett, Deputy County Executive, King County Executive Office (KCEO)
Rhonda Berry, Chief of Operations, KCEO
Gail Stone, Law & Justice Policy Advisor, KCEO
Patti Cole-Tindall, Director, Office of Labor Relations, King County Executive Office
The Honorable John Urquhart, King County Sheriff

King County Ombudsman Response



King County OMBUDSMAN

Amy Calderwood, Ombudsman – Director
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Fax: (206) 296-0948
ombudsman@kingcounty.gov

KING COUNTY AUDITOR

JUN 23 2015

RECEIVED

June 26, 2015

KyMBER Waltmunson
King County Auditor
516 Third Ave, Room W-1033
Seattle, WA 98104

Dear Ms. Waltmunson:

Thank you for the opportunity to comment on the proposed final audit report on the Office of Law Enforcement Oversight (OLEO) which highlights the challenges facing oversight of law enforcement in King County.

The final audit report takes very complex issues and provides recommendations that look to positively influence the direction of law enforcement oversight in King County, so that the public we serve will benefit far into the future.

The Ombudsman's Office, in accordance with our mission to promote public confidence in King County government, would welcome the opportunity, as recommended in the report to work with the King County Sheriff's Office and OLEO to achieve its stated goals for civilian oversight.

Thank you for all of your hard work on this matter.

Sincerely,

Amy Calderwood
Ombudsman-Director

Auditor's Response to Sheriff's Comments

Law enforcement oversight is critical to the credibility of law enforcement and can play an important role in encouraging continuous improvement in policing practices. For law enforcement oversight to be effective, it must have sufficient independence and access to information – two components that we found fundamentally lacking in King County's structure for civilian oversight.

The Sheriff's Office did not concur with five of 11 recommendations in this report, concurred with two, partially concurred with three, and indicated that one recommendation was not applicable. The Sheriff's comments were inconsistent with our audit findings and recommendations. Our response addresses key issues in the comments from the Sheriff's Office. Additional comments from the Sheriff's Office are factually inaccurate and counter to principles of transparency and accountability, but are not addressed here. We would be happy to discuss those concerns upon request.

Language related to civilian oversight of law enforcement in labor contracts should be limited to matters of discipline

Despite the statement by the Sheriff's Office that it has already implemented Recommendation 2, we disagree. As we state in our report, there is no formalized mechanism in place to ensure that Office of Law Enforcement Oversight (OLEO) is consistently invited to provide input in a meaningful and timely manner on proposed labor agreement provisions that may impact civilian oversight. The Sheriff's Office also did not concur with our recommendation (Recommendation 1) to take steps to ensure that any labor agreement language related to the OLEO be limited to mandatory bargaining issues related to officer discipline. Experts in civilian oversight of law enforcement and labor negotiations strongly suggested that the Sheriff's Office address the present contractual threats to OLEO's independence and access to information.

In our report we recommend actions to resolve these issues. We recommend that the Sheriff's Office limit provisions related to civilian oversight in labor agreements to matter than pertain to officer discipline. We also recommend the Sheriff's Office take steps to ensure that OLEO and the King County Council are well informed on any potential labor agreement provisions that may impact civilian oversight. However, if the Sheriff's Office is unwilling to pursue necessary changes to relevant labor agreements and improve transparency of the negotiation process, the King County Council may wish to consider instead seeking a charter amendment that provides negotiating authority for working conditions relating to OLEO to a body independent of the Sheriff's Office. Therefore, the Auditor's Office submits an additional matter for council consideration.

Auditor's Response to Sheriff's Comments (continued)

Matter for Council Consideration 10

The King County Council may wish to consider a charter amendment to designate an agent independent of the Sheriff's Office to conduct negotiation of working conditions related to civilian oversight of law enforcement.

Limits on the Office of Law Enforcement Oversight's access to information must be resolved

The Sheriff's Office partially concurred with our recommendation to ensure that OLEO has unrestricted access to information (Recommendation 4). The Sheriff's Office did not concur with our recommendation to ensure that matters of OLEO accountability are addressed through an appropriate mechanism, rather than through restrictive labor agreement provisions that create fundamental conflicts of interest and undermine the credibility of civilian law enforcement oversight in King County (Recommendation 5).

To ensure effective civilian oversight, OLEO's access to information should not be constrained by provisions in labor agreements. The collective bargaining process is not the appropriate forum for addressing this issue. Multiple parties reported that the limits on OLEO's access to information added in the 2012-2016 labor agreement were included due to County Council and Sheriff's Office staff concerns regarding the previous OLEO director's use of information. Regardless, using the contract and/or collective bargaining to limit OLEO's access to information (as explained in the Sheriff Office's comments) is highly problematic as OLEO is not a party to the contract. There are more appropriate mechanisms to address these concerns, which are addressed in Recommendation 5.

Management's use of collective bargaining – whether by the Sheriff's Office, County Council, or County Executive – to address or influence parties other than employees represented by the bargaining unit goes beyond the employer-employee relationship that labor agreements are intended to address. Thus, Recommendations 4 and 5, among others, articulate the need to remove contractual limits on OLEO not related with the employer-employee relationship. Although the Sheriff's Office states it is “willing to bargain access to files more than two years old,” it should endeavor to remove *any* such contractual limits. Further, concerns regarding appropriate treatment of information by OLEO – as expressed by Sheriff's Office management during the audit – should be addressed through actions of the King County Council.

Action is required to ensure the independence and effectiveness of the Sheriff's Office Internal Investigations Unit

The Sheriff's Office did not concur with our recommendation that the Internal Investigations Unit (IIU) should be relocated (Recommendation 3), partially concurred with our recommendation that the Sheriff's Office should conduct a staffing analysis of IIU (Recommendation 7), and indicated that our recommendation that IIU develop criteria for complaint classification (Recommendation 6) was not applicable. Further, the Sheriff's Office did not concur with two recommendations (Recommendations 12 and 13) to ensure transparency of oversight.

Auditor's Response to Sheriff's Comments (continued)

The Sheriff's Office argues against the relocation of IIU to another location in part because the current location allows for the "oversight of who [is] visiting." This lack of privacy for members of the public or Sheriff's Office employees wishing to make a complaint was the very reason for the recommendation. An IIU staffing analysis is needed to evaluate the potential need for additional staff to address workload concerns. Clear and unambiguous criteria for complaint classification is needed to ensure consistent treatment of complainants and to avoid the possibility that serious complaints would be under classified and thus avoid appropriate scrutiny.

As all five of these recommendations, and others, reflect the need for greater support for the IIU function, as well as greater investment in, to ensure Sheriff's Office employees understand the parameters of the oversight they are subject to, the Sheriff's Office's lack of concurrence is a cause for concern. Community and officer complainants do not simply file complaints online, they are interviewed by IIU detectives. Conceptually, conducting such interviews in close proximity to the office of the King County Sheriff could be a barrier to participation. Similarly, information regarding IIU caseloads, case classification criteria, and interface and education regarding civilian oversight are components of a vigorous and transparent internal investigations process. Resource constraints may be a valid implementation challenge, but do not explain the Sheriff's Office categorical unwillingness to address the problems in these areas.

Statement of Compliance, Scope, Objective & Methodology

Statement of Compliance with Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Scope and Objectives

This audit examines the effectiveness of King County's system of law enforcement oversight, including both the Office of Law Enforcement Oversight (OLEO) and the King County Sheriff's Office (Sheriff's Office) Internal Investigations Unit (IIU). The objectives of this audit were to:

- Identify the goals of civilian oversight and the models that exist for conducting civilian oversight.
- Identify the advantages and disadvantages of the current model of law enforcement oversight in King County.
- Identify the steps that have been taken to improve law enforcement oversight King County and the remaining steps that key stakeholders can take to improve its efficiency and effectiveness.

Methodology

To achieve the objectives listed above, the King County Auditor's Office interviewed management and key staff from the Office of Law Enforcement Oversight, the King County Sheriff's Office, the Prosecuting Attorney's Office, and the King County Council. We also interviewed both local and national experts in the areas of law enforcement oversight and labor relations and surveyed relevant literature, including academic and professional reports (See Exhibit A).

To identify and assess the potential effects of the advantages and disadvantages of the current model of the law enforcement oversight in King County, we developed a survey that we distributed to selected experts. The goal of the survey was to gather expert input and perspectives on both the magnitude and potential bad effect of numerous potential barriers to law enforcement oversight we identified. We also convened a one-day expert panel attended by six experts (See Exhibit B). We analyzed the information gathered through both survey responses and expert panel discussion in order to identify barriers to effectiveness of law enforcement oversight in King County, assess the relative magnitude of these barriers, and identify potential solutions. To understand the perspectives of Sheriff's Office employees on law enforcement oversight, we conducted focus group discussions with Sheriff's Office captains, sergeants, and deputies. We held one focus group discussion with Sheriff's Office captains, and conducted one focus group at each of the Sheriff's Office patrol precincts. We also interviewed the King County Police Officers' Guild president.

Statement of Compliance, Scope, Objective & Methodology (continued)

We reviewed recommendations made to King County, the Sheriff’s Office, and OLEO in prior reports from the Police Assessment Resource Center, Hillard Heintze, and the King County Sheriff’s Blue Ribbon Panel and met with Sheriff’s Office and OLEO officials to discuss recommendation implementation status.

Exhibit A: Expert interviews

| Participant | Affiliation(s) |
|-------------------|--|
| Barbara Attard | Police practices consultant and former City of San Jose Independent Police Auditor |
| Brian Buchner | President, National Association for Civilian Oversight of Law Enforcement and former Special Investigator with the Los Angeles Board of Police Commissioners Office of the Inspector General |
| Ted Buck | Partner, FreyBuck |
| Elizabeth Ford | Visiting Assistant Professor, Seattle University School of Law and former King County Director of Labor Relations |
| Margo Frasier | Director of the City of Austin Office of the Police Monitor and former Sheriff of Travis County, TX |
| Michael Gennaco | Office of Independent Review, Los Angeles |
| Ed Holmes | Mercer Island Chief of Police |
| Pete Holmes | Seattle City Attorney |
| Gareth Jones | Director of the Special Ombudsman Response Team, Office of the Ombudsman of Ontario |
| Otto Klein | Attorney, Summit Law Group |
| Anne Levinson | Civilian Auditor, Seattle Office of Professional Accountability |
| Pierce Murphy | Director, Seattle Office of Professional Accountability |
| Sam Pailca | Assistant General Counsel, Microsoft Office of Legal Compliance, Investigations and former Director of Seattle Office of Professional Accountability |
| Mark P. Smith | Independent Police Auditor for the San Francisco Bay Area Rapid Transit District (BART) |
| Constantin Severe | Director, Portland Division of Independent Police Review |
| Dr. Samuel Walker | Professor, University of Nebraska at Omaha, Department of Criminal Justice |

Exhibit B: Expert panel participants

| Participant | Affiliation(s) |
|----------------|--|
| Brian Buchner | President, National Association for Civilian Oversight of Law Enforcement and former Special Investigator with the Los Angeles Board of Police Commissioners Office of the Inspector General |
| Elizabeth Ford | Visiting Assistant Professor, Seattle University School of Law and former King County Director of Labor Relations |
| Pierce Murphy | Director, Seattle Office of Professional Accountability |

Statement of Compliance, Scope, Objective & Methodology (continued)

| Participant | Affiliation(s) |
|-------------------|--|
| Sam Pailca | Assistant General Counsel, Microsoft Office of Legal Compliance, Investigations and former Director of Seattle Office of Professional Accountability |
| Constantin Severe | Director, Portland Division of Independent Police Review |
| Dr. Samuel Walker | Professor, University of Nebraska at Omaha, Department of Criminal Justice |

Scope of Work on Internal Controls

We assessed internal controls relevant to the audit objectives. This included review of selected policies, plans, processes, and reports, as well as interviews with knowledgeable Sheriff’s Office and OLEO staff and subject matter experts. In performing our work, we identified concerns related to operational efficiency and effectiveness of the law enforcement structure in King County.

List of Recommendations, Implementation Schedules & Matters for Council Consideration

Recommendation 1: As it relates to the Office of Law Enforcement Oversight (OLEO), the King County Sheriff's Office, working together with stakeholders including the King County Office of Labor Relations, the King County Executive, and the Prosecuting Attorney's Office, should develop a process to ensure that any collective bargaining agreement language regarding OLEO or civilian oversight solely addresses issues of officer discipline. The Sheriff's Office should deliver a report on the process proposed to bring about these changes to contract language to the King County Council by June 2016. The report should include a proposal for how to remove subjects that relate to OLEO's internal processes from the King County Police Officers' Guild collective bargaining agreement.

Implementation Date: The Sheriff's Office has indicated it does not plan to implement this recommendation.

Estimate of Impact: A plan for limiting language regarding OLEO or civilian oversight to issues of officer discipline and removing subjects that relate to OLEO's internal processes from the King County Police Officers' Guild collective bargaining agreement will help ensure King County has a civilian oversight function with sufficient independence and access to information.

Recommendation 2: The King County Sheriff's Office should take the following steps to provide the Office of Law Enforcement Oversight (OLEO) adequate opportunity to express its views on matters relating to oversight that may be included in any collective bargaining agreement.

- (a) Provide OLEO with the opportunity to act as a subject matter expert on matters pertaining to civilian oversight that may arise during contract negotiations
- (b) Inform OLEO in a timely manner of any proposed contract language related to OLEO and its oversight
- (c) Provide OLEO with the opportunity to comment as early in the process as feasible on any proposed language pertaining to OLEO's oversight

Implementation Date: The Sheriff's Office has indicated it does not plan to implement this recommendation.

Estimate of Impact: Efforts to formalize communication between the Sheriff's Office and OLEO into matters relating to civilian oversight that are being considered as part of any collective bargaining process will ensure that OLEO has meaningful and timely input into issues that may impact its oversight.

List of Recommendations, Implementation Schedules & Matters for Council Consideration (continued)

Recommendation 3: The King County Sheriff's Office should relocate the Internal Investigations Unit to another facility or to an area of the King County Courthouse that does not house other Sheriff's Office functions.

Implementation Date: The Sheriff's Office has indicated it does not plan to implement this recommendation.

Estimate of Impact: Relocation of the Internal Investigations Unit would support the independence and credibility of internal investigations and may increase the number of complaints received as employees and community members feel more comfortable making complaints and participating in investigations.

Recommendation 4: The King County Sheriff's Office should remove limits to Office of Law Enforcement Oversight (OLEO) access to information from all collective bargaining agreements, including the King County Police Officers' Guild agreement. OLEO should have unrestricted access to information, including unrestricted access to files more than two years old and the ability to print and save documents to its own file systems. Provisions that allow the Sheriff's Office to cut off OLEO access to files are among those that impede access to information and should be removed.

Implementation Date: The Sheriff's Office has indicated it does not plan to implement this recommendation.

Estimate of Impact: Removing language that limits OLEO's access to information from relevant collective bargaining agreements will help ensure King County has a civilian oversight function with the access to information necessary to provide comprehensive and effective oversight.

Recommendation 5: The King County Sheriff's Office, together with the King County Council, should develop and document an alternate process to ensure accountability in situations in which Office of Law Enforcement Oversight staff may overstep the function's authority.

Implementation Date: The Sheriff's Office has indicated it does not plan to implement this recommendation.

Estimate of Impact: A process to ensure the accountability of OLEO staff that is developed in conjunction with King County Council and exists outside the collective bargaining agreement will help ensure that OLEO is sufficiently independent.

List of Recommendations, Implementation Schedules & Matters for Council Consideration (continued)

Recommendation 6: The King County Sheriff's Office Internal Investigations Unit (IIU) should work together with the Office of Law Enforcement Oversight (OLEO) to develop and document procedures for providing OLEO ease of visibility into the complaint classification process. For instance, the Sheriff's Office could provide OLEO with a periodic report listing all complaints and how IIU classified them.

Implementation Date: No date specified.

Estimate of Impact: Clearly documented procedures that provide OLEO with ease of visibility into the IIU's complaint classification process would increase the transparency and efficiency of an important process.

Recommendation 7: The King County Sheriff's Office should conduct a staffing analysis of the Internal Investigations Unit (IIU). The analysis should include information on the (a) total number of investigations, (b) types of investigations, (c) number of investigations IIU handles that are equal employment opportunity or human resources investigations, (d) number of investigations being handled by each IIU investigator, (e) number of hours required to complete each investigation, and (f) comparative information on workloads of internal investigations units from other jurisdictions.

Implementation Date: Not specified.

Estimate of Impact: A comprehensive staffing analysis of IIU will allow the Sheriff's Office to better understand the resources required to perform effective investigations as well as to understand the impact of IIU involvement in equal employment opportunity investigations on the quality and timeliness of other investigations.

Recommendation 8: The Office of Law Enforcement Oversight (OLEO) should conduct and document a staffing needs analysis. This analysis should include information on the outputs OLEO is responsible to create, the amount of resources each requires, and an explanation of what OLEO can produce within different budgetary scenarios. It will be necessary for OLEO to establish a baseline of operations under its new director prior to implementation of this recommendation.

Implementation Date: Implementation scheduled to be determined by new OLEO director in 3rd or 4th Quarter 2015

Estimate of Impact: A staffing needs analysis of OLEO will provide a better understanding the level of oversight OLEO can provide given its current staffing and may help OLEO to make decisions about whether and how to triage its review of individual investigations.

List of Recommendations, Implementation Schedules & Matters for Council Consideration (continued)

Recommendation 9: The Office of Law Enforcement Oversight (OLEO), together with the Internal Investigations Unit of the King County Sheriff's Office should develop and document a proposal for how to triage OLEO oversight of investigations.

Implementation Date: Implementation scheduled to be determined by new OLEO director in 3rd or 4th Quarter 2015

Estimate of Impact: A proposal for how to triage OLEO's oversight of IIU investigations will help ensure that OLEO can provide thorough oversight to the IIU investigations it determines are of high priority.

Recommendation 10: The Internal Investigations Unit of the King County Sheriff's Office should develop and document policies detailing criteria for complaint classification and prioritization of investigations.

Implementation Date: The Sheriff's Office has indicated it does not plan to implement this recommendation.

Estimate of Impact: Policies to establish clear criteria for complaint classification and prioritization of investigations will help increase transparency in IIU's processes.

Recommendation 11: The King County Sheriff's Office should develop and document interim timeframes to ensure the timely progression of complaint investigations conducted by the Internal Investigations Unit.

Implementation Date: January 2016

Estimate of Impact: Establishing interim timeframes for IIU complaint investigations will help increase transparency in IIU processes for both complainants and those being investigated. It will also help ensure that complaint investigations are completed in a timely manner.

Recommendation 12: The King County Sheriff's Office should update its General Orders Manual to explain the role of other King County offices involved in the complaint investigation and oversight process, including the Office of Law Enforcement Oversight and the King County Ombudsman's Office.

Implementation Date: The Sheriff's Office has indicated it does not plan to implement this recommendation.

List of Recommendations, Implementation Schedules & Matters for Council Consideration (continued)

Estimate of Impact: Adding information to the General Orders Manual will help ensure that Sheriff's Office employees are aware of the complaint investigation and oversight process to which they are subject.

Recommendation 13: The King County Sheriff's Office, together with the Office of Law Enforcement Oversight (OLEO) and the King County Ombudsman's Office should develop, document, and implement training to ensure that all employees of the Sheriff's Office are fully aware of policies, rules, and procedures related to the complaint process. This training should include explanations of the key roles of Internal Investigations Unit, OLEO, and the Ombudsman's Office.

Implementation Date: The Sheriff's Office has indicated it does not plan to implement this recommendation.

Estimate of Impact: Training on the complaint investigation and oversight process will help ensure that Sheriff's Office employees understand the complaint investigation and oversight process to which they are subject.

Matter for Council Consideration 1: The King County Council may wish to consider revisiting whether the authority granted to the Office of Law Enforcement Oversight (OLEO) and the authority exercised by the Ombudsman's Office is sufficient to allow King County to achieve its stated goals for civilian oversight. This effort could include consulting with stakeholders, developing revisions to the King County Council Labor Policy, and considering updates to related King County Code.

Estimate of Impact: Consideration of alignment between goals for oversight and authority granted to oversight functions may help ensure that King County oversight functions are poised to provide effective oversight.

Matter for Council Consideration 2: The King County Council may wish to consider including a statement in its official labor policy that any language regarding civilian oversight in collective bargaining agreements should solely address issues of officer discipline.

Estimate of Impact: Adding information to the King County Council labor policy may help ensure that labor agreement provisions do not unduly limit OLEO's independence.

List of Recommendations, Implementation Schedules & Matters for Council Consideration (continued)

Matter for Council Consideration 3: The King County Council may wish to consider identifying mechanisms to more directly involve the Office of Law Enforcement Oversight (OLEO) in the development of King County Council labor policy for the King County Sheriff’s Office as it relates to OLEO. This may include developing and documenting mechanisms for OLEO to provide comment to the King County Council regarding language pertaining to OLEO and its oversight of the Sheriff’s Office.

Estimate of Impact: Identifying mechanisms to more directly involve OLEO in the development of labor policy as it related to civilian oversight could help ensure that OLEO is apprised of potential labor agreement provisions related to oversight in a timely manner.

Matter for Council Consideration 4: The King County Council may wish to consider amending the ordinance for the Office of Law Enforcement Oversight (OLEO). Revisions could include: (a) a requirement for OLEO to issue its annual report to both the King County Council and the County Executive, (b) a requirement for OLEO to present all reports to the King County Council, and (c) a requirement for the King County Sheriff to respond in writing to any OLEO recommendations.

Estimate of Impact: Amendments to OLEO’s ordinance related to OLEO reporting requirements could help ensure that OLEO has increased visibility to the public and increased accountability to Council.

Matter for Council Consideration 5: The King County Council may wish to change the hiring process for the director of the Office of Law Enforcement Oversight to remove or dilute conflicts of interest in which those being overseen have an undue influence on oversight.

Estimate of Impact: Altering the hiring process for the OLEO director position would help ensure that representatives of Sheriff’s Office employees do not have undue influence over their own oversight.

Matter for Council Consideration 6: The County Council may wish to consider taking action to provide the Office of Law Enforcement Oversight (OLEO) with unrestricted access to information. To this end, the County Council may wish to consider:

- (a) proposing an amendment to the King County Charter specifying that OLEO shall have unrestricted access to information
- (b) amending the authorizing ordinance for OLEO to clarify that OLEO should have unrestricted access to information

List of Recommendations, Implementation Schedules & Matters for Council Consideration (continued)

- (c) including a statement in its official labor policy that language limiting OLEO's access to King County Sheriff's Office information should not be included in collective bargaining agreements.

Estimate of Impact: A charter amendment to ensure OLEO had unrestricted access to information would help ensure that labor agreement provisions do not unduly limit OLEO's access to information. Associated amendments to OLEO's authorizing ordinance and Council's labor policy would reinforce this message.

Matter for Council Consideration 7: The King County Council may wish to consider amending the authorizing ordinance for the Office of Law Enforcement Oversight (OLEO) to clarify the process to ensure accountability in the event OLEO staff overstep the office's authority.

Estimate of Impact: Amending OLEO's authorizing ordinance to clarify accountability processes may help encourage the Sheriff's Office and labor unions to remove provisions from labor agreements that hinder the OLEO's independence and access to information.

Matter for Council Consideration 8: The King County Council may wish to consider amending code to provide Office of Law Enforcement Oversight with the authority and discretion to refer Internal Investigations Unit cases to the Ombudsman's Office for additional independent review and potential investigation.

Estimate of Impact: Providing OLEO with the authority and discretion to refer IIU cases to the Ombudsman's Office will allow for more expansive oversight of those cases, which may demand more scrutiny.

Matter for Council Consideration 9: Based on the output from recommendation 9, the King County Council may wish to consider amending code to provide the Office of Law Enforcement Oversight (OLEO) with (a) the authority to apply professional judgment to determine which Internal Investigations Unit investigations merit OLEO review and certification, and (b) sufficient time for OLEO to perform its investigation reviews.

Estimate of Impact: Providing OLEO with the authority to triage its reviews of individual investigation and ensure OLEO have sufficient time to perform its reviews will help ensure high quality oversight of the most important cases.

List of Recommendations, Implementation Schedules & Matters for Council Consideration (continued)

Matter for Council Consideration 10: The King County Council may wish to consider a charter amendment to designate an agent independent of the Sheriff's Office to conduct negotiation of working conditions related to civilian oversight of law enforcement.

Estimate of Impact: In the event that the Sheriff's Office does not implement recommendations 1 and 2, a charter amendment to require designation of an agent independent of the Sheriff's Office to conduct negotiation of working conditions related to civilian oversight of law enforcement would remove existing conflicts of interest in which the overseen are negotiating terms of their own oversight and would help ensure the independence of any civilian law enforcement oversight function.