

**King County****Metropolitan King County Council
Charter Review Commission****STAFF REPORT**

Agenda Item:	4	Name:	Nick Bowman
Proposed No.:		Date:	March 27, 2019

SUBJECT

Overview of civilian oversight of law enforcement in King County.

BACKGROUND

Civilian oversight of law enforcement in the United States is an evolving governmental function intended to examine police practices and misconduct complaint processes, and to review police policies and training. This function provides a means to monitor and assess a wide range of issues within law enforcement agencies to ensure that policing is responsive to the standards, values and needs of the communities served. In addition to reviewing and suggesting improvements to police systems and training, civilian oversight works toward the shared goal of improving trust between police and the public through transparent oversight activities.

For more than a decade, King County has worked to improve oversight of the King County Sheriff's Office (KCSO). In 2006, the county council's Law, Justice and Human Services Committee held eleven meetings to consider civilian oversight for the sheriff's office. The committee reviewed existing systems for the resolution of complaints and other investigations of employee misconduct. The committee also reviewed the systems used by the Ombuds/Office of Citizen Complaint to evaluate, categorize, and investigate complaints against KCSO employees. Additionally, the committee received an extensive briefing on the systems in place in KCSO's Internal Investigations Unit for their review of allegations of misconduct and other complaints. Finally, committee members had several briefings from the sheriff's Blue Ribbon Panel which was charged in March 2006 to evaluate many of the areas that the committee was reviewing.

Ordinance 15611—Initial Oversight Ordinance. Based on its deliberations and review of the KCSO Blue Ribbon Panel report, the King County Council developed legislation designing a system for civilian oversight that allowed for independent civilian monitoring and evaluation of ongoing investigations. On October 9, 2006, the Council approved Ordinance 15611 regarding civilian oversight of KCSO and creating the Office of Law Enforcement Oversight (OLEO) as an independent office within the legislative branch. The legislation gave OLEO authority to review complaints and investigations that paralleled the responsibilities identified as best practices during Council deliberations

and advanced by the Blue Ribbon Panel. The legislation also allowed for the creation of an oversight committee made up of members of the public to support the new office.

Shortly after the council approved Ordinance 15611 however, the King County Police Officers Guild (KCPOG) filed an unfair labor practice charge against the county. On November 19, 2007, the county and the KCPOG finalized an agreement that Ordinance 15611 would be treated as a labor policy and that this policy would need to be bargained in good faith. After which, the KCPOG dismissed its unfair labor practice charge against the county. As a consequence of this agreement, the executive took no action to implement Ordinance 15611.

Oversight Legislation Modified to Address Labor Agreement. On December 8, 2008, the Council passed Ordinance 16327 approving a new five-year collective bargaining agreement between King County and the KCPOG. The new collective bargaining agreement required the county to repeal most of Ordinance 15611, eliminating the primary components of the legislation establishing the OLEO. However, also on December 8, 2008, the Council adopted Motion 12892, which reaffirmed its commitment to establishing a system of civilian oversight.

Following through on that commitment, the Council adopted Ordinance 16511 in May 2009 to establish a system of civilian oversight in accordance with the existing labor agreement. The ordinance was developed to address the adopted collective bargaining agreement while also preserving some civilian oversight capabilities for the OLEO.

Establishing a Citizen's Committee on Independent Oversight. In Ordinance 16511, the Council created an eleven member Citizen's Committee on Independent Oversight (committee) to work with OLEO. The legislation directed the committee to advise the OLEO Director on matters important to the county's diverse communities and to provide community input as needed. The Council also intended the committee to serve as a resource that represented the county's diverse population and to advise the Director on policy and public perceptions of the sheriff's office.

The Council envisioned that the committee would advance community communication that fosters accountability and public understanding of the misconduct and discipline policies, procedures and practices of the sheriff's office, as well as, other issues related to the OLEO Director's oversight responsibilities. However, Ordinance 16511 made it clear that the committee shall not review or advise the OLEO Director on individual complaints, investigations, or disciplinary actions.

Additionally, the legislation provided no direct guidance for the establishment of committee operations including, how often meetings should be convened, what level of support the committee would need from the OLEO Director, or how the committee could best support the OLEO Director in carrying out oversight requirements.

Charter Amendment and Council Action Expanding OLEO Authorities. In November, 2015, the voters of King County approved an amendment to the King County Charter that established OLEO as a charter-mandated county office within the legislative branch. This amendment, now Section 265 of the King County Charter,

increased oversight responsibilities for OLEO and required that those authorities be established by ordinance.

In April 2017, the Council adopted Ordinance 18500 expanding OLEO's authorities to align with the 2015 voter approved charter amendment. Examples of the expanded powers, under Ordinance 18500, include:

- investigatory authority with subpoena powers for the office;
- complaint and concern intake responsibilities, including the authority to review KCSO complaint intake classifications;
- authorization to review policies, procedures, training, operations, et al and make recommendations prior to adoption;
- access to relevant information and crime scene authorities;
- notification requirements regarding the KCSO complaint handling process; and
- review inquests findings.

These responsibilities are currently the subject of bargaining with the KCPOG.

SUMMARY

What models of civilian oversight are employed throughout the United States?

As stated earlier, civilian oversight of law enforcement in the United States is an evolving governmental function whose emergence is generally associated with the adoption of community policing models in municipalities and other local jurisdictions, both big and small, across the country. According to the National Association for Civilian Oversight of Law Enforcement (NACOLE), a non-profit organization that tracks and provides resources for civilian oversight bodies, there are around 150 jurisdictions in the U.S. with some form of civilian oversight of law enforcement agencies.¹ Despite their wide-spread use, there is no clear consensus on what organizational structure, model or approach constitutes the most effective form of oversight.

Comparative analysis of the many civilian oversight agencies in the U.S. shows high variability in organizational structure and operational authority. “[Some agencies operate entirely with community volunteers with no operating budgets, while others have substantial budgets and a large number of paid professional staff. The authority granted to oversight bodies is even more varied, from oversight’s role in the intake of complaints and involvement in complaint investigations, to levels of access to police records and findings, and whether or not the oversight office can make general policy recommendations and/or individual recommendations on complaint findings and discipline.]”²

The variability of oversight agencies across jurisdictions reflects the community focused nature of their development, as well, as the diversity of state and local laws which may favor one type of oversight structure over another. In 2015, the President’s Task Force

¹ https://www.nacole.org/police_oversight_by_jurisdiction_usa

² De Angelis, J., Rosenthal, R. Buchner, B. Civilian Oversight of Law Enforcement: A review of the Strengths and Weaknesses of Various Models (National Association for Civilian Oversight of Law Enforcement, OJP Diagnostic Center, September, 2016), https://www.nacole.org/reports_publications.

on 21st Century Policing recommended the adoption of civilian oversight, that communities should “define” what form of independent oversight fits their community needs, and that the federal government “should provide technical assistance and collect best practices from existing civilian oversight efforts and be prepared to help cities create this structure, potentially with some matching grants and funding.”³ While no two civilian oversight agencies in the U.S. are identical, the research reviewed for this staff report identified three general types of oversight models based on core agency functions. Table 1, provides a summary of these three primary models, their key characteristics and a list of jurisdictions where they are used.

Table 1⁴

Model	Key Characteristics	Jurisdictions
Investigative	<ul style="list-style-type: none"> • Routinely conduct independent investigations of complaints against police officers. • May replace or duplicate the police internal affairs process. • Staffed by civilian investigators. 	<ul style="list-style-type: none"> • Chicago, IL • Washington, D.C. • New York, NY • San Diego County, CA • Pittsburg, PA
Review	<ul style="list-style-type: none"> • Review the quality of completed internal affairs investigations. • May make recommendations to police executives regarding findings or request that further investigation be conducted. • Commonly comprised of community volunteers/appointees. • May hold public meetings for community input and facilitate dialogue with police. 	<ul style="list-style-type: none"> • Albany, NY • Berkeley, CA • New Haven, CT • Philadelphia, PA • Indianapolis, IN • St. Petersburg FL • San Diego, CA • Charlotte, NC
Auditor/Monitor	<ul style="list-style-type: none"> • Generally examine broad patterns in complaint investigations, including patterns in the quality of investigations, findings and discipline. • Some may actively participate in or monitor open internal investigations. • Often work to promote broad organizational changes through systemic reviews of police policies, practices or training and making recommendations for improvement. 	<ul style="list-style-type: none"> • Denver, CO • New Orleans, LA • San Jose, CA • Los Angeles, CA • New York, NY

It is important to note that while Table 1 describes the three basic models for oversight, “hybrid” oversight agencies are common throughout the U.S. These “hybrids” often

³ President’s Task Force on 21st Century Policing, Final Report of the President’s Task Force on 21st Century Policing (Washington, DC: U.S. Department of Justice: Community Oriented Policing Services, 2015), www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf, 26.

⁴ De Angelis, J., Rosenthal, R. Buchner, B., 2016, https://www.nacole.org/reports_publications and Attard, B. Olson, K. Overview of Civilian Oversight of Law Enforcement in the United States, 2013, <http://accountabilityassociates.org/wp-content/uploads/Oversight-in-the-US-%E2%80%A6FINAL.pdf>

incorporate a combination of functions across the three primary oversight models to address issues at both the functional and structural levels of law enforcement. King County's OLEO would be considered a "hybrid" oversight agency having review, investigatory and auditing responsibilities.

INVITED

- Deborah Jacobs, Director, King County Office of Law Enforcement Oversight
- Mitzi Johanknecht, Sheriff, King County Sheriff's Office

ATTACHMENTS

1. Overview of Civilian Oversight of Law Enforcement in the United States, 2013.
2. President's Task Force on 21st Century Policing, Final Report of the President's Task Force on 21st Century Policing, 2015.
3. Civilian Oversight of Law Enforcement: A review of the Strengths and Weaknesses of Various Models, 2016.