

## Impact of Changes to Use of Force Laws for Law Enforcement and Hospitals Guidance from the Washington Association of Sheriffs and Police Chiefs and the Washington State Hospital Association

**DISCLAIMER:** *This guidance represents the perspectives of the Washington Association of Sheriffs and Police Chiefs and the Washington State Hospital Association. Nothing in this document should be considered legal advice. Your legal advice should come from your legal advisor. Nothing in this document should be considered a decision, command, or directive to any entity; this document is intended to provide information and perspective for the purpose of informing local decisions.*

Recent changes to Washington State law relating to use of force is creating questions about how and when law enforcement officers respond to requests for assistance from hospitals. Specific areas of concern include law enforcement use of force related to involuntary treatment, behavioral health patients, patient restraints, and harm/threats to hospitals staff, patients, and visitors.

Use of force is a complex area of law and it will take time to fully understand the implications of the substantial changes in state law. The Washington Association of Sheriffs and Police Chiefs (WASPC) and the Washington State Hospital Association (WSHA) have a long and productive partnership, and are committed to helping law enforcement and hospitals work within the new laws to support safety in health care settings. The following is interim guidance from WASPC and WSHA:

### Guidance for Law Enforcement

- Officers are not prohibited from responding to calls for service. WASPC and WSHA believe that changes to state law on use of force do not specifically prohibit law enforcement from responding to calls for service. Officers can respond to calls for service at a hospital, other health care setting, or any other location. However, how law enforcement engages in the situation once there is guided by HB 1310.
- Officers may be physically present at a hospital. Hospitals may contact law enforcement to come to the hospital for a variety of reasons, including on behalf of a crime victim, to report a crime that occurred at the hospital, if there is an imminent threat of harm, or as required under mandatory reporting laws. WASPC and WSHA interpret HB 1310 to not specifically prohibit officers from coming to a hospital. HB 1310 requires that, when possible, officers exhaust available and appropriate de-escalation tactics before using physical force. These tactics include leaving the scene if there is no threat of imminent harm and no crime has been committed, is being committed, or is about to be committed. Note that the law only requires the officer to leave the scene if there is no suspicion of criminal activity, no imminent threat of physical harm to any person **and** the officer is contemplating the use of force or about to use

force. HB 1310 does not require an officer to leave the scene simply because there is no suspicion of criminal activity and no imminent threat of physical harm.

- State law continues to require guarding of patient in hospitals in certain circumstances. [Chapter 10.110 RCW](#) requires that when law enforcement accompanies patients who are in custody for a violent offense or a sex offense into the hospital, law enforcement must remain with or secure the patient, except in certain limited situations. More information is available [here](#).

## Guidance for Hospitals

- Review and carefully consider hospitals policies regarding when to contact law enforcement. Review hospital policies regarding when law enforcement is contacted, including steps taken before contacting law enforcement. This may include contacting law enforcement to respond to crimes at the facility, on behalf of crime victims, as mandated by state or federal law, and regarding threats or violence by or against patients, staff, or visitors. Carefully consider whether there are circumstances in which it is current policy to contact law enforcement for an incident that does not include imminent threat of harm or actual criminal activity. Consider when the hospital's own de-escalation or security team would be more appropriate.
- Review hospital workplace violence prevention planning and training, including de-escalation techniques. Workplace violence prevention is a priority for Washington state hospitals. Pursuant to chapter 49.19 RCW, hospitals must develop and implement a workplace violence prevention plan every three years and provide training according to the workplace violence prevention plan to all applicable employees, volunteers, and contracted security personnel. More information on workplace violence reduction is available [here](#) and [here](#).
- Review policies on the use of patient restraints and the role of hospital staff, including security personnel. Carefully consider whether law enforcement has a role in restraining patients, including those experiencing behavioral health challenges or who may be subject to a blood or alcohol test. Ensure current policies and practice are in compliance with state law, CMS Patient Rights Conditions of Participation 42 CFR § 482.13, and DOH standards – with special attention to the staff training requirements.
- Consult legal counsel. Consult with an attorney to balance the legal risks associated with a particular policy approach and provide clear direction and training for staff on specific scenarios likely to present in the hospital, particularly the emergency department.

## Background on Use of Force Law

[HB 1310](#) was part of a package of police accountability and reform measures passed by the Washington State legislature during the 2021 session. Effective July 25, 2021, HB 1310 limits an

officer's use of physical force to specific situations and requires the officer to exhaust available and appropriate de-escalation tactics prior to using physical force.

- Use of force limited to specific circumstances. HB 1310 replaces the existing use of force statute with a new provision that authorizes the use of physical force when necessary to: protect against criminal conduct where there is probable cause to make an arrest; effect an arrest; prevent escape as defined under chapter 9A.76 RCW; or protect against an imminent threat of bodily injury to the peace officer, another person, or the person against whom force is being used. Law enforcement officers may use deadly force only when necessary to protect against an imminent threat of serious physical injury or death.
- Duty of reasonable care, including use of available and appropriate de-escalation tactics. HB 1310 requires that officers use reasonable care when determining whether to use physical force and, when possible, that officers exhaust available and appropriate de-escalation tactics.
  - These tactics include: creating physical distance; designating an officer to lead communications; calling for additional resources such as crisis intervention teams and mental health professionals; calling for back-up; and leaving the scene if there is no threat of imminent harm and no crime has been committed, is being committed, or is about to be committed.

The new law also requires officers use the least amount of physical force necessary to overcome resistance under the circumstances, terminate use of force as soon as the need for force ends, and use less lethal alternatives.

The Washington State Attorney General is required to develop and publish a model policy on law enforcement use of force and de-escalation tactics by July 1, 2022.

## Next Steps

WASPC and WSHA will advocate for clarity and consistency in interpretation of the new law. We will also continue to work to understand how the law is impacting the safety of hospital patients and staff, and may seek changes to the law in the 2022 session of the Washington State Legislature. We welcome your comments and insights as we continue our partnership.



Steve Strachan, Executive Director, WASPC



Cassie Sauer, President & CEO, WSHA

Resources:

[House Bill 1310: Law Enforcement and Correctional Officers – Permissible Use of Force](#)  
[Hospital and Law Enforcement Guide to Health Care Related Disclosure](#)