

SONOMA COUNTY SHERIFF'S OFFICE

FY 17/18 IOLERO ANNUAL REPORT RESPONSE

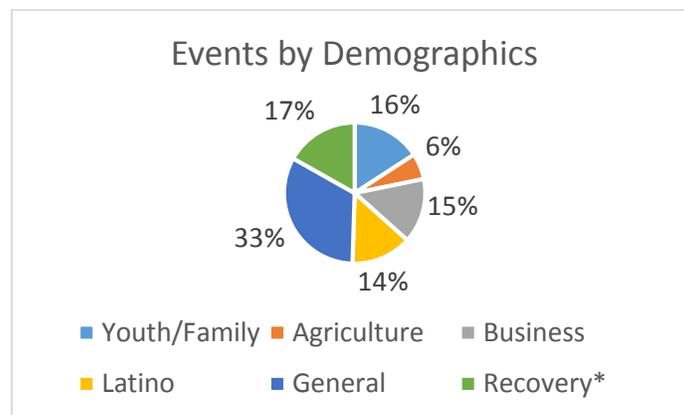
Introduction:

The Sonoma County Sheriff's Office received a draft copy of the Independent Office of Law Enforcement Review and Outreach Annual Report authored by the IOLERO Director on September 18, 2018. We spent considerable time reviewing the Report in an effort to understand its content and prepare a response to all areas that warrant discussion. In doing so, we have found it difficult to determine what time frame is covered by the report, what is being recommended, and which specific items warrant discussion. Given these difficulties, we have attempted to address the issues we believe are the most important to the community.

Community Outreach Overview:

The Sheriff's Office saw a truly meaningful increase in community engagement over the course of the last fiscal year with the filling of the Community Engagement Liaison position. We focused directly on building relationships with community leaders and members.

The Sheriff's Office began tracking outreach activities on July 1, 2017. To date, we have only tracked management participation. We are in the process of refining our tracking system to add other Sheriff's Office members. It is important to note the data presented in this report does not yet include Patrol, Detention, or Community Service Officers, who provide a significant amount of outreach. Therefore, the summary below does not comprehensively capture all outreach activities by the Sheriff's Office. Community engagement includes activities such as community group meetings, forums, celebrations, events, and service projects. It does not include activities such as meeting with other County staff and various media interviews. Sheriff's management attended 173 events reaching approximately 100,961 people. One large fire-related event accounts for approximately 80,000 people.



**Recovery category added during October fires.*

The Sheriff's Office serves the entire Sonoma County community of over half million people. We also recognize the need to focus some of our efforts on groups that need our services more than others such as young people, Latinos, and people affected by the fires. Approximately 47% of our efforts were focused on those groups.

The Sheriff's Office relies heavily on social media to augment face-to-face interactions. Last year our Facebook followers doubled from approximately 35,000 to 74,000, largely as a result of our fire-related posts. Our Instagram followers jumped from a few hundred to over 3,500. We have seen slight growth in Twitter and YouTube followers.

Looking to next year, we will continue to refine our plan of Office-wide engagement, provide post-fire support, maintain regular engagement, and focus on educating the community on the many, often unrecognized, ways the Sheriff's Office serves the community.

Public Contact Overview:

In order to review and consider the Sheriff's Office complaint data from an appropriate perspective, it is important to have an understanding of the number of people contacted by Sheriff's Office employees on a regular basis. Sheriff's Patrol deputies had 106,906 documented contacts with the public. This includes any contact initiated by the public in the way of calls for service, or deputy initiated activity. It does not include the countless numbers of casual contacts we have with the public throughout the day.

The Detention Division houses an average of 1,100 inmates per day. This represents 24 hours a day, 7 days a week of care and security. We have multiple contacts a day with each inmate for food, basic needs, programs, etc. Each month an average of 1,600, people are booked into the County jail, for a total of approximately 19,200 bookings per year.

The front lobby of the Sheriff's Office main building has an average of 504 visitors per month, or approximately 6,048 people per year. The front lobby of the Main Adult Detention Facility has an average of 3,850 visitors per month, or approximately 46,200 people per year.

The Sonoma County Courthouse has an average of 29,500 visitors per month, or approximately 354,000 people a year. This is relevant because the Sheriff's Office provides security for all of the County courthouses: The Hall of Justice, Juvenile Hall, and Civil Courts. The deputies assigned to these locations come into regular contact with the people navigating the court system.

If you take into account all of the different areas the Sheriff's Office has regular contact with the public, it shows the Sheriff's Office had an average in person contact with more than 500,000 people over the course of the year. These numbers should be considered when reviewing the content of the IOLERO Annual Report.

Investigative Overview:

Over the past 2017/2018 fiscal year, the Sheriff's Office received a total of 53 complaints filed by the public. In addition to these complaints, we internally generated, eleven (11) Administrative reviews and eight (8) Internal Affairs investigations. If you compare the number of complaints to the number of

total, in person, contacts with the Sheriff's Office described above, it is one (1) complaint for every 10,000 contacts.

Of the investigations conducted over the past fiscal year, 27 cases met the criteria agreed upon by IOLERO and the Sheriff's Office and were referred to IOLERO for audit. We received fourteen (14) completed audits from IOLERO out of the 27 cases referred. All but one of the 14 completed audits was received prior to February 8, 2018. This left an approximate 5 month span where we only received one completed audit from IOLERO. The one audit we did receive during the five month period was on a case that was over two years old. Changes had already been addressed through our own internal review of the case.

Out of the fourteen (14) completed audits, the Director of IOLERO had disagreements with nine (9) of the investigations. Of the nine (9) where the Director had a disagreement, we agree that there were areas we could improve with three (3) of them. It is important to note, the Sheriff's Office identified the same issues and had moved forward with corrective action prior to receiving any recommendations from IOLERO. The lack of completed, timely, audits make it very difficult to establish trends with policy or procedure that may need to be addressed. One case with potential issues does not necessarily indicate systemic problems in need of correction.

The IOLERO Annual Report dedicates a significant amount of coverage explaining the reason behind the lack of completed audits. In order for the reader to fully understand, context into the issue of work load is warranted. The Sheriff's Professional Standards Lieutenant, who oversees internal affairs, training, use of force review, and is liaison to IOLERO has a very similar audit function as the Director. Over the past fiscal year the Professional Standards Lieutenant has reviewed (audited) 49 completed investigations, 295 use of force reviews, and personally completed two (2) investigations. This was done in addition to completing their regularly assigned tasks which consists of policy review, managing the use of force training program, and any other duties as assigned. This past fiscal year, the Professional Standards Lieutenant was also tasked with coordinating the massive law enforcement mutual aid response along with the re-population and re-entry efforts during the October fires.

Response to Audit Findings and Recommendations:

Over the past two and a half years, the Sheriff's Office has received various recommendations from IOLERO. These covered areas related to policy, procedure, and training. During that span of time, the Sheriff's Office has accepted and implemented many of the recommendations. We have also rejected other recommendations that we did not feel were feasible legally, financially, operationally, or philosophically.

Throughout the existence of IOLERO, the Sheriff's Office has been happy to work collaboratively with the Director when it has fallen within previously agreed upon parameters to achieve the overall objective. The stated objective, reaffirmed by IOLERO in the annual report, is to *"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 investigation."* In the event requests have come from IOLERO that did not fall within previously agreed upon parameters, the Sheriff's Office sought clarification and would ultimately determine if the request was reasonable.

There were a total of ten (10) cases listed in the Annual Report with articulated disagreement between the Sheriff's Office and IOLERO. One of the cases listed was from the prior fiscal year and was addressed in the last Annual Report. The following is our response to each of the disagreements, individually:

#1) Complaint 16-C-0039

- This complaint was included in the last Annual Report. We believe it should not have appeared again in this annual report.
- This case is mischaracterized in the Annual Report. The initial complaint did not include any allegation of racial bias. It was actually a misunderstanding as to whether or not a criminal report was taken. A report had been taken.
- The battery was not investigated because the victim did not want it to be. We cannot make individuals be victims of misdemeanor crimes if they do not want to be.
- The assertion that the deputy's comment displayed racial bias takes the statement completely out of context. The victim was concerned about retaliation from a gang member and the deputy was attempting to put the victim's worries at ease. During conversations with the IOLERO Director regarding this issue, he agreed this was a plausible explanation.
- We disagree that the investigation was incomplete. It is our opinion that the Director applies an incorrect evidentiary standard to these administrative investigations. It is only by a preponderance of the evidence (51%) that a determination is made, not beyond a reasonable doubt (100%), as the Director appears to be using. There was more than enough information to reach the required standard in this investigation.

#2) Complaint 16-C-0040

- We acknowledge there were issues with this investigation and have been working on corrective action to ensure we do not repeat the same issues.
- We do not agree that the investigator should have made a greater effort to contact the complainant. The investigators cannot compel people to talk to them in these types of investigations. In this case the investigator made sufficient effort to contact the complainant, who was homeless and had no alternate contact information.

#3) Complaint 17-C-0009

- The IOLERO Director is incorrect in his analysis on this case relative to conflict of interest. There was no conflict of interest with the investigator. The complainant named the investigator in their complaint in error. The investigator was not involved in the incident in question in any way. This was communicated to the Director prior to finalizing the investigation.
- We disagree that the investigation was incomplete. It is our opinion that the Director applies an incorrect evidentiary standard to these administrative investigations. It is only by a preponderance of the evidence (51%) that a determination is made, not beyond a reasonable doubt (100%), as the Director appears to be using. There was more than enough information to reach the required standard in this investigation.

#4) Complaint 17-C-0020

- We acknowledge there were issues with this investigation and have been working on corrective action to ensure we do not repeat the same issues in the future. In fact, changes in policy and practice were made prior to receiving any recommendations from IOLERO.

#5) Complaint 17-C-0024

- We do not agree with the Director's analysis of this case. The investigator covered all relevant aspects of the complaint.
- We disagree that the investigation was incomplete. It is our opinion that the Director applies an incorrect evidentiary standard to these administrative investigations. It is only by a preponderance of the evidence (51%) that a determination is made, not beyond a reasonable doubt (100%), as the Director appears to be using. There was more than enough information to reach the required standard in this investigation.

#6) Complaint 17-C-0027

- We do not agree with the Director's analysis of this case. He makes an incorrect evaluation of a use of force incident where he personally did not like the type of force used. In conversations with the IOLERO Director regarding this case, he acknowledged the use of force would be reasonable, he just didn't like the type of force chosen by the deputy. Deciding after the fact there were possibly other options of force to use, does not make the force chosen excessive. There is clear case law that sets the standards regarding use of force evaluation. If you do not have the proper training and experience in these areas, reaching a credible opinion can be difficult.
- We do not agree with the discourteous to a bystander finding. We never received any complaint by any bystander. This was an individual allegation alleged by the IOLERO Director from what he interpreted while watching a body worn camera video, not from the public that was actually there. We do not think it is appropriate for the Director to fabricate his own allegations based on his own interpretation of a segment of video.

#7) Complaint 17-C-0037

- We do not agree with the Director's analysis of this case. The investigator covered all relevant aspects of the complaint.
- We disagree that the investigation was incomplete. It is our opinion that the Director applies an incorrect evidentiary standard to these administrative investigations. It is only by a preponderance of the evidence (51%) that a determination is made, not beyond a reasonable doubt (100%), as the Director appears to be using. There was more than enough information to reach the required standard in this investigation.

#8) Complaint 17-C-0038

- We do not agree with the Director's analysis of this case. The investigator covered all relevant aspects of the complaint. Clearly the Director made up his own opinion on what he believed occurred and was not satisfied with the investigation because it did not support his viewpoint.

- We disagree that the investigation was incomplete. It is our opinion that the Director applies an incorrect evidentiary standard to these administrative investigations. It is only by a preponderance of the evidence (51%) that a determination is made, not beyond a reasonable doubt (100%), as the Director appears to be using. There was more than enough information to reach the required standard in this investigation.

#9) Complaint 17-C-0049

- We disagree with the Director's conclusions on this case. The Sheriff's Office acknowledges the investigation was not handled according to traditional means. However, there were reasons the investigation occurred the way it did. This case came in shortly before the fires ripped through our County this past October. Detectives were overburdened dealing with thousands of missing person's reports. They had to make decisions on how to manage pre-existing caseloads with this drastic increase in work in order to make sure everything was handled.
- While this case was not handled in a traditional manner, it in no way indicates a systemic problem with the sexual assault investigations conducted by our Office. There are clear guidelines that are followed for these types of investigations during normal circumstances.
- This is an example where the Director is attempting to establish systemic issues from one case analysis. This sexual assault investigation was handled outside of the "norm" due to unanticipated extenuating circumstances. It in no way reflects a pattern or practice of mishandling sexual assault investigations.
- We disagree that the investigation was incomplete. It is our opinion that the Director applies an incorrect evidentiary standard to these administrative investigations. It is only by a preponderance of the evidence (51%) that a determination is made, not beyond a reasonable doubt (100%), as the Director appears to be using. There was more than enough information to reach the required standard in this investigation.

#10) Compliant 17-IA-0009/15-AR-006

- We acknowledge there were issues with this particular incident that need change. We have been working on corrective action to ensure these same issues do not occur in the future. In fact, changes in policy and practice were made more than a year prior to receiving any recommendations from IOLERO. This included changes to policy (eliminating the behavior counseling policy) and implementing a nationally recognized training program designed to improve inmate management and treatment in Detention. The Director of IOLERO was told about this program and our corrective actions.

Conclusion

We are extremely disappointed with the IOLERO Director and his Annual Report. In what we hoped would be a constructive review of the work we do here at the Sheriff's Office, it became a personal attack on the Office and the people who work here. We have done our best to remain productive and professional as we prepared our response to issues raised in the Annual Report that we believe the community most certainly cares about.

Generally, the Sheriff's Office believes there is a fundamental flaw in the design of the current IOLERO office. At its core, the perceived success of IOLERO depends, at least in part, on the perceived failure or short comings of the Sheriff's Office. The IOLERO Director dedicated a large portion of the Report on his perceived, personal and political, issues with the Sheriff's Office and the audit process. The Report reflects issues he had with a small percentage of the Sheriff's Office total investigations. The Director spends more of the Report explaining why he was unable to fulfil his primary function as an auditor.

There was little to no coverage in the Report regarding the positive things the Sheriff's Office has accomplished over the past year. In our opinion, it has been a very good year of growth for the Sheriff's Office where many positive changes were made. The following list highlights a few of the significant positive changes that have occurred over the past fiscal year. All of the items on this list have been communicated to the IOLERO Director throughout the year.

- Increased social media presence and greater community engagement as discussed in the community outreach overview section of this report.
- Enhanced Community Oriented Policing Program implemented on Patrol. Deputies are now allowed to sign up for the shift and zone they would like to work for the year. This allows the deputies to work in the same area for an entire year. It gives them the opportunity to get to know the communities they serve in a more direct and consistent manner. This model also allows us to incorporate creative solutions to specific problems faced by communities. An example of this is the newly created Homeless Liaison Team. A sergeant will supervise the Team composed of one deputy from each zone who will be that zone's homeless liaison. They will be a resource to the public, other county agencies, and fellow deputies regarding homeless issues in any particular zone.
- Improvements to the emergency alert and warning system. The Sheriff's Office has made major changes to our notification procedures over NIXLE, SOCO alert, and wireless notifications.
- Body worn camera policy updates, to include keeping the video running throughout the duration of the contact and throughout the transport to the jail. We have also addressed proper placement, so the camera is not obscured, in the revised policy.
- Body worn cameras in the Detention Division are in the final stages of a pilot program and will be fully implemented in the near future.
- Fixed cameras have been installed in the Sheriff's Detention facility and are currently operational.
- We are working with a nationally recognized corrections organization on a training program to improve long term inmate management strategies.
- Customer Service training for all deputies.
- Added a non-retaliation statement to our complaint forms and policy. This statement forbids any member of the Sheriff's Office from retaliating against anyone for filing a complaint.
- Developed a new homeless policy. The recommendations incorporated in the homeless policy came directly from the Citizen Advisory Committee (CAC). The IOLERO Director does mention this in his Annual Report.

Recommendation

To be clear, the Sheriff's Office whole heartedly supports the audit process. It is vital to bring in knowledgeable individuals from outside of the organization to ensure critical analysis is occurring and best practices are in place and being followed. These safeguards ensure the organization is performing at a high level the community expects and deserves. The Sheriff's Office feels a more productive model to accomplish this is to hire a truly neutral, independent, and unbiased auditor for a specific, limited period of time. If there is no expectation of employment beyond a specific period of time, there is no pressure or inherent need to justify IOLERO. This would greatly reduce the chances of either intentional or unintentional bias developing in the auditor. It would also afford the Sheriff's Office the opportunity to get input from a variety of perspectives outside of the County. The Sheriff's Office looks forward to continuing to work with the Board of Supervisors to fine tune the auditor model.