
SECOND SUBSTITUTE HOUSE BILL 1092

State of Washington

67th Legislature

2021 Regular Session

By House Appropriations (originally sponsored by Representatives Lovick, Goodman, Berry, Leavitt, Fitzgibbon, J. Johnson, Slatter, Wylie, Bateman, Ramos, Berg, Sells, Dolan, Tharinger, Simmons, Ramel, Ortiz-Self, Senn, Peterson, Gregerson, Ryu, Bronoske, Valdez, Callan, Kloba, Hackney, Chopp, Duerr, Ormsby, Taylor, Lekanoff, Frame, Santos, Macri, Orwall, Davis, Pollet, Bergquist, and Harris-Talley; by request of Attorney General)

READ FIRST TIME 02/09/21.

1 AN ACT Relating to requiring reporting, collecting, and
2 publishing information regarding law enforcement interactions with
3 the communities they serve; adding a new chapter to Title 10 RCW; and
4 creating new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that law enforcement
7 transparency and accountability are vital in maintaining public
8 trust. Data collection is one essential tool to allow the public, law
9 enforcement, and policymakers to analyze the effectiveness of
10 existing police practices, determine which policies and training work
11 and do not work, and avoid unintended consequences by supporting
12 policy decisions with clear and relevant data.

13 The legislature finds that creating a statewide data collection
14 program that creates a publicly accessible database to track metrics
15 will help to promote openness, transparency, and accountability,
16 build stronger police-community relations, improve trust and
17 confidence in policing services, evaluate specific areas of concern
18 such as biased policing and excessive force, and ultimately improve
19 the quality of policing services.

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

4 (1) "Great bodily harm" has the same meaning as in RCW 9A.04.110.

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

8 (3) "Substantial bodily harm" has the same meaning as in RCW
9 9A.04.110.

10 (4) "University" means Washington State University or its
11 successor.

12 NEW SECTION. **Sec. 3.** (1) Subject to the availability of amounts
13 appropriated for this purpose, the university shall establish and
14 maintain a program to collect, report, and publish information on law
15 enforcement's use of force and other interactions with and incidents
16 involving the public. The program must be operated in accordance with
17 the policy approved by the office of the attorney general under this
18 section.

19 (2)(a) In carrying out the requirements of this section, the
20 university may contract with public and private institutions of
21 higher education and other organizations and businesses with
22 significant expertise and experience in collecting, tracking, and
23 reporting data on law enforcement's interactions with the public in
24 the state.

25 (b) The university may establish an advisory group of public and
26 private institutions and entities with experience in data collection
27 and research, as well as experts in law enforcement.

28 (c) Any staff or researchers supporting the program through the
29 university or its contractors must have appropriate expertise and
30 experience in data collection and analysis, including training in
31 racial equity issues.

32 (3) By November 1, 2021, the university shall submit to the
33 attorney general a policy for statewide implementation of a data
34 collection, reporting, and publication program, which must include
35 the following elements:

36 (a) Define the specific data to be collected from law enforcement
37 agencies on interactions between officers and the public, which must
38 include: Use of force incidents, as provided in section 4 (1) and (2)
39 of this act; vehicular pursuits, as provided in section 4(3) of this

1 act; and additional incidents and interactions and additional details
2 of those incidents and interactions, as identified by the university
3 in consultation with the advisory group;

4 (b) Establish procedures and deadlines for law enforcement
5 agencies to collect and report data to the university, which should
6 incorporate methodologies based in best practices or those tested and
7 validated in other jurisdictions, if possible;

8 (c) Establish procedures for the public to report relevant
9 information to the university directly, including correcting
10 misreported and otherwise incorrect data;

11 (d) Establish reporting, analyzing, and publishing practices and
12 procedures for the university and its contractors, which must
13 include, at a minimum:

14 (i) Public access to data and analysis in a searchable format
15 published on a website by the university;

16 (ii) Access to raw data for academic research;

17 (iii) Interactive data visualization tools designed for law
18 enforcement agencies and other entities to use the data for research,
19 professional development, training, and management;

20 (iv) The ability to extract data from incident reports and
21 officer narratives in order to standardize data across multiple
22 agencies;

23 (v) Analysis of data, using methodologies based in best practices
24 or those tested and validated in other jurisdictions, if possible,
25 including, but not limited to, analysis of the data using legal
26 algorithms based on the legal standard established in *Graham v.*
27 *Connor*, 490 U.S. 386 (1989);

28 (vi) Analytical dashboards with individual officer details for
29 use by law enforcement agencies as a risk management tool;

30 (vii) Agency level comparative dashboards for all law enforcement
31 agencies in the state;

32 (viii) Historical data, if available, in order to identify long-
33 term trends and patterns; and

34 (ix) Semiannual reports, summarizing the data collected and any
35 related analysis, published on the website and submitted to the
36 legislature and governor by March 30th and September 30th of each
37 year; and

38 (e) Establish phased implementation, if necessary, for collecting
39 and reporting data on different types of interactions and incidents
40 based on current practices and currently available data as compared

1 to additional practices that must be put into place by individual
2 agencies across the state, provided that any phased implementation
3 prioritizes use of force data as provided in section 4 of this act.

4 (4) The office of the attorney general shall review the policy
5 submitted pursuant to subsection (3) of this section, and shall
6 approve or reject the policy, either in part or in full. In reviewing
7 the policy, the office of the attorney general shall consider the
8 interests of the public in accessing information in a transparent and
9 expedient manner as well as the institutional operations and demands
10 of law enforcement agencies and the university. If the policy is
11 rejected, in part or in full, the university shall submit a revised
12 policy in accordance with any deadlines established by the office of
13 the attorney general. Regardless of any revisions to the policy or
14 any phased implementation approved by the office of the attorney
15 general, data collection, reporting, and publication shall commence
16 by July 1, 2022, on the elements provided under section 4 of this
17 act. The office of the attorney general may approve a policy with an
18 earlier implementation deadline.

19 (5) Following the approval of the policy under subsection (4) of
20 this section, the university may submit revisions to the policy to
21 modify the types of data collected and reported, including requiring
22 reporting of additional data from law enforcement agencies. The
23 office of the attorney general shall review and approve or reject any
24 requested revisions in accordance with this section.

25 NEW SECTION. **Sec. 4.** (1) All law enforcement agencies shall
26 report to the university the data required under subsection (2) of
27 this section when:

28 (a) A fatality occurs in connection with the use of force by a
29 law enforcement officer;

30 (b) Great bodily harm occurs in connection with the use of force
31 by a law enforcement officer;

32 (c) Substantial bodily harm occurs in connection with the use of
33 force by a law enforcement officer; or

34 (d) A law enforcement officer:

35 (i) Discharges a firearm at or in the direction of a person;

36 (ii) Points a firearm at a person;

37 (iii) Uses a chokehold or vascular neck restraint;

38 (iv) Uses an electronic control weapon including, but not limited
39 to, a taser, against a person;

1 (v) Uses oleoresin capsicum spray against a person;

2 (vi) Discharges a less-lethal shotgun or other impact munitions
3 at or in the direction of a person;

4 (vii) Strikes a person using an impact weapon or instrument
5 including, but not limited to, a club, baton, or flashlight;

6 (viii) Uses any part of their body to physically strike a person
7 including, but not limited to, punching, kicking, slapping, or using
8 closed fists or feet;

9 (ix) Uses a vehicle to intentionally strike a person or vehicle;
10 or

11 (x) Either deploys a canine by releasing it from the physical
12 control of the law enforcement officer, if it bites a person, or
13 both.

14 (2) When reporting an incident as required under subsection (1)
15 of this section, the agency employing the officer that used force
16 shall provide the following:

17 (a) The date and time of the incident;

18 (b) The location of the incident;

19 (c) The agency or agencies employing the law enforcement
20 officers;

21 (d) The type of force used by the law enforcement officer;

22 (e) The type of injury to the person against whom force was used,
23 if any;

24 (f) The type of injury to the law enforcement officer, if any;

25 (g) Whether the person against whom force was used was armed or
26 unarmed;

27 (h) Whether the person against whom force was used was believed
28 to be armed;

29 (i) The type of weapon the person against whom force was used was
30 armed with, if any;

31 (j) The age, gender, race, and ethnicity of the person against
32 whom force was used, if known;

33 (k) The tribal affiliation of the person against whom force was
34 used, if applicable;

35 (l) Whether the person against whom force was used exhibited any
36 signs associated with a potential mental health condition or use of a
37 controlled substance or alcohol based on the observation of the law
38 enforcement officer;

39 (m) The age, gender, race, and ethnicity of the law enforcement
40 officer;

1 (n) The law enforcement officer's years of service;
2 (o) The reason for the initial contact between the person against
3 whom force was used and the law enforcement officer;
4 (p) Whether any minors were present at the scene of the incident;
5 (q) The entity conducting the independent investigation of the
6 incident, if applicable;
7 (r) Any other information required by the policy under section 3
8 of this act.

9 (3) All law enforcement agencies shall report to the university
10 information on vehicular pursuits, which must include information on
11 the age, gender, race, and ethnicity of the operators and passengers
12 of vehicles pursued by law enforcement officers, if known, as well as
13 any other information pertinent to the applicable standards for
14 vehicular pursuits and other information deemed relevant by the
15 university and approved by the office of the attorney general under
16 section 3 of this act.

17 (4) All law enforcement agencies shall report to the university
18 any additional data required by the policy under section 3 of this
19 act, including additional types of interactions and incidents, and
20 additional data relevant to such interactions and incidents.

21 (5) All law enforcement agencies shall submit the data required
22 under this section to the university in the format and by the
23 deadlines established by the policy under section 3 of this act,
24 provided that agencies begin submitting data required under
25 subsections (1) and (2) of this section no later than July 1, 2022,
26 and provided that such submissions must occur on at least a quarterly
27 basis.

28 NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act
29 constitute a new chapter in Title 10 RCW.

30 NEW SECTION. **Sec. 6.** If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not
32 provided by June 30, 2021, in the omnibus appropriations act, this
33 act is null and void.

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