



June 7, 2019

Greetings from Your Executive Director:

It was great to see many of you at our Spring Spokane conference this year. If you attended, it was apparent that there are a lot of issues, challenges and opportunities facing all of us. This week's newsletter is action-packed, so let's get started...

First of all we have had some questions from our Sheriffs and Chiefs about the "**Keep Washington Working**" act, [SB 5497](#) and pertains mostly to immigration and is being called the "Sanctuary State" bill. James McMahan, our Policy Director, covered this at the conference [Legislative Update](#) session but here again are the main points:

- The legislature finds that it is not the primary purpose of state and local law enforcement agencies to enforce civil immigration law.
- Law enforcement officers may not inquire into, or collect information about, a person's immigration or citizenship status, or place of birth without a connection to a violation of state or local criminal law.
 - SROs, when acting in their capacity as an SRO, are prohibited from inquiring into, or collecting information about, a person's immigration or citizenship status, or place of birth.
- Law enforcement agencies are required to treat immigration authorities' request for information in a civil matter the same as a request from the public.
- Puts certain restrictions on granting immigration authorities access to incarcerated individual.
- Prohibits detaining an individual solely for the purpose of determining immigration status.
- Requires written information be provided to all persons held in custody.
- Prohibits law enforcement officers and agencies from accepting a commission to enforce federal civil immigration law.
- Prohibits agencies from entering into agreements to detain or house persons for violation of civil immigration law.
- Prohibits law enforcement agencies from receiving language access services from federal immigration authorities.
- Requires the Attorney General to publish model policies "aimed at ensuring that state and local law enforcement duties are carried out in a manner that limits, to the fullest extent practicable and consistent with federal and state law, engagement with federal immigration authorities for the purpose of immigration enforcement."
- All law enforcement agencies must either:
 - Adopt the model policy; or
 - Notify the AG that the agency is not adopting the policy, state the reasons for not adopting, and providing a copy of the agency's adopted policy.

Some of these points deal with jail access while incarcerated, and information provided to those jailed-- if you have specific questions about that we encourage you to contact our WASPC Jail Services Liaison [John McGrath](#).

One of the questions we have received is: does this mean we cannot notify immigration authorities of a person's release, or if we know they are back after being deported, etc.? The answer lies in this portion of the new law:

Section 8 of [SB 5497](#) says:

"No section of this act is intended to limit or prohibit any state or local agency or officer from:
(1) Sending to, or receiving from, federal immigration authorities the citizenship or immigration status of a person, or maintaining such information, or exchanging the citizenship or immigration status of an individual with any other federal, state, or local government agency, in accordance with 8 U.S.C. Sec. 1373; or
(2) (2) Complying with any other state or federal law."

The Legislature had to include this language because of [8 U.S.C. Sec 1373](#), federal law which says:

""Communication between government agencies and the Immigration and Naturalization Service

(a) In general

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) Additional authority of government entities

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2) Maintaining such information.
- (3) Exchanging such information with any other Federal, State, or local government entity.

(c) Obligation to respond to inquiries

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information."

So, the new Washington State law means if immigration authorities request information from you and your department regarding civil immigration law, you must treat them like you would a member of the public and release only that which would be released to anyone else. There is no legal restriction on you communicating with those authorities on issues related to a crime and/or if the information is going from you to them-- that is a federal law.

Hope this helps-- as always, this is information based on what we have- this is not a legal opinion and you should check in with your legal counsel.

Speaking of the (many) new bills passed this last session, here is the 2019 Legislative wrap up [here](#) and the 2019 Legislative PowerPoint (above).

Next topic: **Mental Health Field Response**. As you may know, we have been administering this grant program around the state for the past year. I know many of our agencies with positions funded by those grants are seeing the clock ticking and hoping we can evaluate and re-up some of those grants quickly. John McGrath is coordinating those grants and the reviews for the next year now that the legislature has approved, with more restrictions, funding for the future. We recognize the difficulty in keeping highly trained mental health staff onboard when continued funding is uncertain. Because of this we expect to ask for applications for the next grant cycle in early July with notice of acceptance shortly thereafter so that current grantees would know sooner whether they have been renewed.

We looked for ways to bridge the gap in funding from one grant cycle to the next within the state budget timelines in order to keep up the progress that's being made, but just couldn't make it work. It's recently been suggested we open the application process up before the grant cycle ends to give more notice to agencies who may or may not be renewed, and we agree that makes sense when possible. Questions? Let John or I know.

We talked at the conference about the **new, voluntary, Use of Force reporting program through the FBI**. A separate GTWO was sent out earlier today about this as well. This is a little unusual because it is not mandatory, but the FBI is coordinating and it requires you to report outside of the normal crime data system. Here's why I believe it is very important for all of us to participate: first, it's the right thing to do, second, it helps us counter the narrative that we are "hiding" the data or are being reluctant to share it. The legislature has funded the Attorney General's Office this year to look at creating and, possibly, mandating the reporting in the future. It is very important to note this is not all use of force, it is only *uses of force that result in death or serious bodily harm, and discharge of a firearm in the direction of a person*. Many of you will say, "well that's going to be a low number for us", which is exactly the point- if we do not report it is too easy for some to label that as "since we don't know we'll assume they are hiding something."

Joan Smith from our office manages our Crime Statistics and Reporting group, and she has provided the simple information below- thanks in advance!

In coordination with the Association of State Criminal Investigative Agencies, Association of State Uniform Crime Reporting Programs, International Association of Chiefs of Police, Major Cities Chiefs Association, Major County Sheriffs of America, National Organization of Black Law Enforcement Executives, National Sheriffs' Association, and Police Executive Research Forum, the FBI launched the National Use-of-Force (UoF) Data Collection Program on January 1, 2019.

In the interest of government transparency and improved public trust, these organizations encourage your participation in this voluntary and no-cost program. The UoF Program gathers data on law enforcement incidents that result in the death or serious bodily injury of a person, as well as the discharge of a firearm at or in the direction of a person. The data are submitted

directly to the FBI from participating agencies; although the WASPC CJIS Department will have access to the data for review, the collection is not part of the State Uniform Crime Reporting (UCR) Program and will not be published in any WASPC UCR reports.

Participation in the UoF Data Collection Program is a two-step process:

Step 1: *Establish an account to access the UoF program via the FBI Law Enforcement Enterprise Portal (LEEP). To apply for a LEEP account, go to www.cjis.gov and complete the online application.*

Step 2: *After obtaining LEEP, log-in and click on the National Use of Force ICON. There, you will apply for the access to the Use of Force Database.*

The FBI UoF website is www.fbi.gov/useofforce. For more information, please visit the FBI website or contact their UoF Office at useofforce@fbi.gov or Joan Smith, WASPC CJIS Manager, at jsmith@waspc.org or (360) 486-2393.

A few weeks back we sent out a PowerPoint and information about **training regarding 1639** that Lewis County Sheriff Rob Snaza was providing to his team, and it was provided with his permission in case it would help with your employees. I asked if he was doing any public information or follow up to provide to the public, and he said "we are going to do a hybrid to include 1639 and a firearms safety power point. Chief Dusty Breen and I will be putting the final touches on it in the next few days. We are looking at it being a 3 1/2 hour class and provide a certificate. We will be hosting our first class on July 20 at the Bethel Church, off exit 72. I may have it videotaped to provide at a later date. I guess each agency could just do the 1639 portion, it would be up to them. I am really hoping we can all work together and get this streamlined."

I have also heard that some Sheriffs have been contacted by private individuals or firearms dealers to let them know they are developing and may be providing training to meet the requirements of 1639 as of July 1. I provide this information only to let you know that Sheriff Rob Snaza and his team are willing to provide information or assist you as Sheriffs and Chiefs in any way, and that private providers are likely contacting you, if they have not already.

Here is the [PowerPoint](#) regarding all of the 1639 changes we provided at the conference.

The Criminal Justice Training Commission held their meeting June 6, and adopted the **proposed rules regarding de-escalation training and first aid** provision required by the law that followed 940. I have [attached the rules](#) for your information as they were sent to the Code Reviser. The rule making regarding what constitutes an independent investigation will start now and go until this fall. I will keep you in the loop as that progresses, and the commission will be looking for input both as associations and as individual executives.

A notable change is occurring in California right now relates to this topic. You may have heard that their legislature was looking at a bill to **drastically change California deadly force standards** to basically require that there be no other alternative and would lead to a lot of unintended consequences- and would essentially require the officer or deputy to know the future and read the mind of the other person.

Here is the article: [Gavin Newsom, top California lawmakers sign on to bill restricting cops' use of deadly force](#)

The California legislature did pass a **compromise bill that was the result of a number of amendments** and input from law enforcement groups, all of which went from opposition to "neutral" on the bill as a result of these changes. The resulting bill will be much less problematic, although certainly not perfect.

Speaking of California, a more promising change was highlighted this week in this article:

[San Francisco to force treatment on mentally ill drug users](#)

This is kind of astonishing-San Francisco, the paragon of liberal values and letting people "do their thing", has now passed a law facilitating and increasing involuntary treatment for behavioral health. As we talk about what to do about homelessness and behavioral health in our state, this is now on the front burner. I am very interested in your take on this concept and how it works in the Bay Area. Stay tuned...

Finally, this week I had the opportunity to appear on TVW's "Inside Olympia" to talk about the good things that our Sheriffs and Chiefs are doing. It's an hour long but here is a link if you're interested:

<https://www.tvw.org/watch/?eventID=2019061004>

Have a great weekend -

Work Hard- Have Fun- Stay Safe

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