

North Carolina Task Force

for **Racial Equity in Criminal Justice**

WHAT LAW ENFORCEMENT LEADERS NEED TO KNOW

Governor Cooper established the **Task Force for Racial Equity in Criminal Justice** (TREC) through Executive Order 145 in June 2020 to help identify solutions to make North Carolina's criminal justice system fairer. The below 19 recommendations (from TREC's [December 2020 report](#)) outline solutions that you may implement. The recommendation number corresponds to the full report. In some cases, we have tweaked the language to reflect progress since we published our report and to make them more relevant to individual agencies. TREC has created a series of sample policies for agencies that wish to learn more about some of the recommendations below. Note that some of the recommendations are required by law and others are not, but in all cases, TREC is recommending that law enforcement leaders consider including these concepts in their agency policies.

REVISE USE OF FORCE POLICIES AND ACCOUNTABILITY MECHANISMS

Strengthen use of force practices (Rec 31)

Law enforcement agencies should revise their policies to:

- Require officers to use the minimum amount of force reasonably necessary to apprehend a suspect.
- Require officers to use de-escalation tactics when reasonably possible instead of using force. De-escalation tactics include, but are not limited to, verbal persuasion, redirection, creating time/space/distance, and tactical repositioning/shielding. [NOTE: The North Carolina Justice Academy is currently offering instructor certification classes for ICAT, Integrating Communications, Assessment and Tactics.]
- Prohibit neck holds. Law enforcement agencies should consider using the sample policy language below.
 - Sample Policy Language: "NECK HOLDS PROHIBITED. Law enforcement officers shall not use chokeholds, strangleholds, Lateral Vascular Neck Restraints, Carotid Restraints, or any other tactics that restrict oxygen or blood flow to the head or neck unless necessary to protect the life of the officer."
- Explicitly prohibit the use of deadly force when a reasonable officer would conclude that a person presents an imminent threat of death or serious physical injury only to themselves.
- Require an officer to alert his or her supervisor any time the officer points a gun at [or near] someone.
- Ban hog-tying subjects (defined as connecting a subject's hand and foot restraints behind the subject's back), including when transporting them face down in a vehicle because of the negative impact of positional asphyxia.
- Prohibit officers from using projectiles against a subject's head, neck, face, and spine unless deadly force is justified.

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- Prohibit officers from using force to retaliate against subjects for talking back or running away.

Require officers to have first aid kits and render aid (Rec 32)

Law enforcement agencies should adopt policies requiring all officers to carry first aid kits and render immediate reasonable medical assistance, when safe to do so, to anyone in law enforcement custody and to call EMS, where appropriate, when a person in law enforcement custody is injured or complains of an injury.

Enact agency policies requiring a duty to intervene and report excessive use of force or other abuse (Rec 33)

[Session Law 2021-138](#) enacted a duty to intervene. TREC recommends agencies enact a policy consistent with this statute.

Establish early intervention systems for officers repeatedly violating use of force policies (Rec 34)

[Session Law 2021-138](#) requires law enforcement agencies to establish an early intervention system to identify and correct officers who use excessive force. Although not required by law, TREC recommended that this system:

- Identify officers who receive two or more citizen complaints of any kind in a single month.
- Identify officers who report two or more use of force incidents or who receive two or more citizen complaints regarding uses of force in a single quarter.
- Require identified officers to attend appropriate training and to be monitored by an immediate supervisor. Consider termination of an officer following multiple reports if multiple instances of misconduct are found.

¹ PART XVI. ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE SECTION 16.(a) G.S. 15A-401 is amended by adding a new subsection to read: "(d1) Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer, while in the line of duty, who observes another law enforcement officer use force against another person that the observing officer reasonably believes exceeds the amount of force authorized by subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall, if it is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter, report what the officer reasonably believes to be an unauthorized use of force to a superior law enforcement officer within the agency of the observing officer, even if the observing officer did not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the observing officer was involved or present during what the observing officer reasonably believes to be unauthorized use of force, the observing officer shall make the report to the highest ranking law enforcement officer of that officer's agency who was not involved in or present during the use of force."

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Reform investigation and prosecution procedures for officer-involved use of force incidents (Rec 37)

Law enforcement agencies should always request the State Bureau of Investigation (SBI) investigate the below-defined Officer Involved Use of Force Incidents (OIUFI) in which local law enforcement officers or officers are involved. With the enactment of [Session Law 2021-138](#), the SBI is required to take certain OIUFI cases upon request. Those OIUFI currently include:

1. When a sworn law enforcement officer uses force against an individual in the performance of the officer's duties that results in the death of the individual; and
2. When an individual in the custody of the Department of Public Safety, a state prison, a county jail, or local confinement facility, regardless of the physical location of the individual, dies.

TREC recommends expanding SBI jurisdiction and the definition of OIUFI to the following: officer-involved shootings (regardless of whether they result in death), all other OIUFI in which death results, sexual assaults by law enforcement officers, domestic violence incidents involving law enforcement officers, and all officer-involved in-custody deaths. The SBI should only be responsible for criminal investigations and not investigations involving violations of policy. Prosecutors should also request a special prosecutor when appropriate.

Mandatory body worn cameras for all law enforcement agencies (Rec 47)

Law enforcement agencies should provide body-worn cameras for any criminal justice officer on patrol or who is performing patrol functions, and when conducting investigations unless the investigation is of a sensitive nature. This does not apply to plainclothes or undercover officers, whose use of body-worn cameras should be determined by the law enforcement agency based upon their specific job duties. Random audits should be conducted by supervisors within the law enforcement agency to ensure compliance with the mandate to wear the camera, that the camera is activated at the appropriate time per agency policy, that the equipment is functioning appropriately, and information is being archived. Officers should not be penalized for mechanical failure of body-worn cameras outside their control; however, officers may be penalized for failure to activate their body-worn cameras in accordance with statute or policy.

Expand use of dashboard cameras (Rec 48)

Law enforcement agencies should deploy dashboard cameras in all patrol and field vehicles, except for undercover vehicles. The agency shall be responsible for ensuring that vehicles equipped with dash cameras operate appropriately.

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RETHINK CRISIS INTERVENTION

Reform Emergency Response (Rec 1)

Law enforcement agencies should support the establishment of co-responder and civilian crisis response teams, in order to free up law enforcement time to focus on serious crime. Where these programs are not yet feasible, agencies should establish specially training 24/7 Crisis Intervention Teams, who receive the [40-hour Memphis CIT model training](#).

Require Crisis Intervention Training (Rec 2)

Law enforcement agencies should provide some type of crisis intervention training to all current law enforcement officers. Mental Health First Aid, should be provided to all current law enforcement officers where CIT training has not yet been implemented. [NOTE: [The International Association of Chiefs of Police One Mind Pledge](#) uses a benchmark of MHFA for all employees, not just law enforcement officers.] This does not mean that all law enforcement officers should be specially trained CIT Team members.

ALTERNATIVE APPROACHES TO SUBSTANCE USE DISORDERS

Deemphasize drug possession (Rec 12)

Law enforcement agencies should deemphasize (or make the lowest drug law enforcement priority) drug possession arrests for trace quantities under 0.25 grams in non-ABC permitted locations.

This recommendation was made because of the large percentage of arrests for these quantities and the racial disparity in those arrests due to the drugs targeted for enforcement. However, in making new policy related to drug possession, it is important when making law enforcement decisions to consider the lethality of specific drugs at various quantities, such as fentanyl.

UPDATE INTERNAL POLICIES

Prioritize traffic stops that improve traffic safety (Rec 13)

Law enforcement agencies should focus on traffic stops that improve traffic safety, including by:

- Deprioritizing “regulatory” traffic stops.
- Reducing pretextual stops.
- Focusing on traffic enforcement on thoroughfares rather than in residential neighborhoods absent complaints or clear safety concerns.
- Not using quantity of vehicle stops [or citations] as a consideration in measuring productivity/ performance.

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Require all consent searches be based on written, informed consent (Rec 14)

Encourage citation and summons in lieu of arrest (Rec 18)

Law enforcement agencies should encourage officers to issue citations in lieu of arrest whenever possible for misdemeanors. For Class III misdemeanors and violations of local ordinances, the process shall be the issuance of citations. Magistrates are encouraged to issue summons in lieu of arrest whenever possible, including for any civilian-initiated charges. Before a local hospital police force can issue a citation for minor assault against a patient who committed the offense while psychotic or otherwise cognitively impaired, a physician must also sign the petition.

Limit federal asset forfeiture (Rec 15)

Law enforcement agencies in North Carolina should limit their use of equitable sharing of federal asset seizures of currency if the cases do not result in a criminal conviction and the dollar amount of the seizure is \$5000 or less.

STRENGTHEN CONNECTIONS WITH THE COMMUNITY

Adopt a Community Policing Philosophy and Plan for Community Policing Programs (Rec 6)

Law enforcement agencies should adopt community policing as an agency-wide philosophy. Adopting this philosophy requires agencies to work with neighborhood residents to co-produce public safety, including jointly identifying problems and collaborating on solutions. Agencies should develop community policing plans in collaboration with the communities they serve.

This also requires developing and cultivating trusted relationships between members of the community and law enforcement officers and meeting regularly with those liaisons and other community members.

Encourage Better Connections to Community (Rec 8)

Law enforcement agencies should encourage or require officers to spend non-enforcement time in the neighborhoods they serve. Non-enforcement time may include officers coaching sports teams, doing community service projects, or simply engaging in conversation with residents. Providing more non-directed time to officers may require changes to officer scheduling. Law enforcement agencies and city and county governments should consider working together to provide financial incentives, such as housing subsidies, to encourage officers to live in the communities they serve.

Publicly acknowledge mistakes by law enforcement (Rec 9)

When law enforcement agencies make mistakes that impact the community, they should publicly acknowledge the mistakes as a way of building trust and transparency.

Facilitate peaceful demonstrations (Rec 27)

Law enforcement agencies should adopt comprehensive policies on law enforcement

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facilitation of peaceful demonstrations. Policies should include coordination and communication by law enforcement with assembled public, avoid enforcement of low-level violations and focus enforcement on those causing harm to person or property, minimize militarization of law enforcement and use of weapons, including kinetic impact projectiles and chemical irritants, and ensure transparency and accountability of officers. All law enforcement agencies should make public and easily accessible their policy. *See Full Report (Appendix A) for a sample policy.*

Recruit and retain a racially equitable workforce (Rec 51)

Law enforcement agencies should expand recruitment and retention efforts with a focus on how to achieve diversity, increase cultural awareness, and ensure that officers have emotional intelligence necessary to serve their communities.

ABOUT THE TASK FORCE FOR RACIAL EQUITY IN CRIMINAL JUSTICE

The North Carolina Task Force for Racial Equity in Criminal Justice, which is co-chaired by Supreme Court Associate Justice Anita Earls and Attorney General Josh Stein, was established in June 2020. For more information about the Task Force, please visit <http://ncdoj.gov/trec> or email criminaljustice@ncdoj.gov.