

**Independent Office of
Law Enforcement
Review & Outreach (IOLERO)**



**FISCAL YEAR
2016-17
Annual Report**

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Chapter 1: Introduction

On October 22, 2013, Sonoma County Sheriff's Deputy Erick Gelhaus shot and killed 13-year-old Andy Lopez in the Moorland neighborhood of southwest Santa Rosa, while Lopez was walking through a vacant lot carrying an airsoft gun designed to resemble an AK-47 assault rifle.

The killing of a Latino youth in the Moorland neighborhood by a Sheriff's Deputy ruptured community relationships and stirred strong emotions across Sonoma County. And this rupture occurred in the context of long-simmering community resentments about a perceived lack of care by Sonoma County government for the needs and concerns of the local immigrant and Latinx communities.¹ In addition, many members of these communities had long perceived local law enforcement as prejudiced against them, based on their historical experience of law enforcement targeting their communities for enforcement actions. In this context, the Lopez shooting ignited community outrage, resulting in multiple, contentious public protests by community activists who believed the shooting reflected racial profiling of a child.

In contrast, local law enforcement officials and staff tended to see the shooting as a tragic outcome of reasonable policing policies, and the community reaction as an unfair vilification of law enforcement. In the view of many law enforcement employees and families, a deputy responded to a quickly unfolding, apparently life-threatening incident where an unknown suspect was wielding a deadly assault weapon in a public place. From their perspective, quick action was required and justified to protect the public, and after-the-fact second-guessing by community activists was politically motivated. In addition, they believed it unfair to use this one incident to paint local law enforcement as racist.

Each side tended to blame the other for this polarized conflict, which continued to build and spill over into public protests in various settings. In this context, the Sonoma County Board of Supervisors established a diverse, 21-member Community and Local Law Enforcement ("CALLE") Task Force to explore ways to heal the ruptures between local law enforcement and communities. This laudable decision led to over 1.5 years of challenging community meetings, often once a week, to discuss difficult issues of police accountability and transparency, community oriented policing, and community healing. Out of this effort, among other things, came the recommendation to establish the Independent Office of Law Enforcement Review and Outreach (IOLERO).²

IOLERO began its first year of operation only recently, during a period of intense public change in the environment in which law enforcement operates, both locally and nationally. IOLERO was created in September 2015 and opened its doors with a newly hired Director in April 2016. This period has seen heightened public scrutiny nationwide and locally on decisions by peace officers, including sheriff's deputies, on when and how to use force. Issues that previously were the focus of attention only of law enforcement insiders and small groups of local activists, have become the subject of non-stop media reports, social media postings, and personal discussions among the general public. Law enforcement policies that once were considered the purview of law enforcement experts are now being debated openly by the public.

On the national level, turmoil over these issues continues. The transition from the Obama administration to that of President Trump has resulted in a radical reordering of federal priorities around the practices of policing

1 Latinx is defined as a person of Latin American origin or descent. The term has come to replace the terms Latino and Latina in modern usage in the United States and is intended to be inclusive of all individuals within this community, including men, women, transgender persons, and those who do not identify with the gender binary.

2 In September 2016, the CALLE Task Force and the Board of Supervisors were recognized by the National Association for Law Enforcement Oversight (NACOLE) with their annual Achievement in Civilian Oversight Award, for this remarkable effort. The NACOLE award "recognized the nearly 2 year effort to bring review, transparency, and community engagement to county law enforcement activities."

(from funding to transparency to community engagement to oversight), while Black Lives Matter and similar movements continue to focus attention on law enforcement shootings of people of color. At the local level, the killing of Andy Lopez continues to fuel controversy and division, as Deputy Gelhaus was promoted to Sergeant, an appeals court heard arguments on whether the Lopez civil litigation will go to trial, and community activists organized a recall campaign against Sheriff Freitas. With Sheriff Freitas' retirement, it appears that the County will have a robustly contested election to replace him, with many of these issues discussed in that context. In the midst of these controversies, the great majority of the men and women of the Sheriff's Office have continued to do the job with which they have been charged, seeking to do so with professionalism, compassion, and honor.

At the center of these conflicting currents, IOLERO is charged with bridging differences between often bitterly opposing viewpoints on policing and detention issues, such as use of force and racial profiling, as they relate to the Sonoma County Sheriff's Office. As the President's Task Force on 21st Century Policing said in its Final Report: "[P]eople are more likely to obey the law when they believe that those who are enforcing it have the legitimate authority to tell them what to do. But the public confers legitimacy only on those they believe are acting in procedurally just ways." One of the ways such legitimacy can be earned is through demonstrable accountability from the Sheriff's Office to the public. Civilian review is one mechanism through which that accountability can be facilitated. This Annual Report is one way to provide some measure of transparency for that accountability.

The responsibilities and mission of IOLERO make it unique. While there are many other civilian review agencies in California, and hundreds across the nation, there are relatively few charged with working with an elected county sheriff. Both Orange and Los Angeles counties have oversight agencies working with their Sheriff's Offices, each based on a more limited model. San Jose has a model similar to IOLERO, but works with an appointed police chief whose employment can be terminated by the elected City Council.³

The Board of Supervisors charged IOLERO with accomplishing many of the functions common to robust, effective, and independent civilian oversight agencies. In this sense, the Office has embraced best practices for such agencies. However, the Office must accomplish these tasks while working with an independently elected county official, who is answerable primarily to the voters through the electoral process. There is no express requirement in the Ordinance establishing IOLERO that the Sheriff cooperate with the Office. In this context, IOLERO must achieve its missions through a cooperative approach that attempts to bring together distrusting community members and law enforcement officials and employees to discuss difficult topics and perhaps reach some better resolution of differences. The task is challenging but can succeed when all parties participate in good faith and with good intentions.

Without question, policing and corrections are challenging and dangerous professions. American society, including Sonoma County, historically has delegated to law enforcement the difficult tasks of keeping communities safe through policing and detention. Over the years, with the collapse of mental health services, law enforcement also has been forced to handle increasing incidents involving addiction and the mentally ill. In many respects, the community at large has not wanted to know what is involved in achieving these tasks. Some

3 The Orange County Office of Independent Review (OIR) audits investigations conducted by the Orange County Sheriff's Office and reports directly to the Board of Supervisors. OIR does not take complaints, conduct robust outreach to the community, make recommendations for changes to policies of the Sheriff's Office, or work with the equivalent of a Community Advisory Council.

The Los Angeles County Office of Inspector General (OIG) conducts systemic reviews of the Los Angeles County Sheriff's Office, making recommendations to changes in policies and practices to improve operations and responsiveness to the community. OIG does not take complaints against officers, conduct audits of individual administrative investigations, conduct robust outreach to the community, or work with the equivalent of a Community Advisory Council.

The San Jose Independent Police Auditor (IPA) performs multiple functions in common with IOLERO: intake of complaints; audits of administrative investigations of complaints filed with IPA; recommendations for changes in policies of the San Jose Police Department; robust community outreach; and working with a community advisory committee. IPA works with a police chief appointed by and answerable to the City Manager, it audits only complaints filed with IPA, and its advisory council does not hold public Brown Act meetings.

level of force and violence is inherent to preventing certain individuals from harming other members of the public or law enforcement officers. As social media sharing of video of such incidents has become common, the public has confronted a reality from which they previously were shielded. Viewing such violence on video as it unfolds is not pleasant and many react viscerally. Understandably, this has resulted in a corresponding unease and increased questioning by the public of the proper role of law enforcement. Correspondingly, it has caused law enforcement members to sometimes feel unfairly criticized for performing the difficult and often unpleasant tasks they have been delegated by a public who now criticizes them.

Compounding this dynamic has been a growing sense in the larger culture that people of color are treated differently in encounters with law enforcement than are White people. While this realization may be dawning in the larger culture, it is a perception that has been long present among activists and communities of color. As the head of the International Association of Chiefs of Police acknowledged last year, law enforcement historically has been “the face of oppression” for communities of color.⁴ Members of such communities have experienced decades of enforcement efforts targeted at their communities, sometimes carried out in an unjust and unnecessarily brutal manner. It is only natural then, that members of these communities, who may grow up hearing negative stories about law enforcement from trusted friend and family members, will tend to distrust members of law enforcement. And members of law enforcement charged with policing distrustful communities do so knowing they may be received in a manner tinged with hostility and lacking in cooperation. This tension and unease makes all involved feel less safe, officers included.

Most experts agree that success in restoring trust that has been lost between communities and a law enforcement agency depends on active leadership at the top of the law enforcement agency committed to that task. No civilian review agency is capable of resolving these challenges, but we can help to make a difference. This year, IOLERO has sought with some success to make a difference in these dynamics, in collaboration with the Sheriff’s Office. Change, whether in practices or in perceptions, takes time, but with dedicated effort, it happens.

This report will discuss these efforts in greater detail.

4 "Statement by IACP President Terrence M. Cunningham on the Law Enforcement Profession and Historical Injustices." *Theiacp.org*. October 17, 2016. <http://www.theiacp.org/ViewResult?SearchID=2690>.

Chapter 2: Executive Summary

In April 2016, IOLERO opened its doors. During its first 1.5 years, IOLERO has set up a brand new county department; taken complaints against Sheriff's Deputies from 16 community members; audited 28 investigations of alleged deputy misconduct, undertaken significant outreach and education targeted to the local immigrant community; hosted a very successful community healing circle that brought undocumented immigrants together with deputy sheriffs; recommended to the Sheriff that his office significantly limit cooperation with federal immigration enforcement to enhance public safety and begin to regain the trust of the immigrant community; appointed a diverse 11-member Community Advisory Council and supported its eight monthly public meetings to review Sheriff's Office policies; and spent countless hours publicizing IOLERO and its functions through public appearances, the IOLERO website, and media articles. By any measure, these are significant accomplishments for a newly established civilian review agency.

IOLERO's successes during this time could not have taken place without significant cooperation from the leadership and staff of the Sonoma County Sheriff's Office. Without exception, from the Sheriff through senior management down through line deputies and including administrative assistants and volunteers, the leadership and staff of the Sheriff's Office have responded to the creation and operation of IOLERO with a cooperative, open, and helpful attitude.⁵ While there have been moments of tension between the two agencies, as should be expected with the introduction of civilian review into a well-established law enforcement culture, even those rare moments were largely handled effectively in an environment of mutual respect and cooperation. Indeed, these moments of tension have proven to be productive learning opportunities in creating a new dynamic that includes civilian review.

The challenges for both offices were significant as IOLERO began to set up its operations. Staff of each office had to establish protocols that worked for both agencies, while simultaneously forging productive working relationships. The Sheriff's Office had a backlog of administrative investigations after years of understaffing of the Internal Affairs division. That section quickly began to staff up and work through its backlog of investigations, some of which were pressing up against statutory deadlines for possible employee discipline. Newly promoted investigators had to be trained in internal affairs investigations, and the office had to adapt to new protocols that included IOLERO review of investigations and policies.

Simultaneously, the IOLERO Director set up IOLERO's office and infrastructure and began significant efforts to become familiar with the organization, policies, culture, training, and personalities of the Sheriff's Office. At the same time, the Director also met with community members and activists from every part of the County to begin learning their perspectives and concerns. The Director held all of these perspective in mind, while creating a First Year Work Plan that attempted to incorporate the expressed desires of the Board of Supervisors, the CALLE Task Force, and community members, while also consulting Sheriff's staff. Once approved, the work under this plan began in earnest and has guided the development of IOLERO.

5 Of noteworthy assistance have been the efforts of then Assistant Sheriff Robert Giordano, formerly head of the Law Enforcement Division and now the Acting Sheriff, and Lieutenant James Naugle, head of the Professional Standards Bureau of the Sheriff's Office and the liaison to IOLERO for its civilian review operations. Asst. Sheriff Giordano was key in working with the IOLERO Director to establish the audit protocols that guide the review of administrative investigations. Lt. Naugle's cooperative, respectful, and responsive approach as the Sheriff's point person with IOLERO has been invaluable during the Office's first year of full operations.

I. Audits of Administrative Investigations

Auditing administrative investigations of potential misconduct by Sheriff's Office employees is a primary function of IOLERO. Of IOLERO's 28 audits completed during the reporting period, IOLERO agreed with the findings of the Sheriff's Office investigation in 24. For 2 of the agreements, there was a sustained finding of misconduct and the employee no longer works for the agency. For the 4 audits where IOLERO disagreed with an investigation's findings, 1 was converted into a policy review due to the expiration of the statute of limitations for discipline for a sustained finding; in 1, IOLERO concluded the evidence was inconclusive and thus disagreed with the finding that the allegation was unfounded; and in 2, the Auditor concluded that the investigation had failed to address an issue raised by the allegations. IOLERO took 16 complaints from the public during this time, with 21 investigations originating at the Sheriff's Office. Overall, investigations that were initiated by Sheriff's Office staff were more likely to involve an actual violation of policy than those initiated in other ways.

Civilian audits of the Sheriff's Office investigations have shown that patrol deputies typically act in a manner consistent with the requirements of agency policies and the law, and that when deputies violate policy the Office responds appropriately with meaningful discipline commensurate with the nature of the violation. While, on rare occasions, administrative investigations of potential misconduct may have fallen below best practice standards, this has been the exception to the rule of objective professionalism. Audits of these investigations appear to have assisted the division's pre-existing focus on increasing the quality of investigations. On two occasions during the reporting period, the Law Enforcement Division internally initiated investigations of significant instances of misconduct, which resulted in the employee no longer working for the department. These types of examples should give the public some confidence that the agency is committed to enforcing standards of professionalism for its patrol deputies.

On the jail side of the Sheriff's Office, the picture has been less clear. In multiple investigations performed within the detention division, audits revealed deficiencies in investigative best practices that resulted in an inability to effectively audit the investigation and reach conclusions with strong confidence. One very significant and complex investigation of correctional deputies was referred for audit within a few weeks of the statutory deadline to impose discipline on involved employees. Although the investigation involved practices of significant concern, and the factual evidence was complex and difficult to review, it was not possible to audit the investigation within the limited time provided by the referral. Multiple other investigation files did not contain the source information, such as recorded interviews of witnesses or complainants, which would allow an audit of the conclusory statements of the investigator. The quality and thoroughness of Detention Division investigations does not match that of the Law Enforcement Division of the Office. These deficiencies in the investigative process are currently being addressed by the leadership of the Sheriff's Office and deserve greater attention.

II. Policy Reviews and Recommendations

IOLERO also reviewed and recommended changes to Sheriff's Office policies and practices in several areas during the report period, including most prominently in the area of immigration policies. These reviews took place as a part of investigation audits, as well as part of more robust reviews that included community input. A key part of IOLERO's civilian review function is this focus on policies and whether they best serve the valid law enforcement goals of the Sheriff's Office, while also considering the needs and desires of the community that office is charged to serve and protect. Input from the community about law enforcement policies is considered a best practice in achieving legitimacy with the community.

Among IOLERO's recommendations have been those designed to improve the integrity and process of administrative investigations and subsequent audits by IOLERO, as well as discrete recommendations concerning uses of force and body worn camera use. Generally, these recommendations have been accepted by the Sheriff's Office as welcome suggestions for improvements. The Sheriff's Office responded to the IOLERO recommendations on immigration policies by changing its policies to further limit cooperation with immigration

enforcement by the Detention Division. While this change took longer than promised, and involved mixed messages about when and how the policy change would occur, the Sheriff's Office eventually did change its immigration policies effective August 18, 2017. These responses show some success in IOLERO's policy review mission, thus far.

III. Community Outreach and Engagement

IOLERO began its operations with significant efforts at community engagement. These efforts included general outreach through hundreds of meetings that reached over a thousand community members in different venues. They also included distribution of thousands of brochures, an advertising campaign in county buses, and a robust website that offers multiple ways to engage with IOLERO. And they included the meetings of the IOLERO CAC.

IOLERO's engagement efforts expanded and increased for a 3 month period after the Presidential election, with a special focus on the immigrant community of the County. IOLERO's experience revealed that there was a significant desire within the immigrant community for greater engagement with the larger community and with county government, including with law enforcement. But there was even greater fear that made such engagement challenging. Complicating engagement with these communities is that members typically work long hours and have limited time for meetings. IOLERO's strategy of meeting immigrant parents in small groups in public schools, and immigrant workers at day labor centers, was largely successful. However, the efforts also required significantly more resources than anticipated. Continuing this successful effort will require either additional staffing or more creative use of volunteers and partnerships. IOLERO strongly recommends robust community engagement as a key component to improving relationships between underprivileged communities and county government, including law enforcement.

IOLERO's first Community Engagement Circle brought together immigrant community members living in the Springs area of Sonoma Valley with Sheriff's deputies working in that area for facilitated conversations about the relationships between law enforcement and this community. The first Circle was a great success, receiving very positive reviews by both community members and law enforcement, and began a conversation about improving relationships that, if sustained, can make a difference. This experience also showed that such circles require a great deal of preparation, resetting IOLERO's expectations about the number of circles that the Office can realistically sponsor each year.

IV. IOLERO's Community Advisory Council

This year, IOLERO had great success bringing the voices of the community into a more direct relationship with law enforcement through the IOLERO Community Advisory Council ("CAC"). IOLERO established its 11-member CAC in October 2016. Since then, it has been very active in expressing community desires concerning law enforcement policies and practices through its monthly, public meetings that include active participation by the Sheriff's Office. Although not without challenges and tensions, these meetings have provided a productive venue through which the community may express its desires and hear responses from the Sheriff's Office. The CAC was instrumental in providing robust public feedback concerning the Sheriff's Office immigration policies and the CAC hearings and recommendations strongly influenced the eventual recommendations of IOLERO in this area.

As an advisory body, the CAC faces a challenge inherent to such bodies – namely, that the public agencies it advises may or may not accept its advice for a variety of reasons. In addition, as a public body that also helps to bridge the gap between the Sheriff's Office and the public, the CAC sometimes is put in an awkward place when there is disagreement among members of the public, or between members of the public and the Sheriff's Office. At times, these tensions spill over into vocal public dissent. Despite these tensions, the CAC has provided an invaluable service in giving voice to public views and sentiments concerning policies and practices of the Sheriff's Office and of IOLERO. Its role in serving the missions of IOLERO should be seen as a success.

V. Looking Toward the Future

IOLERO has had a very successful start and made significant progress in meeting its missions. The last 1.5 years laid a solid foundation for even more progress moving forward. Looking toward the future, there is reason for optimism, although it will depend on keeping the faith and continuing the hard work that made the first 1.5 years successful.

In the area of audits, IOLERO hopes to expand audits into all uses of force, whether or not subject to an investigation. In addition, IOLERO has recommended that it be allowed broader access to information in employee personnel files, such as past complaints against deputies involved in a current audit and disciplinary histories. IOLERO will continue to work with the Sheriff's Office on improving the quality and completeness of investigations, and on the timeliness of audits.

In the area of policy reviews and recommendations, IOLERO plans in the coming year to review 1) Use of Force policies, practices, and training; 2) diversity in hiring; 3) implicit bias training; and 4) other discrete issues that may be raised in individual audits of investigations. IOLERO also will continue to work with the Sheriff's Office in seeking ways to support an increased focus on community oriented policing, especially in denser areas of the County populated by Latinx immigrants.

IOLERO plans to continue its robust community education, outreach and engagement. Nevertheless, IOLERO acknowledges that it may not be possible to undertake the type of significant community engagement with disadvantaged communities by IOLERO staff that was undertaken in early 2017. IOLERO hopes to find ways to fund additional staff support for such engagement, but also will explore creative ways to use volunteers and partner with existing resources to reach these disadvantaged communities. IOLERO seeks to sponsor 2 additional Community Engagement Circles in the coming year.

IOLERO plans to continue to utilize its CAC to provide a community voice in IOLERO's review and recommendation of the policies, practices, and trainings of the Sheriff's Office. IOLERO hopes for greater engagement with the CAC from the Sheriff in the coming years, whoever that may be. In addition, IOLERO plans to bring the CAC meetings to different parts of the County to the extent that proves logistically feasible.

Chapter 3: The Sonoma County Sheriff's Office

I. History of the Sheriff's Office

While IOLERO began its operations in 2016, the Sonoma County Sheriff's Office has been in existence for 170 years. As one of the oldest public institutions in the County, it has its own history and culture that are very well established. Into this history and culture, a new element, IOLERO, has recently been added. This section provides a brief sketch of the formation and growth of the Sheriff's Office. The Sheriff's Office predates the existence of the State of California, originating with the creation of the U.S. territory of California in 1847. At that time, the Sonoma District of the territory was established and a Sheriff was named. California became a state in 1850, and Sonoma County was one of the original counties formed at that time, with the county seat in the Town of Sonoma, where the Sheriff housed his operations. After statehood, the county's area of jurisdiction went through changes, eventually arriving at the current boundaries in 1859, with the County seat in Santa Rosa.

Like today, the first Sheriffs were responsible both for policing the county and for operation of the county jail. Over the years, the Sheriffs' staff grew from a handful of temporarily appointed deputies beginning in 1852. The following years saw steady growth in the population of the County, as well as the staff needed for the jail and patrol. The first growth occurred during the Civil War, when a large segment of the county supported the Confederate States, causing significant tension that led to the Sheriff hiring 23 temporary sworn deputies to maintain order. Another growth spurt occurred during Prohibition in the 1920s, with deputies regularly shutting down distillers and speakeasies. Additional growth occurred during the Great Depression, as the Sheriff and his deputies tried to suppress union organizers working in the fields and packing plants of the county. Other growth spurts included the two World Wars, when servicemen would often entertain themselves at the Russian River.

The 1960s brought the hiring of the first women and the first African American by the Sheriff's Office. Staffing continued to grow. Beginning in 1972, the jail began to be staffed not by deputies but by correctional officers with specialized training. The 1970s also saw the start of more specialized units, including the Special Weapons and Tactics Team (SWAT) in 1976. The trend toward modernization and specialized training continued through until today.

II. Mission of the Sheriff's Office

The current mission statement of the Sheriff's Office provides: "In partnership with our communities, we commit to provide professional, firm, fair and compassionate public safety services with integrity and respect." The Office provides law enforcement, court security services, and detention services to the communities of Sonoma County.

III. Organization, Staffing, & Budget of the Sheriff's Office

Under the California Constitution and Government Code, the Sheriff is an elected official, one of a handful elected county-wide. As such, the Sheriff is accountable primarily to the voters of the County. California Government Code section 26602 provides that the Sheriff has authority to investigate crimes that occur within

his geographic jurisdiction. Government Code section 26606 provides that the Sheriff has authority to keep the county jail and the prisoners in it.⁶

The Sonoma County Sheriff's Office consists primarily of two divisions that deliver services to Sonoma County: a Law Enforcement Division, which provides policing services to the unincorporated areas of the county and to the two contract cities of Windsor and Sonoma; and the Detention Division, which operates the county detention facilities and associated programs. The Office also has an Administrative Services Division, which supports the entire Office, and a Telecommunications Bureau, which provides county-wide radio services.

The FY 2017-18 budget of the Sheriff's Office includes funding in the amount of approximately \$181 Million. The office staffing includes a total of approximately 654 funded positions, consisting of approximately 242 positions for sworn officers in the Law Enforcement Division, 212 positions for sworn officers in Detention Division, and approximately 200 positions that constitute administrative or other support staff.

At the time of this report, Sheriff Steve Freitas had announced his early retirement as Sheriff, having served in that office since January 3, 2011. As of August 1, 2017, the Office is being led by former Assistant Sheriff Robert Giordano, until a newly elected Sheriff takes the post in January 2019. Sheriff Freitas led the Office during the period of public unrest following the shooting of Andy Lopez, as well as during the period when the Board of Supervisors established IOLERO. Sheriff Freitas supported IOLERO's creation and establishment and the cooperation of he and his staff were instrumental to the success of that process.

IV. Demographic Make-up of the Sheriff's Office Workforce

One of the significant issues facing every law enforcement agency is fostering a workforce of sworn officers who reflect the communities that they are charged with policing. Reflecting the importance of this issue, the Final Report of the President's Task Force on 21st Century Policing ("President's Report") spent a good deal of space discussing it, summarizing it this way:

Law enforcement agencies should strive to create a workforce that contains a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.⁷

The importance of this issue also was recognized by the Community and Local Law Enforcement ("CALLE") Task Force, in its Final Report to the Board of Supervisors:

The County of Sonoma's Workforce Diversity Report on law enforcement employees demonstrates that the current sworn law enforcement (patrol deputy) workforce does not reflect the communities they serve. The report indicated a significant underutilization of Latinos and women. For example, the percentage of Latinos in other law enforcement job classifications in the County is between 16.7% and 23.1%, but the Deputy Sheriff (patrol) has a Latino percentage of 9.5%. Latinos in the County are estimated at 30%, and in some communities the percentage is higher. It is recommended that all

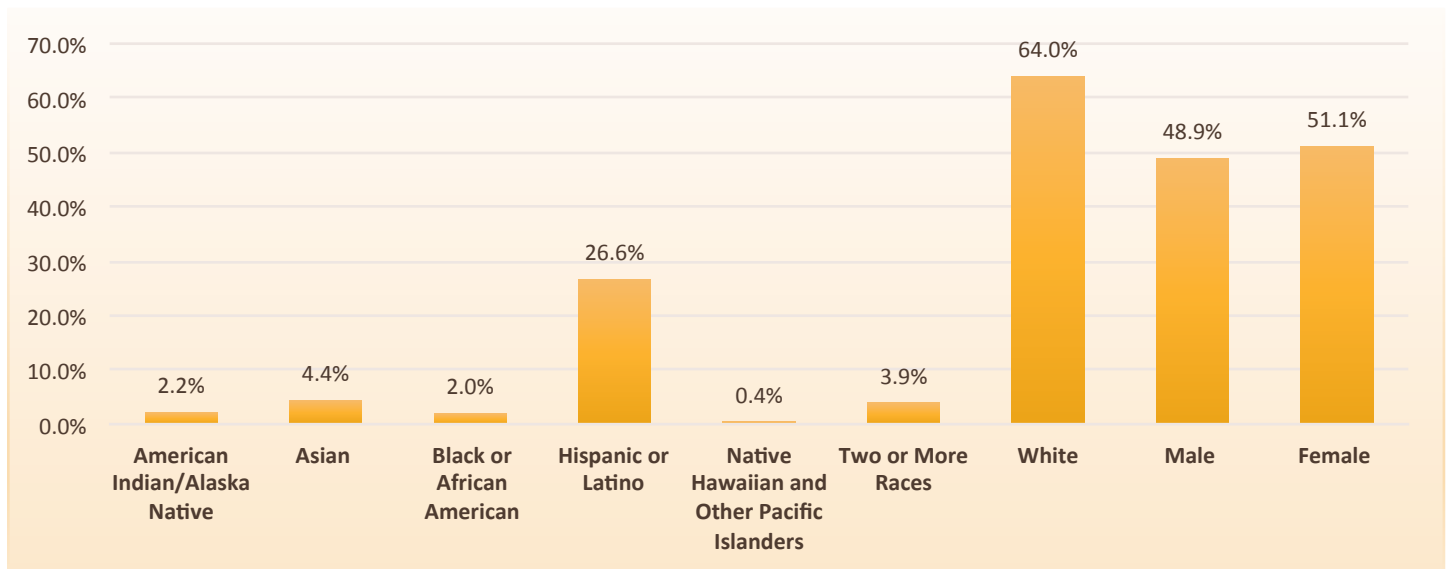
6 The Sheriff's power is not unlimited, however. Government Code section 25303 further provides that the county Board of Supervisors retains authority to supervise the official conduct of the Sheriff, so long as that does not interfere with the Sheriff's independent authority to conduct investigations of crimes. In addition, section 23013 specifically authorizes the Board of Supervisors to transfer control of the county jail to a county created board of corrections, should it wish to do so. In *Brewster v. Shasta County* (2001) 275 F.3d 803, 810, the court stated that while Govt. Code section 25303 prohibits a Board of Supervisors from obstructing the sheriff's investigation of crime, the Board of Supervisors nonetheless maintains a substantial interest in the performance of the Sheriff's Department, including the conduct of its officers. See also *Dibbs v. County of San Diego* (1994) 8 Cal. 4th 1200, 1210.

7 *Final Report of the President's Task Force on 21st Century Policing ("President's Report")*, Washington, DC: U.S. D.O.J., Office of Community Oriented Policing Services, May 2015, p. 2, 16.

levels of law enforcement staff should be more representative of the current demographics in Sonoma County.⁸

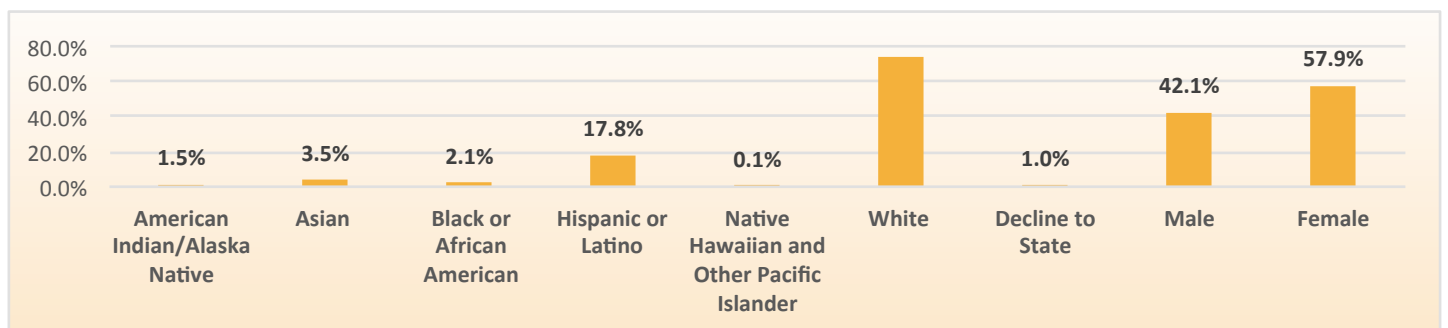
So, what is the current state of diversity for the workforce of the Sheriff’s Office, approximately two years after issuance of the CALLE Report? The situation does not appear to have changed to any significant degree since the CALLE Report, at least among the sworn officers working in the Law Enforcement Division. For purposes of comparison, 2016 demographic census data for the population of Sonoma County are first provided as a reference point. For the total county population, 64% are White, while 26.6% are Latinx/Hispanic, 2.0% are Black/African-American, 4.4% are Asian, 2.2% are American Indian/Alaskan Native, 3.9% are 2 or more races, and 0.4% are Native Hawaiian/Pacific Islander. (These categories do not total to 100% as the US Census notes that “Hispanics may be of any race, so [they] also are included in applicable race categories.”) Among the same group, 48.9% are male and 51.1% are female.⁹

Illustration 3-A: County of Sonoma Ethnicity and Gender Census Data, 2016



Another comparison point is the workforce of Sonoma County government. In July 2017, the Sonoma County government employee workforce was 73.2% White, 17.8% Latinx/Hispanic, 2.1% Black/African-American, 3.5% Asian, 1.5% American Indian/Alaskan Native, 0.1% Native Hawaiian/Pacific Islanders, and 1.0% declined to state. Among the same group, 42.1% were male and 57.9% were female.¹⁰

Illustration 3-B: County of Sonoma Employee Demographics by Ethnicity and Gender, July 2016



8 Sonoma County Community and Local Law Enforcement Task Force, Final Recommendations Report, Volume 1 (“CALLE Report”), May 12, 2015, p. 59.

9 See <https://www.census.gov/quickfacts/fact/table/sonomacountycalifornia/IPE120215>

10 These numbers come from Sonoma County Human Resources Department tracking of historical employee data.

The Law Enforcement Division of the Sheriff’s Office currently employs 220 Deputy Sheriffs and Sergeants, 10 Lieutenants, 2 Captains, and one Assistant Sheriff. Among the 220 Deputy Sheriffs and their supervising Sergeants, those primarily responsible for patrolling the streets of Sonoma County, the workforce remains overwhelmingly male and White. For this group, 86.8% are White, while 9.5% are Latinx/Hispanic, 1.3% are Black/African-American, 0.9% are Asian and 0.9% are American Indian/Alaskan Native. Among the same group, 94.1% are male and 5.9% are female. Among the 13 leadership positions within the Law Enforcement Division, including Lieutenants, Captains, and the Assistant Sheriff, all are male. Of the 10 Lieutenants, 7 or 70% are White, 2 or 20% are Latino/Hispanic, and 1 or 10% is Black/African-American. The two Captains and the Assistant Sheriff are all White.

Illustration 3-C: Law Enforcement Deputy Demographics by Ethnicity and Gender, June 2017

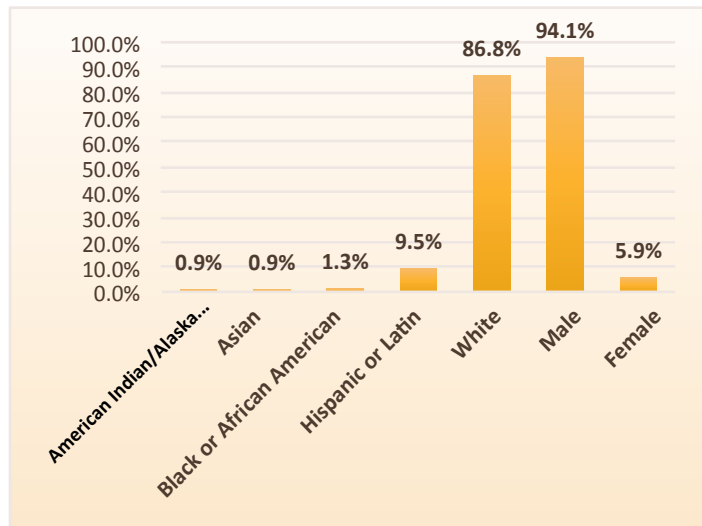
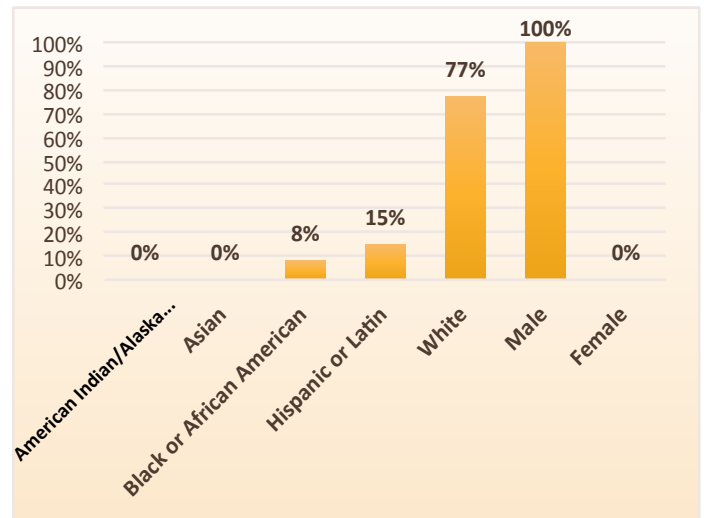


Illustration 3-D: Law Enforcement Division Leadership Demographics by Ethnicity and Gender, June 2017



The Detention Division of the Sheriff’s Office currently employs 194 Correctional Deputies and Correctional Sergeants, 7 Correctional Lieutenants, 2 Correctional Captains, and one Assistant Sheriff. Among the 195 Correctional Deputies and their supervising Sergeants, those primarily responsible for keeping peace and order in the jail, the workforce is significantly more diverse when compared to the Law Enforcement Division. For this group, 71.1% are White, while 20.1% are Latinx/Hispanic, 3.6% are Black/African-American, 2.6% are Asian and 2.1% are American Indian/Alaskan Native. Among the same group, 76.3% are male and 23.7% are female.¹¹ Among the 10 leadership positions within the Detention Division, including Lieutenants, Captains, and the Assistant Sheriff, there is 1 female serving as a Lieutenant, with the remaining employees in leadership being male. Of the 7 Lieutenants, all 7 are White. The two Captains are White and the Assistant Sheriff is Black/African-American.

¹¹ An important factor to note is that both federal and state law require a minimum number of female correctional officers to be employed in a facility where women inmates are housed.

Illustration 3-E: Detention Division Deputy Ethnicity and Gender, June 2017

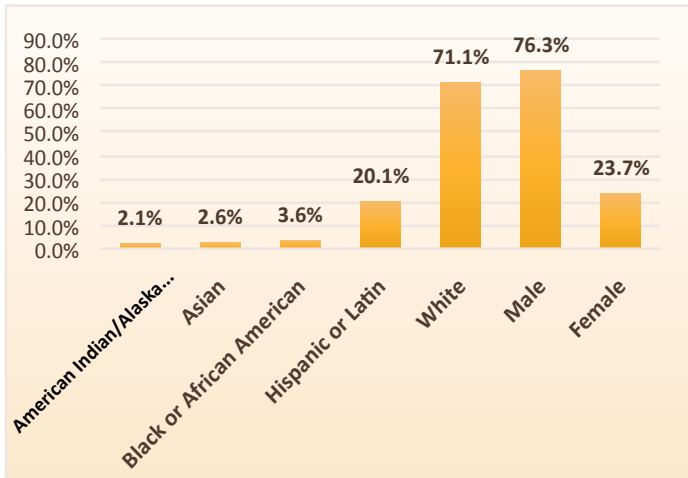
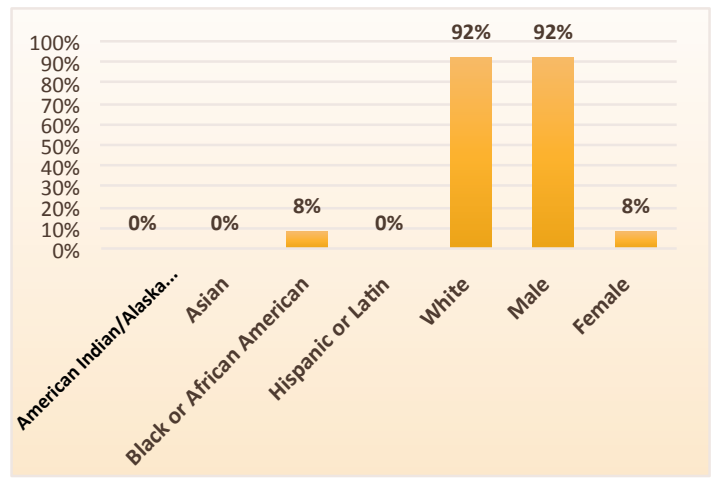
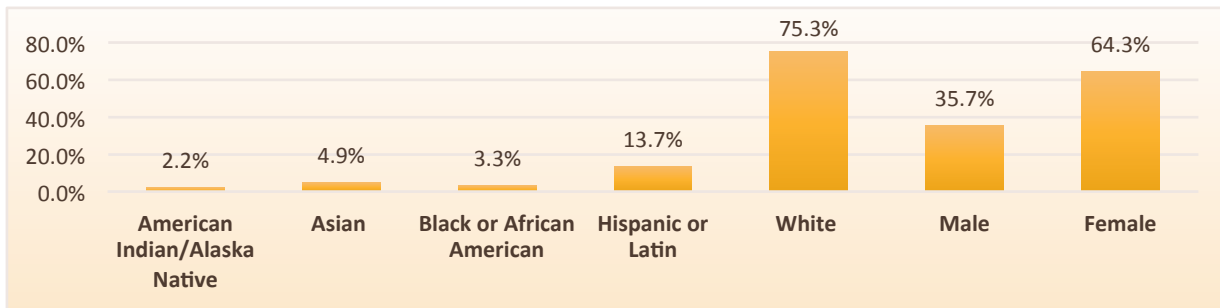


Illustration 3-F: Detention Division Leadership Demographics by Ethnicity and Gender, June 2017



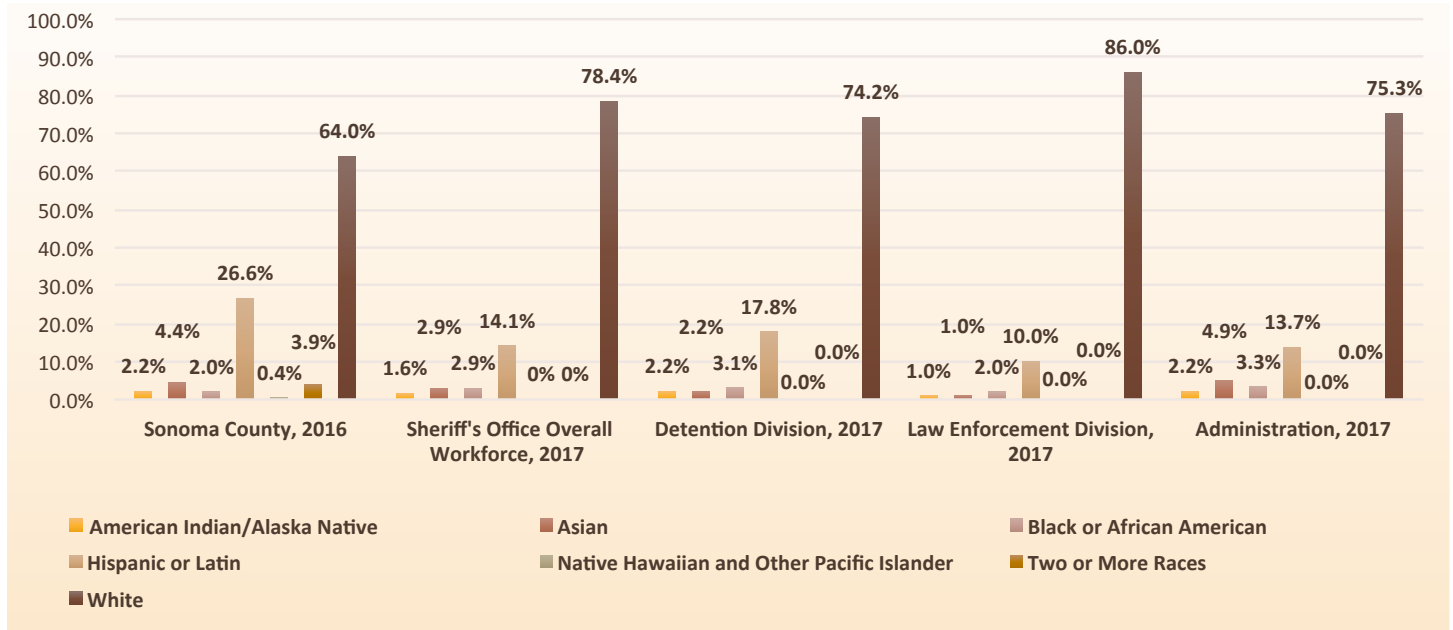
The remaining employees of the Sheriff’s Office perform a number of different tasks that can be considered support functions for the law enforcement and detention functions of the office. These supporting positions range from communication dispatchers, to department analysts, to legal process servers, to administrative assistants. For purposes of demographic reporting, these supporting positions have been lumped together. The number of staff employed in such supporting positions totals 182. Among these 182 employees, 75.3% are White, while 13.7% are Latinx/Hispanic, 3.3% are Black/African-American, 4.9% are Asian and 2.2% are American Indian/Alaskan Native. Among the same group, 35.7% are male and 64.3% are female.¹² The Director of the Administrative Services Division of the office is a White female, while the manager of the communications dispatchers is a White male.

Illustration 3-G: Administrative Support Demographics by Ethnicity and Gender, July 2017



¹² An important factor to note is that both federal and state law require a minimum number of female correctional officers to be employed in a facility where women inmates are housed.

Illustration 3-H: County of Sonoma Ethnicity Demographics, 2016; Sheriff’s Office Overall Workforce by Ethnicity, June 2017; Detention Division by Ethnicity, June 2017; Law Enforcement Division by Ethnicity, June 2017; and Administration by Ethnicity, June 2017



Clearly, there is work still to be done in order for the Sheriff’s Office to begin truly reflecting the diversity of the communities that it serves. For the Law Enforcement Division, in particular, there is a steep hill to climb in order to meet the laudable diversity goals of the President’s Report.¹³ This is not to disparage the professionalism of the men and some women who patrol the streets of Sonoma County as Deputy Sheriffs. Indeed, these patrol deputies receive training in Racial and Cultural Diversity and Racial Profiling on a regular basis as part of their training required by the California Commission on Police Officer Standards and Training. Nevertheless, when communities of color begin to lose trust in an agency, it can be crucial to repairing those relationships that members of those communities see deputies that look like them, speak their language, and are familiar with the cultures of their communities.

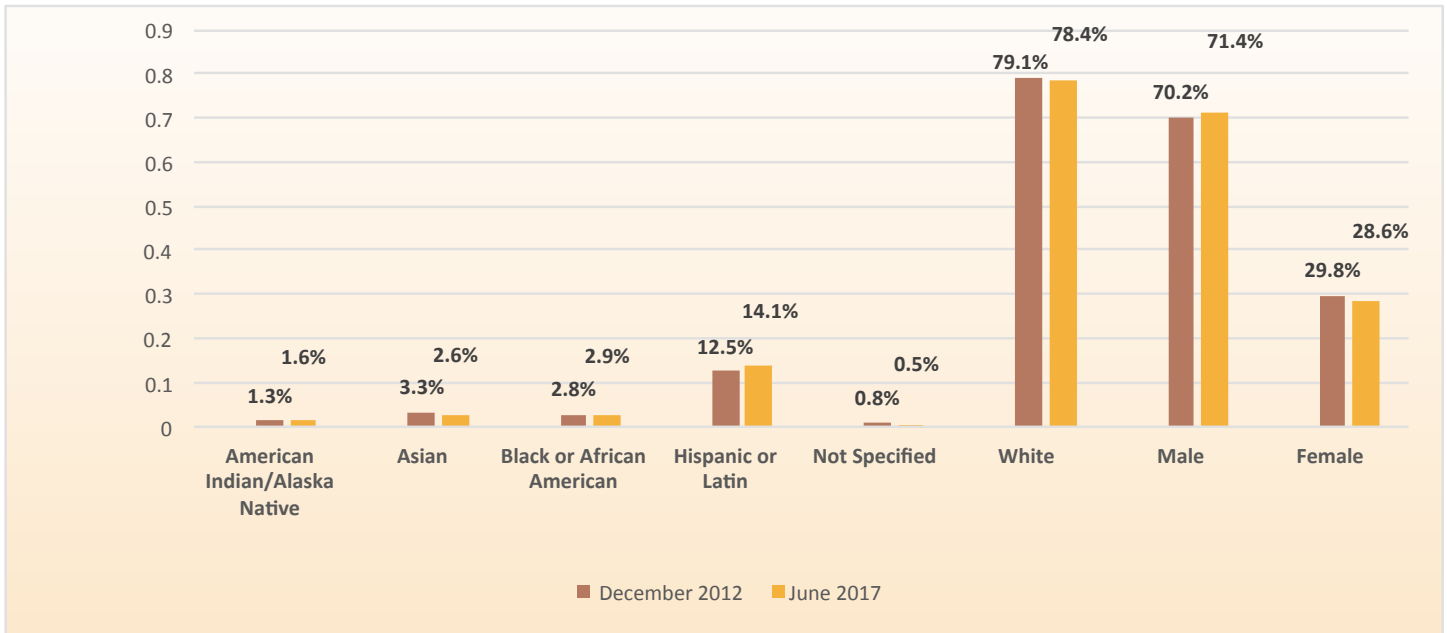
The peace officer hiring process inherently includes more barriers to success than most recruitment efforts, as applicants are required by law to meet rigorous background requirements and guidelines. These rigorous standards apply to recruitments of both Correctional and Sheriff’s Deputies in Sonoma County. These minimum legal requirements are not only reasonable, but considered a best practice when hiring employees who are authorized to use force against members of the public and have access to highly sensitive information. The background screening is extensive and looks at an applicant’s personal history, social patterns, affiliations, etc., to assess what is referred to as “moral character.” The intent is to evaluate from this information whether an applicant has the temperament and psychology suitable to work in a law enforcement environment. As a result of this extensive screening process, the number of candidates hired is much lower than the number of applicants. Therefore in these recruitments, a high number of applicants are necessary in order to fill a few vacant positions.

¹³ The CALLE Task Force made multiple well-reasoned recommendations for improvement in this area that should be further considered for implementation by the Sheriff’s Office. See *CALLE Report*, pp. 59-63.

The Sheriff’s Office does regularly make efforts to diversify its workforce through diversity recruitment.¹⁴ It works with the County’s Human Resources Department to place hiring advertisements in media that appeal to a diverse target audience. Sheriff’s Office recruitments are regularly advertised in English and Spanish serving organizations and media such as the Hispanic Chamber of Commerce, KBBF radio, Exitos radio, La Voz Newspaper, Latino Service Providers online newsletter, along with the International Association of Women Police website. The Office also has a contract with Los Saludos, which places ads on behalf of the office in 2 online periodicals, Saludos (targeting a Latinx audience) and Cause (targeting an African-American audience). In addition, the Office has several programs geared toward youth, such as its Explorer Program and Youth Academy, that seek to interest minority and other youth in careers with the Sheriff’s Office. In addition, the Sheriff’s Office recently retained an outside recruitment consultant to assist the office in rebranding itself to facilitate more successful recruitment efforts, including diversity recruitment.

It should be noted that, despite these efforts, gains in workforce diversity at the Sheriff’s Office were relatively flat from the period of December 2012 to June 2017. In some categories there were modest increases in diversity, e.g., Hispanic or Latin representation increased by 1.6%, while in others areas there were small losses. Overall it is a fair characterization to say that the Sheriff’s Office workforce is less diverse than Sonoma County as a whole, and with the exception of the Detention Division, employees are more likely to be white and male.

Illustration 3-I: Sheriff’s Office Overall Workforce Diversity, 2012 and 2017



Given the Sheriff’s Office’s lack of significant success in increasing the diversity of its work force, IOLERO intends to focus on this issue in more depth in the coming year. Such a review will include several related issues, among others: 1) the adequacy of recruitment efforts in securing a diverse applicant pool; 2) the discretion currently involved in the screening and selection process used to advance applicants through the hiring process; 3) the agency’s efforts to retain non-White and female peace officer employees; and 4) a comparison to other law enforcement agencies that have more success with diversifying their work force.

14 In 2014, the Human Resources Department issued a Workforce Diversity Report in response to a request from the Board of Supervisors, which examined the recruitment efforts and demographic trends of the Sheriff’s Office. The following were findings of that report: “the percentage of Latino applicants for Deputy Sheriff is approximately 18%, which is slightly above the County’s recent trend for all job applicants; the percentage of Latino candidates referred to the department for consideration is approximately 17%, which indicates the examination process is not disparately impacting the Latino applicant pool; and the Sheriff’s Office has hired a proportionately higher percentage of Latino employees in these recent recruitments than White when considering the demographics of the initial applicants and all of those who were interviewed by the Office.” These findings suggest that the Sheriff’s Office is trying to rectify these concerns with regard to diversity recruiting, although there is more that could be done.

Chapter 4: Creation, Establishment, Mission and Operating Philosophy of IOLERO

I. Creation of IOLERO

IOLERO was created by the Sonoma County Board of Supervisors in 2015, and its authority and mission fully set out by ordinance in 2016.¹⁵ As discussed above, IOLERO was borne out of the shooting death of a 13-year-old Latino boy by a Sheriff's Deputy in 2013. This tragic event led to significant public unrest and ruptured relations between some parts of the Sonoma County community and Sonoma County law enforcement. Sonoma County government responded by establishing a Task Force to study options for healing community rifts through community policing, community engagement and law enforcement accountability models. One proposal that resulted was to establish a new, independent County office charged both with civilian review of law enforcement, and outreach to and education of the community.

With the support of the Sheriff, IOLERO was created to conduct independent reviews of investigations alleging misconduct against employees of the Sheriff's Office, including excessive use of force, and to engage the community in the review and possible recommendation of policy changes to the Sheriff's Office. The Office is intended to assist in increasing transparency and accountability by law enforcement for the community. Over time, it is expected that the Office will contribute to the community's healing through renewed trust and stronger relationships between county law enforcement and the public they serve.

Following a nationwide recruitment process, the Board of Supervisors appointed Jerry Threet as the first Director of IOLERO in March, 2016.¹⁶ Mr. Threet began work as the new IOLERO Director on April 11, 2016. The Office became fully operational four months later, in August, 2016, following agreement with the Sheriff's Office on the audit protocols that would guide the reviews of administrative investigations and with the hire of IOLERO's sole staff member.

II. Missions of the Office

The missions of IOLERO include providing independent, objective review of investigations of alleged misconduct by Sheriff's Office employees; reviewing, recommending, and advocating for changes to Sheriff's Office policies that seek to bring them into better alignment with best practices and community desires; providing forums for community input and feedback on the mission, policies, and practices of the Sheriff's Office; increasing the transparency of decision making and policies of the Sheriff's Office; facilitating opportunities for better engagement between the community and the Sheriff's Office, including IOLERO sponsored Community Engagement Circles; and conducting robust community outreach to the communities of Sonoma County, especially disadvantaged communities who experience more contacts with law enforcement. Also noteworthy, as it sometimes gets lost in the discussion of civilian review of the Sheriff's Office, is that IOLERO takes complaints and audits investigations that involve both members of the public who interact with patrol deputies, as well as inmates who interact with correctional deputies and staff of the county jail.

The missions of IOLERO were developed by the CALLE Task Force during its countless meetings and discussions with community members and experts in law enforcement and civilian review. The core missions of IOLERO were derived by the CALLE Task Force in part from the influential Final Report of the President's Task Force on 21st Century Policing ("President's Report"), itself a product of countless meetings by national experts, including

¹⁵ See Appendix A for the ordinance in its entirety.

¹⁶ See Appendix B for full biographical statement of Director Threet.

significant input from law enforcement. IOLERO's missions were set out clearly in the CALLE Task Force Report and carried forward largely intact by the Board of Supervisors, as evidenced by their hearings on establishment of the office.¹⁷ As part of the hiring process, the Board entrusted to the Director the discretion to implement these missions more fully in establishing the Office. The Director presented detailed plans for implementation to the Board in August 2016 during a public hearing in which the Board accepted the IOLERO First Year Work Plan.¹⁸

Each of these missions is further explained in separate sections, below.

a. Independent Civilian Audit of Sheriff's Office Investigations

When trust has broken down between law enforcement and the community, one of the key questions becomes, "How can we trust them to investigate their own?" At its core, this question reflects a community belief that trust is facilitated, and investigation results are seen as more valid, when investigations are conducted or reviewed by a civilian who is independent of the law enforcement agency. While there are a variety of possible models that respond to this community concern, IOLERO was established on the basis of an "auditor model" of civilian review.

As the CALLE Task Force stated in its Final Report:

The [IOLERO] will audit the investigations as well as the conclusions reached [by the Sheriff's Office] to ensure they are complete, thorough, objective and fair, and will provide feedback to the Sheriff's Office on each audited investigation. Collaboration is required in order to successfully navigate the complex legal landscape which sets the parameters and authority of an independent auditor function. Given the fact the Office of Sheriff is an elected officer as set forth in the California Constitution, implementation of an audit system can only be successful with the cooperation of the Sheriff.¹⁹

These principles have been carried forward by IOLERO in establishing the independent, civilian auditor system for reviewing Sheriff's Office investigations of its employees. Under this model, the investigation of misconduct allegations continues to reside with the law enforcement agency, and those investigations are independently audited to ensure that they were conducted in a complete, fair, unbiased, and timely manner. Ideally, this model creates a feedback system where auditor criticisms of the investigation process and/or results are internalized by the law enforcement agency and can positively influence the culture of a department. This feedback system is enhanced by public reporting of the auditor's recommendations for improvement.²⁰ By keeping investigations internal with outside review, a culture of positive improvement may then be facilitated.

In addition, civilian review of investigations requires increased transparency in order to improve community trust. For most civilian review agencies, and particularly in states like California where officer personnel records receive strong confidentiality protection, transparency is provided through annual, summary level reporting on audit outcomes, as well as of recommendations for changes to policies and practices. Given the statutory restrictions on releasing information from individual investigation files, IOLERO was set up to provide transparency about Sheriff's Office investigations at an aggregate level through this Annual Report.

17 See, for example, the August 18, 2015 hearing of the Board, during which some of these issues were discussed. (http://sonoma-county.granicus.com/MediaPlayer.php?view_id=2&clip_id=521&meta_id=168318)

18 See Appendix C for IOLERO First Year Work Plan.

19 CALLE Report, May 12, 2015, p. 29.

20 De Anglis, Rosenthal, & Buchner, Civilian Oversight of Law Enforcement: A Review of the Strengths and Weaknesses of Various Models, September 2016, pp. 12-13.

b. Reviewing Policy and Recommending Changes to Reflect Community Input

One of the first pillars of the President’s Report focuses on how a law enforcement agency can most effectively build trust and legitimacy with the public. It states, “In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.”²¹ In describing the intended mission of IOLERO and its Community Advisory Council (“CAC”), the CALLE Task Force stated:

A significant measure of transparency is whether a community has the opportunity to comment on policies, practices and other law enforcement strategies.

[. . .]

[IOLERO] will be headed up by the Chief Auditor who will receive advice from an [IOLERO CAC].

Under direction of the Auditor, the [IOLERO CAC] will convene from time to time to conduct public meetings and hearings to facilitate communication and understanding between the community and law enforcement. As the result of direct public testimony at these public hearings the Auditor’s Office and the [IOLERO CAC] would provide advice to law enforcement on policies and procedures, training methods and subject areas, trends and needs within the community, as well as trends in complaints and performance of law enforcement.²²

This principle has been carried forward in IOLERO’s practice of incorporating input from the community in making recommendations to the Sheriff’s Office on changes to its policies and practices, both through the IOLERO CAC and through direct outreach to affected community members. Inclusion of such community feedback in policy recommendations is critical. As the President’s Report noted, “If police are to carry out their responsibilities according to established policies, these policies must be reflective of community values and not lead to practices that result in disparate impacts on various segments of the community. They also need to be clearly articulated to the community and implemented transparently so police will have credibility with residents and the people can have faith that their guardians are always acting in their best interests.”

c. Engaging the Community to Rebuild Trust and Improve Relationships

Experts agree that the practice of effective policing cannot hope to be successful unless there is a basic fabric of trust between a law enforcement agency and the communities it is charged to protect and serve. Both nationally and locally, that fabric of trust recently appears to have frayed, and historically there has been little trust between law enforcement and communities of color. In Sonoma County, there is a long history of distrust between law enforcement and local immigrant communities. Recently, the strains of that relationship have spilled over into the view of the general public, in connection both to the Andy Lopez shooting and to recent focus on local law enforcement cooperation with immigration enforcement.

As the President’s Report recommended, “In communities that have high numbers of interactions with authorities for a variety of reasons, police should actively create opportunities for interactions that are positive and not related to investigation or enforcement action.”²³ While there are many opportunities that may fit within this recommendation, they all involve robust engagement with the communities policed by a law enforcement agency. IOLERO cannot supplant the need for direct community engagement by the Sheriff’s Office, but it can provide a crucial bridging function between the Sheriff’s Office and those same communities.

The CALLE Task Force spent considerable time discussing the importance of this mission in its Final Report. It summed up its view this way: “The LEA Subcommittee expects the [IOLERO] to be **deeply involved in community outreach and engagement**. While the audit aspect of the [IOLERO] is of critical importance, the community

21 *President’s Report*, p. 15.

22 *CALLE Report*, pp. 28-29.

23 *President’s Report*, p. 14.

outreach and engagement aspect will provide the greatest benefit over time.”²⁴ In addition, the CALLE Task Force separately discussed the need for robust community engagement in its two sections discussing Community Policing and Community Healing. In each section, the need for facilitated community engagement forums in all parts of the county was emphasized as a way forward in bridging the trust gap.

IOLERO has sought to carry forward this emphasis on community engagement in multiple ways. One key way has been through the appointment of the IOLERO CAC and in supporting its monthly public meetings, which have been robustly attended and directly engaged the public concerning policies of the Sheriff’s Office. These meetings also have received significant media coverage through multiple forums that further engaged the community. In addition, IOLERO has made a concerted effort to directly engage disadvantaged communities in two main ways. First, the Director has met with these communities in multiple small forums at times and places that were convenient for community members, with the assistance of service organizations trusted by the community. Second, IOLERO sponsors Community Engagement Circles that facilitate direct discussions between the community and law enforcement. These circles provide small, structured group settings designed to provide a safe environment for frank discussions between the community and employees of the Sheriff’s Office.

d. The Overarching Role of IOLERO and its CAC in these Missions

As mentioned above, IOLERO and its CAC are intended to act as a bridge between communities and law enforcement in seeking to repair ruptures in relationships that have been decades in the making. As mediating and bridge-building actors in this process, the role of IOLERO and the CAC may seem perplexing or even counter-productive to those who have spent years in opposition to one another. Yet, this role can be critical to the process of rebuilding trust. As the president of the National Association for Civilian Oversight of Law Enforcement noted in the President’s Report, civilian review must be impartial in order to be effective.

Citizen review is not an advocate for the community or for the police. This impartiality allows oversight to bring stakeholders together to work collaboratively and proactively to help make policing more effective and responsive to the community. Civilian oversight alone is not sufficient to gain legitimacy; without it, however, it is difficult, if not impossible, for the police to maintain the public’s trust.²⁵

For some community activists, who may perceive the law enforcement-community relationship through the lens of historical injustice and who have long called for greater oversight of police agencies, these principles can ring hollow. It is not surprising, then, that some may characterize the practice of impartiality by a civilian review agency as akin to complicity with injustice. And for law enforcement leaders and staff who believe they are painted by activists with a broad brush that ignores the good they do and the challenges they face, the opposite suspicions may arise. From this perspective, a civilian review agency can seem like a few amateur outsiders coming into an organization of experts to pursue an agenda dictated by activists and politicians, under the cover of the concept of impartiality.

Yet, it is precisely such polarization that necessitates the impartiality with which civilian review must operate. Audits of misconduct investigations must favor neither the community nor the police, but seek the truth based on the facts. Policy reviews and recommendations must be based on an objective review of the interests of the communities affected, as well as the operational concerns and interests of law enforcement employees. Community engagement opportunities must be facilitated in such a way that all participants can feel respected, heard, and emotionally safe. If IOLERO or the CAC were to be seen by either the community or law enforcement as their advocate, then the other side would lose trust in IOLERO’s ability to facilitate this crucial process. These concerns are even more important in a legal and political environment where the ability of IOLERO to operate

²⁴ CALLE Report, p. 28.

²⁵ President’s Report, p. 26.

effectively is dependent upon the cooperation of the Sheriff's Office. IOLERO therefore has as a basic operational and philosophical mission to conduct its operations in a fair and impartial manner, with loyalty to the truth.

III. Organization, Staffing, Budget, and Establishment of IOLERO

IOLERO is the County's newest and smallest department consisting of the Director and an Administrative Coordinator. In addition, the Office is assisted by the 11 volunteers who serve on the IOLERO CAC, many of whom generously donate their time to volunteer at community events and meetings to educate the public about IOLERO. IOLERO's approved budget for FY 2016-17 was \$527,335 and included funding for staff salaries and benefits, as well as miscellaneous expenses related to consultants for translation and other services, support of the IOLERO Community Advisory Counsel, and materials and supplies. After adoption of the FY 2016-17 budget, \$300,000 in pass-through funding was transferred from the County Administrator's Office budget to IOLERO's budget, for 3 outside contracts supporting projects recommended by the CALLE Task Force. No additional funding was provided to IOLERO to administer those 3 contracts.

IOLERO's FY 2017-18 budget was funded at \$596,106, which includes \$100,000 in continued pass-through funding for 1 of the outside contracts that IOLERO continues to administer. Subtracting that \$100,000, IOLERO's funding decreased to \$496,106 from \$527,335. While the IOLERO Director requested additional funding for a new staff member to assist with the Office's mission of community engagement, there was significant competition from many departments for available funding, and IOLERO's request was not approved. IOLERO continues to be staffed by two employees, the Director and an Administrative Coordinator, with the volunteer assistance of members of the IOLERO CAC.

IOLERO's two-person staff is responsible for all of the missions of IOLERO, including engagement with communities throughout the county, ensuring that the office is open to the public during business hours, as well as civilian review of a department that includes over 450 sworn officers.

IOLERO continues to recommend funding for at least one additional staff member in order to most effectively accomplish the multiple missions with which it has been charged.

a. IOLERO's First Year of Operation

In August of 2016, IOLERO published its First Year Work Plan, which was received and approved by the Board of Supervisor in a public hearing. The First Year Work Plan set out clearly the objectives and priorities of the office, based on the principles set out in Section II, above. IOLERO's objectives and priorities over the last 1.5 years have fallen into 8 general categories: 1) Start-Up Tasks; 2) Public Complaint Intake System; 3) Audit Protocols and Procedures; 4) Community Outreach and Education; 5) Data Tracking, Review, and Analysis; 6) Mediation Program; 7) Community Engagement Program; and 8) Contract Administration. IOLERO has seen significant accomplishments in each of these objectives, with many now classified as completed. Each category is discussed separately below, beginning first with the list of the objectives included in the First Year Work Plan, followed by a brief discussion of what has been accomplished in pursuit of those objectives. Subsequent chapters of this report will include a fuller discussion of key areas.

b. Start-up Tasks

As a new department of County government, IOLERO's first task was to establish itself as a fully functioning office, a process akin to setting up a start-up company. Among the many tasks that were unique to the initial four months of IOLERO's operations were the following:

- Set up the physical office space for operation and reception of the public;
- Set up a website presence for IOLERO, including an online complaint intake system;

- Complete the recruitment for an Administrative Coordinator position funded by the Board of Supervisors to support the work of the Office;
- Visit other civilian review agencies to learn what procedures, protocols, and programs they have in place, what their experience has been with these procedures, and whether they might be appropriate for or adaptable to Sonoma County;
- Establish internal policies and procedures for IOLERO, including complaint intake and confidentiality protocols for peace officer personnel records;
- Explore alternative service delivery models, including satellite offices, alternative hours by appointment, etc., in order to best meet the needs of target communities;
- Investigate, procure, and set up an effective database system for intake and tracking of complaints, as well as for statistical and trend analysis of data from the Sheriff's Office on law enforcement encounters, and;
- Develop and implement performance measures for IOLERO, including possible survey instruments.

IOLERO made great progress on these tasks. Most of these items were completed by August of 2016, with the Office becoming fully operational at that time. IOLERO's first four months were a whirlwind of activity akin to juggling dishes while balancing on the back of a galloping horse. At the same time, the Director met with hundreds of individual community members, community groups and activists during this period who were interested in law enforcement issues. Getting the Office fully functioning by August was a significant achievement.

Still under review are the possibility of alternative delivery models for complaint intakes. IOLERO is exploring partnering with Department of Human Services to share satellite office space planned in other parts of the county when it comes online. In addition, several local non-profit service providers have offered the use of their spaces for off-site office hours.

With regard to possible performance measures, IOLERO may contract next year with an outside consultant with expertise in oversight to conduct a performance review of IOLERO's first two years. Initial reviews of the costs of a statistically valid survey instrument suggests this option is beyond the resources of IOLERO to fund solely from its own budget. IOLERO therefore is beginning to explore the possibility of partnering with other county agencies for such a survey. Such a survey could explore both knowledge of and satisfaction with IOLERO, as well as how the public perceived local law enforcement and the Sheriff's Office along a number of axes.

c. Public Complaint Intake System

One of the key goals of IOLERO in its initial year has been to fully establish a system to receive complaints from the public concerning law enforcement. Among the tasks involved in setting up an effective public complaint intake system were the following:

- Develop and print complaint forms that are ADA-compliant for web accessibility and easily understandable for both English and Spanish speaking individuals;
- Set up an online public complaint interface on the IOLERO website;
- Establish relationships with community and government partners that will allow wide distribution of IOLERO complaint forms in multiple geographic locations and various settings;
- Establish internal policies and procedures for receiving complaints, and for maintaining the confidentiality of complaint records that qualify as peace officer personnel records;
- Explore alternative service delivery models, including satellite offices, alternative hours by appointment, etc., in order to best meet the needs of members of target communities who may wish to file complaints; and
- Investigate, procure, and set up an effective database system for intake and tracking of public complaints.

Most of these items were completed by August of 2016. Members of the public have multiple options for filing a complaint in both Spanish and English and staff are ready to discuss their complaints and answer questions in either language. IOLERO's complaint forms and brochures explaining the complaint process are available in multiple offices of county government, as well as through non-profit partners. IOLERO has completed intake on 16 complaints filed against Sheriff's employees with our office this year, as well as assisted multiple clients with information about how to file complaints against other local law enforcement agencies.

The Office is committed to providing a safe environment in which to file a complaint and be heard, while also setting realistic expectations for complainants about what is possible within the complaint process. IOLERO seeks to conduct a complaint interview with each complainant, during which the process is fully explained, including its potential benefits and its limits. One challenge in this process has been the inability of some complainants, often due to mental health challenges, to accept the limitations inherent in the audit process. To address these challenges, IOLERO staff also have undertaken specialized training in handling interviews with individuals who may be experiencing the effects of trauma, addiction, and/or mental illness.

Still under review is the possibility of alternative service delivery models (see above). Upon review of database systems for intake and tracking of complaints, IOLERO decided that the most cost effective option for this purpose was Microsoft Excel.

d. Protocols and Procedures for IOLERO Audits of Investigations

Another key objective during IOLERO's first year has been the establishment of a fully functioning system of audits of the Sheriff's Office administrative investigations of alleged employee misconduct. Meeting this objective has involved the following tasks:

- Negotiate with the Sheriff's Office protocols to govern audits by IOLERO of internal administrative investigations conducted by the Sheriff's Office;
- Negotiate access to the confidential peace officer personnel files necessary to conduct IOLERO audits of the Sheriff's Office;
- Make publicly available the protocols and procedures governing audits;
- Monitor protocols for effectiveness and negotiate changes as needed;
- Audit investigations of all complaints filed by community members with IOLERO;
- Audit all investigations of "critical incidents," "uses of force," and other select incidents of alleged misconduct, such as bias;
- Audit sampling of remaining investigations of misconduct complaints;
- Report in the Annual Report on aggregate audit findings and general characteristics of the investigations, as well as any recommendations for changes in Sheriff's Office policies.

By August of 2016, IOLERO and the Sheriff's Office had established the protocols and procedures to be used by IOLERO to audit administrative investigations. The negotiation between IOLERO and the Sheriff's Office on protocols was cooperative, with one substantive disagreement: IOLERO sought access by the Auditor to interviews of deputies and witnesses as they were occurring, rather than waiting to review audio recordings of those interviews at the end of the investigation. IOLERO recommended allowing such access to avoid any questions "after the fact" about the demeanor or credibility of a witness, or the completeness or bias of an interview. The Sheriff's Office believed that scheduling difficulties for interviews would interfere with meeting their overarching goal of timeliness in completing the investigation and audits. Therefore, the audit process has proceeded with the Auditor relying on audio recordings of witness interviews.

As described, IOLERO published a brochure in Spanish and English explaining to the public the complaint and audit process, as well as publishing the process on the IOLERO website. Under the protocols, IOLERO audits all investigations of complaints filed with IOLERO. IOLERO also audits any investigations originating at the

Sheriff's Office of the following types of allegations: use of force; racial bias; Fourth Amendment violations; and investigations likely for other reasons to have a high public profile.

At this time, IOLERO has logged 37 investigations to be audited since August of 2016. 30 of those investigations have been completed and referred for audits, and IOLERO has completed 28 of those 30 audits. While IOLERO experienced a backlog of audits for a period of several months, the Office is now timely with all audits and has eliminated its backlog. For more comprehensive information about these audits, see Chapter 6, discussing data and trends for complaints, investigations, and audits.

e. Community Outreach and Education

IOLERO was charged by the Board of Supervisors with developing and implementing a robust community outreach and education plan, in order to more fully engage the community and to bridge the gap between law enforcement and parts of the community. Key to achieving these goals are the following tasks included in our Work Plan:

- Appearances by IOLERO at meetings of community groups throughout the county;
- Outreach by IOLERO at community events, such as Roseland Cinco de Mayo celebration, local town/city festivals, relevant small community organization events, etc.;
- Meetings throughout the year with community members to educate them on the role and plans of IOLERO, as well as take input on the goals and expectations of the community;
- Meetings with key stakeholders and potential County government collaborators to understand the County government environment in which IOLERO will function, as well as find opportunities to more effectively partner in achieving the goals of IOLERO;
- Identification of “hotspots” where encounters between law enforcement and particular communities are likely or have been high, and targeting of outreach efforts to those affected communities;
- Outreach to disadvantaged communities in order to increase the profile of IOLERO, as well as to engage and involve those communities;
- Work through community non-profits and stakeholders to leverage exposure to IOLERO by their clients and members;
- Partner with members of Board of Supervisors to appear at district town hall meetings;
- Partner with other departments, such as the Public Defender's Office, the District Attorney's Office, etc., to publicize the existence, location and hours of IOLERO;
- Develop, publish and distribute IOLERO pamphlets in both English and Spanish;
- Develop easily accessible web presence in both English and Spanish, with forms that may be downloaded;
- Establish an IOLERO Community Advisory Council (CAC) and begin meetings:
 - develop an application to collect relevant information about each applicant to the CACs, solicit applications through a wide variety of community groups and government agencies;
 - select CAC members, with a goal of 50% participation from communities of color;
 - set up monthly meetings, supported by food and translation services so that individuals from all income levels are able to participate, both as board members and public participants;
 - develop a list of policies of the Sheriff's Office to serve as the focus of meetings to determine if specific policies are appropriate and the best fit for Sonoma County, from the perspective of the greater Sonoma County communities affected by those policies;
 - invite Sheriff's Office presentations on select policies and rationale for the current version in place, and also from other jurisdictions that have implemented alternative approaches from those of the Sheriff's Office;
 - solicit presentations by experts on policy areas reviewed by the CAC;
 - take public comment on current policies and any proposed recommendations for changes to those policies;
 - CAC report to IOLERO Director on recommendations for policy changes;

- IOLERO Director either adopts policy recommendation or explains disagreement, then forwards IOLERO recommendations to Board of Supervisors and Sheriff’s Office;
- Provide link on IOLERO website to key policies of the Sheriff’s Office determined to be of interest to community groups, as well as any recommended changes to those policies;
- Provide simple, easy to understand summaries of processes involved in public complaints against officers, to be published on the IOLERO website, as well as on printed pamphlets; and
- Collaborate with youth and youth serving organizations to develop and publish a Youth Guide to Law Enforcement Practices, to be distributed to youth and their parents, covering both appropriate behavior by youth during law enforcement encounters, as well as the legal rights of youth in those situations.

From the outset, IOLERO’s Director and staff gave significant focus to the many tasks outlined under this objective. The Director implemented a comprehensive outreach and engagement program that was largely successful in achieving the above tasks. This included general outreach to civic groups, targeted engagement of disadvantaged communities, tabling at community events, creating and maintaining an informative website, publishing explanatory brochures, generating media stories, and creating and supporting the Community Advisory Council. Given the other initiatives on which IOLERO has been focused, the Office had insufficient resources to develop a Youth Guide to Law Enforcement Practices during the past year, but hopes to be able to focus on this project in the coming year should resources allow it. More comprehensive information about these community outreach efforts is provided in Chapter 7 of this report.

f. Data Tracking, Review, and Analysis

One of the key ways in which IOLERO seeks to provide improved transparency is through the tracking, analysis, and reporting of data related to public complaints, and law enforcement encounters. Among the individual tasks involved in successfully implementing this key mission are the following:

- Investigate, procure, and set up an effective database system for intake and tracking of public complaints filed with IOLERO;
- Identify trends and correlations in complaints, investigations, and audits, and analyze those trends and correlations for meaning;
- Identify and negotiate access to key data sets in the custody of the Sheriff’s Office or other criminal justice agencies that relate to law enforcement encounters, identify trends and correlations in the data, and analyze those trends and correlations for meaning; and
- Report on findings from IOLERO’s data analysis to the Sheriff’s Office, the Board of Supervisors, and the public, in the IOLERO Annual Report.

As mentioned above, IOLERO is relying on Microsoft Excel to track and analyze data on the complaints filed directly with our office, as well as those originating at the Sheriff’s Office. In addition, IOLERO has limited access to information contained in the Administrative Investigations Management (“AIM”) database used by the Sheriff’s Office to track their personnel investigations and other employee information. IOLERO can access all information related to an employee investigation that is subject to IOLERO audit, but that access is granted only at the conclusion of the investigation. IOLERO is unable to generate its own data reports from information within the AIM database, but has requested and received information reports generated by the Sheriff’s Office from AIM.

Among data requested by IOLERO that has not been provided by the Sheriff’s Office is data on all law enforcement stops, including demographic information, charges, dispensation, use of force, etc. While the California Attorney General has issued regulations under a new state law that will require agencies to collect such data, Sonoma County will not be required to do so until at least 2022.²⁶ At this time, the Sheriff’s Office reports that there is no reliable data from which to conduct an analysis of stop data related to the Sheriff’s Office.

²⁶ See AB 953, Weber, approved by the Governor on October 3, 2015, attached at Appendix D.

Obtaining that data reportedly would require an extensive effort to correlate information from multiple data sources and clean up the data to make it meaningful. Neither the Sheriff's Office nor IOLERO have the resources that would be required to complete this data project at this time.

IOLERO recommends that the Sheriff's Office begin collecting this data in a useable form immediately, rather than waiting until the state statute requires it.

The results of data analysis in multiple areas are presented below in Chapter 6 of the Annual Report.

g. Mediation Program

While all complaints from the public against deputies are subject to investigations by the Sheriff's Office, IOLERO typically will audit only serious allegations or complaints filed with IOLERO. Less serious complaints, such as discourtesy or failure to investigate in some cases, may not warrant a full-fledged investigation and audit. Some agencies have found that such complaints can be successfully mediated to the satisfaction of all parties, with the benefit that each better understands the perspective of the other. During its first year, IOLERO has explored mediation programs used by other civilian review offices, with the intention of developing a mediation program to be proposed for next year. Among the tasks that have been involved in in this exploration are the following:

- Consult multiple civilian review agencies to learn how their mediation programs operate;
- Identify those types of public complaints that may be more appropriate to resolution through a voluntary mediation process;
- Meet with members of the North Bay Area community of mediation professionals to explore the possibility of establishing a mediation program staffed by volunteer mediators;
- Work with the Sheriff's Office and employee union representatives to discuss issues that may be raised by voluntary mediation of complaints filed by members of the public;
- Develop a model for mediation of complaints that will be effective for the unique characteristics of the Sonoma County environment; and
- Begin steps to implement such a mediation program under the auspices of IOLERO.

IOLERO has completed most steps in the above list. In preliminary discussions, Sheriff Freitas stated that he did not favor a mediation program to resolve low-level complaints and would not require his deputies to participate in one. Nevertheless, he also indicated that he would be willing to reconsider this view when presented with a concrete proposal. IOLERO therefore has worked with community members and with mediation professionals to develop a mediation pilot program to be proposed to the Sheriff's Office. The development of this proposal has included discussions with multiple other civilian oversight agencies about their programs and the opportunities and challenges to mediation they have experienced. The leadership of the Deputy Sheriff's Association expressed openness to considering a pilot mediation program with the Sheriff's Office.

This mediation pilot proposal is in the end stages and will soon be proposed to the Sheriff's Office for further discussion.

h. Community Engagement Program

Perhaps one of IOLERO's most challenging tasks, as well as one with the most potential upside, is that of helping repair the divisions between law enforcement and distrusting county communities. Through collaboration with the Sheriff's Office, IOLERO has sought to bring together members of law enforcement and members of communities that experience distrust of law enforcement, in an effort to bridge the differences between them. This effort has involved the following tasks:

- Collaborate with the Sheriff’s Office to set up Community Engagement Circle meetings with the intent of bridging the gaps between law enforcement and parts of the community;
 - involve members of law enforcement (drawn primarily from Sheriff’s Office) and community members (with an emphasis on disadvantaged communities);
 - set up a professionally facilitated process for the meetings to enhance their effectiveness and lessen the risk of provocative conflict;
 - engage each circle in a structured, facilitated sharing of each person’s emotional and factual truth about their experiences connected to law enforcement;
 - seek to humanize each perspective and undermine the process of caricature that often typifies such interactions;
 - pursue a goal of six such circles per year at locations throughout the County.
- Mediation Program – as more fully described above, IOLERO will explore establishing a mediation program to resolve less serious complaints against deputies. Modeled on existing programs in several other jurisdictions, this program would allow complainants to sit down with deputies against whom they have filed a complaint, with the goal of each participant more completely understanding the perspective of the other. The experience with this model in other jurisdictions has shown that such mediated encounters achieve understanding and humanize situations that had become polarized in the midst of conflict and confrontation. They therefore serve as another model of community healing.
- Collaborate with the Sheriff’s Office in series of “Community Service” opportunities where IOLERO and the Sheriff’s Office work on community building projects in disadvantaged communities.

Early on, the Sheriff’s Office responded positively to IOLERO’s request to support Community Engagement Circles and made a commitment to participation by deputies who staff the patrol district where the circles are held. Given IOLERO staffing limitations and competing priorities, as well as the significant effort required to put on a successful circle, IOLERO was able to plan and implement only one Community Engagement Circle this year. Nevertheless, the effort was a great success, and is discussed more fully in Chapter 7, below.

In addition to the Community Engagement Circles, IOLERO participated in community service with the Sheriff’s Office in the Moorland neighborhood for the annual Day of Caring in September 2016. While we hope to partner with the Sheriff’s Office for more such community building activities next year, the press of competing tasks has made this a lower priority than many other commitments.

i. Contract Administration

The CALLE Task Force recommended to the Board of Supervisors the funding of several initiatives designed to address social justice issues and divert at-risk county youth from involvement with the criminal justice system. The Board responded by supporting the following third-party programs with funding:

- Expansion of the Student Congress, a self-empowerment program by the North Bay Organizing Project in which high school students are trained in community and political organizing and participate in a congress to make decisions for themselves on policy issues and priorities (one-time award);
- Establishment of a Restorative Justice Collaborative with the Sonoma County Office of Education designed to root principles of restorative justice in the county public schools, as an alternative to disciplinary measures that can negatively impact student ability to remain in and participate productively in school (one-time award);
- Expansion of restorative justice programs by Restorative Resources for middle school students beyond those already provided to Santa Rosa city schools to middle schools in all county school districts (on-going support during a three year contract).

Following the funding of each of these programs, IOLERO last year assumed responsibility for oversight of the funded programs according to the provisions of the agreements. This has required more resources than

anticipated in order to bring the grant recipients into better alignment with the contract requirements for distributing funds. Administering these agreements also included an unanticipated benefit of gaining greater access to school resources and mediation professionals that have been helpful to IOLERO in conducting community outreach and developing a mediation proposal.

Funding for the programs of the North Bay Organizing Project and the Sonoma County Office of Education was for one year only, but the Restorative Resources contract was funded through the next two years. IOLERO therefore will continue to administer the contract for this program.

Chapter 5: Overview of the Complaint Process

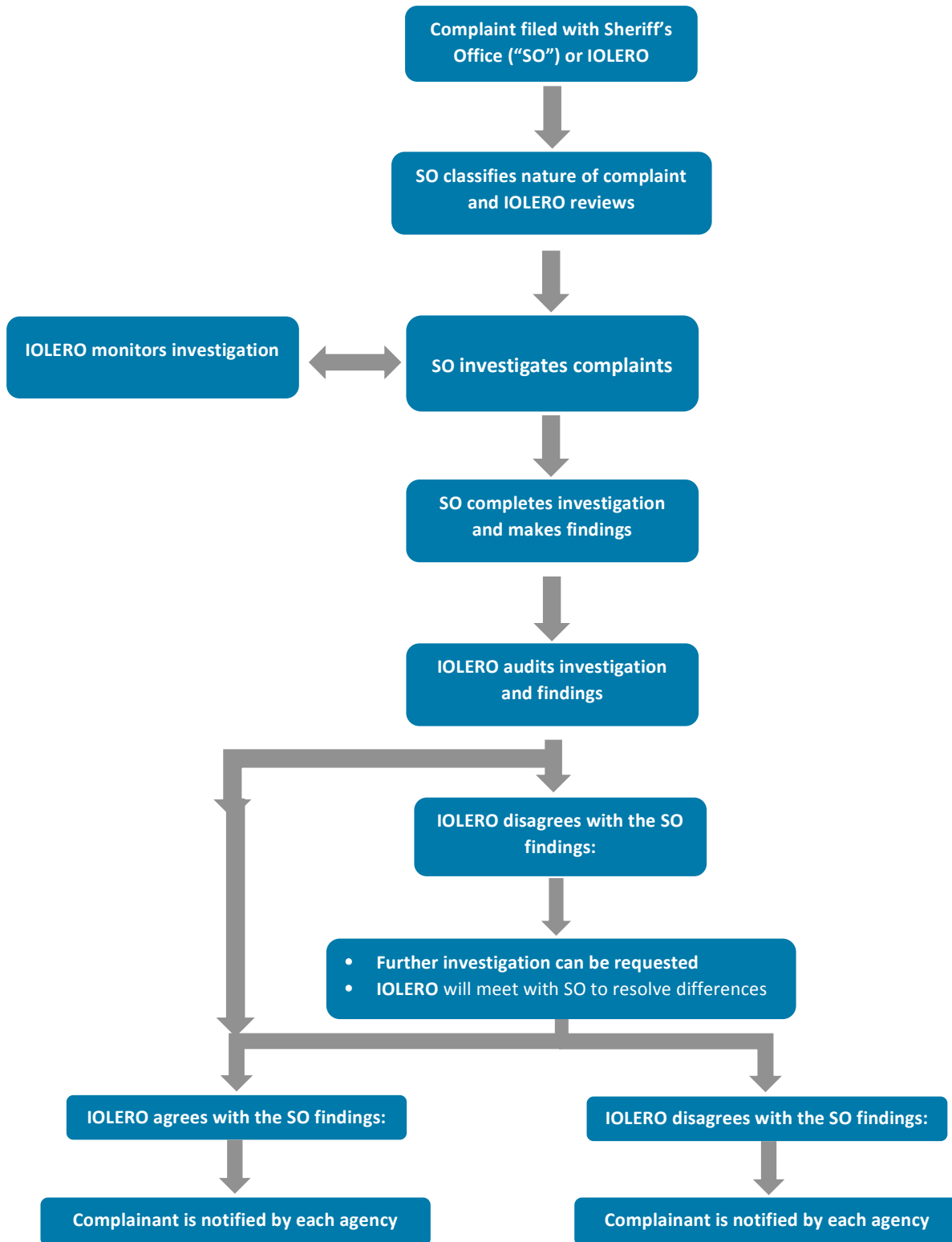
IOLERO understands that an individual's decision to file a complaint against a sworn peace officer can be a difficult one, but only through the filing and investigation of such complaints can improper employee behavior be appropriately discovered and addressed. One of the primary functions of IOLERO is to serve as a neutral, independent location where a member of the public may file a complaint against the Sheriff's Office, without concern that they may experience discomfort or intimidation during that process. Each complaint filed with IOLERO will automatically result in IOLERO auditing the investigation, regardless of the type of complaint. Alternatively, any person may file a complaint directly with the Sheriff's Office, but for complaints originating at the Sheriff's Office, IOLERO will audit only those allegations involving use of force, biased policing, or a violation of constitutional rights.

The administrative complaint process involves potential discipline of Sheriff's employees by the management of that office. Should a complaint investigation result in a sustained finding of employee misconduct, it may result in disciplinary action against an employee. Discipline can range from a letter of reprimand in the employees' permanent file, to termination of employment. The Sheriff's Office, like many public entities, employs a system of "progressive discipline" for its employees. Progressive discipline means that a first offense usually will result in lower level discipline of the employee, with more severe discipline occurring for commission of a subsequent violation. Sheriff's deputies who have completed their probationary employment period are civil servants who can be dismissed only for good cause after an investigation finding they violated policies governing their employment. Deputies also have the benefit of additional employment protections set out in the Peace Officers' Bill of Rights ("POBR"), Govt. Code Sections 3300, et seq., and any peace officer personnel record, including a record of investigation, is strictly confidential under Penal Code Section 832.7.²⁷

A member of the public filing an administrative complaint with IOLERO or the Sheriff's Office also has available to them other legal remedies that are distinct from filing a complaint. For example, should a community member wish to file a civil lawsuit against the county due to the actions of a Deputy Sheriff, they would need to use a legal process separate from this one. Filing an administrative complaint with IOLERO will not satisfy the legal prerequisites for suing the County. IOLERO staff make these distinctions clear to complainants during complaint intake.

The process from administrative complaint intake to completion of an audit is set out below in the following diagram, as well as detailed explanation of each step in the process:

²⁷ See Appendix E for Penal Code Sections §832.5 and §832.7



I. Step One: Complaint Intake

The goal of IOLERO is to make the process of filing a complaint as comfortable for the public as possible, while gathering complete information from the complainant to ensure that the complaint is within the purview of the office and that the investigation of the complaint can be effective. A member of the public may file a complaint in person, by telephone, in writing, or online from the IOLERO website. IOLERO strongly recommends that a complainant complete a complaint form, available in English or Spanish. Ordinarily, IOLERO staff will schedule an intake interview to assist in identifying and capturing all information that may be relevant to the investigation of a complaint. The intake interview also allows IOLERO staff to clearly explain the administrative complaint and investigation process and what to expect from it. Once the intake process is completed, the complaint will then be referred by IOLERO to the Sheriff's Office for investigation. IOLERO has no authority to conduct its own investigations of complaints.

II. Step Two: The Sheriff's Office Investigation

Once the complaint is referred to the Sheriff's Office, that agency's Internal Affairs Division assigns a specially trained investigator to fully investigate the allegations of the complaint. During the investigation, IOLERO staff will monitor the process of the investigation. For most investigations, the goal of the Sheriff's Office is to complete their investigation in 30-60 days. The investigator will contact the complainant to conduct a thorough interview and gather all facts the complainant believes will help determine the outcome of the complaint. Body worn camera video often is key evidence related to a complaint that involves patrol deputies. The investigator also will interview any deputies involved, and other relevant witnesses willing to cooperate. The success of an investigation will depend in significant part of the complainant's willingness to provide information relevant to the complaint.

This year, in response to a recommendation by IOLERO, the Sheriff's Office agreed to implement a formal written policy prohibiting retaliation by any employee of the Sheriff's Office against any complainant or cooperating witness to a complaint. IOLERO made this recommendation to address the concern of some community members that filing a complaint could make them a target of law enforcement.

III. Step Three: The Department Makes Findings

Once the Sheriff's investigator completes the factual investigation, she or he then analyzes the facts to reach findings on the allegations of the complaint. Body worn camera video often is the most helpful evidence in analyzing the allegations of a complaint, as all persons involved in a stressful law enforcement encounter can experience imperfect memory of the facts involved in those events. Nevertheless, such video alone is seldom determinative of an investigation outcome, as videos can be jerky and fast moving, involve poor lighting conditions, and may not reveal much about the state of mind of the individuals involved. The investigator endeavors to determine what conclusions the evidence most clearly support. Where evidence is conflicting, the investigator must determine which evidence is most credible and which narrative is most consistent with the available evidence.

Among the available findings for an investigation are the following four:

- **Sustained** - meaning the Sheriff's Office finds that its employee violated its policies or the law, based on the evidence,
- **Exonerated** - meaning the allegations of the complaint are supported by the evidence, but the actions of an employee were nevertheless compliant with Sheriff's Office policies,
- **Not sustained/inconclusive** - meaning there was not enough evidence to either prove or disprove the complaint allegations, or
- **Unfounded** - meaning the evidence does not support the complaint.

Once the investigator makes a finding on the allegations of the complaint, and his or her findings are approved by management of the Sheriff's Office, the investigation report is referred to IOLERO and the audit begins.

IV. Step Four: IOLERO Audits the Investigation

IOLERO then conducts an audit of the investigation process and report to ensure that they have been completed in a thorough, unbiased, and timely manner, and that they reach valid findings supported by the evidence. In doing so, the Auditor reviews the entirety of the evidence relied upon by the investigator, including any video recordings, audio recordings of all interviews, incident reports, computer aided dispatch documentation, medical reports, and any other documentation in the investigative file. The Auditor seeks to independently determine what conclusions the evidence most clearly support. Where evidence is conflicting, the Auditor must determine which evidence is most credible and which narrative is most consistent with the available evidence.²⁸

At the conclusion of its audit, IOLERO informs the Sheriff's Office if it disagrees with the findings of the investigation report and/or has concerns about the investigation process. The Office also will inform the Sheriff's Office of its determination whether the investigation was complete, unbiased, and timely. IOLERO will attempt to resolve differences with the Sheriff's Office over these issues, such as through additional investigation or a reconsideration of the findings of the investigation or audit. IOLERO's audit report to the Sheriff's Office is advisory, however, and the Sheriff's Office is not required either to supplement its investigation or to change its findings.

V. Step Five: Notice to Complainants

At the conclusion of the audit process, both the Sheriff's Office and IOLERO will issue findings to the complainant. The Sheriff's Office will send its standard letter to a complainant informing them that the Office has issued a particular finding on the allegations of the complainant. IOLERO will subsequently send out a notification letter to any complainant where the complaint was filed with IOLERO, informing them whether IOLERO agrees with the findings of the Sheriff's Office following its independent review.²⁹ Neither letter will detail any particular evidence reviewed by the investigation or detail the reasons for any finding of the investigation, due to the confidentiality requirements of state statute.

VI. Sheriff's Office Generated Investigations

The above description outlines the process for complaints against Sheriff's Office employees filed with IOLERO. In addition, IOLERO audits administrative investigations that originate at the Sheriff's Office, whether through a complaint filed directly with that agency or through an investigation initiated by a supervising employee of that agency. For these types of investigations, IOLERO will conduct an audit if they involve use of force, biased policing, or a possible violation of the Fourth Amendment of the U.S. Constitution. The process of investigation and audits is the same as above for this set of investigations that originate in the Sheriff's Office, except that IOLERO does not issue a notice letter to a complainant.

VII. Annual Reporting

IOLERO each year publishes this Annual Report, released to the public and presented during a hearing at the Board of Supervisors, wherein the Office discusses progress in meeting its missions. It is within the Annual Report that IOLERO will identify, at a summary level, any differences between findings of IOLERO and the Sheriff's Office

²⁸ The Auditor is a licensed attorney with significant experience in investigations, depositions, and analysis of evidence, including the use of police reports in a courtroom setting.

²⁹ See Appendix F for a sample IOLERO Audit Closure Letter.

that result from audits of investigations. Here, IOLERO publicizes the nature of investigations in which findings differ, as well as the general reasons for differences. Such summary level reporting is allowed under Penal Code Section 832.7(c), so long as it does not identify specific complainants or deputies. In addition, IOLERO also identifies in the Annual Report any recommendations for changes in policies and practices that were identified as a result of the audits.

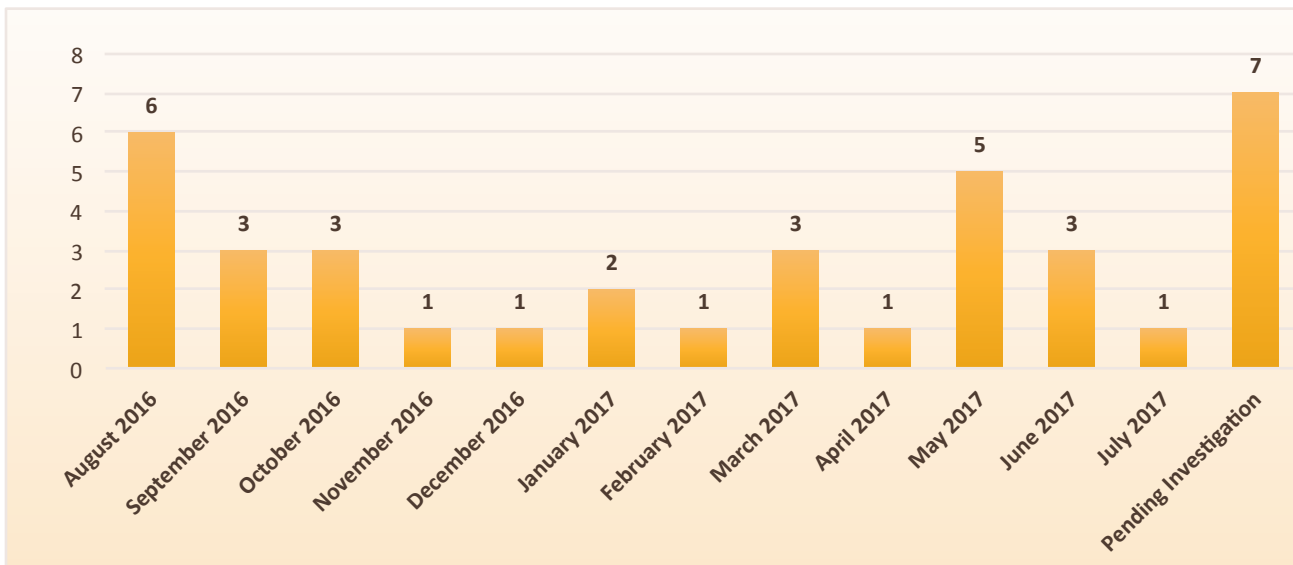
Chapter 6. Complaint and Audit Data and Trends

I. Overview of Complaint, Investigation, and Audit Data

a. Data on All Investigations Audited by IOLERO

By August of 2016, IOLERO established with the Sheriff's Office the protocols that govern its audits of administrative investigations of potential employee misconduct, and the Sheriff's Office began referring completed investigations for audits. At that time, the Sheriff's Office and IOLERO agreed that IOLERO would reach back and audit all investigations that fit the protocols, which were initiated on or after January 1, 2016, even though the audits began in August of 2016. For this reason, the period covered in this report of audits is actually 1.5 years, although IOLERO will have been auditing investigations for approximately one full year.

Illustration 6-A: Count of investigations received by Sonoma County Sheriff's Office for audit by month, August 2016 to August 2017



As of July 31, 2017, IOLERO had logged 37 investigations to be audited.

- Of those 37 investigations, 13 were filed by complainants with IOLERO, 17 were filed by complainants with the Sheriff's Office, 3 were filed by complainants with both offices, and 4 were initiated within the Sheriff's Office by their supervising staff.
- 23 of the investigations involved the Patrol Division, 2 involved the Sonoma Police Department, 2 involved the Windsor Police Department, 7 involved the Detention Division, and 3 involved California Forensic Medical Group (the contractor that provides medical services to inmates housed in the detention facilities).
- Of the 37 investigations, the Sheriff's Office has completed 30 and referred them to IOLERO for auditing, with 7 still being investigated.
- Of the 30 referred investigations, IOLERO had completed audits of 28. The remaining 2 investigations referred were both under audit and pending further information requested from the Sheriff's Office.
- Also, IOLERO received 9 complaints or concerns that involved and were referred to other law enforcement agencies than the Sheriff's Office.

Illustration 6-B: Location of filed complaints, January 1, 2016 to August 1, 2017

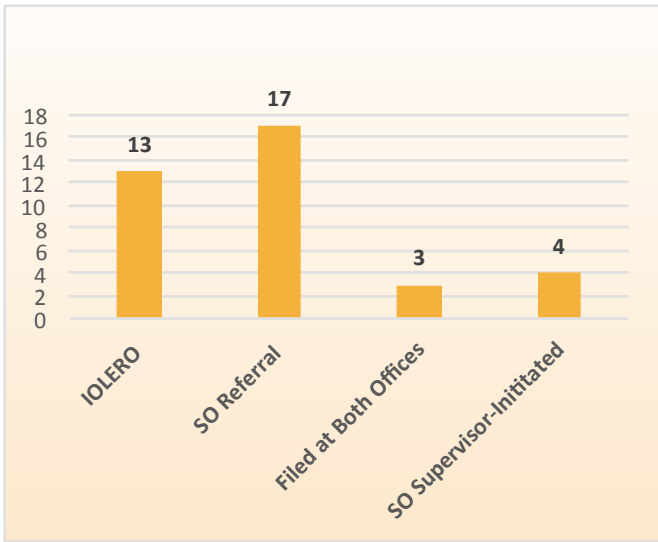
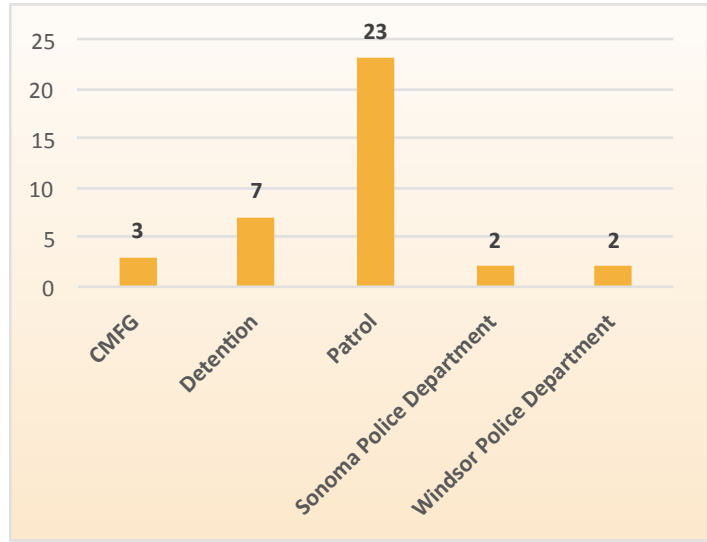


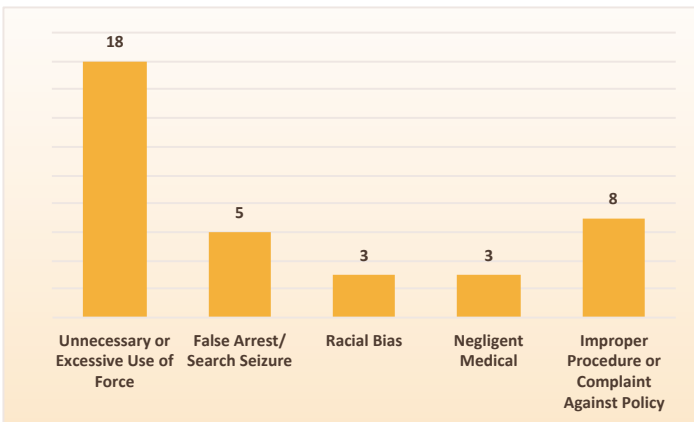
Illustration 6-C: Complaints filed by division January 1, 2016 to August 1, 2017



The Sheriff's Office's 37 investigations can be broken down in multiple ways. Each investigation may involve more than one type of policy violation. Therefore, they can be broken down by allegations investigated, or broken down by the main allegation of misconduct investigated for that incident. Breaking it down by the main allegation of misconduct investigated for that incident, the numbers are as follows:

- 18 alleged primarily improper or excessive use of force,
- 5 alleged primarily a violation of the Fourth Amendment in a search/seizure or arrest,
- 3 alleged primarily racial bias,
- 3 alleged primarily negligent medical treatment in the jail, and
- 8 alleged primarily a violation of miscellaneous policies or practices.

Illustration 6-D: Primary complaint allegations, January 1, 2016 to August 1, 2017

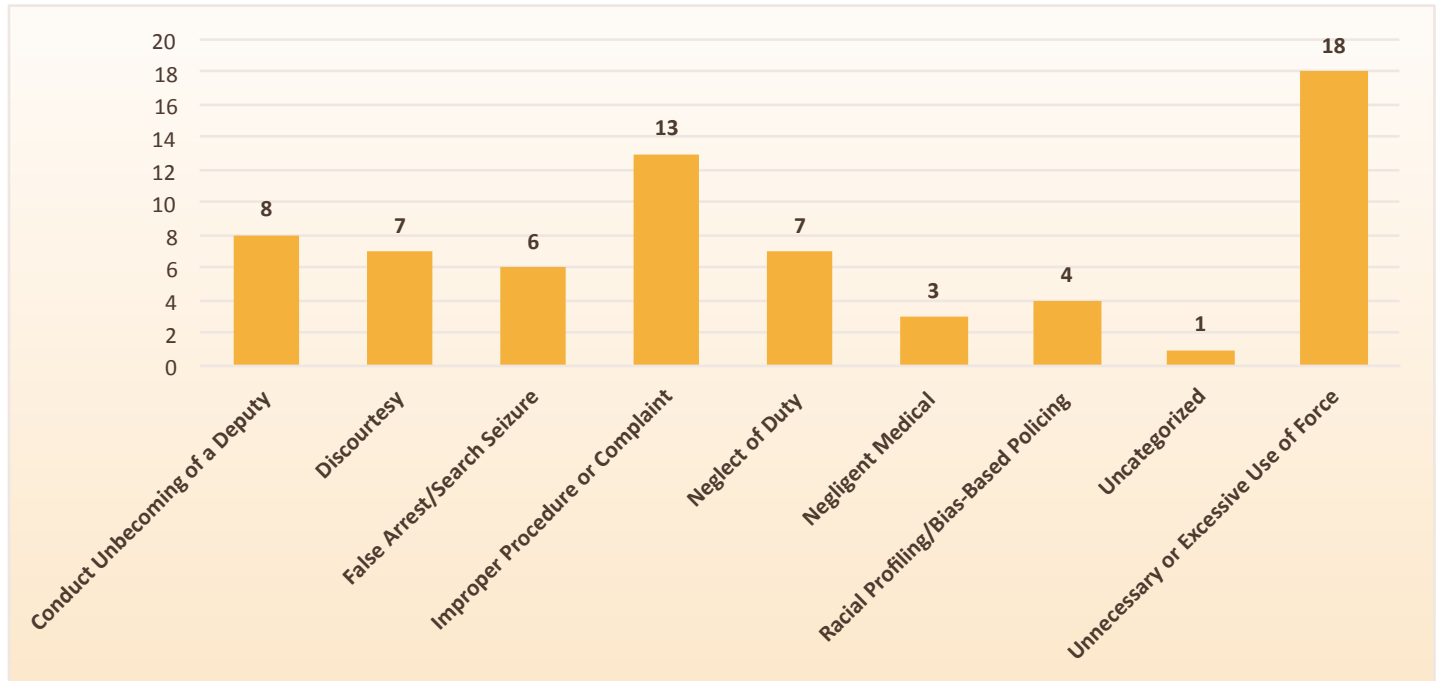


The investigations also can be broken down by the individual allegations investigated. Because a single investigation can involve multiple allegations, these total 67 types of allegations investigated, which is more than the 37 investigations. From this perspective the numbers are:

- 21 alleged improper or excessive use of force, 18 of which actually had some factual basis for that allegation
- 6 alleged violation of the Fourth Amendment in a search/seizure or false arrest,
- 4 alleged racial bias,

- 8 alleged conduct unbecoming a deputy,
- 7 alleged neglect of duty,
- 7 alleged discourtesy
- 3 alleged negligent medical treatment in the jail,
- 13 alleged a violation of miscellaneous policies or practices, and
- 1 could not be properly categorized.

Illustration 6-E: Count of complaints by individual allegation Investigated, January 1, 2016 to August 1, 2017



Of the 28 audits completed thus far, IOLERO agreed with the findings of the Sheriff’s investigators in 24.

- In 2 of these 24 agreed findings, the Sheriff’s Office sustained allegations of use of force in one and conduct unbecoming in the other. The 2 deputies directly involved in these 2 incidents no longer work for the Sheriff’s Office.
- In 1 agreed finding that the use of force was within policy and lawful, the issue was a very close call requiring careful analysis, due to multiple conflicting eye witness accounts and no video of the incident (the incident preceded use of body worn cameras by all deputies).
- In another 2 agreed findings that the use of force was not excessive, IOLERO also found that the investigation was conducted in such a way that it could be reasonably perceived as showing a bias in favor of the deputies, but that the evidence was so clear that this perception did not affect the validity of the findings.

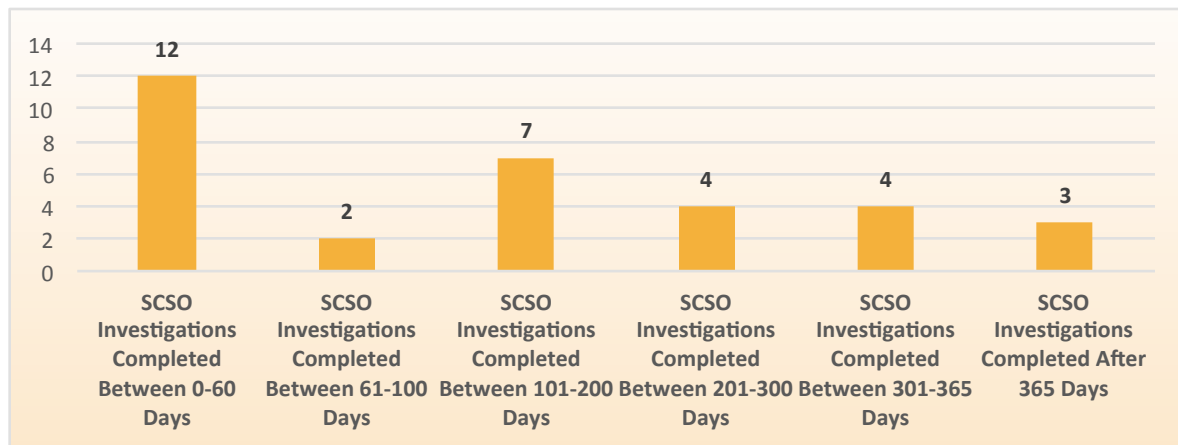
In 4 of the 28 audits completed, IOLERO disagreed with the investigations findings in some way. In 1, the audit was converted into a policy review due to the expiration of the statute of limitations for discipline for a sustained finding. In 1, IOLERO concluded the evidence was inconclusive and thus disagreed with the finding that the allegation was unfounded. In 2, the Auditor concluded that the investigation had failed to address an issue raised by the allegations.

- In 1, IOLERO reviewed the evidence and found that it showed that the deputy involved exhibited implicit racial bias and therefore a finding on this basis should be sustained.
- In 1, IOLERO was unable to make a finding based on the evidence available in the investigation.

For these 28 investigations, IOLERO also audited for the overarching questions of whether the investigations were conducted in a complete, unbiased, and timely manner. Along these three criteria, IOLERO reached the following conclusions:

- **Completeness:** In 8 of these 28 investigations, the Auditor found that the investigation was not complete. (Each case may have more than one deficiency, therefore the total may be greater than the overall number of investigations found to be incomplete).
 - In 2 cases, this was because the investigator had failed to interview the deputy involved in the incident and relied only on video evidence to make a finding.
 - In 4 cases, this was because the investigator had failed to interview the complainant involved in the incident and relied only on video evidence to make a finding.
 - In 2 cases, the investigator failed to act quickly to try to secure third party video that a witness had identified as being available.
 - In 2 cases, the investigator failed to investigate or analyze an issue raised by the allegations of the complaint.
 - For 2 investigations involving staff of the jail, the investigator failed to document interviews on digital recordings and included only written interview summaries as part of the investigative file.
- **Bias:** In 2 of these 28 investigations, the Auditor found that the investigation tended to evidence some level of bias in favor of the employee of the Sheriff’s Office.
 - In 1 investigation, bias was evidenced through hostile cross-examination of the complainant by the investigator. Nevertheless, the Auditor found that the body worn camera video made it clear that the allegations of the complaint were without merit.
 - In 1 investigation, bias was evidenced by the investigator interviewing the employee using leading questions, which appeared to suggest the answers to the questions. Nevertheless, the Auditor found that the body worn camera video made it clear that the allegations of the complaint were without merit.
- **Timeliness:** In 17 of these 28 investigations, the Sheriff’s Office failed to complete the investigation within 60 days, as is its policy. However, 7 of these were late due to some complexity or difficulty attendant to the investigation, so the audits found only 10 to be untimely.
 - In 2, the investigation took from 60-100 days.
 - In 7, the investigation took from 101-200 days.
 - In 4, the investigation took from 201-300 days.
 - In 1, the investigation took from 301-365 days.
 - In 3, the investigation took more than the 365 days, meaning it exceeded the state statute of limitations for imposing discipline against an employee for a sustained finding (none of the 3 resulted in a sustained finding).

Illustration 6-F: Timeliness of Sheriff’s Office investigations for complaints forwarded to IOLERO for review

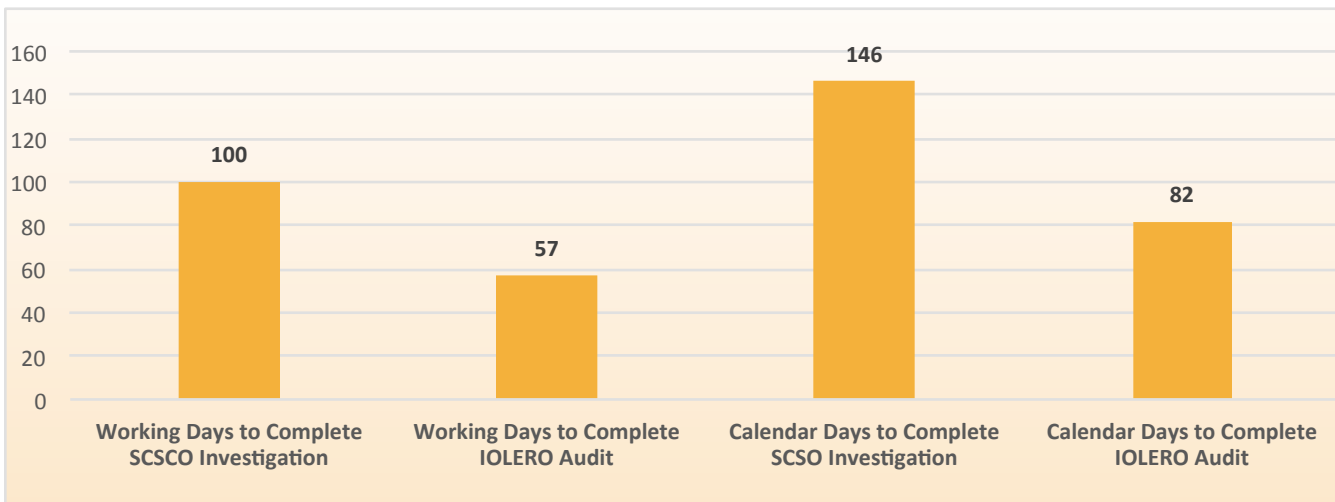


In several audits, questions arose concerning the completeness of an investigation and/or the credibility of witnesses. These experiences have renewed the concerns of IOLERO with the lack of access by the auditor to visual information from witness interviews that can be crucial to determining the credibility of a witness, as well as to ensuring the integrity of the investigation. Therefore, IOLERO continues to recommend that the auditor have access to investigative interviews while they are occurring, or that the interviews at least be video recorded.

For both the Sheriff’s Office and IOLERO there was a delay in getting “up to speed” so as to achieve the two offices’ timeliness goals in completing investigation and audits. However, the process improved over time.

- The Sheriff’s Office average time to complete an investigations was 104 working days or 146 calendar days.
 - From May-June 2017, the Sheriff’s Office received 6 investigation and completed 3 of them.
 - For those 3 investigations, the average completion time was 16.3 working days or 23.3 calendar days.
- IOLERO’s average time to complete an audit of investigations was 57 working days or 82 calendar days.
 - From May-June 2017, IOLERO was referred 8 completed investigations from the Sheriff’s Office to be audited. For those 8 investigations, IOLERO’s average completion time was 15.1 working days or 21.5 calendar days.
 - For the two months of June-July 2017, IOLERO’s average completion time for audits of 4 investigations was 2.8 working days or 3.3 calendar days.

Illustration 6-F: Working days and calendar days to complete SCSO investigation and IOLERO audit, August 2016-August 2017



The current goal of both IOLERO and the Sheriff’s Office is to complete the investigation and audit of each incident of potential employee misconduct within 30-60 days, absent unusual circumstances. For this reason, IOLERO and the Sheriff’s Office have recently agreed that when the Sheriff’s Office makes a referral for an audit, there will be an assumption that the audit will take 14 working days to complete.³⁰

³⁰ Sheriff’s Office staff will provide IOLERO with their initial assessment of the complexity of the audit. Should the Auditor determine that the investigation may take longer than expected to audit, due either to its complexity or due to other scheduling conflicts, IOLERO and the Sheriff’s Office will then agree to a proposed alternative deadline for completion of the audit.

b. Data on Complaints filed with IOLERO

IOLERO audits both complaints filed with IOLERO, as well as investigations that originated with the Sheriff's Office. This section looks at the nature of the complaints that have been filed with IOLERO since the first complaint was filed with the Office in May 2016, until July 31, 2017. There have been 13 complaints filed directly with IOLERO only, and 3 additional complaints filed both with IOLERO and with the Sheriff's Office. Of those 16 complaints, 11 were against the patrol side of the department, 2 were against the Sonoma Police Department, 1 was against the jail side of the department, and 2 were against the jail's medical contractor, California Forensic Medical Group.

Of those 16 complaints, all but 1 had completed investigations and audits. 3 of those complaints alleged unnecessary or excessive use of force. The Auditor agreed with the findings of all 3 use of force complaints filed with IOLERO, which cleared the deputies of a violation of policy. 2 of these agreements were based on clear and convincing evidence. The remaining agreement was based on conflicting evidence and was a close call requiring careful analysis. Nevertheless, the Auditor found that the preponderance of the evidence showed that deputies' use of force was within policy and lawful.

Two of those complaints included allegations raising issues of racial bias in policing. For 1 of the biased policing complaints, the Auditor agreed with the finding of unfounded. For the other complaint that raised issues of biased policing, this issue was not analyzed by the investigation. The Auditor concluded that the evidence showed an unconscious racial bias displayed by the deputy's statements to the complainant.³¹

Two complaints alleged primarily an unlawful arrest. 2 alleged primarily conduct unbecoming a deputy. 5 alleged primarily miscellaneous improper procedure. 2 alleged primarily neglect of duty. The investigations of these complaints reached findings that cleared Sheriff's Office employees of misconduct. IOLERO's independent audit of the investigations revealed clear and convincing evidence that the investigative findings were correct, and the Auditor agreed with the findings of the investigations.

c. Data on All Sheriff's Office Internal Affairs and Complaint Investigations (including those not audited by IOLERO)

The above discussions focused on investigations that are audited by IOLERO. This section focuses on Sheriff's Office Internal Affairs investigations or investigations of Citizens' Complaints during the reporting period, regardless of whether they are types audited by IOLERO. The Sheriff's Office investigates employee issues in these two categories that are not audited by IOLERO, including less serious complaints like discourtesy, failure to investigate, negligent driving, worker's compensation fraud, etc. IOLERO requested and received from the Sheriff's Office summary data on all investigations conducted for years 2016 and 2017 in these 2 categories. For Internal Affairs and Citizen Complaint investigations, this summary data covers all investigations, findings, and whether discipline was imposed by the Sheriff's Office for a sustained finding in a use of force. The Sheriff's Office does not routinely track summary data on whether discipline is imposed for a sustained finding, so there is not summary data for all sustained findings presented here for biased policing investigation. Nevertheless, they provided discipline information for use of force or biased policing cases.

IOLERO has recommended that the Sheriff's Office begin to collect and track data on all discipline imposed as a result of sustained findings of employee misconduct, and to allow IOLERO access to that data from within the AIM investigative files viewed by the Auditor.

31 This particular complaint was filed without a complaint form and the written summary of the complaint did not clearly demarcate biased policing as a separate issue to be investigated. Complaint forms request that complainants clearly characterize their complaints with check boxes that include biased policing as one choice. Nevertheless, IOLERO believes the factual allegations of the complaint fairly raised the issue of bias in policing and that it should have been investigated and analyzed.

For the reporting period of January 1, 2016 through July 31, 2017, the Sheriff's Office logged 77 Citizen's Complaints, of which 12 are still under investigation and 65 were completed. 11 of those 65 completed complaints involved use of force allegations and 7 involved biased policing allegations. For the 77 complaints investigated, 4 resulted in sustained findings, with 32 resulting in exonerated, 25 resulting in unfounded, and 4 resulting in inconclusive/not sustained. For these complaints, discipline was imposed in 1 of the 4 findings of sustained.

For the reporting period of January 1, 2016 through July 31, 2017, the Sheriff's Office logged 20 Internal Affairs investigations, of which 3 are still under investigation and 17 were completed. 3 of those 17 completed complaints involved use of force allegations and 0 involved biased policing allegations. For the 17 completed Internal Affairs investigations, 13 resulted in sustained findings, with 1 resulting in unfounded, and 2 resulting in inconclusive/not sustained (1 was suspended before reaching findings). For these complaints, discipline was imposed in 7 of the 13 findings of sustained.

In understanding this data, it is important to understand what actions are included in the definition of "discipline," as well as how discipline is handled in a civil service context. First, the category of discipline includes negative actions from a letter of reprimand in an employee's file through termination as a result of an investigative finding of sustained. Other potential actions as a result of a sustained finding include additional training, or a letter of counsel, neither of which are classified as discipline. In addition, if an employee is working within the 1-year probationary period, he or she can have no protections under civil service rules and can be dismissed for any lawful reason or no reason at all. Therefore, if an employee investigation resulted in a finding of sustained, and the employee was released from probationary employment, that would not be classified as discipline in this data.

The Sheriff's Office, like most public employers, uses progressive discipline in responding to employee misconduct. Under this approach, a first offense of misconduct typically will result in minor discipline, or even a result not considered discipline, such as additional training or a letter of counsel. Obviously, whether and what discipline is imposed also depends on the significance of the misconduct and the surrounding circumstances. Subsequent sustained findings of misconduct by the same employee will result in progressively more significant discipline.

II. Use of Force Investigations and Audits

a. Basis for IOLERO Audits of Use of Force

A law enforcement agency's use of force, and particularly deadly force, is likely the most significant community concern that leads to civilian review of an agency. The President's Report stated this concern very clearly:

Paramount among the policies of law enforcement organizations are those controlling use of force. Not only should there be policies for deadly and non-deadly uses of force but a clearly stated "sanctity of life" philosophy must also be in the forefront of every officer's mind. This way of thinking should be accompanied by rigorous practical ongoing training in an atmosphere of nonjudgmental and safe sharing of views with fellow officers about how they behaved in use of force situations.³²

This concern also appears to have been very significant in connection with the establishment of IOLERO. The CALLE Report states "The use of deadly force by law enforcement agencies in Sonoma County is of deep concern

³² *President's Report*, p. 19.

to many of the communities they serve.”³³ The CALLE Report goes on to dedicate 4 pages to discuss 15 separate recommendations regarding the appropriate use of force.

b. Sheriff’s Office Use of Force Policies

The Sheriff’s Office revised its overall use of force policy as of March 2, 2017 under Policy 300. This policy addresses criteria for what constitutes a reasonable use of force generally, and also more specifically addresses use of deadly force, as well as use of carotid holds, pain compliance techniques, and shooting at or from an automobile. Other uses of force such as Taser use, use of canines, maximum restraint use, and use of “less lethal devices” (tear gas, pepper spray, impacts weapons, etc.) are specifically addressed in separate policies. The use of force general policy also covers deputy responsibilities for reporting use of force, as well as supervisor responsibilities in reviewing deputy use of force.³⁴

IOLERO is in the beginning stages of a use of force policy review related to multiple audits that have been undertaken this year. This review is likely to be concluded next year.

In addition, following both discussions between Sheriff’s Office staff and IOLERO, and internal discussions among Sheriff’s staff, as well as a use of force incident that resulted in a deputy who was a probationary employee no longer working for the department, the Sheriff’s Office reformed its internal process for review of uses of force. Previously, Sheriff’s deputies were required to document any use of force in a written report and their supervisors were required to review the report for compliance with agency policy. In September of 2016, the Sheriff’s Office changed its procedures to require that a supervisor review any body worn camera video footage associated with any use of force prior to approving a use of force report. That change has been documented in the new use of force policy adopted last March.

IOLERO recommends that the Auditor be granted full access to use of force reports, as well as body worn camera and jail video recordings, in order to conduct random use of force audits. This would provide enhanced assurance of compliance with agency use of force policies.

c. IOLERO Audits of Use of Force Investigations

Given the importance of use of force policies in community trust of any law enforcement agency, a use of force investigation triggers an automatic audit by IOLERO under the audit protocols between IOLERO and the Sheriff’s Office. During the period January 1, 2016 through July 31, 2017, there were 18 investigations of alleged excessive or improper use of force against Sheriff’s deputies, all of which are subject to audits by IOLERO. The uses of force by Deputy Sheriffs that were investigated during this period included the following types : shooting of a fire-arm; Taser; baton strike; pain compliance hold; take-down; hand strike, and kicking.

The Sheriff’s Office completed 14 of those 18 use of force investigations and referred them for an IOLERO audit. Of those 14, IOLERO completed audits on 12. The remaining 2 referred and completed investigations are being audited and IOLERO is awaiting additional information from the Sheriff’s Office in order to finish the audit. That left 4 use of force investigations yet to be completed by the Sheriff’s Office and audited by IOLERO, at the time of this report.

Of the 12 use of force investigation for which IOLERO completed audits, IOLERO agreed with the Sheriff’s Offices’ findings on 10. In 1 of those completed investigations for which there is agreement, the Sheriff’s Office found the deputy had used excessive force and is no longer working for the agency. On another of those completed investigations for which there is agreement, the Sheriff’s Office was unable to find the deputy had used excessive

³³ CALLE Report, p. 18.

³⁴ See Attachments G-R for policies related to use of force.

force because the deputy refused an interview, but there was a finding of conduct unbecoming a deputy, and that deputy is no longer working for the agency.

Of the 2 completed use of force audits for which there is not agreement, 1 was a very complex investigation involving multiple deputies that was referred close to the statutory deadline for imposing discipline, and it was not possible to complete an audit of the findings within the time allowed. Therefore, this audit was converted into an IOLERO review of the involved use of force policies, which is not yet completed. For the remaining disagreement on a completed use of force audit, the Auditor disagreed with the Sheriff’s Office’s finding of unfounded, and instead concluded that the correct finding was “not sustained/inconclusive.”

d. Sheriff’s Office Historical Data on Use of Force

The data above on investigations and audits of use of force does not capture the entire universe of uses of force by Sheriff’s deputies. It captures only those instances where a use of force resulted in an investigation, because either a community member filed a complaint or a supervisor initiated an investigation. For this reason, IOLERO requested and received historical data from the Sheriff’s Office on all uses of force by the patrol division of the office. The data covers uses of force by Deputy Sheriff’s assigned to patrol over the last 9 years, from 2009 until present (2017 data for the first 6 months are extrapolated to an entire year for comparison purposes). That information is discussed here to provide greater transparency on this important issue.

As the tables below reveal, annual uses of force by Sheriff’s patrol deputies have varied significantly from 2009 until present. The peak year for uses of force during the last 9 years was 2013, whether one considers absolute numbers of uses of force, or considers uses of force as a percentage of contacts or percentage of arrests. Since 2013, uses of force appear to have steadily declined, reaching a 9-year low for the period January 2016 until present. This is true whether one considers absolute numbers of uses of force, or considers uses of force as a percentage of contacts or percentage of arrests. Over that same period from 2013 to 2017, the number of contacts between patrol deputies and the public, and the number of arrests, has increased, reaching a 9-year high for the period January 2016 until present. Therefore, during this period of time, uses of force have declined at the same time that contacts and arrests have increased.

Illustration 6-G: Sheriff’s Office data on contacts, arrests, and use of force incidents from 2009-2017

Year	Contacts	Contacts per Month	Arrests	Arrests per Month	Use of Force Count	Use of Force Incidents per Month	% of Contacts Resulting in Arrest	% of Arrests Resulting in Use of Force	% of Contacts Resulting in Use of Force
2017*	102,912	10,291	6,458	538	242	20.17	6.28%	3.75%	0.24
2016	106,859	10,686	7,145	595	242	20.17	6.69%	3.39%	0.23
2015	77,889	6,491	4,443	370	246	20.50	5.70%	5.54%	0.32
2014	84,701	7,058	5,347	446	264	22.00	6.31%	4.94%	0.31
2013	88,938	7,412	5,700	475	316	26.33	6.41%	5.54%	0.36
2012	86,171	7,181	5,751	479	299	24.92	6.67%	5.20%	0.35
2011	89,742	7,479	6,349	529	299	24.92	7.07%	4.71%	0.33
2010	98,335	8,195	7,574	631	303	25.25	7.70%	4.00%	0.31
2009	103,684	8,640	7,912	659	312	26.00	7.63%	3.94%	0.30

*Estimate based on first 6 months of 2017

There are many possible explanations for this striking correlation. The period from 2013 to present is the same period that saw the shooting of Andy Lopez, intense community activism around police accountability issues, the ongoing work of the CALLE Task Force (including on use of force issues), Board of Supervisors' hearings on the CALLE Task Force recommendations, the creation of IOLERO, and finally the start-up and operation of IOLERO, including audits of use of force investigations. During this same period there was repeated public exposure to these issues through traditional media and social media news. This period represents a time of intense public interest in uses of force, as well as the advent of civilian review in Sonoma County.

Correspondingly, this period also has seen focused attention by the Sheriff's Office on improvements to use of force training. During this time, the Sheriff's Office has shifted its training programs toward greater use of scenario-based training in uses of force, while also emphasizing the need for deputies to slow down their reactions to any incident to the extent the situation allows. In addition, the office has looked at its use of force reviews and culled from them specific "real life" examples to employ in its scenario training. The usefulness of these examples has been heightened by the agency's ability to use Body Worn Camera video footage from actual incidents for training purposes. These two shifts in emphasis – scenario based training and an emphasis on de-escalation – represent a systemic shift in how the Sheriff's Office approaches use of force. This shift also has communicated that the office has different expectations of its deputies in their use of force. This message has been reinforced by recent investigations into use of force that have resulted in two deputies no longer working for the Sheriff's Office.

III. Fatal Incidents, Including Deputy-Involved Shootings

The Sheriff's Office participates with all other county law enforcement agencies in a protocol agreed to by the Sonoma County Law Enforcement Chiefs Association for investigations of any fatal incident.³⁵ This protocol is invoked for "[a] specific incident occurring in Sonoma County involving one or more persons, in which a law enforcement employee is involved as an actor or injured person; when a fatal injury occurs." When an employee of the Sheriff's Office is involved in a fatal incident, the criminal investigation is handled by another local law enforcement agency, in consultation with the District Attorney's Office. The protocol is intended to separate the agency employing the officer involved from the officers investigating the incident. This type of independent investigation is specifically recommended by the President's Report.

Due to the significant resources required to conduct such an investigation, fatal incidents involving other local law enforcement agency employees usually are investigated by the Sheriff's Office. However, an investigation of a Deputy Sheriff usually will be handled by investigators from either the Santa Rosa Police Department or the Petaluma Police Department. Once the criminal investigation of a Fatal Incident has been completed, the results are forwarded to the District Attorney for review and analysis in order to determine whether the officer involved will be criminally charged for the fatal incident. In addition, the investigation file also is forwarded to the agency employing the officer to decide whether his or her actions violated agency policies.

For Deputy Sheriffs, the Internal Affairs division then will review the investigative file, conduct any additional investigation thought necessary, and make findings on potential policy violations. At this point, the investigation will be forwarded to IOLERO for an audit in the same manner as any other investigation. Given the precedence of the criminal investigation by a sister agency and the charging decision by the District Attorney, administrative investigations of fatal incidents involving Deputy Sheriff's may take longer to complete than other types of investigations.

Sonoma County has been fortunate that no fatal incidents involving a Sheriff's Office employee have taken place during the reporting period for this Annual Report. The last fatal incident involving a deputy took place on April 24, 2015, when deputies shot and killed Karen Janks, a 46-year-old woman who reportedly attempted to hit

³⁵ See Appendix S for the Protocol in its entirety.

deputies with her car after they tried to pull her over following a chase at high speeds. While there were two shootings by deputies working with Windsor Police Department in December 2016 and January 2017, neither of those shootings resulted in a death.³⁶

Rohnert Park Police Department officers were involved in the Taser-related death of Branch Roth on May 16, 2017, an incident which is being investigated under the Chief's Protocols by the Sheriff's Office. This situation has caused some confusion among community members as to IOLERO's ability to audit this investigation. Despite being an investigation conducted by the Sheriff's Office, the investigation is not subject to audit by IOLERO. IOLERO's authority is limited to civilian review of the Sheriff's Office. In addition, access to a peace officer's personnel file (including investigative material and findings related to possible misconduct) is limited to those who have been given authority through local ordinance to view them. IOLERO has no authority to review investigative files for RPD officers.

IV. Biased Policing Investigations and Audits

One of the more significant areas of community concern about law enforcement agencies is the possibility that agency employees may harbor implicit or explicit biases against members of some communities. As the President's Report states, "Common sense shows that explicit bias is incredibly damaging to police-community relations, and there is a growing body of research evidence that shows that implicit bias—the biases people are not even aware they have—is harmful as well." It is for this reason that both the President's Report and the CALLE Report repeatedly emphasize that patrol officers should receive specialized training designed to overcome unconscious biases that may interfere with procedurally just policing.

Sheriff's Office Policy 402, entitled "Bias Based Policing" recognizes these concerns, and forbids "discrimination toward any individual(s) or group because of their race, ethnicity or nationality." It further states that "[a]ll law enforcement members must treat every member of the community fairly without regard to race, ethnicity, age, gender, sexual orientation or nationality." In addition, Sheriff's Office Policy 428 requires the agency's employees to "equally enforce the laws and serve the public without regard to immigration status. No person shall be held solely on the basis of their immigration status. The immigration status of a person, and the lack of immigration documentation, should have no bearing on the manner in which Sheriff's Office personnel execute their duties."³⁷

Given the significance of these concerns, IOLERO's auditing protocols require audits of these types of investigation, and IOLERO has audited every Sheriff's Office investigation since January 2016 that involved an issue of biased policing. For the period January 1, 2016 until July 31, 2017, there were 4 complaints alleging biased policing against Sheriff's deputies, all of which were investigated and subject to audits by IOLERO. In 3 of the 4, the investigation made a finding of exonerated for this aspect of the complaint. After independently auditing the investigation, including a review of all available evidence, IOLERO agreed with the findings of exonerated.

In the remaining investigation, the issue of biased policing was not investigated and thus no finding was offered on this issue by the Sheriff's Office. After fully reviewing the evidence of the fourth investigation, the Auditor concluded that the preponderance of the evidence clearly showed that the statements and actions of the deputy in question exhibited unconscious bias. The Auditor therefore concluded that the finding on the biased policing issue should have been "sustained." The Sheriff's Office disagreed with the Auditor's conclusion but did not reopen the investigation to further analyze and/or investigate this issue raised by the complaint. Due to the nature of the facts of this complaint, the Auditor recommended that this finding was one that did not justify discipline but was more appropriately the subject of additional training for the deputy involved.

³⁶ The investigations of the two Windsor Police Department shootings are ongoing and have not yet been completed. Therefore, they also have not yet been audited by IOLERO.

³⁷ See Appendix T & U for the full text of the Sheriff's Office current Immigration Policies

V. Constitutional Violation Investigations and Audits

While perhaps not as significant to community members as the above types of potential employee misconduct, alleged violations of the Fourth Amendment to the U.S. Constitution nevertheless remain of significant concern and impact perceptions that a law enforcement agency is procedurally just. Search and seizures, including unlawful arrest, can be incredibly invasive to privacy interests and personal integrity, so alleged violations of these interests must be treated seriously. For these reasons, IOLERO's auditing protocols require audits of these types of investigation, and IOLERO has audited every Sheriff's Office investigation since January 2016 that involved an issue of a possible violation of the Fourth Amendment.

For the period January 1, 2016 until July 31, 2017, there were 6 complaints alleging an illegal arrest or search and seizure, 4 of which were investigated and subject to audits by IOLERO. 2 of these 6 are still being investigated. Of the 4 complete investigations, IOLERO agreed with the findings clearing the deputies in 3. In the fourth investigation, IOLERO found that the investigation was incomplete, as the allegations involved conduct that may have happened during a "5150" commitment at a hospital and the investigation failed to review that portion of the incident. Nevertheless, the complainant withdrew his complaint prior to the conclusion of the investigation.

VI. Other Types of Investigations and Audits

As explained above, IOLERO audits the investigation of any type of complaint that is filed with IOLERO. This includes complaints about conduct such as discourtesy that may not rise to as serious a level as the above types of complaints. Ordinarily, lower level complaints against Sheriff's Office employees are investigated by their supervising officer. However, the audit protocols call for the Sheriff's Office Internal Affairs division to investigate even these types of complaints when they are filed with IOLERO.

The investigation of these types of complaints by the Internal Affairs division, when filed with IOLERO, has two distinct positive effects on the process. First, members of the public can file a complaint in which they may have felt disrespected, but were not otherwise harmed, with IOLERO, confident that the complaint will be treated seriously by investigators and will be fully audited by IOLERO. Second, the investigation of lower level complaints by specially trained investigators in the Internal Affairs division of the Sheriff's Office can provide a benchmark within that department for how these types of complaints should be investigated when handled by employee supervisors.

For the period January 1, 2016 until July 31, 2017, there were 10 audited investigations of complaints to IOLERO that did not fall under the three primary types listed above. Two alleged primarily negligent medical treatment in the jail, and seven alleged miscellaneous violations of policies or practices. Breaking these same complaints down by the individual allegations:

- 5 alleged conduct unbecoming a deputy,
- 7 alleged neglect of duty,
- 5 alleged discourtesy,
- 2 alleged negligent medical treatment in the jail,
- 9 alleged a violation of miscellaneous policies or practices, and
- 1 that could not be properly categorized

A couple of aspects of this category of investigations and audits are noteworthy. First, 2 complaints to IOLERO (and another to the Sheriff's Office) involved primarily a complaint about negligent medical treatment of an inmate housed at the jail. This type of complaint presents numerous difficulties for an audit. One challenge is that it involves primarily medical staff not employed by the Sheriff's Office, but rather by California Forensic Medical Group. The Sheriff's Office management does not discipline such employees, nor can the Sheriff's Office provide to IOLERO any internal investigations by CFMG of their employee's performance. Thus, IOLERO does not have the

information necessary for such an audit. Likewise, the issue of whether such medical treatment was negligent involves an expertise that differs significantly from the question of whether a deputy has acted in a way that is consistent with Sheriff's Office policies. Given these limitations, IOLERO has focused its review in such complaints on whether the actions of jail staff have complied with Sheriff's Office policies related to medical treatment of an inmate.

The second noteworthy issue involves the difficulties presented by complainants suffering from obvious and significant mental health issues. Such complaints can be difficult to properly categorize. It can be very challenging to gather factual information from a complainant who has difficulty discerning reality from paranoid delusion, as IOLERO staff have experienced first-hand. Other complainants have exhibited such extreme oppositional tendencies that hours can be spent just attempting to gain their cooperation with the process of obtaining factual information. IOLERO staff have spent many hours working with such individuals, who may express their intent to file a complaint, convinced they have been wronged, but also resist cooperating in the collection of information necessary to file that complaint. These same challenges also are present for the investigator of the complaint. Nevertheless, such complaints must be investigated. Mentally ill individuals are more likely to react to deputy commands in ways that are or may appear to be resistant, which may lead to use of force.

IOLERO's audit protocols also call for random audits of a sample of other types of investigations completed by the Sheriff's Office during the reporting period, in order to provide some level of accountability and transparency to the public that these types of investigations also are completed in a complete, fair, unbiased and timely manner. Due to the challenges experienced in the first year of audits with timeliness, and a lack of additional staffing resources, it has not been possible to perform these additional random audits this year.

Chapter 7. IOLERO Community Outreach

I. Overview of General Outreach efforts

IOLERO experienced significant success in implementing its robust community outreach and engagement program, laid out in the IOLERO First Year Work Plan. Since beginning work in April 2016, the IOLERO Director has met and talked with hundreds of community members in a variety of settings, including established meetings of community groups, attending English Language Advocate Committee (“ELAC”) meetings in the public schools, tabling at community events, sponsoring or cosponsoring community meetings, meetings with non-profit service provider staff and clients, and meetings with hundreds of interested individual stakeholders.

IOLERO also developed basic brochures about our role in the administrative complaint process in both English and Spanish, and we have been distributing these brochures through various venues, including community events and placement at the Public Defender, Sheriff’s Office, County Jail, La Luz, Vidas Legal, Graton Labor Center, Legal Aid, Rural Legal Assistance, etc. IOLERO has distributed over 2000 brochures during the last year, 1000 each in Spanish and English. Complaint filing information also is distributed through our website, along with complaint forms, in both Spanish and English. In addition, IOLERO has placed over 50 bilingual signs in Sonoma County Transit buses advertising the opportunity for community members to file complaints concerning the Sheriff’s Office with IOLERO. The IOLERO website also hosts comprehensive information about how the community can take advantage of the programs offered by the Office.

Illustration 7-A: IOLERO English Brochure

Illustration 7-B: English Bus Signage

Illustration 7-C: Spanish Bus Signage

The IOLERO Director held over 182 individual meetings with over 316 individuals, ranging from community members, to county government staff and officials, to civilian oversight experts, to media employees. In addition, IOLERO has participated in over 67 separate community meetings/ events, reaching over 1750 community members who learned about IOLERO and its mission and programs.³⁸

Illustration 7-D: IOLERO Director Meetings by Type, April 2016 to August 2017

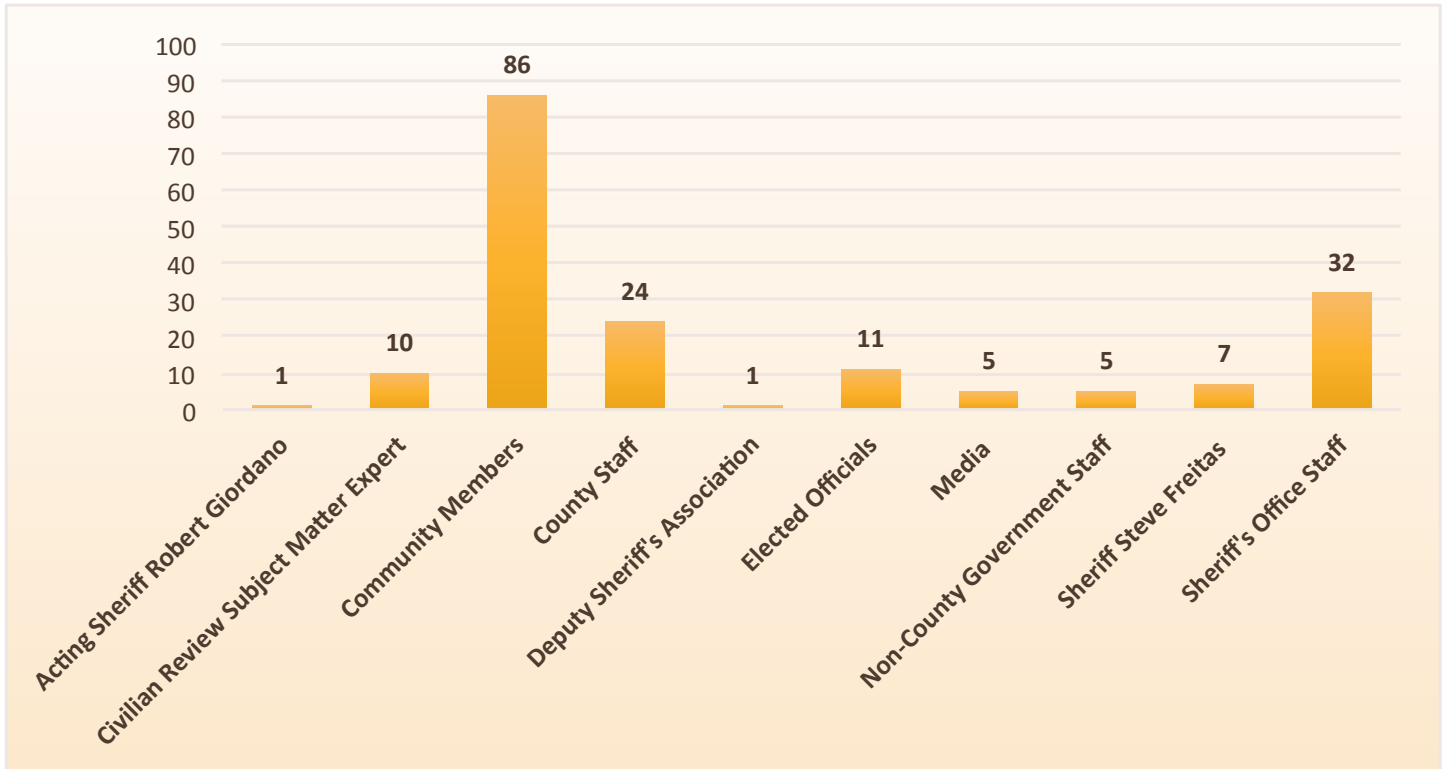
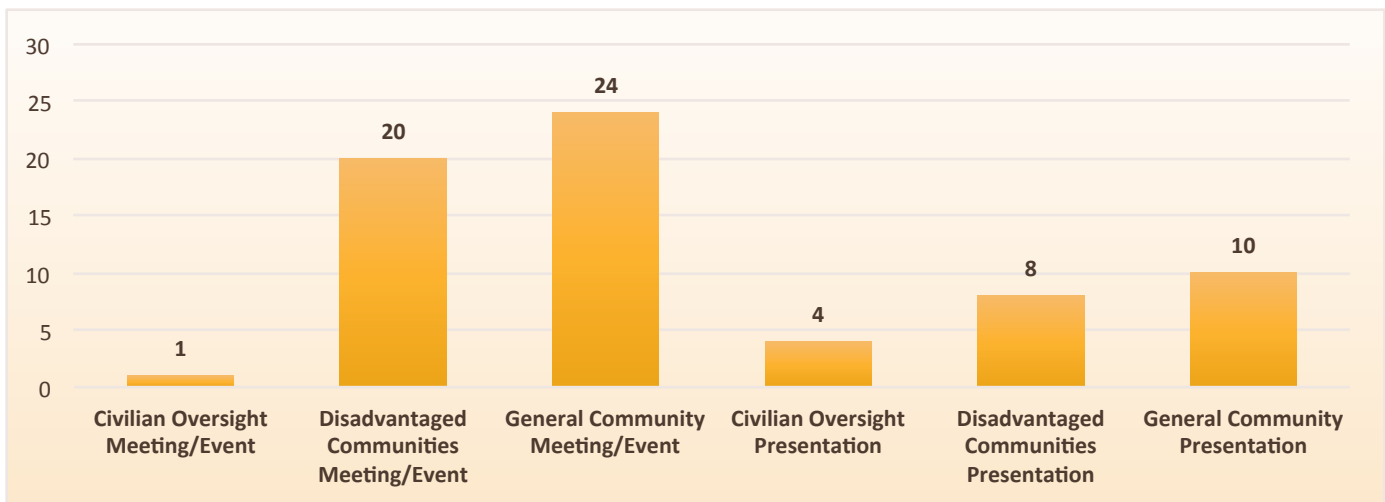
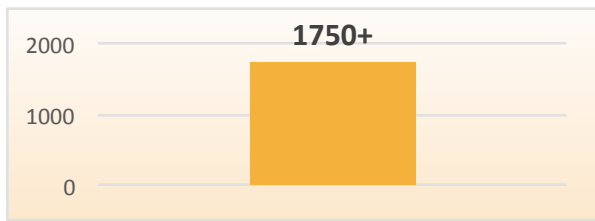


Illustration 7-E: IOLERO Participation in Community Events and Meetings by Type, April 2016 to August 2017



³⁸ See Appendix V for a detailed list of the Director's meetings during the period covered by the Annual Report.

Illustration 7-F: Total individuals Reached Through Outreach Activities, April 2016 to August 2017



II. Outreach Targeted to Disadvantaged Communities

Over the period covered by this report, IOLERO participated in 28 individual community events focused on the county's disadvantaged communities, reaching over 665 individuals through that effort. Of those 28 community events, 23 focused on the Latinx/immigrant communities, while 4 focused on the Black/African-American community, and 1 focused on the LGBT community.

From December 2016 through February 2017, the outreach efforts of IOLERO and our CAC focused intensely on engagement of the county's immigrant community, in conjunction with consideration of the Sheriff's Immigration policies and with planning for the Community Engagement Circle in Sonoma Valley. This engagement effort took place in the context of community fear and concern that attended the election of President Trump and the federal government's shift in policies on immigration enforcement. IOLERO's efforts included extensive, direct outreach to immigrant parents through multiple small meetings of English Learner Advocate Committees³⁹ in the public schools. While such meetings tended to be small, they proved to be one of the only opportunities to reach a population that seldom interacts with local government. In addition, IOLERO met with the workers cooperative that governs the Graton Day Labor Center.

Both IOLERO and the CAC met with and listened to concerns of many individual immigrants, as well as those who provide services and support to this community. During this period, IOLERO met with over 150 community members, almost all of whom were undocumented immigrants. These meetings proved to be very valuable in several areas, including: educating this community about IOLERO and its mission; explaining law enforcement procedures, including the rights of community members in that process; establishing more trust in county government, including IOLERO; and gathering information directly from community members about their concerns and experiences with law enforcement and how immigration concerns affect their perceptions of law enforcement.

III. IOLERO's Community Advisory Council

In October 2016, IOLERO's Director appointed a very diverse group of 11 members to IOLERO's CAC and the body began holding monthly Brown Act meetings in December 2016. CAC membership consistently has been composed predominately of people of color and women. Currently⁴⁰, there are members in the following demographic categories: 4 White, 4 Latinx/ Hispanic, and 2 Black/African-American. In addition, there are 4 male and 6 female members. Members represent every area of the county and a rich diversity of experiences and backgrounds. 5 of the members speak Spanish.⁴¹

39 Under state law, every school that serves students who do not speak or read English adequately must create and support such committees, which consist mainly of immigrant parents of the students learning English.

40 There currently is a vacancy on the CAC due to the resignation of a Black/African American female member who relocated to Los Angeles for employment.

41 See Appendix W for biographies of the current CAC members.

Each of the CAC meetings has been attended by about 50 community members of diverse ideological, geographic, and demographic backgrounds, many of whom do not regularly interact with County government. With robust support from IOLERO staff, the full participation and cooperation of the Sheriff's Office, presentations from subject matter experts, and robust public input, the CAC meetings have been informative, meaningful, and impactful.

In March 2017, after several public meetings that included input from Sheriff's Office staff, scores of community members, and experts, the CAC made its first recommendation, for changes in the Sheriff's immigration policies. These valuable CAC meetings also played a key role in informing the eventual recommendation of the IOLERO Director that the Sheriff's Office change its policies related to immigration and cooperation with immigration enforcement. The CAC is currently undertaking a review of the digital recording policies of the Sheriff's Office, including body worn camera video.

IV. IOLERO's Website and Social Media Presence

The IOLERO website has been up since August 2016, providing a great deal of complex information in a clear and simple manner. The website provides multiple paths for members of the public to interact with IOLERO and the CAC, and clearly explains the various programs and initiatives sponsored by IOLERO. IOLERO also has a Facebook presence that has proven a productive outlet for further dissemination of messages and information.

Illustration 7-G: IOLERO website example



Illustration 7-H: IOLERO Facebook page



V. IOLERO's Media Coverage

In addition, IOLERO has generated over 60 media reports that reference the existence and mission of the office, including at least 36 that educate the public in a favorable manner about the role of IOLERO and help expand knowledge of the Office's existence and function within the County. The media environment for IOLERO can be challenging, given IOLERO's need for a cooperative and productive relationship with the Sheriff's Office, and the media's desire for comments from IOLERO that can be used in a manner critical of the Sheriff's Office. Nevertheless, IOLERO largely has been successful in generating positive, substantive coverage of the issues, which also refrains from unnecessary antagonism toward the Sheriff and his staff.⁴²

Illustration 7-1: IOLERO media examples

VI. IOLERO Sponsored Community Engagement Circles

In the view of the IOLERO Director, the Community Engagement Circles sponsored by the Office are of significant importance to advancing the goal of improved relationships between law enforcement and untrusting communities in the County. As previously discussed, IOLERO was unable to meet its goal of up to 6 Community Engagement Circles per year, which was laid out in the First Year Work Plan. Nevertheless, IOLERO sponsored a very successful Circle in the unincorporated Springs area of Sonoma Valley. That process has better informed the Office of what is necessary to be successful in implementing this important program. Moving forward, IOLERO expects to be able to sponsor up to 2 such circles each year, with existing staffing.

The first Circle was planned for February 2017 in the unincorporated Springs area of Sonoma Valley. Because a key goal was to foster robust participation by local immigrants living in this area, IOLERO first undertook significant engagement with this community. In total, the Director participated in around 10 small community meetings over the course of 12 weeks prior to the circle, meeting with over 150 community members, almost all of whom were undocumented immigrant parents. Each meeting involved significant planning, including publicizing meetings, in collaboration with trusted community partners such as La Luz. The meetings were warm, positive, and engaging, each one of which took 1.5 to 2 hours and included Spanish/English translation. The

42 See Appendix X for a list of select IOLERO appearances in the media.

meetings represented a significant start in building more trusting relationships between IOLERO and the local immigrant community, relationships that can also serve to leverage engagement between this community and the Sheriff’s Office.

As a result of this robust community engagement and planning, as well as additional outreach efforts, over 50 local immigrant residents attended the Community Engagement Circle in the Springs. Local immigrants sat in small circles with officers from the Sonoma Police Department and deputies from the Sonoma Valley substation.⁴³ Almost all the participants in these circles strongly expressed that it was a great success. Community members in the Circles shared significant personal stories with their neighbors, and more importantly with the deputies, about their experiences, concerns and fears living as an immigrant in Sonoma County. One veteran deputy with over 20 years of experience in the Sheriff’s Office shared that this was the first time that he truly began to understand what it was like to live as an immigrant in the County. Many community members told IOLERO staff after the event that they would love to have more opportunities like this to meet with the deputies. The feedback from the Sheriff’s Office was largely very positive, despite some anxiety by the deputies prior to the event.

IOLERO’s first efforts to create a program of Community Engagement Circles to bridge the gaps between the Sheriff’s Office and distrusting communities therefore met with significant success. These first efforts also proved that such success would require a significant commitment of IOLERO resources on an ongoing basis to be sustainable. One of the lessons of the Circle in the Springs was that getting members of a disadvantaged community to understand and trust our new office sufficiently to participate in the Circles requires significant community engagement leading up to that circle. Therefore, the preparation and planning for the circles will take longer than anticipated. IOLERO is planning the next Community Engagement Circle with Supervisor Hopkin’s assistance in either the Moorland/Roseland area or in the lower Russian River area.

Illustration 7-J: (clockwise from left) IOLERO Community Engagement Circle Participants, CAC Members Tabling at MLK Jr. Event, and IOLERO Staff with Community Members at 2017 Roseland Cinco de Mayo Celebration



43 The Sheriff’s Office provides police services to the City of Sonoma under a contract and Deputy Sheriffs serve as police officers in that town, and both are supervised by Chief Sackett.

Chapter 8: Law Enforcement Training & Outreach

I. Overview

IOLERO was established as a new department of the County to provide civilian review of the Sheriff's Office following a very divisive period, during which some members of the local law enforcement community felt unfairly vilified by the press and some members of the public. As a new civilian review department charged with auditing investigations of alleged deputy misconduct, it is reasonable to expect that some Sheriff's Office employees and their supporters would look with some skepticism at this new office and its staff. Were they "out to get" deputies? Did they have "an agenda"? In addition, the new Director of IOLERO came to the position as a civilian "outsider" with relatively little familiarity with the organization and culture of the Sheriff's Office. How could anyone who was not from law enforcement ever understand their world sufficiently to review allegations of employee misconduct in an "objective" manner?

Such reactions are common ones that often accompany the creation and operation of a civilian review agency. They are not unique to Sonoma County but are reported by civilian review professionals throughout the nation. Given the function of civilian review, it may be unrealistic to expect that the law enforcement rank and file will ever feel completely at ease with civilian review agencies, except perhaps for those who work closely with them. Nevertheless, these concerns deserve to be addressed. With questions like these hanging in the air, spoken and unspoken, the IOLERO Director began significant efforts to undergo training offered by the Sheriff's Office, to meet staff of the Sheriff's Office, and to do outreach to the local law enforcement community. These efforts have been significant and productive, with feedback indicating that the staff and leadership of the Sheriff's Office have reached a level of relative comfort with IOLERO and its staff.

II. Participation in Training

Since April 2016, the Director has taken part in over 18 training events that involved training specific to the Sheriff's Office, including multiple general orientation sessions, internal affairs investigations, use of force training, multiple field officer trainings for new hires (including high risk stops, building searches and SWAT), crisis negotiation, jail booking, mentally ill inmates, "ride-alongs", etc.⁴⁴ These more formal trainings have been supplemented with many hours of conversation with staff of the Sheriff's Office and review of that office's formal policies. And all of this information has been further honed through applying it in the real situations presented by actual audits of Sheriff's Office investigations.

Also key has been the process included in the IOLERO audit protocols, which provides for discussion between IOLERO and the Sheriff's Office have differences over findings. Although those differences have been few, each of them have presented key opportunities for the IOLERO Director and Sheriff's staff to exchange their frank views on the events being investigated, as well as the process itself. Not only has this process been valuable for the Director, Sheriff's staff have also shared that it has been valuable for their office.

In addition, IOLERO invited both Sheriff's Office staff and the Sheriff's assigned County Counsel to participate in the 2016 annual conference of the National Association for Civilian Oversight of Law Enforcement ("NACOLE"), which offered 5 days of training in civilian oversight topics. Both the Sheriff's liaison to IOLERO and their County Counsel took advantage of this opportunity, which was beneficial for all concerned.

⁴⁴ While the Director has requested on more than one occasion to be allowed to sit in on the Crisis Intervention Training sponsored by County Behavioral Health and offered to local law enforcement officers, this access has not yet been granted. IOLERO will continue to advocate for the opportunity to participate in this important training opportunity.

IOLERO hopes in the coming years to have opportunities to present training to Sheriff's Office staff on the function and operations of IOLERO, to further increase understanding and comfort with the Office.

In addition, IOLERO hopes in the next year to participate in regularly scheduled monthly "ride-alongs" and "walk-alongs" with deputies from both the patrol and detention sides of the agency.

III. Outreach to Law Enforcement Groups

In addition to formal training, and talking countless times with Sheriff's Office staff, the Director also has sought to participate in opportunities for outreach to members of local law enforcement agencies and related groups. The Director has met and been in regular contact with the leadership of the Deputy Sheriffs' Association, which represents patrol deputies, as well as with the Sonoma County Law Enforcement Association, which represents correctional deputies. Also, the Director and Walter Katz (then the San Jose independent Police Auditor) made a well-received presentation on the auditor model of civilian oversight to a symposium sponsored by the Raines, Lucia, Sterns law firm called "Protecting Cops in the 21st Century." Raines Lucia is a prominent Bay Area law firm that represents law enforcement unions and officers in negotiations and litigation, including representation of the Deputy Sheriff's Association. The Director also participated in training offered to families of law enforcement officers, called "Under the Shield," designed to help them deal with the stressors that come with having a family member working in law enforcement. Finally, the Director was the keynote speaker at the annual meeting of the National Key Club of Santa Rosa at which they presented the Officer of the Year Award. This meeting was well attended by local law enforcement leaders.

Chapter 9: IOLERO Policy Recommendations

I. Overview

One of IOLERO's key missions is to review the policies and practices of the Sheriff's Office and make well-founded recommendations on any changes that would improve them. One source of such recommendations is the information gathered from audits of investigations that reveals how policies and practices are actually working in the field. Other sources of recommendations include a review of best practices employed by other law enforcement agencies across the country, as well as input from the public.

As both the Presidents Report and the CALLE Report make clear, one advisable improvement to policies and practices for every law enforcement agency is community input into their content. IOLERO therefore has incorporated its Community Advisory Council into this process in order to provide a ready vehicle to gather public input into the policies and practices of the Sheriff's Office. In addition to public input through CAC meetings, IOLERO directly engages with communities that may be most affected by particular policies and practices.

The Sheriff's Office has been open to IOLERO's recommendations, has cooperated fully in providing information necessary for policy reviews, and in several cases has implemented policy changes as a result. The collaboration in this area has been largely successful, thus far.

II. IOLERO's Immigration Policy Recommendations to the Sheriff's Office

The Sheriff's Office's immigration policies and practices historically have long included robust voluntary cooperation with U.S. Immigration and Customs Enforcement ("ICE") in the civil enforcement of federal immigration laws. The jail's cooperation, which is not mandated by federal law, until recently included providing ICE with release dates of all immigrant inmates upon request, regardless of whether the inmate had been either charged or convicted of a crime, and regardless of the nature of the crime. ICE officials often showed up at the jail upon the inmate's release to pick them up and transport them to an ICE detention facility to await deportation proceedings. The jail also allowed ICE access to an inmate's detention file, which includes confidential information such as social security numbers and country of origin, which ICE can then use in deportation proceedings.

In December 2016, IOLERO's Director and its CAC began working closely and collaboratively with both the Sheriff's staff and the community to review the above-described immigration policies of the Sheriff's Office. From December 2016 through April 2017, there was a careful review of these policies, including the law enforcement rationales supporting them, alternative policy approaches of other law enforcement agencies, the unique characteristics of the Sheriff's Office, the legal context in which the policies operated, and the effects of such policies on community members, public safety, and on the relationship between those communities and law enforcement. With robust support from IOLERO staff, the full participation and cooperation of the Sheriff's Office, presentations from subject matter experts from the Public Defender's Office and the private immigration bar, and significant public input, the CAC recommended changes in the Sheriff's immigration policies in March 2017.

The IOLERO Director conducted a thorough, independent analysis of the CAC recommendations, the rationale of the Sheriff's Office for its existing policy, input from community members through CAC meetings and independent outreach by the Director, and relevant evidence and studies. The Director then recommended to the Sheriff's Office that it further limit its cooperation with immigration enforcement by changing its policies. IOLERO recommended that the jail stop providing to ICE information on inmates, **unless** the inmate has been **convicted** of a crime designated by statute as "**serious or violent felonies.**" The IOLERO policy recommendation

was supported with a public written report thoroughly analyzing the many factors involved in the immigration policy of the Sheriff's Office, concluding that the change in policy would improve public safety, enhance cooperation between immigrants and law enforcement, and improve community relationships. The IOLERO report recommending these changes was issued on March 30, 2017 and respectfully requested that the Sheriff respond to the recommendation within 30 days.

Sheriff Freitas initially responded that he would not consider changing immigration policies prior to resolution of SB 54 by the state legislature, as that bill would mandate changes statewide related to cooperation with ICE. Nevertheless, on May 1, 2017, Sheriff Freitas announced that he was changing his policies on immigration. The Sheriff's announcement came in a letter to the IOLERO Director and CAC, and stated "Although I cannot support the recommendation as it stands, I am willing to adjust my policy regarding I.C.E. notifications as a compromise. I am going to implement the TRUST Act requirements related to I.C.E. notifications." Under the TRUST Act, cooperation with ICE depends on **conviction** of a designated crime that is listed in that statute. Although not stated in Sheriff Freitas' letter, his office later indicated that the new policy would be in place by July 1, 2017.

Unfortunately, the fate of this promised policy change remained in limbo for some time. Due to personal issues, Sheriff Freitas was out of the office a good deal in June 2017. At the time of the Sheriff's early retirement announcement on July 5, 2017, the Sheriff's Office had yet to finalize a new immigration policy and the jail continued to fully cooperate with ICE. As outlined in the IOLERO report, that policy continued to impact the immigrant community by resulting in deportation of residents who have been convicted of only minor, or in some instances no, crimes. It also contributed to a climate of fear and distrust that inhibits cooperation with law enforcement by those connected to immigrants.

Since the Sheriff's Office started tracking ICE notifications in January of this year, as required under the California TRUTH Act, a picture has emerged of the impact of such cooperation. On average, the Sonoma County Detention Division has provided notice to ICE of release dates of over 20 inmates per month, on average. That is 20+ community members each month who go into the jail and may never return to their communities, sometimes leaving their families to struggle without a key financial provider and parent. Since January, the County jail has notified ICE of release dates for over 160 inmates. Because some of these inmates have no history of conviction for serious or violent crimes, other community members have become afraid that any law enforcement contact could land them in jail and result in deportation. This type of distrust hampers cooperation with law enforcement, which is crucial to reporting and solving crimes. It also heightens the risk that any law enforcement encounter with an immigrant can escalate to attempted resistance and escape, potentially endangering suspects, officers, and the public.

IOLERO was in regular contact with Sheriff's Office staff concerning implementation of changes to this policy since May 1, 2017. The Director urged that the agency move forward to implement the promised change in policy for all the reasons previously laid out in the IOLERO report on this issue. On August 10, 2017, the Agency announced that it would honor its previous commitment to change the immigration policy, along similar lines announced by Sheriff Freitas. The new policy, effective August 18, 2017, provides that the jail will not notify ICE of a release date unless an inmate has been convicted of a specified crime. The policy also provides an appeal process whereby an inmate is notified of the jail's intent to notify ICE of his release date, and then may argue that his past conviction is not indicative of a danger to the community. The jail's pretrial diversion team will analyze these claims and determine whether the inmate appears to present a danger if released back into the Sonoma County community. If not, then the jail will not notify ICE of the release of the inmate. The Sheriff's Office has indicated that it will monitor the appeals process and may remove crimes on the list that trigger ICE notification based on experience with this appeal process.

While it may not satisfy everyone, this change in policy represents a significant step by the Sheriff's Office in limiting cooperation with ICE to circumstances that truly impact public safety. It demonstrates that the Sheriff's Office is open to community input and will respond to the recommendations of IOLERO and its CAC.

III. IOLERO's Other Policy Recommendations to the Sheriff's Office

In addition to IOLERO's formal report recommending changes to policies related to immigration, IOLERO has made additional policy recommendations to the Sheriff's Office associated with audits of investigations. Also, IOLERO has made recommendations on several subjects that were not related to specific investigations and were not supported by formal reports. Several of these recommendations are highlighted here.

a. Immigrant-related recommendations concerning investigations

These recommendations resulted from audits where it appeared that immigrants and those close to them may have been reluctant to participate in investigations of potential employee misconduct. The recommendations are intended to make the process of cooperating with an administrative investigation feel safer for members of this community. The recommendations included:

- create an express written policy forbidding retaliation against complainants or witnesses in an investigation;
- clearly inform complainants and potential witnesses of the policy against retaliation;
- proactively encourage witnesses to cooperate; and
- if undocumented status is evident, share the Sheriff's Office policy against considering immigration status in making enforcement decisions.

b. Body Worn Cameras

While a comprehensive review by IOLERO and the CAC of the video policies of the Sheriff's office is under way, IOLERO has made some recommendations regarding body worn cameras in connection with its audits of investigations.⁴⁵ Among these are the following:

- deputy discretion be further limited regarding initiating and terminating body worn camera videos, perhaps by keeping them running at all times as a default;
- require body worn camera video operation for transport and booking of a suspect, as well as for transport to a medical facility for 5150 commitment;
- standardize placement of body worn cameras and ensure articles of clothing do not obstruct recordings;
- consider ways to share body worn camera video with the public in deputy uses of force that are of significant public interest. Many jurisdictions share such video more freely, with the benefit that the public has confidence that information will be forthcoming, whether it reflects well or poorly on the agency; and
- explore ways to share body worn camera video with complainants, either through the investigative process or in a mediation setting.

c. Implicit bias training

IOLERO also has recommended to the Sheriff's Office that they consider regular, robust training in recognizing and correcting for implicit or unconscious bias. The rationale for this recommendation is that implicit bias is scientifically recognized as prevalent in all people, and it affects an individual's decision making and responses, including most significantly while under stressful, fast moving situations such as officer involved shootings. In addition, established studies demonstrate that unconscious bias must be addressed consciously in order to be corrected. The commitment to such training can go a long way in addressing concerns or distrust of members of the public.

⁴⁵ See Appendix Y for the Sheriff's Office current Body Worn Camera policy.

d. Community Oriented Policing

IOLERO also has recommended to the Sheriff's Office a program of robust Community Oriented Policing in areas of greater density in the unincorporated parts of the county, such as the Moorland/ Roseland area of SW Santa Rosa and the Springs area of Sonoma Valley. IOLERO uses the term Community Oriented Policing to include many components necessary to make such a project successful. For these areas, it includes staffing by deputies who can speak Spanish and who understand the culture of the community. Cultural competency training of deputies could include local elders familiar with the history of the community and of the local relationship with law enforcement. IOLERO's advocacy has been around seeking funding and on shifting the concept of community policing to focus less on enforcement activity and more on building community relationships. IOLERO has made these recommendations with the understanding that this type of program would depend on securing adequate funding to support this endeavor.

IV. IOLERO's Policy Recommendations Not Specific to the Sheriff's Office

By the nature of its purview, most of IOLERO's policy recommendations focus on the Sheriff's Office. However, the office also is authorized to "advise on legislative actions and [. . .] make recommendations to the County for legislative platforms, as appropriate[.]" This section will discuss areas where IOLERO believes changes at the state level would benefit its mission.

a. Increasing Transparency of Peace Officer Investigative Records

One of the four key missions of IOLERO is "to help increase transparency of law enforcement operations, policies and procedures[.]" Yet, any peace officer personnel record, including a record of investigation, is strictly confidential under Penal Code Section 832.7. This statute prohibits release of any details of an investigation or audit, including where there is a sustained finding of misconduct, or where there is an exoneration of misconduct for a use of force that is a subject of great public interest. Following an IOLERO audit of a Sheriff's Office investigation, IOLERO is limited to informing a complainant of whether it agrees with the findings of the Sheriff's investigation or believes another finding is more appropriate. IOLERO cannot provide a complainant with substantive reasons for the agreement or difference. Therefore, existing state law creates a significant barrier to IOLERO's ability to increase the transparency of law enforcement operations, policies, and procedures with respect to audits of investigations.

While California statutes and case law prevent the disclosure of most peace officer records, other states such as Texas, release information to the public when an allegation of misconduct has been confirmed. Some states make these records public regardless of whether the incident has been confirmed. California is among a minority of states that make all disciplinary records confidential. The inability of law enforcement and oversight agencies in California to release public information about whether an officer has been disciplined when found to have committed misconduct leaves the public without a way to fully assess the employee accountability process. Among some members of the public, it contributes to a belief that law enforcement agencies are hiding something, which makes trust more difficult to maintain.

During the 2016 California legislative session, then Senator Mark Leno sponsored a bill that would have amended state law to allow greater transparency for records of peace officer investigations and discipline where certain allegations of misconduct were sustained after investigation, or where there was an investigation of a serious use of force. The bill was not passed in part due to opposition from law enforcement groups. It appears that a compromise measure might have been capable of enactment, but that communication broke down between the sponsor of this legislation and law enforcement groups.

IOLERO believes there would be substantial benefit both to the public and to law enforcement agencies from changing state law to increase the transparency associated with these records. The IOLERO Director has

discussed with both the leadership of the Sheriff's Office and the Deputy Sheriff's Association the possibility of releasing more information about the reasons for findings in administrative investigations, and both agree that greater transparency in this area could be beneficial to employees and to the department. Certainly, the public desires increased transparency, especially in this area. And greater transparency would greatly enhance IOLERO's ability to facilitate trust between the public and the Sheriff's Office.

Given these considerations, IOLERO recommends that state law be changed to increase transparency in regard to findings in administrative investigations of alleged serious misconduct by employees of law enforcement agencies.

b. State-Wide Rules Limiting Cooperation Between Local Law Enforcement Agencies and Federal Immigration Agencies

As explained in IOLERO's report supporting its recommendation to the Sheriff's Office on immigration policies, IOLERO recommended supporting SB 54 by Senator DeLeon, currently pending the California Assembly after passage by the Senate. The IOLERO recommendation was premised on that bill being amended to allow cooperation if an immigrant had been convicted of a designated "serious or violent felony" as defined by state law. The IOLERO recommendation also recognized that there might be other crimes that could justify ICE cooperation, although not listed in the state statute defining "serious or violent felony." Since the time of this recommendation, SB 54 has undergone several amendments, and may again be amended to include such additional crimes.

IOLERO continues to recommend that SB 54 be passed with the support of Sonoma County government.

Chapter 10: IOLERO Lessons Learned

For every endeavor, there are lessons learned, and the creation of IOLERO has been no different. This chapter explores some of these lessons in greater detail.

I. Working Collaboratively in the Midst of Differences

Since April 2016, IOLERO staff have talked with hundreds of people from all parts of the County who have shown their dedication and commitment to the mission of improving relationships between the Sheriff's Office and the communities of the County. From the most cynical lifelong activists to the most skeptical 30-year veterans of the Sheriff's Office, and including all of the scores of individuals in between, almost all have entertained a spirit of hope and possibility for change. Because county residents have offered themselves to this joint project, IOLERO has been able to call upon a reservoir of good will on multiple occasions in pursuit of the department's objectives.

The role of IOLERO staff in pursuit of IOLERO's missions has been to act primarily in the role of a mediator or facilitator, bringing together people of good faith in pursuit of common goals, despite their very different views. The aim of IOLERO staff is to listen well and empathetically. Staff make every effort to facilitate productive solutions rather than remain fixated on problems; to support and empower stakeholders to be a part of productive solutions; and to refocus on the possibilities of the future, while acknowledging the difficulties of the past. In the role of mediator and facilitator, IOLERO must be able to see all sides of an issue, and treat all of those involved in these issues with fairness, respect, compassion, and civility, even in the midst of conflict.

IOLERO generally is seen among those who are familiar with it, as committed to serving the community, while also working collaboratively with law enforcement. In particular, IOLERO has done much work with the aim of benefitting the relationship between the Latinx and immigrant communities and law enforcement, and that effort has been recognized by many of those familiar with it. In addition, IOLERO has established a baseline of credibility with the Sheriff's Office, and the Sheriff's staff who work with the IOLERO see its work as bringing added value to their department's mission.

In sum, IOLERO benefits from a significant investment by stakeholders in the success of its work. This same dynamic also presents significant challenges to IOLERO's success when differences arise among those stakeholders. For example, the IOLERO Director this year dismissed a CAC member following differences that could not be resolved. The Director's decision resulted in some community activists protesting CAC meetings and calling for the Director to be fired. Some argued that IOLERO and the CAC should be advocates for "the community," and that independence and objectivity are code words for complicity with the Sheriff. On the opposite side, another CAC member believed that only the Sheriff's staff have the expertise to review policies for that agency.

What these examples reveal is that, given its role in both providing civilian review of the Sheriff's Office and bridging trust gaps, IOLERO faces unique challenges. The passions and commitments of stakeholders, while very helpful in keeping them engaged in IOLERO's missions, also make it difficult to work through challenging situations that reveal differences between IOLERO's role and the desires of some community members. These examples also reveal that the community ruptures that resulted in IOLERO's creation remain painful and present, and that even apparently unrelated matters can trigger passions that may again break into public conflict.

IOLERO remains committed to this process of collaborating in the presence of differences, to listening to all, and to viewing the totality of the situation with all perspectives in mind. Over time, the continued success of

the process can bring with it the community confidence necessary to work together through these times of challenge.

II. Right-Sizing IOLERO

As discussed above, one of the chief weakness of IOLERO has been its limited staffing. While the above staffing discussions relate to community engagement, this issue also is relevant to the ability of IOLERO to provide effective civilian review. Unlike many oversight agencies, IOLERO is charged with civilian review of both the patrol function of the Sheriff's Office, as well as the detention functions. Essentially, IOLERO is charged with providing two distinct types of civilian review, each with its own standards to guide employee conduct and each with its own developing body of best practices and policies. As mentioned above, IOLERO staff believe that the more significant work of the office will involve investigations and policy reviews within the Detention Division of the Sheriff's Office. For example, this year IOLERO staff intended to conduct a policy review of nationwide best practices and polices within the detention environment for dealing with group disturbances. Unfortunately, insufficient staffing has made that impossible to this point. Given continued struggles with jail understaffing and significant forced overtime for correctional deputies, it is likely that the Detention Division will continue to experience challenges over the coming years. And these challenges are likely to cause corresponding work for IOLERO in reviewing jail incidents, polices, and practices.

And then there is IOLERO's community engagement mission. Absent additional staffing, IOLERO has needed to limit its community outreach and engagement in order to meet its other obligation. The office will focus more on audits, while continuing to support the CAC as the primary conduit for outreach and engagement. This necessarily will mean that community feedback will come primarily from those who are able to show up at CAC meetings, thus empowering those voices over other community members whose work and family lives make participation in such meetings difficult. During IOLERO's outreach to immigrants last winter, IOLERO discovered that the views of community members sometimes differed from those who purport to represent them. For example, undocumented immigrant parents repeatedly said that they supported the Sheriff cooperating with ICE to deport dangerous criminals from their communities, and wanted more enforcement of drug laws in their community. However, some activists speaking "on behalf of" immigrants stated that there should be absolutely no cooperation with ICE and that enforcement of drug laws in these communities was the equivalent of racial profiling. Therefore, IOLERO's inability to conduct robust community engagement may limit the community views that inform IOLERO's work.

Obviously, funding for additional IOLERO staff will always depend on the availability of county funding and involve competition for such funds with the significant needs of other departments' programs. Nevertheless, this report would be remiss if it did not mention these challenges to the continued success of IOLERO in meeting its various missions moving forward. In the meantime, IOLERO staff will do its best to achieve success in its missions with the funding available.

III. Special Challenges in Responding Appropriately to the Mentally Ill

Soon after IOLERO began taking complaints from members of the public, it became evident that IOLERO would face a particular challenge not necessarily anticipated by those who envisioned it. In short, IOLERO provides an additional opportunity for those suffering mental health issues to have their voices heard. A good portion of those filing complaints directly with IOLERO thus far, appear to suffer from some kind of mental health issue. A portion of these complainants have issues that make them very challenging to engage with on an interpersonal level, both because they can be volatile and because their perceptions may not be reliable. While IOLERO staff are temperamentally capable of dealing calmly with challenging individuals, staff has no special expertise or training in spotting signs of risks and dangers that some individuals may present. IOLERO's physical facilities also are limited in their ability to address and contain such risks.

To address these weaknesses, IOLERO made changes to its physical office space, created new screening processes, and attempted to obtain appropriate staff training. IOLERO's office space has been reconfigured to create a natural waiting area and a new gate inhibits entry into the main space without staff granting access. Every new complainant is now screened before scheduling an intake interview, and normally each complainant must complete a draft complaint form so IOLERO staff can properly assess any issues prior to an interview. In addition, IOLERO staff have undertaken specialized training to better identify and deal effectively with mental health issues, as well as opportunities for self-care and mindfulness training.

IV. Developing Expertise in Detention Oversight

As mentioned above, IOLERO has seen early and ongoing issues that involve the county jail, from providing adequate services for the mentally ill to cooperation with immigration enforcement to appropriate policies on the use of force. The detention field is highly specialized with expertise particular to its environment. Civilian oversight of detention facilities, and especially of county jails, is a relatively new field in which expertise is developing in the civilian oversight profession. IOLERO staff recognize the need to cultivate agency expertise to review these issues effectively. IOLERO staff continue to undertake training on the detention environment, including significant detention oversight training at the conferences of the National Association for Civilian Oversight of Law Enforcement. IOLERO staff spent two full days in training with staff at the jail, as well as additional time on particular topics. IOLERO's CAC currently includes two members with detention expertise/experience. In addition, IOLERO may, on occasion, seek to contract with consulting experts to review best practices in detention policies related to reviews of jail policies. Over time, IOLERO's institutional expertise on detention issues will continue to improve.

V. Greater Access to Sheriff's Office Information

For civilian review of a law enforcement agency to be most effective in meeting its intended goals, a civilian review agency must have as much unfettered access as possible to the information and files of that agency. Where an auditor reviews individual open investigations, as does IOLERO, it is important that the auditor have access to all information relevant to evaluating the completeness and integrity of that investigation. In addition, where an auditor evaluates policies, practice, and trainings, it is equally important that the auditor have broad access to information relevant to those areas of focus. The IOLERO Director has identified several areas where it would be beneficial for the auditor to have greater access to Sheriff's Office information. While in no case would the Director say the lack of such access prevented an audit from being valid, granting such access would increase the confidence of each audit's conclusions, and thus would better assure the public that the conclusions of the audits are valid. In addition, broader access also would bolster IOLERO's ability to make the best informed recommendations on policies, practices and training.

Currently, the IOLERO Director has access to certain Sheriff's Office electronic investigative files in the agency's Administrative Investigations Management ("AIM") database. The Director can access and review any completed employee investigation file in AIM, but the agency began using AIM only in 2015, so investigative files that predate AIM's use are not accessible. In addition, the Director cannot access the personnel files of employees, even though they also may contain information helpful in evaluating issues of credibility and in identifying patterns of employee behavior that may lead to more significant misconduct.

Chapter 11: IOLERO's Future Projects and Goals

This chapter discusses projects and goals that IOLERO would like to accomplish in the coming years, should there be resources available to support them.

I. IOLERO Youth Council

The CALLE Report envisioned a Youth Council to be supported by IOLERO as part of the community engagement function of the Office. IOLERO's First Year Work Plan anticipated a Youth Council to be created in the second year of IOLERO's operation. A Youth Council likely would require more IOLERO staff support than is currently required for the IOLERO CAC, given the limited experience levels of youth participants. Given the demands on existing staff, IOLERO cannot support this new function without adding staff. IOLERO's proposed Community Engagement Coordinator would allow IOLERO to support the Youth Council, should funding for such a position become available in the future.

II. Video Policy Recommendations

Both IOLERO and the CAC are currently engaged in a comprehensive review of video policies of the Sheriff's Office. Among the issues explored will be: 1) initiating and terminating BWC video operation by patrol deputies; 2) releasing BWC video to the public; 3) placement of BWC video recorders by deputies for best capture of useful information; 4) best placement of handheld video recorders in jail situations to best capture useful information; 5) redaction of information in video upon release; 6) showing BWC video to complainants in either complaint investigations or mediations of complaints. These policies are likely to be issued in the Fall of 2017.

III. Review of Sheriff's Office Use of Force Policies and Practices

The other policy reviews likely to begin next year are those related to use of force by deputies, both on patrol and in the jail. This is likely to be quite a lengthy review, given the many policies involved and the complexity of the subject, and therefore may take a year or more to complete. Among the policies to be considered are: 1) Use of Force; 2) Taser Use; 3) Less Lethal Control Devices; 4) Canine Program; Excited Delirium; 5) Maximum Restraint; 6) Behavior Counseling; etc. Among the issues to be explored will be the level of discretion delegated to individual deputies; the adequacy of the current focus on de-escalation techniques to avoid use of force; the circumstances under which it is appropriate to move from one level of force to more significant force; the adequacy of training on use of force; and the sufficiency of internal reviews when a deputy uses force.

IV. Develop a Mobile Device Application for Filing of Complaints from a Smart Phone

In the coming year, IOLERO will explore developing and releasing to the public a free mobile telephone application that would allow both immediate electronic filing of a complaint and related evidence, as well as easy and convenient access to IOLERO online information. Users of the free app could read reports from IOLERO and file complaints or commendations about Sheriff's deputies. Many community members rely primarily on smart phones for their ability to obtain information and communicate with others, and have no ready access to a home computer. Such an application could significantly expand the reach of our office. The Los Angeles Office of Inspector General released such a product last year, so the feasibility has been established.

