   

**C**owlitz **A**ssociation of **S**heriff & **P**olice **C**hiefs

LONGVIEW, KELSO, WOODLAND, CASTLE ROCK, KALAMA & COWLITZ COUNTY, WASHINGTON

July 21, 2021

The issue of police reform has been under discussion in recent years in our state and nationwide. In 2018 voters of Washington approved I-940 which has become known as the Law Enforcement Training and Community Safety Act (WAC 139). Among the requirements were changing the criminal charging standard for Law Enforcement Officers using lethal force from acting with Malice (with ill intent) to the standard of what a “reasonable” officer would do in the same circumstances.  This legislation requires that any use of lethal force by law enforcement that causes death or serious bodily injury must be investigated by an Independent Investigation Team, which includes citizen representatives.  Independent Investigation Team members are also required to complete 40 hours of patrol tactics training emphasizing de-escalation, cultural awareness, bias, and the history of race and policing.  In compliance with this law, the Cowlitz County Association of Sheriff and Police Chiefs (CASPC) have formed the Lower Columbia Major Crime Team which has been utilized to investigate lethal force incidents. We have trained local instructors to teach the patrol tactics course and have delivered 2 sessions to over 50 local officers.

 In 2021 the issue of police reform was at the forefront of the Washington State Legislative session. CASPC engaged in the legislative process through the Washington Association of Sheriffs and Police Chiefs (WASPC) supporting some aspects of police reform while working to shape and clarify other aspects of the proposed legislation. The result was an unprecedented number of new laws that will fundamentally alter the way law enforcement will be able to ensure the safety of their communities. There will be less local control of law enforcement replaced by State agencies, appointees, and Commissions comprised in part by citizens who meet certain minority statuses, without specific criminal justice experience or expertise. These new laws, many that go into effect July 25, 2021, have raised more questions than answers with new undefined terms. The changes include the following:

 ESB 5476

The Washington State Supreme Court issued a ruling in State vs. Blake in February that the drug possession statute was unconstitutional. This was based on the fact that the word knowingly was not in the letter of the law though it was previously established as an implied necessary element of the crime. The Legislature could have simply added knowingly to the current statute but instead chose to change unlawful drug possession to a misdemeanor that can only result in arrest and charging after two referrals to drug treatment with no accountability that the offender follows through. CASPC has worked with the Prosecutor, City Attorneys, and Drug Court to develop a local county protocol to make referrals and document those so that criminal prosecution may occur upon the third offense. There is no statewide system mandated to track these referrals. As a result, there will be more drug offenders in the community under no court supervision or requirement to be in treatment.  This law went into effect upon the Governor’s signature on May 13, 2021

ESHB 1054

 This law addresses police tactics and equipment. It prohibits the use of neck restraints, no-knock search warrants, and the use of “military equipment” whether obtained from the military or not, limits the use of tear gas, and prohibits shooting at moving vehicles under most circumstances. It limits police vehicular pursuits to circumstances where there is probable cause (a high legal standard) to believe the person has committed a violent felony or sexual assault offense, or reasonable suspicion of driving while impaired (a lower standard).  Initial attempts to ban K-9 tracking of people were rescinded and replaced with a committee to study the issue. This law will go into effect July 25, 2021.

E2SHB 1310

This law addresses the use of physical force by law enforcement. The legislative intent is to reduce police interaction with people who have not committed a crime and police may now only use force when there is probable cause to make an arrest, effect the arrest, prevent escape, or protect against imminent bodily injury. The law further strongly encourages de-escalation tactics and unless there is a threat of imminent harm or a crime has been or is about to be committed, law enforcement is directed to leave the area. This measure will alter how we interact with those in a mental health crisis and juvenile runaways. Under current standards, law enforcement may detain someone if there is a reasonable suspicion that they have committed a crime. This temporary detention allows for the development of probable cause through witness interviews and identification of the suspect. If an arrest is not supported by the facts the individual is released. Under terms of this new legislation, when someone runs from law enforcement physical force may only be used if probable cause exists that a crime has been committed. This law will go into effect July 25, 2021. However, a model policy from the State Attorney General is not required to be published until next year.

Other laws that will go into effect next year will require that questioning of juveniles be audio and video recorded and that prior to questioning they must speak with an attorney. Adult suspects must be at least audio recorded and in the case of felony crimes and questioning within a police station, jail, or police car the interview must be video recorded as well. The Governor’s Office will establish an Independent Investigation Team that will selectively take over local law enforcement investigations of use of force incidents. The State Criminal Justice Training Commission will have an expanded role in commencing investigations and pursuing decertification of Officers accused of wrongdoing prior to any local decision to terminate employment.

 The members of CASPC have been implementing training as well as policy changes to reflect these new realities of policing in our state. We remain committed to providing the highest level of service possible to ensure public safety and partnering with local citizens towards that end. We have enjoyed great support from our communities in the past, particularly this past year, and have avoided much of the unrest that our nearby metropolitan neighbors have experienced. Working together we can and will continue to enjoy the high quality of life that Cowlitz County is known for. If you have any questions or comments about law enforcement and our service to you please contact us.

Respectfully,

Sheriff Brad Thurman – Cowlitz County Sheriff (360) 577-3092

Chief Robert Huhta – Longview Chief of Police (360) 442-5800

Chief Darr Kirk – Kelso Chief of Police (360) 423-1270

Chief James Kelly – Woodland Chief of Police (360) 225-6965

Chief Ralph Herrera – Kalama Chief of Police (360) 673-2165

Interim Chief Charlie Worley – Castle Rock Interim Chief of Police (360) 274-4711