



June 29, 2021

Greetings from your Executive Director:

We held our webinar regarding HB 1310 on June 22; many of you joined us but we had extensive technical issues which left many others out. We apologize again for that and wanted to provide some additional information.

First, because there was significant interest and not all questions and concerns were covered, we are scheduling another webinar to address the myriad of questions that have arisen since our first webinar relative to HB 1310 on Tuesday, July 6 at 1:00 PM. To register for this webinar, please click on this [link](#). Once again, your legal advisers are encouraged to attend. We will work to ensure we do not have technical access issues.

The panelists will include James McMahan, WASPC Policy Director, Mary Muramatsu, Assistant City Attorney for Spokane, and Rebecca Boatright, Executive Director of Legal Affairs for the Seattle Police Department.

Second, the primary concerns are as follows:

- Use of force for temporary detentions /Terry stops.
- Use of force for obstructing/resisting arrest.
- Use of force, and whether to respond or be present, for involuntary treatment holds and/or behavioral health calls.
- What is defined as physical force?
- What seizures constitute physical force (i.e., traffic stops)?
- How does *Graham v. Conner* interact with this state law?
- How to address the chilling effect of possible decertification and liability in light of the ambiguous language and expectations of these new laws- "we'll figure it out in litigation later" is not helpful in providing service the public expects, and for the officer making decisions about their family and career.

The bottom line from a legal standpoint, as we said in the webinar, is "we're not sure yet" and it will take some case law, litigation, and perhaps the upcoming (one year away) model policies due from the Attorney General to answer some of these. It is worth noting that these laws go into effect July 25 while the Attorney General's Office has a year to write model policies.

During this interim period between the new law, case law being established and some model policies being promulgated, we still have to provide public service, work to maintain public safety, and provide support to our teams. And it is also quite apparent, and understandable, that in the current legal and litigation environment, new mandatory decertification rules, and criminal liability, no officer or deputy wants to be that "test case". Our new laws have significantly

restricted proactive policing, as we pointed out when they were being considered. As Chuck Wexler of the Police Executive Research Forum recently said on CNN, "The national mood is not sympathetic to the police. I think we'll find balance down the road. We always do. But right now, there's trepidation about proactive police work." This [link](#) to a CNN story pointed out that "proactive policing involves aggressive, officer-initiated enforcement -- such as street stops -- and heightened police presence in high crime areas to combat firearms violations and other crimes." The story describes police nationally as "hamstrung and beleaguered".

We are actively working to provide some greater clarity as soon as possible, and as this progresses we will provide frequent updates. I know you need to provide training and direction to your teams and time is of the essence. Although polarization and politics are the areas that get all the attention, as leaders in public safety, we know we need to do two things at one time- enact police reform, which we strongly agreed with but raised concerns in April during legislative hearings on many of the problems now being highlighted ([link 1310 written testimony](#)), and at the same time maintain public safety. Also, if you have not already, dialogue with your fire partners and medical responders on what these changes may mean for their response.

Also here is a reminder that we are taking any of your new policies or training materials you are developing into our "Policy Bank" which you can access through the members portal- it's there just to provide ideas and options of what other agencies are doing, for your information.

I am [attaching](#) a recent news story from NPR.

Lastly, WASPC President Rick Scott has made appointments to fill the unexpired terms of Board Members Sheriff Tom Jones (elected to Vice President) and Chief Gary Jenkins (retiring). Congratulations to Kirkland PD Chief Cherie Harris and Douglas County Sheriff Kevin Morris. Thanks to both for your willingness to serve!

Thanks and have a good week- stay safe- Steve