

Charter Review Commission Update - Criminal Justice Reform

Prepared by County Staff for Commissioner Rob Saka
2018-2019 King County Charter Review Commission
Updated by Rob Saka on August 12, 2020

Roadmap

- ▶ Overview of the CRC process
- ▶ Recommended amendments overview
- ▶ Current status
- ▶ “Deep dive” of police accountability amendments
 - ▶ OLEO Subpoena Power
 - ▶ Inquest Reform
 - ▶ Appointed Sheriff
- ▶ Additional resources

Overview of the CRC Process

- ▶ 23 commissioners appointed by the Executive and confirmed by the Council
- ▶ Held town hall style public meetings at the beginning of the work and also to review the final recommendations
- ▶ The Commission operated on a consensus model and recommended 11 amendments be placed on the ballot. The Council forwarded 6 of these to the General Election ballot in November 2020.

Recommended amendments (In the order they appear in the Charter)

- ▶ **Preamble:** This amendment would change the preamble to include the concepts that County programs and services should be *accessible* to all residents of King County and *equitably* provided. It would also make a grammatical correction.
 - ▶ Minority Report argues that the change should have gone further and specifically highlight that recreation, arts and cultural opportunities should be listed in the preamble.
- ▶ **Updates and Clarifications to the Initiative and Referendum Process:** Much has changed over the last several decades in election law. The Charter has fallen behind on being current with State law and there are also some sections that would benefit from clarification. This amendment addresses those issues.
- ▶ **Subpoena Power for Law Enforcement Oversight:** This amendment would add subpoena powers to those listed under the Office of Law Enforcement Oversight.
Early Action Item

Recommended amendments (cont.)

(In the order they appear in the Charter)

- ▶ **Additional Exempt Positions:** The Charter includes specific language around which County positions are exempt from the Career Service System. This amendment would allow the Council to adopt an ordinance changing the exempt positions.
- ▶ **Removal Process for Elected Officials:** This amendment would allow elected officials to be removed from office by a super majority of the County Council for misfeasance, malfeasance or violations of their oaths of office. Currently the only option for removal is a recall election.
- ▶ **County Sheriff Reverted to an Appointed Position:** This amendment would revert the office of County Sheriff to that of an appointed official whereby the Executive would appoint and the County Council would confirm the County Sheriff. **The County Council added a few other clarifications to this amendment.**

Recommended amendments (cont.)

(In the order they appear in the Charter)

- ▶ **Increased Anti-discrimination protections:** This amendment would add protections against discrimination for family caregivers, honorably discharged members of the military and add protections to those discharged solely because of their sexual orientation or gender identity
- ▶ **Additional Requirements for Inquests:** This amendment will require that an attorney be appointed for family members involved in inquests and require an inquest to be conducted when a member of law enforcement may have contributed to a death of a person in custody. ***Early Action Item***
- ▶ **Affordable Housing (property sales):** Currently properties owned by agencies that used to be part of the Metropolitan Municipality of Seattle are required to sold for full value. A recent state law change allows for property to be sold for less than full value if used for affordable housing. This would correct this conflict and allow for these types of transactions. ***Early Action Item***

Omnibus Changes

- ▶ There are two amendments that make a series of changes throughout the document. These include:
 - ▶ **Typographical and Grammatical:** An amendment containing a series of typographical and technical changes through the Charter.
 - ▶ **Revising the concept of “Citizenship” throughout the document:** this amendment revises all references to citizenship except one. The amendment changes the term of citizen to either “*resident*” (when describing a person) or “*public*” (when describing things like public participation). There is one references to citizenship left in regarding the need to be a citizen to hold elective office, which is a requirement of state law.

Current status as of August 2020

- ▶ The County Council has voted to send six of the recommended amendments to the November 2020 General Election. These six include (proposed justice reforms shown in **bold** text):
 1. Affordable Housing Changes (makes it easier for the County to dispose of land for less than full value if the land will be used for affordable housing)
 2. **Appointed Sheriff (returns the office of Sheriff to an appointed position)**
 3. **Inquests (grants an attorney to families during inquests process and requires an inquest for in-custody deaths)**
 4. Removal of almost all references to citizenship in the charter
 5. Additional non-discrimination protections for caregivers and military veterans
 6. **Adding subpoena power to the charter authority granted to the civilian Office of Law Enforcement Oversight (OLEO)**

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. The shapes are primarily triangles and polygons, creating a dynamic, layered effect. The text is centered in the white space between these shapes.

“Deep dive” of police accountability amendments

Subpoena Power for OLEO

What would the Amendment do?

- ▶ The Charter Review Commission believes that the Office of Law Enforcement Oversight (OLEO) needs to have authority to subpoena records to be able to provide for an effective civilian oversight of law enforcement.
- ▶ This amendment would add “subpoena power” to the list of authorities granted to OLEO in the King County Charter. The County Code already contemplates granting this authority to OLEO, but it is not listed in the Charter as it is with other agencies.
- ▶ The CRC believes that if the amendment passes (and ultimately can be collectively bargained) that subpoenas will rarely be used, as parties will share information as to not have to use the subpoena process.

Subpoena Power for OLEO

Why is the amendment necessary?

- ▶ The CRC believes that the residents of King County have expected civilian oversight of the King County Sheriff's Office since 2006 when the Council created the office and certainly since 2015 when the voters added OLEO to the County Charter.
- ▶ However, efforts for effective civilian oversight (including subpoena power) have consistently been thwarted by the collective bargaining process.
- ▶ This issues continues to this day. However, the CRC believes that it is a powerful statement to add the subpoena power to the Charter consistent with other agencies.
- ▶ It has been almost 14 years since the Council first created OLEO. That wait is long enough for effective civilian oversight.
- ▶ Voter approval will clarify the public's desire for empowered oversight.

Legal Representation during Inquests

What would the Charter Amendment do?

- ▶ Require an attorney be provided to family members when their family member is the subject of an inquest. Currently the County Code requires an attorney to be provided to family members of a decedent to assist them during the inquest process. This amendment would elevate that requirement to the County Charter.
- ▶ This amendment would apply broadly to law enforcement agencies and corrections agencies and would require an inquest any time any action, decision or failure to act may have contributed to a death.

Legal Representation during Inquests

Why is this amendment necessary?

- ▶ The inquest process can be intimidating for family members. It is a process to which very few individuals are familiar and affording family members access to an experience attorney helps to assure that the family can feel comfortable that the death of their family member has been investigated and their rights and concerns have been addressed.
- ▶ Currently the inquest process does not occur for every death of someone in custody of a police or corrections agency. The CRC felt very strongly that there should be an inquest every time someone dies in custody. This assures that families can have closure and that police and corrections agencies can learn from their own mistakes and learn from the mistakes of other agencies to ultimately reduce the number of in-custody deaths.

Appointed Sheriff

What would this amendment do?

- ▶ Return the office of County Sheriff to an appointed position.
- ▶ Provide the Executive the opportunity to recruit nationally and select a candidate for Council confirmation that reflects the best qualified individual for the position.
- ▶ Allow for immediate removal a of Sheriff who is not excelling or who has engaged in activities or conduct inappropriate for a Sheriff, thereby providing the public with accountability.
- ▶ ***County Council Amendments*:**
 - ▶ Added a clause requiring a consultation process (to be done by future ordinance) before appointment of new Sheriff.
 - ▶ Added clarification that the current Sheriff would complete existing term.
 - ▶ Allow the County Council to set the duties of the Sheriff's office by ordinance. Currently the Charter references only "general" state law.

Appointed Sheriff

Why is this amendment necessary?

- ▶ Elections politicize the selection of a law enforcement official. This position, more than most, **MUST** be impartial and not guided by politics.
- ▶ Election of the Sheriff has led to a situation where only current Deputy Sheriff officers have been able to win an election for the seat. This limits the pool of potential candidates from the entire nation down into only a few hundred current employees.
- ▶ An appointed official can be held accountable more easily. For example, we have recently seen news stories about Sheriffs throughout Washington State announcing what laws and rules they are willing to enforce and which they aren't. Those decisions are not up to them to decide, yet there is no mechanism to remove them short of a recall election.
- ▶ The County is increasing diverse, as are the areas where the Sheriff is the primary law enforcement office. An appointed position provides the Executive with the ability to select a Sheriff more representative of the population.

Additional Resources

- ▶ To view the CRC's Final Report, meeting minutes and materials, issues papers, etc., please visit: <https://www.kingcounty.gov/independent/charter-review-commission.aspx>.
- ▶ To view the pro/con statements in King County's voters' guide pamphlet (when these become available), visit: <https://www.kingcounty.gov/depts/elections/how-to-vote/voters-pamphlet.aspx>.
- ▶ For a 1-minute video overview of King County's charter review process, visit: https://www.youtube.com/watch?v=ZTiTcYFh4_c&feature=youtu.be.
- ▶ To view innovative policy solutions to address police brutality and equal justice, check out this [resource](#) and this [toolkit](#) from the Obama Foundation, and other resources from [Campaign Zero](#), and the [Use of Force Project](#).

Summary

- ▶ Overview of the CRC process
- ▶ Recommended amendments overview
- ▶ Current status
- ▶ “Deep dive” of police accountability amendments
 - ▶ OLEO Subpoena Power
 - ▶ Inquest Reform
 - ▶ Appointed Sheriff
- ▶ Additional resources