



King County

Metropolitan King County Council

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MANAGEMENT LETTER

DATE: June 21, 2011

TO: Metropolitan King County Councilmembers

FROM: Cheryle A. Broom, ^{CB} County Auditor

SUBJECT: Follow-Up of 2006 King County Sheriff's Office Misconduct and Use of Force Complaints Management Letter

This management letter updates our 2006 King County Sheriff's Office (Sheriff's Office) misconduct and use of force complaints analysis. The updated complaint analysis covers the period from 2006 to 2010 and addresses the number and seriousness of misconduct and use of force incidents and complaints, as well as outcomes of the complaint investigations. In general, we found that misconduct and use of force complaints within the Sheriff's Office initially declined during the 2006 to 2010 reporting period. The use of force complaint rates were less than the national averages reported by the Bureau of Justice Statistics. The total complaint rates for the current five-year period were less than the previous 2000 to 2005 complaint rates. The implementation of a comprehensive database management system allowed for improved tracking and reporting of these important complaint issues and statistics.

Defining Use of Force

The Bureau of Justice Statistics (BJS) in *Data Collection on Police Use of Force* (1996), states that "...the legal test of excessive force...is whether the police officer *reasonably* believed that such force was *necessary* to accomplish a legitimate police purpose." The International Association of Chiefs of Police (IACP) in its study, *Police Use of Force in America 2001*, defined use of force as "the amount of effort required by police to compel compliance by an unwilling subject." The IACP also identified five components of force: physical, chemical, electronic, impact, and firearm. However, there are no universally accepted definitions of "reasonable" and "necessary" because the terms are subjective. The King County Sheriff's Office defines use of force as an incident that results in an injury to either a police officer or a suspect. The Sheriff's Office Internal Investigation Unit is responsible for investigating and reporting on all use of force complaints.

Background

In October 2006, the King County Auditor's Office (Auditor's Office) released a management letter on the nature and extent of employee misconduct and use of force incidents in the Sheriff's Office. The original management letter reviewed 2000 to 2005 complaint data that was previously not available by the Sheriff's Office for analysis and compared the Sheriff's Office complaint data to national Department of Justice use of force data. It also compared the Sheriff's

Office complaints and use of force policies and practices to the national Commission on Accreditation for Law Enforcement Agencies (CALEA) standards and best practices in other law enforcement agencies.¹

In 2010, the Auditor's Office released a follow-up management letter reporting on accountability improvements implemented by the Sheriff's Office to meet national CALEA standards² and best practices identified in leading police agencies. Noteworthy Sheriff's Office improvements since 2006 included the implementation of more rigorous review and analysis procedures for serious misconduct and use of force complaint investigations, and a new performance appraisal system to promote individual and organizational accountability.

Due to pending collective bargaining issues, the Sheriff's Office also planned but was unable to implement an electronic early warning system until late 2009. The early warning system provides "alerts" to management when an employee reaches a threshold for work performance indicators (e.g., three or more complaints, use of force incidents, vehicle accidents or pursuits, etc.) The early warning system became fully operational in 2010, and now provides a management tool for the early identification of problems that suggest the need for intervention through training or counseling. Post-intervention monitoring is now a standard Sheriff's Office procedure to ensure that any problem behaviors or trends are corrected.

Benchmarking and Trend Analysis for Police Agencies

Benchmarking is a common practice for identifying performance measures and thresholds for evaluating public agency performance. Yet it is difficult to find comparative data to establish true use of force norms among police agencies. Police agencies vary widely in their definitions of "use of force," their standards for reporting force use, and for determining when complaints are investigated. Some agencies, for example, report force only when injuries have occurred; others require reports only when complaints are made; still others report on use of force when it is threatened though not used.

Varying law enforcement standards are even more common in misconduct incidents and complaint handling, particularly in terms of when cases are referred for investigation and how those investigations are classified and reported. Local police agencies recognize the national Department of Justice data as an objective and commonly used source of performance data and measures developed from information collected from state and local government police agencies.

However, trend analysis based on performance data collected for a specific agency over time is generally considered to provide a better source of data and basis for evaluating a particular police agency's performance. Internal benchmarking or trend data also better assists the police agency in informing and shaping accountability and training programs.

¹ The Commission on Accreditation for Law Enforcement Agencies, Inc., (CALEA®) was created in 1979 as a credentialing authority through the joint efforts of law enforcement's major executive associations: International Association of Chiefs of Police (IACP); National Organization of Black Law Enforcement Executives (NOBLE); National Sheriffs' Association (NSA); and the Police Executive Research Forum (PERF). The purpose of CALEA's Accreditation Programs is to improve the delivery of public safety services, primarily by: maintaining a body of standards covering a wide range of up-to-date public safety initiatives; establishing and administering an accreditation process; and recognizing professional excellence.

² The national data was generated through the Department of Justice's (DOJ) Law Enforcement Management and Administrative Statistics Program's survey of more than 2,000 state and local government police agencies. Based on the DOJ's survey data, the Bureau of Justice Statistics develops national performance measures and thresholds.

This management letter focuses on the updated Sheriff's Office analysis. However, due to differences in the way the Sheriff's Office tracks and reports its use of force complaint data, we were unable to update some comparisons of the Sheriff's Office data to the Bureau of Justice (BJS) performance data and measures.

Overall Conclusions Regarding the Sheriff's Office Misconduct and Use of Force Complaints

- Sheriff's Office misconduct complaint rates initially increased during the first part of the 2006 to 2010 reporting period, but decreased toward the end of the reporting period. The total complaint rates for the current five-year period were less than the previous 2000 to 2005 complaint rates.
- The Sheriff's Office significantly improved its policies and processes for investigating misconduct and use of force complaints to promote consistency, transparency, and accountability across the agency. All use of force incidents are reviewed by first line supervisors regardless of whether or not a citizen complaint is filed.
- The number of use of force complaints (nine) filed with the Sheriff's Office in 2005 compared favorably to the national average of 33 complaints per agency. The number of use of force complaints was 1.3 per 100 sworn officers compared to national average of 6.6 complaints per 100 full-time sworn officers between 2005 and 2010. It is also noteworthy that the Sheriff's Office did not use any lethal force in 2010.
- Most use of force incidents and complaints are generated by a relatively small percentage of officers who are assigned to the Field Operations Division, and the number of officers without any complaints increased from 92 percent in 2005 to 96 percent in 2010. The small percentage of officers who have complaints and higher complaint levels for Sheriff's Office patrol officers was also consistent with national law enforcement trends. Patrol officers assigned to the Field Operations Division generally have more frequent contacts with the public and higher arrest rates than those assigned to other Sheriff's Office divisions.

The charts below provide an overview of the number and extent of Sheriff's Office complaints and quality of service reviews from 2005 to 2010. The 2005 data were drawn from our original management letter to provide a point of reference for the Sheriff's Office current performance trends. Total figures shown in the charts for the entire 2006 to 2010 reporting period exclude the 2005 data.

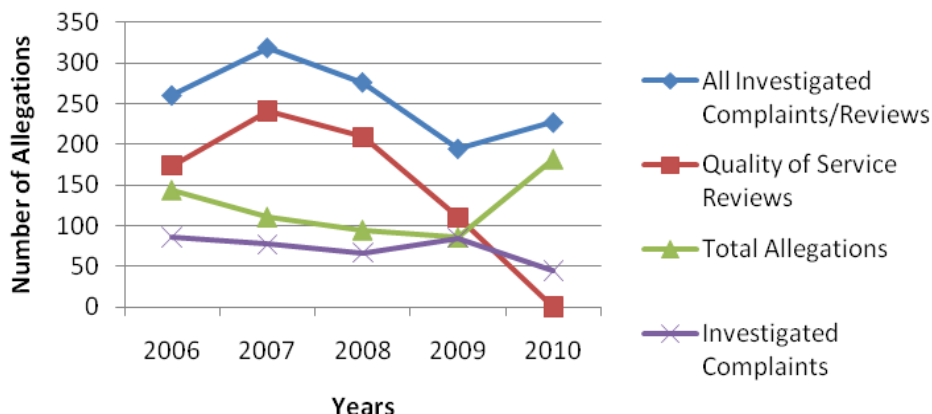
In addition to formal complaints and investigations tracking, the Sheriff's Office also tracked inquiries or quality of service reviews for both commissioned and non-commissioned personnel during the prior reporting period and through 2009 in the current reporting period. These inquiries or quality of service reviews typically involved matters that needed to be addressed, but did not require a formal investigation by the Internal Investigations Unit (IIU). The reviews were generally initiated and handled by first line supervisors. Examples of such inquiries include disagreements about a traffic citation, firearm release inquiries, and questions about emergency response times. Generally, all that is required for such reviews is a contact by line supervisors to inform or explain the department's policies or processes to the public, or to provide a referral to another organization or department.

Number and Type of Misconduct Complaints Allegations

Chart A below displays the total number and nature of misconduct allegations, complaints, and quality of service reviews investigated annually from 2006 to 2010. Appendix 1 displays the complete annual data set used to create Chart A and is classified by category of misconduct.

Appendix 1 shows that between 2006 and 2010, the Sheriff's Office conducted 734 quality of services reviews and 360 investigations in response to a total of 590 allegations. The number of Sheriff's Office use of force incidents and complaints from 2006 to 2010 is reported separately in Chart E.

CHART A
Number of Misconduct Allegations, Complaints, and
Quality of Service Reviews 2006-2010



Notes: Many complaints include multiple allegations. See Appendix 1 for actual annual figures.

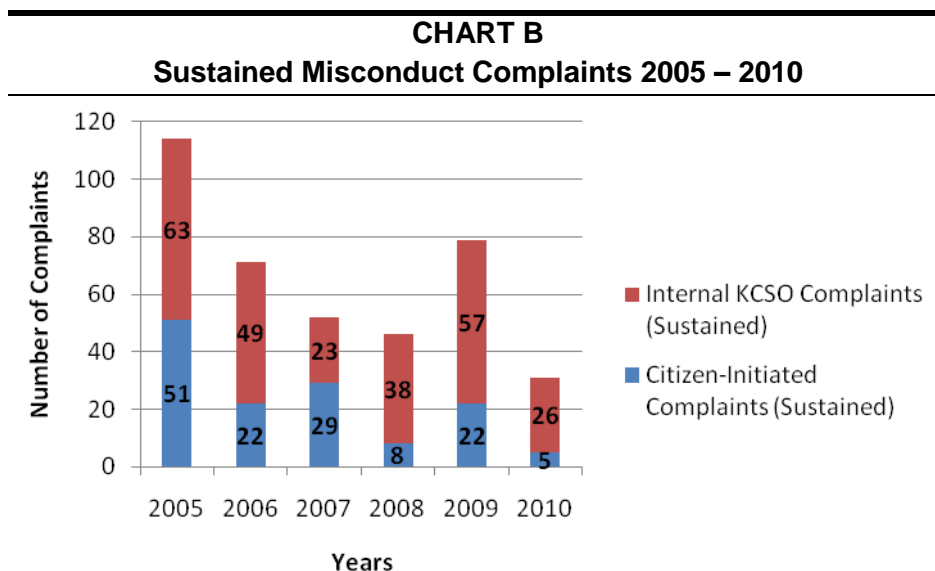
SOURCE: 2005 data was extracted from the King County Auditor's Office, Management Letter: King County Sheriff's Office Complaint Analysis, October 2006. The 2006 to 2010 data was provided by the King County Sheriff's Office, March 2011. Quality of service reviews were phased out in 2010.

As shown in Chart A, the total number of complaint allegations and quality of service reviews increased during 2006 and peaked during 2007. By the end of the five-year reporting period, the total number of allegations increased but the total number of investigated complaints and quality of service review issues declined. In 2009 and 2010, the Sheriff's Office fully integrated its data collection systems, and the quality of service reviews were changed to "inquiries" as part of an overall policy change.

More than half (54 percent) of the complaint allegations and quality of service reviews from 2006 to 2009 involved policy violations/insubordination and courtesy issues that would generally be handled by supervisors. Approximately one-quarter (24 percent) of the allegations involved improper use of authority, criminal conduct, or dishonesty or fraudulent reporting that would generally be investigated by the Sheriff's Office IIU.

Sustained Misconduct Complaint

The Sheriff's Office conducted 360 investigations in response to a total of 590 misconduct allegations and complaints between 2006 and 2010. Chart B below shows the number of sustained allegations and complaints each year.



Notes: The 2005 data from the Auditor's Office 2006 management letter is provided for reference purposes only and not included in the 2006 to 2010 totals.

SOURCE: 2005 data was extracted from the King County Auditor's Office, Management Letter: King County Sheriff's Office Complaint Analysis, October 2006. The 2006 to 2010 data was provided by the King County Sheriff's Office, March 2011.

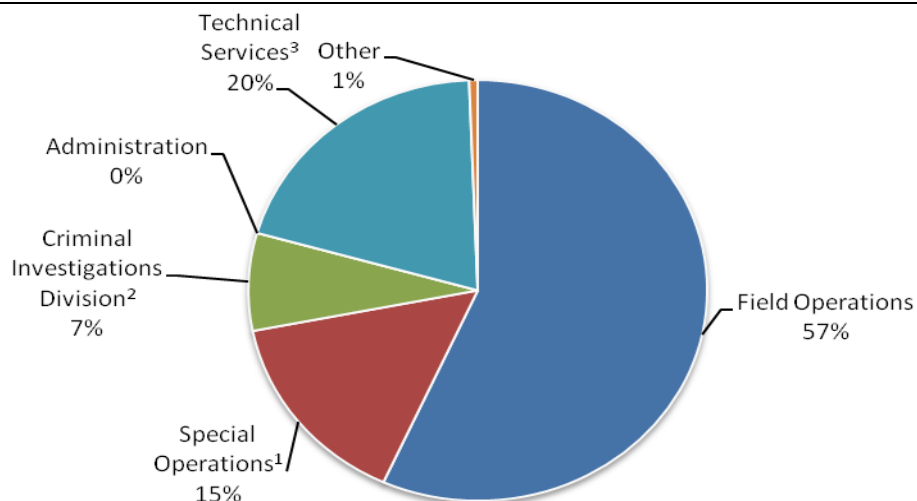
The total of sustained misconduct allegations shown in Chart B was 307 for the reporting period. The overall sustained rate was 52 percent for internally-initiated and citizen-initiated complaint allegations for the reporting period. This 52 percent sustain rate is significantly higher than 21 percent rate for the prior reporting period. The Sheriff's Office attributes the 52 percent sustain rate to improved management of the Internal Investigation Unit, and changes to its General Orders Manual along with more rigorous compliance with the manual in investigating complaints.

Chart B also shows that a higher number of internal Sheriff's Office complaint allegations were sustained than the citizen-initiated allegations each year. This pattern is consistent with our 2000 to 2005 complaint data review and the national complaint data for two reasons: generally citizens are not sufficiently familiar with law enforcement policies to know whether an action taken is within or outside the law enforcement agency's policies, and citizens are often unable to provide sufficient evidence to support complaint allegations.

Complaint Allegations by Division

Chart C displays the percentage of complaint investigations for each division within the Sheriff's Office. The highest percentage of complaint investigations conducted by the Sheriff's Office was for Field Operations Division personnel.

CHART C
Formal Investigations by Division:
Commissioned and Professional Personnel (2010)



Notes: ¹Metro Transit complaints are included in Special Operations.

²Courthouse Security complaints are included in Criminal Investigations Division complaints.

³911 Communication complaints are included in the Technical Services complaints. A single formal investigation may involve multiple officers who are located at different work locations.

SOURCE: 2005 data was extracted from the King County Auditor's Office, Management Letter: King County Sheriff's Office Complaint Analysis, October 2006. The 2006 to 2010 data was provided by the King County Sheriff's Office, March 2011.

As shown in Chart C above, the Sheriff's Office Field Operations personnel had the highest number of complaints annually between 2005 and 2010. During the six-year period, Field Operations personnel received 281 complaints, which represented 57 percent of the total 523 misconduct and use of force complaints received by Sheriff's Office personnel. The Field Operations personnel's complaint rate for 2006 to 2010 was slightly lower than the 59 percent rate for the 2000 to 2005 reporting period. The higher complaint rate for the Field Operations Division in both reporting periods is due to the larger number of personnel and volume of calls per officer. The Sheriff's Office higher rate for Field Division personnel was consistent with national trends that reflect higher rates for Field Operations personnel in local government police agencies, because they generally have the most frequent contact with the public and more arrests per officer than those assigned to other law enforcement functions.

The Technical Services Division personnel received the second highest percentage of complaints (20 percent) for the 2005 to 2010 reporting period. This rate was considerably higher than the seven percent complaint rate for Technical Services Division personnel for the 2000 to 2005 reporting period. The Sheriff's Office attributed the increased investigation rate to the inclusion of the Communications Center personnel complaints in the Technical Services Division personnel complaints during the 2006 to 2010 reporting period. This attribution seems reasonable because the Communications Center complaint rate was almost double the Technical Services Division complaint rate when it was reported separately in the prior reporting period. The Technical Services Division complaints were primarily due to tardiness in reporting for work.

Number of Investigated Complaints per Officer

Law enforcement associations and agencies commonly recognize that a significant proportion of citizen complaints, including excessive force complaints, are generated by a small minority of police officers. The same holds true for the King County Sheriff's Office. As shown in the chart below, more than 92 percent of the county's commissioned officers did not have any complaints in 2005 and 96 percent did not have any complaints in 2010. The vast majority of commissioned officers that received complaints, only received one complaint during 2005, 2009, and 2010.

CHART D			
Investigated Complaints per Officer			
	2005	2009	2010
Total Officers with Complaints	18	36	27
# with 1 Complaint	8	30	26
# with 2 Complaints	8	6	0
# with 3 Complaints	0	0	0
# with 4 Complaints	0	0	0
# with 5 Complaints	1	0	0
# with 6 or More Complaints	1	0	1
Officers with No Complaints	648	692	676
Total Officers	666	728	706
% Officers Without Complaints	92%	95%	96%

Notes: The 2005 data from the Auditor's Office 2006 management letter is provided for reference purposes only and not included in the 2006 to 2010 totals. Data was unavailable for the 2006 to 2008 reporting periods.

SOURCE: See Chart C for sources of information reported in this chart.

The four percent increase in the number of officers without complaints from 2005 to 2010 is noteworthy given the Sheriff's Office implementation of a computerized complaint management system in 2009 that better tracks all complaints received regardless of whether they were filed or investigated. The complaint system includes an early intervention system that provides "alerts" to management when an employee reaches a threshold for work performance indicators (e.g., complaints, use of force, vehicle accidents or pursuits, etc.) or trends suggesting that counseling or training may be needed to improve performance.

Use of Force Complaints

Consistent with the CALEA standards and its own General Order Manual Section 6.00.005 to 6.00.025, the Sheriff's Office tracks and reports on use of force. Recorded use of force incidents decreased from 367 in 2006 to 179 in 2010 (16 percent). The number of formal complaints regarding use of force also declined from 20 in 2006 to 16 in 2010. Chart E below displays the number of Sheriff's Office use of force incidents and complaints from 2005 to 2010 and the use of force rates per 100 officers and 100 arrests. This allows a comparison of the Sheriff's Office 2010 use of force data to national averages developed by the Bureau of Justice Statistics. The results of the comparison are discussed in the narrative following Chart E.

CHART E
Reported Use of Force Incidents and Complaints

	2005	2006	2007	2008	2009	2010
Number of Sworn Officers	703	730	738	742	728	706
Reported Uses of Force Incidents	367	213	240	251	193	179
Reported Uses of Force within KCSO Policy	NA	NA	NA	NA	192	172
Reported Uses of Force outside KCSO Policy	NA	NA	NA	NA	1	1
Use of Force Complaints Investigated	13	20	15	3	4	9
Use of Force Complaints per 100 Arrests	0.2	0.11	0.09	0.03	0.03	0.08
Use of Force Complaints per 100 Patrol Officers	2.0	2.62	2.17	0.6	0.7	1.3
Use of Force Complaints per 100 Sworn Officers	1.8	0.02	0.02	0.08	0.005	1.3

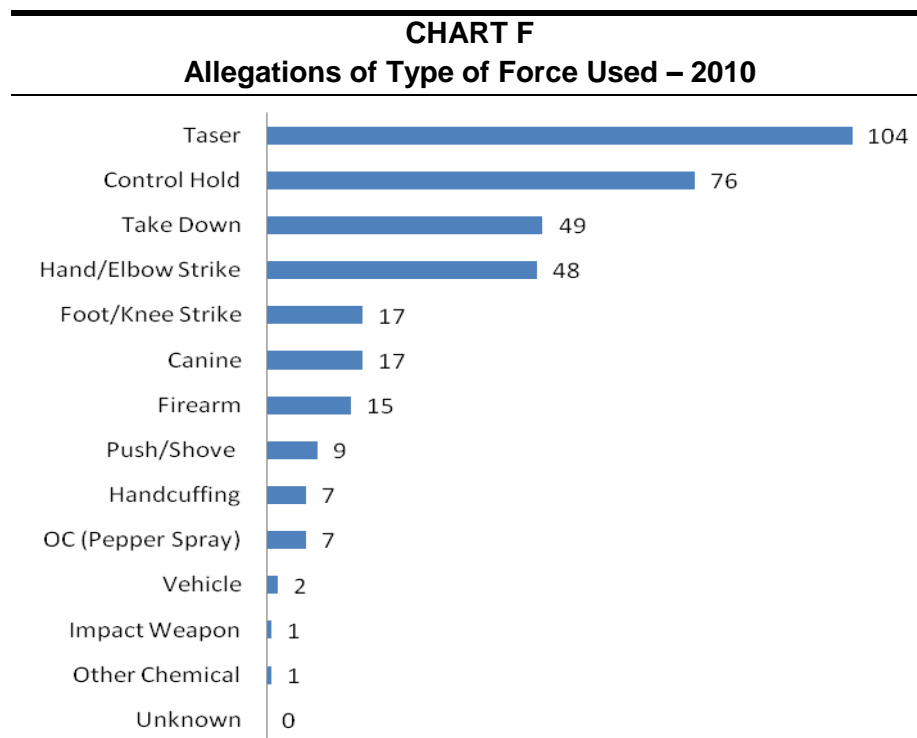
Notes: Reported Use of Force Data Within/Outside Policy was unavailable for the 2005 to 2008 reporting periods. Results of six use of force investigations initiated in 2010 are pending. The increase in use of force complaints investigated at the end of the reporting period reflects improved tracking of both IIU use of force investigations and quality services reviews of use of force incidents.

SOURCE: 2005 data was extracted from the King County Auditor's Office, Management Letter: King County Sheriff's Office Complaint Analysis, October 2006. 2006 to 2010 data was provided by the King County Sheriff's Office, March 2011. The national use of force data was extracted from the Bureau of Justice Statistics *Special Report: Citizen Complaints about Police Use of Force*, June 2006

A comparison of the Sheriff's Office 2010 Use of Force incidents and Use of Force Complaint data to its 2005 data and the national data resulted in the following findings:

- The Sheriff's Office IIU formally investigated all nine use of force complaints in 2010. The number of complaints filed compared favorably to the national average of 33 complaints per agency and the number of formal use of force complaints was 1.3 per 100 full-time sworn officers compared to 6.6 total complaints per 100 sworn officers between 2005 and 2010. The overall rates were higher among larger police departments, with an average of 45 complaints per agency and 9.5 complaints per 100 sworn officers. It is also noteworthy that the Sheriff's Office did not use any lethal force in 2010.
- First-line supervisors reviewed all use of force incidents, and the supervisory reports went through the chain of command for further review. Forty-six (or 53 percent) of the use of force allegations were sustained, and only one use of force incident was found to be outside of the King County Sheriff's Office policy (i.e., the taser policy). Again, only nine formal use of force complaints were filed and referred to the IIU for further investigation. The number of use of force complaints filed in 2010 was lower than the number of complaints filed in 2005.

Chart F displays the type of force used by Sheriff's Office deputies in 2010. Note that the allegations of type of force used (353) exceeds the number of use of force incidents (179) and formal complaints investigated (16).



Note: More than one type of force used in a single incident.

SOURCE: 2005 data was extracted from the King County Auditor's Office, Management Letter: King County Sheriff's Office Complaint Analysis, October 2006. 2006 to 2010 data was provided by the King County Sheriff's Office, March 2011.

As shown in Chart F, less than lethal weapons and control tactics were employed in the majority (78 percent) of force incidents. In fact, the Sheriff's Office did not have a single instance during 2010 in which firearms were discharged.

Emerging Use of Force Policies

Policies governing the use of force by law enforcement agencies generally focus on four main objectives:

- 1) Maximizing the safety of officers,
- 2) Minimizing injuries to citizens,
- 3) Protecting the rights of those against whom force is used, and
- 4) Providing officers with the tools needed to make arrests effectively and restore order.

The King County Sheriff's Office, Seattle Police Department (SPD), and Washington State Criminal Justice Training Commission received a grant in 2010 from the Department of Justice to develop a proposed training curriculum on procedural justice. Procedural justice refers to the mix of rules, processes, safeguards, and attitudes that help to ensure that police actions are not just lawful, but are viewed by the public as legitimate and appropriate to the situation. The training is designed to increase police officers': 1) knowledge of procedural justice elements, 2) competencies in the use of discretion and exercise of authority, and 3) awareness of the impacts their decisions have in the community.

Training topics likely to be included are: respectful policing; de-escalation and crisis communications as part of the use of force continuum; building, strengthening, and sustaining community relationships and open communications with respect, equality, and trust. Issues of race and social justice are also likely to be considered in developing the curriculum. If successful, the training materials developed through the project will be included in the Basic Law Enforcement Academy for all law enforcement officers in the State of Washington as well as for in-service training of commissioned officers and sheriff deputies. It is anticipated that the training will provide officers with expanded tools that will help reduce misconduct and use of force incidents and complaint rates.

Pre- and post-training evaluations will be used to determine if the curriculum is meeting its objectives of increasing law enforcement knowledge and awareness of procedural justice issues. Overall success will be assessed by change in the nature and number of complaints received by the SPD and Sheriff's Office concerning rudeness, language, etc. Rigorous testing and evaluation are planned at each phase of the project that will be implemented this year.

CB:SB:jl

cc: Susan Rahr, King County Sheriff, King County Sheriff's Office (Sheriff's Office)
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APPENDIX 1

COMPLAINTS BY TYPE OF ALLEGATION

Number of Allegations by Type	2005	2006	2007	2008	2009	2010	2006 to 2010 Total	2006 to 2010 Percent
Quality of Service Reviews	124	174	241	209	110	0	734	100%
Total Allegations	77	144	111	95	85	182	617	100%
Investigated Complaints	90	86	77	67	85	45	360	100%
All Investigated Complaints/Reviews	214	260	318	276	195	227	1,096	
Courtesy	4	9	11	11	5	45	81	13%
Conduct Unbecoming	9	9	6	6	10	19	50	8%
Policy Violation/Insubordination	7	63	48	53	39	10	213	35%
Improper Use of Authority	4	11	7	3	7	0	28	5%
Criminal Conduct	7	17	10	13	9	10	59	10%
Dishonesty or Fraudulent Reporting	7	10	12	5	8	4	39	6%
Failure to Meet Perform. Standards	11	0	0	0	0	72	72	12%
Discrimination or Harassment	7	5	2	1	3	4	15	2%
Other	17	20	15	3	4	11	53	9%
Administrative/Personnel/Attendance	4	0	0	0	0	7	0	1%

SOURCE: 2005 data was extracted from the King County Auditor's Office, Management Letter: King County Sheriff's Office Complaint Analysis, October 2006. 2006 to 2010 data was provided by the King County Sheriff's Office, March 2011. Quality of service reviews were discontinued in 2010.