



Washington Association of

SHERIFFS & POLICE CHIEFS

LEGISLATIVE OVERVIEW

A review and discussion of the top 10 law enforcement-related bills thus far in the 2021 legislative session.

February, 2021





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- We support constructive reforms that support good policing, respect victims, and improve public safety.
- Solutions focused on large cities do not fit every community.
- Reforms should help and not hurt the recruitment and retention of diverse and accountable peace officers.



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Sheriffs & Police Chiefs support reforms that build public trust and improve public safety

1. The laws and rules that govern policing are **too important to be rushed**.
2. There is a lot we agree on – arbitration reform, decertification, tactical limits – but changes must **improve** trust and **support** the men and women in law enforcement.
3. Law enforcement needs the community to trust them to do their job the right way, every day.
4. Not every call to 911 needs to be handled by law enforcement. Funding to provide local community options for behavioral health support services are needed.
5. People are looking for headway, not headlines. **We need to work together for solutions.**



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WASPC 13- adopted June 2020

Use of Force

- Statewide use of force policy centered on cornerstone principle of the sanctity of human life
- Duty to intervene/report

Transparency and Accountability

- Officer wellness & resiliency
- Accreditation incentives
- Civil service reform
- Early intervention systems
- Independent Investigations
- Body cams
- Arbitration reform
- Decertification
- Deadly force data collection

Role of Law Enforcement

- Public trust
- Investing in the community



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CUT-OFF DATES

- Cut-off dates are dates established by the Legislature to declare bills as “dead” if the bill does not meet certain levels of progress during the legislative session.

2021 Session Cut-Off Dates

Chamber of Origin			Opposite Chamber			Concurrence
Policy Committee	Fiscal Committee	Floor Vote	Policy Committee	Fiscal Committee	Floor Vote	
2/15/21	2/22/21	3/9/21	3/26/21	4/2/21	4/11/21	4/25/21



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Top Ten: Post Cut-Off

- **SHB 1054** - Tactics
- **SSB 5051** – Decertification
- **SHB 1202** – Civil Cause of Action
- **SHB 1203** – Community Oversight Boards
- **SSB 5259 / SHB 1092**- Data collection
- **SHB 1267** - Office of Independent Investigations
- **SHB 1310** - Use of Force
- **SSB 5263** – Felony Bar
- **SSB 5066** – Duty to Intervene
- **SHB 1499** - Drug Legalization



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SHB 1054 – Tactics

House 2nd Reading Calendar

- Bans chokeholds/LVNR
- Bans K9 for arrest/apprehension
- Bans “tear gas” (CN & CS, not OC)
- Bans “military equipment”- Requires divestment of military equipment by December 31, 2022
- Bans concealment of identifying information
- Bans no-knock warrants
- Bans pursuits except violent offenses and sex offenses

CONCERNS:

- *Reduces tools for de-escalation, including K-9 for apprehension and neck restraints- possibly increasing deadly force.*
- *Crime victims will have fewer assurances that law enforcement can quickly apprehend suspected criminals.*



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SSB 5051 - Oversight & Accountability

Senate Rules Committee

- Complete overhaul of Criminal Justice Training Commission (CJTC)
 - Commission membership, purpose, and added oversight of agencies
- Overhaul of De-Certification
 - De-Cert Criteria- mandatory and discretionary, concurrent CJTC investigations, anyone can file complaint
 - Allows CJTC to suspend peace officer certification

CONCERNS:

- *Essentially creates a second employer for every law enforcement officer- the CJTC. This 50+ page bill creates a new bureaucracy that will reduce local control.*
- *More than half of the Commissioners would have no direct knowledge of, or experience in, law enforcement or corrections.*
- *New bureaucracy will take budget dollars and result in fewer peace officers responding to calls.*



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SHB 1202 – Civil Cause of Action

Hearing in House Appropriations Committee on 2/17

- New civil cause of action under state law- heavily weighted in favor of plaintiffs
- Personal liability for officers
- Independent and vicarious liability for employers
- Correlation to common law
- Negligence and precluded defenses

CONCERNS:

- *Significant new liability for officers, employers- both vicarious and independent*
- *Prevents law enforcement from asserting a defense based on law not clearly established at the time*
- *Will add litigation costs and time- may lead to greater division and further discourage people staying or becoming peace officers*



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SHB 1203 - Community Oversight Boards

Hearing in House Appropriations Committee on 2/17

- Mandates Oversight Boards for all city/county law enforcement agencies with ~~10~~ 15 or more commissioned officers
- Investigate upon receipt of complaint or own initiative
- Access to any investigation, and access to crime scenes and evidence
- Right to subpoena documents and compel testimony
- Requires local jurisdictions to provide adequate funding for oversight board

CONCERNS:

- *Broad authority to small group of unelected persons, no experience in law enforcement, all at taxpayers' expense*
- *Grants power of subpoena, compel testimony, and access crime scenes and evidence- will jeopardize criminal investigations and delay justice*
- *More financial burden on local jurisdictions and removes local control, fewer resources for behavioral health programs*
- *Unfunded mandate*



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SSB 5259/SHB 1092 - Use of Force Database

**5259 Scheduled for Ways & Means Hearing on 2/17; vote on 2/19
1092 in House Rules**

- Attorney General's Request bill
- Requires reporting in more circumstances
- Requires fewer data fields to be reported
- Administered by WSU
- Law enforcement agencies must submit data specific in the bill, and any other data deemed relevant, in the format, according to deadlines established by the Attorney General and WSU

CONCERNS:

- *Significant staff time associated with re-coding incident reports to state-established criteria and categorization.*



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SHB 1267 – Office of Independent Investigations Awaiting Hearing in House Appropriations Committee

- Governor’s Task Force- creates a new state agency
- Concurrent jurisdiction with local investigations
- Law enforcement officers vs. civilian investigators
- Places priority over all other agencies/investigations
- Authority to also investigate sex offenses, and any other criminal activity related to or discovered during course of investigation- at the discretion of the state agency- permissive, not mandatory, to investigate

CONCERNS:

- *Relies on civilian investigators for complex criminal investigations*
- *Gives “priority registration” to CJTC training, at the expense of training needs of the other 279 agencies in the state*
- *Requires local agency to relinquish scenes, jeopardizing criminal investigations of incidents that may have led to the use of deadly force*



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SHB 1310 - Use of Force

Awaiting Hearing in House Appropriations Committee

- Limits use of force to effect arrest, prevent escape, protect against imminent threat of bodily injury
- Duty of reasonable care
 - Exhaust available de-escalation tactics
 - Leave area if no threat of imminent harm or no crime being committed
- Force allowed to minimal degree necessary
- Submit use of force policies to Attorney General

CONCERNS:

- *Undermines decades of case law, unreasonably limits any use of force, effectively requiring an arrest any time any level of force is used*
- *Creates an inappropriate oversight role for Attorney General*
- *Uses subjective language without incorporating a reasonable officer standard*



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SSB 5263 - Felony Bar Senate Rules Committee

- Limits use of felony defense statute (RCW 4.24.420) by law enforcement to finding beyond a reasonable doubt that the person injured or killed committed a Class A or B felony

CONCERNS:

- *Will lead to policies that make officers less likely to act to prevent a crime from occurring*
- *Creates a more restrictive standard for law enforcement as compared with members of the public; there is no “finder of fact” requirement for the public*



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SSB 5066 - Duty to Intervene Senate 2nd Reading Calendar

- Excessive Force (intervene)
 - Duty to render first aid
- Wrongdoing (report)
- Model Policy
 - CJTC, WSP, WASPC, Labor
- Mandatory agency policy on duty to intervene
- CJTC training

CONCERNS:

- *Duty is based on subjective terms such as “harmful”, cannot be fairly and consistently implemented*
- *In mutual aid, officers from multiple agencies would intervene according to their own policies, and could create confusion*
- *Definition of excessive force is restrictive and could result in unintended confusion and less safe outcomes*



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HB 1499 – Drug Legalization

Awaiting Hearing in House Appropriations Committee

- Legalizes “personal use amounts” of controlled substances
- Directs Health Care Authority to establish a substance use recovery plan to assist persons with substance use disorder in accessing community-based treatment and recovery services
- Requires BLEA to incorporate training on interactions with persons with substance use disorder

CONCERNS:

- *We support a robust, wrap-around system for behavioral health, and would actively support this bill if decriminalizing were removed. A lack of services and law enforcement being the only resource will continue until better systems are in place*
- *Any decriminalization consideration should occur following a system being built and proven*



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Other Reform Bills

- **HB 1000** – Mental health supports for law enforcement officers
- **HB 1001** - Establishing a law enforcement professional development outreach grant program.
- **SSB 5055** – Concerning law enforcement personnel collective bargaining
- **SSB 5089** - Civil service
- **SHB 1099** – Potential impeachment disclosures
- **E2SHB 1089** – Audits of Independent Investigations
- **SSB 5353** - Creating a partnership model that facilitates community engagement with law enforcement.



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Other Non-Reform Bills

- **SSB 5036** - Conditional commutation by the clemency and pardons board.
- **ESSB 5121** - Expanding eligibility for the graduated reentry program.
- **2SHB 1126** - Limiting tolling of community custody terms.
- **2SHB 1282** - Concerning allowed earned time for certain offenses.
- **2SHB 1186** - Concerning juvenile rehabilitation.
- **SSB 5122** – Concerning the jurisdiction of juvenile court.
- **HB 1413** - Scoring of prior juvenile offenses in sentencing range calculations.
- **SSB 5123** – Creating a developmentally appropriate response to youth who commit sexual offenses.



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Other Non-Reform Bills

- **SHB 1140** – Concerning juvenile access to attorneys when contacted by law enforcement.
- **SHB 1019** – Allowing residential marijuana agriculture
- **HB 1223** - Enacting the uniform electronic recordation of custodial interrogations act.
- **2SHB 1069** –Local government fiscal flexibility
- **SSB 5116** – Establishing guidelines for government procurement and use of automated decision systems in order to protect consumers, improve transparency, and create more market predictability.
- **SHB 1109** - Concerning victims of sexual assault.
- **SSB 5226** – Concerning the suspension of licenses for traffic infractions.



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Questions?

**WASPC Reforms found at WASPC.org
Bill info at leg.wa.gov**