King County

Office of Law Enforcement Oversight

DATE: February 21, 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 IIU2024-243

The Office of Law Enforcement Oversight (OLEO) certified the fact-finding portion of investigation number IIU2024-243 as thorough, objective, and timely on December 26, 2024. The King County Sherif's Office ("Sheriff's Office") notified OLEO that the Commander's Findings were completed on February 9, 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 Deputy 1	(1) 3.00.015(1)(a) – Dishonesty	Unfounded	Sustained
	(2) 3.00.015(2)(i) – Courtesy/Disrespect	Unfounded	Unfounded
Subject Deputy 2	(1) 3.00.015(2)(i) – Courtesy/Disrespect	Sustained	Sustained

Summary of the Incident

This investigation arose from a conversation between the subject deputies about a female detective ("Detective") that was accidentally recorded on Subject Deputy 1's body worn camera ("BWC"). Per Subject Deputy 1's written report, the deputies responded to a call of a domestic violence assault and no-contact order violation. At the beginning of the BWC video, Subject Deputy 1 spoke with and took

pictures of the victim before getting into his patrol car. Subject Deputy 1 drove for approximately three minutes until he parked and began typing on his laptop while still in the car. Subject Deputy 1 then called Subject Deputy 2 to discuss the investigation he had just completed. He stated that he was at his residence, then explained that he took pictures of the victim and talked about what charges he was going to recommend against the suspect. Subject Deputy 2 asked if Subject Deputy 1 was going to request that Detective be assigned to the case. Subject Deputy 1 respond, "Yes. And I'm requesting that she gets the case as her last before she retires." Both deputies laughed, then Subject Deputy 2 responded, "Eat my shitty case bitch," before they both laughed again. The deputies switched to chatting about their foot pursuit of the suspect from the DV call earlier in the evening. The timestamp on the BWC video indicated that the call occurred around 4:30 am on September 5, 2024.

On September 6, 2024, at 4:16 am, Subject Deputy 1 sent an email with the subject "video deletion" to "kcsolegal@kingcounty.gov." He wrote: "I forgot to turn my camera off last night at a scene, and there is a personal call recorded. Nothing breaking the rules. Can you review that its [*sic.*] not public record and schedule it for deletion?" Subject Deputy 1 listed the time that he left the scene of the DV call, the time the phone call started, and the name of the video.

In his compelled interview, Subject Deputy 2 explained that he was not aware that Subject Deputy 1's BWC was recording during the call and stated that his comment was "dumb humor." Subject Deputy 2 claimed that he was frustrated with Detective because of a rude email that she sent to Subject Deputy 1 about a prior case. He claimed that he did not know Detective personally or intend to harass her in any way. According to Subject Deputy 2, he learned the call was recorded from Subject Deputy 1 sometime shortly after the conversation occurred, and the other deputy told him that he was going to have the video deleted.

Internal investigators interviewed Subject Deputy 1 twice. In his first statement, Subject Deputy 1 described his statements about Detective as "unfortunate." He explained that he and Subject Deputy 2 "have some amount of history" with Detective, stemming from an incident where she sent him an "unprofessional" email critiquing his report in a burglary investigation. Subject Deputy 1 told investigators that he asked to have the video deleted "because I didn't want [Detective] to hear it" if she was assigned to the case.

The Sheriff's Office added a dishonesty allegation against Subject Deputy 1 based on these comments and reinterviewed him. In his second statement, Subject Deputy 1 relayed that he watched the BWC video before asking to have it deleted, and claimed that he only intended for KCSO legal to delete only the part of the video where the phone call was recorded. Subject Deputy 1 stated that his email was not dishonest because he did not believe the phone call was a policy violation and he "really didn't think that deeply about it." He further stated that he learned about the process for having accidentally recorded videos deleted from BWC training and that he had no intention of having the investigatory portion of the video deleted because he was believed partial deletions were possible.

Investigators contacted the Advanced Training Unit's ("ATU") coordinator for the taser program, who handles BWC training for the department. The trainer stated that they "don't teach partial deletions of BWC videos." He also provided a General Information Bulletin and training PowerPoint slides with the policy for handling videos that were accidentally recorded. Per the policy, officers who believe the accidentally recorded something that does not meet the statutory definition for a public record should email kcsolegal@kingcounty.gov with the name of the video and request that it be deleted.

Analysis
Allegations against Subject Deputy 1:

1) Dishonesty – **SUSTAINED**

GOM 3.00.015(1)(a) forbids dishonesty, stating in part that deputies shall not "conceal […] any facts associated with any law enforcement business." Here, there is clear and convincing evidence that Subject Deputy 1 attempted to conceal facts associated with law enforcement business in order to prevent Detective from seeing the video of his call with Subject Deputy 2. The dishonesty allegation should therefore be sustained.

First, the phone call between the subject deputies was clearly "associated with law enforcement business" because it was part of a discussion about a criminal investigation between two on-duty officers. Per Subject Deputy 1's written report from the incident, he and Subject Deputy 2's interactions on the evening of the call began as an investigation into a reported domestic violence assault where Subject Deputy 1 ultimately recommended filing felony charges and forwarded the case to detectives for review. As shown on the BWC video, Subject Deputy 1, who was still on-duty, called Subject Deputy 2, who was also on-duty, to discuss the investigation they had just conducted. Immediately before Subject Deputy 2 asked if Subject Deputy 1 if he was going to have Detective assigned to the case, they talked what charges they were going to recommend filing. Similarly, right after calling Detective "bitch," the two subjects conferred about their foot pursuit of the suspect through the woods earlier in the evening. Notably, the certified public records officer who reviewed Subject Deputy 1's request to delete the video refused to do so because it "appears to be a public record[1] and related to a case."

Second, it is undisputed that Subject Deputy 1 intended to conceal his recording of the phone call. When asked by internal investigators why he sent the request to have the video deleted, Subject Deputy 1 stated: "Because I didn't want [Detective] to hear it. I thought that she would get assigned the case, and I was really hoping that she wouldn't hear that right before she retires." In a second compelled interview, the internal investigator asked Subject Deputy 1 if he asked to have the video deleted in order to cover up his and Subject Deputy 2's actions. Subject Deputy 1 stated: "If by covering up, you mean covering up from [Detective], then yes."

The commander's findings suggest that Subject Deputy 1's actions were not dishonest because he wanted to "avoid any issues" that could be caused by Detective seeing the video. It is unclear how this fact is exonerating – to the contrary, it shows that Subject Deputy 1 had a motive for wanting to conceal the video. Moreover, while it's certainly understandable that Subject Deputy 1 wanted to avoid hurting Detective's feelings, he had other options available to handle the situation besides immediately requesting to delete the video. ATU's training on BWCs instructs deputies to notify their supervisor if they forget to activate or deactivate their cameras, suggesting that Subject Deputy 1's first step should have been to notify his sergeant about the video. He could have also considered proactively telling Detective about the recording and apologizing to her before she saw it. The fact that Subject Deputy 1 immediately sought to delete the video instead of choosing a more integrous course of action should be treated as extremely concerning, not as a reason to excuse his conduct.

Subject Deputy 1's explanation that he only sought "partial" deletion of the video also is not an acceptable basis for finding that the dishonesty allegation is unfounded. As stated previously, the entirety of the subject deputies' phone call was about their investigation into a reported domestic

[1] RCW 42.56.010 defines a public record, in part, as any recording "containing information relating to the conduct of government."

violence incident and occurred while both officers were on duty. The offensive comments about Detective occurred as part of a discussion of how the investigation was going to proceed. Deleting even a portion of the video would therefore still be concealing facts associated with law enforcement business.

Subject Deputy 1's claim about partial deletion is also not credible. Neither the GOM policy on BWCs nor the associated General Information Bulletin on accidental recordings state that it is possible to only have part of a BWC video deleted. The Sheriff Office's Submit Matter Expert on BWCs confirmed to investigators that he does not teach partial deletions of BWC video and provided the PowerPoint presentations that ATU uses for BWC training, which do not make any refence to partial deletion. Notably, Subject Deputy 1 also did not begin claiming that he only intended to delete part of the video until his second compelled interview in this investigation, after he was served with the "dishonesty" allegation.

Finally, OLEO would like to restate its concern about Subject Deputy 1's conduct. While the comments of both subject deputies were inappropriate and should be addressed, the harm caused by them was relatively minor. What is more concerning is that Subject Deputy 1's reaction to making a mistake was an attempt to cover it up. Transparency and accountability are critical to KCSO's mission. If KCSO personnel attempt to conceal relatively minor mistakes, they can erode public trust in KCSO's ability to handle more important matters with the required level of integrity.

Based on the above analysis, there is clear and convincing evidence that the subject employee's conduct violated GOM 3.00.015(a), and OLEO recommend that **the allegation of dishonesty be sustained.**

2) Courtesy/Disrespect – **UNFOUNDED**

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

Allegation against Subject Deputy 2:

1) Courtesy/Disrespect – **SUSTAINED**

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