



Meeting Agenda

Ad Hoc Public Safety Committee

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Thursday, December 9, 2021

5:30 PM

Online and via phone

Attend: <https://us02web.zoom.us/j/84610290061?pwd=akFEMWJEK2FiWmkvb09WeGU0ZjBYUT09>

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **APPROVAL OF AGENDA**

4. **APPROVAL OF MINUTES**

- 4.A [21-1180](#) Approval of October 14, 2021 Ad Hoc Committee on Public Safety Meeting Minutes

Attachments: [Minutes](#)

5. **COMMITTEE BUSINESS**

- 5.A [21-1160](#) Implementation of Police Auditor Recommendations Update

- 5.B [21-1174](#) Downtown Response Team Coordination Project Briefing

- 5.C [21-1181](#) Police Reform Legislation Update

Attachments: [ENGROSSED SUBSTITUTE HOUSE BILL 1054](#)
[ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1310](#)

6. **REPORTS AND UPDATES**

7. **ADJOURNMENT**

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City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

Ad Hoc Public Safety Committee
Approval of October 14, 2021 Ad Hoc
Committee on Public Safety Meeting Minutes

Agenda Date: 12/9/2021
Agenda Item Number: 4.A
File Number:21-1180

Type: minutes **Version:** 1 **Status:** In Committee

Title

Approval of October 14, 2021 Ad Hoc Committee on Public Safety Meeting Minutes



Meeting Minutes - Draft

Ad Hoc Public Safety Committee

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Thursday, October 14, 2021

5:30 PM

Online and via phone

Attend: [https://us02web.zoom.us/j/84610290061?](https://us02web.zoom.us/j/84610290061?pwd=akFEMWJEK2FiWmkvb09WeGU0ZjBYUT09)
[pwd=akFEMWJEK2FiWmkvb09WeGU0ZjBYUT09](https://us02web.zoom.us/j/84610290061?pwd=akFEMWJEK2FiWmkvb09WeGU0ZjBYUT09)

1. CALL TO ORDER

Chair Parshley called the meeting to order at 5:30 p.m.

2. ROLL CALL

Present: 3 - Chair Lisa Parshley, Committee member Clark Gilman and Committee member Cheryl Selby

3. APPROVAL OF AGENDA

The agenda was approved.

4. APPROVAL OF MINUTES

- 4.A [21-0991](#) Approval of September 9, 2021 Ad Hoc Committee on Public Safety Meeting Minutes

The minutes were approved.

5. COMMITTEE BUSINESS

- 5.A [21-0964](#) Briefing and Review of Public Safety Response Calls

Interim Police Chief Rich Allen shared data regarding public safety response calls since the implementation of last years legislative changes to the role of police in the community and how some law enforcement services are delivered.

Fire Chief Mark John shared data on how the 2021 legislative changes have effected responses to calls for Fire and EMT response.

Committee members asked clarifying questions.

The report was received.

6. REPORTS AND UPDATES

Strategic Planning & Performance Manager Stacey Ray shared an update on the

Reimagining Public Safety Process. She shared the schedule for group learning sessions and noted that Councilmembers are invited to attend the sessions. Ms. Ray noted she is working with staff in Arts, Parks & Recreation to incorporate art into the process. She also shared the Olympia School District reached out and would like to participate in the Reimagining Public Safety Process and staff is working on what that might look like.

7. ADJOURNMENT

The meeting adjourned at 6:25 p.m.



Ad Hoc Public Safety Committee

Implementation of Police Auditor Recommendations Update

Agenda Date: 12/9/2021
Agenda Item Number: 5.A
File Number: 21-1160

Type: discussion **Version:** 1 **Status:** In Committee

Title

Implementation of Police Auditor Recommendations Update

Recommended Action

Committee Recommendation:

Briefing only; no action requested

City Manager Recommendation:

Briefing only; no action requested

Report

Issue:

Discussion on what the Olympia Police Department is doing to implement the recommendations of the Police Auditor.

Staff Contact:

Rich Allen, interim police chief, Olympia Police Department, 360.753.8255

Presenter(s):

Rich Allen, interim police chief, Olympia Police Department

Background and Analysis:

On November 2, 2020, the City Council selected the law firm of Ogden Murphy Wallace, P.L.L.C. to serve as Police Auditor. The purpose is to increase public trust and confidence in the Olympia Police Department by providing an independent review and audit of the Department's internal investigations regarding complaints against the Department and/or its employees.

On August 9, 2021, the Auditor provided City Council a mid-year report highlighting the type of complaints, the response, and a finding on each complaint case audited. The Auditor also provided an analysis of key trends, patterns, and recommendations for revisions.

Interim Police Chief Allen will review the Auditor's recommendations and explain what the Department is doing to implement them.

Type: discussion **Version:** 1 **Status:** In Committee

Neighborhood/Community Interests (if known):

The community has expressed interest in police reform.

Options:

1. Receive the report.
2. Do not receive the report.
3. Receive the report at another time

Financial Impact:

Unknown at this time.

Attachments:

None.



Ad Hoc Public Safety Committee
Downtown Response Team Coordination
Project Briefing

Agenda Date: 12/9/2021
Agenda Item Number: 5.B
File Number:21-1174

Type: discussion **Version:** 1 **Status:** In Committee

Title

Downtown Response Team Coordination Project Briefing

Recommended Action

Committee Recommendation:

Briefing only. No action requested.

City Manager Recommendation:

Briefing only. No action requested.

Report

Issue:

Whether to receive a briefing on the Downtown Response Team Coordination Project.

Staff Contact:

Mike Reid, Economic Development Director, Office of Community Vitality, 360.753.8591
Stacey Ray, Strategic Planning and Performance Manager, Office of Performance and Innovation,
360.753.8046

Presenter(s):

Mike Reid, Economic Development Director

Background and Analysis:

Over the last four years the City of Olympia has significantly increased its staffing levels with work associated with making Downtown feel more welcome and safe. In this line of work we have engaged staff from:

- Downtown Ambassadors
- Clean Team
- Parking Enforcement
- Code Enforcement
- Walking Patrol
- Crisis Response Unit
- Familiar Faces

- Homeless Response
- Olympia Fire Department
- Park Rangers

Currently we are underway with a process to ensure that all these programs are effectively coordinating and communicating to achieve city objectives. The City is utilizing Communications Resources Northwest to bring together the staff groups who contribute to making Downtown safe and welcoming to develop goals and agreements for how the groups work together so that we can identify ways to help our Downtown Response Teams work effectively and support one another through improved goal alignment, communications, and collaboration.

The final deliverable for this process will be goals and agreements for how the groups will work together and support one another to improve their alignment, communication, and collaboration. This process will also identify where the teams see gaps in their ability to fulfill their responsibilities and areas for future process improvements.

Neighborhood/Community Interests (if known):

The City has obtained multiple surveys over the last few years that clearly articulate a broad public desire to see the City address concerns about safety throughout downtown.

Options:

1. Receive the briefing on the Downtown Response Team Coordination Project.
2. Do not receive the briefing on briefing on the Downtown Response Team Coordination Project.
3. Receive the briefing at another time.

Financial Impact:

No financial impact associated with the briefing.

Attachments:

None.



Ad Hoc Public Safety Committee Police Reform Legislation Update

Agenda Date: 12/9/2021
Agenda Item Number: 5.C
File Number:21-1181

Type: report **Version:** 1 **Status:** In Committee

Title

Police Reform Legislation Update

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Briefing only; no action requested.

Report

Issue:

Whether to receive an update on Police Reform Legislation.

Staff Contact:

Susan Grisham, Legislative Liaison, (360) 75308244

Presenter(s):

Jay Burney City Manager

Background and Analysis:

Following the 2021 legislative session, several police reform bills were signed into law, two of which have been identified by stakeholders as needing clarification.

- Engrossed Second Senate Substitute House Bill (E2SHB) 1310 the intent of which is “...to address excessive force and discriminatory policing by establishing a requirement for law enforcement and community corrections officers to act with reasonable care when carrying out their duties...”
- Engrossed Substitute House Bill (ESHB) 1054 the intent of which is to establish requirements for tactics and equipment used by peace officers.

In the interim, Representative Goodman has held two meetings, on September 27 and October 25, to meet with stakeholders to discuss concerns and the substance of potential clarifications to the bills for consideration during the upcoming 2022 Legislative Session.

Type: report **Version:** 1 **Status:** In Committee

During this update staff will provide information regarding proposed clarifications for these two bills in the 2022 Legislative Session.

Attachments:

Engrossed Senate Substitute Bill 1054

Engrossed Second Substitute House Bill 1310

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1054

Chapter 320, Laws of 2021

67th Legislature
2021 Regular Session

PEACE OFFICERS—TACTICS AND EQUIPMENT

EFFECTIVE DATE: July 25, 2021

Passed by the House April 23, 2021
Yeas 55 Nays 42

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 23, 2021
Yeas 28 Nays 20

DENNY HECK

President of the Senate

Approved May 18, 2021 11:45 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1054** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 18, 2021

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1054

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By House Public Safety (originally sponsored by Representatives J. Johnson, Entenman, Dolan, Ryu, Berry, Simmons, Bateman, Kloba, Lekanoff, Duerr, Fitzgibbon, Slatte, Wylie, Ramos, Berg, Tharinger, Ramel, Ortiz-Self, Senn, Peterson, Gregerson, Valdez, Callan, Hackney, Morgan, Chopp, Cody, Ormsby, Taylor, Frame, Santos, Macri, Davis, Pollet, Bergquist, and Harris-Talley)

READ FIRST TIME 01/26/21.

1 AN ACT Relating to establishing requirements for tactics and
2 equipment used by peace officers; amending RCW 10.31.040; adding a
3 new chapter to Title 10 RCW; repealing RCW 43.101.226; and providing
4 an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Law enforcement agency" includes any "general authority
10 Washington law enforcement agency" and any "limited authority
11 Washington law enforcement agency," as those terms are defined in RCW
12 10.93.020, and any state or local agency providing or otherwise
13 responsible for the custody, safety, and security of adults or
14 juveniles incarcerated in correctional, jail, or detention
15 facilities. "Law enforcement agency" does not include the national
16 guard or state guard under Title 38 RCW or any other division of the
17 United States armed forces.

18 (2) "Peace officer" includes any "general authority Washington
19 peace officer," "limited authority Washington peace officer," and
20 "specially commissioned Washington peace officer" as those terms are
21 defined in RCW 10.93.020, and any employee, whether part-time or

1 full-time, of a jail, correctional, or detention facility who is
2 responsible for the custody, safety, and security of adult or
3 juvenile persons confined in the facility.

4 NEW SECTION. **Sec. 2.** (1) A peace officer may not use a
5 chokehold or neck restraint on another person in the course of his or
6 her duties as a peace officer.

7 (2) Any policies pertaining to the use of force adopted by law
8 enforcement agencies must be consistent with this section.

9 (3) For the purposes of this section:

10 (a) "Chokehold" means the intentional application of direct
11 pressure to a person's trachea or windpipe for the purpose of
12 restricting another person's airway.

13 (b) "Neck restraint" refers to any vascular neck restraint or
14 similar restraint, hold, or other tactic in which pressure is applied
15 to the neck for the purpose of constricting blood flow.

16 NEW SECTION. **Sec. 3.** (1) The criminal justice training
17 commission shall convene a work group to develop a model policy for
18 the training and use of canine teams.

19 (2) The criminal justice training commission must ensure that the
20 work group is equally represented between community and law
21 enforcement stakeholders, including the following: Families who have
22 lost loved ones as a result of violent interactions with law
23 enforcement; an organization advocating for civil rights; a statewide
24 organization advocating for Black Americans; a statewide organization
25 advocating for Latinos; a statewide organization advocating for Asian
26 Americans, Pacific Islanders, and Native Hawaiians; a federally
27 recognized tribe located in Washington state; a community
28 organization from eastern Washington working on police
29 accountability; a community organization from western Washington
30 working on police accountability; a community organization serving
31 persons who are unhoused; the faith-based community with advocacy on
32 police accountability; an emergency room doctor with relevant
33 experience; Washington association of sheriffs and police chiefs;
34 Washington state patrol; Washington fraternal order of police;
35 Washington council of police and sheriffs; Washington state patrol
36 troopers association; council of metropolitan police and sheriffs;
37 teamsters local 117; and Washington state police canine association.

38 (3) The model policy work group shall consider:

- 1 (a) Training curriculum, including the history of race and
2 policing;
- 3 (b) Circumstances where the deployment of a canine may not be
4 appropriate;
- 5 (c) Circumstances where deployment of a canine on leash may be
6 appropriate;
- 7 (d) Strategies for reducing the overall rate of canine bites;
- 8 (e) Circumstances where a canine handler should consider the use
9 of tactics other than deploying a canine;
- 10 (f) Explicitly prohibiting the use of canines for crowd control
11 purposes;
- 12 (g) Canine reporting protocols;
- 13 (h) Circumstances where the use of voluntary canines and canine
14 handlers may be appropriate; and
- 15 (i) Identifying circumstances that would warrant the
16 decertification of canine teams.
- 17 (4) The criminal justice training commission shall publish the
18 model policy on its website by January 1, 2022.
- 19 (5) This section expires July 1, 2022.

20 NEW SECTION. **Sec. 4.** (1) A law enforcement agency may not use
21 or authorize its peace officers or other employees to use tear gas
22 unless necessary to alleviate a present risk of serious harm posed by
23 a: (a) Riot; (b) barricaded subject; or (c) hostage situation.

24 (2) Prior to using tear gas as authorized under subsection (1) of
25 this section, the officer or employee shall:

26 (a) Exhaust alternatives to the use of tear gas that are
27 available and appropriate under the circumstances;

28 (b) Obtain authorization to use tear gas from a supervising
29 officer, who must determine whether the present circumstances warrant
30 the use of tear gas and whether available and appropriate
31 alternatives have been exhausted as provided under this section;

32 (c) Announce to the subject or subjects the intent to use tear
33 gas; and

34 (d) Allow sufficient time and space for the subject or subjects
35 to comply with the officer's or employee's directives.

36 (3) In the case of a riot outside of a correctional, jail, or
37 detention facility, the officer or employee may use tear gas only
38 after: (a) Receiving authorization from the highest elected official

1 of the jurisdiction in which the tear gas is to be used, and (b)
2 meeting the requirements of subsection (2) of this section.

3 (4) For the purposes of this section:

4 (a) "Barricaded subject" means an individual who is the focus of
5 a law enforcement intervention effort, has taken a position in a
6 physical location that does not allow immediate law enforcement
7 access, and is refusing law enforcement orders to exit.

8 (b) "Highest elected official" means the county executive in
9 those charter counties with an elective office of county executive,
10 however designated, and in the case of other counties, the chair of
11 the county legislative authority. In the case of cities and towns, it
12 means the mayor, regardless of whether the mayor is directly elected,
13 selected by the council or legislative body pursuant to RCW 35.18.190
14 or 35A.13.030, or selected according to a process in an established
15 city charter. In the case of actions by the Washington state patrol,
16 it means the governor.

17 (c) "Hostage situation" means a scenario in which a person is
18 being held against his or her will by an armed, potentially armed, or
19 otherwise dangerous suspect.

20 (d) "Tear gas" means chloroacetophenone (CN), O-chlorobenzylidene
21 malononitrile (CS), and any similar chemical irritant dispersed in
22 the air for the purpose of producing temporary physical discomfort or
23 permanent injury, except "tear gas" does not include oleoresin
24 capsicum (OC).

25 NEW SECTION. **Sec. 5.** (1) A law enforcement agency may not
26 acquire or use any military equipment. Any law enforcement agency in
27 possession of military equipment as of the effective date of this
28 section shall return the equipment to the federal agency from which
29 it was acquired, if applicable, or destroy the equipment by December
30 31, 2022.

31 (2)(a) Each law enforcement agency shall compile an inventory of
32 military equipment possessed by the agency, including the proposed
33 use of the equipment, estimated number of times the equipment has
34 been used in the prior year, and whether such use is necessary for
35 the operation and safety of the agency or some other public safety
36 purpose. The agency shall provide the inventory to the Washington
37 association of sheriffs and police chiefs no later than November 1,
38 2021.

1 (b) The Washington association of sheriffs and police chiefs
2 shall summarize the inventory information from each law enforcement
3 agency and provide a report to the governor and the appropriate
4 committees of the legislature no later than December 31, 2021.

5 (3) For the purposes of this section:

6 (a) "Military equipment" means firearms and ammunition of .50
7 caliber or greater, machine guns, armed helicopters, armed or armored
8 drones, armed vessels, armed vehicles, armed aircraft, tanks, long
9 range acoustic hailing devices, rockets, rocket launchers, bayonets,
10 grenades, missiles, directed energy systems, and electromagnetic
11 spectrum weapons.

12 (b) "Grenade" refers to any explosive grenade designed to injure
13 or kill subjects, such as a fragmentation grenade or antitank
14 grenade, or any incendiary grenade designed to produce intense heat
15 or fire. "Grenade" does not include other nonexplosive grenades
16 designed to temporarily incapacitate or disorient subjects without
17 causing permanent injury, such as a stun grenade, sting grenade,
18 smoke grenade, tear gas grenade, or blast ball.

19 (4) This section does not prohibit a law enforcement agency from
20 participating in a federal military equipment surplus program,
21 provided that any equipment acquired through the program does not
22 constitute military equipment. This may include, for example: Medical
23 supplies; hospital and health care equipment; office supplies,
24 furniture, and equipment; school supplies; warehousing equipment;
25 unarmed vehicles and vessels; conducted energy weapons; public
26 address systems; scientific equipment; and protective gear and
27 weather gear.

28 NEW SECTION. **Sec. 6.** All law enforcement agencies shall adopt
29 policies and procedures to ensure that uniformed peace officers while
30 on duty and in the performance of their official duties are
31 reasonably identifiable. For purposes of this section, "reasonably
32 identifiable" means that the peace officer's uniform clearly displays
33 the officer's name or other information that members of the public
34 can see and the agency can use to identify the peace officer.

35 NEW SECTION. **Sec. 7.** (1) A peace officer may not engage in a
36 vehicular pursuit, unless:

37 (a) (i) There is probable cause to believe that a person in the
38 vehicle has committed or is committing a violent offense or sex

1 offense as defined in RCW 9.94A.030, or an escape under chapter 9A.76
2 RCW; or

3 (ii) There is reasonable suspicion a person in the vehicle has
4 committed or is committing a driving under the influence offense
5 under RCW 46.61.502;

6 (b) The pursuit is necessary for the purpose of identifying or
7 apprehending the person;

8 (c) The person poses an imminent threat to the safety of others
9 and the safety risks of failing to apprehend or identify the person
10 are considered to be greater than the safety risks of the vehicular
11 pursuit under the circumstances; and

12 (d)(i) Except as provided in (d)(ii) of this subsection, the
13 officer has received authorization to engage in the pursuit from a
14 supervising officer and there is supervisory control of the pursuit.
15 The officer in consultation with the supervising officer must
16 consider alternatives to the vehicular pursuit. The supervisor must
17 consider the justification for the vehicular pursuit and other safety
18 considerations, including but not limited to speed, weather, traffic,
19 road conditions, and the known presence of minors in the vehicle, and
20 the vehicular pursuit must be terminated if any of the requirements
21 of this subsection are not met;

22 (ii) For those jurisdictions with fewer than 10 commissioned
23 officers, if a supervisor is not on duty at the time, the officer
24 will request the on-call supervisor be notified of the pursuit
25 according to the agency's procedures. The officer must consider
26 alternatives to the vehicular pursuit, the justification for the
27 vehicular pursuit, and other safety considerations, including but not
28 limited to speed, weather, traffic, road conditions, and the known
29 presence of minors in the vehicle. The officer must terminate the
30 vehicular pursuit if any of the requirements of this subsection are
31 not met.

32 (2) A pursuing officer shall comply with any agency procedures
33 for designating the primary pursuit vehicle and determining the
34 appropriate number of vehicles permitted to participate in the
35 vehicular pursuit and comply with any agency procedures for
36 coordinating operations with other jurisdictions, including available
37 tribal police departments when applicable.

38 (3) A peace officer may not fire a weapon upon a moving vehicle
39 unless necessary to protect against an imminent threat of serious
40 physical harm resulting from the operator's or a passenger's use of a

1 deadly weapon. For the purposes of this subsection, a vehicle is not
2 considered a deadly weapon unless the operator is using the vehicle
3 as a deadly weapon and no other reasonable means to avoid potential
4 serious harm are immediately available to the officer.

5 (4) For purposes of this section, "vehicular pursuit" means an
6 attempt by a uniformed peace officer in a vehicle equipped with
7 emergency lights and a siren to stop a moving vehicle where the
8 operator of the moving vehicle appears to be aware that the officer
9 is signaling the operator to stop the vehicle and the operator of the
10 moving vehicle appears to be willfully resisting or ignoring the
11 officer's attempt to stop the vehicle by increasing vehicle speed,
12 making evasive maneuvers, or operating the vehicle in a reckless
13 manner that endangers the safety of the community or the officer.

14 **Sec. 8.** RCW 10.31.040 and 2010 c 8 s 1030 are each amended to
15 read as follows:

16 (1) To make an arrest in criminal actions, the officer may break
17 open any outer or inner door, or windows of a dwelling house or other
18 building, or any other (~~inclosure~~ [~~enclosure~~]) enclosure, if, after
19 notice of his or her office and purpose, he or she be refused
20 admittance.

21 (2) An officer may not seek and a court may not issue a search or
22 arrest warrant granting an express exception to the requirement for
23 the officer to provide notice of his or her office and purpose when
24 executing the warrant.

25 NEW SECTION. **Sec. 9.** RCW 43.101.226 (Vehicular pursuits—Model
26 policy) and 2003 c 37 s 2 are each repealed.

27 NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act
28 constitute a new chapter in Title 10 RCW.

Passed by the House April 23, 2021.
Passed by the Senate April 23, 2021.
Approved by the Governor May 18, 2021.
Filed in Office of Secretary of State May 18, 2021.

--- END ---

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1310

Chapter 324, Laws of 2021

67th Legislature
2021 Regular Session

LAW ENFORCEMENT AND CORRECTIONAL OFFICERS—PERMISSIBLE USES OF FORCE

EFFECTIVE DATE: July 25, 2021

Passed by the House April 23, 2021
Yeas 56 Nays 41

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 23, 2021
Yeas 26 Nays 23

DENNY HECK

President of the Senate

Approved May 18, 2021 11:49 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1310** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 18, 2021

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1310

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By House Appropriations (originally sponsored by Representatives J. Johnson, Lovick, Ryu, Simmons, Berry, Fitzgibbon, Hackney, Wylie, Sells, Wicks, Cody, Callan, Gregerson, Santos, Senn, Ortiz-Self, Chopp, Davis, Valdez, Dolan, Bateman, Ormsby, Bergquist, Morgan, Ramel, Ramos, Lekanoff, Frame, Harris-Talley, Pollet, Macri, and Peterson)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to permissible uses of force by law enforcement
2 and correctional officers; amending RCW 43.101.450; adding a new
3 section to chapter 43.101 RCW; adding a new chapter to Title 10 RCW;
4 creating new sections; and repealing RCW 10.31.050.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature recognizes that additional
7 clarity is necessary following the passage of Initiative Measure No.
8 940 (chapter 1, Laws of 2019) and Substitute House Bill No. 1064
9 (chapter 4, Laws of 2019). The legislature intends to address
10 excessive force and discriminatory policing by establishing a
11 requirement for law enforcement and community corrections officers to
12 act with reasonable care when carrying out their duties, including
13 using de-escalation tactics and alternatives to deadly force.
14 Further, the legislature intends to address public safety concerns by
15 limiting the use of deadly force to very narrow circumstances where
16 there is an imminent threat of serious physical injury or death. It
17 is the intent of the legislature that when practicable, peace
18 officers will use the least amount of physical force necessary to
19 overcome actual resistance under the circumstances.

20 It is the fundamental duty of law enforcement to preserve and
21 protect all human life.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Law enforcement agency" includes any "general authority
5 Washington law enforcement agency" and any "limited authority
6 Washington law enforcement agency" as those terms are defined in RCW
7 10.93.020.

8 (2) "Less lethal alternatives" include, but are not limited to,
9 verbal warnings, de-escalation tactics, conducted energy weapons,
10 devices that deploy oleoresin capsicum, batons, and beanbag rounds.

11 (3) "Peace officer" includes any "general authority Washington
12 peace officer," "limited authority Washington peace officer," and
13 "specially commissioned Washington peace officer" as those terms are
14 defined in RCW 10.93.020; however, "peace officer" does not include
15 any corrections officer or other employee of a jail, correctional, or
16 detention facility, but does include any community corrections
17 officer.

18 NEW SECTION. **Sec. 3.** (1)(a) Except as otherwise provided under
19 this section, a peace officer may use physical force against a person
20 when necessary to: Protect against criminal conduct where there is
21 probable cause to make an arrest; effect an arrest; prevent an escape
22 as defined under chapter 9A.76 RCW; or protect against an imminent
23 threat of bodily injury to the peace officer, another person, or the
24 person against whom force is being used.

25 (b) A peace officer may use deadly force against another person
26 only when necessary to protect against an imminent threat of serious
27 physical injury or death to the officer or another person. For
28 purposes of this subsection (1)(b):

29 (i) "Imminent threat of serious physical injury or death" means
30 that, based on the totality of the circumstances, it is objectively
31 reasonable to believe that a person has the present and apparent
32 ability, opportunity, and intent to immediately cause death or
33 serious bodily injury to the peace officer or another person.

34 (ii) "Necessary" means that, under the totality of the
35 circumstances, a reasonably effective alternative to the use of
36 deadly force does not exist, and that the amount of force used was a
37 reasonable and proportional response to the threat posed to the
38 officer and others.

1 (iii) "Totality of the circumstances" means all facts known to
2 the peace officer leading up to and at the time of the use of force,
3 and includes the actions of the person against whom the peace officer
4 uses such force, and the actions of the peace officer.

5 (2) A peace officer shall use reasonable care when determining
6 whether to use physical force and when using any physical force
7 against another person. To that end, a peace officer shall:

8 (a) When possible, exhaust available and appropriate de-
9 escalation tactics prior to using any physical force, such as:
10 Creating physical distance by employing tactical repositioning and
11 repositioning as often as necessary to maintain the benefit of time,
12 distance, and cover; when there are multiple officers, designating
13 one officer to communicate in order to avoid competing commands;
14 calling for additional resources such as a crisis intervention team
15 or mental health professional when possible; calling for back-up
16 officers when encountering resistance; taking as much time as
17 necessary, without using physical force or weapons; and leaving the
18 area if there is no threat of imminent harm and no crime has been
19 committed, is being committed, or is about to be committed;

20 (b) When using physical force, use the least amount of physical
21 force necessary to overcome resistance under the circumstances. This
22 includes a consideration of the characteristics and conditions of a
23 person for the purposes of determining whether to use force against
24 that person and, if force is necessary, determining the appropriate
25 and least amount of force possible to effect a lawful purpose. Such
26 characteristics and conditions may include, for example, whether the
27 person: Is visibly pregnant, or states that they are pregnant; is
28 known to be a minor, objectively appears to be a minor, or states
29 that they are a minor; is known to be a vulnerable adult, or
30 objectively appears to be a vulnerable adult as defined in RCW
31 74.34.020; displays signs of mental, behavioral, or physical
32 impairments or disabilities; is experiencing perceptual or cognitive
33 impairments typically related to the use of alcohol, narcotics,
34 hallucinogens, or other drugs; is suicidal; has limited English
35 proficiency; or is in the presence of children;

36 (c) Terminate the use of physical force as soon as the necessity
37 for such force ends;

38 (d) When possible, use available and appropriate less lethal
39 alternatives before using deadly force; and

1 (e) Make less lethal alternatives issued to the officer
2 reasonably available for their use.

3 (3) A peace officer may not use any force tactics prohibited by
4 applicable departmental policy, this chapter, or otherwise by law,
5 except to protect his or her life or the life of another person from
6 an imminent threat.

7 (4) Nothing in this section prevents a law enforcement agency or
8 political subdivision of this state from adopting policies or
9 standards with additional requirements for de-escalation and greater
10 restrictions on the use of physical and deadly force than provided in
11 this section.

12 NEW SECTION. **Sec. 4.** (1) By July 1, 2022, the attorney general
13 shall develop and publish model policies on law enforcement's use of
14 force and de-escalation tactics consistent with section 3 of this
15 act.

16 (2) By December 1, 2022, all law enforcement agencies shall:
17 Adopt policies consistent with the model policies and submit copies
18 of the applicable policies to the attorney general; or, if the agency
19 did not adopt policies consistent with the model policies, provide
20 notice to the attorney general stating the reasons for any departures
21 from the model policies and an explanation of how the agency's
22 policies are consistent with section 3 of this act, including a copy
23 of the agency's relevant policies. After December 1, 2022, whenever a
24 law enforcement agency modifies or repeals any policies pertaining to
25 the use of force or de-escalation tactics, the agency shall submit
26 notice of such action with copies of any relevant policies to the
27 attorney general within 60 days.

28 (3) By December 31st of each year, the attorney general shall
29 publish on its website a report on the requirements of this section,
30 including copies of the model policies, information as to the status
31 of individual agencies' policies, and copies of any agency policies
32 departing from the model policies.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.101
34 RCW to read as follows:

35 The basic training provided to criminal justice personnel by the
36 commission must be consistent with the standards in section 3 of this
37 act and the model policies established by the attorney general under
38 section 4 of this act.

1 **Sec. 6.** RCW 43.101.450 and 2019 c 1 s 3 (Initiative Measure No.
2 940) are each amended to read as follows:

3 (1) Beginning one year after December 6, 2018, all law
4 enforcement officers in the state of Washington must receive violence
5 de-escalation training. Law enforcement officers beginning employment
6 after December 6, 2018, must successfully complete such training
7 within the first (~~fifteen~~)15 months of employment. The commission
8 shall set the date by which other law enforcement officers must
9 successfully complete such training.

10 (2) All law enforcement officers shall periodically receive
11 continuing violence de-escalation training to practice their skills,
12 update their knowledge and training, and learn about new legal
13 requirements and violence de-escalation strategies.

14 (3) The commission shall set training requirements through the
15 procedures in RCW 43.101.455.

16 (4) Violence de-escalation training provided under this section
17 must be consistent with section 3 of this act and the model policies
18 established by the attorney general under section 4 of this act.

19 (5) The commission shall submit a report to the legislature and
20 the governor by January 1st and July 1st of each year on the
21 implementation of and compliance with subsections (1) and (2) of this
22 section. The report must include data on compliance by agencies and
23 officers. The report may also include recommendations for any changes
24 to laws and policies necessary to improve compliance with subsections
25 (1) and (2) of this section.

26 NEW SECTION. **Sec. 7.** RCW 10.31.050 (Officer may use force) and
27 2010 c 8 s 1031, Code 1881 s 1031, 1873 p 229 s 211, & 1854 p 114 s
28 75 are each repealed.

29 NEW SECTION. **Sec. 8.** Sections 2 through 4 of this act
30 constitute a new chapter in Title 10 RCW.

31 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
32 this act, referencing this act by bill or chapter number, is not
33 provided by June 30, 2021, in the omnibus appropriations act, this
34 act is null and void.

Passed by the House April 23, 2021.
Passed by the Senate April 23, 2021.
Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

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