



King County

Office of Law Enforcement Oversight (OLEO)

Date: March 20, 2019
To: Charter Review Commission Members
From: Deborah Jacobs, Director, Office of Law Enforcement Oversight
Re: Recommended changes to OLEO in Charter

Thank you for the thoughtful consideration that you have already dedicated to review of OLEO's authorities in the King County Charter. I greatly appreciate the interest of the members in helping ensure that the Charter reflects the intent of the Council and public in establishing OLEO. My recommendations follow, as well as a track-changes version of the OLEO section of the Charter to reflect desired changes.

Subpoena Power

OLEO has subpoena power authority based upon King County Code 2.75.055. However, the ordinance is in collective bargaining. We would like the Charter to explicitly state that OLEO has subpoena power to bring it in-line with the OLEO ordinance and to clarify the matter for all concerned.

Subpoena power is essential to OLEO's ability to conduct independent investigations. When OLEO does conduct an investigation, our hope is that Sheriff's Office personnel will voluntarily participate in the investigation for transparency. However, in the event that does not occur, without the ability to compel Sheriff's Office personnel to be interviewed by OLEO and produce relevant records, OLEO has limited ability to complete thorough and objective investigations.

The authority to issue subpoenas is an established power within oversight agencies around the country, and granted to numerous county entities (see below). The edits I've suggested are consistent with the subpoena power provided to the King County Ombuds.

OLEO Reporting

OLEO has experienced significant difficulties due to the current collective bargaining agreement's prohibition on OLEO saying or publishing the name(s) of anyone hurt or killed in an incident with Sheriff's Office personnel (e.g. see OLEO's [report](#) related to release of public information in high-profile cases).

This prohibition undermines OLEO's purpose and ability to be transparent with the public, and especially the communities most impacted by police. We would like to add language to the Charter that specifies that part of OLEO's role is to report to the public, and should not be limited from

withholding critical details, like the names of people involved (if already in the public domain). We have provided suggested language, but welcome stronger versions.

Timely and Unfettered Access

Oversight cannot meet its duties without full access to the relevant information held by the agency it monitors. Additionally, over the past two and a half years, OLEO's work has suffered due to denials or delays of requested information and access by the Sheriff's Office. OLEO staff has spent countless hours following-up with the Sheriff's Office in attempt to secure needed documents or information. We have provided suggested edits, but welcome stronger versions.

Independent Investigations

We recommend adding the word "independent" in describing OLEO's authority to conduct investigations. This addition will bring the Charter in-line with OLEO's ordinance and clarify OLEO's standing in terms of being able to select the investigations it wants to undertake, and conduct the investigations in a thorough, objective, and self-directed manner based on best practice standards for independent investigations.

Director's Term

The current term is four years, which is one year short of when a King County employee vests in its pension program. The political nature of this work makes any OLEO director vulnerable to losing reappointment. In addition, other agencies, such as the Ombuds, have a five-year term. I would hope that the next OLEO director will have the comfort of a five-year term, at least for the initial term.

Additional Changes

I have recommended a few other small but important changes to improve the description of OLEO in the Charter including:

- Addition that OLEO "shall serve the interests of the public" to bring it in-line with OLEO's ordinance and clarify OLEO's purpose.
- Update to the description of OLEO's Community Advisory Committee to add clarity and direction.
- Specify that OLEO can observe as well as conduct interviews, and that OLEO can attend "boards" as well as "review hearings," since the Sheriff's Office holds both.

OLEO Bargaining

It's my understanding that a Commission member brought forth a proposal to amend Section 898 of the Charter to provide OLEO with greater standing in the collective bargaining process. This is an important idea that has the potential to protect OLEO's authority and eliminate conflict of interest.

Although there is an understandable aversion to adding additional layers of complexity to the collective bargaining process, the director of King County's Office of Labor Relations offered to open a dialogue to vet the idea of giving OLEO standing in the bargaining, and we're in talks about who might participate.

King County Entities with Subpoena Power

KC Entity	Limits of Subpoena Power	Charter/Code Section
Council	Limited to matters relating to proposed ordinances under consideration by the council.	Charter 220.20
Ombuds	Limited to matters under written complaints by a resident of the city or county.	Charter 260 & KCC 2.52.090 (General Authority)
	May not subpoena information that is legally privileged.	KCC 1.07.140 (Lobbyist Disclosure)
	May not subpoena information that is legally privileged or legally protected from disclosure.	KCC 3.04.055 (Ethics)
	Prohibition of subpoenaing privileged information does not appear to apply to investigations of improper governmental acts.	KCC 3.42.057 (Whistleblower Protection)
Office of Civil Rights	Shall consult with the prosecuting attorney before issuing any subpoena.	KCC 12.17.040, 12.22.050 & .080
Auditor	Requires approval of the County Council by motion before a subpoena may be issued.	KCC 2.20.65
Chief Medical Examiner	NA	KCC 2.35A.090
Personnel Board	NA	KCC 3.08.100
Hearing Examiner	Limited for witnesses to appear at a contested hearing.	KCC 23.20.080

Partial List of Nationwide Police Oversight Offices with Subpoena Power

- Oakland, CA
- Washington DC
- Chicago, IL
- Denver, CO
- St. Paul, MN
- Albuquerque, NM
- San Diego, CA
- Richmond, CA
- Indianapolis, IN
- Detroit, MI
- Syracuse, NY
- Los Angeles, CA
- New York, NY
- Cambridge, MA
- Rochester, NY
- San Francisco, CA