



## Law Enforcement Data Collection Advisory Group

March 11, 2022 Virtual Meeting

### Notes

**Members Present:** Donald Almer, Joseph King, Chief Darrell Lowe, Martina Morris, Charles Porche Marie Pryor, Douglas Wagoner, James Wilburn

**Members Absent:** Chris Breault

#### 1. Welcome & Introductions

By unanimous consent, the Advisory Group adopted the agenda for the March 11, 2022 meeting. Martina Morris requested an additional public comment period during the next Advisory Group meeting to allow time to publicize the session to those who have not been following the Advisory Group's work or observing meetings. By unanimous consent, the Advisory Group approved the notes from the February 25, 2022 meeting.

#### 2. Internal Agency Dashboards

Commander Jay Mason of the Tumwater Police Department provided his perspective on the benefits and lessons learned of using data dashboards. The use of data has helped the agency examine its training and the tactics officers use. For example, the department learned that officers almost never use Tasers, even though all officers have them. On the challenging side, Commander Mason noted that only about 20 percent of Washington agencies use the same service as his agency, so that can skew the perception of an agency, especially since agencies report force differently. Overall, Commander Mason noted that having data has been incredibly valuable, but it also causes issues. He stressed the importance of being knowledgeable about the data to facilitate conversations with stakeholders and properly contextualize the information. For example, in addition to explaining the differences between agencies, an officer's actions must be contextualized with a subject's actions. In response to questions, Commander Mason stated that monthly reporting would be useful. He indicated that public contributions of data would be valuable if it is done right.

#### 3. Follow-up Information and Discussion

In response to questions that came up during the prior Advisory Group meeting, staff provided information about disclosure of information gathered through the data program, distinguishing between information readily available and information available upon request. As previously discussed, the

program will make available online the data dashboards, as well as the full dataset with the exception of names, as the legislation specifies that the program must “ensure protection and removal of all personally identifiable information”. However, if the program received a request for names, that information could be provided. Staff explained that the cleanest way to avoid disclosure would be for the Legislature to pass an explicit exemption to the Public Records Act.

In response to an inquiry at the prior Advisory Group meeting, staff followed up with information about what can happen if a person is captured on video in public engaging in a criminal activity. The person can be held accountable for that act, as there is no expectation of privacy if a video is recorded in public. Furthermore, protections against self-incrimination only apply if a person is being interrogated by police.

The Advisory Group discussed the implications for public submissions of videos, including potentially having an opportunity for people to submit information without requiring them to provide their names, while also informing them that their anonymity is not guaranteed if there are legal proceedings pertaining to the incident in the video. Charles Porche pointed out that people should be accountable and responsible for the information they submit. He expressed concern that the program will be inundated with anonymous submissions with no way to track people down to corroborate their submission. Don Almer noted that allowing anonymous complaints has increased the number his agency has received. Chief Darrell Lowe stated that there should be a mechanism for people to submit information, though due process applies both ways and officers have the right to confront their accusers in a criminal matter. Marie Pryor advocated for protecting people’s anonymity and confidentiality at all costs.

Advisory Group members discussed moving forward with the public data archive as a pilot program with considerable stakeholder input. Members agreed that any disclaimers associated with the program should be clear and simple to digest for a lay person. It must be made clear that the program is not an avenue to submit complaints about the police.

#### **4. Discussion of Potential Recommendations**

The Advisory Group reviewed and made suggestions for improvements to the crosswalk provided in advance of the meeting. This crosswalk (attached) lists the areas for recommendations from the Advisory Group’s authorizing legislation aligned with specific considerations for the Advisory Group when making its recommendations. Advisory Group members made the following suggestions:

- Item #1 – Martina Morris: Add a date when all law enforcement agencies must report.
- Items #2 – Martina Morris: Clarify that data can be submitted in other ways besides a spreadsheet, e.g., RMS extraction, to minimize agencies’ efforts.
- Item #4 – Darrell Lowe: Clarify the language around historical data. Douglas Wagoner: historical data is of interest, as it is available.
- Item #5 – Martina Morris: Require the program operator to provide technical documentation.
- Item #7 – Martina Morris: Add a help link to the website.
- Item #8 – Marie Pryor: Clarify that the dashboards provide officer-level information, not individual officer details.
- Item #10 – Don Almer: Focus groups should be done more frequently than annually.
- Item #11 – Martina Morris: Clarify that every report should include information on agency compliance.

Item #9 generated considerable discussion. Douglas Wagoner questioned the goal of legal algorithms. Martina Morris echoed that the purpose of this item was unclear, questioning whether the function of this data program is to enable agencies to assess legal standards. Chief Darrell Lowe stated that prospective program operators should advise on an approach, as indicated in the table. He also noted that legal algorithms tie into historical data. In addition, Advisory Group members expressed concern about the term “machine learning”. Marie Pryor expressed that machine learning seemed like a scope expansion. She stated that if machine learning is used, there must be strict limits due to the racial bias that can be introduced by this approach.

#### **5. Data Chart**

The Advisory Group briefly discussed a few of the remaining data elements, including distinguishing between indoor and outdoor locations. A small group agreed to continue working on clarifying the items to bring back to the larger group for discussion at the next meeting.

#### **6. Public Comment**

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.

General Topic	Specific Area for Recommendation	Draft Considerations for Advisory Group Discussion
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 use of force data elements will be collected from the start of the program in 2023. Agency implementation will be phased in using a needs-based approach. Implementation groups will have staggered start dates to allow for beta testing and differentiated technical support and training to promote complete, accurate, and standardized reporting.</p> <p>As the program is being developed, the public-facing website will include information on timelines and the progress each agency is making toward compliance.</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.	Adopt the data elements, definitions and valid values in the attached data chart. The program operator will provide law enforcement agencies with a data manual and a formatted spreadsheet containing all the required data elements. The spreadsheet will be transferred through secure server protocols provided by the program operator on a monthly schedule.
3. DATA COLLECTION	Incorporate available historical data to identify long-term trends and patterns.	<p>Begin required data collection for the program with incidents occurring in 2023. The burdens associated with collecting historical data may outweigh its comparative value given the impacts of the pandemic (e.g., 3 years of historical data covers the pandemic time period). Of the agencies that responded to the Advisory Group’s survey, representing agencies of varying sizes and locations, one-quarter reported they currently use handwritten records.</p> <p>Prospective program operators may propose an approach to voluntary submission of historical data.</p>
4. DATA COLLECTION	Practices for the public to report relevant information to the program operator directly, including correcting misreported and otherwise incorrect data.	<p><i>Advisory Group to discuss whether or not to proceed given that submissions will not be anonymous or confidential.</i> Establish a pilot data archive for public submissions of video, audio or photographs of use of force incidents. To be searchable and accessible, verified data will be content-tagged and captioned. If the data match a record submitted by law enforcement, it will be noted in the publicly available data file. If there is no corresponding law enforcement record, the public submission will have its own row in the publicly available data file.</p>

<p>5. PUBLIC ACCESS</p>	<p>Public access to deidentified 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 must place online a free and downloadable CSV file with all the data collected for this program with the exception of names. This spreadsheet will be updated monthly as the use of force data is updated monthly.</p>
<p>6. PUBLIC ACCESS</p>	<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 to be shared with the public in the CSV file available online, nor in the data dashboards. To ensure that names are not released in response to a Public Records Act (PRA) request, the Legislature would need to pass a specific exemption to the PRA for this program data.</p> <p>The program operator will use a unique identifying number for officers, which will be known to the officer so they can find and check their own data online. Officer names associated with the numbers will also be known by agencies to enable them to use the data for internal purposes.</p> <p>Subject and witness names will not be collected.</p>
<p>7. DATA DISPLAY</p>	<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. All headings and data elements must be 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. If a user is interested in a particular agency, they must be able to interact with the display to show any available data of interest for the agency as a table, graphs, 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>

8. DATA DISPLAY	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.	Agency-level comparative dashboards and individual officer details (excluding names) will be available as part of the public-facing data displays.  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.
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.	Beyond the analytics used to create the data dashboards, prospective program operators may propose an approach to using algorithms to analyze data going forward once the data set has enough information to use machine-learning tools. Demonstrate how analyses will promote transparency and accountability, furthering the goal of enhancing police-community relations.
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.	The website must include methods for the public to provide feedback electronically at any time.  The program operator must hold focus groups with community members and law enforcement annually to gather information to improve the analyses and displays on the website and in the semiannual reports.
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.	The first report must be submitted by June 1, 2023, detailing the implementation status, including training and technical support.  After full implementation, reports must include information about agency compliance. Reports must describe how the program operator incorporated stakeholder feedback to improve the utility and accessibility of the analyses and displays.
12. FUTURE DATA COLLECTION	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.	While the program is designed to expand over time, it must be fully operational for two years before additional data elements are added. This will enable the program operator to address any technological glitches and agencies to adjust to the new data practices. The program may expand prior this timeframe by merging with existing data programs collecting data other than use of force.  After this timeframe, new data elements may be added at the direction of the Legislature in consultation with the program's Data Governance Group. Changes to the required data collection may only be done annually and must be documented in the data manual and training materials.