

Law Enforcement and Correctional Officers Permissible Uses of Force

Washington State
Criminal Justice Training Commission

**E2SHB
1310**

**DECEMBER
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VISION

ADVANCE STANDARDS OF EXCELLENCE WITHIN CRIMINAL JUSTICE PROFESSIONS SO THE PEOPLE OF WASHINGTON STATE LIVE IN SAFE AND SECURE COMMUNITIES.

MISSION

ESTABLISH CERTIFICATION AND TRAINING STANDARDS WHICH ARE LEGALLY DEFENSIBLE AND SCIENTIFICALLY VALID TO ENSURE CRIMINAL JUSTICE PROFESSIONALS IN WASHINGTON STATE HAVE THE KNOWLEDGE AND SKILLS TO SAFELY PROTECT THE COMMUNITIES THEY SERVE.

VALUES

LEADERSHIP - WE LEAD IN CERTIFICATION AND TRAINING THROUGH CONTINUOUS EVALUATION, COLLABORATION, IMPROVEMENT, AND INNOVATION WITH THE GOAL OF MODELING BEST PRACTICES FOR CRIMINAL JUSTICE PROFESSIONALS.

INTEGRITY - WE DO THE RIGHT THING FOR THE RIGHT REASON WITH TRANSPARENCY AND HONESTY.

DIGNITY - WE DEMONSTRATE RESPECT FOR EACH OTHER AND THE COMMUNITIES WE SERVE.

ACCOUNTABILITY - WE ARE DEDICATED STEWARDS OF THE RESOURCES AND RESPONSIBILITIES ENTRUSTED TO US BY THE COMMUNITIES WE SERVE.

MOTTO

“TRAINING THE GUARDIANS OF DEMOCRACY”



One of the core values of the Washington State Criminal Justice Training Commission (WSCJTC) is accountability; we strive to establish training standards that ensure criminal justice professionals in Washington State have the knowledge, skills, and abilities to serve their communities safely and effectively.

This report is a necessary continuation and memorial of our achievements at the WSCJTC. Although much work remains to be done, Washington State is a leader in bringing together law enforcement and non-law enforcement community members to partner and collaborate.

Ultimately, the implementation and execution of the Law Enforcement Training and Community Safety Act (LETCSA) takes us one step closer to fulfilling the WSCJTC's vision of advancing standards of excellence within the criminal justice profession. Hence, the people of Washington State live in safe and secure communities.





BACKGROUND AND CONTEXT

During the 2021 legislative session, Washington lawmakers passed E2SHB 1310, a new law governing when and how law enforcement officers can use force against members of the public. The law expects officers to de-escalate and requires law enforcement to exercise reasonable care in using physical force to reduce violence and prioritize the sanctity of life.

USE OF FORCE BY POLICE OFFICERS

The United States Constitution, particularly the Bill of Rights, protects citizens from excessive force by the government. Depending on the custodial status of the person against whom power is being used, the Fourth or Fourteenth Amendment provides the legal standard for determining whether the use of force is permissible. For persons subject to arrest or detained pretrial, the use of force by a peace officer must be reasonable under the totality of the circumstances. Whether an officer's actions are considered reasonable depends upon several factors.

This may include, for example, the severity of the crime, the threat to the safety of the peace officer or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight. State law does not contain separate standards for the use of force by peace officers. However, it generally authorizes an officer to use all necessary means to effect the arrest of a suspect who flees or resists arrest. This authorization is subject to the limitations under the United States Constitution and the restrictions in the state criminal code governing justifiable homicide and the use of deadly force.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations.

This analysis is not part of the legislation nor constitutes a statement of legislative intent.



LEGISLATIVE MANDATE

Sec. 6. RCW 43.101.450 and 2019, c 1 s 3 (Initiative Measure No. 940) are each amended to read as follows:

No. 01



Beginning one year after December 6, 2018, all law enforcement officers in the state of Washington must receive violence de-escalation training. Law enforcement officers beginning employment after December 6, 2018, must complete such training within the first 15 months of employment. The commission shall set the date by which other law enforcement officers must complete such training.

No. 02



All law enforcement officers shall periodically receive continuing violence de-escalation training to practice their skills, update their knowledge and training, and learn about new legal requirements and violence de-escalation strategies.

No. 03



The commission shall set training requirements through the procedures in RCW 43.101.455.

No. 04



Violence de-escalation training provided under this section must be consistent with RCW 10.120.020 and the model policies established by the attorney general under RCW 10.120.030.

No. 05



The commission shall submit a report to the legislature and the governor by January 1st and July 1st of each year on the implementation of and compliance with subsections (1) and (2) of this section.

The report must include data on compliance by agencies and officers. The report may also include recommendations for any changes to laws and policies necessary to improve compliance with this section's subsections (1) and (2).

CIVIL REMEDIES

Under federal law, the primary legal remedy for a peace officer's excessive use of force is to seek damages through a civil cause of action for deprivation of constitutional rights under 42 U.S.C. §1983.

Though state law does not provide a specific cause of action for violation of state constitutional rights, a person may file a tort claim for assault or battery based on the intentional acts of a peace officer. In 2019, the Washington Supreme Court held that an injured party could also file a negligence claim premised on a peace officer's unreasonable failure to follow police practices calculated to avoid the use of deadly force, so long as allegations support a negligence claim concerning the peace officer's actions leading up to the decision to use deadly force.



CRIMINAL LIABILITY OF PEACE OFFICERS

Whether a peace officer is criminally liable for using force depends on the alleged crime and any applicable defense. A peace officer has the same right of self-defense as others. In addition, deadly force is justifiable when used by a peace officer in certain circumstances as long as they operate in good faith.

"Good faith" is an objective standard that must consider all the facts, circumstances, and information known to the peace officer at the time to determine whether a similarly situated reasonable peace officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual. The circumstances where deadly force is justifiable include, for example, when necessarily used to arrest a suspect who the peace officer reasonably believes has committed a felony; prevent escape or recapture an escapee from prison or jail; or suppress a riot involving a deadly weapon.



TRAINING REQUIREMENTS

All entry-level peace officers are required to complete basic training through the WSCJTC. The Basic Law Enforcement Academy (BLEA) consists of a 720-hour program covering a wide variety of subjects, including:

- (1) Use of force training consistent with permissible uses of force per RCW 43.101.490;
- (2) Domestic violence reports and situations per RCW 10.99.030 and 10.99.033;
- (3) Mental health training as prescribed in WAC 139-11-020 per RCW 43.101.452;
- (4) Victim-centered and trauma-informed approach to policing per RCW 43.101.274;
- (5) Ethnic and cultural diversity per RCW 43.101.280;
- (6) Hate crimes per RCW 43.101.290;
- (7) Violence de-escalation training as prescribed in WAC 139-11-020 per RCW 43.101.450;
- (8) Substance use disorders per RCW 43.101.205;
- (9) Child abuse and neglect per RCW 43.101.365;
- (10) Vehicular pursuits per RCW 43.101.225;
- (11) Motorcycle profiling per RCW 43.101.419;
- (12) Orientation and history of policing.
- (13) Criminal law.
- (14) Criminal procedures.
- (15) Patrol procedures.
- (16) Crisis intervention per RCW 43.101.427;
- (17) Emergency vehicle operations.
- (18) Report writing.
- (19) Traffic law.
- (20) Firearms.
- (21) Defensive tactics; and
- (22) Criminal investigation.



All peace officers must complete violence de-escalation training through the WSCJTC within the first 15 months of employment and then complete updated violence de-escalation training periodically after that.

PATROL TACTICS INSTRUCTOR

The Patrol Tactics Instructor (PTI) course was developed to certify law enforcement trainers to instruct violence de-escalation training to law enforcement officers throughout the state under WAC 139-11-020.



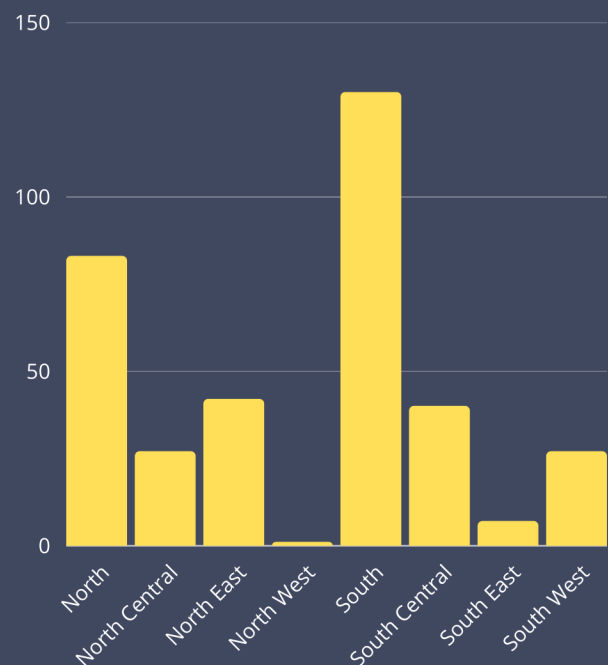
The PTI course is an 80-hour course designed to teach the students the knowledge and skills necessary to slow down the pace of critical events and teach other officers the essential knowledge and skills. This course encompasses several topics including but not limited to; the principles of patrol tactics designed to slow down the pace of critical events, critical life-saving skills, emotional intelligence, Listening and Explaining with Equity and Dignity (L.E.E.D.) model of communication and dealing with individuals experiencing a behavioral health crisis.

Upon completion of the training, certified PTIs can deliver 24 hour in-service instruction to members of their agency. Additionally, certified PTIs may serve as lead instructors or assist in regional training at a WSCJTC-approved location. This training model is designed to take place over three full days and is available to any peace officer in the state. A certification in PTI is also required to teach patrol tactics in the BLEA.

This model was adopted to deliver the required and necessary training to 11,000 certified peace officers in the state of Washington and every incoming peace officer as soon as possible. Every Patrol Tactics Instructor course was led by the WSCJTC De-escalation Program Manager.

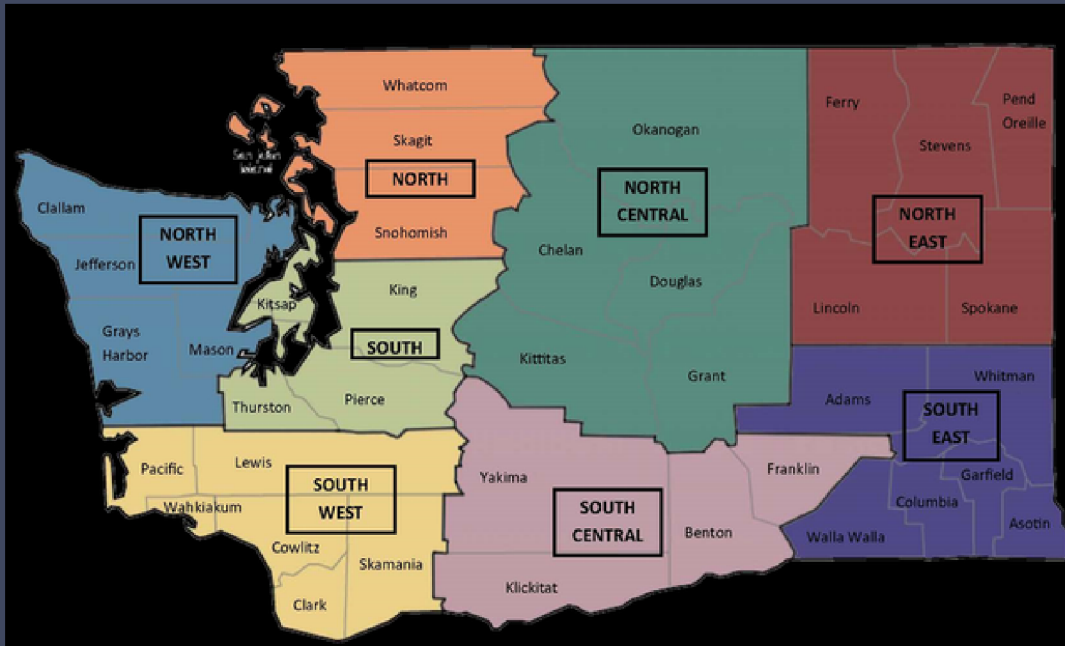
To date, **507** PTIs have been trained and certified by the WSCJTC.

A total of **377** PTIs are actively facilitating training in various regions across the state of Washington.





REGIONS



NORTH

WHATCOM COUNTY
SKAGIT COUNTY
SNOHOMISH COUNTY
SAN JUAN COUNTY
ISLAND COUNTY

SOUTH

KING COUNTY
PIERCE COUNTY
KITSAP COUNTY
THURSTON COUNTY

NORTH EAST

FERRY COUNTY
STEVENS COUNTY
PEND OREILLE COUNTY
LINCOLN COUNTY
SPOKANE COUNTY

SOUTH WEST

PACIFIC COUNTY
WAHIAKUM COUNTY
LEWIS COUNTY
COWLITZ COUNTY
CLARK COUNTY
SKAMANIA COUNTY

NORTH CENTRAL

OKANOGAN COUNTY
CHELAN COUNTY
DOUGLAS COUNTY
KITTITAS COUNTY
GRANT COUNTY

SOUTH CENTRAL

YAKIMA COUNTY
Klickitat COUNTY
BENTON COUNTY
FRANKLIN COUNTY

SOUTH EAST

ADAMS COUNTY
WHITMAN COUNTY
WALLA WALLA COUNTY
COLUMBIA COUNTY
GARFIELD COUNTY
ASOTIN COUNTY

NORTH WEST

CLALLAM COUNTY
GRAYS HARBOR COUNTY
JEFFERSON COUNTY
MASON COUNTY



PATROL TACTICS INSTRUCTOR TRAINING

Due to multiple circumstances, many certified instructors opted out of the instructor program. This forced the WSCJTC to primarily focus on instructor training from January through June 2022. During this time, **109** instructors were trained and certified to provide de-escalation training. The WSCJTC devoted the remainder of the year to supporting regional in-service training and preparing for the PTI Recertification course rollout.

We offered one additional PTI course in October of 2022. The class was held in Yakima, where 22 students participated and received certification to deliver Patrol Tactics in-service training.

OCTOBER 2022 - YAKIMA

22 Students in total

Bremerton Police Department	Chehalis Police Department
Kennewick Police Department	Kent Police Department
King County Sheriff's Office	Selah Police Department
Tacoma Police Department	Toppenish Police Department
Yakima County Sheriff's Office	Yakima Police Department

PATROL TACTICS IN-SERVICE TRAINING (PTIS)

WAC 139-11-020 requires that “All peace officers certified in Washington before December 7, 2019, and lateral peace officers certified in Washington after December 7, 2019, must complete a minimum of forty hours of continuing de-escalation and mental health training every three years after receiving their initial peace officer certification. Incumbent peace officers must complete their first cycle of continuing de-escalation and mental health training by January 1, 2028.”



Of the topics that were listed in the WAC, the WSCJTC devotes 24 of the 40 hours of in-service training to the knowledge and skills associated with distance management and the use of shielding, when feasible, to slow down the pace of critical events to decrease the likelihood of officers needing to use physical or deadly force.



From July 2022 to December 2022, 42 PTIS classes were held regionally, in which 688 incumbent officers received the required training. During this time, the De-escalation Program Manager conducted audits on several classes in different regions to ensure the content and delivery were consistent with the Program Manager's expectations and the WAC's legislative intent.

Students trained in
de-escalation regionally
PTIS - 688



WAC 139-11-020 requires that "beginning December 7, 2019, all new general authority peace officers must complete a minimum of two hundred hours of violence de-escalation and mental health training in the basic law enforcement academy."

In March 2020, the methodology and content of the Patrol Tactics course were integrated into the BLEA curriculum and titled Patrol Tactics Basic (PTB).

In January 2022, the Basic Law Enforcement Equivalency Academy (BLEEA) curriculum was updated to include the legislatively mandated de-escalation training through the PTIS. The BLEEA is designed to provide training and certification to lateral peace officers from out of state. The mandatory 24 hours of de-escalation training is now part of certification for lateral officers from agencies outside Washington State.



**INCUMBENT AND RECRUIT OFFICERS
TRAINED IN DE-ESCALATION
JULY - DEC 2022
BLEEA- 47
PTB- 341**

**INCUMBENT AND RECRUIT OFFICERS
TRAINED IN DE-ESCALATION
YTD
BLEEA- 120
PTB- 632**

**PROJECTED 2023
BLEEA - 120
PTB: 660**



WSCJTC BASIC SWAT COURSE

For the last 12 years, in cooperation with the Washington State Tactical Officers Association (WSTOA), the WSCJTC has advertised on their website, handled registration, and maintained the records for the Basic and Advanced SWAT course, while the WSTOA has delivered the content as a vendor under the umbrella of the WSCJTC. The Basic SWAT course is designed to train incumbent peace officers recently selected to serve as SWAT team members for their agency or in their region.

In October 2020, the WSCJTC conducted an audit on the Basic SWAT Course using an independent third party. The auditor was a current law enforcement officer, a current SWAT team member, and a certified Patrol Tactics Instructor under the LETCSA. The Deputy Director of the WSCJTC shared the audit report with the Executive Director, who summarized the message to the commissioners at a commission meeting in June of 2021. Based on the information provided, it was decided by the commissioners that it would be the responsibility of the WSCJTC not only to handle administrative duties but also to provide Basic SWAT instruction.

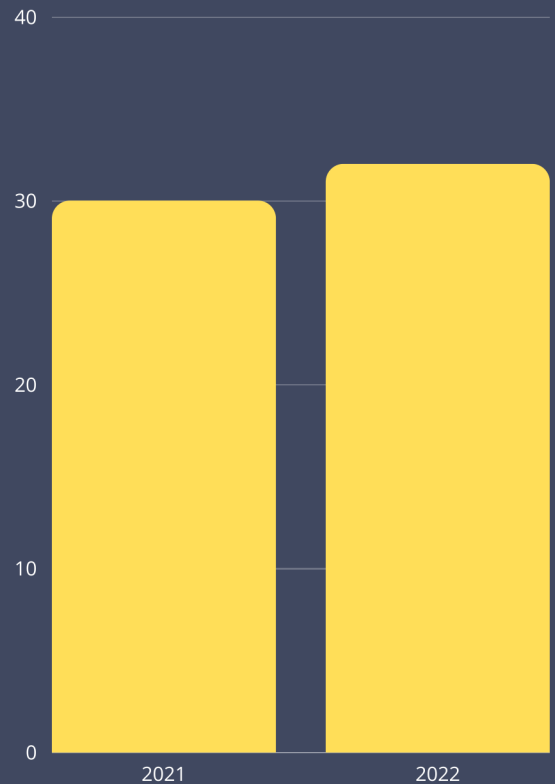
To align this training with WAC 139-11-020, the WSCJTC met with approximately 20 subject matter experts to collect information on the expectations of a student who completes the Basic SWAT course. This information formed the training scope, the course's performance objectives, and learning goals. The WSCJTC then set out to construct the course content using current members of a SWAT team who also serve as Patrol Tactics Instructors under the LETCSA.

In October of 2021, the WSCJTC held the first Basic SWAT Course since WAC 139-11-020 went into effect. The training was held at Ravensdale Gun Range in King County, and 13 instructors delivered the instruction under the supervision of the De-escalation Program Manager of the WSCJTC.

In October of 2022, the WSCJTC held the second Basic SWAT course. The training was held at Ravensdale Gun Range in King County, and ten instructors delivered the instruction under the supervision of the De-Escalation Program Manager of the WSCJTC.

The instructional delivery focused on the knowledge and skills associated with new legal requirements and violence de-escalation strategies for SWAT officers. The requirements to teach the training included being an active member of a SWAT team and a Patrol Tactics Instructor in good standing.

This year, the WSCJTC seeks expanded partnerships and locations to offer SWAT training in Eastern Washington.



To date, 62 students from several agencies have attended the WSCJTC Basic SWAT Course.

RAVENSDALE OCTOBER 2022	
12 Students in total	
Jefferson County Sheriff's Office	King County Sheriff's Office
Kitsap County Sheriff's Office	Seattle Police Department
Thurston County Sheriff's Office	

LAW ENFORCEMENT

TRAINING AND COMMUNITY SAFETY ACT TRAINING

Following the passage of I-940 and SHB 1064, the legislation was renamed the Law Enforcement Training and Community Safety Act. The WSCJTC began to work with named statutory stakeholders to create and adopt rules for new officer training requirements (139-11 WAC). The WSCJTC is working diligently to develop a course curriculum for law enforcement officers.

Law Enforcement and Society: Lessons of the Holocaust: Credit Hours: 2.5

The Holocaust for Humanity Center and the Anti-Defamation League (ADL) engage with law enforcement to examine the role of police in Nazi Germany as a case study and to reflect on the part of law enforcement in a democratic society today. Officers will learn to build more positive relationships with specific communities within the areas they serve by understanding how biases and stereotypes negatively impact police interactions with the public.

Total officers trained: **577**

The Criminal Legal System: Structural Inequalities, Monetary Sanctions, Policy, and Reform: Credit Hours: 2

This curriculum is a four-module series that introduces the audience to the United States criminal legal system. The first module defines structural inequalities and provides examples of disparate racial and ethnic outcomes in U.S. institutions. The second module describes the rise in U.S. conviction and incarceration rates from the mid-1970s through today. The third module examines an expansive punishment outcome related to most citations and convictions across the United States – this is the sentence of fines, fees, and other costs. The final module examines policy and practice implications. We review incremental policy reforms happening across the United States in attempts to mitigate the adverse outcomes related to criminal legal contact, particularly for socioeconomically disadvantaged people.

Total officers trained: **2871**

Effective Communication: Credit Hours: 2.5

In this self-paced course, officers will learn multiple strategies to apply when interacting with individuals in their community with differing backgrounds. This course provides supplemental methods to the LETCSA overarching principles of pace management, which involves time, distance, and shielding. The development of this course was a partnership with the following organizations: Kitsap Support, Advocacy, and Counseling; Rebuilding Hope! Sexual Assault Center for Pierce County; Washington State Department of Social and Health Services; and Spokane Immigrant Rights Coalition.

Total officers trained: **2222**

LGBTQ+ Core Competency: Credit Hours: 2.5

This training equips participants with current and accurate information surrounding laws, the historical context around the relationship between the LGBTQ+ community and law enforcement, terminology, and more so that officers feel confident in their knowledge regarding the LGBTQ+ community. Other areas covered in this training will be gender identity, gender expression, and pronoun usage so that officers may effectively and respectfully communicate with LGBTQ+ individuals.

Total officers trained: **2599**



RECOMMENDATIONS

As we come out of the pandemic and move into 2023, the goal of the WSCJTC is to support agencies in complying with the mandate in the timeframe specified by WAC 139-11-020.

**CURRENTLY, 2,935
(27 PERCENT) CERTIFIED
PEACE OFFICERS IN
WASHINGTON STATE HAVE
COMPLETED THE REQUIRED
DE-ESCALATION TRAINING.**



**THE WSCJTC RECOMMENDS
THAT ALL AGENCIES ENSURE
THAT 50 PERCENT OF THE
CERTIFIED PEACE OFFICERS
IN THEIR AGENCY COMPLETE
THE REQUIRED TRAINING BY
JANUARY 1, 2024.**



To support this recommendation, the WSCJTC will send out a survey to all agencies in the first quarter of 2023 to better understand what obstacles or difficulties agencies may be encountering and how we can better support them to achieve this goal.



CONCLUSION

In 2023 the WSCJTC will offer the following courses:

Patrol Tactics Instructor -

Kitsap County, Yakima, Everett, and Spokane.

Patrol Tactics Instructor

Recertification

Pasco, Spokane, and Burien.

Patrol Tactics In-Service Training

BLEEA - Burien.

Use of Force Instructor Course - the

first BETA course will be held at WSP in March 2023. Logistics are in progress for eight sessions.

The intent is to offer one class per region.

Regional Patrol Tactics In-Service

Training -

Everett (2), Kitsap (7),

Longview (1), Spokane (1),

Tacoma/Pierce County (4), and

Wenatchee (1).

More information to come as regional coordinators confirms their 2023 schedules.

On July 1, 2022, the Washington State Office of the Attorney General released the Model Use of Force policy. The WSCJTC Use of Force Coordinator met with members of the Attorney General's Office, Washington Association of Sheriffs and Police Chiefs, Fraternal Order of Police, Washington State Concerns of Police Survivors, American Civil Liberties Union, and Washington Coalition for Police Accountability to gather input to be used to create a curriculum for the Use of Force Instructor Course. The information collected was combined with the Use of Force Coordinator's subject matter expertise to complete the course's curriculum. The constructed curriculum was then presented to all groups that offered input. Upon review, every group endorsed the course content. Starting in March 2023, Use of Force Instructor Courses will be delivered regionally.

The WSCJTC will begin offering recertification courses for current Patrol Tactics Instructors in January 2023. These courses will be offered regionally and will provide instructors with legal and training updates, in addition to focus on applying de-escalation tactics to situations involving edged weapons.