

WORKING GROUP
POLICE-INVOLVED DEADLY FORCE ENCOUNTERS
2021 Progress Update Summary



2021 PROGRESS UPDATE SUMMARY

Some recommendations and action steps made by the Minnesota Working Group on Police Involved Deadly Force Encounters require action by the Minnesota Legislature to appropriate funding and/or establish or modify state statute in order to be fully implemented.

The Minnesota Police Accountability Act, signed into law by Governor Tim Walz on July 23, 2020, includes legislation and funding that are cornerstone to preventing and reducing deadly force encounters. The following is a summary of the passed legislation that supports recommendations of the working group.

The Minnesota Police Accountability Act:

- Modifies the threshold for police use of deadly force.
- Establishes a separate independent investigations unit for Police-Involved Deadly Force cases at the BCA.
- Requires all law enforcement agencies to update their written policies on use of force to include the requirements of
 - 1) Duty to Intervene in excessive force situations, 2) Duty to Report illegal use of force, and 3) an officer must first consider less lethal measures before applying deadly force.
- Requires all law enforcement agencies in Minnesota to report to the BCA all incidents of use of force that result in serious bodily injury or death to the BCA.
- Requires the BCA to develop and implement a Mandatory Use of Force Reporting tracking system.
- Strengthens the role of Minnesota Peace Officers Standards and Training (POST) Board.
- Provides public safety peer counseling and data-privacy protections for officer wellness.

The Legislature also made the following appropriations that move forward DFE recommendations:

- Peace Officer Training Assistance - \$6,000,000 each year through 2023 to support and strengthen law enforcement training and implement best practices.
- A new BCA Independent Use of Force Investigations Unit - \$3,365,000 in 2021 and \$3,272,000 in 2022 and 2023
- Ensuring Police Excellence and Improving Community Relations Advisory Council, \$23,000 in FY2021;\$20,000 FY2022 and thereafter. The Advisory Council, a function of the Minnesota POST Board, will provide for citizen involvement in policing policies, regulations, and supervision. The council shall advance policies and reforms that promote positive interactions between peace officers and the community.
- Peace Officer Crisis Intervention and Mental Illness Crisis Training - \$145,000 in FY2021 and \$137,000 in FY2022 and thereafter.
- Autism Training Implementation at BCA – \$8,000

The Minnesota Department of Public Safety (DPS) has completed the following administrative measures to implement DFE recommendations:

- February 2020. BCA established a new Victim, Family, and Community Relations Coordinator position to ensure survivors and families are treated respectfully, provided timely information on a consistent basis, and given access to appropriate resources and services
- March 2020. Minnesota Department of Public Safety Bureau of Criminal Apprehension (BCA) hired the newly created position of Victim, Family and Community Relations Coordinator.
- July 2020. Minnesota Department of Public Safety updated the Driver and Vehicle Services Minnesota Driver's Manual to include what both drivers and law enforcement should expect during a traffic stop. Previous versions did not include what expectations drivers should have of law enforcement during a traffic stop.

The biggest development is the creating of the BCA's Use of Force Investigations Section which was funded by the Minnesota Legislature in July of 2020. This unit will focus exclusively on use of force investigations, criminal sexual conduct violations involving peace officers, and conflict of interest investigations where public officials are accused of crimes. This unit is separate from the rest of the BCA's investigation division in their chain of command and are even housed separately at the BCA Headquarters facility.

FURTHER UPDATES

Office of the Minnesota Attorney General

The working group recommended that the Attorney General's Office work together with the Minnesota County Attorneys Association (MCAA) to discuss and develop ideas for how the Attorney General's Office can be supportive and engaged around deadly-force encounters in terms of expertise, resources, conflicts, jurisdiction, or other issues.

In June 2020, the MCAA board voted to express its support of a bill at the Minnesota Legislature that would give the Minnesota Attorney General's Office original criminal jurisdiction over the investigation, charging decisions and prosecution of police-involved deadly force encounters.

FY 2022-23 Governor's Budget Recommendations announced January 2021

Minnesota Heals Proposal

- \$1.2 million annually to establish the Minnesota Heals Program
- \$400,000 - grants for community healing following a traumatic event
- \$400,000 - establish a Statewide Critical Incident Stress Management Services Office for first responders
- \$400,000 for grants for trauma services and burial costs following an officer-involved death

Innovations in Policing

\$3 million in FY2022 for Innovations in Policing grants to incentivize municipalities, counties, and tribal governments to implement transformative strategies connected to preventing and reducing police-involved deadly force encounters. For planning purposes, for pilots, for implementation, or to enhance the services of:

- Community -based, mental health and trauma -informed services that can provide alternatives to arrest and booking.
- Differential (alternative) responses applied to 911 calls for service.
- Training beyond minimum requirements for peace officers and 911 dispatchers.

2021 PROGRESS UPDATE BY RECOMMENDATION

Pillar 1: Community Healing and Transformation	
Recommendation/Action Step	As of February 1, 2021
<p>ACTION STEP: 1.1.1 Peace Officer Standards and Training Board (POST), working with a collaborative group of stakeholders, should develop education, awareness and training materials to educate law enforcement agencies on model practices in communication, transparency and openness that can improve effective police community interactions.</p>	<p>Minnesota Police Accountability Act establishes the creation of <i>The Ensuring Police Excellence and Improving Community Relations Advisory Council</i> under the Peace Officer Standards and Training Board.</p> <p>The purpose of the council is to assist the board in maintaining policies and regulating peace officers in a manner that ensures the protection of civil and human rights.</p> <p>The council shall provide for citizen involvement in policing policies, regulations, and supervision. The council shall advance policies and reforms that promote positive interactions between peace officers and the community.</p>
<p>ACTION STEP 1.1.4 The Department of Public Safety should prepare educational materials for the public and officers on how to handle traffic stops when people are legally carrying a concealed firearm on their person or in the car.</p>	<p>Completed. The Minnesota Driver and Vehicle Services Manual is updated to include what both drivers and officers can expect during a traffic stop. Effective July 6, 2020.</p>

<p>RECOMMENDATION 1.3 The Department of Public Safety should take steps to ensure that the families of those involved in police-involved deadly force encounters are treated respectfully, provided timely information on a consistent basis, and given access to appropriate resources and services.</p>	<p>Completed and on-going. Since the hire date of the new BCA Victim, Family, and Community Relations Coordinator, the BCA has worked to fully integrate the Coordinator into all cases of deadly force encounters from the time of the incident throughout the investigation process. An additional aspect of the new role is to share continual feedback with DPS and BCA leadership on behalf of victims, survivors, and families.</p>
<p>ACTION STEP 1.3.1 The Department of Public Safety should establish a Family Liaison position to interact directly with the affected families of those involved in police deadly encounters. This position will ensure families are treated with dignity and respect, keep the families informed in a timely and consistent manner, and refer the families to available services.</p>	<p>Completed. February 2020: BCA hired a new position: Victim, Family, and Community Relations Coordinator.</p>

Pillar 2: Prevention and Training

Recommendation/Action Step	As of February 1, 2021
<p>ACTION STEP 2.1.1</p> <p>The Peace Officer Standards and Training Board (POST) should develop and provide guidance to local governments regarding recruitment, hiring, retention, promotion, and special-assignment practices in order to achieve workforce diversity that reflect the Minnesota context.</p>	<p>Minnesota Police Accountability Act establishes the creation of <i>The Ensuring Police Excellence and Improving Community Relations Advisory Council</i> under the Peace Officer Standards and Training Board.</p> <p>The purpose of the council is to assist the board in maintaining policies and regulating peace officers in a manner that ensures the protection of civil and human rights.</p> <p>The council shall provide for citizen involvement in policing policies, regulations, and supervision. The council shall advance policies and reforms that promote positive interactions between peace officers and the community.</p>
<p>RECOMMENDATION 2.5</p> <p>The Legislature should expand law enforcement training funding and ensure consistent implementation statewide, including across rural and smaller agencies. The appropriation sunset for training funds should be removed and current funding levels and requirements for training maintained.</p>	<p>The Minnesota Police Accountability Act appropriates \$6,000,000 each year through 2023 to support and strengthen law enforcement training and implement best practices.</p>
<p>ACTION STEP 2.5.1</p> <p>Every full- and part-time peace officer in Minnesota should be trained in crisis intervention and mental health crises; conflict management and mediation; and recognizing and valuing community diversity and cultural differences that includes implicit bias training. The Legislature should incorporate the current expansion of funds into the State base budget to meet this goal.</p>	<p>The Minnesota Police Accountability Act mandates the development and implementation of autism training for peace officers by July 1, 2021.</p> <p>Crisis Intervention and Mental Illness Crisis Training receives an on-going base appropriation of \$137,000 in fiscal year 2022 and thereafter.</p>

<p>ACTION STEP 2.6.1</p> <p>Law enforcement agencies should include components on crisis intervention, mental health, and developmental, physical, and intellectual disabilities in basic recruit training and in-service training. These training components should be developed with input and collaboration from people with developmental, physical, and intellectual disabilities. The Legislature should fund the inclusion of dispatchers in this training.</p>	<p>The Minnesota Police Accountability Act mandates development and implementation of autism training for peace officers to be delivered in pre-service and in-service training.</p>
---	--

Pillar 3: Investigations and Accountability

Recommendation/Action Step	As of February 1, 2021
<p>RECOMMENDATION 3.1 Create an independent and specialized investigation unit within the Bureau of Criminal Apprehension (BCA) with the authority to investigate all officer-involved shootings and uses of force that result in death or severe bodily injury. This recommendation does not prohibit other authorized investigative agencies from conducting these investigations.</p>	<p>In progress. The BCA is establishing a new, independent Use of Force Investigations Unit.</p>
<p>ACTION STEP 3.1.1 This unit shall work on police-involved deadly force cases. The agents assigned to the unit will not have a conflict of interest with involved officers or their agencies.</p>	<p>In progress. The BCA Use of Force Investigations Unit will investigate police-involved deadly force cases. The agents assigned will not have a conflict of interest with involved officers or their agencies.</p>
<p>ACTION STEP 3.1.2 The Department of Public Safety should conduct a review of its existing staffing and structure and identify what resources and structural changes are needed to create a specialized unit with the BCA that does not, as a matter of course, work closely with local law enforcement.</p>	<p>Completed. The BCA has conducted a review of its existing staffing and structure and is moving forward to establish a new, independent Use of Force Investigations Unit.</p>
<p>ACTION STEP 3.1.3 The State Legislature should provide the funding necessary for this unit.</p>	<p>The Minnesota Police Accountability Act appropriates \$3,365,000 in fiscal year 2021 to establish and operate the independent Use of Force Investigations Unit in the BCA. The base for this appropriation is \$3,272,000 in fiscal years 2022 and 2023.</p>

<p>RECOMMENDATION 3.2 The Attorney General and the Minnesota County Attorneys Association should continue working together to discuss and develop ideas for how the Attorney General’s Office can be supportive and engaged around deadly-force encounters in terms of expertise, resources, conflicts, jurisdiction, or other issues.</p>	<p>Completed.</p>
---	-------------------

Pillar 4: Policy and Legal Implications

Recommendation/Action Step	As of February 1, 2021
<p>RECOMMENDATION 4.1 The State of Minnesota, working with law enforcement and community stakeholders, should review the existing use-of-force standards and statutes and recommend any revisions necessary to ensure there is a focus on the sanctity of life, as well as standards that require that the use-of-force be reasonable, necessary, and proportionate.</p>	<p>The Minnesota Police Accountability Act amends Sec. 9. Minnesota Statutes 2018, section 609.066.</p>
<p>RECOMMENDATION 4.2 All police agencies should adopt use-of-force policies that, at a minimum: n Make sanctity of life a core organizational value.</p> <ul style="list-style-type: none"> • Require officers to de-escalate when such effort does not compromise officer safety. • Require force used by officers to be reasonable, necessary, and proportionate. • Hold officers accountable to use sound tactics, such as time, distance, and cover, to reduce the need to use force. n Require officers to intervene, when appropriate and safe, when witnessing unreasonable use of force. • Require officers to report all incidents of unreasonable use of force to a supervisor 	<p>Minnesota Statutes 2018, section 626.8452. It mandates the Minnesota POST Board shall adopt an updated model policy on the use of force, including deadly force and: sanctity and value of all human life; a duty to intervene; a duty to report; a duty to only use deadly force as authorized in section 609.066 and requires less lethal measures be considered first by the officer.</p>

<p>ACTION STEP 4.2.1 The Peace Officer Standards and Training Board (POST) should update the training curricula and capacity of certified colleges and training institutions to deliver updated use-of-force training components to include sanctity of life, proportionality, imminent threat, de-escalation tactics, self-defense, communication skills, and rendering aid.</p>	<p>The Minnesota State Taskforce on Law Enforcement Education Reform is reviewing initiatives, programming, and priorities for an anti-racism law enforcement education curriculum.</p>
<p>Action Step 4.3 The Department of Public Safety and Peace Officer Standards and Training Board (POST) shall convene focus groups and experts to discuss strategies to increase the role of the POST Board to approve, suspend, or revoke officer licenses at the Chief Law Enforcement Officer’s request in order to strengthen accountability and transparency of officers who violate State standards.</p>	<p>The Minnesota Police Accountability Act Sec. 13. Minnesota Statutes 2018, section 626.843, is amended effective August 1, 2020: Subd. 1b. Rules governing complaints. If the board adopts rules to establish a subcommittee to investigate licensure actions, the subcommittee must have: (1) one voting board member appointed from the general public; and (2) three voting board members who are current or former peace officers.</p>
<p>RECOMMENDATION 4.4 Establish a data-collection and reporting system that tracks all police-involved deadly force encounters.</p>	<p>The BCA is in process of establishing the reporting system.</p>
<p>ACTION STEP 4.4.1 Require all law enforcement agencies to report all deadly force encounters and uses of force resulting in serious or great bodily harm or death to the Bureau of Criminal Apprehension (BCA) for inclusion in the FBI’s national Use-of-force database.</p>	<p>The Minnesota Police Accountability Act Sec. 11. Section 626.5534 mandates that a chief law enforcement officer must file the report once a month.</p>

<p>RECOMMENDATION 4.7 The Legislature should pass a carefully crafted privacy protection (protected conversations) for peer-support programs for first responders, modeled after other state model policies that protect therapeutic debriefings and individual counseling sessions led by certified peer counselors.</p>	<p>The Minnesota Police Accountability Act Section 1. Minnesota Statutes 2018, section 13.43, subdivision 9, defines public safety peer counseling, peer support, and critical incident stress management.</p>
--	--

Pillar 5: Officer Wellness	
Recommendation/Action Step	As of February 1, 2021
<p>RECOMMENDATION 5.1 Expand resources, and increase statewide awareness of existing resources, to improve the mental health and wellness of first responders and dispatchers.</p>	<p>In progress. FY 2022-23 Governor's Budget Recommendations – Refer to Minnesota Heals proposal to establish a statewide CISM office for 911 dispatchers, fire fighters, law enforcement personnel and EMS providers.</p>
<p>RECOMMENDATION 5.2 All law enforcement agencies should establish or participate in evidence-informed mental health and wellness programs, such as Peer Support Teams and Crisis Intervention Stress Management (CISM) programs.</p>	<p>In progress. FY 2022-23 Governor's Budget Recommendations – Refer to Minnesota Heals proposal to establish a statewide CISM office.</p>
<p>ACTION STEP 5.2.1 The State of Minnesota and the Department of Public Safety should establish a full-time position to coordinate Peer Support, Critical Incident Stress Management (CISM), and officer safety and wellness efforts statewide.</p>	<p>In progress. FY 2022-23 Governor's Budget Recommendations – Refer to Minnesota Heals proposal to establish a statewide CISM office with a full-time employee.</p>



WORKING GROUP
POLICE-INVOLVED DEADLY FORCE ENCOUNTERS
2021 Progress Update Summary