King County

Office of Law Enforcement Oversight

DATE: February 17, 2025

TO: Kelly Park, Chief of Patrol Operations, King County Sheriff's Office

FR: Ryan McPhail, Investigations Monitor, Office of Law Enforcement Oversight

RE: Recommended findings for IIU2024-209

The Office of Law Enforcement Oversight (OLEO) certified the fact-finding portion of investigation number IIU2024-209 as thorough, objective, and timely on January 21, 2024. The King County Sherif's Office ("Sheriff's Office) notified OLEO that the Commander's Findings were completed on February 3, 2025. OLEO has independently reviewed the findings and makes the following findings recommendation pursuant to King County Code (KCC) 2.75.040(C).

Allegations Against Each Subject Employee

	General Orders Manual (GOM) Allegation	Sheriff's Office Commander Findings	OLEO Recommended Findings
Subject Detective	(1) 3.00.015(2)(i) – Courtesy/Disrespect	Exonerated	Sustained
	(2) 3.00.020(7) – Inappropriate Use of Authority	Exonerated	Exonerated
Subject Chief	(1) 3.00.015(2)(i) – Courtesy/Disrespect	Exonerated	Exonerated
	(2) 3.00.020(7) – Inappropriate Use of Authority	Exonerated	Exonerated

Summary of the Incident

This investigation arose from the subject employees' handling of a fight between food vendors outside of Lumen Field while working off-duty. The complainant, who ran a permitted food cart, engaged in an argument with a group of unlicensed food vendors. He alleged that Subject Detective picked him up off of the ground when breaking up the fight. The complainant, who is Black, further alleged that one of the subject employees tried to bait him into a physical fight by repeatedly chest bumping him while saying "what the fuck are you going to do about it," calling him "white boy" and taking off his vest while stating that he would fight the complainant[1]. Because OLEO agrees with the proposed findings on the allegations against Subject Chief, this summary only describes facts relevant to the complainant's allegations against Subject Detective.

No body worn camera video of the incident exists, but witnesses observed portions of the complainant's interactions with Subject Detective. In an interview with internal investigators, Witness Deputy stated that a stadium security employee approached him and Subject Detective for assistance with a fight that broke out among the food vendors. They walked towards the fight, where Witness Deputy observed approximately ten people yelling "the n word" repeatedly at the complainant. He recalled that he turned to focus on stopping the group while Subject Detective attended to the complainant. A second stadium security employee standing nearby observed Subject Detective tell the complainant to calm down and use his body to block him from the rest of the group. He then saw Subject Detective move across the street with the complainant, who argued with the Subject Detective as they walked.

Witness Deputy stated that, once the vendors calmed down, he started walking towards Subject Detective and the complainant. Witness Deputy recalled that as he approached, Subject Detective and the complainant were in a verbal "back and forth" while the complainant kept trying to push passed the detective to resume arguing with the unlicensed vendors. Witness Deputy heard the complainant start using "the n word" at Subject Detective. According to Witness Deputy, Subject Detective responded by telling the complainant, "You sound white." Witness Deputy stated that the complainant then challenged Subject Detective to a fight and the detective made a comment along the lines of, "Oh, this badge comes off." Witness Deputy recalled seeing Subject Detective unzip vest while making this remark. He and Subject Detective then disengaged with the complainant.

Shortly after the encounter, Subject Detective discussed the incident with other Sheriff's Office employees who were also working off duty at the stadium. Witness Chief told investigators that Subject Detective admitted to him that he told the complainant he "could take the vest off" in response to the complainant suggesting he would fight the detective if he wasn't wearing a badge. According to Witness Chief, Subject Detective also stated that he "probably shouldn't have done that" because it "did not help things." Subject Chief stated that Subject Detective told him the complainant "went full-on racial" with him. Subject Chief recalled that Subject Detective seemed "bugged" and "disturbed by how much [the complainant] lost it."

In his compelled interview, Subject Detective stated that, when he went to break up the fight, he heard the unlicensed vendors yelling racial slurs at the complainant. Subject Detective recalled that he initially tried to build rapport with the complainant because he is also Black, and asked him five or six times to return to his hotdog stand while trying to keep the group separated. Per Subject Detective, when the complainant did not comply, he put his hands under the complainant's armpits and pushed him back off the sidewalk. He stated that he did not lift the complainant off the ground. When he did this, according

[1] In his recorded statement, the complainant alleged that Subject Chief was the one challenging him to fight, but the internal investigation confirmed the encounter was with Subject Detective.

to Subject Detective, the complainant began repeatedly calling him "the n word." Subject Detective told the investigator that he is from the South, finds that slur particularly offensive, and doesn't believe anyone should be using it. Subject Detective stated that he told the complainant to stop. Once they reached the complainant's hotdog stand, according to Subject Detective, he told the complainant that he was "throwing that word around like you are a white man." Subject Detective stated that the complainant responded by telling the detective that he was supposed to be professional. Per Subject Detective, he was "kind of upset" at this point in the interaction. The complainant purportedly said: "If you didn't have that badge, I'll F you up." Subject Detective stated that he then partially unzipped his vest and told the complainant, "I'm a Black man just like you." Subject Deputy explained that his intention was to convey to the complainant that he was "not a robot" and that complainant's comments were hurting his feelings. He stated that Witness Deputy then pushed him out of the way and the interaction ended.

Analysis

Allegations against Subject Detective:

1) Courtesy/Disrespect – **SUSTAINED**

GOM 3.00.015(2)(i) requires Sheriff's Office employees to be courteous to members of the public. Further, GOM 3.03.185 states that the standard of proof in administrative investigations is a "preponderance of the evidence" unless a serious policy violation is alleged and there is a likelihood of suspension, demotion, or termination. Here, courtesy is listed as "general misconduct," and thus is subject to a preponderance of the evidence standard. Washington courts have held that a preponderance of the evidence standard is met when the alleged facts are "more probably true than not true," or "more than 50 percent" true.[2]

The facts uncovered in this investigation establish that it is more likely than not that Subject Detective was discourteous to the complainant. By his own admission, Subject Detective was upset with the complainant for using a racial slur and, in response, told the complainant that he sounded like a "white man." Subject Detective also admitted that he unzipped his vest in response to the complainant stating that he would fight the detective if he wasn't wearing a badge. Making a racialized remark about the complainant and making gestures suggesting a willingness to engage him in a fist fight are inherently disrespectful actions.

While Subject Detective claimed that he unzipped the vest in an attempt to convey that his feelings were hurt, this assertion is contradicted by Witness Deputy's characterization of events. Witness Deputy recalled Subject Detective stating something along the lines of, "Oh this badge comes off," while unzipping his vest. By Subject Detective's own description, Witness Deputy "pushed [him] away" immediately afterwards, further suggesting that Subject Detective's remark escalated the situation. This account is also bolstered by Witness Chief's statements that, shortly after breaking away from the complainant, Subject Detective told him that he had unzipped his vest and admitted that he "probably shouldn't have done that." Taken together, these statements show by a preponderance of the evidence that Subject Detective's actions towards the complainant were discourteous.

[2] "WPI 21.01 Meaning of Burden of Proof—Preponderance of the Evidence," 6 Wash. Prac., Wash. Pattern Jury Instr. Civ. WPI 21.01 (7th ed.), available at https://govt.westlaw.com/wciji/Document/I2c855158e10d11dab058a118868d70a9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)

Despite this evidence, the commander's proposed findings recommend exonerating Subject Detective because he was reacting to the complainant's "out of control" behavior. To this end, the proposed findings dedicate significant consideration to how the complainant's use of racial slurs emotionally impacted Subject Detective. While OLEO commends this sensitivity to the racial dynamics at play in the situation, it bears noting that the complainant was also reacting to being referred to with a racial slur – Subject Detective, Subject Chief, and Witness Detective all reported hearing the other vendors repeatedly call the complainant "the n word" immediately before the officers intervened to stop the argument

More broadly, the complainant's conduct cannot be used to excuse Subject Detective's discourtesy because Sheriff's Office employees are expected to behave respectfully towards the public even in difficult circumstances. The GOM directs deputies to react calmly in more charged situations than those faced here by Subject Detective. For example, the use of force policy in GOM 6.00.000 states that officers shall employ "verbal and non-verbal communication techniques to calm a person" including "regulating tone and body language and "communicating in a way the demonstrates respect for people's dignity," when possible before using legally justified force. Additionally, GOM 5.08.000 encourages officers contacting people in behavioral health crises to "move and speak slowly," "take steps to calm the situation," and not "express anger or impatience." Therefore, while the complainant's alleged provocation may be appropriately considered when deciding whether discipline is warranted in this case, it cannot completely exonerate Subject Detective of the alleged misconduct.

For these reasons, OLEO recommends that the allegation of **courtesy/disrespect be sustained.**

2) Inappropriate Use of Authority – **EXONERATED**

OLEO concurs with the Sheriff's Office Commander's findings for this allegation.

Allegation against Subject Chief :

1) Courtesy/Disrespect – **EXONERATED**

OLEO concurs with the Sheriff's Office Commander's findings for this allegation.

2) Inappropriate Use of Authority – **EXONERATED**

OLEO concurs with the Sheriff's Office Commander's findings for this allegation.