



Washington Association of
**SHERIFFS &
POLICE CHIEFS**

3060 Willamette Drive NE
Lacey, WA 98516
360-486-2380 (Phone)
360-486-2381 (Fax)
www.waspc.org

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Steven D. Strachan
Executive Director

August 16, 2022

Greetings from your Executive Director:

Following our release of the statewide crime statistics for 2021, many of you have been asked about what is needed to begin to address the increase in violent crime and the alarming reduction in staffing in our state. From everyone I speak with, the bottom line is **law enforcement needs the staffing, the support and the tools to provide justice for victims. Justice for victims has been ignored way too long, and we are seeing the effects every day.**

South King County Mayors

Last week, Mayors of several South King County cities sent a [joint letter](#) outlining their concerns with what they termed a “rising tide of crime and violence” in their communities. The letter points out the Blake decision and drug law changes, the pursuit changes due to HB 1054, problems in the juvenile criminal justice system, and specifically for King County, lesser charges for crimes and difficulties booking suspects. [Here](#) is a story from KING 5 about it, and the responses to the letter contained in the story pretty much encapsulate much of the narrative of “it doesn’t exist,” or, “it’s someone else’s fault,” or “it’s a problem everywhere so we can’t do anything about it.” Public safety is not about partisan politics, it’s about bringing people together and paying attention to victims. We appreciate the focus on public safety and hope everyone begins to help move it forward.

Violence Toward Police

In the past few weeks, there have been violent interactions between recently released criminals, who should have still been locked up, and law enforcement officers. One occurred in [Spokane](#) another in [Kitsap County](#), and another in [Kent](#).

I have spoken with Sheriffs and Chiefs who say their deputies and officers who have been involved in shootings, fired upon, and rammed by cars are having even more difficulty working through the emotional trauma in the current environment

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where too many have found it politically rewarding to demonize police. Their spouses, partners and families express real concerns when they go off to work. In addition to changing the environment of emboldened criminals, attention to wellness, resiliency, and the work we do to develop support for our own behavioral health is critically important right now.

Our team, along with a number of member representatives reviewed and will be approving one of the proposals for a statewide wellness app, funded in the last session, which will be rolled out early in 2023. This is a significant support for providing immediate access to help for our law enforcement across the state.

Also, following information sent out by the Dept. of Homeland Security regarding threats of violence against law enforcement, and an [attempted attack on the FBI's Cincinnati Field Office](#), on August 12th WASPC sent out the following statement:

Threats of violence against law enforcement at any level are dangerous and must stop. WASPC stands with our state and federal partners and all the men and women who put their lives on the line to protect us. They deserve respect and should be honored for their public service.

Pursuits

This past week there was a guest [editorial](#) titled “Police chase law is saving lives- it would be a mistake to roll it back”, regarding changes to the pursuit law. The column uses the same rhetorical tool that a [legislator used](#), with a supporting example and comment from a Police Chief, back in May. These all do the same thing: in effect, saying that we should not be pursuing people at high speeds and creating dangerous situations for minor offenses. This is a “straw man” argument, where a misrepresented and extreme example is used. The proposal in our recommended legislation in [Senate Bill 5919](#) did not allow for pursuits for “minor offenses” at all. It changes the requirement from probable cause to reasonable suspicion for “a crime against persons offense pursuant to RCW 9.94A.411, or another criminal offense where the public safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances”. WASPC’s proposal was not the former status quo, but a strong balancing test regarding the offense itself and the risks to the public, so that pursuits for minor offenses would not be allowed. It is important to recognize this as you have conversations with your community and your legislators. Blanket prohibitions on pursuits have created an environment of emboldened criminals.

Speaking of pursuits and our current restrictions, we don’t know all the facts of the incident involving the FBI Cincinnati Field Office beyond what DHS sent out, but would the suspect have been able to be pursued under Washington State law, or could he have simply driven away? The suspect was

wearing a tactical-style vest, was armed with an AR style rifle and nail gun, attempted to forcibly enter the field office, and attempted to break the glass barriers. When officers arrived he fled. Would this qualify as a Burglary in the 1st degree and does that require actual entry into the building, or is an attempt also applicable? This complex decision tree is required in real time with a fleeing person with a gun.

CJTC Commissioners

Congratulations to the two newly appointed Commissioners for the Criminal Justice Training Commission, Marysville Chief Erik Scairpon and Pasco Chief Ken Roske (alternate). We look forward to their leadership, particularly as the CJTC transitions toward added regional approaches over the next few years.

Also...

Our Policy Director, James McMahan, attended the National Organization of Black Law Enforcement Executives (NOBLE) national conference last week, and was pleased to attend training and sessions that will help inform our conferences and our legislative agenda moving forward.

You may have seen that President Biden sent out the "Safer America Plan", and here is a link to the [official statement](#). It is notable that Congress has moved to fund additional law enforcement staffing nationwide. We have been in contact with Washington State Congressional offices regarding our support for funding for staffing, whether it comes from the federal level or the state. Federal funds, as always, will come with strings attached, but we will keep an eye on this as it goes forward.

Executive Development Update

Our Training and Development Coordinator, Dave Doll, continues his work on the Institute for Credible Leadership Development (ICLD) and we have a [short video](#) that helps explain the program, and remember this is FREE to you and all of your agency personnel, civilian and sworn, if you as the Executive are a member of WASPC. We now have more than 49 agencies signed up which includes more than 1000 active participants at this time. Here is a [link](#) that provides more information.

Dispatcher Shortages

[Here](#) is an informative story this week about staffing shortages also affecting our Communications Centers.

Kia Thefts

Several weeks ago I saw some media coverage from other states of an increase in thefts of Kias, apparently related to “how to” tutorials on Tik Tok videos. I had checked at that time with the analyst and they had not seen an increase in our state of thefts of that brand-- yet. [This week](#) some agencies are reporting that they are seeing some increases recently-- for your awareness.

Sheriff Pastor (ret) Column

Retired Pierce County Sheriff Paul Pastor recently [posted some of his thoughts](#) on where we are now, and with his permission I am sending it out to you-- it is a good overview from a very experienced and very smart voice in law enforcement.

Attorney General's Model Policy- Follow Up

Finally, this week, here is some follow-up to the information we sent out a few weeks ago on the AG's Model policy on Use of Force. As your teams review and determine whether to adopt it, amend it with an explanation, or provide a different policy, we have received some additional input that may be worth considering:

- *First, we had pointed out in the July 15 newsletter that “Dr. Stern, who has worked with WASPC for many years as a consultant and also works with jails in our state and nationally, notes that on Pg. 9 under “First Aid” the policy did make some changes to positioning of persons, but did not make the amendment he suggested, which was ‘If the individual is conscious and expresses a desire to be placed in a different position, the officers shall place them in that position unless doing so poses a substantial risk of safety to the officers, individual, or bystanders.’ This may be worth discussing with your medical consultant for consideration of your policy.”*
It was pointed out that the language Dr. Stern suggested appears almost verbatim on page 9. The language is under 2 (i) and here are a few additional considerations—the language uses “shall” and you may wish to consider whether the person can dictate where they will be placed, or language that involves the entirety of the situation. There also needs to be some consideration of possible neck or vertebrae injuries and some allowance for not causing injuries with the “shall” language. Note that Dr. Stern suggested “shall”, but just consider having this section reviewed by your medical advisor.
- The Model Policy does not seem to provide a high degree of clarity, but it appears that the model policy potentially affects the use of CN (or CS) on a barricaded subject, in contradiction to [RCW 10.116.030](#). The RCW allows officers to use “tear gas” (defined as CN and/or CS) on a barricaded subject, hostage situation, and riot (with additional restrictions and caveats). The Attorney General separately issued a document on the same day (July 1, 2022) for “[Use of Physical Force in Crowd Management](#)” which was not mandated by the legislature. The crowd management portion was originally included in the draft Model Policy, but was separated out into a separate, informational document, and is not specifically required to be adopted by each agency, but was published as a resource. That document

does include the RCW and there is no express prohibition on the use of tear gas for a barricaded suspect. The Model Policy, however, defines “tear gas” but doesn’t actually use the term anywhere else in the document. If we examine the “Types of Force” section on page 10 of the Model Policy, it seems reasonable to infer that “tear gas” would fall into the “Intermediate Physical Force” category, as that’s where OC, ECW, projectile impact weapons, canines, etc. all fall (the “Lower Level Physical Force” category consists of techniques to direct movement, control holds, open hand techniques, takedowns, and the use of a hobble). According to the Model Policy, “Intermediate Physical Force” is only authorized “when a person threatens imminent assault upon the officer or others.” It depends on the situation, but there would likely be a threat of imminent assault on the officer or others in both a riot and a hostage situation, but not necessarily a barricaded subject. So, the model policy may be read to prohibit the use of “tear gas” on a barricaded subject, where [RCW 10.116.030](#) specifically allows it. Again, run this by your legal advisor.

- Also, we received this from a training unit: During our agency review of the policy, we were most concerned with a section on Page 10 titled “Types of Force”. In section two (Intermediate Physical Force), the model policy says “Depending on the totality of the circumstances, intermediate physical force may be reasonable **when a person threatens imminent assault upon the officer or others.** Intermediate force options include: (a) Oleoresin Capsicum (OC) spray; (b) Electronic control weapons; (c) Projectile Impact Weapons; (d) Canine bite or injury caused by physical contact between a canine and a subject; (e) Impact weapon strikes (except impact weapon strikes to the head, neck, throat, or spine); or (f) Punches, kicks, or other strikes with an officer’s body”. A plain text reading of this section would preclude the use of a canine on anyone who is not assaultive. So, could you deploy a canine for a fleeing murder or rape suspect? This is similar to the discussion back when HB 1310 was first passed, and legislators said “nothing says you can’t do this...” It gets back to the fact that you could chase a suspect, but you could not catch them. In the same way, this model policy may contain language that would not allow any force beyond “Lower Level Physical Force” (techniques that direct movement, control holds, open hand techniques, takedowns or hobbles) to apprehend a fleeing suspect who is not assaultive against the officer. This model policy makes that restriction whether an officer wants to use a canine, a Taser, a bean bag, impact weapon strikes, personal body weapon strikes, or anything else. Further, these “intermediate” levels of physical force could not be used to take a person into custody who was a threat only to themselves (i.e., suicidal with a knife). I do not believe the Model Policy intended to prohibit a use of force for a suicidal person, but be aware of the language.

These are provided to assist in your further review and consideration for your Model Policy response. Be advised that law enforcement agencies are not required to adopt the Attorney General’s Model Policy of Use of Force. [RCW 10.120.030](#) requires three specific things:

1. The Attorney General must develop and publish the model policy by July 1, 2022;
2. By December 1, 2022, all law enforcement agencies shall either adopt policies consistent with the AG’s model policy and submit those policies to the Attorney General OR if the agency did not adopt policies consistent with the AG’s Model Policy, provide notice to the AG stating the

reasons for any departures from the model policy and an explanation of how the agency's policies are consistent with [RCW 10.120.020](#)

3. By December 31st of each year, the AG shall publish on its website a report providing the model policy, and information as to the status of each law enforcement agency's policies, and copies of any policies departing from the model policy.

Stay Safe- Steve