

# WASHINGTON ASSOCIATION OF SHERIFFS & POLICE CHIEFS

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Serving the Law Enforcement Community and the Citizens of Washington



February 19, 2019

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## Greetings from your Executive Director:

Hope you are dug out from the snow and crazy weather the past two weeks. It is unfortunate that we had to cancel this year's Law and Justice Day, but thank you again for reaching out to your legislators and for the ongoing support.

So once the amended version of **I-940** was signed into law by the Governor Monday before last, there is no rest for our Policy Director, James McMahan. The proposals and bills are coming at us at a high rate this year, and this week we have a lot of updates for you:

First, **I-1639 and the upcoming changes driven by that initiative.** As you know, there has also been a lot of public discussion about enforcement, and an ongoing court challenge. It is interesting to me that public initiatives involving public safety lead to a lot of questions and controversy. I-940, for example, was written by the initiative backers for the purpose of a public vote. The recently completed (and unprecedented) process of working with the backers and law enforcement to clarify and improve the language, to resolve confusion or eliminate unintended consequences, was indicative of that difference between initiative language and real-world application.

Which brings us to I-1639. As WASPC we do not take positions on the political element of the initiative, and as you know there is a federal court case about I-1639, but we do want to provide you with information so you can answer questions and be aware of necessary changes that may be needed.

So here's the deal-you will see that there are requirements for the enhanced background checks, the firearms safety course requirements, and the annual "look back" system. The question is: who is responsible for each of these, who creates the criteria, and who answers questions for FFLs? The answer is- no specific group right now. In order to assist you in getting a handle on understanding exactly what is expected of your department or office, we are putting together a small work group of records staff, administrators, and state officials to provide some basic guidelines and advice to you in terms of changes to backgrounds, added workload, and questions you may get from firearms dealers. Please consider participating and/or having one of your staff participate in the Firearms Workgroup. Please let us know which dates/times works best for you or your staff by clicking on the form link [here](#).

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Here is a summary of the portions (new and amendments to current law) of the initiative and some notes and challenges regarding its applicability and any enforcement. Our work group will be using this as a guide to see what we need to help get defined, and provide support for you to make decisions for your agency. As always, remember that anything you do needs to go through your legal counsel:

<b>I-1639 Overview</b>						
<b>New Requirement</b>	<b>Summary</b>	<b>Criminal Enforcement ?</b>	<b>FFL Requirement?</b>	<b>Clearly Defined?</b>	<b>Effective date</b>	<b>Note</b>
Defines a "semi-automatic assault rifle"	Creates new definition	No	Yes- creates new requirements for backgrounds	A definition is provided	7/1/2019	Departments will need to conduct background checks for newly-defined assault rifles the same as handguns- also there may be upcoming NICS changes
No semi-auto assault rifle purchased under 21	Prohibits sale or purchase with certain exceptions	No	Yes	A definition is provided	1/1/2019	Any charging would be a prosecutor's decision
Firearms safety training	No semi-auto assault rifle may be delivered unless proof is provided of a recognized firearms safety training program	No	Yes	No	7/1/2019	We will seek clarification- who defines the course, who documents, who handles paperwork?
\$25 fee	Allows Dept. of Licensing to require FFLs to charge \$25 to recover costs- intended to fund State and Healthcare Authority costs, plus small amount for local background checks	No	Yes- collect fee	Sort of- no specifics	7/1/2019	No specifics yet on distribution
Enables "Single Point" Background Check system	Enables the state to establish a "single point" firearms background system, but does not require it	No	No	No	N/A	There is current legislative interest for this
Safe Storage	Creates criminal liability for not storing firearms safely, with exemptions if there is secure gun storage or a trigger lock used, or if in self-defense. Also	Yes- retrospectively (note that Reckless Endangerment already exists and is similar)	No	Yes through definition	7/1/2019	<b>This is the focus of most discussion involving enforcement. Would involve investigation and forwarding of evidence/info to prosecutor for review for charging.</b>

	there is no criminal act if loss of firearm is reported to law enforcement within 5 days.					
Trigger locks/Storage FFL requirement	Requires FFLs to offer a storage device or trigger lock to purchase/transfer of any firearm, and warning signs conspicuously posted	No	Yes	Yes through definition	7/1/2019	
Annual "look backs"	Requires DOL to coordinate with WSP and local departments to, within 12 months of effective date, develop process to verify owners of pistols and semi-auto assault rifles remain eligible, and notify local law enforcement, and they are to "take steps" if not eligible	Possibly- if notified of a person no longer eligible	No	Yes through definition	7/1/2020	No specific definition of what local department must do if they are notified

Also, you may have seen that the litigants who have filed a lawsuit in federal court dismissed the previous suit and immediately re-filed the lawsuit naming the City of Spokane Police Dept., the Clark County Sheriff's Office, and the head of the Dept. of Licensing as defendants. My understanding is this was because some of the involved dealers, as plaintiffs, are located in those jurisdictions, and DOL is the agency involved in part of the appeal. This is part of the Constitutional process of a court challenge.

The next bill to be aware of is **HB 1591, titled "Concerning the rights of persons experiencing homelessness"**.

<https://app.leg.wa.gov/billsummary?BillNumber=1591&Year=2019&Initiative=false>

There are a number of issues raised by this bill:

- It uses the term "harassment by law enforcement". Our departments enforce the laws written by our policy makers, and provide service to our communities. We have a major objection to this term being a part of state statute.
- The bill creates an expectation of privacy for personal property that runs counter to decades of case law regarding property and plain view.
- It grants legal immunity to persons based on subjective factors that would not be reasonably known to law enforcement.

- It creates a burden of proof on law enforcement, for any enforcement action, that shelter (accommodating a person's specific needs) be available.

We will keep you updated on this bill.

This week, **KOMO did a story on the VINE system**, which is managed through WASPC. VINE notifies victims of crime of a pending release of the offender, but it is, by design, an "opt-in" system. The story points out that persons may not have been informed or otherwise known that they needed to "opt-in", and did not get notified. This was part of the original intent for the system, as some victims' advocates felt that automatic notification disempowers the victim and may result in feeling re-victimized if it is not their choice. This is just an FYI if you are asked about it--

<https://komonews.com/news/local/local-sexual-assault-survivor>

I have attached [a bulletin](#) from the **DEA about a new painkiller** that is apparently ten times more powerful than fentanyl- because, you know, there just aren't enough incredibly powerful, dangerous and addictive substances already...

I have mentioned this in previous newsletters, but we have developed a draft document opposing proposed **changes to court rules, being considered by the State Supreme Court**. The rule changes are being driven by the defense bar, and would create significant impediments to investigations. If you would like to see a draft of our letter of opposition, let me know we would be happy to invite input.

Finally, I am attaching a copy of the [handouts we were going to give you all at Law and Justice Day](#)- the first page is our legislative agenda, the last page is the "who we are", but I would ask you to take a look at pages 2-3. These are titled "WASPC Principles for Community Trust". These policy statements have been developed and approved by the Board, and provide a sort of **overarching theme or "big picture" direction** for us. It contains a lot of the takeaways and suggestions we get from you, our members, and puts it in one place so we stay on track. As we move forward, we will continue to monitor and amend these on a regular basis as they form the center of our legislative and policy direction. I have included the attachment, but here is the text:

#### WASPC Principles for Community Trust

Overall: WASPC advocates for public safety improvements that make everyone safer, including law enforcement.

Perceptions of Law Enforcement: Law enforcement remains one of the most respected professions in Washington. Retaining and improving public trust is top priority for WASPC. We take seriously concerns about police interactions with the community and continuously work to improve our policies, training, culture and transparency. There is a lack of understanding that the men and women who swear an oath to uphold public safety are required to face violent and chaotic situations. We accept that responsibility while we also ask individuals

to take responsibility for their own actions, for policy makers and elected officials to bring our communities together and for all of us to work together for common solutions.

Rule of Law: WASPC strongly urges elected policy makers to create laws that are clear, supported, and can be consistently enforced. Disagreements or different applications of laws based on political expediency or policy makers' unwillingness to make difficult decisions leads to reduced trust in the rule of law and is harmful to public safety and public trust.

Deadly Force: WASPC has worked with advocates and community groups to remove "malice" from the legal standard, to come together and build trust. We will continue to work to improve training, focus on de-escalation, and provide transparency. We also expect the community to take responsibility for supporting law enforcement in the split-second decisions required, and to reinforce that reducing officer-involved deadly force incidents will be enhanced by not attacking or fighting with law enforcement. De-escalation is for everyone. We strongly support the following "Tips for Safety" from the Washington State American Civil Liberties Union (ACLU):

- **STAY CALM AND STAY PUT.** Don't run or suddenly move.
- **KEEP YOUR HANDS** where the officer can see them and free of any objects if possible.
- **NEVER TOUCH** any police officer.
- **FOLLOW INSTRUCTIONS.** You can always make a complaint later if you feel your rights were violated.

Criminal Justice Reform: WASPC acknowledges that implicit and institutional bias and discrimination exist in all aspects of society: criminal justice, education, housing, health care, finance, and more. We will work in concert with policy makers and others to make systemic improvements to understand, reduce and control the implicit and institutional biases and barriers that inhibit every person's success. Reform in the criminal justice system should be based on public safety outcomes and should not ignore concern for law enforcement, victims of crime, and justice. Assisting offenders with re-entry and reducing recidivism is good for public safety. Achievement of these goals are worth our state's investment of time, money, and resources.

Behavioral Health: WASPC strongly urges our policy makers to fund and support a robust, "wrap-around" system for those with serious and untreated mental and behavioral health problems. WASPC does not believe that further placement into the community and overall reductions of institutions for those with most serious illnesses is good policy. Placing people with serious health issues out onto the street is not compassionate and can result in increased calls for service, and potential violent interactions with the public and law enforcement.

Homelessness: WASPC supports a comprehensive approach to homelessness. There are many complex dynamics that contribute to the issue. Criminal transients and those who willingly commit crimes should be prosecuted within the law. They are not in the same category as homeless persons, including those with behavioral health problems and addictions, who need and

will accept help. We urge policy makers to delineate between these two groups and solutions should recognize their differences.

Basic Law Enforcement Training: Washington should fully fund the basic law enforcement academy. The surcharge on traffic tickets, which formerly funded all basic training, was redirected by the legislature into the general fund many years ago and led to long delays between when officers are hired and can be properly trained. Funding of basic training is a state responsibility.

Public Safety Funding: Public safety is a core function of government and should be funded that way. The criminal justice system should not be reliant on revenue from citations, arrest warrants, or special funds related to sales of marijuana or gambling.

Marijuana: WASPC acknowledges that the voters of our state made a specific decision to decriminalize marijuana. We urge policy makers to support necessary enforcement to reduce "gray market" sales, illicit juvenile consumption, and impacts on neighborhoods from illicit grows and organized crime. Regulation of marijuana should be based on public safety, not cannabis sales revenue.

Lots of information this week- thanks for all you do-

**WORK HARD- HAVE FUN- STAY SAFE**

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