

LAW ENFORCEMENT AND CORRECTIONAL OFFICERS PERMISSIBLE USES OF FORCE

E2SHB 1310

WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION

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BACKGROUND AND CONTEXT

During the 2021 legislative session, Washington lawmakers passed Engrossed Second Substitute [House Bill \(E2SHB\) 1310](#), a new law governing when and how law enforcement officers can use force against members of the public. The law creates an expectation for officers to de-escalate and requires law enforcement to exercise care in the use of any force in order to reduce violence and prioritize the sanctity of life.



On May 18, 2021, Gov. Jay Inslee signed a dozen bills today that will improve accountability for law enforcement in Washington state, and will create the nation's strongest police accountability system. The governor, joined by community members and families of those impacted, signed the bills at the Eastside Community Center in Tacoma.

[E2SHB 1310 FINAL REPORT SUMMARY](#) - *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 does it constitute a statement of legislative intent.*

The United States Constitution, in particular the Bill of Rights, protects citizens from excessive force by the government. Depending on the custodial status of the person against whom force 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, 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 use of force by peace officers, though 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 use of deadly force.

Civil Remedies

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

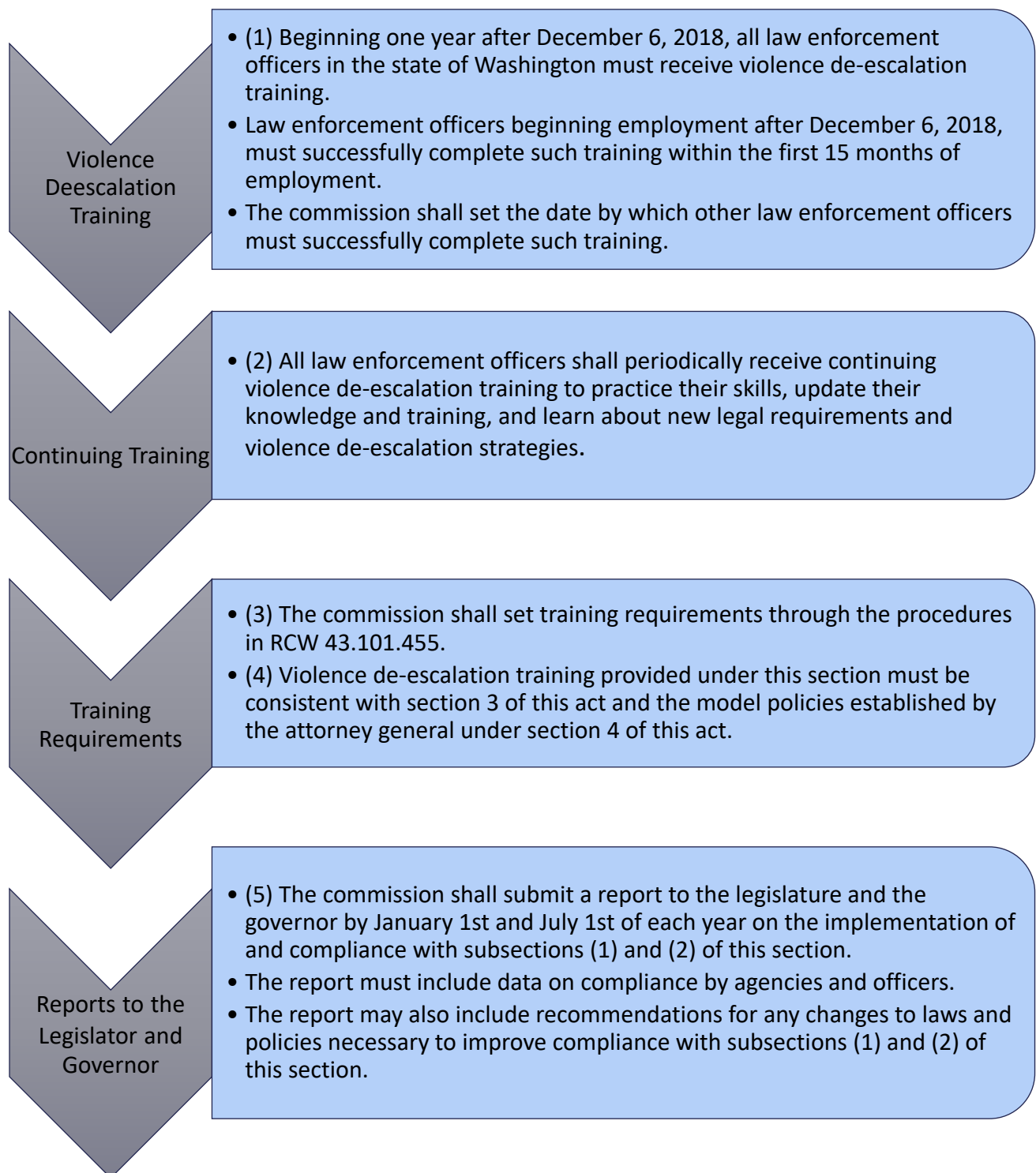
Though state law does not provide a specific cause of action for violation of state constitutional rights, a person may file a tort claim for assault or battery based on the intentional actions of a peace officer. In 2019, the Washington Supreme Court held that an injured party could also file a negligence claim premised on a peace officer's unreasonable failure to follow police practices calculated to avoid 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 specific crime alleged 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 so long as he or she is operating in good faith. "Good faith" is an objective standard which 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.

In regard to training requirements, all peace officers are required to complete basic training through the Washington State Criminal Justice Training Commission (WSCJTC). Basic training consists of a 720-hour program covering a wide variety of subjects including: criminal law and procedures; traffic enforcement; cultural awareness; communication and writing skills; emergency vehicle operations; firearms; crisis intervention; patrol procedures; criminal investigation; and defensive tactics. In addition, all peace officers are required to complete violence de-escalation training through the WSCJTC within the first 15 months of employment, and then must complete updated violence de-escalation training periodically thereafter.

E2SHB 1310 WSCJTC REQUIREMENTS



VIOLENCE DE-ESCALATION TRAINING

The commission shall set the date by which other law enforcement officers must successfully complete such training.



Patrol Tactics Instructor Course

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](#).

PTI is an 80-hour comprehensive patrol tactics course designed to promote safe and effective tactics typically required daily for law enforcement officers. This course is the prerequisite for teaching the Patrol Tactics 24-Hour In-Service class. As such, this class contains instructional delivery specific to the course content and not general instructional concepts.






Within this class, the participant learns the components of basic patrol tactics and technique application, instruction, and testing. The core tactics involve structure clearing, low/high risk vehicle stops, Mental Illness and Drug Dependency (MIDD), and Domestic Violence (DV) calls.

Emphasis is placed on contact and cover, single and double officer tactics, and assessment and planning skills.

Course Goals and Objectives

Using specific teaching methodology and processes, successful completion of this train-the-trainer course will prepare and certify each student in the instruction, administration, and logistical aspects of the required 3-day, (24-Hour) in-service De-Escalation Training session.

PTI is an 80-hour course made up of several topics to include but not limited to:

-  The Principles of Patrol Tactics designed to slow down the pace of critical events
-  Emotional Intelligence
-  Critical Life Saving Skills
-  The Listen and Explain with Equity and Dignity (LEED) Model of Communication
-  Dealing with Behavioral Health Crisis and Use of Force

The participant will learn the tactics, actions, and communication methods that de-escalate situations when appropriate to reduce the likelihood of injury to all parties involved, avoid unnecessarily escalating situations that may lead to violence, and avoid unnecessarily placing officers in situations that require or lead to deadly force. Given a written test, the participant will correctly:



In addition, in order to maximize teaching ability and learning potential, the participant will learn and understand the basic principles of information reception and processing styles, motor performance, and motor learning as they relate to skill instruction. Given a written test, the participant will:

- List the components of learning goals.
- List the components of performance objectives.
- Discuss the Yerkes & Dodson Inverted-U theory and its ramifications.

In order to ensure the teaching ability of the potential instructor, the participant will learn and understand the basic principles of psychomotor skill instruction and evaluation. Given a group of individuals, the participant will:

- Properly instruct two assigned applied skill practices to include specific drills that are unique to the assigned skills.

In order to maintain a high degree of professionalism, the officer/participant will understand the role of the state-trained patrol tactics instructor. During classroom training, the participant will identify and discuss:

- The responsibility of the patrol tactics instructor regarding his/her agency.
- The patrol tactics instructor's commitment and responsibilities regarding the criminal justice training commission.
- The intervals for teaching and retraining to maintain certification.

The course is designed to not only teach the students the knowledge and skills necessary to slow down the pace of critical events but also how to teach other officers the knowledge and skills necessary. The PTI course was led by the WSCJTC De-Escalation Program Manager.

This model was adopted to deliver the required and necessary training to 11,000 certified peace officers in the state of Washington as soon as possible. At the conclusion of the training, certified patrol tactics instructors could then deliver this instruction through several different means.



Currently Trained Patrol Tactics Instructors in Washington State: 147

Dates	Location/Agency	Number of Instructors Passed
October 2019	Spokane, Washington	28
	Spokane Police Department	
	Spokane County Sheriff's Office	
	WA State Dept. of Fish & Wildlife	
	Moses Lake Police Department	
	WA State Parks & Recreation	
December 2019	Everett, Washington	30
	Mukilteo Police Department	
	Edmonds Police Department	
	Lake Stevens Police Department	
	Everett Police Department	
	Arlington Police Department	
	Snohomish County Sheriff's Office	
	Bothell Police Department	
	King County Sheriff's Office	
	Burlington Police Department	
	Skagit County Sheriff's Office	
	Redmond Police Department	
	Mountlake Terrace Police Department	
	Marysville Police Department	
	Tukwila Police Department	
	Port of Seattle Police Department	
February 2020	Vancouver, Washington	30
	Longview Police Department	
	Bainbridge Island Police Department	
	Vancouver Police Department	
	Port Gamble S'Klallam Police Department	
	Clark County Sheriff's Office	
	Pullman Police Department	
	Kalama Police Department	
	Puyallup Police Department	
	Camas Police Department	
	Lakewood Police Department	
	Grant County Sheriff's Office	
	Battle Ground Police Department	
	San Juan County Sheriff's Office	
	Longview Police Department,	
	La Center Police Department	
	Washington State Department of Fish and Wildlife Police	
	Castle Rock Police Department	

March 2020	Wenatchee, Washington	29
	Grant County Sheriff's Office	
	Wenatchee Police Department	
	Chelan County Sheriff's Office	
	Quincy Police Department	
	Ephrata Police Department	
	Okanogan Police Department	
	Washington State Department of Fish and Wildlife Police	
	Ellensburg Police Department	
	Douglas County Sheriff's Office	
	East Wenatchee Police Department	
	Kittitas County Sheriff's Office	
	Moses Lake Police Department	
	Twisp Police Department	
	Okanogan County Sheriff's Office	
	Washington State Patrol	
April 2020	Kennewick training canceled due to COVID-19	
May 2020	Shelton training canceled due to COVID-19	
June 2020	Bellingham training canceled due to COVID-19	
July 2020	WSCJTC – Burien training canceled due to COVID-19	
August 2021	Burien, Washington	30
	Snohomish County Sheriff's Office	
	Lake Forest Park Police Department	
	Kitsap County Sheriff's Office,	
	Kent Police Department	
	King County Sheriff's Office	
	Bellingham Police Department	
	Ferndale Police Department	
	Seattle Police Department,	
	Franklin County Police Department	
	Renton Police Department	
	Clark County Sheriff's Office	
	Whatcom County Sheriff's Office	
	Lacey Police Department	
	Yakima Police Department	
	Marysville Police Department	
	Anacortes Police Department	
	Washington State Patrol	
	Franklin County Sheriff's Office	

IMPACTS OF THE COVID-19 PANDEMIC

During the second week of the March 2020 training, the effects of the Coronavirus Pandemic (COVID-19) were starting to be felt. At the conclusion of this training, the decision was made due to the rise of Coronavirus cases in Washington state that it was in the best interest of the health and safety of the students to postpone future PTI training until we could better address the safety concerns associated with training of this type.

With the average attendance at 30 students per class, we were unable to certify 120 potential instructors due to the pandemic. The effect of that shortage was a slowdown of the number of officers receiving de-escalation training because the regions that WSCJTC had established were not able to be staffed by certified instructors.

In July of 2021, WSCJTC lost several certified PTIs who failed to comply with Governor Inslee's vaccination mandate. We currently do not have an accurate number of instructors who are not able to deliver de-escalation training. The WSCJTC is in the process of collecting this data from self-reporting agencies on qualified instructors.

CONTINUING DE-ESCALATION TRAINING

Patrol Tactics 24-Hour In-Service

Patrol Tactics 24 Hour In-Service (PTIS) is a three-day course taught by those who have completed the PTI course. This course focuses on five overarching principals of Patrol Tactics:



The participants in this class will learn the tactics, actions, and communication methods that de-escalate situations to reduce the likelihood of injury to all parties involved, avoid unnecessarily escalating situations that may lead to violence, and avoid unnecessarily placing officers in situations that require or lead to deadly force.

[Washington Administrative Code \(WAC\) 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, WSCJTC devotes 24 hours of the 40 hours of in-service training to the knowledge and skills associated with distance management and 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.

To date, 1007 certified law enforcement officers have received the required in-service training (PTIS) and 531 incoming officers have received the required training at the Basic Law Enforcement Academy (BLEA) – Patrol Tactics Basic (PTB).

Agency	Total Trained PTIS/Regional	Total Trained PTB
Aberdeen Police Department		3
Adams County Sheriff's Office	1	1
Algona Police Department		1
Anacortes Police Department	3	
Arlington Police Department	7	1
Asotin Police Department		1
Auburn Police Department	5	6
Battle Ground Police Department	7	3
Bellevue Police Department	7	1
Bellingham Police Department	8	7
Benton County Sheriff's Office	1	5
Bingen-White Police Department		1
Blaine Police Department	1	
Bonney Lake Police Department	1	
Bothell Police Department	16	3
Bremerton Police Department	2	3
Brier Police Department	1	
Buckley Police Department	1	
Burlington Police Department	3	2
Camas Police Department	6	
Castle Rock Police Department	1	
Central WA University Police Department		1
Centralia Police Department		1
Chehalis Police Department		1
Chelan County Sheriff's Office	17	2
Chewelah Police Department	3	
Clallam County Sheriff's Office	7	2
Clark County Sheriff's Office	45	10
Cle Elum Police Department		1
Clyde Hill Police Department	9	
Colfax Police Department		2
College Place Police Department	13	
Columbia County Sheriff's Office	1	2
Colville Police Department	5	1
Cowlitz County Sheriff's Office	10	1
Cowlitz Indian Tribal Public Safety Department	2	
Des Moines Police Department	4	

Douglas County Sheriff's Office	9	2
Dupont Police Department	1	2
Duvall Police Department	2	1
East Wenatchee Police Department	6	1
Edmonds Police Department	1	2
Ellensburg Police Department		3
Enumclaw Police Department		1
Elwha Klallam Police Department	1	
Ephrata Police Department	11	2
Everett Police Department	118	6
Federal Way Police Department	2	18
Ferndale Police Department		2
Ferry County Sheriff's Office		1
Fife Police Department	4	
Forks Police Department		1
Franklin County Sheriff's Office	5	4
Garfield County Sheriff's Office	4	2
Gig Harbor Police Department	1	
Grand Coulee Police Department	1	1
Grandview Police Department	1	
Grant County Sheriff's Office	3	7
Grays Harbor County Sheriff's Office	6	2
Hoquiam Police Department		1
Island County Sheriff's Office	12	4
Kalama Police Department	3	
Kalispel Tribal Public Safety Department	3	
Kelso Police Department	8	3
Kennewick Police Department	3	9
Kent Police Department	8	8
Kettle Falls Police Department	3	
King County Sheriff's Office	16	57
Kirkland Police Department	4	6
Kitsap County Sheriff's Office	16	9
Kittitas County Sheriff's Office	2	5
Lacey Police Department	4	6
Lake Forest Park Police Department	1	
Lake Stevens Police Department	12	
Lakewood Police Department	7	1
Lewis County Sheriff's Office	6	4
Lincoln County Sheriff's Office	5	1
Longview Police Department	13	4
Lynnwood Police Department	28	3
Marysville Police Department	10	3
Mason County Sheriff's Office	8	3
Mattawa Police Department		3

McCleary Police Department		1
Mercer Island Police Department		4
Millcreek Police Department	12	
Milton Police Department	2	
Monroe Police Department	12	2
Montesano Police Department		1
Moses Lake Police Department	5	5
Mount Vernon Police Department	4	1
Mountlake Terrace Police Department	21	1
Moxee Police Department	2	
Mukilteo Police Department	16	4
Napavine Police Department		1
Newport Police Department	2	
Nisqually Public Safety	1	
Oak Harbor Police Department	11	
Ocean Shores Police Department		1
Okanogan County Sheriff's Office	4	
Olympia Police Department	7	5
Omak Police Department	2	1
Oroville Police Department		3
Orting Police Department		2
Othello Police Department	1	1
Pacific County Sheriff's Office		2
Pacific Police Department	1	
Pasco Police Department	11	1
Pierce County Sheriff's Department	6	11
Port of Seattle Police Department	4	1
Port Angeles Police Department		1
Port Orchard Police Department	2	1
Pullman Police Department	1	
Puyallup Police Department	35	2
Quincy Police Department	2	2
Raymond Police Department		1
Redmond Police Department	2	7
Renton Police Department	4	3
Richland Police Department	3	1
Royal City Police Department	1	1
San Juan County Sheriff's Office	15	2
Seattle Police Department	1	75
Sedro-Woolley Police Department	1	7
Selah Police Department	1	3
Shelton Police Department		1
Skagit County Sheriff's Office	36	3
Snohomish County Sheriff's Office	32	9
Snoqualmie Police Department	2	1

South Bend Police Department		1
Spokane County Sheriff's Office	12	14
Spokane Police Department	14	12
Steilacoom Department of Public Safety	1	1
Stevens County Sheriff's Office	18	
Sunnyside Police Department	1	3
Tacoma Police Department	9	15
Thurston County Sheriff's Office	5	8
Tieton Police Department		1
Toppenish Police Department	1	
Tukwila Police Department	4	3
Tulalip Tribal Services	11	
Tumwater Police Department	3	2
Twisp Police Department	1	
Union Gap Police Department	2	
Vancouver Police Department	10	14
Washougal Police Department	1	
WA State Department of Fish and Wildlife Police	10	6
WA State Parks & Recreation		3
WA State Patrol (WSP)	47	
WA State University Police Department, Pullman		2
Walla Walla County Sheriff's Department	14	
Walla Walla Police Department	32	2
Wapato Police Department		3
Warden Police Department		1
Wenatchee Police Department	11	3
Whatcom County Sheriff's Office		2
Whitman County Sheriff's Office		1
Woodland Police Department		1
Yakima County Sheriff's Office		1
Yakima Police Department		14
TOTALS:	1007	531

WSCJTC BASIC SWAT COURSE

For the last 12 years, in cooperation with the Washington State Tactical Officers Association (WSTOA), the WSCJTC has advertised on the WSCJTC website, handled registration, and maintained the records for the Basic and Advanced Special Weapons and Tactics (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 law enforcement officers who have recently been selected to serve as SWAT team members for their agency or in their region. In October of 2020, WSCJTC conducted an audit on the Basic SWAT Course using an independent third party. The auditor is a current law enforcement officer, a current member of a SWAT team and is a certified PTI under the Law Enforcement Training and Community Safety Act (LETCSA). The Deputy Director of the WSCJTC shared the audit report with the Executive Director, who summarized the report to the Commissioners at a Commission meeting in June 2021. Based on the information provided, it was decided by the commissioners that it would be the responsibility of the WSCJTC to not only handle administrative duties but also to provide the Basic SWAT instruction themselves.

To bring this training into alignment with WAC 139-11-020, the WSCJTC met with approximately 20 subject matter experts to collect information on what the expectation is of a student who completes the Basic SWAT Course. This information formed the scope of training needed as well as the terminal performance objectives and learning goals of the course. The WSCJTC then set out to construct the course content using current members of a SWAT team who are also PTI under LETCSA.

In October of 2021, the WSCJTC held the first SWAT Basic Course since WAC 139-11-020 went into effect. The training was held at Ravensdale range in King County and there were 13 instructors who delivered the instruction under the supervision of the De-Escalation Program Manager of WSCJTC. There were 30 students from the following agencies in attendance:



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 this course were determined to be an active member of a SWAT team and a PTI in good standing.

CONCLUSION

With Initiative 940, it was made clear that communities in Washington State expected law enforcement officers to receive high quality, up-to-date training. The call to improve police training in order for law enforcement-community interactions to produce more favorable outcomes was embraced by law enforcement agencies across the state. When presented with a unifying set of principles and the patrol concepts that support them, agencies sent their trainers to receive the training from WSCJTC with the ultimate goal of making our communities and officers safer.

The role of the WSCJTC in this process is to develop, design, and deliver legally justifiable and scientifically valid training to instructors through the PTI course. The new PTI instructors can thus deliver the training regionally with the goal being the adoption of the five principles in all patrol operations. The desired net effect of this methodology is to improve the outcomes resulting from law enforcement-community interactions.

In the upcoming year, to support our stakeholders in the regions, WSCJTC has scheduled five PTI courses to strengthen the instructor numbers in the regions:

- January in Bellingham
- February in Spokane
- March in Seattle
- June in Burien
- September in Yakima

WSCJTC will host the Patrol Tactics In-Service (PTIS) training quarterly in 2022.

