

# Elma Police Department

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July 15, 2021

Dear Citizens of Elma,

The Elma Police Department motto is to “Professionally Serve and Partnership with Integrity, Trust and Respect”. Our focus is to serve our community and it always will be. Due to recent legislation, you may see different responses from your police officers, as “Police Reform Bills” impose limitations that will require the Department to find different ways to manage the expectations of our citizens.

Police reform bills arising from the 2021 Legislative session, brought forward a number of new laws that significantly change the way we provide service to our community. Members of the Washington Association of Sheriffs and Police Chiefs, (WASPC) have been meeting collectively with legal advisors and city insurance providers in attempts to better understand the new legislation and develop new policies within our own departments. WASPC has sent a request of clarity to the sponsor of one of the bills which significantly changes our response to criminal behavior; we have yet to receive a response to our questions.

To be transparent with the citizens of Elma, the impacts of new legislation will change the approach to service our department will provide the community. There continues to be language within the ‘reform’ bills which is unclear, and we await clarification from the Attorney General’s Office. The following is a brief synopsis of the changes you will see in our response to crime, people in crises and calls for service.

## **VEHICLE PURSUIT**

One significant change is a new law (ESHB 1054) explicitly restricting vehicle pursuits. An officer must now have “probable cause” to believe that a person in the fleeing vehicle has committed one of several specified violent crimes, (or have reasonable suspicion they are driving while impaired).

An example, an officer responding to the scene of a crime, may see the fleeing suspect vehicle. They cannot pursue the suspect vehicle until they develop probable cause for a crime— a fairly high legal standard that goes well beyond mere suspicion. This would normally require first-hand knowledge that the person within the fleeing vehicle committed one of the specified violent crimes. The result, while responding officers attempt to determine the existence of probable cause for an arrest, is that the suspect gets away.

## **DRUG POSSESSION**

In February, the Washington State Supreme Court issued a ruling (State v. Blake) that decriminalized drug possession. The Legislature's response could have been to insert a missing word ("knowingly") in the current statute, but instead attempted to shift toward a treatment-based approach with very little accountability from the suspect. Now, during the first two times an officer encounters a person with any quantity of illegal drugs (heroin, meth, cocaine included), the officer must simply refer the subject to rehabilitation services and send them on their way.

And what or where are those services? This remains unclear.

Only on the third incident can a drug-carrying suspect be arrested, — and then only on a misdemeanor charge for what once was a felony. There is no statewide system to track the number of times a person has been given a drug referral, so a third drug-possession incident may be their tenth before they face even the lowest of criminal charges. This could result in lessening the incentive to seek treatment.

## **USE OF FORCE**

Perhaps the most notable change comes with the new Use of Force law (ESB 1310) which truly signals the legislative intent to reduce police interaction. Previously, officer's use of force was controlled by "Reasonable Standards". As of July 25<sup>th</sup>, 2021, by law, police officers may now only use force when there is probable cause to make an arrest, effect the arrest, prevent escape, or protect against imminent bodily injury. The law continues with language that strongly encourages de-escalation tactics. Unless there is threat of imminent harm or a crime has been or is about to be committed, law enforcement should leave the area.

*AGAIN: Law enforcement should leave the area.*

As an example, if someone is suffering from a mental health episode (and is perhaps suicidal), unless there is an associated crime, we will be forced to walk away. Assisting the fire department in restraining a combative person, during a mental health crisis, was once common practice. Those tactics will now be illegal, and their use may subject an officer to prosecution and liability.

## **MILITARY EQUIPMENT**

Finally, the legislature enacted laws prohibiting the acquisition or use of "military equipment." Included in the definition of prohibited equipment is a 40mm less lethal device that launches foam bullets which could be useful in distracting or temporarily incapacitating a subject as an alternative to the use of deadly force.

## AGAIN

These are but some of the laws the Legislature recently adopted in response to the police reform movement. These directives will result in notable changes in police response that will draw public concern at some point and may make our communities less safe.

I view good policing as treating all persons in a fair and equitable manner. Constant process improvement and focusing on the big picture are the keys to effective public safety. Transparency and honesty are critical pieces to maintaining public trust. Police reform and good policing are not mutually exclusive.

The Elma Police Department is committed to providing a safe and secure environment for our citizens and visitors to enjoy. We will continue to provide high quality service to our community within the parameters of the new legislation. I will be providing information in the coming weeks to educate further on the other public-facing changes in law enforcement you will see EPD Officers doing while we adapt to the new legislative directives. Many of these bills will affect the level of service we give our citizens.

If you would like to read HB1310 in its entirety, please follow this link:

<https://legiscan.com/WA/text/HB1310/2021>

As we adapt to a new way of policing, we will continue to provide professional service with integrity, trust and respect.

Yours in Community Safety and Service,

A handwritten signature in black ink, appearing to read "Susan Shultz". The signature is fluid and cursive, with the first name "Susan" being larger and more prominent than the last name "Shultz".

Chief Susan Shultz