**Work Group #1 Recommendations for Accountability and Culture – Part 2**

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)        Officers may not make entry without knocking and announcing unless the officer has probable cause to believe that the giving of notice would endanger the life or safety of any person

(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?**

1. **Recommendations regarding Body Worn Cameras**

Need for Recommendation – see memo provided

Recommended Solution

1. Recommend drafting legislation amending N.C.G.S. § 132-1.4A(c) to include Civilian Oversight Boards and City/Town/County Council access to police recordings, in line with the previously-approved amendments to the personnel laws with respect to release of personnel files.
   1. Only registered COBs or City/Town/County Councils may gain access
   2. § 132-1.4A(b) already states that these documents are not public records or personnel records.
   3. COBs or City/Town/County Councils may review the recordings but may not have copies or further release these recordings or the information contained therein.

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

1. **Should videos ever be automatically released – as in a critical incident trigger? If so what are those incidents, when should they be released, and to whom? Do victims or their families have the right to object?**
2. **Should NC commission a study regarding the effectiveness of Body Worn Cameras (BWCs) before making recommendations for mandating their use?**

**OR**

**Should the Task Force proceed in recommending legislation to mandate BWCs for every agency given the number of agencies that already use them and the public’s need for transparency?**

1. **IF the Task Force should proceed to recommending that BWCs be mandated, consider the following:**
   1. **Who should wear them? (patrol, detectives, command staff)**
   2. **When should they be worn?**
   3. **What exceptions should be specifically noted for when they should NOT be worn?**
   4. **What accountability structures exist in agencies to ensure that BWCs are being used properly?**
   5. **Should public input be obtained?**
   6. **Should there be penalties for failure to comply with the BWC laws?**
   7. **What about other types of recordings – dash cams?**
   8. **Should a best practices document be created to help agencies understand how to review and use the video?**
2. **Recommendations for Asset Forfeiture Reform**

Need for Recommendation – see presentation of Elliott Abrams, provided in pre-work

Recommended Solution

1. Recommend that North Carolina create incentives for law enforcement agencies not to use the federal asset forfeiture program.

OR

1. Recommend that North Carolina ban the use of asset forfeiture programs, federal or state, and instead increase funding for law enforcement agencies so that such funding is not necessary to continue their operations. This would require enactment of an anti-circumvention law like those in Arizona, California, Maryland, Nebraska, New Mexico, Ohio, and Washington, D.C.
2. **Recommendations to Standards Commissions regarding standards for entry, decertification, and data collection.**

Recommended Solution

1. Recommend support for the Rap Back Program that has been voted approved by both Commissions and now requires legislation and amendments to the NCAC.
2. Recommend that the Standards Commissions revise 12 NCAC 09B. 0101 (Minimum Standards for Criminal Justice Officers) and 10B .0301 (Minimum Standards for Justice Officers), to require that criminal justice officers not engage in excessive or unjustified use of force.
   * **Question: what language does the Work Group want here? Excessive, unjustified, both, other?**
   * **Question: does the Work Group want to include “abuse of power”? If so, how is that defined?**
3. Recommend that the Standards Commissions revise 12 NCAC 09A .0204 and 10B .0204 to allow for suspension, revocation, or denial of certification based upon a criminal justice officer’s history of excessive use of force.
   * **Question: what history of use of force is sufficient to qualify?**
   * **Question: how is use of force defined for these purposes?**
4. Recommend that the Standards Commissions revise the notification provisions contained within 12 NCAC 09B. 0101 (Minimum Standards for Criminal Justice Officers) and 10B .0301 (Minimum Standards for Justice Officers) to require notification by both the officer and the agency when employment action is taken against an officer because of use of force.
   1. Further recommend that the Standards Divisions maintain this information as part of its publicly available database consistent with the personnel laws.
   2. Further recommend that the Standards Divisions revise the NCAC to require that hiring agencies contact the Standards Divisions to determine if the candidate is on the use of force database before making an offer of employment.
   3. Further recommend that the Standards Divisions initiate an investigation into the officer’s certification when the above-defined use of force incidents are reported.

* **Question: what level of employment action should require notification? Re-training, warning, suspension, firing?**
* **Question: what level of use of force incident require initiation of investigation?**

1. Recommend support for the Standards Divisions’ ongoing efforts to create a publicly available database on the NCDOJ website where information about officer discipline and decertification can be located.
2. **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?**