



Washington State Liquor and Cannabis Board

An Independent Review of Enforcement Operations and Management

Final Report

December 30, 2019

Confidential and Proprietary

HILLARD  **HEINTZE**
A JENSEN HUGHES COMPANY



December 30, 2019

Mr. Rick Garza
Director
Washington State Liquor and Cannabis Board
1025 Union Avenue S.E.
Olympia, Washington 98504

Dear Mr. Garza:

We are pleased to submit our final report and assessment of the Washington State Liquor and Cannabis Board's enforcement operations and management – particularly regarding policies, complaint intake and investigations, and training and accountability. We thank you and your team for your engagement during this process. We appreciate the insight, time and experience that you shared with us.

This assessment comes at an important time for the Washington State Liquor and Cannabis Board as the State of Washington legislature recently passed laws that recognize the need for enforcement of regulations, but also encourage a strong focus on compliance and education for licensees who strive for compliance. We recognize that many members of the Enforcement and Education Division have already been engaged in education activities to assist licensees.

This assessment provides recommendations for the Washington State Liquor and Cannabis Board to improve its leadership, policies and processes to enhance its relationship with licensees and bring appropriate Division-wide focus on education and compliance with the law.

This report is a confidential and privileged work document between Hillard Heintze and the Washington State Liquor and Cannabis Board. Please let me know if you have any questions on this report. We place enormous value on the trust that you have extended to us in this matter.

Sincerely,
HILLARD HEINTZE LLC

A handwritten signature in cursive script that reads "Arnette Heintze".

Arnette F. Heintze
President, Jensen Hughes Global Security
Founder, Hillard Heintze



Table of Contents

EXECUTIVE SUMMARY.....	5
Strategic Context: The Need to Conduct This Assessment	5
Assignment: What You Asked Us to Do.....	5
Methodology and Approach: A Highly Integrated Process.....	5
About Hillard Heintze: The Assessment Team	6
KEY FINDINGS.....	8
OVERVIEW OF THE WSLCB.....	11
STAKEHOLDERS' PERCEPTIONS OF THE WSLCB AND ITS OFFICERS	14
Overall Comments About the WSLCB.....	14
Enforcement Philosophy.....	14
Consistency of Enforcement and Interpretation Of Rules	15
Understanding of the Industries.....	15
Fear of Retaliation	16
Emphasis on Cameras and Camera Systems.....	16
SURVEY RESULTS AND FINDINGS	17
Methodology	17
Results.....	17
Summary of Respondents.....	17
Licensee Satisfaction and Process.....	19
Licensee Perceptions of Officer Conduct.....	23
Licensee Perceptions of the WSLCB	31
Comments.....	35
Summary.....	35



THE WSCLB'S MISSION, VISION AND VALUES.....	37
ORGANIZATIONAL STRUCTURE WITHIN THE ENFORCEMENT AND EDUCATION DIVISION.....	39
Reorganization Efforts.....	39
The Specialization of Enforcement by Industry.....	39
Communications and the Chain of Command.....	40
Task Management	40
THE CURRENT POLICY FRAMEWORK.....	41
Transition to Lexipol	41
Education's Place in Current Policies	41
ACCOUNTABILITY WITHIN THE ORGANIZATION	42
Internal Directives	42
Internal Complaints and Procedural Justice	42
Complaint Intake and Investigations.....	43
Other Accountability Measures	45
TRAINING.....	47
Overview	47
Curriculum Development.....	47
An Emphasis on Small Business and Implicit Bias	48
Training from Third-Party Providers	48
FINAL THOUGHTS AND RECOMMENDATIONS.....	49
Need for Cultural Change	49
Recommendations.....	50



Executive Summary

STRATEGIC CONTEXT: THE NEED TO CONDUCT THIS ASSESSMENT

The Washington State Liquor and Cannabis Board (WSLCB) – previously the Washington State Liquor Control Board – has existed since 1933. The State’s control over liquor sales and distribution ended and transitioned to the private sector in 2011. Through an initiative in 2012, the State legalized the recreational use of cannabis and gave the task of overseeing and enforcing laws as they related to licensing the production, processing and sale of cannabis to the WSLCB.

As Washington was one of the first two states to legalize recreational marijuana, it did not have the benefit of experience when developing its regulatory mechanisms, so it modeled these after regulations governing alcohol. As cannabis regulations and the WSLCB evolved, licensees often expressed concerns that the WSLCB’s approach to enforcement created a culture of finding licensees doing something wrong, rather than assisting them in complying with the law. This was especially a concern as it related to cannabis, but it also impacted alcohol licensees. More recently, the Washington State Legislature passed SB 5318, which, among other things, found:

“While a strong focus on enforcement is an important component of the regulated marketplace, a strong focus on compliance and education is also critically necessary to assist licensees who strive for compliance.”

The law further directs the WSLCB to develop a voluntary compliance program and mandates the issuance of a notice of correction, rather than a civil penalty, if the WSLCB discovers non-compliant conditions during a licensee visit. Licensees’ concerns and the legislature’s actions prompted the WSLCB to conduct this review of its Enforcement and Education Division.

ASSIGNMENT: WHAT YOU ASKED US TO DO

The WSLCB asked us to review and report on all aspects of operations, organizational structure and management of its Enforcement and Education Division. The WSLCB requested that this systematic review include, but not be limited to, a review of policy, complaint intake and investigation, training, and accountability. The review was expected to result in recommendations to address any areas in need of improvement.

METHODOLOGY AND APPROACH: A HIGHLY INTEGRATED PROCESS

Six Key Principles

Emerging from our experiences as leaders in a variety of law enforcement-related fields, the Hillard Heintze methodology is based on the following six strategic principles.

- 1 Independent and objective analysis
- 2 Solicitation of multiple perspectives and viewpoints
- 3 An acute focus on collaboration and partnership



- 4 An information-driven, decision-making mindset
- 5 A structured and highly disciplined engagement approach
- 6 Clear and open lines of communication

An Intensive Approach

During this engagement, the Hillard Heintze assessment team performed the following tasks.

- Interviewed Board members, command staff and other internal stakeholders, and legislators
- Formed focus groups of external stakeholders representing the alcohol and cannabis industries
- Reviewed WSLCB policies and procedures and other documents related to the Enforcement and Education Division
- Participated in site visits and ride-alongs to observe the work of enforcement officers
- Facilitated two forums – one in Auburn and one in Spokane – to solicit additional input from licensees
- Surveyed licensees
- Visited retail shops, producers and processors

ABOUT HILLARD HEINTZE: THE ASSESSMENT TEAM

Hillard Heintze is one of the nation's foremost strategic advisory firms specializing in independent ethics, integrity and oversight services – with a special focus on federal, state and local law enforcement agencies, including police departments, sheriff's departments and internal affairs bureaus. We provide strategic thought leadership, trusted counsel and implementation services that help leading organizations target and achieve strategic and transformational levels of excellence in law enforcement, security and investigations. Many of our team members have been responsible for leading the significant transformation of many major city police departments and law enforcement agencies.

Robert Boehmer, Esq., Vice President, Law Enforcement Consulting



Robert Boehmer is an experienced facilitator, trainer and public speaker, with expertise in collaborative problem solving, community policing, partnership development and information sharing. For the past several years, he has been facilitating sessions for the Department of Homeland Security's Building Communities of Trust Initiative, focusing on developing trust among law enforcement, fusion centers and the communities they serve. As a Vice President in the Law Enforcement Consulting practice at Hillard Heintze, Robert manages complex law enforcement assessments and helps police agencies transform their organizations and adopt national best practices and industry standards central to improving accountability, transparency and community trust.



Chad M. McGinty, Senior Director, Security Risk Management



Chad McGinty brings nearly three decades of law enforcement, public safety, emergency preparedness and security leadership experience to his role as Senior Director at Hillard Heintze. Chad served in the Ohio State Highway Patrol for nearly 28 years, starting as a Trooper in 1989 and later serving as Sergeant, Lieutenant and Captain before joining the Senior Staff as Major, Commander of Field Operations in 2014. He concluded his tenure by coordinating and leading the crowd control/field force response for the 2016 Republican National Convention in Cleveland, Ohio. Chad implemented a sophisticated staging and response for 1,400 field force officers from 18 different agencies and 15 states.

Michael Dirden, Esq., Subject Matter Expert



Michael Dirden joined Hillard Heintze as a Senior Subject Matter Expert following a long and successful career with the Houston Police Department. Michael's body of work in law enforcement highlights an enduring commitment to advancing the profession through community engagement. He has served on numerous national committees focused on use of force, internal affairs and building communities of trust. Within the Houston Police Department, Michael developed a strong understanding of the collective bargaining practices used by departments to maximize efficiencies.

Vicky Stormo, Subject Matter Expert



With more than 35 years of law enforcement training and field experience – including 10-plus years of experience in the Washington state criminal justice system– in city policing and university policing, Vicky Stormo is a leader in transforming agencies through her thorough assessments. Since 2010, Vicky has served as Director of Operations for Puget Sound Executive Services and supervised the Harborview Medical Center contract providing uniformed State Troopers in the emergency room, as well as the assigned off-duty officers working plain-clothes executive protection and uniformed corporate security for Amazon in South Lake Union. As a Senior Associate and former Manager for Organizational Assessment Services with Margolis Healy, she managed and conducted public safety management studies; arming support (also known as lethal and less-than lethal force options) and related services; Clery Act and Title IX assessments; and emergency management related services. Previously, Vicky served as a deputy chief of police and consultant for Oregon Health and Science University in Portland, Oregon; Chief of Police at the University of Washington in Seattle; Chief of Police for the University of Washington Police Department; and a lieutenant with the Albuquerque Police Department.



Key Findings

Key Finding #1: Overall, WSLCB licensees have a positive impression of the WSLCB's Enforcement and Education Division, but they want to see improvements made in communication and efficiency.

We found that licensees generally feel positive about the WSLCB; however, a significant number of licensees, especially in the cannabis industry, expressed concerns about the Division's enforcement approach.

Key Finding #2: The Enforcement and Education Division sometimes does not make or communicate decisions in a timely manner.

Some Division members and licensees assert that leadership decisions are not made quickly, and when made, personnel often do not follow them in the field because the Division does not effectively communicate the decision to enforcement personnel.

Key Finding #3: The Division's officer assignment through the Subject Matter Expert Pilot Project (SMEPP) helps ensure consistent interpretation of the law and enforcement activities.

The Enforcement and Education Division's SMEPP, which focused on assigning all cannabis enforcement activities to the same set of officers, was positive in that it fostered subject-matter expertise in the field and assisted in ensuring more consistent interpretation of the law and ongoing enforcement activities. The Division's proposed reorganization, which would leverage lessons learned from the SMEPP, should ensure that the Division maintains a level of flexibility and competence to assign other officers to cannabis enforcement, as necessary.

Key Finding #4: Current policies, training and metrics reflect law enforcement strategies, rather than those specifically developed for regulatory agencies.

The Division's recent adoption of a policy manual from an outside vendor is a positive development in that it helps to ensure that the Division is compliant with best practices. However, these policies are generally designed for police departments rather than regulatory agencies. The Division should carefully review the manual and supplement the policies with those that are specific to its regulatory role and emphasize its responsibility to assist licensees comply with the law.

Moreover, the Division's policies, training and performance metrics reflect an emphasis on law enforcement approaches rather than those regarding assisting licensees with compliance. Many officers have adopted the attitude of assisting licensees to comply with the law. However, the Division has an inconsistent approach in that some officers are much more enforcement oriented. Most WSLCB officers receive basic law enforcement training but receive little training on how to fulfill their role as regulators, especially regarding the cannabis industry.



Key Finding #5: The lateral hire of police officers may be insufficient in determining who is most likely to succeed in a regulatory role.

The Division's hiring process often focuses on the lateral hire of experienced police officers. While bringing experienced officers into the Division can be beneficial, Human Resources personnel have not reviewed the hiring processes to ensure the Division hires individuals who possess the necessary knowledge, skills and abilities to work in a regulatory environment, as well as a law enforcement one.

Key Finding #6: While we commend the WSLCB for providing officers autonomy in the field, the lack of a task management system could create inconsistencies and reduce accountability.

Enforcement officers are provided a significant amount of autonomy in the field and a flexible work schedule. While it is important to provide officers some discretion on how they conduct their duties, the Division does not have a structured task management system that allows for real-time supervisory oversight and helps ensure accountability and consistency in enforcement operations.

Key Finding #7: Licensees expressed concerns related to miscommunication, inconsistent interpretation and a lack of transparency.

Licensees noted receiving inconsistent interpretations of law applying to their businesses. These inconsistencies arise depending on the officer, the region or even the unit of the WSLCB that answers a compliance question. These inconsistent interpretations are in part attributable to breakdowns of communication within the WSLCB and absence of a central database or single point-of-contact to ensure consistency in the interpretation of WSLCB rules and regulations as applied to licensees.

Key Finding #8: The systems the WSLCB operational units use to manage their caseloads do not interface with each other.

This inability of systems to interface with each other causes miscommunication and the reduced ability to hold employees accountable to the WSLCB's overall goals.

Key Finding #9: The Enforcement and Education Division's process for internal investigation of complaints against officers and the imposition of discipline is not transparent or applied consistently.

For example, instructions outlining how to file a complaint are not easily accessible or explained on the agency's website. This has likely contributed to licensees' unwillingness to provide feedback or complaints because they have a fear of retaliation.



Key Finding #10: The State of Washington’s recently passed law focuses on compliance, education and enforcement to improve how the marijuana marketplace functions – but this initiative cannot be accomplished without the Division’s support.

The law mandates the expansion of compliance education, a voluntary compliance program, issuance of notice of correction and other measures. The law seeks to change the WSLCB’s Enforcement and Education Division philosophy, but improvements to the Division’s leadership, communications and accountability measures are necessary to support its goals.



Overview of the WSLCB

The WSLCB is an administrative board of the State of Washington with three board members appointed by the governor. A Board-appointed Director leads the WSLCB and is responsible for day-to-day operations. The agency has two main divisions – Licensing and Regulation, and Enforcement and Education – which are responsible for overseeing the licensing process and ensuring compliance with the law. The agency is also supported by the Communications, Human Resources, Information Technology and Financial Services divisions, as well as by staff housed under the agency's Deputy Director.

According to its 2018 Annual Report, the WSLCB oversees the following licensees.

- 6,534 tobacco retailers
- 1,386 vapor retailers
- 1,061 cannabis producers and/or processors
- 155 producer only
- 225 processor only
- 505 retailers
- 1 cannabis research licensee
- 16 cannabis transporters
- 18,258 retail alcohol licensees, including:
 - 6,022 grocery, beer/wine specialty stores
 - 7,174 spirits retail off/on premises
 - 4,071 beer/wine on premises
 - 268 taverns
 - 210 hotels
 - 139 nightclubs
 - 644 other licensees

Our assessment focused on the Enforcement and Education Division, which is responsible for enforcing state liquor, cannabis, tobacco and vapor product laws and regulations to promote public safety. It also provides education to licensees, communities and local law enforcement agencies. According to the Board's 2018 Annual Report, the Division includes 166 staff members, including the chief, deputy chief, a commander, five captains, 23 lieutenants and 104 officers, plus additional staff in mostly support functions. That total also includes 10 civilian staff members conducting tobacco inspections on behalf of the Food and Drug Administration (FDA).



SPECIAL NOTE

During our assessment process, the Division began implementing a new organizational structure to create a section specifically focused on cannabis. In this section, we describe the organizational structure at the time of our assessment – prior to any changes resulting from the reorganization efforts.

Retail enforcement related to cannabis, alcohol, tobacco and vapor products is divided into four regions.

- Region 1 – Southwest Washington
- Region 2 – King County
- Region 3 – Northwest Washington
- Region 4 – Central and Eastern Washington

A captain, who reports to the deputy chief, oversees each region. In addition to the four Captains, the regions have 82 enforcement officers in total.

A statewide team of six enforcement officers focuses on the manufacture, import, wholesale and distribution of alcohol products. The Division includes a non-retail enforcement team of 15 enforcement officers focused on licensed cannabis producers and processors. A commander, who reports directly to the chief, leads the Division. A captain who reports directly to the chief leads the tobacco tax (11 enforcement officers) and vapor enforcement teams (six enforcement officers). The 10 staff members on the FDA Tobacco Inspections Unit are non-sworn personnel who maintain FDA commissions while conducting tobacco inspections at licensed tobacco retailers in the state.

State law recognizes the WSLCB as a limited law enforcement agency.¹ Enforcement officers are limited-authority peace officers empowered to detect or apprehend violators of the laws in the subject areas for which the agency is responsible (see Policy 100). The WSLCB Enforcement and Education Division Policy Manual further describes the scope of limited authority and states that WSLCB officers have the power to enforce the penal provisions of Title 66 RCW (laws related to the manufacture, importation, transportation, possession, distribution and sale of liquor), RCW 82.24 and 82.26 (tobacco laws).

¹ RCW 10.93.020(2)



The policy notes that although the WSLCB officers have the power to enforce provisions of Washington's Controlled Substances Act,² "it is the policy of the board to limit LCB Enforcement Officer authority in this title to primarily laws related to marijuana." Officers are also empowered to enforce laws regarding vapor products³ and inspect medical cannabis cooperatives to ensure compliance with the law.⁴

² RCW 69.50

³ RCW 70.345

⁴ RCW 69.51A.250



Stakeholders' Perceptions of the WSLCB and its Officers

OVERALL COMMENTS ABOUT THE WSLCB

An important part of this assessment was the stakeholder outreach. We interviewed stakeholders from within the agency, as well as licensees, interest groups and legislators.

It is important to note that many stakeholders expressed concerns that go beyond the purview of the Enforcement and Education Division. While this assessment does not focus on the entire WSLCB, these concerns provide important context for the assessment. These comments included the following.

- Recognition that the WSLCB was entering new territory when recreational cannabis was legalized and it experienced growing pains as leadership developed regulations and the organizational structure to enforce the law and protect public safety. External and internal stakeholders described this process as learning from their own mistakes.
- Recognition that the number of licensees and the complicated nature of new laws regarding cannabis has dramatically increased the WSLCB's workload.
- Concern that the regulatory environment continues to change and rules are changing too fast or too often. Some argue that legislation under which the rules were developed was not well drafted, resulting in poorly drafted rules. These constant changes make it difficult for business owners, especially small businesses, to stay in compliance.
- Concerns that the WSLCB is unfair to small businesses in its rulemaking and enforcement as opposed to larger business that are well capitalized.
- A feeling that although upper-level WSLCB staff understand the industries they are regulating, not all staff understand those industries.

ENFORCEMENT PHILOSOPHY

Many stakeholders indicated that while some officers are helpful and provide the licensees the opportunity to rectify minor problems, other officers take a strong enforcement approach and write up even the smallest violations. Individuals expressed concern about the philosophy of the agency and about some officers specifically regarding enforcement. While several licensees spoke highly of officers assigned to them, others perceived that some officers are anti-cannabis and enforcement actions are taken because of that.

In some instances, stakeholders observed that people who were previously involved with the illicit cannabis industry who are now approved licensees are being treated with suspicion and as criminals. The allegation is that some officers have not made the adjustment to marijuana being legal. Further, licensees, legislators and external stakeholders expressed concerns that in addition to the enforcement stance of many officers, the uniform was discomfoting to most. The tactical-style uniform, complete with vest and sidearm, was offensive and frightening to some licensees who related that they felt Special Weapons and Tactics (SWAT) officers were raiding their business. In discussions, some officer and internal stakeholders were opposed to wearing the uniform while others supported it.



Both external and internal stakeholders generally indicated that they want more of an education and compliance approach than a heavy-handed enforcement approach. However, many noted that the WSLCB still needs to ensure that it enforces laws against the serious violators and those who are engaged in illicit practices. Some licensees reported that a strong enforcement approach can impose trauma on individual licensees or employees because of their past experiences with law enforcement.

CONSISTENCY OF ENFORCEMENT AND INTERPRETATION OF RULES

Stakeholders reported inconsistency in interpretation of WSLCB rules. They indicated that this inconsistency occurs among officers, regions or even different divisions of the LCB. In some instances, licensees reported that they contact a different division or different people until they get the answer for which they were looking. This is problematic in that a licensee relies on an interpretation of the rules by one division and then may receive a violation notice from an enforcement officer who interprets the rules differently. This has also occurred internally where the License Division may contact different officers in different regions when attempting to obtain and/or disseminate information, knowing that individual enforcement practices differ.

Stakeholders indicated that when they receive interpretations of rules, the WSLCB does not commit that interpretation to writing. They also reported that emails requesting interpretations either go unanswered or the responses they receive simply quote the rule. Part of this response by WSLCB staff may be due to the Enforcement and Education Division's rule that limits the ability of staff to provide such information in emails. These emails must instead come from the director. The stakeholders also indicated that when they receive written responses, those responses are often not timely.

As mentioned above, stakeholders also report that depending on the officer and the region, the WSLCB has different enforcement practices. Sometimes officers use the notice of violation as the only tool to resolve non-compliance with marijuana regulations. In some cases, the guidance provided to new licensees or those applying for a modification of a facility reported that they receive inconsistent or minimal information that lacks the clarity to ensure compliance. These deficiencies in practices, or the unwillingness to educate, can result in unnecessary expenditures for the licensee when they find through an enforcement visit that they need to make alterations or that they have over-engineered a component of construction.

Stakeholders expressed frustration with inspections and compliance checkups, stating that it should be an expected process that does not disrupt the normal business. They stated that knowing what to expect and anything they would need to have ready when the officers show up would be helpful.

UNDERSTANDING OF THE INDUSTRIES

Many licensees feel that not all WSLCB enforcement officers understand the industry that they regulate. They report that these officers also do not understand the challenges of small business owners, who at times have put all their personal funds into a new business in order to make it successful. Some licensees feel that the enforcement officers lack the empathy, concern and common sense to balance the enforcement and education to assist small business owners with achieving compliance and potential success.



FEAR OF RETALIATION

A common theme from the field was that licensees fear asking questions or seeking assistance to comply with the law. Some reported that reaching out to enforcement with questions can sometimes result in an enforcement officer conducting a site visit and issuing a violation.

Similarly, licensees indicated that they are afraid to report any wrongdoing or mistreatment from an enforcement officer for fear that the officer will retaliate by inspecting their business and issuing a violation notice. External stakeholders reported that officers visited some licensees multiple times in a year because they had complained about the WSLCB, while others went without a visit for years.

EMPHASIS ON CAMERAS AND CAMERA SYSTEMS

As noted earlier, stakeholders reported inconsistencies in WSLCB licensing and enforcement personnel's interpretation of the laws and regulations. The installation, monitoring and recording of surveillance cameras is one such area that can be costly to the licensee.

The camera system is a significant expense. Licensees are reportedly told they need additional cameras or extended recording retention that are not practical and are costly. Further, some reported that officers issued a violation for a weather-related incident impacting the retention of data.



Survey Results and Findings

METHODOLOGY

The WSLCB requested that we conduct a survey of licensees to get a better understanding of their perceptions of the Enforcement and Education Division. The survey was open from August 1 to 15, 2019 and we invited members of the WSLCB's mailing list, containing over 10,000 recipients, to participate on the SurveyMonkey website.

The survey included 26 questions, including questions about the licensee and their interactions with the Enforcement and Education Division. We designed the questions based on those used to measure citizen's perceptions of police. The core of the questions focused on procedural justice topics, including the concepts of fairness, giving a voice to those being served, transparency and impartiality. We received 928 responses.

When reviewing the following survey results, please keep the following caveats in mind.

- Because stakeholders expressed fear of retaliation for speaking out about WSLCB issues, it was important to the WSLCB and licensees that their identities remain anonymous. For that reason, we did not track identities of respondents. As a result, licensees could potentially respond more than once, impacting the results.
- It is important to note that some of these recipients may appear multiple times in different WSLCB mailing lists. Because of this, it is not possible to determine the actual number of potential respondents or calculate a response rate.
- While the results of the survey are not necessarily statistically significant and may not represent the opinions of all stakeholders, they still provide valuable insight into some stakeholder perceptions of the WSLCB and supplement the information already received from stakeholder interviews.
- Respondents were asked to identify the type of license that they held. In presenting the results, we present the overall figures and identify areas where the response varied based on the type of license held. Where the figures are not broken down by license type, the response did not differ significantly based on license.

RESULTS

Summary of Respondents

In the 923 responses to the survey, the respondents identified themselves by the type of license that they held. Fifteen respondents chose not to identify their license, which is not represented in the table below.



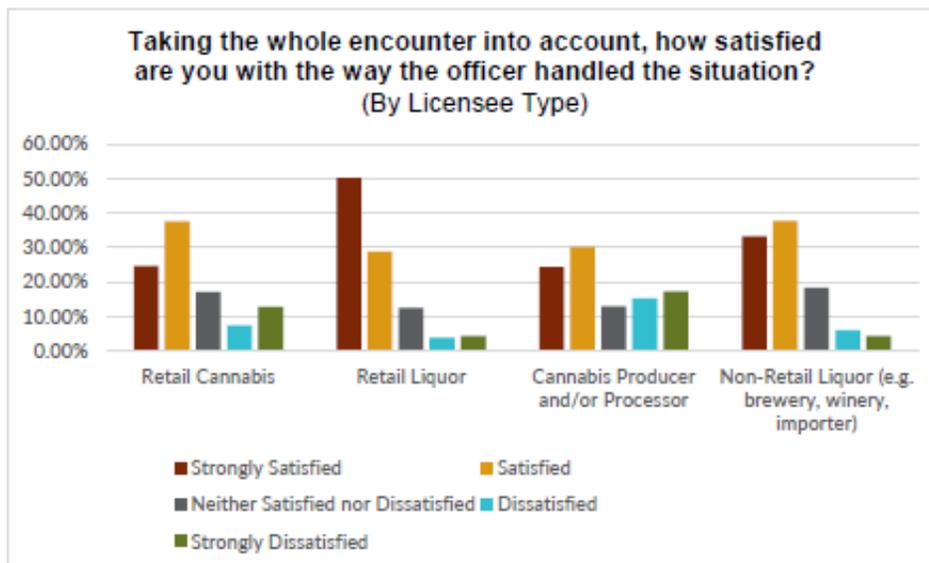
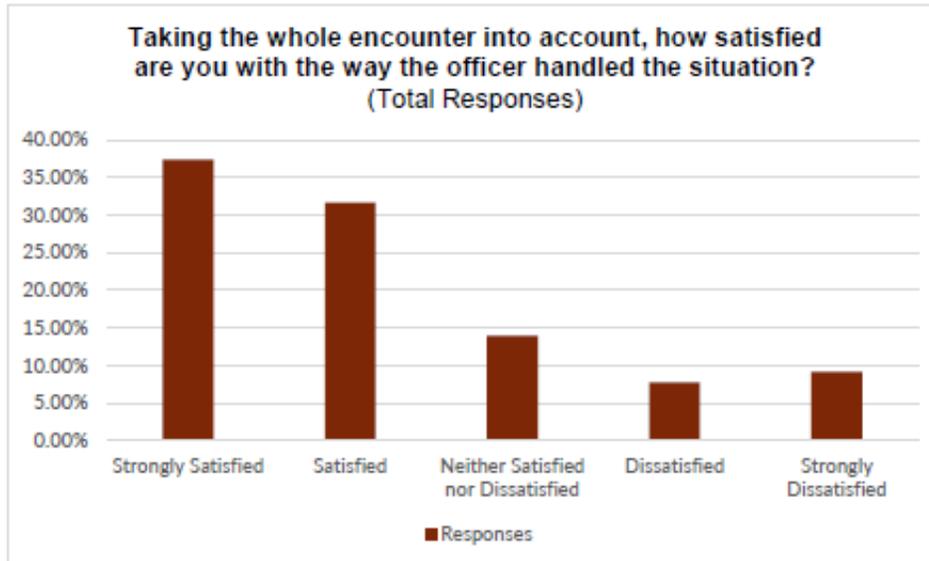
Type of Licenses Held by Respondents	Percent of Total Responses	Number of Responses
Retail Cannabis	10.35	94
Retail Liquor	45.37	412
Cannabis Producer and/or Processor	28.74	261
Non-Retail Liquor (e.g. brewery, winery, importer)	13.33	121
Tobacco/Vapor	2.20	20
Total	100	908

Ninety-one percent of the respondents reported that have had contact with a WSLCB enforcement officer. Respondents were divided across regions, as represented below. Forty-six respondents did not provide this information.

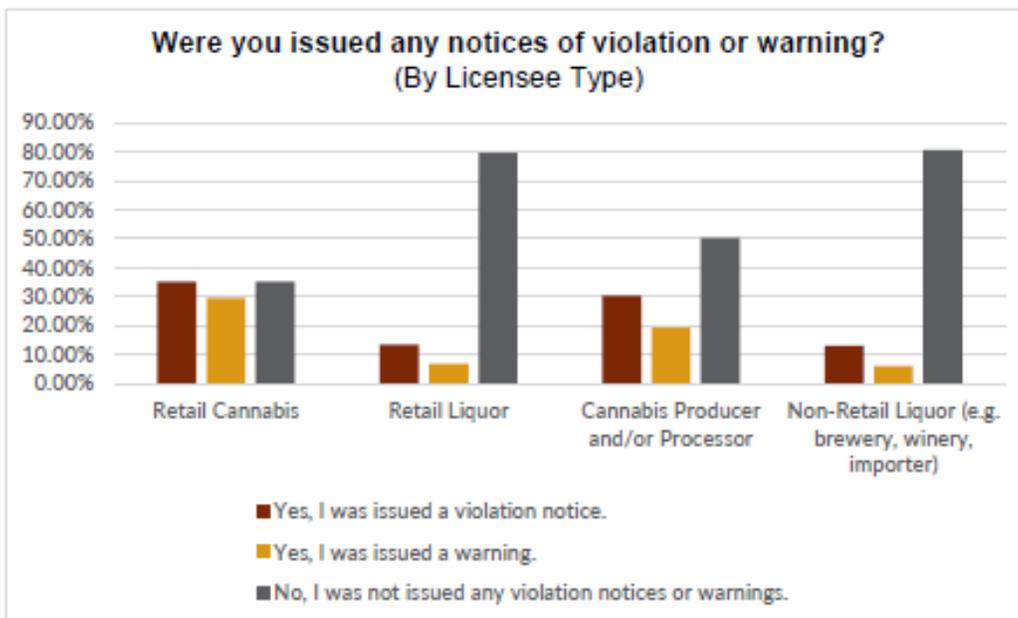
Region Where Contact Occurred	Percent of Total Responses	Number of Responses
South-Western Washington/Peninsula	23.26	204
King County	22.58	198
North-Western Washington/Island County	19.61	172
Eastern Washington	29.76	261
I Don't Know	4.79	42
Total	100	877



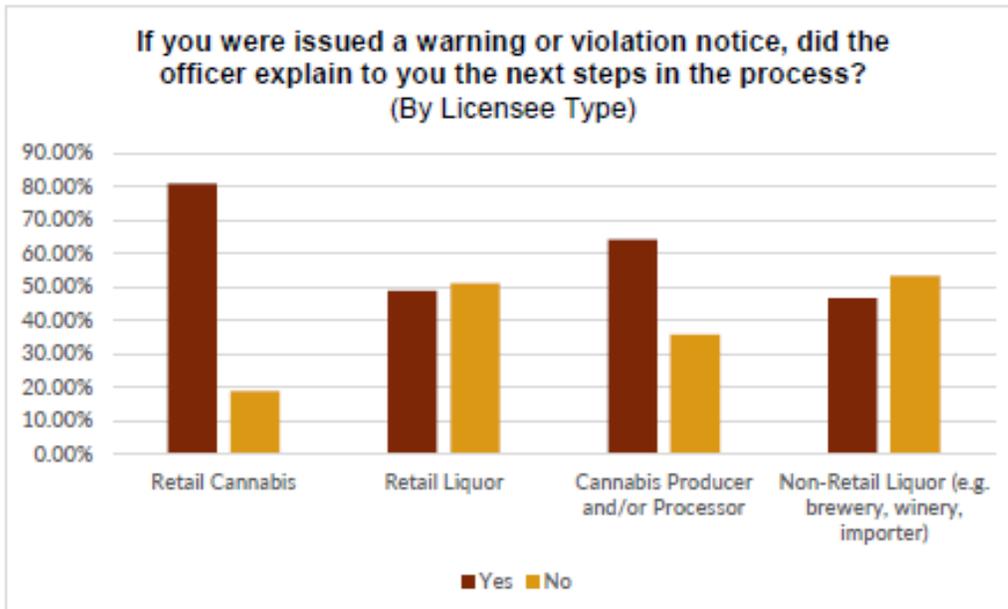
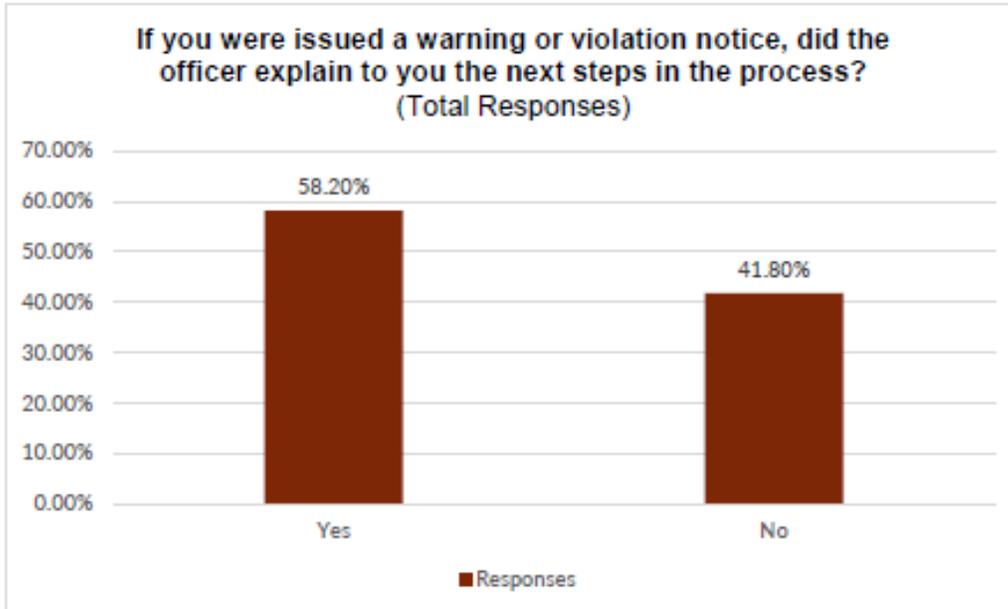
Licensee Satisfaction and Process



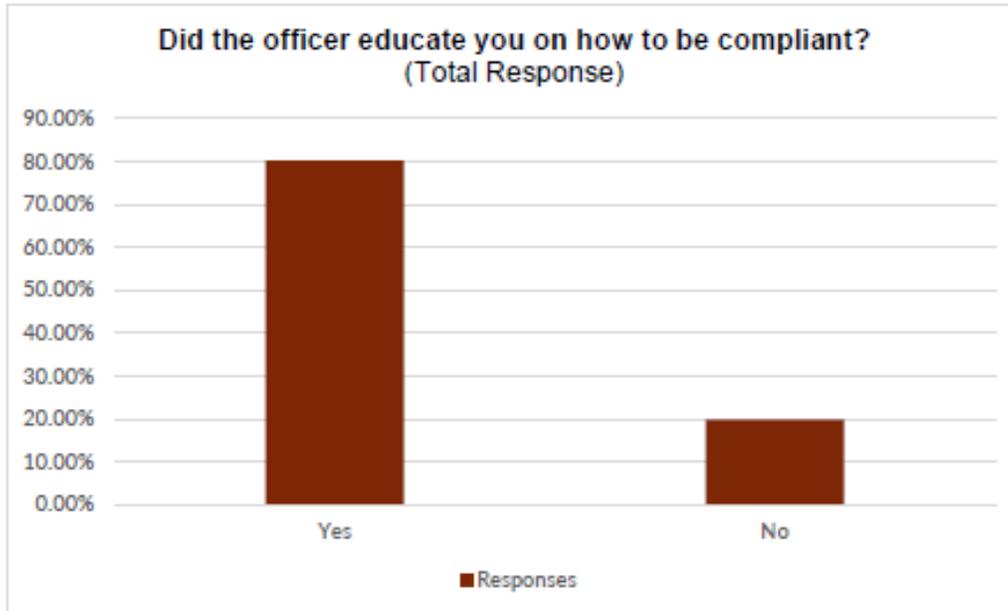
The above charts indicate that while 68.7 percent of respondents expressed that they were satisfied or strongly satisfied with the way the officer handled the situation, retail cannabis licensees (62.36 percent) and cannabis producers and/or processors (54.51 percent) were less likely to be satisfied than retail liquor (79.06 percent) or non-retail liquor licensees (71.05 percent).



While over 66 percent of the total respondents indicated that they did not receive a violation notice or warning, over 65 percent of retail cannabis and almost 50 percent of producers received a violation notice or warning. This compares to around 20 percent of the other licensee holders in total being issued a violation or warning.



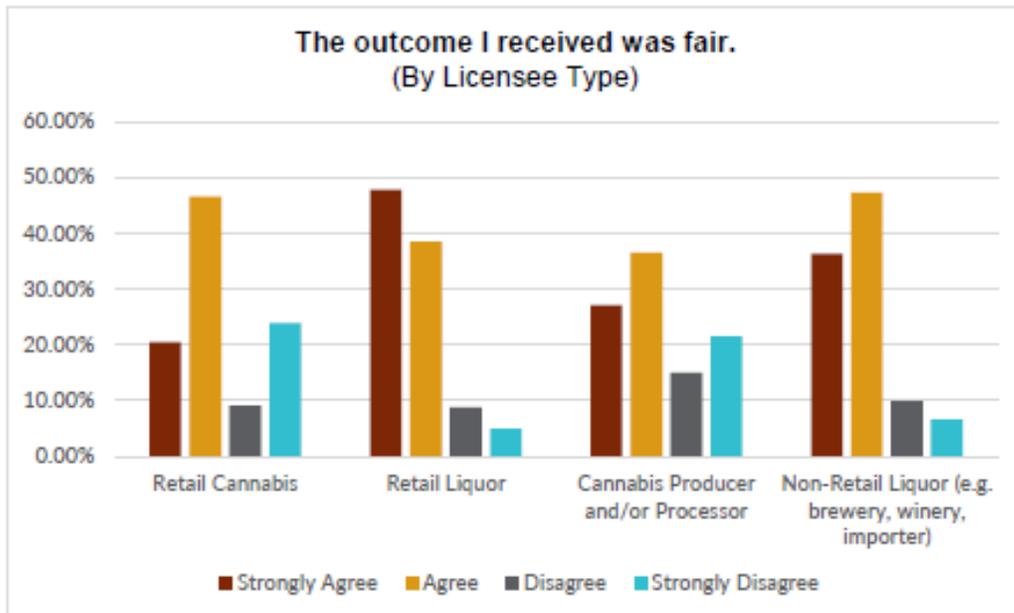
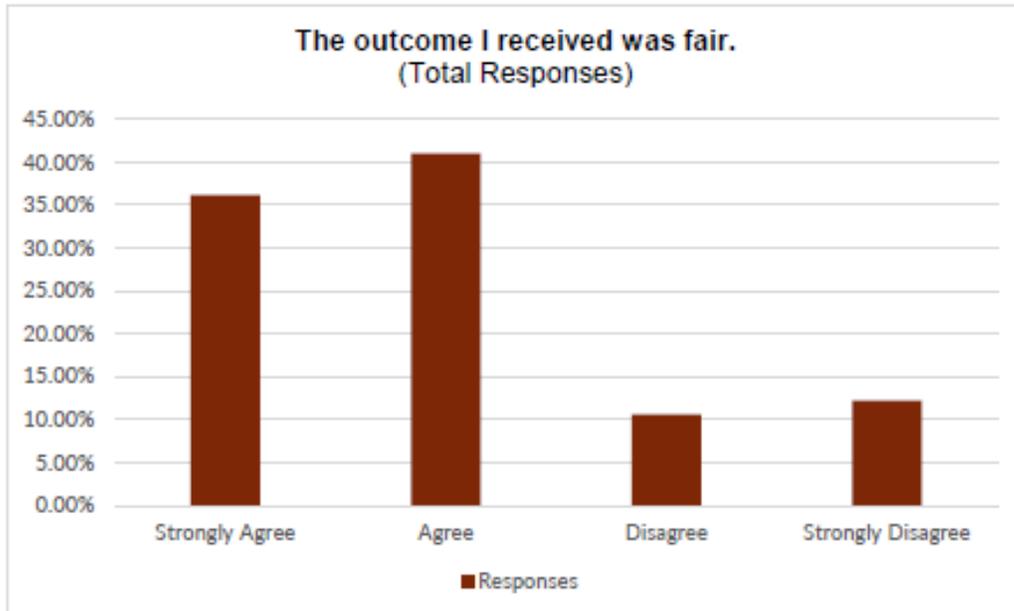
Overall, respondents indicated that if they received a warning, the officer explained the next steps in the process. Over 81 percent of the retail cannabis respondents and 64 percent of cannabis producers and/or processors indicated that the officer explained the next steps in the process, while less than half of retail liquor (48.83 percent) and non-retail liquor licenses (46.67 percent) reported that they received the explanation.



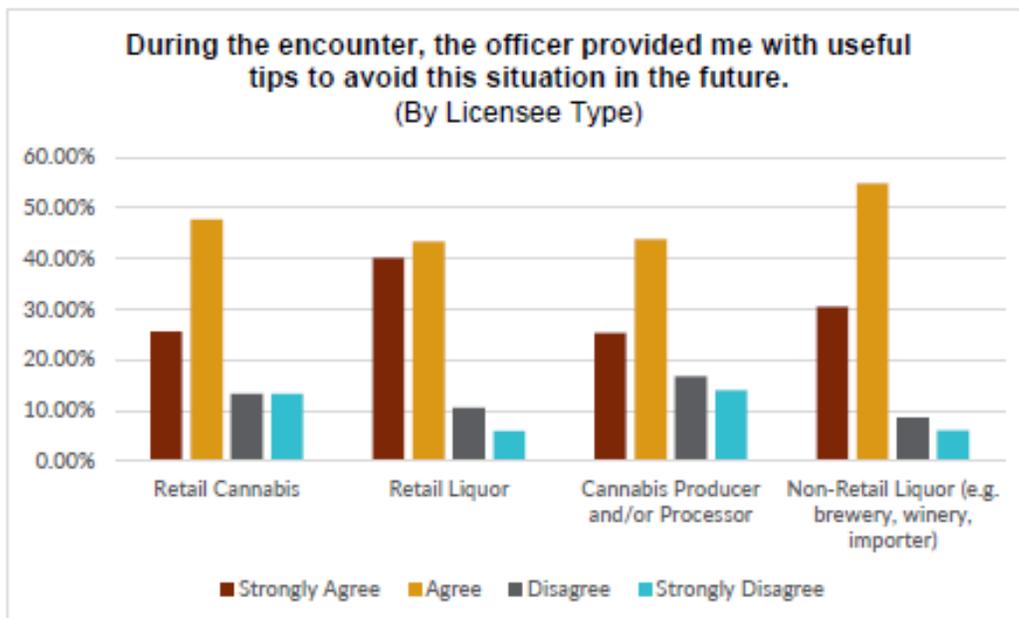
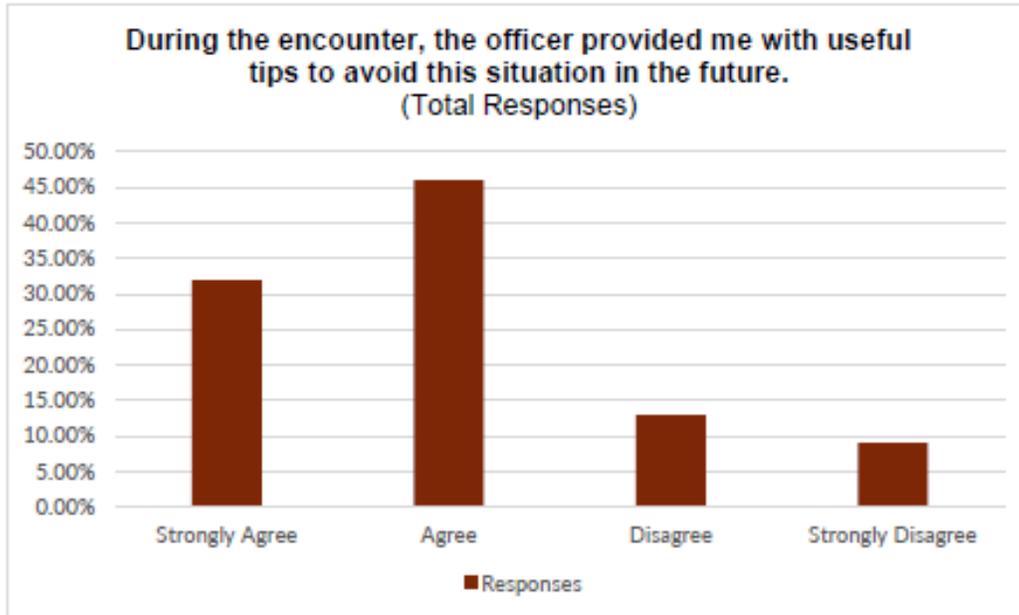
Over 80 percent of the respondents indicated that the WSLCB officer educated them on how to be compliant with the regulations. Responses did not differ significantly based on the license type.



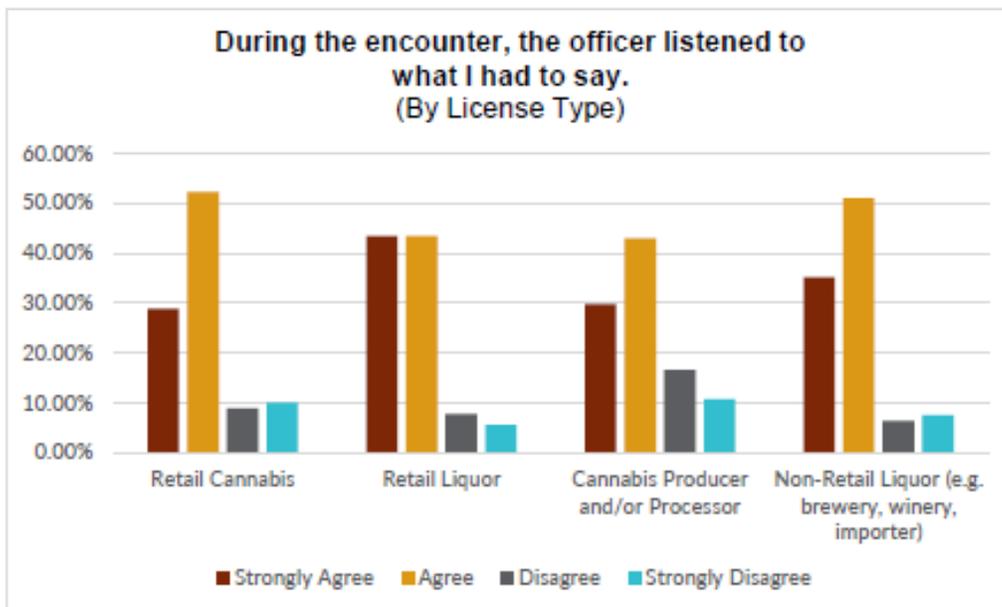
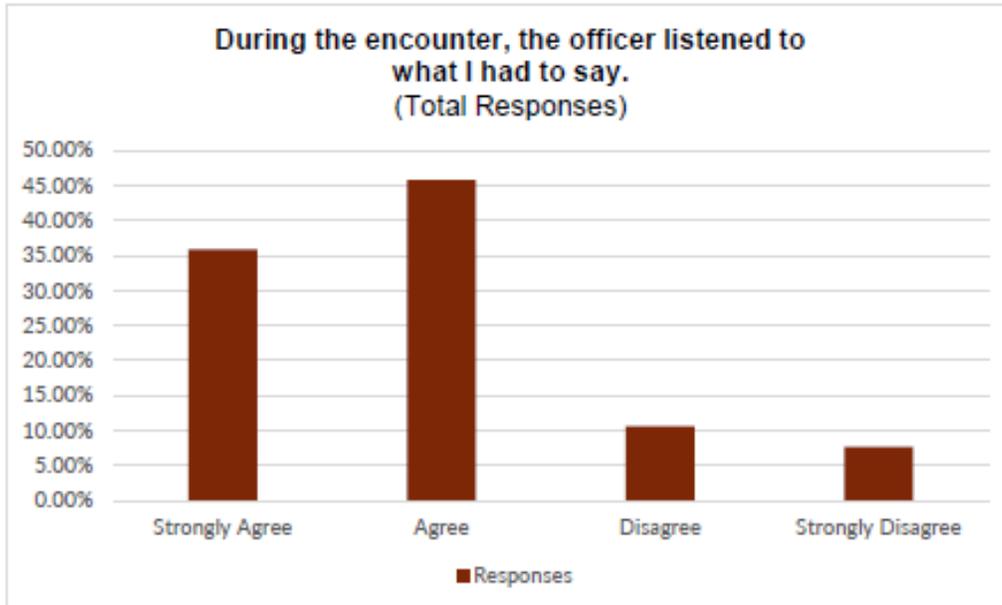
Licensee Perceptions of Officer Conduct



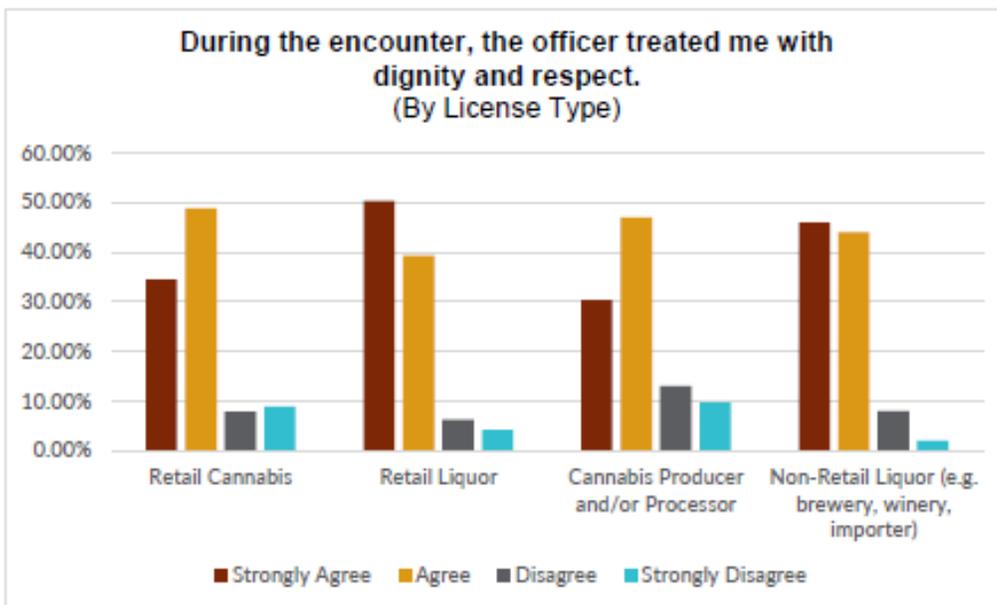
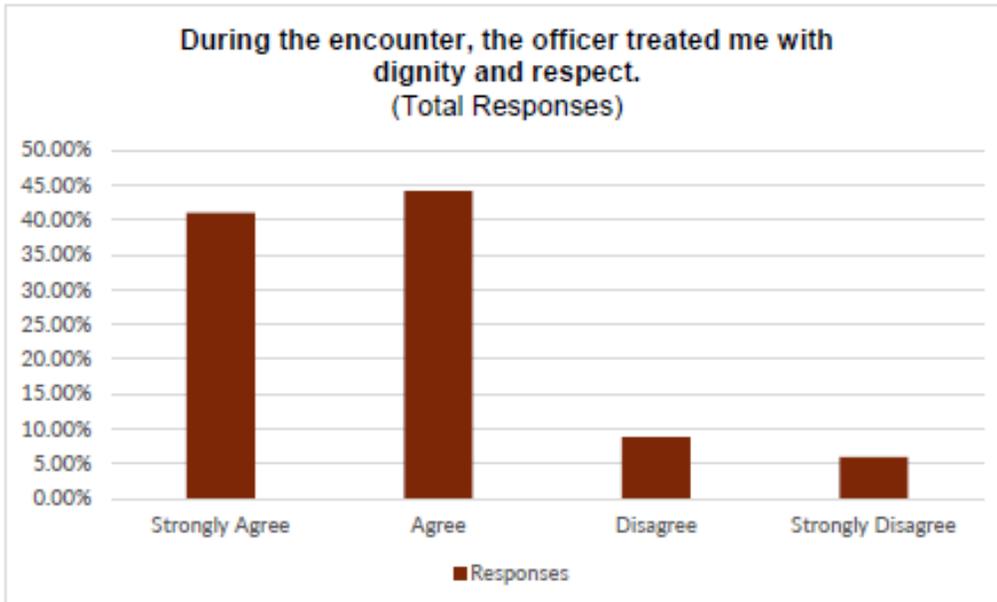
Liquor licensees tended to view the outcomes as fairer than cannabis licensees. Retail cannabis licensees (67.04 percent) strongly agreed or agreed that the outcome was fair, and 63.52 percent of producers/processors strongly agreed or agreed that the outcome was fair. This compares to 86.34 percent of retail liquor respondents and 83.51 percent of non-retail liquor respondents strongly agreeing or agreeing that the outcome was fair. It is important to note that 23.86 percent of retail cannabis and 21.46 percent of cannabis producers strongly disagreed that the outcome was fair.



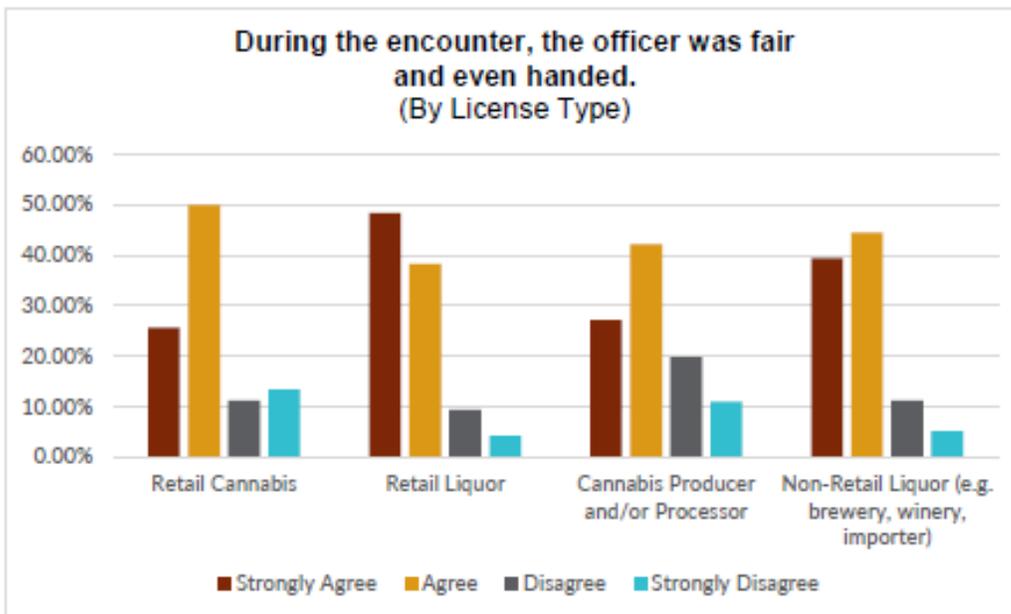
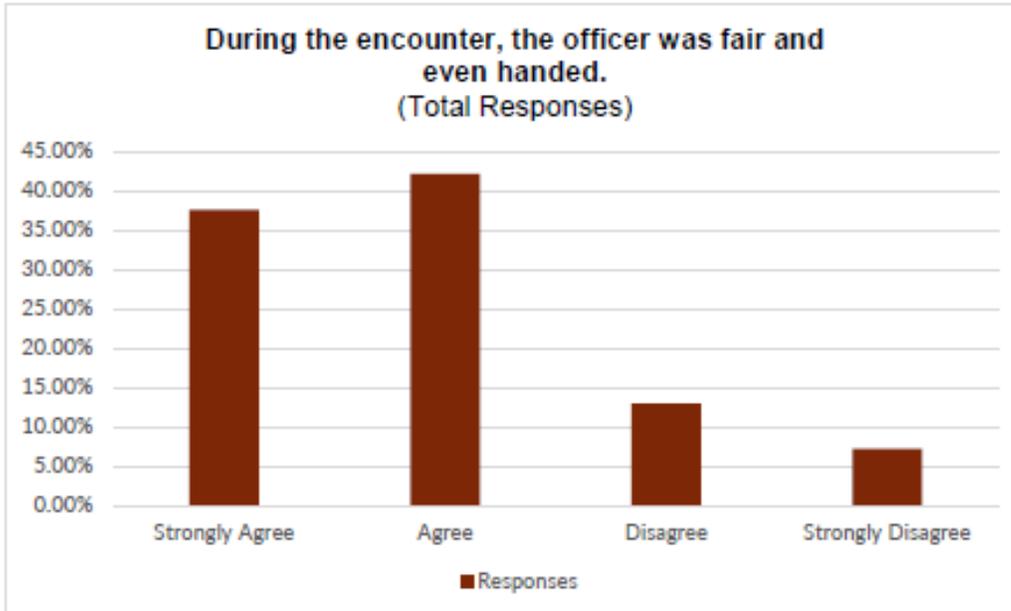
Almost 78 percent of respondents agreed or strongly agreed that the officer provided them with useful tips to avoid the situation in the future. Responses did not differ significantly based on the type of license.



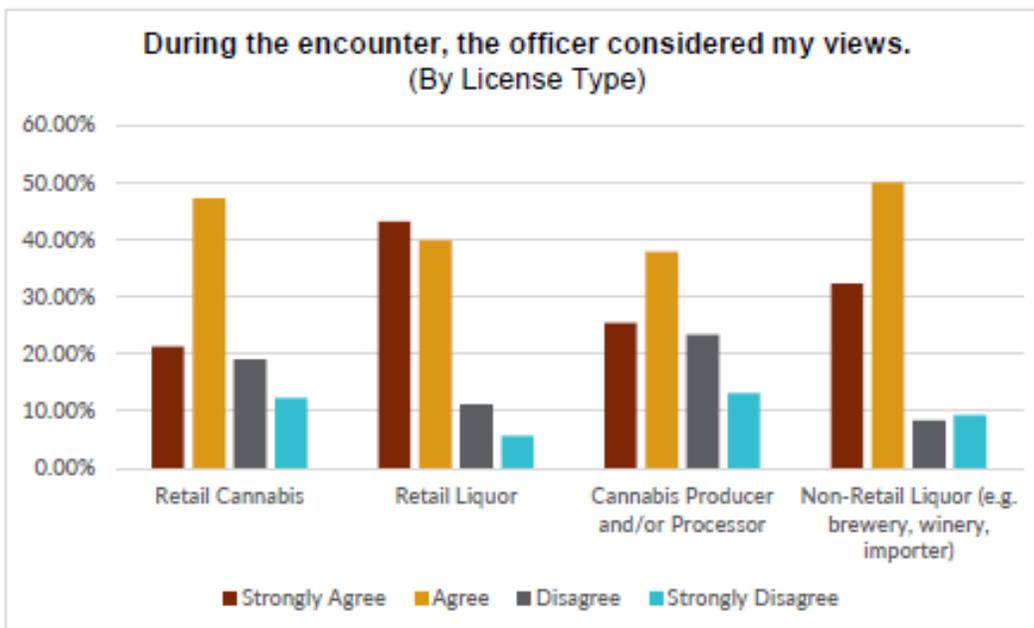
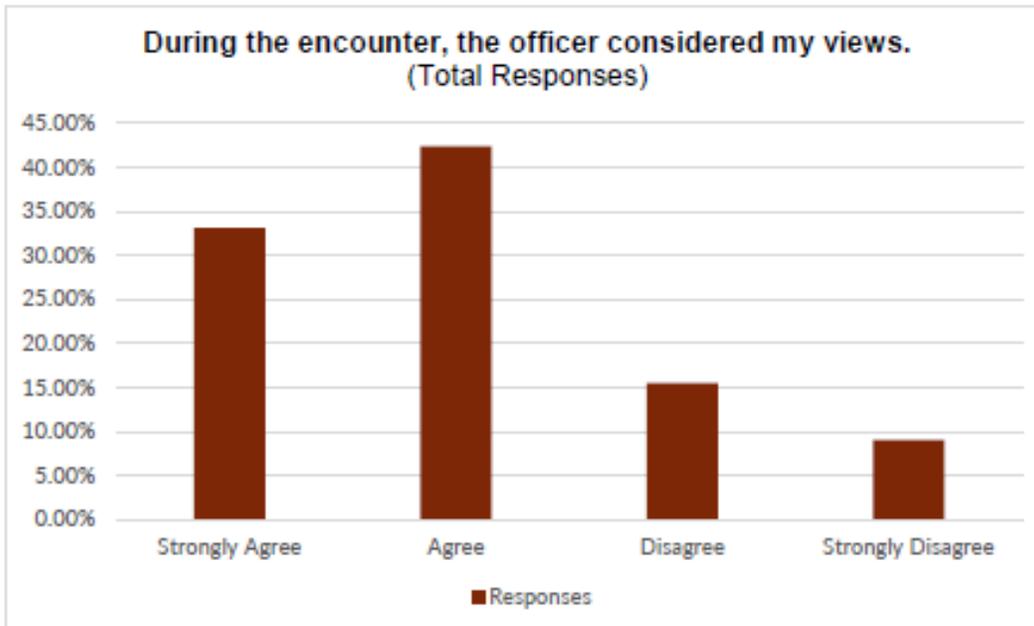
Of the total respondents, 81.49 percent indicated that the officer listened to what they wanted to stay. Cannabis producers/processors strongly agreed or agreed 72.73 percent of the time, while retail cannabis (81.1 percent), retail liquor (86.76 percent) and non-retail liquor licensees (86.17 percent) agreed more frequently.



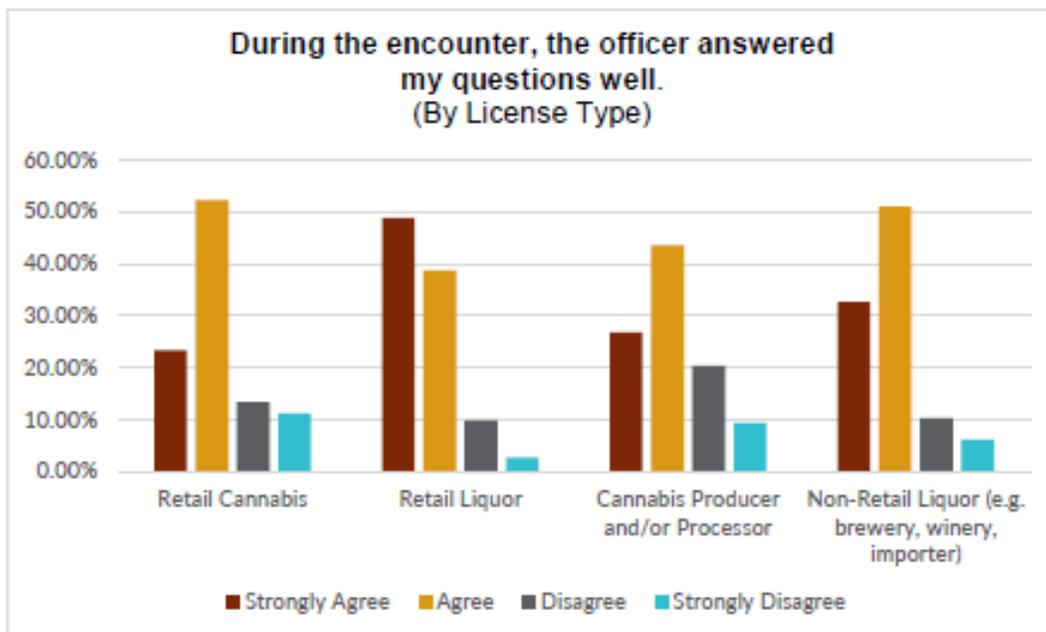
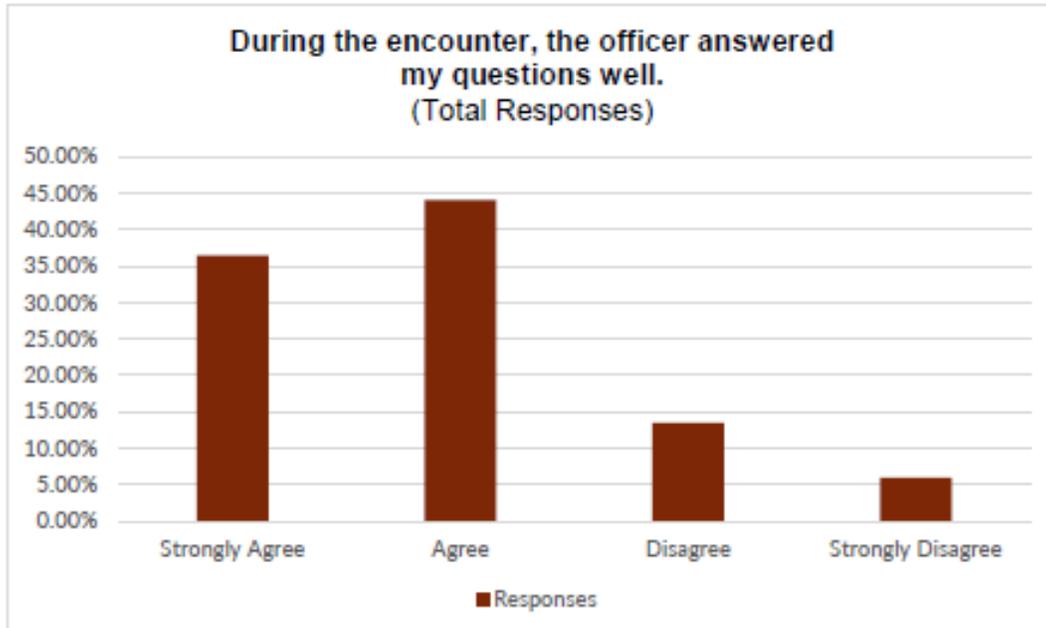
Responses differed regarding whether the officer treated the respondents with dignity or respect. Overall, 85 percent of respondents agreed or strongly agreed with this statement. Retail and non-retail liquor licensees agreed or strongly agreed around 90 percent of the time, retail cannabis licensees agreed or strongly agreed just over 83 percent of the time and cannabis producers/processors agreed or strongly agreed 77.32 percent of the time.



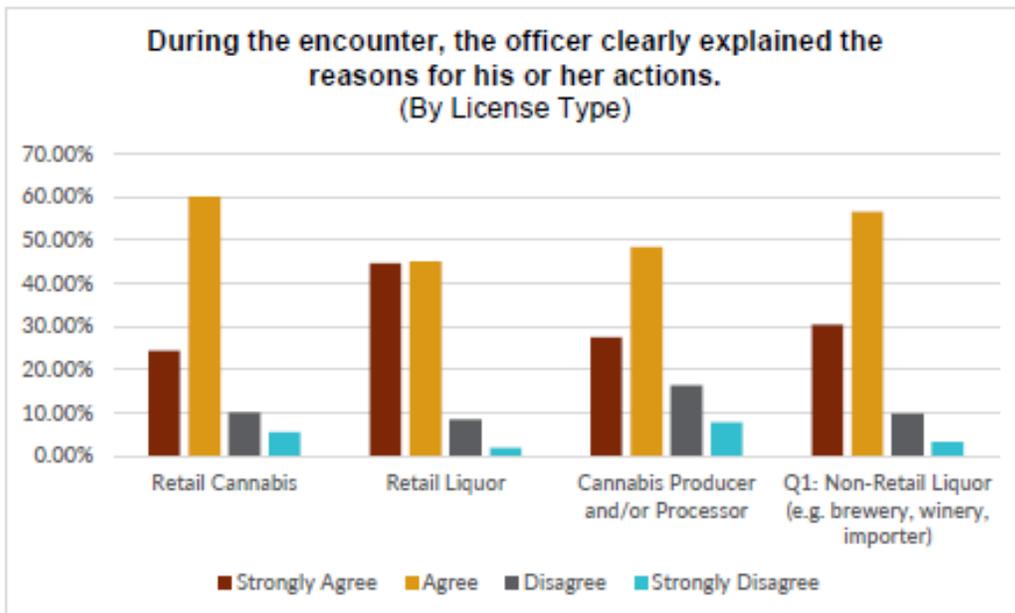
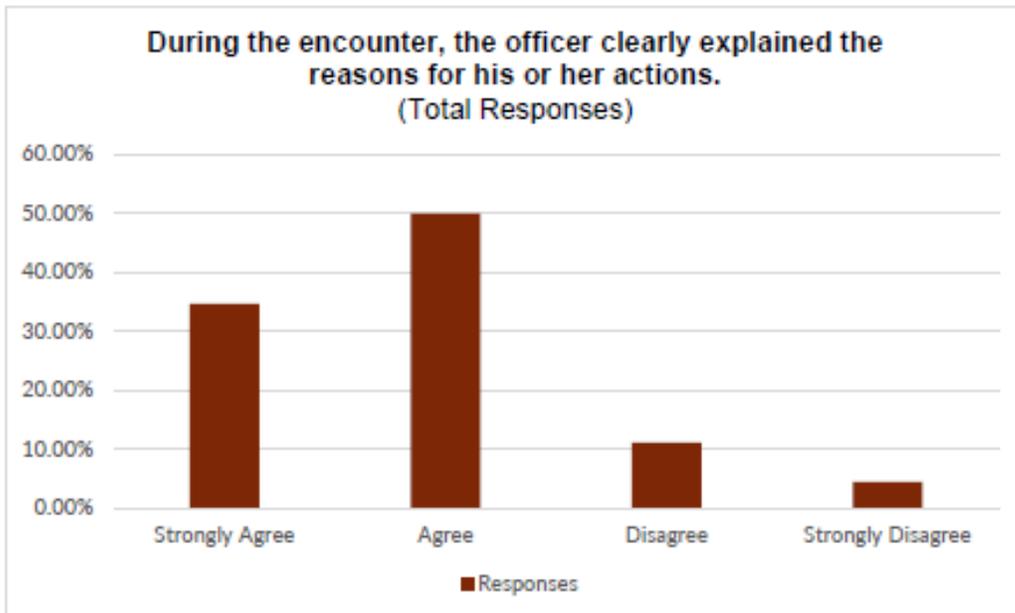
Nearly 80 percent of respondents reported that the enforcement officer was fair and even handed. The retail liquor (86.57 percent) and non-retail liquor licensees (83.83 percent) agreed or strongly agreed more often than the retail cannabis licensees (75.76 percent) or the cannabis producers and/or processors (69.64 percent).



Retail (83.08 percent) and non-retail liquor (82.29 percent) licensees were more likely to agree or strongly agree with the statement that the officer considered their views as opposed to retail cannabis (68.54 percent) or cannabis producers/processors (63.37 percent).



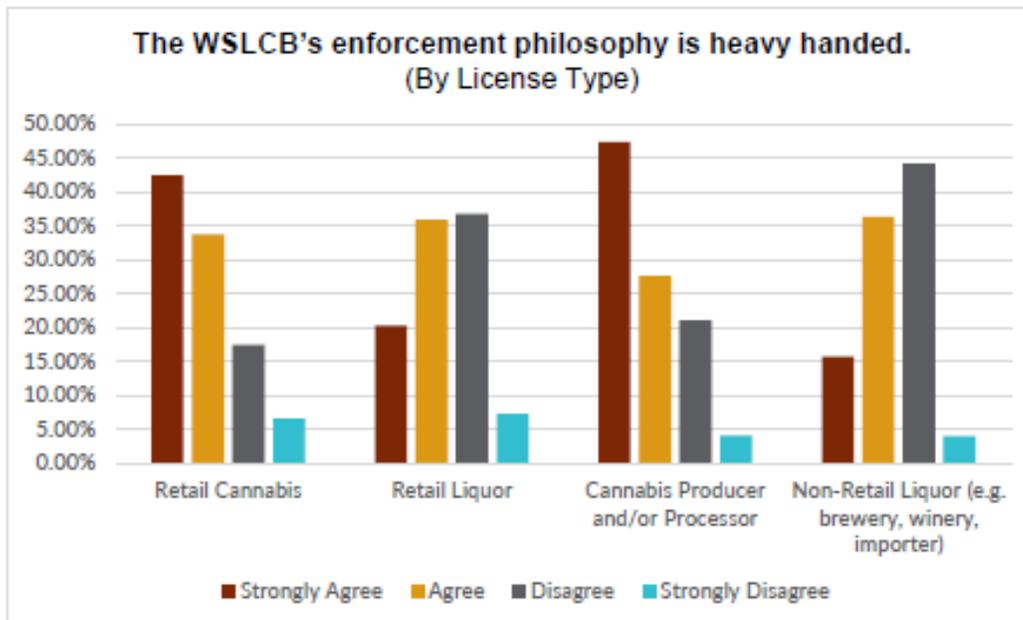
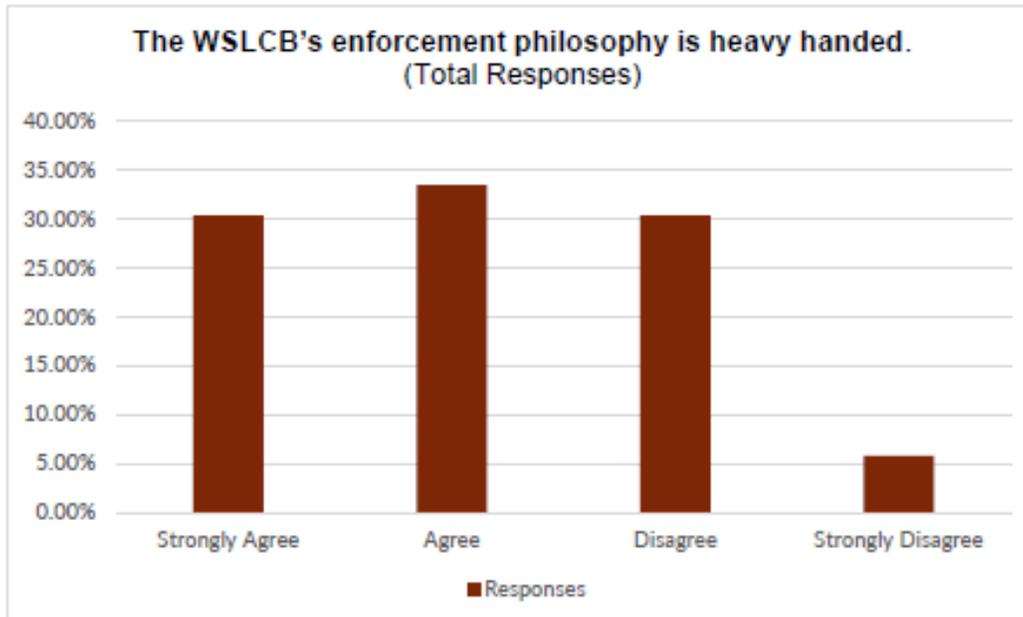
While 87.58 percent of retail liquor licensees and 83.67 percent of non-retail liquor licensees agreed or strongly agreed that the officer answered their questions well, 75.55 percent of cannabis retailers and 70.33 percent of cannabis producers/processors agreed or strongly agreed. In total, 80.18 percent of all respondents agreed or strongly agreed.



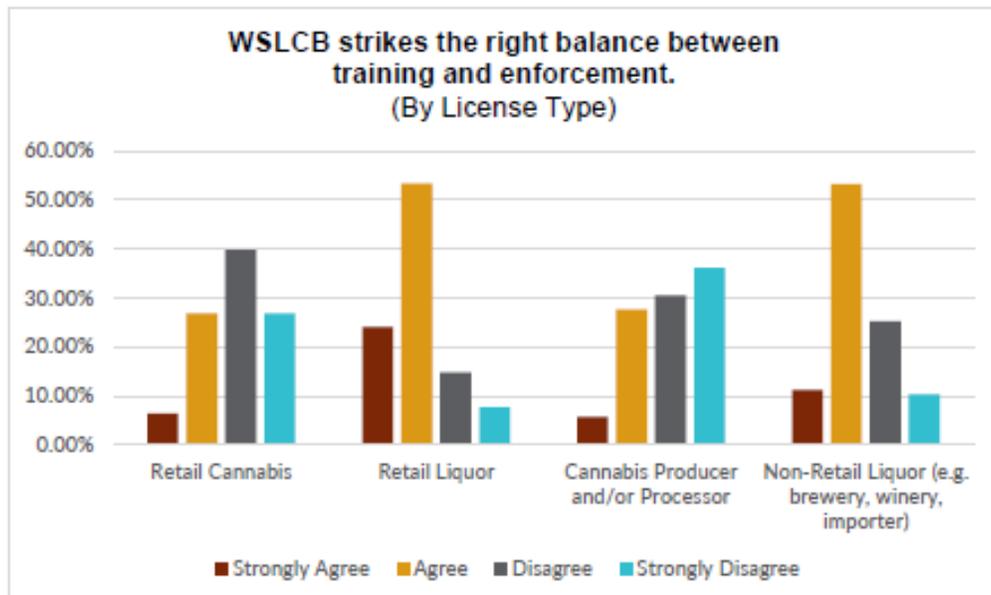
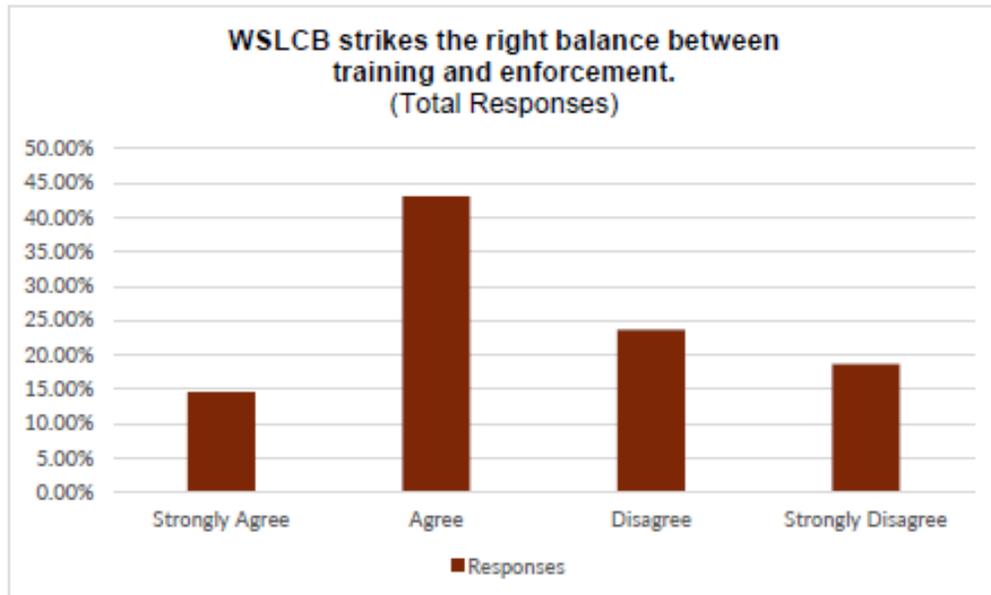
Overall, 84.22 percent of the respondents agreed or strongly agreed that the officer clearly explained the reasons for their actions. Cannabis retailers (84.44 percent), liquor retailers (89.75 percent) and non-retail liquor licensees (86.95 percent) were more likely to agree or strongly agree than cannabis producers/processors.



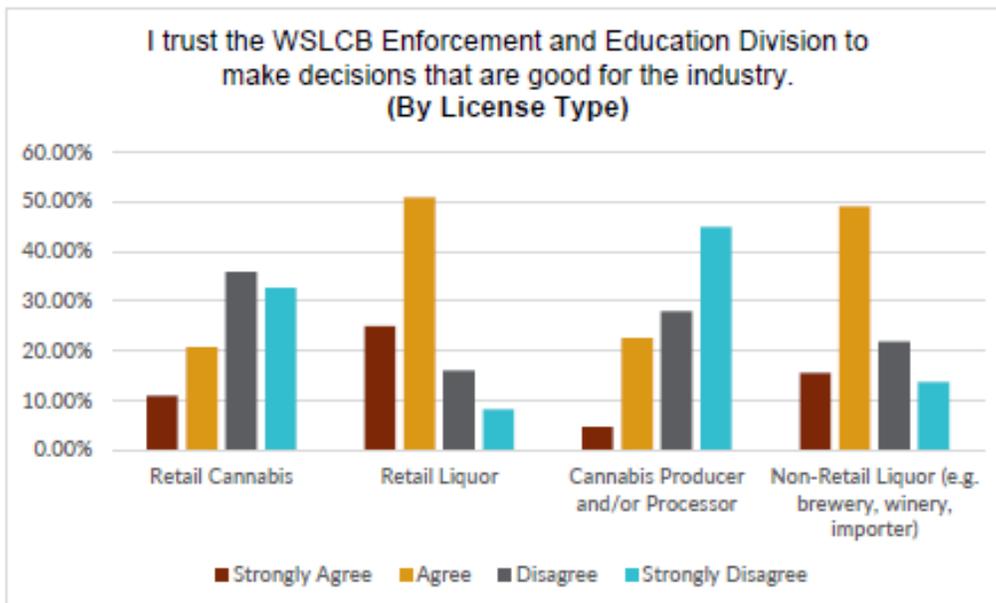
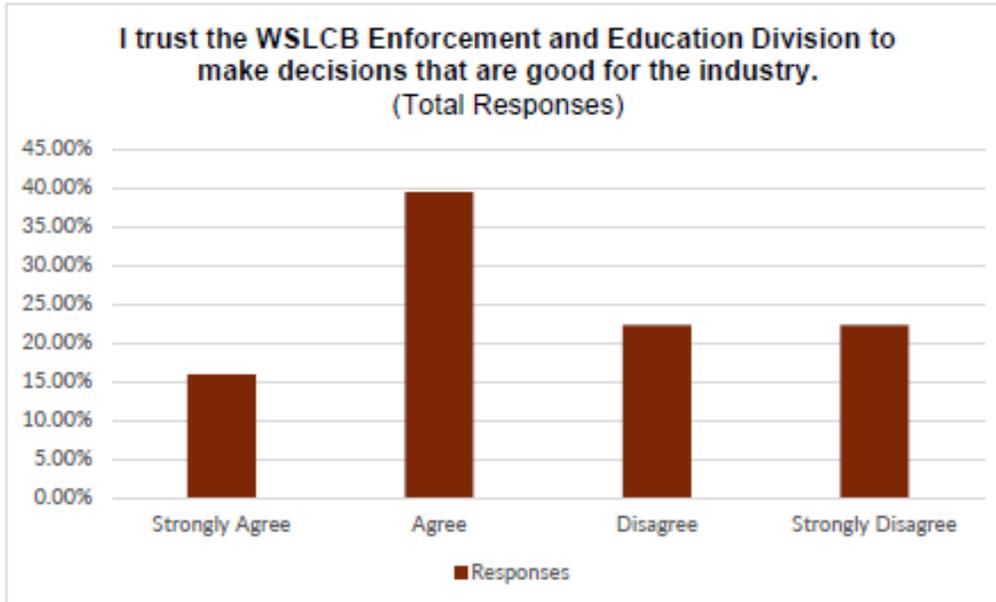
Licensee Perceptions of the WSLCB



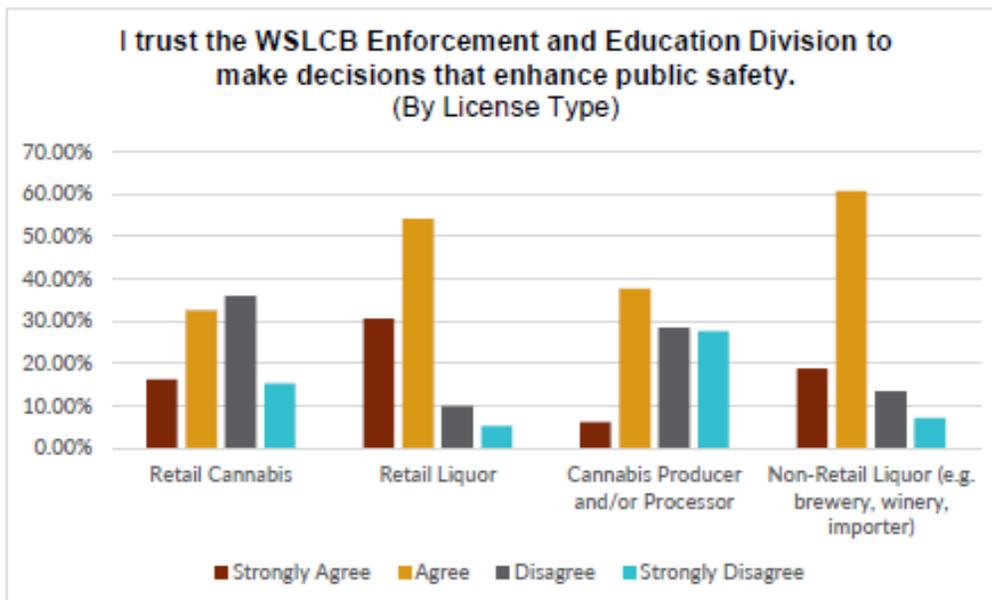
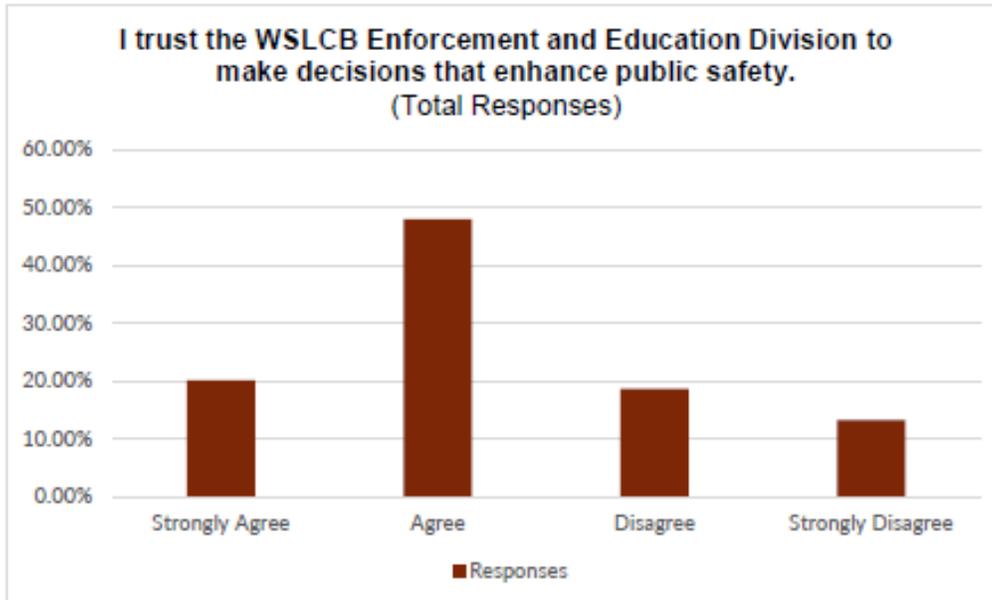
While about 64 percent of the respondents agreed or strongly agreed that the WSLCB's enforcement philosophy is heavy-handed, responses differ based on industry and role. Cannabis retailers (76.09 percent) and producers/processors (74.8 percent) were more likely to agree or strongly agree with this statement than liquor retailers (56.07 percent) or non-retail liquor licensees (51.96 percent).



Over 50 percent of licensees strongly agreed or agreed that the WSLCB strikes the right balance between training and enforcement. The differences between perception of cannabis licensees and liquor licensees is stark. One third of cannabis licensees (retailers and producers/processors) agreed or strongly agreed, while 77.5 percent of retail liquor licensees and 64.5 percent of non-retail liquor licensees agreed or strongly agreed.



Similarly, while over 55 percent of respondents agreed or strongly agreed that they trust the WSLCB to make decisions that are good for the industry, the differences between cannabis licensees and liquor licensees were significant. Cannabis retailers (31.52 percent) and cannabis producers/processors (27.13 percent) agreed or strongly agreed with that statement, while 75.85 percent of retail liquor and 64.54 percent of non-retail liquor licensees agreed or strongly agreed.



Over 68 percent of respondents indicated that they trust the WSLCB to make decisions that enhance public safety. Again, the answers differed between cannabis licensees and liquor licensees. Almost 85 percent of retail liquor licensees and over 79 percent of non-retail liquor licensees agreed or strongly agreed with that statement, while almost 49 percent of cannabis retailers and 44 percent of cannabis producers/processors agreed or strongly agreed.



Comments

The survey also included a space to include additional comments about interactions with the WSLCB. In total, 458 of the respondents provided additional comments, including 174 from cannabis producers/processors and 164 from retail liquor licensees.

Many of the responses were simple two-word responses, such as “good job,” while others included long narratives. While we could not report every comment in this report, several themes emerged.

- Respondents shared both positive and negative opinions and stories about enforcement officers with whom they had worked. Generally, respondents reported having good relationships with some officers, but some were highly critical of other officers with whom they had worked.
- A common response was the inconsistency in the interpretation of rules. Most respondents attributed this to the vagueness of the WSLCB’s rules, but some accused officers being unfair in how they applied the rules.
- Several respondents noted that the WSLCB’s rules were often complicated, unnecessary or misguided.
- Many respondents were critical of the Enforcement and Education Division’s philosophy, which they indicated focused on catching people with violations rather than helping people comply. Several respondents believed officers were predisposed to finding violations when conducting a premise check rather than coming in with an attitude of helping the licensee.
- Respondents noted that sometimes neither officers nor licensees understand the regulations. They called for increased education efforts for enforcement officers to better understand the regulations and the industries they regulate. They also called for increased outreach from the WSLCB to help licensees understand the rules.
- Several respondents were critical of the survey itself, noting that it focused on an interaction with an enforcement officer. They noted that they have had many interactions or no interactions with officers. Therefore, it was difficult to answer many of the questions. Additionally, some respondents reported that the survey did not have enough questions about other topics related to the WSLCB.

SUMMARY

Overall, the survey results indicate that most respondents are happy with the Division’s service. However, a significant number expressed dissatisfaction with the Division’s philosophy, in that it does not seem to strike a balance between training and enforcement. This affects their trust in the Division to make the best decisions for the industry.



Consistent with the stakeholder feedback, survey respondents from the cannabis industry tended to be more critical of the Enforcement and Education Division than those respondents from the liquor industry. They were less likely to report that the outcome they received was fair, that they trust the WSLCB to make decisions that are good for the industry and that the WSLCB strikes the right balance between training and enforcement, as indicated above. Respondents from the cannabis industry were also more likely to believe that the WSLCB's enforcement philosophy is heavy-handed.

While the relatively high number of positive responses to the survey should be celebrated, WSLCB leadership should address the negative responses through additional outreach and trust-building activities.



The WSCLB's Mission, Vision and Values

The WSCLB's mission, values and goals are outlined in its 2017-2019 strategic plan. While the mission, goals and values are appropriate and well-conceived, as we learned through interviews and surveys, many stakeholders including WSCLB leadership have discussed the need to assist licensees with compliance and increase educational efforts.

To that end, the WSCLB should consider revising these goals to clearly emphasize educating and assisting licensees. This message should be reflected not only in its goals, but also its mission, key objectives and strategies to message to stakeholders and WSCLB employees that educating and assisting licensees is a priority.

WSCLB's Current Mission, Goals and Values

Mission

Promote public safety and trust through fair administration and enforcement of liquor, cannabis, tobacco, and vapor laws.

Goals

- Ensure the highest level of public safety by continually improving and enforcing laws, regulations, and policies that reflect today's dynamic environment.
- Inform and Engage licensees, the public and stakeholders in addressing issues related to our mission.
- Promote a culture that inspires and values a highly-motivated, competent, and diverse workforce that establishes WSCLB as the employer of choice.
- Ensure operational excellence

Values

- Respect and Courtesy
- Professionalism
- Open communication
- Accountability and Integrity
- Continuous improvement and meaningful results
- Customer Focus



We noted that the section in the Department's 2018 Annual Report describing the Enforcement and Education Division states:

"The Enforcement and Education Division is responsible for enforcing state liquor, cannabis, tobacco and vapor product laws and regulations to promote public safety. Officers also provide education to licensees, communities and local law enforcement agencies."

While the report appropriately mentions the education role of the Division, it does not discuss education activities to assist licensees in compliance. The data in the report cites premise and compliance checks, as well as instances of responsible sales training classes. Although the report notes that the Division engaged in 7,666 licensee support visits, the nature of those visits is unclear. This again misses the opportunity to send a clear message to licensees and enforcement officers that education is a priority.

While mentions are limited in the annual reports, the WSLCB provided indicators that it has conducted educational activities such as briefings and technical assistance. For example, a September 2018 report from the Non-Retail Cannabis Unit reported that officers increased their documented education efforts to assist licensees.

During our interviews and ride-alongs with officers, we noted that the electronic notebook to track their work allows officers to check off an education category. Even though this category is available, we were informed that it is rarely used. To increase its ability to measure education efforts, the WSLCB should clearly define what an education effort is and train officers to use the electronic notebook to record such efforts.



Organizational Structure within the Enforcement and Education Division

REORGANIZATION EFFORTS

A reorganization of the Division is currently being implemented. The scope of the changes had been communicated to the field prior to completion of our assessment. The Division described the goals of the reorganization as follows.

- Build the capacity to improve command and operational infrastructure for oversight, accountability and support through increased expertise that fully uses the time and talents of staff with increased training and creating a path for suggestions or input for improvement.
- Improve business operations by streamlining enforcement duties and responsibilities for officers, which removes waiting or additional processing time.
- Improve consistency and uniformity relating to interpretations of law, reasonable application of law, and operational approach, which lowers the risk of re-work in casework development.
- Improve communications, both internally and externally.
- Balance span of control for managers and supervisors.
- Balance officer workload as it relates to assignment area.

One substantial and beneficial change is the implementation of a second deputy chief to serve as the executive officer of administration. This addition aligns more closely with traditional law enforcement organizational structures, wherein a Division's chief is supported by both an operational and administrative deputy chief to provide appropriate focus and balance within the command structure.

The Division's only commander reports to a deputy chief and is assigned to the newly formed Marijuana Unit. The commander's direct reports are two captains, one of which is a new position. The remaining captains, assigned to headquarters and the three regions, are direct reports to the deputy chief and oversee liquor, tobacco and vaping. Lieutenants (LEO4) serve as direct reports to the captains facilitating the daily operations and administrative tasks for the respective regions.

THE SPECIALIZATION OF ENFORCEMENT BY INDUSTRY

One of the goals of the reorganization is to establish a specific marijuana enforcement section segregated from liquor, wherein a group of select officers focus solely on marijuana. The benefit of such a change is the development of a more robust and comprehensive knowledge base of the industry and the extensive regulations. This reorganization has the propensity to create subject matter experts, compared to the current model where officers balance a knowledge base of alcohol and tobacco regulations, along with marijuana.

However, this direction must include a contingency plan and a focus on training to address the WSLCB's reported attrition issues. By specializing officers, the WSLCB limits the flexibility and level of competence of officers, which limits its ability to move resources as necessary to achieve the



objectives and operational effectiveness of the Division. This could further compound the staffing level concerns.

COMMUNICATIONS AND THE CHAIN OF COMMAND

The proposed reorganization must address control and chain-of-command issues. As currently designed, we found inconsistency in the organizational structure regarding reporting and overall span of control. As noted above, the deputy chief of operations' direct reports are a commander and the four captains. Conversely, the commander's direct reports are the remaining two captains. Having some captains report to a deputy chief while other captains report to a commander makes the lines of authority less clear and creates greater potential for inconsistent messaging of department priorities. Clear messaging and direction from command staff is essential to achieving the agency's goals in a consistent manner. We learned that officers felt disconnected in terms of goal achievement and direction because they were not close to headquarters, where the decisions and directions originate. Clear lines of authority will help to remedy this concern.

The WSLCB should set the Division's direction and then consistently and universally communicate it across the Division's rank and file with strong command leadership. Regardless of how remote a work location may be, the message and tenor should be effectively communicated whether it is down the hall at general headquarters or on the far side of the state.

To ensure consistency and accountability in achieving goals, objectives and daily task assignment, we recommend a strict adherence to a formal structure and chain of command. We learned that officers receive assignments directly from Licensing that seemingly circumvent the chain of command. Such assignments are not known to the supervisory command structure at the district level, and therefore are not tracked for completion. Such assignments compete with work assigned by the immediate supervisory command. We did not find a consistent method of task assignment and task monitoring.

An example is the seemingly autonomous nature of the enforcement officer's site visits. Absent being assigned to conduct a site visit in conjunction with a complaint, officers seem to select sites at random. Further, officers do not consistently document any follow-up required from a site visit for supervisory oversight. During interviews and officer visits, we discovered that officers manage the schedule for site visits and any subsequent follow-up visit in a variety of methods.

TASK MANAGEMENT

Any follow-up actions required from a site visit, such as failure to maintain current insurance, is not consistently tracked and cleared across the Enforcement and Education Division. If the officer becomes unavailable to follow up with the licensee, the WSLCB has no method of accountability for completing the task. We identified that a licensee could have a detrimental remark added to their license if, for example, they are cited for expired insurance, when in fact they have maintained insurance and are waiting to receive the certificate from their provider to forward to the enforcement officer. The Division could subsequently benefit from a structured task management system. This would enable real-time supervisory oversight and accountability and provide a mechanism for improved consistency in the enforcement officers' operations.



The Current Policy Framework

TRANSITION TO LEXIPOL

The Division is currently transitioning its policy and procedures manual to a program called Lexipol. Lexipol allows the Enforcement and Education Division to access policies and procedures through a mobile app or online. It is transitioning to two manuals, one for policies and one for procedures. Lexipol also establishes protocols for tracking when staff members have read new or updated policies for accountability through what is called KMS tracking. This provides online training on the policies through training bulletins, allows the Division to receive timely notifications on legal changes to update current policies and contains many national accreditation standards for law enforcement.

However, Lexipol is law enforcement-centric and not necessarily designed for regulatory agencies, leaving the agency to develop and include regulatory functions unique to its mission and vision. In addition, the boiler plate Lexipol policies must be edited, tweaked or not used, if they do not meet the specific Division's needs.

As of the last updated reports on the Division's progress in the transition to Lexipol, dated May 7, 2019, the Division has published 10 procedures and 43 policies through the program. Many old policies and procedures are still in place, making it challenging for Division members to know where to look for a specific topic. This is not uncommon for entities that are transitioning to this new methodology and are issuing policies and procedures as they are being completed. We also noted that none of these new policies dictate how to receive, classify, investigate or adjudicate complaints against personnel.

EDUCATION'S PLACE IN CURRENT POLICIES

In reviewing the policies, old and new, we observed little if any reference to the education component of the Division. Policies heavily emphasize and focus on the enforcement duties. The policies and procedures also frequently mention "commissioned officers." LCB officers are not recognized as fully commissioned police officers in the State of Washington but are limited commission peace officers based on State statute. The newly hired officers attend the Basic Law Enforcement Academy (BLEA) when they have had no previous law enforcement experience. The Washington Criminal Justice Training Commission only issues a certificate of completion to LCB Officers for attending the BLEA because they have limited authority under RCW 66.44.010 and RCW 69.50. We encourage the Division to prioritize and complete its transition to the new policies and procedures manuals with an emphasis on the education side of its mission and vision.

Policies and procedures are essential for any agency. They provide a place for members to seek clarification of their duties and responsibilities and learn how to do their tasks appropriately using best practices in accordance with agency's protocols, which leads to more consistency throughout the organization. Although these manuals are essential, policies are only effective if the agency holds employees accountable to comply with them.



Accountability within the Organization

Accountability is a term used to describe how an agency ensures that its people and practices are aligned with the organization's mission and guiding principles. If this alignment is not present, accountability includes making the tools necessary for taking corrective or remedial actions readily available.

INTERNAL DIRECTIVES

Internal directives are important because the WSLCB lists "accountability and integrity" as one of the key values guiding the agency's relationship with the Washington State community and licensees and their employees. To assist in creating an accountability system, the WSLCB uses internal directives to communicate expectations to employees and channel their discretion in a manner that is consistent with the vision, mission, values and goals of the organization. Specifically, Enforcement and Education Division Policy Number 290 Duty Expectations and Enforcement and Education Division Policy Number 330 Written Directive System are key components of the principles holding the WSLCB accountable to its constituents.

Enforcement and Education Division Policy 290 refers to the law enforcement officer code of ethics as a basic principle shaping the ethical values of its employees and includes other provisions generally found in agencies having both law enforcement and regulatory responsibilities. Importantly, Section Three, Courtesy, requires officers to be tactful in the performance of their duties and reminds officers not to be contentious or abusive, "even in the face of extreme provocation." This directive is especially important given that, as described earlier, members of the cannabis community expressed concern over their treatment at the hands of WSLCB enforcement personnel.

INTERNAL COMPLAINTS AND PROCEDURAL JUSTICE

Additionally, the WSLCB's records show that most external complaints against Enforcement and Education Division personnel were described as courtesy complaints. Importantly, rank-and-file members of the Division reported to us that they did not view Enforcement and Education Division leadership as always being courteous to them. This is indicative that the lack of internal procedural justice could be affecting their interactions with the industry in a negative manner.

Justice professionals recognize the importance of procedural justice in building relationships with communities. A community member who has a grievance with an agency is more likely to view the agency's authority as legitimate when the member believes the agency will:

- Give them the opportunity to tell their side of the story.
- Act in a neutral manner and make principled decisions.
- Ensure their rights are respected.
- Demonstrate trustworthiness throughout the interaction.



Agency employees desire similar treatment when voicing their concerns to leadership. Some WSLCB Enforcement and Education Division employees expressed that they have no voice in the Division, perhaps contributing to behaviors that give industry members a similar perspective of the WSLCB.

COMPLAINT INTAKE AND INVESTIGATIONS

We heard from individuals representing a cross-section of the cannabis and liquor industries. Some individuals shared complaints about inappropriate treatment or heavy-handedness by enforcement officers during inspections or other visits to locations. Some members of the industry complained that Enforcement and Education Division officers inconsistently interpret rules compared to how administrators interpret rules. It is possible that some of the inconsistencies result from an officer's misunderstanding of the law or tasks as assigned by superiors. However, where the industry member believes the officer's action constitutes misconduct, the WSLCB has not promulgated effective policy for the investigation of complaints against employees.

Agency Policy #265 Handling External Complaints Against Employees explains how external complaints against agency personnel are reviewed or investigated. Although not lengthy, the policy contains basic elements typically found in policies related to internal investigations. During intake, complaints are taken in writing and recorded in an appropriate manner (Employee Complaint Intake Form LIQ 1291).

With respect to the investigation of complaints, the subject employee is provided a written notice of the complaint and is entitled to representation during interviews or questioning. The policy defines timelines for completion of the investigation, and upon conclusion, the subject employee is provided a written notice of the results and what action, if any, will be taken as a result of the investigation. Consistent with similar policies, the complainant is notified at the conclusion of the investigation.

The agency's internal procedures are supported by State law, particularly Article 27 Discipline, Article 28 Privacy and Off-Duty Conduct and Article 29 Grievance Procedure. The WSLCB's policies for investigating complaints against employees are consistent with promising or best practices of contemporary public or law enforcement agencies as it relates to traditional substantive due process.

In conducting this assessment, we interviewed internal and external LCB stakeholders and reviewed documents, including those related to internal investigations. The review informs us that although the WSLCB's policies are generally good, how the agency practices and uses policies raises concerns that may impact external and internal faith in the efficacy of the organization.

The WSLCB policy vests the Human Resources Division and the Appointing Authority, or designee, with authority for determining how a complaint is investigated. We reviewed documents that indicated preliminary investigation, investigation and supervisory inquiry are the categories used to describe complaint investigations. These classifications are common in law enforcement. However, we could not determine the criteria used to determine how an investigation classification is made. The Human Resources Division investigates some complaints while others are investigated by the Enforcement and Education Division. We noted that the Human Resources Division is not always



made aware of complaints the Enforcement and Education Division are investigating. Overall, we observed inconsistency in how classification decisions are made.

Transparency is essential for legitimacy and procedural justice to exist. Given the WSLCB's practice, some employees may question whether similar allegations and behavior are treated similarly. Externally, some industry members may believe the review and outcome of their complaints are determined arbitrarily.

We observed a lack of transparency in other areas related to internal investigations. For a person who desires to file an external complaint, instructions outlining how to file a complaint are not easily accessible or explained on the agency's website. WSLCB staff reported to us that the method of complaining about an officer is through the "How Are We Doing" link on the website. This link does not clearly indicate that it can be used for complaints against officers and is not consistent with best practices. Progressive police agencies clearly make the complaint process visible and accessible through many methods including easily accessible online forms, complaint forms in district offices and other means.

Once a complaint has been investigated and corrective action is required, the WSLCB does not have a process for ensuring corrective action is consistent for similar misconduct. A disciplinary or corrective action matrix would assist in accomplishing consistency in corrective action. A disciplinary matrix spells out options for sanctions when a violation of the Division's rules or policies is sustained and provides notice to agency members of the potential punishment for misconduct. We were unable to determine whether the WSLCB uses a disciplinary matrix to ensure fairness and transparency in corrective action, an issue relevant to internal personnel and external constituents.

The inconsistent approach toward internal investigations also raises questions about whether the WSLCB has an early warning system to monitor officer behavior. Early intervention systems are designed to track various behavioral indicators and provide early identification of officers whose performance indicates emerging problems and intervene in a helpful way. For example, if an officer has frequent complaints about behaviors that are interpreted as being rude, the agency should be able to identify this issue and design interventions to correct the behavior before it becomes a liability for the agency. In order to implement an early intervention system, the WSLCB must have the capacity to track behavioral indicators consistently.



OTHER ACCOUNTABILITY MEASURES

As a public organization, the WSLCB is accountable for how it uses the resources entrusted to the agency. It is an expectation held by the agency's constituents, which include legislators, taxpayers, and the industries the WSLCB serves. How the agency uses resources to carry out its mission is fundamental to the its success.

We reviewed documents that identify how the agency measures the productivity of officers assigned to the Enforcement and Education Division. Officers use an electronic notebook to track their work. This system allows officers to select categories of work they completed and add appropriate notes. The electronic notebook is useful, but it appears to have limitations as officers stated they must return to the office to document some work activity. Returning to the office removes officers from the field, sometimes for several days, reducing the time available for accomplishing enforcement objectives and building positive relationships with industry members.

In addition, office visits to document activity often occur several days after the event, raising questions regarding accuracy and timeliness. The WSLCB is currently in the process of modernizing its systems and should consider the development or purchase of a system that allows officers to enter data from the field in real-time rather than in the office. This would allow for more efficiency and accuracy and could provide management with real-time information about activities in the field.

It appears the WSLCB measures productivity by counting the activity of the enforcement officers, including the number of compliance checks, premises checked, education activities and violations issued. Each Enforcement and Education Division region produced a similar record of productivity in an annual presentation to WSLCB leaders. Nothing is wrong with counting productivity by the number of activities in which members engage; however, the WSLCB should ensure that the activities support the organization's mission and are consistent with WSLCB leadership's directives. Reviewing WSLCB data, we were unable to discern whether the WSLCB is focused on enforcement or education with respect to the cannabis industry.

As mentioned above, the electronic notebook provides officers several options for tracking work. However, we observed that the check box for education is seldom used, even though officers engage – or are supposed to engage – in education. This may occur because the WSLCB has failed to stress the importance of education as a tool for gaining industry compliance, leaving officers to believe that supervisors and WSLCB leaders only value enforcement or coercive activity. WSLCB leaders should be more direct in educating officers regarding the range of tools available to ensure industry compliance.

Regional annual presentations exemplify the disparity in how enforcement officers in different regions approach their jobs. For example, Region One (includes the Tacoma and Vancouver area) has the largest number of retail marijuana establishments and therefore had more compliance checks than Region Two (Seattle and King County). However, our review of the data in these reports indicated that Region Four uses a more education-based approached to engagement with marijuana licenses.

The WSLCB Director and the Division Chief are responsible for communicating the WSLCB's productivity expectations and determining whether to focus on enforcement or education. In April 2019, the Division Chief promulgated expectations, the first being to “strive for consistency in our



approach and operations.” Most importantly, the WSLCB’s stated mission is to “promote public safety and trust through the fair administration and enforcement of liquor, cannabis, tobacco, and vapor laws.” However, the disparity in regional approaches suggests that the Division Chief’s message regarding expectations was necessary because Division communications were not reaching officers in the field or became distorted as they traveled through the ranks.

We interviewed industry members who expressed not only concern for regional disparities but disparities in how officers approached their duties from month to month. In addition, the same members informed us that they received the same lack of clarity or inconsistency when they sought assistance or clarification from WSLCB administrators. The concerns, if true, indicate the WSLCB is not ensuring accountability through the clarity of the Division’s policies and directives.

Internal directives are used as an accountability measure to channel the discretion of officers in a manner consistent with the agency’s mission and goals. Internal directives work best when they are accompanied by intensive education and training to ensure directives are institutionalized into routine practice. Regional differences and disparities may exist based on factors related to the size of the industry served. Otherwise, rigorous and intensive education and training would assist the WSLCB in channeling their officers’ actions into those the Division leaders desire. The Region Four Retail Marijuana Subject Matter Expert Pilot Program (SMEPP) is an example of an approach that could be institutionalized within the Division and was used to inform the Division’s reorganization efforts.

Issuing directives or drafting policy that removes all discretion from enforcement officers is possible. However, we do not recommend this approach as it is likely to increase complaints from constituents. In addition, removing all discretion is not consistent with accepted practices in the profession nor with the WSLCB’s mission, goals and values.

A successful accountability approach is to draft and issue clear directives, accompanied by education and training to ensure the intent of the agency’s leaders reaches all members of the organization. Absent rigorous education and training to support internal directives, employees are left to craft their own meaning to important policy directives. The WSLCB should reinforce policy with rigorous education and training to ensure leadership directives are properly communicated to enforcement personnel, especially those out in the field.



Training

OVERVIEW

The Enforcement and Education Division sends newly hired officers, with no prior law enforcement experience, to the Washington State Criminal Justice Commission for the BLEA, even though the officers have limited authority. This academy is focused on traditional law enforcement training. Although this is an excellent academy, sending officers to it with other local officer trainees reinforces the notion that they are regular law enforcement officers, rather than those who primarily have a regulatory role.

Once the officers complete work at the Academy, they go through a 14-week field training program, modeled after the San Jose Field Training Officer (FTO) program. This is a widely accepted training process in law enforcement and involves using trained FTOs to mentor a student officer, usually with three to four different officers in different phases of their training.

CURRICULUM DEVELOPMENT

In reviewing the FTO material that the Division provided to us, we noted a strong focus on traditional law enforcement measurements and little focus on the officer's duties and responsibilities as they relate to regulation. The Division uses Field Observation Reports (FORs), which are typically called Daily Observation Reports (DORs) in police departments, to document behaviors, skills and abilities during this program. As we noted above, this training's focus is more on the officers' traditional law enforcement roles, which raises concerns about their understanding of regulatory bodies and practices.

Lateral officers, such as those who have prior law enforcement experience, do not necessarily attend the BLEA, but do go through the FTO program.

Ongoing in-service training takes place once per year with all officers, usually 24 hours in September or October. The training coordinator, who is a lieutenant, usually talks to supervisors to identify other topics or issues to address, and officers are also surveyed for topics they would like to be taught. In reviewing the prior year in-service training curriculum, we observed topics such as licensing updates, police professionalism, de-escalation techniques and emotional survival, as well as Division updates. The Division also conducts other training during the year on topics like defensive tactics, firearms and use of force. The training coordinator uses a training management software program to track training.



AN EMPHASIS ON SMALL BUSINESS AND IMPLICIT BIAS

In our interviews with internal and external stakeholders, they expressed the desire and need for more training on cannabis, the cannabis industry, small business needs, regulatory issues for both alcohol and cannabis and how to develop relationships between licensees and regulators. Internal stakeholders revealed that the training is concentrated on general policing practices and use of force. Although use of force is an important criterion for training, daily task-oriented training would be more beneficial.

We received reports of perceived bias-based enforcement. Small businesses and the perception from the field that officers do not understand small businesses or that they target them is an issue. Licensees perceive that officers do not understand the struggles of a small business.

Other stakeholders noted that they believe they receive bias-based enforcement from officers who were previously involved in the cannabis industry when it was still illegal. They specifically report that officers make assumptions based on their appearance, such as the presence of tattoos or long hair. We emphasize that if these individuals are approved for a license under current laws, their past or perceived past should not factor into the officer's decision making. The need to train on this topic is even more important considering the new law, which provides that only prior criminal arrests or convictions, rather than prior criminal conduct, and only prior violations classified as public safety violations, rather than all violations, may be considered when the WSLCB reviews a license for potential classification.

This allegation may need to be addressed through training that targets subconscious bias. We did not find that the WSLCB has provided training on implicit bias or biased-based enforcement, although the Division has adopted the Lexipol Bias-Based Policing Policy (Policy 401).

TRAINING FROM THIRD-PARTY PROVIDERS

The Division allows officers to attend outside training. The requests are sent through the chain of command for approval. The approval is based on the Division's needs. Most of the training includes traditional law enforcement topics with little focus on training specific to regulatory and educational topics specific to the WSLCB's needs, as few are available.

The WSLCB's early training of a new officer, its follow-up training with FTOs and its ongoing in-service training are law enforcement-centric and focus on activities that will rarely occur, such as physical arrests or use of force. This can partially explain some of the feedback we heard from licensees regarding how some officers treat them. The training curriculum does not mention anything about procedural justice or problem solving, two key skills that seem to be necessary in trying to gain voluntary compliance.



Final Thoughts and Recommendations

NEED FOR CULTURAL CHANGE

The recommendations below and the themes from the assessment should lead the Enforcement and Education Division to consider a significant change in the focus of its operations. Instead of a strong focus on enforcement, the Division also should emphasize prevention and assisting licensees in complying with the law and regulations. This additional focus on prevention and compliance would be consistent with the approach successful policing agencies have taken throughout the country.

Though enforcing the law and issuing notices of violation are essential to protecting public safety, police departments have taken on public safety issues with a community policing approach that involves developing trust-based partnerships. Rather than resorting solely to arrests and other enforcement actions to address community issues, these departments work with community members to protect public safety and improve the community.

For example, the San Jose Police Department's Division of Cannabis Regulation works with cannabis retailers to ensure that they follow local and state cannabis regulations. They work closely with each registered cannabis business to ensure those in the industry understand and comply with local and state regulations. At the same time, they promote buying cannabis from licensed medical marijuana retailers. This approach should result in a safer, more vibrant marketplace.

Other departments have similar approaches when regulating alcohol in designated entertainment districts. For example, the Arlington, Virginia Police Department, through the Arlington Restaurant Initiative, established a full-time Restaurant Liaison Officer position and full-time specially trained officers; developed new standards and training best fitted to policing in a nightlife environment; and fostered positive relationships between businesses, government agencies and community stakeholders. The police department and the business owners understand that creating a safe environment allows for business to flourish.⁵ Though local law enforcement is primarily focused on these entertainment-related issues, the WSLCB can learn lessons from these policing approaches to regulated entities.

Though the Enforcement and Education Division must still be responsible for issuing violation notices in certain circumstances, the Washington State Legislature stated that "a strong focus on compliance and education is also critically necessary to assist licensees who strive for compliance and in order to allow the board to focus its enforcement priorities on those violations that directly harm public health and safety." As such, the Division should consider issuing violation notices as a last resort after assisting and educating licensees, unless a direct public safety threat requires immediate enforcement action.

⁵ The Arlington Restaurant Initiative: A Nightlife Policing Strategy to Improve Safety and Economic Viability. Accessed on November 1, 2019 at <https://cops.usdoj.gov/RIC/Publications/cops-p372-pub.pdf>



The Division should also consider assigning officers with the sole duty of educating and assisting licensees in complying with the law. These officers, whether sworn or non-sworn, should not wear a traditional police uniform but should work in plainclothes, such as khakis and a polo shirt, which is attire that many municipal police officers wear when focusing on compliance activities. They could work proactively with licensees to avoid violations. This practice is consistent with municipal police departments, which assign officers to community policing or community liaison duties. Though uniformed officers could still be available, they should only be used in instances where an articulated concern about officer safety exists and when a visible police presence is necessary. Though some officers would be more focused on prevention and others would have a more enforcement-oriented role, all should take the approach of education before enforcement, when appropriate.

These recommendations will require a cultural change in the Division regarding its approach to licensees. How individual officers view their overall mission is vitally important. Their experiences on the job shape their sense of mission. These recommendations to change the emphasis of the mission statement, training, and policies and procedures – among other elements – provide the framework for shaping officers’ experiences and attitudes to be more prevention and compliance oriented, rather than focusing almost exclusively upon enforcement activities.

RECOMMENDATIONS

Rec. #	Recommendation
1	Continue Enforcement and Education Division reorganization efforts to create a dedicated unit to focus on cannabis education and enforcement but ensure all officers are appropriately cross-trained to create a steady flow of personnel available to transfer to or serve in that unit.
2	Revise the Division's mission statement and goals to emphasize education and increasing compliance rather than enforcement of penalties. Clearly communicate this new mission and philosophy to officers and licensees. This includes providing appropriate emphasis on education in the WSLCB's strategic plan and annual reports.
3	Increase outreach efforts to licensees, especially those in the cannabis industry, to improve the opportunities for the WSLCB to understand their concerns and develop trust. This outreach should include outreach from the headquarters level, as well as individual officers.
4	Supplement the Enforcement and Education Division's policies and procedures manuals with policies that are more appropriate for a regulatory body and provide clear guidance for enforcement officers, supervisor and command staff on how to conduct enforcement activities and educate licensees. These policies and procedures should also provide direction on how to conduct compliance activities in a manner that minimizes the disruption of normal business hours.



5	<p>Improve communication mechanisms to support the Director and the Chief of Enforcement in communicating their priorities to officers in the field. Electronic or digital forms of notice to employees and receipt of notice should be considered. Communication mechanisms may include the following:</p> <ol style="list-style-type: none">1 Daily bulletins2 Online training3 Webinars4 Videos from the Chief5 Training videos
6	<p>Commit to a system of developing timely written responses to inquiries from licensees. These responses should be tracked in system that is accessible to WSLCB employees and licensees.</p>
7	<p>Consider asking the Attorney General to assign an Assistant Attorney General to interpret the law and Washington Administrative Code as requested.</p>
8	<p>Encourage officers who answer questions and offer interpretations in the field to share that information with the rest of the WSLCB employees to help ensure consistency of interpretation. Once leadership has decided on how to handle a given problem, it should publish this decision throughout the agency. The WSLCB should make a database of interpretations and frequently asked questions (FAQs) widely available to WSLCB employees and the public.</p>
9	<p>In conjunction with Human Resources, develop job descriptions that clearly reflect the Division's goals and duties for enforcement officers working in a regulatory environment, including a focus on prioritizing education and gaining voluntary compliance rather than compulsive enforcement whenever possible. This is important for finding officers who are the right fit for the Division.</p>
10	<p>Have Human Resources review the Enforcement and Education Division's hiring processes to ensure these processes are compliant with state law and best practices, which will help ensure the process results in hiring those who possess the knowledge, skills and abilities to work in a regulatory rather than strictly law enforcement environment.</p>
11	<p>Ensure all officers, at a minimum and in addition to BLEA training, receive supplemental basic training that focuses on education regarding the mission of the organization and enforcement from a regulatory rather than a law enforcement perspective. While the BLEA is important training for municipal, county and state law enforcement officers, the emphasis on the law enforcement approach is not consistent with the WSLCB's regulatory and education mission.</p>
12	<p>Revise the Division's field training manual to ensure that trainees are provided significant guidance on the WSLCB's regulatory and education functions to supplement the current focus on law enforcement.</p>



13	<p>Develop in-service training and education for enforcement officers to improve their understanding of the regulated industries, especially the cannabis industry. Industry members should be encouraged to participate in the development and delivery of training to WSLCB employees. Training should also include a focus on internal procedural justice for supervisors and command staff.</p> <p>This could be done through an Educational Advisory Board, which would be comprised of WSLCB staff and industry representatives. This Board could also recommend training efforts for licensees. Based on our findings, training for enforcement officers should focus on:</p> <ul style="list-style-type: none">• Problem solving• Partnership development• Procedural justice• Implicit bias
14	<p>Ensure enforcement staff regularly debrief licensing staff regarding field observations or challenges, including enforcement approaches and interpretation of Division rules or policy.</p>
15	<p>Establish a structured task management system to allow for real-time supervisory oversight and to ensure accountability and consistency in Enforcement and Education operations.</p>
16	<p>Adopt strong accountability measures to ensure that command staff and enforcement officers are held accountable for enforcing agency policies. These measures should include:</p> <ol style="list-style-type: none">1 Clear methods the public can use to complain about employee conduct. These could be promoted on the website or on the back of enforcement officer business cards.2 Acceptance of complaints with a promise of investigating all complaints against employees.3 Clear policy for classification of complaints for intake and assignment.4 Development and implementation of a system to track complaints, investigations, dispositions and discipline surrounding a WSLCB employee.5 Development of a disciplinary matrix to ensure fairness in the disciplinary process.6 Clear notification to complainant that a complaint has been received and clear notification to complainants about the disposition of each complaint.
17	<p>Create an inspections and internal audits function to conduct audits, inspections and reviews of policies, operational procedures and compliance with any legal mandates and the mission and goals of the WSLCB. The goal of the unit would be to assist in improving the operations and management of the Enforcement and Education Division.</p>



18

Continue efforts to improve **information systems** and other technology through the systems modernization project. This should include a records management system designed for a regulatory function that can document visits to licensees and provide tools to enforcement officers for managing their caseloads from the field and for supervisors to review officer activity on a real-time basis. The efforts should ensure that the case management system is interoperable with other WSLCB systems so that information, FAQs and other guidance is easily accessible to officers in the field.