



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-045**

June 16, 2020

Dear Captain McSwain:

OLEO has completed a cursory review of the internal investigation for case number IIU2019-045. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it was not in compliance with King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b), which states that the Sheriff's Office "provide the oversight office with a reasonable opportunity to comment on all administrative investigations before notifying the subject employee of the findings."

OLEO was originally notified of the open investigation on January 31, 2019. However, OLEO was not notified when the investigation was complete and ready for review. On July 15, 2019, findings were published to the employee and the investigation was closed. Prior to the findings being drafted and published OLEO was not aware that the investigation had been completed.

For these reasons, OLEO declines to certify this investigation based on failure to comply with the King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b).

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-056**

August 2, 2019

Rodney Chinnick
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain Chinnick:

OLEO has independently reviewed the internal investigation for case number IIU2019-056. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

The allegations in this investigation are failing to perform to standards, bias-based policing, and discourtesy. On February 2, 2018, the subject deputy was dispatched to a school after an incident between the complainant's son and a teacher had occurred. The subject deputy met with the complainant at the school, where the complainant recorded their conversation. In the recording, the complainant can be heard expressing his concern that a teacher physically assaulted his son. The subject deputy can be heard responding that the complainant's son was clearly causing a problem. Additional discussion ensued, and the complainant alleges that the subject deputy was unwilling to properly investigate the incident because the complainant's son is black.

OLEO was originally assigned this case for review on July 02, 2019. After our initial review, we requested follow-up from IIU on July 8, 2019, which included a request to interview the subject deputy and a request to add the allegations of failing to perform to standards and discourtesy. IIU notified OLEO that the follow-up had been satisfied on July 19, 2019. After OLEO's second review, we noted that the subject deputy issued a written statement in lieu of the requested interview. The subject deputy's written statement failed to answer questions integral to the thoroughness of the investigation that were included in OLEO's original follow-up request. Additionally, the courtesy allegation was not included in the A-150 that was issued to the subject deputy, and as a result, the subject deputy did not address that issue in his written statement.

On July 25, 2019, OLEO requested additional follow-up from IIU, which included requests for

an in-person interview of the subject deputy, the school principal, and anyone else determined to be present during the interaction between the subject deputy and complainant. OLEO also noted that three months had passed between IIU's opening of the investigation and the date the investigator began the investigation. IIU declined OLEO's second request for follow-up, stating that there was not sufficient time to complete additional investigation. OLEO also requested that IIU have the Sheriff review the request, which IIU declined.

It should also be noted that the courtesy allegation was not included in the findings published on July 29, 2019.

For all of the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight

810 3rd Ave, Suite 800
Seattle, WA 98104-1818
206-263-8870
oleo@kingcounty.gov www.kingcounty.gov/oleo

IIU Case No. **IIU2019-057**

April 3, 2019

Rodney Chinnick
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain Chinnick:

The Internal Investigations Unit (IIU) advised the Office of Law Enforcement Oversight (OLEO) that it completed investigation number IIU2019-057. OLEO has independently reviewed the internal investigation, and we decline to certify the investigation pursuant to King County Code 2.75.040(C).

The allegation in this investigation is excessive use of force. On January 22, 2019, deputies responded to a Community Transit driver who told them that the complainant had struck the outside of the bus with a skateboard. A few minutes later a male matching the same description provided by the bus driver was involved in an altercation with fare enforcement officers and Seattle Police Department officers. KCSO deputies arrived on scene to assist. The subject deputy stated that the complainant did not comply and that he spit at the deputy as he attempted to place the complainant in handcuffs. After the handcuffing, the complainant alleged that he was hurt and that the handcuffs were too tight. The complainant was transported to King County Jail and did not request or receive medical treatment during the intake process.

A use of force report was generated because the complainant said he felt pain related to the arrest. To document and investigate the use of force report and companion excessive use of force complaint, a sergeant went to King County jail to interview the complainant. During the interview, the complainant did not specify when, what, how or who caused his pain or injury, and it was unclear whether he was attributing the pain only to the handcuffing or other things that happened during the incident. No clarification was sought despite Seattle PD and fare enforcement also being on scene with KCSO deputies. Additionally, after receiving the complaint for excessive use of force, the sergeant contacted the subject deputies for statements but did not provide A-150's to notify them of the excessive force investigation.

On February 11, 2019, OLEO was notified the investigation was completed and ready for review. Although the expiration for our review was February 18, 2019, that date was a

government holiday, not a working business day, which extended OLEO's deadline for review to February 19, 2019. On February 19, 2019, OLEO sent IIU an email requesting additional follow-up investigation and to address that A-150's had not provided to the deputies. OLEO did not receive a response. On March 6, 2019, OLEO sent an email requesting a status update on its request for additional investigation. OLEO has not received a response. Additionally, although not included in OLEO's initial request for follow-up investigation, none of the Seattle PD officers involved with contacting the complainant were named as witnesses, and their body camera video was not requested as part of this investigation.

For all the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Deborah Jacobs

Director

Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight

810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675

TTY Relay: 711

oleo@kingcounty.gov

www.kingcounty.gov/oleo

IIU Case No. **2019-091**

June 12, 2019

Rodney Chinnick
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain Chinnick:

OLEO has independently reviewed the internal investigation for case number IIU2019-091. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not objective.

The allegation against the subject employees was failing to perform to standards by not following directives. The complainant alleges that during an attempt to get help while on a Sounder Light Rail train heading north, a Communications Center employee first hung up on her and then refused to transfer her call to a supervisor when she called back. The investigation was handled by the Communications Center Supervisor. As part of the investigation, one of the subject employees was given notification of the investigation and allegations in an A-150. Also included in the A-150, the supervisor summarized the actions taken by the subject employee and stated that the subject employee had done nothing wrong, but if they wanted to make a statement about the allegations they could.

Objectivity is the lack of bias, prejudice, or judgment. An A-150 should not outline the steps taken during the investigation or opine that the employee had done nothing wrong. By doing so, the investigator not only prejudged the response of the employee as to the allegations, but also prejudged the outcome of the investigation before it was complete and shared those beliefs with the employee prior to the interview. As a result, OLEO is not certifying this case.

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs

Deborah Jacobs

Director

Office of Law Enforcement Oversight



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Seattle, WA 98104

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IIU Case No. **2019-131**

August 13, 2019

Rodney Chinnick
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain Chinnick:

OLEO has completed a review of the internal investigation for case number IIU2019-131. We decline to certify the investigation pursuant to KCC 2.75.040(C) both because the investigation was not thorough, and because the Internal Investigations Unit (IIU) failed to comply with KCC 2.75.045(C)(4) and KCC 2.16.060(B)(6)(3)(b), each of which states that the King County Sheriff will provide notice to OLEO "with a reasonable opportunity to comment on all administrative investigation before notifying the employee of the findings."

The allegations in this case assert lack of courtesy and harassment based on race. The King County Sheriff's Office's (KCSO) legal advisor informed OLEO of this investigation on July 29, 2019, the same day it issued findings to the subject employee. Until that day, OLEO was not aware of the investigation because IIU had restricted OLEO from seeing the existence of and accessing the case. On July 30, 2019, OLEO was provided access to review the investigation.

During our review, OLEO learned that the original complaint was generated on March 12, 2019. IIU opened the case on March 25, 2019. A private investigator conducted the investigation and provided a report summary dated May 30, 2019.

Apart from KCSO's failure to comply with the applicable laws cited above, the investigation was not thorough. And, because the investigation was not thorough, OLEO could not determine whether it was objective. In making determinations on thoroughness and objectivity, OLEO reviews the investigation interviews, statements, and the corresponding summaries. In this case, however, the investigator did not record or take witness notes of the interviews. Our understanding is that the decision not to record or take notes was an intentional decision made by those overseeing the investigation to encourage candor. Because of this lack of documentation, and because OLEO was also not invited to any of the interviews, we could not determine from the file the demeanor, tenor, or types of questions asked, including whether the questions were leading, whether the interviewees were asked if they had anything additional to provide, or whether the interviewees named any additional witnesses. Separately, OLEO was informed that additional witnesses were named as relevant to the investigation; however, they were neither listed in the investigative file nor interviewed by the investigator.

The applicable King County Code provisions, KCSO's General Orders Manual (GOM) and King County Police Officer's Guild 2016 Collective Bargaining Agreement (CBA), provide no exception to OLEO's oversight role for certification reviews in a case such as this. Under KCC 2.75.040(C), OLEO has authority to conduct certification review of any administrative investigation before KCSO issues findings to the subject employee. To enable OLEO to fulfill this authority, the code requires KCSO to notify OLEO regarding the current status of all complaints, including when a complaint is received; of the date, time, and location of any administrative investigation interview; and when an administrative investigation is complete and before KCSO issues findings to the subject employee. KCC 2.75.045(C)(1), (3), and (4). As noted above, none of this occurred.

Section 5 of the CBA similarly provides that IIU will give OLEO access to all complaints within three business days. Section 8 provides that IIU will notify OLEO of all administrative interviews on all complaints of serious matters (i.e. matters that could lead to suspension, demotion, or discharge). In the context of pending investigations of complaints, the CBA restricts OLEO's access to investigative files in only one circumstance: in criminal investigations of KCSO employees. This case did not involve allegations of criminal conduct.

The GOM and IIU Standard Operating Procedures likewise contain policies and procedures that effectively implement the legal requirements and any restrictions outlined above. Those policies and procedures were not followed in this case.

Although outsourced investigations like this are a deviation from the normal handling of complaints, OLEO's oversight authority does not change. However, in the process that occurred here, OLEO was completely deprived of its oversight role in a case involving KCSO leaders. Not only is the file documentation insufficient and not transparent, but OLEO was not provided notice of either the complaint or any of the interviews that occurred, and OLEO was not afforded the opportunity to review the investigation before findings were issued to the subject employee. By the time KCSO provided OLEO notice and access to the investigative file, there was no opportunity to cure any of the many issues noted above. All of this is contrary to legal requirements outlined above.

If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-137**

August 20, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-137. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

The allegation in this investigation is discourtesy. On November 30, 2019, the complainant was driving in Black Diamond when he saw a fire engine leaving a nearby station. He quickly exited via the west offramp lane to move from the oncoming engine's path. The subject deputy stopped the complainant's vehicle for failing to yield to a fire engine.

The complainant said that he attempted to explain why the direction he drove was the safest option, but that the subject deputy allegedly told him to shut up and stop arguing. The complainant claimed that the subject deputy was aggressive and said that the complainant should be evaluated for driving fitness. Although the subject deputy provided a written statement, it did not include any facts regarding whether he was discourteous in his interaction with the complainant.

OLEO was originally notified this case was ready for review on August 3, 2019. After our initial review, we requested additional investigation from the Internal Investigations Unit (IIU) on August 9, 2019, asking that the subject deputy respond to the courtesy allegation. On August 14, 2019, IIU declined to fulfill OLEO's follow-up request. IIU also declined to have the Sheriff review the request for additional investigation.

Ultimately, the subject deputy was not given an opportunity to respond to the courtesy allegation. As a result, OLEO declines to certify the investigation because it is not thorough.

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
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IIU Case No. **2019-150**

June 16, 2020

Dear Captain McSwain:

OLEO has completed a cursory review of the internal investigation for case number IIU2019-150. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it was not in compliance with King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b), which states that the Sheriff's Office "provide the oversight office with a reasonable opportunity to comment on all administrative investigations before notifying the subject employee of the findings."

OLEO was not notified when the investigation was opened nor was it notified when the investigation was complete and ready for review. The IIU captain noted in the file that entered a finding of non-sustained. OLEO was not aware of the investigation prior to this determination.

For these reasons, OLEO declines to certify this investigation based on failure to comply with the King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b).

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-152**

October 2, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-152. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

This was an investigation into an allegation that the subject deputy made sexual comments about a member of the public and disparaging comments about his supervising sergeant. This allegedly took place while training another deputy, and in a place that the public could overhear. If true, this would be a violation of General Orders Manual 3.00.015(5). The subject deputy does not recall making any of the alleged comments.

During OLEO's review, we observed that there was a bus driver who may have heard the alleged comments, but there was no documentation in IAPro showing that the bus driver was interviewed. We asked that the investigator attempt to interview the bus driver. However, because the 180-day deadline was approaching, IIU determined it was unable to perform the additional investigation. As a result, OLEO is not able to certify this investigation.

Please note, OLEO's 5-day review period expired on September 29, 2019. The request for follow-up investigation was sent on September 24, 2019. Without a response from IIU, OLEO sent an additional email and phone call to IIU on October 1, 2019. OLEO received email declining to conduct the follow-up investigation on the afternoon of October 1, 2019.

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104
206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-174**

October 11, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-174. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it is not in compliance with Collective Bargaining Agreement (CBA) Section 10, which states that OLEO is allowed five business days to determine the certification of an investigation.

The allegations in this case are discourtesy, excessive or unnecessary use of force, bias based policing, and retaliation. OLEO was initially notified that this investigation was complete and ready for review on September 13, 2019. On September 19, 2019, OLEO requested that additional investigation be conducted. IIU agreed and returned the completed case for review on October 2, 2019, with a due date of October 9, 2019. During this review period, new investigative documents were uploaded to IAPro on both October 4, 2019 and October 9, 2019. Under CBA Section 10, the addition of new investigative information resets the due date for review five business days. This would make OLEO's review deadline October 16, 2019. However, the 180-day expiration date for the investigation is October 12, 2019. OLEO cannot conduct a full review of the investigation before the expiration date.

When OLEO receives notification that an investigation is complete, it is understood that no additional investigative material will be added to the file. While we attempted to review this investigation several times, our review cannot be thorough when new information is added without our knowledge. Specifically, the information uploaded to this case file on October 9 is a substantial 46-page document with new material that, after a cursory review, we believe warrants additional investigation. It is especially important that OLEO be allowed five business days to review this investigation for thoroughness and objectivity given the breadth of the material.

For the above reasons, OLEO declines to certify due to failure to comply with Section 10 of the CBA. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-176**

June 16, 2020

Dear Captain McSwain:

OLEO has completed a cursory review of the internal investigation for case number IIU2019-176. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it was not in compliance with King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b), which states that the Sheriff's Office "provide the oversight office with a reasonable opportunity to comment on all administrative investigations before notifying the subject employee of the findings."

OLEO was not notified when the investigation was opened nor was it notified when the investigation was complete and ready for review. The IIU captain noted in the file that he entered a finding of undetermined. OLEO was not aware of the investigation prior to this determination.

For these reasons, OLEO declines to certify this investigation based on failure to comply with the King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b).

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-182**

October 2, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has completed a cursory review of the internal investigation for case number IIU2019-182. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it was not in compliance with King County Code 2.75.045(C)(3) and Collective Bargaining Agreement (CBA) Section 10, which state respectively that OLEO is authorized notification "of the date, time and location of any interview that is conducted as part of an administrative investigation" and that OLEO is allowed five business days to determine the certification of an investigation.

The allegations in this case are violation of performance standards and failure to report misconduct. OLEO was initially notified of the open administrative investigation on April 25, 2019, and was able to access the case in IAPro. On September 30, 2019, OLEO received a voicemail from IIU notifying the office that IIU2019-182 was ready for review. However, the case was classified with a security level that precluded OLEO's access to the case in IAPro. OLEO left a voicemail with IIU on September 30, 2019 notifying them of the issue. On October 1, 2019, OLEO was provided access to review the investigation. With access granted, OLEO requested that the due date for the review be reset five business days, which would make the deadline October 7, 2019. IIU agreed, but asserted that the investigation would still be sent for findings on October 3, 2019, which is the 180-day expiration date for the investigation.

OLEO was not provided an opportunity to review the investigation for thoroughness and objectivity before it was sent for findings. Given the breadth of the investigation, a two-day review period is not sufficient to conduct a thorough review. Additionally, OLEO was not invited to any of the interviews for this investigation. Participating in interviews allows OLEO to obtain relevant information about the case in a timely matter, which ultimately contributes to the quality of OLEO's reviews.

For these reasons, OLEO declines to certify this investigation based on failure to comply with the King County Code 2.75.045(C)(3) and Section 10 of the CBA. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Jacobs".

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight

810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675

TTY Relay: 711

oleo@kingcounty.gov

www.kingcounty.gov/oleo

IIU Case No. **2019-193**

August 1, 2019

Rodney Chinnick
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain Chinnick:

OLEO has completed a cursory review of the internal investigation for case number IIU2019-193. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it was not in compliance with King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b), which states that the Sheriff's Office "provide the oversight office with a reasonable opportunity to comment on all administrative investigations before notifying the subject employee of the findings."

The initial complaint, which includes criminal conduct allegations, was made on February 17, 2019. OLEO was not notified of the open administrative investigation on this date and the case was classified with a security level that precluded OLEO's access. Although IAPro indicated that notification was sent, OLEO could not access or see the existence the case. On June 24, 2019, IIU notified OLEO that the case was ready for review but did not change the security level in IAPro to allow for OLEO access. Although OLEO's deadline to complete review was July 1, 2019, OLEO was again unaware that the completed investigation was ready for review because our office was precluded from viewing it.

On July 18, 2019, OLEO received a related incident, which linked to IIU2019-193 in IAPro. It was during the review of the related investigation that OLEO discovered the security level issue with this case. That day, OLEO brought the matter the IIU Captain's attention and the security level was changed for OLEO to view the case. With access granted, OLEO requested that the due date for the review be reset five business days from the actual date of the July 18 notification, which would make the deadline July 24, 2019. IIU declined to grant a new

expiration date for review because of the proximity to the 180-day timeline. The investigation was sent for findings on July 08, 2019 and findings were issued July 23, 2019.

For these reasons, OLEO declines to certify this investigation based on failure to comply with the King County Code 2.75.045(C)(4) and 2.16.060(B)6(a)(3)(b).

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Jacobs".

Deborah Jacobs

Director

Office of Law Enforcement Oversight



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206-263-8870 / Fax: 206-296-1675
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www.kingcounty.gov/oleo

IIU Case No. **2019-221**

October 8, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-221. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

This case involved an allegation of the subject deputy developing a pattern of behavior around performing at a level significantly below the standard achieved by others in the work unit. This investigation addresses only one isolated incident and does not address a pattern of behaviors. During his interview, the subject deputy indicated that he did not recall the incident. The investigator did not interview the reporting party, the complainant, or the witness. The investigator noted it was not necessary to interview these witnesses based on supervisor and commander forms that had been filled out in conjunction with this complaint. The investigator also noted the reporting party is unlisted, which is why that particular interview was not completed.

During OLEO's review, we noted the investigation did not address the whole complaint, as well as the above-mentioned witnesses not being interviewed. Additionally, the complaint that generated this investigation indicated several incidents contributed to the subject's pattern of behavior, but additional incidents were not identified or discussed in this investigation. Due to the 180-day deadline of October 10, 2019 and based on recent conversations with IIU, OLEO determined that there would not be enough time to complete additional investigation to remedy the lack of thoroughness in the investigation. As a result, OLEO is not able to certify this investigation.

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



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IIU Case No. **2019-226**

September 20, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-226. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not objective.

The allegation in this case is excessive or unnecessary use of force. On May 15, 2019, the subject employee, a precinct major at the time, was in the Pioneer Square area of Seattle when he observed a nude woman running towards him. He also observed a man running after the woman (later identified as the woman's brother-in-law). The woman appeared to be in crisis, and her brother explained to the subject employee that she is schizophrenic and possibly under the influence of drugs. The brother-in-law continued to chase the woman, attempting to give her clothes.

The subject employee said that prior to deploying his taser he attempted to contain the woman to the sidewalk, using his hands to physically prevent her from going into the street, as well as trying to verbally engage her, but she was unresponsive. The subject employee stated that he warned the woman two separate times that he would deploy his taser if she did not stop. The subject employee stated that the woman ignored these commands and ran into traffic. At this point, the subject employee deployed his taser, which made contact and incapacitated the woman.

Credible investigations must be free from impairments or perceived impairments that threaten an investigator's ability to investigate in an unbiased, objective manner. Section 3 of IIU's Standard Operating Procedures states that "investigations should be conducted in a fair and impartial manner and the investigators should remain neutral and fact-based." This includes an investigator's ability to be free from any conflicts of interest with the subject matter or with any party involved in the incident being investigated. In this case, conflict of interest is invoked by assigning a sergeant to undertake a high-profile investigation of a major in a command role.

Identifying potential conflicts of interest before an investigation commences is paramount to a credible investigation. For this reason, OLEO has recommended on several occasions, including in its 2018 Internal Investigations Complaint Classifications Report, that IIU utilize a conflict of interest screening form.

In addition to the rank and authority of the subject employee, the need to outsource this investigation was further demonstrated by a May 22, 2019 article in the local press in which KCSO provided comments about the incident. In the article, a KCSO representative stated that the subject employee's actions regarding his taser use were "completely within policy." This statement was released with full knowledge that the IIU investigation into the incident was open. On May 24, OLEO unequivocally recommended that this investigation be handled by an independent, outside investigator due to the rank of the subject employee, as well as the nature of the complaint and the conclusory comments KCSO made to the press.

The facts of this incident and the handling of the complaint about it by KCSO create the perception of an impairment to conduct an impartial and fair investigation by KCSO personnel. Despite these issues, and OLEO's strong recommendation early on that the investigation be outsourced to an outside investigator, IIU completed the investigation.

Although this certification is focused on questions of objectivity, we also have concerns about thoroughness, including the failure to interview the complainant or the subject of the use of force. We welcome the opportunity to discuss the thoroughness aspects with IIU if desired; please let us know.

For the above reasons, OLEO declines to certify due to lack of objectivity. If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-229**

August 22, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-229. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because the investigation was not thorough, and because the Internal Investigations Unit (IIU) failed to comply with KCC 2.75.045(C)(4) and KCC 2.16.060(B)(6)(3)(b), each of which state that the King County Sheriff will provide notice to OLEO "with a reasonable opportunity to comment on all administrative investigations before notifying the employee of the findings."

The allegations in this investigation are inappropriate use of authority and performing at a level significantly below standards. On May 10, 2019, the subject deputies were dispatched to investigate an abandoned vehicle that was reported to be on the street for five days. The subject deputies believed that they were dispatched to a possible stolen vehicle, and they attempted to locate the VIN to determine whether it matched the license plate. Because the VIN on the dashboard was not visible, they decided to locate the vehicle's VIN on the engine block by tipping the cab of the truck. This strategy was unsuccessful. The complainant and owner of the vehicle alleges that the deputies' handling of the truck caused an object from the back of the truck to hit and crack the windshield. The complainant stated that the truck was not stolen and had been parked in that location for less than 24 hours.

OLEO was originally notified this case was ready for review on June 13, 2019. After our initial review on June 20, 2019, OLEO requested that IIU re-interview the subject deputies and add the CAD report to the file. In particular, OLEO requested the deputies clarify why tipping the vehicle was necessary, whether any information from the 911 caller was considered, and what information they relied upon to make their decisions. IIU agreed with the request and added the CAD report that same day.

On August 21, 2019, OLEO checked the status of the case. The file shows IIU did not re-

interview the subject deputies and that findings for both allegations were issued on July 25, 2019. OLEO's request for additional investigation was outstanding when the investigation was sent for findings, and OLEO was therefore not provided another opportunity to review the file before findings were issued.

For the above reasons, OLEO declines to certify due to lack of thoroughness and failure to comply with KCC 2.75.045(C)(4) and KCC 2.16.060(B)(6)(3)(b). If you have any questions, please contact our office at 206-263-8870.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Jacobs".

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-232**

November 20, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

After a review of the findings memo and Loudermill results letter, OLEO rescinds its certification letter of October 8, 2019 and declines to certify IIU2019-232 pursuant to King County Code 2.75.040(C) on the bases that the investigation was not thorough and that the Internal Investigations Unit (IIU) failed to comply with KCC 2.16.060(B)(6)(3)(b), which states that the King County Sheriff will provide notice to OLEO "with a reasonable opportunity to comment on all administrative investigation before notifying the employee of the findings."

On October 3, 2019, OLEO received a completed investigation ready for review with a due date of October 10, 2019. On October 8, 2019, OLEO sent a letter certifying the investigation involving an alleged violation of GOM 3.00.020(1)(c). However, on October 8, 2019, IIU changed the alleged violation in the investigation from GOM 3.00.020(1)(c) to GOM 3.00.015(1)(a). OLEO was not notified of the change to the allegation, and therefore did not review the investigation as it pertained to the new allegation.

Any alteration to a completed investigation requires notification to OLEO along with a new review period. OLEO was not notified of the change in allegations nor was given the opportunity to review the investigation as to the new allegation before findings were published. Additionally, the collective bargaining agreement (CBA) article 22 section 10 defines the parameters for sending OLEO notice of completed investigations. The change in allegations without notice is a violation of this section of the CBA.

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-269**

August 22, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-269. We decline to certify the investigation pursuant to KCC 2.75.040(C) because it is not objective.

The allegation in this investigation is making false statements. On April 5, 2019, the subject deputy was interviewed for IIU2019-059. The Internal Investigations Unit (IIU) Commander, IIU investigator, labor representative, subject deputy, and OLEO representative attended the interview. IIU determined that the subject deputy lied during the interview, which generated this case.

On July 7, 2019, the subject deputy was interviewed for this case regarding the false statement made during the IIU2019-059 interview. Aside from the subject deputy, some of the attendees at the second interview were the same people who attended the first interview; specifically, the IIU Commander, IIU investigator, and one of the OLEO representatives. The IIU Commander conducted the interview. At the time, no one objected to those attendees conducting or participating despite having become witnesses to the alleged false statement at an interview for IIU2019-059. OLEO identified this issue during certification review.

Credible investigations must be free from impairments or perceived impairments that threaten an investigators' ability to investigate in an unbiased, objective manner. This includes an investigator's ability to be free from any conflicts of interest with any party involved in the matter being investigated. The Sheriff's Office recognizes the importance of investigations being free from conflicts of interest; its General Orders Manual, Section 3.03.110(2), states that "[a]ny assigned investigator who during the investigation of a complaint, has a potential conflict of interest, shall forward his/her concerns to the IIU Commander." Section 3 of IIU's Standard Operating Procedures states that "investigations should be conducted in a fair and impartial

manner and the investigators should remain neutral and fact-based.” The importance of identifying potential conflicts of interest before an investigation commences is why OLEO has recommended on several occasions, including in its 2018 Internal Investigations Complaint Classifications Report,¹ that IIU utilize a conflict of interest screening form.

In this case, the IIU Commander and investigator were witnesses to the alleged false statement in the prior interview. Additionally, their perception that the subject deputy lied during that interview is why this case was opened. Because of this, it was a conflict of interest for them to investigate this case, and therefore not objective.

If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Deborah Jacobs
Director
Office of Law Enforcement Oversight

¹ https://www.kingcounty.gov/~media/independent/law-enforcement-oversight/Documents/2018/DLGReview_KCSO_Int_Affairs7-2018.ashx?la=en



King County

Office of Law Enforcement Oversight
810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-306**

August 22, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-306. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because the investigation is neither thorough nor objective.

The allegations in this case are excessive use of force and appropriate use of authority. During the stop, tasers were deployed twice. On March 23, 2019, the subject deputies responded to a 911 call involving reckless driving. The vehicle had also been reported stolen, and the reporting party included in his statement that firearms were in the glovebox. When the deputies arrived, they found the complainant passed out in the vehicle, which was still running. One of the deputies attempted to turn the vehicle off, which woke the complainant. The complainant kicked at the deputy and struck him a few times in the chest while inside the vehicle. Although another deputy told the deputy who had just been kicked to move, it is unclear in the reports whether the words that were said indicated that he was going to attempt a taser deployment. The taser was deployed, but had no effect on the complainant. The complainant exited the vehicle through the passenger side door and attempted to flee. While the complainant was running away from the deputies, a third deputy stated "taser, taser, taser" before deploying his taser, which incapacitated the complainant. All three deputies took the complainant into custody.

After the complainant was detained, the sergeant arrived on scene and took a statement from the complainant. The complainant stated that he was defending himself because it was his truck and he did not know why the deputies were trying to arrest him. During the interview, the sergeant was audibly upset, asked leading and accusatory questions, and was hostile towards the complainant. The sergeant asked leading questions about the firearm and confronted the complainant about suggesting that the deputies had lied.

OLEO was notified this case was ready for review on July 9, 2019, with a due date of July 16, 2019. The 180-day deadline for findings to be issued is September 19, 2019.

On July 10, 2019, OLEO contacted IIU to request additional investigation. OLEO requested that IIU: (1) add an abuse of authority allegation against one of the subject deputies because the complainant had alleged the deputy had no basis to stop him; (2) interview the two deputies who initially contacted the complainant to address the new allegation and to inquire about the sequence of events and facts around the first taser deployment; and (3) re-interview the complainant to address the investigator's lack of objectivity during the interview. The complainant was in jail at the Regional Justice Center at the time of the request.

On July 12, 2019, IIU responded to OLEO's follow-up request and added the abuse of authority allegation, but declined to re-interview the complainant or the deputies. IIU asserted that the deputies' statements in the use of force reports addressed the information needed to make findings. Specifically, IIU stated that the deputies' statements were thorough about the fact that they were being assaulted and that one deputy asking another deputy to step out of the way was a sufficient taser warning. However, despite that explanation, it is unclear from the reports what the deputies said to the complainant before the first taser deployment, including whether a warning was provided to the complainant. If providing a warning was not feasible, the deputy did not articulate a clear reason in his report. Additionally, it is unclear in the reports the timing of the interaction with the complainant and what the deputies saw inside the cab of the truck or on the complainant during that interaction. In light of the fact that the deputy had time to tell his partner to move out of the way, all of this additional information is necessary to determine the feasibility of providing warnings to the complainant.

IIU believed the request for a second interview of the complainant was unnecessary because the information from the interview and the facts of the stop were sufficient. Although IIU agreed the quality of the interview was an issue and requested command staff address it with the sergeant, this does not correct the biased interview on record. Only another interview, conducted in an objective manner by a different investigator, can resolve this issue. Although an additional interview cannot always cure a biased interview, OLEO believes it can in this case because of the complainant's limited responses and seemingly altered state during the first interview.

On July 16, 2019, OLEO requested an extension from IIU to continue to staff the case internally. The next day, IIU responded by stating it would be sending the case for findings. On July 25 and 31, 2019, OLEO asked if IIU would be requesting the Sheriff make a determination about whether to conduct the additional investigation. As of today, OLEO has not received a response from IIU.

For all of the above reasons, OLEO declines to certify this investigation due to lack of thoroughness and objectivity.

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

Amended Letter

IIU Case No. **2019-315**

January 7, 2020 (Originally Sent October 10, 2019)

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-315. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

On June 13, 2019, deputies responded to a report of shoplifting. The subject deputy was the first to arrive and after conducting some initial investigation on the identity of the shoplifters he contacted the complainant. During the contact, he detained the complainant for further investigation into the allegations of shoplifting. While attempting to handcuff the complainant, the subject deputy reports that he was non-compliant with commands and resisted arrest. Eventually, the complainant was handcuffed. However, during the handcuffing, the complainant was taken to the ground and injured his knees. The subject sergeant arrived after the complainant told the deputies that the subject deputy used excessive force to detain him, and only detained him because the subject deputy was a racist. The subject sergeant made note of the complainant's injuries in the use of force report but did not offer medical assistance. The complainant refused to give any further statements. Initially, it was unclear if medical assistance was offered and denied, so OLEO requested the subject sergeant be interviewed to clarify this issue. In his interview, the sergeant stated that he did not call for medical aid because the injuries to the complainant did not rise to the level of requiring medics to respond to the scene.

3.05.055(3) of General Orders Manual for King County Sheriff's states, "(w)hen a complaint alleges excessive use of force by a member, the on-duty supervisor shall: ... request that the person be examined by a physician." The failure to offer medical aid compromises the investigation's thoroughness. It prevents IIU and those making findings from having the information needed to determine whether force used was excessive. Additionally, the nature and extent of injuries are not always visible. Allowing subjects of uses of force the option to be evaluated medically helps ensure the safety of the individual and documents KCSO's attempt to do so if medical aid is declined. Giving the complainant an opportunity to accept or decline

medical aid would ultimately give the sergeant and others involved in the investigation more information about the extent of any injuries and insight into whether force used was excessive. Lastly, offering medical aid when excessive use of force is alleged reflects KCSO's best interests because after arrest it is solely within KCSO's control to offer and summon aid, and could potentially mitigate liabilities related to a force incident.

For the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Jacobs".

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-328**

April 15, 2020

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has completed a cursory review of the internal investigation for case number IIU2019-328. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it was not in compliance with King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b), which states that the Sheriff's Office "provide the oversight office with a reasonable opportunity to comment on all administrative investigations before notifying the subject employee of the findings."

The investigation was opened on June 6, 2019. The complainant alleged that the subject deputy used excessive force while conducting an unlawful arrest. On July 23, 2019, Andrew Repanich, OLEO's Investigations Monitor, was notified of the new investigation through IAPro. On August 8, 2019, IIU attempted to notify OLEO of the completed investigation by creating an "OLEO Notification" task in IAPro but did not assign the task to any specific OLEO staff member. Consequently, OLEO staff was not aware that the investigation was complete and ready for review. On November 25, 2019, findings were published to the employee and the investigation was closed. Prior to the findings being drafted and published, OLEO was still not aware that the investigation had been completed.

On March 25, 2020, while collecting data in preparation for OLEO's annual report, OLEO's office manager noticed that OLEO never received notice of the closed investigation. On the same day OLEO contacted IIU to communicate the administrative error. IIU acknowledged the error and in response changed the task in IAPro, which now appears to have been tasked directly to Andrew Repanich on the original notification date in August.

For these reasons, OLEO declines to certify this investigation based on failure to comply with the King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b).

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, 8th Floor
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-330**

October 2, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-330. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

The allegations in this investigation are excessive use of force and conduct criminal in nature. On July 13, 2019, the subject deputy initiated a traffic stop after observing the complainant driving without a seatbelt. When the subject deputy contacted the complainant at his vehicle, he noticed an open case of beer on the floor and noted the odor of intoxicants in the vehicle. He asked the complainant for the required documentation three times, but the complainant did not produce any documentation. The subject deputy then told the complainant that he was under arrest and asked him to exit his vehicle three separate times, but the complainant did not comply. At this point, the subject deputy used force to remove the complainant from his vehicle. The subject deputy stated that the complainant's head "glanced" the side of the vehicle while he attempted to put the complainant on the ground. The complainant alleged that the subject deputy "grinded" his head into the ground as he attempted take the complainant into custody. The supervising sergeant arrived after the incident and interviewed the complainant. During his interview, the complainant stated that he was injured. However, the complainant was not offered medical aid.

IIU attempted to remedy the lack of thoroughness of the investigation by interviewing the supervising sergeant that was on scene after the incident. In his interview, the sergeant states that he did not call for medical aid, as there was no apparent injury to the complainant.

The failure to offer medical aid compromises the investigation's thoroughness. It prevents both IIU and those making findings from having the information needed to determine whether force

used was excessive. Additionally, the nature and extent of injuries are not always visible. Allowing subjects of uses of force the option to be evaluated medically helps ensure the safety of the individual and documents KCSO's attempt to do so if medical aid is declined. Giving the complainant an opportunity to accept or decline medical aid would ultimately give the sergeant and others involved in the investigation more information about the extent of any injuries and insight into whether force used was excessive. Lastly, offering medical aid when excessive use of force is alleged reflects KCSO's best interests because after arrest, it is solely within KCSO's control to offer and summon aid, and could potentially mitigate liabilities related to a force incident.

For the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Jacobs".

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-353**

December 24, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-353. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not objective.

The allegation in this case is inappropriate use of authority. On July 30, 2019, the subject deputy responded to a report of an unoccupied vehicle that was partially blocking the roadway. Upon his arrival, the subject deputy entered the vehicle based upon factors that led him to believe the vehicle might be stolen. The complainant called the subject deputy's sergeant and alleged that the subject deputy illegally entered her vehicle. The resulting investigation was handled by the supervising sergeant.

As part of the investigation, the subject deputy received notification of the investigation and allegations in an A-150. The A-150 included leading questions that suggested factual and legal justifications for the officer's conduct. The lack of objectivity demonstrated by those leading questions cannot be remedied in this case.

Additionally, the investigator's follow-up report includes conclusory language unsubstantiated by the investigation. Specifically, the investigator states that the subject deputy "conducted a lawful, legal investigation of this suspicious vehicle." He continues by stating that "there is no evidence that any violation of policies, procedures, nor state laws occurred."

Credible, objective investigations must be free from bias, prejudice, and judgment. Section 3 of IIU's Standard Operating Procedures states that "investigations should be conducted in a fair and impartial manner and the investigators should remain neutral and fact-based." This includes an investigator's ability to be free from bias in favor of any party involved in the incident being investigated. In this case, the sergeant favored the subject deputy by prejudging his responses to the allegation, and also by prejudging the outcome of the investigation before completing it. Although this certification is

focused on questions of objectivity, we also have concerns about its thoroughness, including the failure to interview the complainant and an identified witness. We welcome the opportunity to discuss the thoroughness aspects with IIU if desired; please let us know.

For the above reasons, OLEO declines to certify due to lack of objectivity. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Jacobs".

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-365**

January 7, 2020

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-365. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

The complainant made allegations of excessive use of force against two subject deputies. On August 7, 2019 the subject deputies responded to a welfare check and located the complainant. The deputies knew the complainant had an active no contact order with one of the children involved in the welfare check. The complainant exited the home into the backyard, where one of the subject deputies grabbed him. The other subject deputy quickly responded to assist when he heard yelling. During the arrest, the complainant alleges he was kicked and thrown. The subject deputies deny the allegation. Abrasions were visible on the complainant's knees, arms, and face after he was detained. Witnesses to the incident confirmed the complainant's allegations. The complainant was provided medical attention, but never asked to sign a medical release.

OLEO reviewed this investigation on January 7, 2019. The IAPro file did not include a release of medical information signed by the complainant. The A-125: *Use of Force Supervisor Investigation and Review* form documented the reason no medical release form was obtained, "[responding sergeant] filled one out but forgot to get [complainant] to sign it." Efforts by the IIU investigator were made, as documented in the follow-up report, to obtain a medical release. However, the attempts were unsuccessful; no medical release was ever obtained.

3.03.055(4) of General Orders Manual for King County Sheriff's states, "(w)hen a complaint alleges excessive use of force by a member, the on-duty supervisor shall: ... request that the person sign a Release of Medical Information."

The failure to attempt to get the medical release as required by the GOM compromises the investigation's thoroughness. It prevents IIU and those making findings from having the

information needed to determine the extent of the injuries and assess whether the force used was excessive. Lastly, obtaining a signed medical release when excessive use of force is alleged reflects KCSO's best interests because after an arrest it is solely within KCSO's control to offer a release, and could potentially mitigate liabilities related to a force incident.

For the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Jacobs".

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-367**

January 21, 2020

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-367. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because the investigation was not thorough, and because the Internal Investigations Unit (IIU) failed to comply with KCC 2.75.045(C)(4) and KCC 2.16.060(B)(6)(3)(b), each of which state that the King County Sheriff will provide notice to OLEO "with a reasonable opportunity to comment on all administrative investigations before notifying the employee of the findings."

The initial allegation in this investigation was excessive use of force. On July 23, 2019, the subject deputy was walking to the courthouse to attend an administrative meeting when he observed a man with his shirt off who was acting erratically. The subject deputy stated that he did not intend to contact the man, but the man started walking towards him quickly. The subject deputy then asked the man if there was anything he could help him with, but the man just mumbled "fuck you" several times. The subject deputy stated that the man then walked up to him and swung his fist at his face twice, but the subject deputy blocked the punches. At this point, the subject deputy took out his taser and told the man to calm down or that he was going to tase him. The man stepped toward the subject deputy at which point the subject deputy deployed his taser and the man fell back. The subject deputy then told the man to turn over onto his stomach, but the subject deputy stated that the man attempted to sit up. The subject deputy deployed his taser again. The man then rolled onto his stomach and the subject deputy handcuffed him. The complainant witnessed the incident and alleged that the force used was not necessary and made several additional statements that conflicted with the subject deputy's account.

OLEO was originally notified that this case was ready for review on January 10, 2020. On the same day, IIU contacted OLEO to emphasize the quickly approaching 180-day expiration date for the investigation. OLEO noted this concern. On January 13, 2020, OLEO completed a review of the investigation and subsequently requested that IIU conduct additional investigation. Specifically, OLEO requested that IIU conduct an in-person interview with the subject deputy to

address conflicting information about his position, location, and point of contact with the subject of force. Additionally, OLEO requested that IIU conduct an in-person interview with KCSO's taser trainer to glean whether the subject deputy's use of the taser aligned with training tactics and to assess how the taser was used based on what the taser report indicates. OLEO also requested that an additional excessive use of force allegation be added, as the taser was deployed twice. Finally, OLEO requested that a violation of performance standards allegation be added, as the complainant stated that the subject deputy approached the man who was in obvious behavioral crisis, and failed to attempt to de-escalate the situation before resorting to excessive force.

On January 14, 2020, IIU contacted OLEO and stated that it would attempt to fulfill the additional investigation requests, but that it was required to send the investigation for findings by 10:00am that same day. Later in the day on January 14, 2020, OLEO was notified the investigation was ready for review after additional investigation was conducted, making OLEO's review due date January 22, 2020. The 180-day expiration date for the investigation was January 19, 2020.

Upon re-review of the file, OLEO noted that the additional allegations requested were added to the investigation and that IIU interviewed the subject deputy. OLEO appreciates the investigator's efforts in fulfilling these requests with the imminent deadline, despite being informed that we would not be able to certify the investigation based on inadequate review time. OLEO notes that the investigator attempted to interview the taser trainer but was unable to fulfill this request on short notice. Thus, part of OLEO's request for additional investigation was outstanding when the investigation was sent for findings. Additionally, OLEO was not provided an opportunity to review a thorough investigation before findings were issued.

For the above reasons, OLEO declines to certify due to lack of thoroughness and failure to comply with KCC 2.75.045(C)(4) and KCC 2.16.060(B)(6)(3)(b). If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-370**

October 23, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-370. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not objective.

The allegation against the subject employees was excessive use of force. The complainant alleges that the deputy released a K-9 unit after telling him, "do not move." The vegetation and terrain made it difficult to see, and the deputy stated that he could not see the complainant prior to the K-9 being let off leash. The K-9 bit the complainant in the forearm and he was taken to the hospital. The initial investigation was handled by the supervising sergeant. As part of the investigation, the subject employee received notification of the investigation and allegations in an A-150. Also included in the A-150, the supervisor gave instructions for how to draft the statement, what facts to include, and commented upon facts about the scene.

Objectivity is the lack of bias, prejudice, or judgment. An A-150 should not tell the deputy what to include in the statement, what other witnesses have said, or express an opinion about facts related to the investigation. By doing so, the investigator not only prejudged the response of the employee to the allegations, but also prejudged the outcome of the investigation before completing it and shared those beliefs with the subject employee prior to the interview.

For the future, perhaps the issue could be alleviated by providing specific training or guidelines for completion of A-150 letters.

For the above reasons, OLEO declines to certify due to lack of objectivity. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-384**

December 30, 2019

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-384. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not objective.

The allegations in this case are excessive use of force, bias-based policing, and willful violation of KCSO policies. On August 8, 2019, the subject deputy was dispatched to a collision in Covington. Upon his arrival, the subject deputy observed two vehicles that had been involved in the collision. One of these vehicles belonged to the complainant. The subject deputy contacted the complainant on-scene and believed there was probable cause for a DUI, which resulted in the complainant's arrest. The complainant alleged that she was arrested because of the color of her skin, and that she was injured while being taken into custody. The complainant also alleged that the subject deputy did not properly fasten her seatbelt in the back of the patrol car.

On December 9, 2019, the interviews of the subject deputy and supervising sergeant revealed concerns about confidentiality and the objectivity of the investigation. During his interview, the subject deputy disclosed that he listened to the complainant's recorded interview after submitting his written statement, but before his interview with IIU. When asked, he said that he did not remember who let him listen to the statement. In addition, the supervising sergeant asked the subject deputy to retrieve video evidence from SCORE jail for the investigation into the allegation.

The Sheriff's Office recognizes the importance of investigations being confidential; its General Orders Manual, Section 3.03.085(3), states that the "[r]elease of information regarding an investigation shall be only to those who have a right and need to know..." While it is understood that IIU did not release the complainant's recorded statement to the subject deputy, the subject deputy's review of the information nonetheless breaches the confidentiality of the investigation and therefore precludes the investigator's ability to be objective. In this case, two conflicts occurred that breached the confidentiality of the investigation. The subject deputy having listened to the complainant's statement during the open investigation, and the supervising sergeant's request that the subject deputy retrieve video evidence into his own potential misconduct both create

objectivity concerns that cannot be remedied. The facts of this incident and the handling of evidence jeopardize an impartial and fair investigation.

For the above reasons, OLEO declines to certify due to lack of objectivity. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Jacobs".

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-413**

February 21, 2020

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-413. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

This investigation involves an allegation that the subject deputy used excessive force by stepping on the complainant's back while he was lying on the ground. On July 29, 2019, deputies responded to a disturbance of a man pointing a gun at people outside of a bar. When the deputies arrived, they contacted the complainant along with several other witnesses who were waiting for police to arrive. The witnesses identified the man pointing the gun as the complainant, and the subject deputy observed the complainant leaning on a nearby vehicle. The deputies also observed the complainant holding a gun down by his waist. The deputies drew their firearms and told the complainant to drop the gun. The complainant immediately dropped the gun and laid on the ground. The subject deputy saw the complainant place his hands on the ground near his chest and start to push himself up. In response, the subject deputy walked up to the complainant and pushed him back to the ground with his boot. The complainant was then handcuffed.

After the deputies detained the complainant, a supervising sergeant responded to the scene. The sergeant photographed the abrasion on the complainant's cheek, and medical care was administered by the Burien Fire Department. While interviewing the complainant, the sergeant discovered that the gun was a BB gun. The sergeant took a statement from the complainant and instructed each deputy to draft a use of force statement. The sergeant did not obtain a release of medical information.

The King County Sheriff's Office General Orders Manual (GOM) 3.03.055(4) states, "(w)hen a complaint alleges excessive use of force by a member, the on-duty supervisor shall... request that the person sign a Release of Medical Information." In this case, although the *Use of Force Supervisor Investigation and Review* (A-125) indicates the complainant received medical

treatment, he was not asked to sign a release of medical information. The supervising sergeant wrote, “[i]t was a small abrasion to his left cheek that did not require aid or further medical examination.” However, the GOM requires a release of medical information be obtained regardless of severity of the injury. The IIU investigator made several attempts to obtain the medical release but was unsuccessful.

The failure to attempt to obtain the release of medical information as required by the GOM compromises the investigation’s thoroughness. It prevents IIU and those making findings from having the information needed to determine the extent of the injuries and assess whether the force used was excessive. Lastly, obtaining a signed release of medical information when excessive use of force is alleged reflects KCSO’s best interests because after an arrest it is solely within KCSO’s control to offer a release, and could potentially mitigate liabilities related to a force incident.

For the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-435**

January 23, 2020

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-435. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

The allegation in this investigation is excessive use of force. On September 18, 2019, the subject deputies were dispatched to a report of a domestic violence incident. When the subject deputies arrived at the residence, the complainant refused to let them inside. He told the subject deputies that he and his girlfriend had been arguing and he appeared to have bulky items in his pockets. The complainant stated that he'd like to go back into his apartment with his girlfriend, but the subject deputies responded that he could not do so without letting them in. The subject deputies then observed the complainant's girlfriend going downstairs inside the apartment and noticed a gash on her head. Due to the possible assault, the complainant's desire to go back into his apartment, and the bulky items in his pockets, the subject deputies decided to detain the complainant. The subject deputies attempted to handcuff the complainant, but the complainant resisted. The complainant continued to resist and was taken to the ground. Once on the ground the complainant continued to resist, but the deputies were eventually able to handcuff him.

The supervising sergeant arrived after the incident and interviewed the complainant. During his interview, the complainant stated that he complied and put his hands behind his back when he was asked to. He also stated that he was thrown on the ground too hard and his wrists were injured during the arrest. Aid was called to the scene to evaluate the complainant's girlfriend, and the subject deputies' incident reports indicate that the complainant was also evaluated by aid. However, a release of medical information was not obtained from the complainant.

General Orders Manual 3.03.055(4) for the King County Sheriff's Office states, "(w)hen a complaint alleges excessive use of force by a member, the on-duty supervisor shall: ... request that the person sign a Release of Medical Information." The failure to obtain a release of medical information compromises the investigation's thoroughness. It prevents both IIU and those making findings from having the information needed to determine whether force used was

excessive. Additionally, the nature and extent of injuries are not always visible. Giving the complainant an opportunity to sign a medical release would ultimately give those involved in the investigation more information about the extent of any injuries and insight into whether force used was excessive.

For the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Deborah Jacobs

Director

Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-481**

April 29, 2020

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

After a review of the findings memo, OLEO rescinds its certification letter of November 25, 2019 and declines to certify IIU2019-481 pursuant to King County Code 2.75.040(C) on the basis that the Internal Investigations Unit (IIU) failed to comply with KCC 2.16.060(B)(6)(3)(b), which states that the King County Sheriff will provide notice to OLEO “with a reasonable opportunity to comment on all administrative investigation before notifying the employee of the findings.”

On November 19, 2019, OLEO received a completed investigation ready for review with a due date of November 26, 2019. On November 25, 2019, OLEO sent a letter certifying the investigation that included an alleged violation of GOM 3.00.015(1)(b). However, on January 6, 2020, IIU changed the alleged violation in the investigation from GOM 3.00.015(1)(b) to GOM 3.00.015(2)(d). OLEO was not notified of the change to the allegation, and therefore did not review the investigation as it pertained to the new allegation.

Any alteration to a completed investigation requires notification to OLEO along with a new review period. OLEO was not notified of the change in allegations nor was given the opportunity to review the investigation as to the new allegation before findings were published.

For the above reasons, OLEO rescinds its certification and declines to certify this investigation. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870 / Fax: 206-296-1675
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

Amended Letter

IIU Case No. **2019-484**

January 8th, 2019 (originally sent December 23, 2019)

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-484. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

The allegation in this investigation is excessive use of force. On August 30, 2019, the subject deputies were dispatched to a domestic violence incident in progress. The subject deputies saw the complainant, identified as the suspect in reports, and ordered him to stop. The complainant continued to walk away while deputies continued to give commands. One of the subject deputies caught up to the complainant and attempted to take him into custody. After struggling for several minutes, the subject deputy administered his taser for 5 secs. The subject deputies were then able to take the complainant into custody. During his recorded interview on scene, the complainant stated that he sustained an injury to a previously broken wrist and believed that his ribs were broken. The use of force investigation indicated that the complainant received aid on scene.

OLEO reviewed this investigation on December 18, 2019. The IAPro file did not include a release of medical information signed by the complainant, nor did it include documentation of why the supervising sergeant did not obtain a release of medical information. OLEO requested that IIU conduct additional investigation to address the lack of information regarding the release of medical information. IIU asserted that the sergeant had already been spoken to about the deficiencies of the initial use of force investigation. IIU also stated that they were unable to procure a release from the complainant, as he no longer lives in the area.

3.03.055(4) of General Orders Manual for King County Sheriff's states, "(w)hen a complaint alleges excessive use of force by a member, the on-duty supervisor shall: ... request that the person sign a Release of Medical Information." The failure to attempt to get a medical release compromises the investigation's thoroughness. It prevents IIU and those making findings from

having the information needed to determine the extent of the injuries and whether the force used was excessive. Lastly, offering a medical release when excessive use of force is alleged reflects KCSO's best interests because after an arrest it is solely within KCSO's control to offer a release, and could potentially mitigate liabilities related to a force incident.

For the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Repanich', written in a cursive style.

Andrew Repanich, Esq
Investigations Monitor
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-526**

April 29, 2020

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

After a review of the findings memo, OLEO rescinds its certification letter of January 8, 2020 and declines to certify IIU2019-526 pursuant to King County Code 2.75.040(C) on the basis that the Internal Investigations Unit (IIU) failed to comply with KCC 2.16.060(B)(6)(3)(b), which states that the King County Sheriff will provide notice to OLEO "with a reasonable opportunity to comment on all administrative investigation before notifying the employee of the findings."

On January 1, 2020, OLEO received a completed investigation ready for review with a due date of January 8, 2020. On January 8, 2020, OLEO sent a letter certifying the investigation that included an alleged violation of GOM 3.00.020(3). However, on January 27, 2020, IIU changed the alleged violation in the investigation from GOM 3.00.020(3) to GOM 3.00.020(1)(d). OLEO was not notified of the change to the allegation or of any changes to the follow-up report in the investigative file, and therefore did not have the opportunity review the investigation as it pertained to the new allegation.

Any change to a completed investigation requires notification to OLEO along with a new review period. OLEO was not notified of the change in allegations nor was given the opportunity to review the investigation as to the new allegation before findings were published.

For the above reasons, OLEO rescinds its certification and declines to certify this investigation. If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-552**

June 25, 2020

Kelly Park
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain Park:

OLEO has completed a cursory review of the internal investigation for case number IIU2019-552. We decline to certify the investigation pursuant to King County Code 2.75.040(C) because it was not in compliance with King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b), which states that the Sheriff's Office "provide the oversight office with a reasonable opportunity to comment on all administrative investigations before notifying the subject employee of the findings."

OLEO was originally notified of the open investigation on December 11, 2019. However, OLEO was not notified when the investigation was complete and ready for review. On April 21, 2020, findings were published to the employee and the investigation was closed. Prior to the findings being drafted and published OLEO was not aware that the investigation had been completed. For these reasons, OLEO declines to certify this investigation based on failure to comply with the King County Code 2.75.045(C)(4) and 2.16.060(B)(6)(a)(3)(b).

If you have any questions, please contact our office at 206-263-8870.

Sincerely,

Deborah Jacobs
Director
Office of Law Enforcement Oversight



King County

Office of Law Enforcement Oversight
810 3rd Avenue, Suite 705
Seattle, WA 98104

206-263-8870
TTY Relay: 711
oleo@kingcounty.gov
www.kingcounty.gov/oleo

IIU Case No. **2019-569**

February 5, 2020

John McSwain
Internal Investigations Unit
King County Sheriff's Office
516 3rd Ave, Room W-150
Seattle, WA 98104

Dear Captain McSwain:

OLEO has independently reviewed the internal investigation for case number IIU2019-569. We are not certifying the investigation pursuant to King County Code 2.75.040(C) because it is not thorough.

The allegation in this investigation is excessive or unnecessary use of force. On September 5, 2019, the two subject deputies responded to the complainant's 911 calls concerning her son-in-law and her daughter. The complainant made three separate calls, all of which were documented on CAD and recorded. Both the CAD and the 911 audio recording indicate that the complainant was fearful of her son-in-law and that he was armed with a knife. The subject deputies arrived and contacted both the complainant and the son-in-law. After interviewing both parties, the subject deputies determined that the complainant had assaulted her son-in-law and she was subsequently arrested. The subject deputies stated that the complainant resisted arrest. Witnesses stated that the complainant did not physically resist, but did ask several times why she was being arrested. The subject deputies made no mention of resisting to dispatch, and only noted that they had one in-custody. The complainant stated that while asking the subject deputies why she was being arrested they slammed her against a trailer, hurting her shoulder and face, and exacerbating pre-existing injuries.

Upon the complainant's request for a supervisor, the supervising sergeant responded to the incident and called for aid. After aid was administered, the complainant was taken to jail. The supervising sergeant never attempted to obtain a medical release, and there is no documentation that the complainant was asked to sign a release.

The King County Sheriff's Office General Orders Manual (GOM) 3.03.055(4) states, "(w)hen a complaint alleges excessive use of force by a member, the on-duty supervisor shall... request that the person sign a Release of Medical Information." OLEO understands the importance of officer safety and that requesting a signature should not compromise the safety of involved

personnel. However, in this case, although the *Use of Force Supervisor Investigation and Review* (A-125) indicates the supervisor did not request a medical release because the “[complainant] was handcuffed and resisted arrest,” the supervisor did not indicate any officer safety issues or combative behavior during his interaction with complainant. The IIU investigator made several attempts to get a release signed by the complainant but was unsuccessful.

The failure to attempt to obtain the medical release as required by the GOM compromises the investigation’s thoroughness. It prevents IIU and those making findings from having the information needed to determine the extent of the injuries and assess whether the force used was excessive. Lastly, obtaining a signed medical release when excessive use of force is alleged reflects KCSO’s best interests because after an arrest it is solely within KCSO’s control to offer a release, and could potentially mitigate liabilities related to a force incident. OLEO would like to note that the issue with this supervising sergeant has been addressed and was documented by the IIU investigator.

Lastly, OLEO has some additional concerns about the thoroughness of the investigation and the objectivity of the interviews, which we are happy to discuss with you.

For the above reasons, OLEO declines to certify due to lack of thoroughness. If you have any questions, please contact our office at 206-263-8870.

Sincerely,



Andrew Repanich on behalf of
Deborah Jacobs
Director
Office of Law Enforcement Oversight