Washington Association of
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Greetings from your Executive Director:

I have communicated with many of you in recent weeks about the local management of some of the law and policy changes. One of the main issues is the shift to what types of calls to which we can or should respond based on societal expectations, case law and liability, and specific law changes form the last session.

As discussed at our conference, you all have information on the law changes, and the considerations of their effect on policy. In addition, an important takeaway is that there are legal principles (such as the Rescue Doctrine) that suggest law enforcement "owns" liability for doing, or not doing, something on a call if they engage or become involved in the first place. To me, that means that the days of always filling every gap in services, always going to every call because that is what we do, and "I'll run out there and see what's going on" need to be reconsidered. We also must begin to communicate that law enforcement cannot continue to be the default response to every problem. That is a big shift, is the transition from "reimagining policing" to reality, and one that will necessitate strong communication with your local policy makers and communities.

One question we have heard is whether HB 1310 changes whether we can (or should) make changes to handling involuntary holds and transports for behavioral health. The answer is "probably" but you need to check with your legal advisor. The requirements that law enforcement may only use force if there is a crime, one may be committed, or they are an imminent threat to anyone creates the following scenario:

An ITA order exists and is signed by a Designated Crisis Responder, and the involved person sits on a couch and says they are going nowhere. Placing hands on the person would clearly constitute force, and does that fit one of those allowed by 1310? Are they only an imminent threat to themselves, and does the document provide enough proof of that, or does the subject have to demonstrate actions or behavior at the time? It is unclear, and a civil plaintiff's attorney would argue, and litigate, that it may not.

The scenarios and questions generated by any number of non-criminal calls (runaways, "keep the peace" calls, civil standbys, etc.) continue and each do not have simple answers - only liability, whether the agency responds or not.

First, make sure you have conversations with your legal advisor, and communicate to your team about how and what to do when responding, or not responding. Second, it is important to communicate with your community about what these changes look like and what it means - here is a GREAT example from Sedro-Woolley Chief Lin Tucker that he communicated to the public on their Facebook page.

In addition, we are developing larger communications themes about these different expectations and restrictions based on law changes, along with communicating that policy decisions will still be made at the local level to the extent which they can.

Finally, because this is an important and urgent issue and the law change is coming in July, we have scheduled a webinar, "HB 1310 and liability related to non-criminal calls" for Tuesday, June 22, from 1:00-3:00 PM. We will have Mary Muramatsu, Spokane Assistant City Attorney, Erin Overbey from the King County Sheriff's Office, and Rebecca Boatright, Seattle Police Department Director of Legal Affairs, each of whom serve as legal advisors for their agencies. We may have additional legal advisors on that panel along with our Policy Director, James McMahan, and I will facilitate the webinar. This webinar will not provide specific legal advice but rather will present relevant case law considerations as they impact liability and policy decisions regarding these issues. As always, the ultimate decisions makers are you and your legal advisors, and we strongly encourage legal advisors to attend. To register, please click here.

Many thanks and have a safe week--

- Steve