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Title: AN ORDINANCE relating to oversight of the sheriff's office; adding a new chapter to K.C.C. Title 2, adding a new section to K.C.C. chapter 2.36 and adding a new section to K.C.C. chapter 2.20.

Sponsors: Bob Ferguson, Julia Patterson, Kathy Lambert, Reagan Dunn, Larry Phillips

Indexes: Sheriff

Code sections: 2 -, 2.20 -, 2.20.005 -, 2.20.035 -, 2.20.040 -, 2.20.042 -, 2.20.045 -, 2.20.080 -, 2.36 -, 2.52 -, 2.52.080 -, 2.52.110 -, 2.52.120 -, 2.52.130 -, 2.52.140 -, 3.42.020 -, 3.42.030 -, 3.42.050 -

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| 10/9/2006 | 2 | Metropolitan King County Council | Hearing Held | |
| 10/9/2006 | 2 | Metropolitan King County Council | Passed | Pass |
| 9/28/2006 | 2 | Law, Justice and Human Services Committee | Recommended Do Pass Substitute | Pass |
| 9/21/2006 | 1 | Law, Justice and Human Services Committee | Deferred | |

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| 9/7/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 7/20/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 7/6/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 6/15/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 6/1/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 5/18/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 5/4/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 4/20/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 4/6/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 3/16/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 3/2/2006 | 1 | Law, Justice and Human Services Committee | Deferred |
| 1/30/2006 | 1 | Metropolitan King County Council | Introduced and Referred |

Clerk 10/04/2006

AN ORDINANCE relating to oversight of the sheriff's office; adding a new chapter to K.C.C. Title 2, adding a new section to K.C.C. chapter 2.36 and adding a new section to K.C.C. chapter 2.20.

STATEMENT OF FACTS:

1. The metropolitan King County council is charged with the responsibility of providing oversight to all county agencies and departments, including the sheriff's office.
2. The council exercises its responsibilities for providing oversight of county agencies and departments in a variety of ways, including the establishment of offices within the legislative branch to provide specialized oversight services. The county auditor and ombudsman are just two of the offices that facilitate independent county oversight.
3. A recent series of articles by a local newspaper has questioned the sheriff's systems for investigating allegations of misconduct and citizen complaints. The articles have also called into

question the sheriff's system for disciplining deputies and other sheriff's employees.

4. The sheriff's office has systems for addressing citizen complaints and allegations of employee misconduct, but unlike many other jurisdictions, the county has no independent civilian oversight agency dedicated to the oversight of law enforcement. Most large jurisdictions, and many small ones, have implemented a variety of models for civilian oversight of alleged law enforcement officer misconduct. For example, the city of Seattle has established an office of professional accountability to monitor misconduct allegations within the Seattle police department.

5. Recognizing the need to bolster public confidence and to ensure proper oversight is exercised, the council began deliberations on legislation that would implement civilian oversight of the sheriff's office. The council's law, justice, and human services committee held ten separate hearings on the issues associated with civilian oversight of law enforcement. The council members heard testimony from representatives of the sheriff's internal investigations unit, the ombudsman/office of citizen complaints, Seattle police department's office of professional accountability, and reviewed materials detailing models for civilian oversight and evaluated the types and effectiveness of existing systems for police agency oversight. Council members also visited jurisdictions that have established successful systems for civilian oversight.

6. In a parallel effort, the sheriff, with input from the county council, executive, and prosecutor, established a volunteer ten-member "blue ribbon panel" of citizen experts to make recommendations concerning needed improvements for the sheriff's misconduct/discipline policies, procedures, and practices. The panel reported to the law, justice and human services committee and to the committee of the whole. The panel ended its deliberations with a final report that made recommendations in six major areas including the need for civilian oversight.

The council adopted the panel's final report as Motion 12337.

7. As a result of the law, justice and human services committee's six-month long efforts, visits to other jurisdictions and the blue ribbon panel's recommendations, the council recognizes that a vigorous and effective internal investigation process, combined with appropriate civilian monitoring and oversight, is essential for effective law enforcement.

8. Therefore, the council seeks through this ordinance, to establish 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.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Sections 2 through 8 of this ordinance should constitute a new chapter in K.C.C. Title 2.

NEW SECTION. SECTION 2. 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. "Critical incident" means:

1. An officer-involved shooting resulting in death or injury;
2. The use of force resulting in death or serious bodily injury;
3. An in-custody death;
4. A vehicular pursuit resulting in death or serious bodily injury;
5. A traffic collision involving an officer resulting in death or serious bodily injury; or
6. Any incident of workplace violence.

C. "Director" means the director of the office of law enforcement oversight.

D. "Final discipline" means the action taken against an employee after all investigations are complete

and the employee has exhausted his or her administrative rights.

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

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

G. "Serious complaint" means allegations of serious misconduct as defined in the Sheriff's Office General Operating Manual (G.O.M. 3.00.015) as currently written or hereinafter amended. These are allegations that could be cause for dismissal, including: false reporting; dishonesty; criminal conduct; taking or giving a bribe; inducing someone to commit a crime; failing to cooperate in an investigation; conviction of a crime precluding possession of a firearm; discrimination; or harassment.

H. "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.

NEW SECTION. SECTION 3. The office of law enforcement oversight is hereby established within the legislative branch. The office of law enforcement oversight is an investigative agency as that term is used in RCW 42.56.240. The office shall have four full-time staff members, which include a director, an investigator and two support staff. 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. It is the intent of the council that the office shall be co-located with the sheriff's investigative staff in order to perform the duties described in this ordinance.

NEW SECTION. SECTION 4. A. The director shall be appointed by the executive and confirmed by the council. The executive shall conduct 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, and
10. The selected director must pass a complete criminal background check and polygraph prior to confirmation.

B. 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.

C. The director, with consultation of the council, may employ investigators, staff assistants, clerical personnel or use the services of consultants as may be necessary for conduct of the office's duties. These employees and/or contractors must pass a complete criminal background check and polygraph prior to employment.

NEW SECTION. SECTION 5. The office, 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. Shall receive complaints from any source concerning the sheriff's office, track complaints received, and transmit the complaints to the internal investigations unit;

B. Shall monitor, check for completeness and require additional investigation as necessary of all internal investigations unit activities, including administrative and employee-initiated complaints and allegations investigations;

C. May monitor, check for completeness, evaluate the resolution of and require additional investigation as necessary of all other complaints and allegations including those assigned by the internal investigations unit to supervisors for investigation and resolution; and

D. May review and make recommendations to the internal investigations unit about the screening and classification of complaints, as well as make recommendations to the sheriff about screening and classification policies and procedures. In addition, may monitor the complaint intake process and evaluate decisions whether a complaint requires initiation of a formal internal investigation or assignment to supervisors for investigation and resolution.

NEW SECTION. SECTION 6. The office, in order to ensure transparency to the sheriff's discipline and complaint handling processes and guarantee adequate information is made available to maintain public confidence, shall also:

A. Monitor the investigation and resolution of all complaints to ensure they are handled in a timely fashion and complainants are notified of the final disposition of their complaints;

B. Coordinate with the sheriff's office in the development of all technology applications for tracking and information sharing;

C. Issue annual reports, beginning March 1, 2008. The office shall file twelve copies of each report with the clerk of the council, for distribution to all councilmembers. To facilitate availability of the reports to the public, the office shall also retain paper copies of the reports and post the reports on the Internet. The office shall provide in the reports:

1. A statistical analysis of complaints, investigative findings and final discipline for sustained complaints. The reports should include information about the number and type of misconduct cases where the

director disagreed with the sheriff on either findings or discipline decisions; and

2. Make recommendations for action by the sheriff on needed improvements in policies, procedures and practices stemming from analyses that look beyond the individual cases of misconduct to identify systemic problems within the sheriff's office. In addition to investigational materials available to the office, the director shall make use of all other available materials, including internal and external audits and reviews of the sheriff's office and critical incident reviews, in developing and making recommendations for improvements.

NEW SECTION. SECTION 7. In order to oversee misconduct investigations, the office shall have:

A. Unimpeded and real-time access to unredacted case information and all information related to ongoing investigation files, treating all documents and information regarding specific investigations or officers as required by law. The only exception to this subsection is files related to ongoing investigations of deputies or other sheriff's staff who are under criminal investigation. Upon completion of the criminal investigation and resolution of the any criminal matter, the office shall review the case files in order to determine whether a disciplinary investigation should be initiated;

B. The ability to respond to the scene of critical incidents. At a critical incident scene, the investigator or investigators from the office shall only be an observer or observers. They shall not conduct or interfere with any investigation, and they shall coordinate their presence and activities with the on-scene commander from the sheriff's office. The investigators' duties to monitor, check for completeness and require additional investigation as necessary apply only if a formal complaint investigation is conducted by the internal investigations unit;

C. Approval for completeness of complaint investigations before a finding can be issued. The internal investigations unit must submit all completed misconduct investigations to the office, with an amount of time specified for the approval or direction for further investigation. If the unit disagrees with the office, the sheriff shall act as arbiter and makes the final decision or decisions;

D. The option to consult with command staff or the appropriate supervisor as to the command staff's or

supervisor's own review and recommendations regarding a particular investigation, including proposed discipline; and

E. The option to submit recommendations regarding findings and discipline directly to the sheriff before a final decision on misconduct cases.

NEW SECTION. SECTION 8. The office, in collaboration with the sheriff's office, shall establish and administer a voluntary officer-citizen mediation program. The program shall provide an alternative method to resolve citizen complaints by allowing willing citizens and officers to meet under the guidance of a professional mediator to discuss and resolve their differences. The 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.

NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 2.36 a new section to read as follows:

A. Using the process prescribed in K.C.C. 2.28.0015, the executive shall appoint, subject to council confirmation, a citizens' committee on independent oversight to advise the director of the office of independent oversight, which is created under K.C.C. chapter 2.-(sections 2 through 8 of this ordinance), on policies, procedures and practices relating to officer misconduct, discipline and other responsibilities of the director of the office of independent oversight.

B. The committee shall include eleven members of the public who represent the geographic, ethnic and economic diversity of the sheriff's service area. The committee shall consist of three members representing cities that contract with the sheriff for law enforcement services, four of the members shall represent unincorporated King County, and the four members shall be selected at-large. The committee members shall be appointed for three-year terms, subject to reappointment for additional terms.

C. The committee shall make recommendations to the director of independent oversight regarding:

1. Misconduct and discipline policies, procedures and practices of the sheriff's office;

2. Policies, procedures and practices related to other responsibilities of the director of the office of independent oversight; and

3. Public perceptions of the sheriff, the sheriff's deputies and their roles and functions in the community.

D. The committee shall also serve as a means for the director of the office of independent oversight to communicate with King County's diverse communities. The communication should increase accountability and public understanding of the misconduct and discipline policies, procedures and practices of the sheriff's office and other issues related to the director of the office of independent oversight's responsibilities.

E. The committee shall not review or advise the director on individual complaints, investigations or disciplinary actions.

NEW SECTION. SECTION 10. There is hereby added to K.C.C. chapter 2.20 a new section to read as follows:

A. The auditor shall establish a permanent ongoing law enforcement audit process.

B. The auditor shall acquire an outside law enforcement expert to conduct an initial audit of the sheriff's office internal investigation operations and practices and subsequently thereafter provide for periodic review of the sheriff's office. These reviews should include at a minimum an annual written report to the council.

C. The auditor shall assess and review reports and recommendations from the office of law enforcement oversight that provide council-directed oversight of the sheriff's office internal investigation unit. The auditor shall also review the effectiveness of the office of law enforcement oversight and make recommendations for reform when necessary.

D. The sheriff's office shall send any audits and reports produced under the sheriff's authority on investigation and complaint operations and performance to the King County auditor's office. The reports shall be transmitted in a timely manner. The county auditor shall review and consider the findings and recommendations of, and the sheriff's responses to, these reports when planning the auditor's annual work

program for the review of the council, and shall conduct audits of internal investigation and complaint resolution operations as mandated in the auditor's annual work program. The auditor's independent authority to audit the sheriff's office shall not be replaced or otherwise affected by the creation of any audit or similar function within the sheriff's office.

E. To accomplish the purposes of this section, the auditor shall either hire qualified personnel with expertise in law enforcement oversight or contract for independent consulting services with appropriate expertise, or both.

SECTION 11. A. The executive shall provide to the council monthly reports on the progress in the selection process until a director of the office of independent oversight is confirmed. After the director is confirmed, and until March 1, 2008, the director shall provide to the council monthly reports on the status of establishing the activities of the office, including the status of development of complaint receipt, tracking and investigation procedures and processes, the identification of needed data tracking systems or support, systems for ensuring the confidentiality of investigatory information, and any recommendations for further legislation needed by the office to perform its duties. Twelve copies of each report required under this section shall be filed with the clerk of the council, for distribution to all councilmembers.

B. The director shall reconvene the King County sheriff's blue ribbon panel in accordance with Motion 12337, by December 2007.