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

Sponsors: Larry Gossett, Rod Dembowski

Indexes: Law Enforcement

Code sections: 2.16.060 -, 2.73.050 - *, 2.75.020 -, 2.75.030 -, 2.75.040 -, 2.75.050 -, 2.75.060 -, 2.75.070 -

Attachments: 1. Ordinance 18500.pdf, 2. 2017-0139_SR_OLEO-Resha.docx, 3. 2017-0139_ATT1_Proposed_Ordinance.pdf, 4. 2017-0139_ATT2_AMD1.docx, 5. 2017-0139_ATT2_Revised_AMD1.docx, 6. 2017-0139_REVISIED_SR_OLEO.docx, 7. 18500 Amendment 1 4-17-17.pdf

Date	Ver.	Action By	Action	Result
4/17/2017	2	Metropolitan King County Council	Hearing Held	
4/17/2017	2	Metropolitan King County Council	Passed as Amended	Pass
4/10/2017	2	Metropolitan King County Council		
4/10/2017	2	Metropolitan King County Council	Deferred	
3/29/2017	1	Committee of the Whole	Recommended Do Pass Substitute	Pass
3/27/2017	1	Metropolitan King County Council	Introduced and Referred	

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

amended, and K.C.C. 2.75.050 and Ordinance 15611, Section 7, as amended, and K.C.C. 2.75.060.

STATEMENT OF FACTS:

1. The creation and maintenance of an independent civilian office of law enforcement oversight is an essential means of assuring integrity, transparency, and accountability in law enforcement and of fostering community trust in, and respect and support for, the sheriff's office.
2. In 2015 the people of King County amended the King County Charter to include Section 265 affirming the foundation and role of the office of law enforcement oversight.
3. The King County Code related to the office of law enforcement oversight and the department of public safety should be updated to reflect Section 265 of the King County Charter.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

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

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

B. ~~"Director" means the director of the office of law enforcement oversight or the director's designee.~~

C. ~~"Critical incident review" means the written findings of a shooting review board or an accident review board conducted by the sheriff's office.~~

D. ~~"Internal investigations unit" means the unit within the sheriff's office responsible for internal investigations, or its successor.~~

E. ~~"Office" means the office of law enforcement oversight created under this chapter.~~

F. ~~"Serious matter" means allegations of serious misconduct as defined in the Sheriff's Office General~~

~~Orders Manual as currently written or hereinafter amended.~~

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

B. "Certification review" means the monitoring and examination of an administrative investigation in order to determine whether the investigation was thorough, complete, accurate, timely, objective and in compliance with sheriff's office procedures.

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

D. "Concern" means any communication to the oversight office about a matter that is related to the work of the oversight office and is not the subject of a complaint.

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

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

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

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

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

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

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

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

The office of law enforcement oversight is hereby established within the legislative branch, in accordance with Section 265 of the King County Charter. The office of law enforcement oversight is ~~((an investigative agency as that term is used in RCW 42.56.240. The office's roles, responsibilities and authorities are prescribed in this chapter. Decisions about the functions and implementation of the office should be the result of a collaborative process that involves, at a minimum, the executive, the council, the prosecuting attorney, the sheriff and the labor organizations that represent sheriff's office employees))~~ established to represent the interests of the public and increase confidence in King County police services through independent civilian oversight of the sheriff's office and all of its employees. The organization and administration of the oversight office shall be sufficiently independent to assure that no interference or influence external to the office shall adversely affect independent and objective review and analysis by the office. The office of law enforcement oversight is an investigative agency as that term is used in RCW 42.56.240.

SECTION 3. Ordinance 15611, Section 4, as amended, and K.C.C. 2.75.030 are each hereby amended to read as follows:

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

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

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

integrity in the office;

- ~~2. An understanding of and a commitment to the responsibilities of the office;~~
- ~~3. Demonstrated leadership and a history of effective management and administration;~~
- ~~4. The ability to gain the trust and respect of sheriff's office employees;~~
- ~~5. The ability to work effectively with the executive, council, prosecuting attorney and sheriff, as well as other public agencies, labor organizations, private organizations and citizens;~~
- ~~6. An openness to innovation and new ideas;~~
- ~~7. Sensitivity to and knowledge of the particular needs and concerns of minorities and women in a law enforcement setting;~~
- ~~8. The ability to work effectively under pressure with controversial issues and the ability to effectively communicate with diverse groups;~~
- ~~9. No history of employment in the sheriff's office;~~
- ~~10. A history that includes the establishment of a reputation for even-handedness and fairness in dealing with both complainants and regulated parties; and~~
- ~~11. The selected director must pass a complete criminal background check prior to confirmation.~~

~~B. Candidates for appointment shall be selected by a committee of five members that shall recommend three candidates for the director position to the council. The selection 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; one member 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 members. If none of the three recommended candidates has the support of a majority of the council, the council may direct by motion the commencement of a new recruitment and recommendation process)) through a merit-based selection process.~~

C. The selected director must pass a complete criminal background check before confirmation.

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

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

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

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

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

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

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

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

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

office shall have the authority to:

A. Receive and consider complaints and concerns, and:

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

or

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

B. Review, and agree with or recommend changes to all proposed intake classifications before the sheriff's office investigates or closes any complaint;

C. Conduct a certification review of any administrative investigation before the sheriff's office issues the findings. Additionally, the oversight office may review and make recommendations related to the proposed findings;

D. Review and make timely recommendations to the sheriff regarding changes to sheriff's office policies, rules, procedures or general orders. It is the policy of the county that the sheriff consult with the oversight office before implementing changes to all general orders, as well as policies and procedures relating to administrative investigations and reviews, unless prior implementation is deemed necessary to address urgent circumstances;

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

F. Conduct community outreach and engagement activities;

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

H. Develop and, by June 1 of each year, transmit an annual report and a motion accepting the report to

the clerk of the council for distribution to all councilmembers. The annual report shall include analyses, recommendations and conclusions relating to all phases of the sheriff's complaint handling process, related findings and final status of complaints; and

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

SECTION 5. The following are each hereby repealed:

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

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

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

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

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

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

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

1. When a complaint is received;

2. When a complaint is given a proposed intake classification, but before the complaint is classified, or when a change in the classification of a complaint is made;

3. Of the date, time and location of any interview that is conducted as part of an administrative investigation;

4. When an administrative investigation, and any additional investigative steps requested by the oversight office, is complete, but before the subject employee is notified by the sheriff's office of the findings;

5. When findings and recommendations are issued; and
6. When and what discipline is recommended in writing.

NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 2.75 a new section to read as follows:

A. The oversight office may issue a subpoena to compel any person to appear, give sworn testimony or produce documentary or other evidence reasonable in scope and relevant to the matter under inquiry and limited to the matters associated with the authority granted under K.C.C. 2.75.040.A.2.

B. A person required by the oversight office to provide information shall be paid the same fees and allowances, in the same manner and under the same conditions, as are extended to witnesses whose attendance has been required in the courts of this state, excepting that city or county employees who are receiving compensation for the time that they are witnesses shall not be paid the set fees and allowances.

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

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

E. If a person fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at the hearing, the director may petition the superior court of King County for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the oversight office. The court upon such a petition shall enter an order directing the witness to appear before the court at a time and place to be fixed in the order, and then and there to show cause why the witness has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the

court that the subpoena was properly issued and that the particular questions that the witness refuses to answer are reasonable and relevant, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers and on failing to obey the order the witness shall be dealt with as for a contempt of court.

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

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

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

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

B. The department of public safety is responsible to keep and preserve the public peace and safety including the discharge of all duties of the office of sheriff under ~~((S))~~state law, except those duties relating to

jails and inmates which are performed by other departments of county government. The functions of the department include:

1. Oversee a crime prevention program, investigate crimes against persons and property and arrest alleged offenders(());
2. Execute the processes and orders of the courts of justice and all other mandated functions required by law(());
3. In coordination with the office of emergency management, plan and coordinate resources for the public safety and welfare in the event of a major emergency or disaster(());
4. Provide service and administrative functions which support but do not duplicate other governmental activities, and which have the potential to be fiscally self-supportive(());
5. Investigate the origin, cause, circumstances and extent of loss of all fires, in accordance with RCW 43.44.050. Fire investigations shall be conducted under the direction of the fire investigation supervisor, who shall also be considered an assistant fire marshal for the purposes of chapter 43.44 RCW. The functions of the fire and arson investigation unit include, but are not limited to: investigation and determination of the origin and cause of fires; preparation of detailed informational, investigative and statistical reports; conducting criminal follow-up investigations, including detection, apprehension and prosecution of arson suspects; providing expert testimony in court for criminal and civil cases; maintenance of records of fires; preparation and submission of annual reports to the county sheriff and other entities as required by chapters 43.44 and 48.50 RCW; and

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

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

- (1) access to all relevant employees, facilities, systems, documents, files, records, data, interviews,

hearings, boards, trainings and meetings;

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

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

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

c. provide the oversight office with a reasonable opportunity to comment on all sheriff's office policies, rules, procedures or general orders; and

d. annually, in collaboration with the office of law enforcement oversight, establish or update, as needed, pilot projects and sheriff's office policies and procedures related to implementation of the authorities of K.C.C. chapter 2.75, including such things as timelines and processes for achieving K.C.C. 2.16.060.B.6.a., b., c. and d., and records management and controls.

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

1. Office of the sheriff;
2. Patrol operations division;
3. Support services division;
4. Criminal investigation division;
5. Professional standards division;
6. Sound Transit division, which provides services to the Central Puget Sound Regional Transit

Authority; and

7. Metro Transit division, which provides services to the King County department of transportation, transit division.

SECTION 10. A. Any provision of this ordinance that would establish a working condition that is a

mandatory subject of collective bargaining shall not apply to members of that bargaining unit until the county has satisfied its bargaining obligation with respect to the provision.

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