



Washington Association of
**SHERIFFS &
POLICE CHIEFS**

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Greetings from your Executive Director:

The 60-day legislative session began January 10. WASPC provided media with our [pre-session statement](#) which called upon legislators to support changes to produce balanced and productive reforms to the 2021 laws that recognize and value victims. The [Seattle Times lead editorial](#) agreed with WASPC that “the new law fails to acknowledge the many circumstances where officers must take action in the interest of the public and a person’s own safety.”

Other coverage of note:

Last week, KIRO Radio reporter Hannah Scott summarized some of the “fixes” to reform bills from last session on a KIRO Radio podcast. The discussion starts at the 30:00 mark [here](#). They mention that some law enforcement groups did specifically, and consistently, highlight the very problems we are now seeing with public safety based on these laws, and they cite WASPC specifically. ***The conversation ends with a substantive and foundational question for legislators from host Dave Ross, “Will they listen this time?”***

The author of some of the laws, Rep. Jesse Johnson, said in the Seattle Times that in some areas, “...we may have swung the pendulum too far.” WASPC strongly agrees, and we need to find balance that not only respects and recognizes victims but also allows for proactive policing.

There was an interesting article this week about 2020 [“Deaths from Despair”](#), which indicates that in Washington State deaths from suicide, drug overdose and alcohol abuse, exceeded deaths from COVID. The reality of what people are going through and enhancing our ability to get people the help they need, are critical to any legislative changes this year.

We want balanced reform

Many of you are on our legislative “listserv” that contains a great deal of information on specific bills as they are introduced and as they progress. In our newsletter, I would like to start highlighting the most significant bills so we all have a strong awareness of the issues and the “lay of the land”.

A few of the most significant bills were heard this week. The House Public Safety Committee held a public hearing on four bills – [HB 1719](#) to address the “military equipment” provisions of RCW 10.116.040, [HB 1735](#) and [HB 1726](#) to address the use of force provisions of Chapter 10.120 RCW, and [HB 1202](#).
Serving the Law Enforcement Community and the Citizens of Washington

We testified in support of HB 1719. We testified “Other” (meaning we support generally but have concerns with details; remember, last session proved that **details matter**) on HB 1735 and HB 1726 and opposed to HB 1202. Here are the specifics on our concerns with these bills.

HB 1735: This bill provides clarity on using force but lists specific RCWs in which they apply. Rather than providing clear and unambiguous language for guidance, there is a laundry list of RCWs which creates greater complexity, and allows for more confusion, as there was last year. We would prefer a clear definition of when force is permitted.

HB 1726: This bill allows for investigative detention (Terry Stops) but only for what the bill sponsors are calling “serious” crimes, generally violent crimes and domestic violence. This bill is better than nothing, but it continues to allow and encourage brazen contempt for the law and ignores victims. Also, it does not include a definition of what constitutes force.

Again, the problem here is it adds more complexity and it excludes a number of what many would call “serious, violent” crimes, and all property crimes. The text of the bill says reasonable suspicion is allowed for detention for a “violent offense, sex offense, assault of domestic violence.” However, not all violent or serious crimes are included in a separate statutory definition of what is included. Crimes NOT included in this bill, that would not legally allow for a reasonable suspicion detention, include:

- Non-DUI Vehicular assault,
- Residential burglary,
- Custodial assault,
- Hit and run; and
- Theft

There are many more not included in the bill but these are just a few examples. Also, it again creates more complexity as it adds even more analysis to decisions that must be made in real time and under stress. As James McMahan said in our testimony, “it requires officers to use *a definition of a definition of a definition*, and the consequences of making the wrong decision are dire...”

Here is an example: a homeowner calls 911 for a burglar breaking into their home while the family is sleeping. They provide a description of the suspect fleeing the house. A responding officer, seeing someone reasonably matching the description a half a block away, can approach and ask the person questions, but if they choose not to cooperate and walk away, they cannot be forcibly detained.

Another example: A car strikes a pedestrian and the car drives away- a personal injury hit and run. HB 1726 allows for a reasonable suspicion stop only if it involves drunk driving or domestic violence. However, how does one establish whether it is drunk driving or domestic violence without being able to detain the person to investigate?

HB 1202 is another bill to watch. This bill provides a cause of action for a person injured by a peace officer acting under color of authority if the officer engaged in specifically listed conduct,

and establishes standards for the vicarious and independent liability of the officer's employer. It also authorizes the Attorney General to investigate employers and peace officers engaging in a pattern or practice of conduct in violation of the act and to bring a civil action to restrain and prevent the peace officer or employer from engaging in the pattern or practice of conduct.

It is worth noting that late last week, [Senate Bill 5577](#) was introduced, sponsored by a large and bipartisan group of Senators- click on the links to see information on each of the bill sponsors ([Van De Wege](#), [Mullet](#), [Cleveland](#), [Gildon](#), [Honeyford](#), [Lovick](#), [Padden](#), [Randall](#), [Salomon](#), [Wagoner](#), [Wilson, L.](#)).

SB 5577 does include a balanced approach to reasonable suspicion, a definition of use of force, and a requirement for reasonable standard of care. [Here](#) is a story about the bill's introduction and comments from Sen. Van DeWege (D- Port Angeles).

The need for a balanced approach is evidenced here in an excerpt from a letter recently sent to legislators from Port Orchard Chief Matt Brown:

Since the close of the last legislative session crime has spiked in our City the majority of the increase related to property crime and theft. On average, we have seen two to four vehicle thefts per day. In a community of 16,000, this is staggering. Other instances of property crime such as petty theft and burglary have also significantly increased. When officers are able to make a timely response, and observe possible criminal behavior, the current law prevents them from detaining fleeing suspects.

A recent example involved a burglary at a local business. The alarm company advised that unknown persons were inside. When officers arrived, they observed two suspects walking out of a rear door. When told to stop, both fled on foot. Our officers were unable to conduct an investigative detention because they only had reasonable suspicion a burglary had occurred.

The alarm company was not able to provide information that the business owner hadn't provided permission to anyone else to be inside. Because of this, the business owner was victimized twice - once by the criminal suspects and again by law enforcement that was unable to perform its basic function.

Here is another of what is becoming a daily occurrence, from a Gig Harbor Police report on a large retail theft case:

While handcuffing the male, a white female, around 30 years of age, 5'6", wearing pink pants and a black jacket was exiting out the rear entrance. The Ross (store) manager stated the female was with the male inside the store and they were seen talking to each other. I told the female she was being detained and told her to stop several times. The female replied, "F--- you," then "I don't have to stop, " then later, "I don't have to stop for you". The female walked toward Olympic Drive and ran to the north.

The female has not been located as of this newsletter. It is our sincere hope that the Legislature will make thoughtful and constructive improvements to reduce victimizations and promote public safety.

Important Legislation

During the session we will provide updates on a few significant bills as they are introduced and considered. Here is a “lay of the land” on what other stakeholders are doing in terms of support, opposition, or other testimony. For your information, this is a summary of the positions of a number of groups for the key bills that were considered or passed last session.

2021 Session Bill				
	WACOPS	WASPC	FOP	AWC
ESHB 1054 - Tactics - - PASSED	Testified Opposed	Testified Opposed	Testified Support	Support
SHB 1202 - Police misconduct/civil remedy – DID NOT PASS IN HOUSE	Testified Opposed	Testified Opposed	Testified Other	
SHB 1203 - Community oversight boards – DID NOT PASS IN HOUSE	Written testimony- Concerns	Testified Opposed	Testified Other	
ESHB 1267 - Police use of force investigations -- PASSED	Testified Opposed	Testified Opposed	Testified Other (w/ "support of many aspects". Asked for 1507 passage).	
E2SHB 1310 - Uses of force by officers -- PASSED	Testified Opposed	Testified Opposed	Testified Support (asked for A.G. to bring more Statewide policies)	Support
E2SB 5051– Oversight & Accountability-- PASSED	Testified Opposed	Testified Opposed	Testified Other	

SSB 5066 - Duty to Intervene-- PASSED	Testified Concerns	Testified Other (Concerned about definition of "Excessive Force")	Testified Support	
E2SSB 5263 - Personal Injury Defenses -- PASSED	Signed-In Opposed	Testified Opposed		

WACOPS: Washington Council of Police and Sheriffs

FOP: Washington Fraternal Order of Police

AWC: Association of Washington Cities

Here is the information for the bills heard this week, which also includes links to the actual testimony in hearings if it was provided:

2022 Session Bill		WASPC	WACOPS	FOP	Assoc Cities	Assoc Counties
HB 1719 (Military Equip)	H Public Safety (1.11.22)	Testified Pro	Testified Pro	Testified Pro	Testified Pro	No Action
HB 1726 (Use of Force)	H Public Safety (1.11.22)	Testified Other	No Action	Testified Pro(not called)	Testified Other	No Action
HB 1735 (Use of Force)	H Public Safety (1.11.22)	Testified Other	Testified Other	Testified Pro (not called)	Testified Pro	No Action
HB 1202 (Cause of Action)	H Civil Rights & Judiciary (1.11.22)	Testified Opposed	Signed in Opposed, did not testify	Testified Pro	Testified Opposed	Testified Opposed
HB 1507 (Office of Independent Prosecutions)	H Public Safety (1.13.22)	Testified Opposed	Signed in Opposed, did not testify	Testified Pro (1 of 2) Testified Pro (2 of 2)	Signed in Pro, did not testify	No Action
HB 1690 – Deceptive Interrogation Techniques	H Public Safety (1.14.22)	Testified Opposed	No Action	No Action	No Action	No Action
HB 1788 – Vehicular Pursuits	H Public Safety (1.18.22)	Testified Pro	Signed in Pro, did not testify	No Action	No Action	No Action

Our weekly legislative update is available for members each Friday at 12:30. If you attended last week you should be getting a reminder on Thursday. If you weren't able to attend and you'd like to register just click this [link](#). Many of you have been communicating with your local officials and community- as we move forward we will be providing links to hearings and how to testify or sign in as "pro", "con" or "other" and how to invite others to do the same.

Finally this week, Chief Shirley at Bellevue P.D. passed along this photo of three of his (very muddy) officers after they rescued a woman and her dog from a house sliding downhill in a mudslide. I love this photo because it not only shows three officers who did a heroic thing, but their smiles show why they do this job! This is what it is all about!



Have a good week - Stay Safe - Steve

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