

To: Lynne Kalina
From: Patty Eakes, Calfo Eakes & Ostrovsky
Date: May 30, 2019
RE: Workplace Investigation Executive Summary

I. SUMMARY OF ALLEGATIONS

The complainant, [REDACTED] is a 31-year veteran of the King County Sheriff's Office ("KCSO") who alleges that he is being treated differently and subjected to the abusive behavior based on his race (African American). He is currently Chief of the Criminal Investigations Division ("CID"). He was appointed to the position in January 2018 by the newly elected Sheriff, Mitzi Johanknecht. In this role, [REDACTED] reports directly to the Undersheriff, Scott Somers ("Undersheriff"). [REDACTED] alleges that the Undersheriff has treated him differently than his peers. Additionally, he alleges that he has been berated, bullied, and micromanaged, that his job has been threatened, and that he has been subjected to heightened scrutiny by the Undersheriff. He identified a number of incidents occurring since January 2018 that are illustrative of the alleged mistreatment, which are described below.

II. OVERVIEW OF INVESTIGATION

I interviewed members of the executive command staff including the other chiefs, the Undersheriff's direct reports, the Sheriff's Executive Assistant, several captains who were reported to have witnessed the alleged misconduct, as well as the Sheriff and Undersheriff. In addition, I reviewed a ten-page, single-spaced document prepared by [REDACTED] describing the concerning events, [REDACTED] personnel file (with a specific emphasis on his evaluations from 2014 to the present), the King County Non-Discrimination, Anti-Harassment & Inappropriate Conduct Policy, and relevant portions of the KCSO General Orders Manual ("GOM").

III. SUMMARY OF ALLEGATIONS AND FINDINGS

A. Relevant Background

Prior to his appointment to CID Chief, [REDACTED] served as a precinct commander and in a variety of other management roles within the KCSO. CID is a large, high profile division of the KCSO encompassing Major Investigations, Special Operations and Advanced Training. Major Investigations includes the following specialty detective units: Major Crime, Special Assault, MAAR, Criminal Intelligence Unit, Criminal Warrants, Gang Unit, and Fire Investigations, among others. Given the nature and scope of CID, the work of the division is frequently in the news and/or its employees are involved in newsworthy work. Prior to his current appointment,

██████ had never supervised or overseen a division with as wide a scope or as high-profile a role as that of CID.

Performance evaluations of ██████ reveal that he has a history of excellent performance; he received ratings of “exceeds expectations” for several years prior to his appointment to Chief. From 2014-2017, ██████ received above standards ratings in virtually every category and received merit-based salary increases. Although it was generally positive, ██████ October 2018 evaluation from the Undersheriff (which covered three months as a Major and nine months as Chief) included several criticisms of his performance and identified goals that reflected a need for improvement in several areas. These criticisms and performance improvement goals appear to be a result of his inexperience as a Chief.

All ██████ peers and direct reports interviewed expressed admiration for his competence and work ethic, noting that he is often the first in the office and the last to leave. Several witnesses were also concerned that the scope of ██████ job is too broad and that he has a crushing work load.

As noted above, ██████ cited several specific incidents that are illustrative of the conduct about which he is complaining. For purposes of brevity, the major allegations are summarized as follows:

- Heightened scrutiny including:
 - ██████ is not permitted any signing authority for CID expenditures; his peer chiefs do not have this same restriction;
 - ██████ is required to obtain the Undersheriff’s approval for all CID grant requests, even when the grant does not require KCSO matching funds; other division chiefs do not have this same restriction;
 - Undersheriff did not provide support during budget process and then directed ██████ not to respond to follow up emails from the budget office seeking additional information, which undermined ██████ authority and reputation with the budget office;
- Undersheriff violates the command structure by directly contacting ██████ subordinates, does not keep ██████ in the loop and therefore undermines his credibility and standing within his division;
- In one-on-one meetings, the Undersheriff has bullied, berated, humiliated, and spoken down to ██████
- Undersheriff has threatened ██████ job by stating that he has two months to improve or he would tell the Sheriff that he had lost confidence in ██████
- Undersheriff has repeatedly made statements that complainant needs to “repair” his relationship with the Sheriff but provided no details as to the Sheriff’s specific concerns;
- Undersheriff has made negative comments about ██████ to his peers and subordinates.

In addition, [REDACTED] described several other specific interactions with the Undersheriff in which the Undersheriff was micromanaging and questioning [REDACTED] actions and decisions.

B. Findings

In general, I find that [REDACTED] has been subjected to more scrutiny and criticism than other members of the command staff. However, there is insufficient evidence to support the allegation that the criticism and scrutiny is because of [REDACTED] race. Rather, the evidence supports the conclusion that several other factors have resulted in increased attention on CID and [REDACTED]. These factors include: the newly elected Sheriff's desire to gain more visibility into several sections of CID that have historically operated with less oversight; the breadth of CID, which has impacted [REDACTED] ability to have a detailed knowledge of every event occurring within his division; the Sheriff's directive that all CID spending and grant requests be approved by herself and/or the Undersheriff; the Sheriff's desire that she and the Undersheriff be able to make direct contact with subordinates; and legitimate concerns about [REDACTED] performance and failure to meet the expectations of the Sheriff and Undersheriff. I further conclude that most of the increased scrutiny and comments by the Undersheriff appear to be the result of the Undersheriff's attempt to improve and/or correct [REDACTED] performance to meet the expectations of the Sheriff. For these reasons, the allegation of race-based discrimination is unfounded.

I find that the Undersheriff did make the statements about [REDACTED] tenuous position and his intent to inform the Sheriff that he had lost confidence in [REDACTED]. I find [REDACTED] belief that these comments were a threat to his employment credible. While the manner and method of communication could be improved, I do not find evidence to support that these statements were motivated by racial animus or bias. In fact, another witness, who is not African American, reported that the Undersheriff made a similar comment to him/her that he/she too perceived to be a threat. With respect to [REDACTED] as noted above, the statements appear to be an attempt to notify [REDACTED] that his performance was deficient and to set a "deadline" for improvement. Similarly, I find that the Undersheriff made negative comments about [REDACTED] work to [REDACTED] peers and subordinates. Although I do not find that they were made because of [REDACTED] race, I conclude that these comments were inappropriate and served to undermine [REDACTED] status within the KCSO.

Finally, I find evidence to support the allegation that in one-on-one meetings the Undersheriff bullied, berated, and spoke down to [REDACTED]. [REDACTED] was credible when he described these interactions. Moreover, his descriptions were corroborated by statements of other witnesses who experienced similar treatment by the Undersheriff. However, there is insufficient evidence that the Undersheriff's behavior was motivated by or because of [REDACTED] race. The fact that other command staff, who are not African American, also have felt bullied, threatened, and harassed in meetings with the Undersheriff is significant and indicative of a non-discriminatory reason for the behavior. For this reason, the allegation that the Undersheriff's behavior in one-

on-one meetings was because of [REDACTED] race is unfounded. That said, I find that the behavior described violates the KCSO GOM Sections 3.00.005 (Purpose/Policy Statement) and 3.00.015 (Conduct Unbecoming and Courtesy).

IV. CONCLUSION

Thank you for the opportunity to investigate this matter. Please let me know if you have any questions regarding this report or the investigative findings.