**Work Group #1 Recommendations for Accountability and Culture – Part 1**

1. **Recommendations Regarding Civilian Review Boards**

Need for Recommendation

The Task Force has received a large amount of feedback surrounding the need for Citizen Review Boards, or Civilian Oversight Boards, as NACOLE refers to them, around the state. This Working Group needs to determine what that should look like, and whether there should be statutory changes that accompany the recommendations.

Recommended Solution

1. Recommend that any Civilian Oversight Boards be created at the local level in order to be responsive to the communities they serve.
2. Recommend that local communities seeking to create Civilian Oversight Boards coordinate with NACOLE regarding best practices and necessary policies and procedures.
3. Recommend enactment of a statute requiring Civilian Oversight Boards to register at the state level and provide copies of their bylaws and policy and procedure documents.
   1. In order to do this, it will be necessary to determine who should maintain the registry of Boards - NCDPS? NCDOJ?
4. Recommend revision of N.C.G.S. §§ 126-3, 153A-98, and 160A-168 to allow for inspection of certain records related to internal investigations by Civilian Oversight Boards and City/Town/County Councils.
   1. Only registered COBs or City/Town/County Councils may gain access
   2. Create a legal distinction between the documents used in the investigation of the incident and the ultimate disposition or personnel action, which would remain a part of the personnel file and therefore be unavailable to COBs.
   3. Ensure that any statutory revisions indicate that these documents are not public records with the exception of public aggregated use of force data.
   4. Drafters should discuss the extent to which COBs or City/Town/County Councils can further release these documents.

**Things for this Work Group to Consider:**

* **What types of incidents qualify for release of information? All UOF? Only those involving death or serious injury? Only those where SBI is called in to investigate? (see Recommendation IV)**
* **Do you further want to indicate what powers COBs have? Subpoena power, recommend charges to DA?**

1. **Recommendations regarding Data Collection**

Need for Recommendation

There is currently a lack of data regarding the demographics of all parties surrounding certain events in law enforcement. Tracking this data can help us to analyze trends and make changes where necessary.

Recommended Solution

1. Enact a statute that requires law enforcement agencies to report to the State Bureau of Investigation (SBI) a standard set of information with respect to the below types of interactions. Each report should include, at a minimum, the race and gender of the officer(s) and any subject(s) involved, whether the involved subject is a juvenile, and whether controlled substances are involved. Forms should be created to make reporting easier on officers, using the SBI-122 as a guide, found at this link:

<https://justice365.sharepoint.com/:w:/r/sites/TaskForceMemberSharePoint/Working%20Groups/Working%20Group%20%231/Resources/Accountability%20and%20Culture%20Docs/SBITrafficStop__SBI-122.doc?d=w1e1acf9deba541498ceecaa81f0eb74f&csf=1&web=1&e=b2fPbd>

* 1. Interactions for which data is collected should include, but are not limited to, the following:
     1. Traffic Stops (currently N.C.G.S. § 143B-903)
     2. Use of Force (currently N.C.G.S. § 143B-904, and WG #2 recommendation)
     3. Domestic Violence (currently N.C.G.S. § 143B-901)
     4. Detentions unrelated to Traffic Stops
     5. Arrests unrelated to Traffic Stops
     6. Searches unrelated to Traffic Stops
     7. Charging by officers
     8. Law Enforcement Officers killed or assaulted

1. The legislation enacting the above-listed reporting should make it mandatory and include real penalties for failure to comply.

**Things for this Work Group to Consider:**

* **Review California’s website as an example:** 
  + <https://openjustice.doj.ca.gov/exploration/stop-data>
  + <https://openjustice.doj.ca.gov/exploration/crime-statistics>

1. **Recommendation regarding Psychological Evaluations**

Need for Recommendation

Currently psychological evaluations are not required at all for Sheriff’s Office employees. Psychological evaluations are required for justice officers in police departments and in corrections. The CJ Standards Commission is currently considering whether these should continue to be required for both justice officers and corrections officers and, if so, whether they should include in-person evaluations. The Task Force has discussed whether these evaluations should be periodically repeated, either in a certain number of years or before promotion.

The CJ Standards Psychological Screening Examination Advisory Group is currently making the following recommendations to the Commission:

“Based on the foregoing, the Advisory Group recommends that Planning and Standards Committee adopt the following standards or guidelines:

1. All pre-employment psychological screening evaluations for Police and Community Corrections (Probation and Parole) Officer candidates should include: (i) a written test such as MMPI or other supervised by a licensed psychologist or psychiatrist and (ii) a clinical interview conducted by a licensed psychiatrist or psychologist.
2. All pre-employment psychological screening evaluations for candidates for Correction Officer, Juvenile Justice Officer, Local Confinement Personnel, or Juvenile or Chief Court Counselor shall include (i) a written test such as MMPI or other supervised by a licensed psychologist or psychiatrist and (ii) a clinical interview conducted by a licensed psychiatrist or psychologist if the psychologist or psychiatrist reviewing the results of the MMPI or other standard test identifies any issue which he/she believes needs further examination or other information is found that raises questions of the psychological suitability of the candidate.
3. Any pre-employment psychological screening evaluation must not commence until after a boni-fide conditional offer of employment is made.
4. Regulations need to address the question of how the requirements apply to the rehiring of an officer into another agency or position when there has been no or a short break in the officer’s service.
5. NCAC 09G.0205 should authorize the use of military licensed psychologists and psychiatrists, as done in NCAC 09B.0101.
6. The terms “responsibilities of the position” in NCAC 09B.0101 and “essential job functions” in NCAC 09G.0205 should be clarified.
7. All pre-employment psychological evaluations must be conducted in accordance with NCCJETSC regulations and guidelines, and otherwise in accordance with appropriate standards, including requiring that standardized tests be conducted and evaluated under the supervision of a licensed psychologist or psychiatrist and in accordance with any legally imposed requirements of the test publisher.”

The findings of the Advisory Group will be discussed at the November 2020 Planning and Standards meeting of the Criminal Justice Education and Training Standards Commission.

**Things for this Work Group to consider:**

* **Should the Task Force make a recommendation regarding this issue?**
* **If so, what should it look like?**
  + **Recommend Sheriffs’ adopt the same standards as CJ?**
  + **Recommend the same as the Advisory Group?**
  + **Recommend something different to the Planning and Standards Committee?**
* **The Advisory Group does not discuss repeating the exams. Should the Task Force take this up?**

1. **Recommendation Regarding Investigation and Prosecution of Officer-Involved Use of Force Incidents**

Need for Recommendation:

There has been much public discussion and discussion within the Task Force about the need for standardized, non-biased, investigations and prosecutions of Officer-Involved Use of Force Incidents (OIUFI). This Work Group needs to determine what a recommendation would look like to standardize these investigations an who would be responsible for handling.

Recommended Solution

1. Enact a statute requiring that the State Bureau of Investigation (SBI) be designated to investigate all OIUFI in which local law enforcement officers or officers from another state agency are involved. OIUFI include officer-involved shootings (regardless of whether they result in death), all other OIUFI in which death results, sexual assaults by law enforcement officers, and all officer-involved in-custody deaths. The SBI must request that any OIUFI involving an SBI Agent be handled by a neighboring out-of-state equivalent of the SBI (ex: SLED). This proposed legislation should include a budgetary provision to increase SBI funding to handle these cases that is based on calculations generated by the SBI.
2. Enact a statute that requires appointment of a Special Prosecutor to handle all OIUFI cases, as defined above. The Special Prosecutor shall either be a member of the Attorney General’s Staff, pursuant to N.C.G.S. 114-11.6, an ADA from a neighboring prosecutorial district, or an attorney from the Conference of District Attorneys. Legislation should contemplate an increase in funding for this purpose.

**Things for this Work Group to Consider:**

* **Are there other things that should be considered OIUFI?**

1. **Recommendations regarding statutory changes to no-knock warrant provisions.**

Need for Recommendation

Currently, the statute regarding no-knock warrants does not require judicial approval. Similarly, other terms in the statute, such as “unreasonable delay” are not clear. The statute needs to be clarified to ensure that officers know exactly what is expected when entering these situations.

Recommended Solution

1. Amend N.C.G.S. § 15A-251 as follows:

**§ 15A-251.  Entry by force.**

An officer may break and enter any premises or vehicle when necessary to the execution of the warrant if:

(1)        The officer has previously announced his identity and purpose as required by G.S. 15A-249 and has probable cause to believe either that admittance is being denied or unreasonably delayed or that the premises or vehicle is unoccupied; or

(2)        The officer has probable cause to believe that the giving of notice would endanger the life or safety of any person and has received previous approval by a judge.

(3) An “unreasonable delay” is defined as ……..

**Things for this Working Group to consider:**

* **Should we also modify state law to allow local jurisdictions to ban the use of no-knock warrants completely?**