

July 28, 2021

Mount Vernon Community,

Police reform laws begin this week and I wanted to share your Department's perspective moving forward.

Every society has a system for maintaining order. We are governed by a democracy where citizens have a say in how decisions affect their lives. Depending on your expectations for how police should address crime causes and public safety, the recently enacted laws could be welcoming or unwelcoming.

Legislators heard from citizens that a renewed focus on policing and public safety was desired. We remain committed to listening and adapting police services to these wishes in order to build upon your trust, improve service deliverables and keep Mount Vernon a safe and enjoyable place to call home.

So, what has changed, how is it affecting practices and what could you expect to see:

POLICE INTERACTIONS INVOLVING RESTRAINT OR FORCE

Citizens should expect that when police are required to use physical restraint that the officer will only use that amount necessary, reasonable, and proportional to the resistance faced. That has been a bedrock principle and continues to be our practice. Mount Vernon Police fielded 21,743 service calls in 2020 and used force in 93 (.427%) incidents. Hand controls and taking the subject to the ground for control accounted for 74 of the uses and *none resulted in a loss of life*.

Every Mount Vernon Police Officer understands the weight and responsibility when deciding to restrict a person's liberties especially when the force required is significant and may have deadly outcomes.

The more noticeable departure comes when criminal or welfare circumstances are in their infancy and haven't clearly evolved into crimes or risks of imminent harm. In these cases, physical intervention and restraint is no longer authorized.

The new law limits police force use to these specific circumstances:

1. When there is *probable cause* to *make/effect an arrest*.
2. Prevent a person *escaping custody*
3. When there is an *imminent threat of bodily harm* towards the officer, a person they are protecting or to protect the person from whom the force is being used upon.

And, requires an officer to use "reasonable care" when determining whether to use physical force and when using it consider de-escalation techniques to include leaving the area if probable cause for arrest or imminent threat of harm are not present.

Safe and Enjoyable Community Living

So where and how will it look differently:

- A caller reports coming home and interrupting a burglary. A description and last location are given to responding officers. The officer coming into the area sees someone matching the description but at that moment lacks enough information to arrest. Previously, the officer could temporarily detain the suspect to investigate further. Under the new requirements, the officer may contact the individual, however, if there is unwillingness to cooperate, the officer may not have the authority at that moment to physically detain to investigate further. Does this mean the suspect gets away? Not necessarily. It means a delay in that apprehension as we collect the additional evidence needed for probable cause to arrest. The public expectation however, may be that we would have detained, investigated, and arrested at that time.
- A caller reports a man acting oddly talking to himself, yelling at passing cars and appears to be hallucinating or has behavioral health issues. Previously, if the officer were to determine a likelihood of serious harm or the person was gravely disabled, they could be taken into protective custody for a mental health evaluation. Under the new law, it adds an additional requirement to consider if there is an *imminent* threat of harm to the individual or those around them. This can be confusing because there will be times a person's general physical or mental health is deteriorating however, at that moment there are not *imminent or immediate* circumstances that harm will come to the individual or another person. If the individual is unwilling to cooperate, physical force isn't authorized.
- A caller reports a family member is depressed and expressing suicidal ideations. No specific actions to harm themselves or hurt others are implied. It's unclear if there is *imminent* circumstances of harm present. The officer may refer them to a crisis line service. If the Skagit County Sheriff's Office Impact Team (Paired Mental Health Professional/ SCSO Deputy) are working, they could be asked to respond. The officer may respond to determine if there are additional facts to support *imminent or immediate* threats to harm, but if not present, and absent probable cause of a crime the new law will not allow the officer to use physical force to compel a person into protective custody and they must consider leaving that scene.
- A caller reports a subject is lying on the sidewalk unknown if they are sleeping or unconscious. They would like the person removed. Without any safety or crime circumstances present, the initial response may be from the Mount Vernon Fire Department. An officer may respond to confirm there isn't a trespassing crime or imminent threat of injury such as a medical condition causing immediate harm. The 9th Circuit Court of Appeals ruled persons cannot be punished for sleeping on public property in the absence of alternatives so without a crime or threat of imminent harm the officer won't be able to compel the person to leave.

Again, this is a departure from what citizens might expect from the police. It doesn't mean officers won't respond or pursue offenders, but it may take longer while additional evidence or information is gathered, or a different service provider is identified making the response look different.

POLICE PURSUITS

New legislation may also change your expectations involving police pursuing vehicles.

Previous Department policy allowed pursuing a vehicle for crimes or public safety circumstances when the risk created by the pursuit wasn't outweighed by the risk to the community. Officers were required terminate if risks were too high. Supervisors managed everyone involved, continually evaluating safety factors, and would terminate if the situation requires. MVPD conducted eight (8) vehicle pursuits in 2020, seven (7) were terminated by the involved officer and one (1) was apprehended.

The new law restricts police pursuits to four circumstances.

1. Violent Crime (RCW 9.94A.030(46), (55)) (Specific crimes defined in state law)
2. Sex Offense (RCW 9.94A.030(47))
3. Escape (RCW 9A.76)
4. Reasonable suspicion of Driving Under the Influence of Alcohol or Drugs (RCW 46.51.502)

The pursuit must also be necessary to identify or apprehend the subject, pose an imminent threat to safety of others if not apprehended, and undergo supervisory review, approval and direct control.

So where and how will it look differently:

- A police officer responds to a domestic violence dispute. The officer has probable cause to arrest one spouse for physically assaulting the other spouse causing some injury. The suspect flees the residence in a car. Although Domestic Violence Assault is a mandatory arrest crime for police, the officer cannot pursue that vehicle because per state law it is not listed as a Violent Offense.

How will we respond? It will take more time and ingenuity to hold the offender accountable. We will have to let the suspect go for the time being. We'll encourage and help the victim put a safety plan into place in case the suspect returns before we locate him. We'll put notice out to law enforcement agencies with the hope of apprehension away from the vehicle. We'll seek help from family, friends and co-workers as we can to locate. We'll use technologies and assets at our disposal to effect the arrest at a different time. We will continually look for new methods or equipment to shorten apprehension times and reduce risks.

DRUG OFFENSES

In February 2021, the Washington State Supreme Court ruled Washington's drug possession law invalid and the Legislature made corrective change in SB5476. The new law intends to address this as a public health versus public safety problem. It requires the Health Care Authority to establish a statewide substance use recovery services plan and changed "knowing" possession from a felony to a misdemeanor crime. Mount Vernon Police Officers are now required to offer a referral to assessment and services for the first two violations and don't have the authority to arrest until the third offense.

So where and how will it look differently:

- A business owner reports possibly seeing drug use activity occurring. The officer responds and contacts the individual who possesses small amounts of illegal drugs. The drugs may be confiscated, but the individual will be released with the referral. Only after two instances like this may the officer make an arrest.

This may meet or fall short of what the business owner expected depending on their point of view. The law is new, and statewide referral tracking systems are being envisioned, so currently tracking is only localized.

OTHER CHANGES

There were 100 new bills that affected law enforcement this session. Some of the other areas of community concern were as follows:

- **Prohibit No Knock Warrants** – Not an MVPD practice for years.
- **Limit “tear gas” type and use** – Consistent with current policy/practice
- **Prohibit Military Equipment Use** – Consistent with current policy/practice
- **Uniformed Officers Identifiable** – Consistent with current policy/practice
- **Limit circumstance for firing at a moving vehicle** – Consistent with current policy/practice
- **Chokehold or Neck Restraint Use**
 - Current policy limited this to deadly force circumstances when there were no reasonable alternatives. MVPD does not train to apply neck restraints and applied them only in self-defense situations.
 - The new laws are in conflict. HB1054 that prohibits a chokehold or neck restraint differs from HB1310 that provides an exception if it is to protect the officer’s life or the life of another from an imminent threat.
 - Our policy will adjust to this higher standard otherwise our intent and practices remain the same, defend ourselves or another in life or death circumstances.

LOOKING FORWARD

It’s too soon to say what will become of all this change however, some things are clear:

- Expectations by police and community members will need to change.
- Laws need to be modified if they don’t meet public expectations and this occurs during the Legislative session (January – March 2022).
- Identifying new methods, technologies, programs and funding to effectively respond to public health problems.
- Crimes will continue to be solved but in certain cases it will take more time and resources.
- There will be times crime goes unsolved. We’ll work hard making this the exception, not the rule.

Policing is complex and deals with people problems that are influenced by substance abuse, poverty, behavioral health, racial and ethnic make-up, age, educational levels, family structures and much more.

Every member of the Mount Vernon Police Department is driven by a purpose and mission to protect and help others. We are guided by organizational values, ethical standards and community policing principles. Police Officers swear an oath to protect the guaranteed rights of individuals. We work tirelessly to ensure residents feel a part of - not apart from - the department that serves them.

Know that we will respond to calls for service, crimes, and risks of public safety and we will adapt to the circumstances each one provides within the scope of authority the law provides.

A handwritten signature in black ink, appearing to read 'C. E. Cammock', written in a cursive style.

Christopher E. Cammock
Police Chief