



Washington Association of
**SHERIFFS &
POLICE CHIEFS**

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Greetings from your Executive Director:

As we sent out last week, Rep. Goodman, the House Public Safety Chair, and Rep. Jesse Johnson, the author of House Bills 1310 and 1054, released a confidential memo from staff at the Attorney General's Office ([here](#)). The memo provides information about response to non-criminal calls, consistent with what we have sent out before. As noted in the memo, this is not an official Attorney General's Opinion, it is a memo to legislators about the issue. It does not carry the weight of law and should be used by your legal advisor as a resource.

Much of the media coverage of this memo centered around "this contradicts what the cops have been saying", and some trying to present it as "the police just don't want reform". Our concerns, and the communication all of us have been trying to provide for our communities, is about implementation and consequences, not goals of reform. As we mentioned last week:

This battle of differing narratives is not constructive to our goal of good public policies and clarity, so our teams know what is expected and how to do the job. It is important to highlight that these interpretations are driven by your legal advisors. Across the state, legal advisors agree that comments, statements, and interpretations by advocates, legislators, or others have no legal effect on what the law says or how agencies must abide by it.

Focusing on how to fix the problems is our continuing strategy. It is important to note and understand that the six questions ([link](#)) that were attached to the Aug. 3 letter to the Representative, are at the center of the ongoing concerns and confusion over detention and use of force.

We are hearing legislators and advocates say we should, essentially, "work around", "cut corners" and use "tactical questions", interview people after K-9 tracks, assume impaired driving, and use obstructing charges as a replacement for probable cause. In Pierce County last week, a homicide suspect was not tracked when a person was reported leaving the scene of a shooting. The on-scene supervisor determined probable cause did not exist. Many have criticized the agency, saying nothing prohibits the deputies from tracking the person. Here's the bottom line: yes, they can track, but they can't necessarily "catch". Without probable cause, (again, depending on individual agency legal advisors), the deputy can only speak to and further investigate. The legislative author Rep. Johnson says that in [this interview](#) from August 5.

When asked about whether the deputy could use force or detain a person tracked in this circumstance, he said, "Probable cause is the threshold for any arrest, so when we say briefly detained someone, law enforcement says 'briefly,' that means 10 or so minutes... I think you should be able to use your tactical questioning and call for backup and still pursue or chase the individual." He went on to say the bill does not prevent police from questioning someone, just

to use physical force, which he says will soon be more clearly defined by the state Attorney General.

When asked about an incident involving a stolen bus in Chelan County which was not pursued due to lack of probable cause for a qualifying crime under the new law, Rep. Johnson said, “Someone’s stealing a bus and driving all over the place. We say explicitly in the bill, DUI is still at the threshold of reasonable suspicion. A number of officers said they would have used reasonable suspicion for DUI when you see someone in a dress stealing a bus and driving all over the place, so I think that that’s a fatal flaw on Chelan County.”

The radio host pointed out that police in Chelan did not know the man had just left a psychiatric hospital, and he was not drunk. But Rep. Johnson said there’s still an argument for reasonable suspicion of DUI. The concern, the host said, is if police had stopped the man for a DUI and it was later revealed he had not been drinking, the officers now worry they’d be sanctioned. “They still had reasonable suspicion. No, they won’t get sanctioned on that,” Rep. Johnson said. “The director of the CJTC came out and said that was the DUI reasonable suspicion and they would not have been sanctioned,” he added about that case.

In this [link](#) is a very comprehensive overview of some of these issues. Enoka Herat, the police practices counsel with the ACLU of Washington, is cited here: *supporters of the laws aren’t surprised by what she called “pushback from law enforcement.” The Washington State Patrol said last week that one of the new laws prevented troopers from chasing someone who drove the wrong way on I-5 and struck another car head-on before fleeing. Herat said the new law does allow officers to pursue people if they have reasonable suspicion the drivers are impaired. She said, “So how driving the wrong direction down a road would not constitute ‘reasonable suspicion’ is baffling to me.”*

In this [article](#) several persons recommend law enforcement use obstruction charges if someone flees and probable cause does not exist. Many departments are wary of using these charges, which can be viewed as “contempt of cop” or “I chased them because they ran”.

Contrast that with this [link](#) which cites Rep. Johnson saying, “We just don’t want the situation where the dispatcher calls and says there was a theft, and the person had a red hat, and the officer goes and finds anyone with a red hat and uses physical force to detain them based on reasonable suspicion but not probable cause,” he said.

I do not bring this up to create more confusion or more frustration. I point them out because we have to manage through them, continue to focus on public safety and our community, and act in good faith. We also recognize Rep. Johnson and others have taken the step to send the questions to the Attorney General, as we requested, and to acknowledge the issues and their willingness to work on resolving them. The AG Opinion will hopefully clarify many of these questions. We will continue to focus on solutions while communicating and working through these many challenges.

In the [same story](#) I cited earlier, *Everett Chief Dan Templeman has a couple quotes that provide an excellent summary of where we are:*

“Ideally we would have had the Attorney General’s model policy in hand prior to all the police departments in the state trying to figure it out on their own,” Templeman said. “And that is something that if I could change or influence, that would be the number one thing right there.” Without that assistance, Templeman said, law enforcement agencies are asking their legal departments what they need to do. “What you’re finding statewide is confusion and uncertainty and disagreement amongst lawyers, very experienced legal advisors, and attorneys statewide, and I think that’s a problem,” he said.

Meanwhile, Templeman, Chief of the Everett Police Department, said the stakes are now higher for police officers if they get it wrong. “That officer faces the potential of decertification by the state Criminal Justice Training Commission, and if that occurs...that means the officer loses his or her license to practice law enforcement in the state of Washington — they no longer can be a police officer,” he said. Templeman said he supported expanding the decertification process, which had previously been cumbersome and rarely used. But those changes increase the pressure on agencies to make sure they understand the new laws correctly.

We were asked to assist in providing some overall guidance for health care facilities regarding potential impacts of police reform measures, and I am [attaching](#) a document we worked on with the WA State Hospital Association.

Finally, after a presentation at our conference in May, some agencies are working with the National Faith and Blue organization to provide outreach in their communities—see below if you are interested:

In October 2020, the U.S. Department of Justice COPS Office, U.S. Department of Homeland Security, International Association of Chiefs of Police, National Sheriffs’ Association, National District Attorneys Association, Fraternal Order of Police, NAPO, NOBLE, NAWLEE, PERF and nearly every other major national law enforcement group partnered with Atlanta-based MovementForward, Inc.’s One Congregation One Precinct (OneCOP) initiative to co-organize the first National Faith & Blue Weekend. In its’ inaugural year, the effort was a huge success, becoming one of the largest and most collaborative police-community outreach projects in American history.

Our association is partnering with National Faith & Blue Weekend 2021, scheduled for Friday, October 8 - Monday, October 11, 2021. To ensure every agency in our state can take full advantage of this powerful and innovative community engagement resource, we have scheduled a statewide virtual meeting for **Tuesday, Aug. 17 from 12 -12:45 p.m. PT** that all agency heads are urged to attend.

Over the last few years, law enforcement professionals across the country have been forced to address unprecedented challenges of civil unrest. Along with our association, other state police chiefs’ and sheriffs’ throughout the country are formally partnering in this effort to create an environment of unity and reconciliation in communities of all kinds.

The objective is for law enforcement professionals to collaborate with local houses of worship to strengthen positive connections that will enable us to break-down divides, decrease biases, increase familiarity, and spur ongoing collaboration. The activities will include virtual and in-

person options for forums and discussions, service projects, community walks, picnics, athletic contests, crime/safety briefings and other positive events geared toward fostering an environment of healing and reconciliation.

We are seeking to engage every law enforcement agency in Washington to participate in this national initiative. Again, the organizing/planning meeting for our state will be conducted via Zoom on **Tuesday, Aug. 17 from 12 -12:45 p.m. PT**. During this meeting, you and your staff will receive important details about National Faith & Blue Weekend and how your agency can be involved in this great effort. Here is the Zoom link you can use to **register AND attend** the meet: www.faithandblue.org/washington.

All agency heads are urged to also *include your command staff, PIOs and/or community outreach liaisons in the Zoom meeting*. If you have any questions or require additional information, please contact Dennis Dent at dennis.dent@faithandblue.org or (404) 793.7017.

Thank you all for your continued calm guidance and working through these challenges in your community- please know it is noticed and appreciated!

Stay Safe.

- Steve