



## **MAJOR CITIES CHIEFS ASSOCIATION**

### **Law Enforcement Reform Policy Statement June 16, 2020**

#### **Introduction**

In the wake of recent events, legislative bodies at all levels of government have proposed a myriad of reforms to increase transparency and accountability of law enforcement. In order to enact meaningful reform, an approach that is evidence based, informed, comprehensive, and thoughtful must be taken. The MCCA is committed to working with all stakeholders, at every level of government, and from every facet of the community, to implement reforms that hold the law enforcement profession accountable and build trust with the public.

#### **National Misconduct Registry**

A National Misconduct Registry will provide Chiefs with additional information during the hiring and vetting process and serve as a mechanism to help prevent law enforcement officers with histories of misconduct from moving between departments. Law enforcement agencies must also foster a culture of information sharing and be forthcoming when other agencies call to perform a reference check on a current or former officer.

The MCCA:

- Supports a National Misconduct Registry with the following elements:
  - Includes only sustained complaints and terminations—a registry that includes non-sustained or exonerated complaints will result in the inclusion of officers who are doing their jobs properly.
  - Includes complaints and terminations that have undergone all applicable appeals and grievance processes, unless the officer in question resigns before the process is complete.
  - Includes officers who resigned while under investigation for misconduct or have charges pending.
  - Is structured in a way that protects sensitive information like officer addresses and phone numbers.
  - Has clear policies and definitions for the types of misconduct that should be captured by the database and how long data should be retained.
  - Contains robust oversight and audit procedures.

### **Qualified Immunity**

Qualified immunity protections are extended to a wide range of government employees, not just law enforcement. Qualified immunity does not prevent officers who engage in misconduct from being convicted for criminal offenses.

The MCCA:

- Strongly opposes repealing or amending the qualified immunity statute.

### **Use of Force**

Police departments across our Nation must have policies in place to insure officers use the minimal amount of force reasonably necessary in response to the resistance of a subject. Agencies small and large, across our Nation must be required to have written Use of Force/Response to Resistance Policies, and these policies should be readily available to the public.

The MCCA:

- Recommends a ban on chokeholds and carotid holds, unless an officer is in a fight for his or her life.
- Supports any individual department's decision to not train their officers on these techniques and/or prohibit the use of chokeholds or carotid holds. However, such a ban cannot be a condition for federal funding eligibility.

### **Data Collection and Reporting**

Robust data collection and analysis can help inform decision making, identify problems, promote transparency, and build public trust and confidence. When levying data collection and reporting requirements on local law enforcement, the federal government must ensure that the data is necessary, appropriate, and does not infringe on civil and privacy rights. Law enforcement must also be able to report this data in an easy and efficient manner, through systems and channels that are already in use, or funding must be made available to cover associated expenses—these requirements cannot become unfunded mandates.

The MCCA:

- Opposes requiring that data be reported by demographic categories such as religion, disability, English language proficiency, and housing status. Chiefs have expressed concerns that these are not appropriate questions for officers to be asking the members of the public they interact with and doing so may open up law enforcement to lawsuits and harm public trust.
- Recommends that all new data reporting requirements be supported through existing databases and/or systems. In the absence of this, the federal government must provide local law enforcement with additional funding to cover the cost of developing and implementing the systems needed to comply with new requirements.
- Recommends the use of a reporting mechanism that does not require local law enforcement to procure new technology or systems.

### **Training Requirements**

There is broad consensus among law enforcement that additional training is needed to address systemic issues the profession is grappling with. Many MCCA members have already implemented on-going de-escalation, implicit bias, procedural justice, and other critical training. We urge all agencies across our Nation to be required to provide training in the aforementioned categories, and funding be provided for the associated costs.

The MCCA:

- Supports the development and implementation of additional training requirements on issues such as implicit bias, racial, religious, and cultural sensitivity, and procedural justice.
- Calls on the federal government to provide additional funding for the development and implementation of these training requirements.

### **1033 Program**

The 1033 Program is of great value to local law enforcement and greatly enhances our ability to keep our communities safe. In areas of our Nation that are fiscally stressed, the 1033 program enables departments to obtain support that it otherwise cost prohibitive. Additionally, the increase in use of heavy weaponry by active shooters and violent criminals, highlights the importance and ongoing need for the program. The equipment is not the problem – oversight and accountability are.

The MCCA:

- Supports the implementation of additional accountability measures to ensure all 1033 program equipment is accounted for, is being used appropriately and in a way that maintains public confidence.
- Strongly opposes the elimination of the 1033 program.

### **No-Knock Warrants**

Many departments have already restricted their use and have implemented strict oversight and approval procedures. For most narcotics cases, the risks associated with no-knock warrants simply aren't worth the potential benefits. No-knock warrants should be restricted to situations like hostage rescue and violent crimes.

The MCCA:

- Supports a ban on the use of no-knock warrants for narcotics cases.

### **Misconduct Investigations**

In order to help maintain the trust of the community, it is important that allegations of misconduct are thoroughly and fairly investigated. In cases where misconduct occurs, discipline must be as swift as possible. Proposed reforms would give the state attorney general or criminal justice agency the authority to conduct these investigation. These entities oftentimes have less stringent use of force policies and allow tactics that have been banned by local law enforcement agencies.

The MCCA:

- Supports the intent of independent investigations and believes they are appropriate in certain circumstances, however, no law should require them or otherwise infringe on the Chief's ability to conduct investigations within his or her own department.
  - Each complaint lodged by a member of the public should require a closing letter to the complainant stating investigative findings.

We must insure officers who engage in misconduct are held accountable even in instances where the misconduct comes to light at a later date. In some jurisdictions, the statute of limitations for misconducts tolls from the date the misconduct occurred, not the date of discovery. Since Chiefs only have a limited timeframe to conduct these investigations, usually between 90-180 days, having the clock start on the date of occurrence presents a challenge, especially when the misconduct is not criminal in nature.

The MCCA:

- Believes the window for investigating misconduct should start on the date of discovery of the incident, not when the incident occurred.
- Labor agreements, agency policies, as well as applicable local, state, and federal laws, should be updated accordingly.

### **Body Worn Cameras**

Body worn cameras can help ensure transparency during law enforcement's interactions with the public. The technology, as well as the data retention systems needed to store the video, are very costly. Many departments have had to cancel or delay investments in body worn camera programs due to strained budgets. It is also imperative that departments and agencies have comprehensive policies governing the use of body worn cameras including the circumstances and process for releasing video publicly.

The MCCA:

- Supports the use of body worn cameras by all law enforcement officers, including federal.
- Calls on Congress to provide local governments with additional funding to help obtain body worn cameras and the associated storage and processing costs.
- Encourages departments and agencies to develop robust policies, in consultation with the public, that govern the use of body worn cameras, data retention, and the release of video.

### **Accreditation Standards**

The adoption of nationally standardized accreditation standards should be considered. Currently there is no federal accreditation requirement, and state requirements and their associated standards vary dramatically between jurisdictions.

While there has been much debate about whether or not the federal government should develop accreditation standards, an effort should be made to re-examine the standards that already exist.

The MCCA:

- Recommends conducting a review of all state law enforcement regulatory agencies to ensure each state is mandating appropriate standards.