



## Attorney General's Office Data Collection Advisory Group

March 25, 2022 Virtual Meeting

### Notes

**Members Present:** Donald Almer, Chris Breault, Chief Darrell Lowe, Martina Morris, Marie Pryor, Douglas Wagoner, James Wilburn

**Members Absent:** Joseph King, Charles Porche

#### 1. Welcome & Introductions

Attorney General Ferguson provided welcoming remarks, thanking the Advisory Group for their work to shape a transparent data program in the public interest.

The Advisory Group unanimously agreed to a suggestion brought forward by the facilitator to extend the public comment period by 15 minutes to accommodate the number of people who registered to speak. There were no other changes to the agenda for the March 25, 2022 meeting.

The Advisory Group unanimously agreed to adopt the following change to the March 11, 2022 meeting notes brought forward by Don Almer. Replace the draft text in item #6 with:

*Bob Scales, CEO of Police Strategies LLC, provided public comment. Mr. Scales presented a proposal to the Advisory Group to issue a Request for Qualifications (RFQ) that would be sent to all qualified vendors which would be any university in Washington State. The RFQ would ask the universities if they were interested in applying and what their qualifications and experience are. The universities would also be asked to comment on the proposed recommendations from the Advisory Group.*

There were no other changes to the March 11, 2022 meeting notes.

#### 2. Final Review of Draft Recommendations

The Advisory Group discussed each of the recommendations in the attached crosswalk, remarking on what they liked about the recommendation, as well as changes they would like to see. Advisory Group members made the following suggestions:

- Item #1 – Don Almer suggested adding more specificity around the reporting dates – agencies must start collecting data for incidents occurring in January 2023 and must report the data to the program operator by December 2023.

Draft pending approval by Advisory Group.

- Martina Morris suggested clarifying that stakeholder input should be more frequent (quarterly) while the program is being developed.
- Item #2 – Martina Morris raised concerns about the errors that may be introduced with a formatted spreadsheet, suggesting that any spreadsheet must be at least as accurate as online fillable form.
- Item #3 – Douglas Wagoner and Darrell Lowe suggested stronger language around historical data, i.e., that the program operator must assess whether this data can be collected. Martina Morris and Marie Pryor expressed concerns about the value of historical data that is not standardized statewide.
- Item #4 – Douglas Wagoner suggested notifying law enforcement agencies if there is a public video without a corresponding law enforcement record of the incident. Martina Morris added that it is important to maintain the information that a member of the public first reported the information.
- Martina Morris suggesting changing a signed informed consent to an attestation with check boxes to indicate informed consent.
- Marie Pryor expressed concern that bystanders captured in videos do not consent to being part of the public archive and suggested responsible redactions.
- Chris Breault expressed concern about anonymous submissions.
- Item #5 – Martina Morris noted that the technical specifications should not only include how to access the data, but how to interpret it.
- Items #6 and 7– The Advisory Group did not suggest any changes.
- Item #8– Don Almer asked whether agencies would be able to select their comparison group, or if it would be pre-arranged. Members did not suggest any particular changes.
- Item #9 – Douglas Wagoner stated that the term legal algorithms is bizarre. Don Almer indicated that the term legal algorithms does not have enough specificity to recommend at this time. Don Almer also expressed concern about any use of self-learning or artificial intelligence approaches. Darrell Lowe raised concern about using legal algorithms until the approach has been vetted. Martina Morris expressed discomfort with using legal algorithms, as the term is not defined in the legislation. Martina Morris suggested that this approach could be potentially be pursued at a later time, rather than recommending that the program operator work on it in the near-term. Marie Pryor clarified that the suggested change is to recommend against using legal algorithms at this time, not to recommend against analytics as a whole.
- James Wilburn raised the importance of retaining the provision about accounting for racial and gender bias in analyses, when removing the section about algorithms.
- Item #10 – Don Almer suggested more specificity around the frequency of the focus groups, perhaps quarterly. Darrell Lowe suggested no more than three times per year. Martina Morris suggested quarterly during the program design phase and three times per year once the program is up and running.

Draft pending approval by Advisory Group.

- Item #11 – Douglas Wagoner suggested adding a one-page executive summary to the report and sharing it with the media.
- Item #12 – Martina Morris suggested that additional data elements be considered within 2 years and that stakeholders be involved in the process.

### **3. Public Comment Session**

Members of the public each had up to three minutes to share their views.

- Marilyn Covarrubias, Washington Coalition for Police Accountability, asked whether the dataset will include information about whether the person subject to force was armed or unarmed. She shared that her unarmed son was killed by police within a few seconds of arriving on the scene.
- Leslie Cushman, Washington Coalition for Police Accountability and citizen sponsor of I-940, suggested that the dataset include information about how much time elapsed before force was used. She also suggested that if a private university is selected as the program operator that they be contractually obligated to abide by the same public records requirements as public universities.
- Mina Barahimi Martin of the American Civil Liberties Union of WA recommended collecting information about traffic stops (e.g., DUI, accident, moving violation, felony and misdemeanor), investigatory stops, and vehicle pursuits (including the reason for the pursuit). She also encouraged the Advisory Group to identify force by SWAT teams. Mina Barahimi Martin advised collecting historical data where it exists.
- Terri Rogers Kemp recommended identifying 1) whether the use of force occurred in a low socioeconomic area and 2) different agencies the involved officer worked at (item #4.7). Terri Rogers Kemp expressed appreciation that the proposed dataset recommends a wide breadth of data, including capturing information about civil infractions and behavioral health.
- Rheta Rubenstein, Next Steps, Washington Coalition for Police Accountability, Clark County Justice Group and ACLU chapter member, recommended including information about what de-escalation steps were taken, whether officers called for assistance, and the duration of time on scene before force was used.
- Fred Thomas, Co-Chair Office of Independent Investigations Advisory Board, suggested that this data program share case numbers with the Office of Independent Investigations so incidents can be tracked.
- Kathy Strauss, Washington Coalition for Police Accountability, suggesting collecting data on whether the subject of force had prior interactions with law enforcement.

Advisory Group members reflected on the public comments. Douglas Wagoner inquired about capturing de-escalation attempts. Don Almer recalled the Advisory Group's prior discussion about the lack of uniformity and consistency in defining de-escalation, which introduces subjectivity. Martina Morris suggested considering the time to force as an objective measure.

Draft pending approval by Advisory Group.

#### **4. Final Review of Data Chart**

Don Almer summarized the work of the small group that convened to clarify the remaining items in the data chart for discussion at this meeting. The items are highlighted in the attached chart. Martina Morris noted that item 1.11a was not included in the materials, but recommended by the small group as a match to item 1.9a with the removal of the civil caretaking items. The Advisory Group discussed several additional changes, including changing the term larceny to theft, using the term “welfare detention” to indicate a non-arrest custody (e.g., behavioral health issue), and reversing word order so vehicle theft is listed before prowling.

The Advisory Group revisited topics including the duration of time to force. Darrell Lowe stated that, though this is interesting information, it would be impossible to capture for most uses of force (aside from officer-involved shootings), as the use of force is not broadcast on the radio. Don Almer stated that a planned operation would be easy to timestamp and incidents captured on body cameras would also be easy to timestamp; however, many agencies do not have body cameras. Douglas Wagoner asked about including the data when available. Martina Morris suggested testing this data point with agencies capable of collecting it.

Martina Morris suggested including SWAT as a specific specialty unit.

Darrell Lowe raised concern about the limited information about subject actions prior to the use of force. The Advisory Group discussed adding the following subject actions: None, Civil Disobedience, Fleeing, Resistance, and Imminent Threat to Self or Others.

#### **5. Next Steps**

The Advisory Group will vote on the recommendations Tuesday, March 29<sup>th</sup> at 8:00 a.m.

General Topic	Specific Area for Recommendation in SB 5259	Draft Recommendations
1. OVERARCHING PRINCIPLE	Prioritize the implementation of the reporting, collection, and publication of the use of force data reports required by RCW 10.118.030.	<p>All law enforcement agencies will collect and report all use of force data elements to the program operator in 2023. The program operator will provide support to agencies, prioritizing agencies that need the most technical assistance.</p> <p>By June 2023, the program operator will provide a public-facing website with information on implementation timelines and agency progress towards compliance with the law. By January 2024, verified data sets and displays will be available to the public.</p> <p>The program operator will provide opportunities for stakeholders to provide feedback on all aspects of the data program, including but not limited to, training materials, data transfer protocols, and data displays.</p>
2. DATA COLLECTION	Practices for law enforcement agencies to collect and report data to the program operator through electronic means and standardized across multiple agencies.	<p>Adopt the data elements, definitions and valid values in the attached data chart.</p> <p>The program operator will provide a standardized, formatted spreadsheet or an online fillable report form. For agencies with use of force reports in records management systems (RMS), the program operator will work with relevant RMS providers to generate the monthly report that meets the standards for this data program. The program operator can provide Application Programming Interfaces to agencies to access stored data, if their RMS is open and accessible.</p> <p>Data will be transferred through secure server protocols provided by the program operator on a monthly schedule.</p>
3. DATA COLLECTION	Incorporate available historical data to identify long-term trends and patterns.	Required data collection will begin with incidents occurring in 2023. Prospective program operators may propose an approach to including historical data in an accurate, standardized way that adds value to the statewide data set.
4. DATA COLLECTION	Practices for the public to report relevant information to the program operator directly, including correcting misreported and otherwise incorrect data.	<p>The program operator will carry out a feasibility analysis of a pilot program for a data archive of public submissions of video, audio, or photographs of use of force incidents.</p> <p>Members of the public submitting information will electronically sign an informed consent form that explains that this archive: 1) is <u>not</u> an avenue to submit complaints about police practices; 2) does <u>not</u> trigger an investigation or any action into the incident depicted and 3) does <u>not</u> guarantee anonymity for the person submitting the record or anyone else captured in the image.</p>

		<p>The program operator will verify date, time, place and edits of publicly submitted data. Verified data will be content-tagged and captioned and will be searchable and accessible. If the data match a record submitted by law enforcement, the publicly available data file will be marked accordingly. If there is no corresponding law enforcement record, the publicly available data file will have a row with the public submission.</p>
5. PUBLIC ACCESS	<p>Public access to de-identified raw and/or refined incident based data using an established open data standard, available online at no cost in a downloadable, machine-readable, nonproprietary format, redacted only as necessary to comply with the Public Records Act and the Washington State Criminal Records Privacy Act.</p>	<p>The program operator will place online a free and downloadable comma-separated values (CSV) file with all the data collected for this program with the exception of names. The program operator will update the spreadsheet monthly as the use of force data is updated monthly. The program operator will provide accessible technical specifications for accessing data.</p>
6. PUBLIC ACCESS	<p>Ensure protection and removal of all personally identifiable information of officers, subjects, and victims in any data or analyses that are publicly released.</p>	<p>Personally-identifiable information will not be shared in the CSV file available online or in the data dashboards.</p> <p>The program operator will use a unique identifying number for officers, known to the officer so they can find and check their own data online. Agencies will also know officer names associated with the numbers to enable them to use the data for internal purposes.</p> <p>The data program will not collect subject or witness names.</p> <p>The Legislature would need to pass a specific exemption to the Public Records Act (PRA) for this program data to ensure that names are not released in response to a PRA request.</p>
7. DATA DISPLAY	<p>Publicly accessible online data dashboards that summarize and analyze the data.</p>	<p>Prospective program operators shall propose an approach to data displays within these criteria:</p> <p>The default display page must be clear and understandable by a person with no statistics training. With input from community members, the program operator will ensure all headings and data elements are written in plain language.</p> <p>Displays must be interactive, allowing the user to choose the data displayed by each variable alone or in combinations that allow meaningful analysis. For example, if a user is interested in a particular agency, they must be able to interact with the display to</p>

		<p>show any available data of interest for the agency as a table, graph, geospatial data, or as a comparison with other agencies.</p> <p>The website must be ADA compliant and accessible on phones, tablets, and computers.</p> <p>The website will provide a help link for users that is responded to in a timely manner.</p>
8. DATA DISPLAY & ANALYTICS	Interactive data visualization tools designed for law enforcement agencies and other entities to use the data for professional development, training, management and research, including agency-level comparative dashboards and dashboards with individual officer details.	<p>Agency-level comparative dashboards and officer-level details (excluding names) will be available as part of the public-facing data displays.</p> <p>Prospective program operators shall propose an approach to enable agencies to make meaningful comparisons across agencies (e.g., within a particular region, across agencies with similar characteristics, etc.) and across officers. These analyses should include, but are not limited to, each agency having a dynamic comparison group that includes similar agencies. As agencies changes, comparison groups will also change. Analyses within comparison groups will include all univariate and bivariate analyses and may include multivariate analyses when useful for measuring or modeling complex relationships.</p>
9. DATA ANALYTICS	Analysis of data, using methodologies based in best practices or tested and validated in other jurisdictions, if possible, including, but not limited to, analysis of the data using legal algorithms based on available and applicable legal standards.	<p>Prospective program operators shall propose research-based methodologies to ensure clear and accurate analyses that are useful and understandable to the public and law enforcement.</p> <p><u>Additional language for Advisory Group's consideration:</u></p> <ol style="list-style-type: none"> <li>1. While not required, prospective program operators may propose using algorithms, including legal algorithms, that serve the public interest.</li> <li>2. The program operator must describe how racial and gender bias have been accounted for in any algorithms.</li> </ol>
10. QUALITY IMPROVEMENT	Quality improvement, including periodically obtaining input from stakeholders about how the program can better meet the needs of the public and law enforcement.	<p>The website will include methods for the public to provide feedback electronically at any time.</p> <p>The program operator will hold focus groups with community members and law enforcement to gather information to improve the analyses and displays on the website and in the semiannual reports.</p>

11. REPORT	Semiannual reports, summarizing the data collected and any related analysis, published on the website and submitted to the Legislature and Governor by June 1st and December 1st of each year.	<p>The first report to the Legislature and Governor will be submitted by June 1, 2023, detailing the implementation status, including training, technical support, and agency progress towards compliance with the law.</p> <p>All reports must include information about agency compliance and how the program operator incorporated stakeholder feedback to improve the utility and accessibility of the analyses and displays.</p>
12. FUTURE DATA COLLECTION, EXPANSION BEYOND USE OF FORCE	Additional incidents and data to be collected from law enforcement agencies on interactions between officers and the public, such as traffic stops, pedestrian stops, calls for services, arrests, vehicle pursuits, and disciplinary actions, as well as demographic information of crime victims. Consider current practices and available data as compared to additional practices and new data that would need to be implemented by law enforcement agencies.	<p>The data program is designed to expand over time. Accordingly, the Legislature should explore adding additional data elements, other than use of force, after the program has demonstrated success.</p> <p>The program operator will document all changes to the data program in the data manual and training materials and provide adequate training and technical support to agencies before additional reporting begins.</p>



Data Elements for the Use of Force Data Program			
	Element Label	Element Definition	Valid Value for Reporting
1.0	Incident Information		
1.1	Agency name	Indicates the name of the agency where the involved officer is employed	State recognized name of agency
1.2	ORI	Indicates the federal and state recognized agency	XXXXXX
1.3	Agency incident number	Indicates the number given to an incident record by the originating agency	Alpha-Numeric
1.4	Incident date	Indicates the date the incident occurred (if known)	MM/DD/YYYY
1.5	Reason for public contact	Indicates the reason for initial contact	Public request for service Agency request for service Unit or officer initiated Planned activity
1.5a	Response type	Indicates the level of cause the officer believed they had for contact	Social contact Reasonable suspicion Probable cause
1.6	Incident start time	Indicates the dispatched time, or time officer indicated that they are making a call/stop	HH/MM
1.7	Location	Indicates if location where force was used was indoor or outdoor	Choose all the apply IN= Indoor OUT= Outdoor
1.7a	Location type Indoor	Indicates indoor type of location where force was used	RES_S=Single family residence RES-M=Apartment or multifamily residence COM=Commercial/Business premises GOV=Governmental facility (court, school/university, offices) MED=Medical facility (clinic, hospital, etc) TRN=Transit facility Other
1.7b	Location type outdoor	Indicates outdoor type of location where force was used	RES=Residential private property (yard, etc) COM=Commercial private property (parking lot, etc) GOV=Government property (around official buildings)

			RWY=Public right of way (highway, street, sidewalk, boat launch, etc) TRN=Transit property PUB=Public lands (parks, state/national forests, etc) Other
1.8	<b>Incident address</b>	Indicates the street or HWY address where force was used	100 block/or nearest Milepost if Hwy/ + street+municipality  Lat/Long option
1.9	<b>Initial type of incident</b>	Indicates the type of incident officer dispatched to respond	Check all that apply  Civil Caretaking Offense to property Offense to person Offense to public order Vehicle stop Pedestrian stop Warrant Other
1.9a	<b>Initial type of incident detail</b>	Indicates the type of incident within the category of initial incident	1.9 Corresponding list Choose all that apply <b>Offense against person</b> Assault (all types) Domestic Violence Homicide (all types) Rape Robbery Civil order violation Other  <b>Property offense</b> Arson Burglary Larceny Mischief Trespassing Vehicle prowling/theft Other  <b>Public order offense</b> Drug related Sex related Weapon related

			Transit related Other  <b>Vehicle Offense</b> DUI Accident Moving violation Non-moving violation Other  <b>Civil Caretaking</b> Mental health/wellness check Civil infraction Eviction order enforcement Domestic order enforcement Other
1.10	<b>Arrest made</b>	Indicates if the person on whom force was used was arrested	Yes No Civil Detention Pending
1.11	<b>Arrest for</b>	Indicates what the officer arrested the person for	Check all that apply Obstruction/resistance Person crime Property crime Offense against public order Vehicle violation Warrant
1.12	<b>Use of force review status investigation</b>	Indicates the level of investigation of this use of force	No review Administrative Review on-going/complete Internal investigation External investigation Ongoing/complete
1.13	<b>Use of force review outcome</b>	Indicates the outcome of the use of force review	No review done Administrative review within policy / outside of policy Internal investigation exonerated, not sustained, sustained External investigation exonerated, not sustained, sustained
1.14	<b>Internal Investigation Action</b>	Indicates the action required by the internal investigation	Change assignment Information Restricted No-action Reprimand Terminate Training

1.15	<b>Minor(s) present during use of force</b>	Indicates if the officer who used force knew if there were minors present during the use of force.	Yes No Unknown
1.16	<b>Name of entity conducting external investigation</b>	Indicates the name of entity conducting external investigation	IIT OII No Investigation
1.17	<b>Is there a police video record of the use of force incident</b>	Indicates if there is police generated video of the use of force incident	Yes No
1.18	<b>Total number of officers present at the time force was used</b>	Indicates the total number of officers present at the time force was used	Numeric between 1-99
1.19	<b>Number of suspects present when force was used</b>	Indicates the total number of people who may have committed a crime present at the time force was used	0-XXXXXX
2.0	<b>Type of Force</b>		
2.1	<b>Pointed a firearm at a person</b>	Indicates the officer pointed a firearm at a person	Pointed firearm
2.2	<b>Discharged a firearm at or in the direction of a person</b>	Indicates the officer discharged a firearm at or in the direction of a person	Discharged firearm
2.3	<b>Used electronic control weapon at or in the direction of a person</b>	Indicates the officer used electronic control weapon at or in the direction of a person	Electronic weapon
2.4	<b>Used chemical irritant spray against a person or in the direction of a person</b>	Indicates the officer used oleoresin capsicum spray against a person	Chemical irritant
2.5	<b>Discharged a less lethal shotgun or impact munitions at or in the direction of a person</b>	Indicates the officer discharged a less lethal shotgun or impact munitions at or in the direction of a person	Impact munitions
2.6	<b>Struck person using impact weapon or instrument including but</b>	Indicates the officer struck a person using an impact weapon or instrument	Impact weapon

	<b>limited to club, baton, flashlight</b>	including but limited to club, baton, flashlight	
2.7	<b>Used a chokehold or vascular neck restraint</b>	Used a chokehold or vascular neck restraint	Neck
2.8	<b>Used any part of the body to physically strike a person including, but not limited to: punching, kicking, slapping, using closed fists, leg or feet</b>	Indicates the officer used any part of the body to physically strike a person including, but not limited to, punching, kicking, slapping, using closed fists, leg or feet	Physical
2.9	<b>Used vehicle to intentionally strike a person or vehicle</b>	Indicates the officer used a vehicle to intentionally strike a person or vehicle	Vehicle
2.10	<b>Deployed a canine</b>	Indicates the officer deployed a canine with the potential to be used as trained in the presence of a person	Canine
2.11	<b>Type of force not listed that resulted in injury</b>	Indicates the officer used a type force not specified above and the force resulted in an injury	Force Other
3.0	<b>Information for Person on Whom Force was Used Against</b>		
3.1	<b>Person Age</b>	Indicates the verified age of the person	Numeric between 0-99
3.2	<b>Person Gender</b>	Indicates the verified gender	M=Male F= Female NB= Non-Binary Trans=Transgender UK=Unknown
3.3	<b>Person Ethnicity</b>	Indicates the verified ethnicity of person by person or family member according to census categories	H=Hispanic NH=Non-Hispanic
3.4	<b>Person Ethnicity by officer perception</b>	Indicate officer's perception of person's ethnicity at time force was used	H-OP = Hispanic NH-OP = Non-Hispanic U-OP = Unknown

3.5	<b>Person Race</b>	Indicates the verified race of the person by the person or family member according to census categories	A = Asian B = Black/ African American I = Native American/Alaskan Native P = Native Hawaiian/ Pacific Islander M = Multiracial U = Unknown W = White
3.6	<b>Officer's perception of person's race</b>	Indicates officer's perception of person's race at time force was used	A-OP= Asian B-OP = Black/ African American I-OP = Native American/Alaskan Native P-OP = Native Hawaiian/ Pacific Islander M-OP = Multiracial U-OP = Unknown W-OP = White
3.7	<b>Person tribal affiliation</b>	Indicates tribal affiliation has been verified	Yes/No
3.8	<b>Person injury type</b>	Indicates the type of injury sustained during the use of force	B=apparent broken bones C=canine bite D=death G=gunshot wound I=possible internal injury L=severe laceration M=apparent minor injury N=none O=other major injury T=loss of teeth U=unconscious
3.9	<b>Officer's perception of person's impairment type</b>	Indicates the officer's perception of person's mental condition	None Alcohol Drugs Mental health Multiple Unknown
3.10	<b>Officer believed person to be armed</b>	Indicates the officer's perception of whether or not the person against whom force was used was armed	Yes/No
3.11	<b>Type of weapon found</b>	Indicates the weapon type found	None Blunt object Chemical/Explosive Edged object Electronic Firearm Projectile Vehicle

4.0	<b>Information for Officer Who Used Force</b>		
4.1	<b>Officer Name</b>	Indicates legal name of the officer for who this incident is reported	Last, First, Middle
4.2	<b>CJTC identification number</b>	Indicates the unique identification of the officer without using their name	XXXX-XXXX
4.3	<b>Officer Age</b>	Indicates the age of the officer at time of incident	Numeric between 16-99
4.4	<b>Officer Gender</b>	Indicates the verified gender of the officer	M=Male F= Female NB= Non-Binary Trans=Transgender U=Unknown
4.5	<b>Officer Ethnicity</b>	Indicates the verified ethnicity of the officer	H=Hispanic NH=Non-Hispanic
4.6	<b>Officer Race</b>	Indicates the verified race of the officer	A = Asian B = Black/ African American I = Native American/Alaskan Native P = Native Hawaiian/ Pacific Islander M = Multiracial U = Unknown W = White
4.7	<b>Officer years of service in law enforcement</b>	Indicates the number of paid years the officer has worked in law enforcement	Numeric (Provided by CJTC)
4.8	<b>Officer injury</b>	Indicates the type of injury sustained during the use of force.	B=apparent broken bones C=canine bite D=death G=gunshot wound I=possible internal injury L=severe laceration M=minor injury N=none O=other major injury T=loss of teeth U=unconscious
4.9	<b>Shift assignment type</b>	Indicates the type of assignment officer had at the time of use of force	Patrol Admin Traffic Specialty
5.0	<b>Calls for Service</b>		
5.1	<b>Calls for service</b>	Indicates the total number of documented interactions between the police	Numeric

		including but not limited to citizen calls, unit or officer initiated interactions and court or Bailiff activities	
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