



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

Mitzi G. Johanknecht  
*Sheriff*

September 2, 2020

The Honorable Girmay Zahilay  
Chair, Law and Justice Committee  
Room 1200  
C O U R T H O U S E

Re: Initial Response to the OLEO Report – OIS Le

Dear Councilmember Zahilay:

The King County Sheriff's Office has initially reviewed the recent report written by an outside third party hired by the Office of Law Enforcement Oversight (OLEO). My staff and I had a handful of days to review this report so my response today will not cover the entirety of the report. As with other OLEO produced reports, I intend to conduct a detailed analysis and respond to Council before the end of 2020.

This report was intended to examine the circumstances surrounding the investigation of the officer involved shooting of Tommy Le. We agree that the Sheriff's Office must have strong systems in place to investigate and evaluate the actions of our members and to initiate clear accountability measures when their actions fall short. We can and do make important course corrections based on lessons learned from prior events.

Although this tragic incident took place under the watch of a former sheriff in 2017, I have made a number of improvements in policy and process since taking office in 2018. Many of those changes were already in place well before this report was written, and even before the OLEO report on the officer involved shooting (OIS) of Mi'Chance Dunlap Gittens, presented to Council by the OLEO Director earlier this year. I want to be clear, all of these policy changes and improvements were known to the OLEO, but not accurately reflected in either report. I will detail some of those improvements below.

I fully understand how certain decisions about the release, or omission, of information to the media just after the shooting in 2017 undermined public trust. I cannot explain nor answer why those

decisions were made by the previous sheriff, but we can and do apologize for our own lapses in public information sharing.

For example, the Force Review Board (FRB) report issued in 2018 on the Le OIS could have contained more complete information about what the review board considered and more detailed facts about the incident. I see and acknowledge how this report might be perceived by the family and public. Since that finding was written, our policy on what information should be included in every report made by the review board (renamed the Critical Incident Review Board) has changed. Final board memoranda must contain a comprehensive and robust documentation of process, discussion and recommendations.

The review board process did, in fact, include a robust discussion among participants, which included a representative of OLEO who asked many of his own questions. The OLEO's presence and active participation in the FRB (CRIB) are not reflected in this report. OLEO had its own information that it could have incorporated into this analysis, yet it is not reflected in this report. There are factual disputes over the events that day, which may ultimately be resolved in litigation.

Systemic reviews such as these can provide the King County Sheriff's Office (KCSO) an important opportunity for self-examination and critical change. The OLEO's report and its recommendations leave a false impression that the KCSO is unresponsive and uninterested in evaluating its actions. This is untrue. Unfortunately this report is based on outdated policy and fails to accurately present a holistic view of our current processes and positive changes made well before the issuance of this report. I point out again that the OLEO contributed to KCSO changes in use of force policy and training, including de-escalation, as well as changes to the internal review board process (Critical Incident Review Board) responsible for evaluating the actions of involved personnel, potential policy violations and systemic issues.

My team and I provided extensive feedback during the few days we were given to review a draft of this report. Unfortunately, only a few of our concerns are reflected in the report and only in foot notes. The Sheriff's Office will be responding in more specific detail at a later date. Today I will outline a few policy changes and improvements the report fails to point out:

- The King County Sheriff's Office Use of Force Policy was strengthened in 2019 (policy manual section is General Orders Manual 6.00.00)
- The Law Enforcement Training and Community Safety Act (LETCSA) in Washington State is new law resulting from the implementation of Initiative 940 (I-940). This law ensures an independent investigative team (IIT) gathers evidence in the criminal investigation, keeping KCSO separate from the process. Per State law, KCSO only preserves and maintains the scene. KCSO would not engage in evidence collection prior to the arrival of the IIT. The report author fails to recognize changes in Washington State law.

- KCSO updated and added more clarity to the Critical Incident Review Board process under General Orders Manual 6.02.55. The CRIB (former Force Review Board or FRB) now considers and answers specific questions including whether the member's choices leading up to the event were sound and whether there were reasonable alternatives to the use of force. Also the CRIB adopts or rejects recommendations made by the Administrative Review Team (ART) under GOM 6.02.040(5), 6.02.045, 6.02.055 and provides for assignment to monitor the implementation of those recommendations that are accepted.
- The KCSO Administrative Review Team (ART) is now separated from the Internal Investigation Unit (IIU). The Le ART review memorandum dated 01/17/2018 recommended that the ART be removed from IIU. I followed this recommendation and made this change.
- The ART review noted that an older model Taser was used by the involved deputy. I followed the recommendation to move to a new model of Taser so that better data could be gathered during use. On March 30, 2018, KCSO entered into an agreement to upgrade all of its Tasers and to update models at least every five years. This occurred before the final review board memo was issued on 08/22/18.
- The review board noted that the Deputy's first aid kit did not have optimal material for sealing a gunshot wound. The KCSO Advanced Training Unit addressed this issue and the extra materials are included in deputy personal first aid kits and a training course is conducted on use.
- New policy language improves the use of the administrative review as a "lessons learned" opportunity (GOM 6.02.065(5)). KCSO recognizes the value of communicating lessons learned and shared more broadly through the Office. The method and type of this communication will vary depending on the issues.
- Evaluation of the performance of involved deputies when "stray" rounds have been fired and questioning the involved deputies about any possible "stray" rounds is covered in GOM 6.02.020.
- I have expanded use of data to help KCSO spot trends that suggest a need for additional training or policy revision and to improve transparency.
- I have committed to working with labor unions on timing of deputy statements and the recording of those statements.
- The KCSO media policy, particularly as it relates to the release of information after an officer involved shooting, has been revamped and will become permanent policy very soon.

I look forward to providing you with a more thorough review of this OLEO report in the future. I formally request the opportunity to come back to the Committee to issue my formal response at a later date. I am also ready to return at the same or separate date to provide my response as required by Ordinance to the Dunlap-Gittens OLEO report.

Respectfully,



Mitzi G. Johanknecht  
SHERIFF

cc: Councilmember Lambert, Committee Vice Chair  
Councilmember Dembowski, Committee Member  
Councilmember Dunn, Committee Member  
Councilmember Kohl-Welles, Committee Member  
Councilmember Upthegrove, Committee Member  
Rhonda Lewis, Chief of Staff  
Nick Bowman, Lead Staff  
Marka Steadman, Committee Assistant  
Interim OLEO Director Wat