

From Your Executive Director:

Happy Friday and our update this week will be mostly about the bill passed last night which replaces Initiative I-940. The really good news is that the legislature did pass House Bill 3003, which was the agreed-upon alternative to I-940.

Here are a couple of takeaways that I hope you will also use if you are asked about this bill:

- This means there will not be a divisive and contentious campaign over I-940 over the next several months, which is a very good thing for us and for our profession. More division and name calling only plays into the anti-police narrative, and does not serve us or the relationships we want to improve in the community.
- The language and policy reflected in HB 3003 are a very significant improvement over I-940. It is much better balanced and really reflects the concerns and challenges of our law enforcement officers as they do a difficult and dangerous job.
- This bill was supported by WASPC, the De-Escalate Washington team (the backers of the initiative), the Washington Association of Prosecuting Attorneys, as well as the (FOP) Fraternal Order of Police and WACOPS (WA Council of Police and Sheriffs), who represent the majority of Washington rank and file officers and deputies. The labor groups felt that the language was better than I-940 becoming law.
- Our Sheriffs and Chiefs took a leadership position on these issues. We took a strong position that a campaign would be divisive, and we should seek to find a better alternative. Along with legislators, we helped to bring the De-Escalate team to the table along with law enforcement labor groups. We acknowledged that a contentious campaign was not good for the community, and worked toward consensus. Not everyone agreed with every aspect of the bill, but all agreed it was much better and much more effective than I-940.

Here is a link to the bill as it was approved and signed by the Governor:

<http://lawfilesexternal.wa.gov/biennium/2017-18/Pdf/Bills/House%20Passed%20Legislature/3003-S.PL.pdf#page=1>

Here are the changes from I-940. As you look at the bill on the link, the original I-940 language has "strikethroughs" and the new, negotiated language is underlined:

- Section 1: (e) 3003 **removed the de-certification for officers** if they don't attain training requirements, which would have been a problem for those on military or family leave (f) **We removed the phrase "unavoidable and as a last resort"** and inserted language that is much more balanced
- Section 2: (1) 3003 **cleaned up the language about rendering first aid and removed the word "paramount"**. (2) Provides new language for first aid
- Section 3: (4) This was the most discussed portion, the deadly force standard. Remember that this standard is only an immunity clause, determining whether a prosecutor can file charges at

all, and not the elements of proving a crime. **The new language removes most of the original I-940 language (which was confusing and included “subjective language”) and focuses on an "objective reasonable officer" standard.** WAPA believes this is good, balanced language that properly protects officers and recognizes the challenges of law enforcement. It is important to note that everyone, including De-Escalate, made clear that the intent and language is not about prosecuting officers for making mistakes, but is for the exceptionally rare and extreme case.

- Section 4: (1) This provides for input that must be received by the Criminal Justice Training Commission on creating guidelines for this law. It adds the LE labor groups as well as the Black Law Enforcement Association of Washington.
- Section 5: This is new language that **requires independent investigations** when deadly force is used and results in death, great bodily harm or substantial bodily harm. There is language that it does not apply to departments under Federal consent decree (specifically, Seattle PD because no one wants to complicate that process) and CJTC will make rules about what constitutes an independent investigation. It is our expectation that those rules will be consistent with what many departments are already doing- using multi-agency teams.
- Section 6: This section requires departments to notify the Governor's Office of Indian Affairs if they become aware that a tribal member has died as a result of law enforcement deadly force. The intent is just to make sure tribal governments know when a member has been involved. This improves and clarifies the original I-940 language.
- Section 7: This is added language that **provides for the State to reimburse peace officers if they are charged and then found not guilty or the charges are dismissed.** This was a good addition and provided some balance for the concerns of law enforcement.

Process and Constitutional Challenges: As you may have read, the process by which the legislature passed HB 3003 received some comments about Constitutionality. The initiative, because it received the necessary signatures, was required to go to the ballot this fall UNLESS the legislature passed it into law. So, they did pass I-940, and also passed HB 3003, which became law once I-940 was passed. There were legal opinions that said it may be unconstitutional, and others that said it was. If someone challenges it, the Attorney General would be responsible for defending the process. It is also possible that someone could go out and collect signatures again to put I-940 back on the ballot. All of these eventualities are about legislative and Initiative process, not the positive elements of the policy. Even legislators who opposed the bill said they supported this better policy, their main issue was the process. The bottom line is that we have gotten much-improved policy into law, which is far better than a fight and I-940 potentially becoming law. We will keep you apprised of any issues with the process as it moves forward.

Our Policy Director, James McMahan, did tremendous work in this lengthy and demanding process- he and I also want to thank our Chiefs and Sheriffs who called their legislators to encourage their support. We also want to thank Rep. Dave Hayes (also a Snohomish Co. Sheriff's Sgt.), Rep. Brad Klippert (also a Deputy for the Benton Co. Sheriff's Office) for their hard work and helping to get us to this better outcome for law enforcement.

<http://www.heraldnet.com/news/stunning-olympia-news-compromise-over-police-use-of-force/>

Question or comments just let me know - thank you and have a great weekend!
Work Hard - Have Fun - Stay Safe

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