

Diversity Gazette

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Changes in North Carolina Policing

By Christopher Tyner

George Floyd's murder under the knee of a police officer in Minneapolis, Minnesota, in May of last year sharply focused the nation's attention on the issue of reforming policing practices. Demonstrators across the country, joined in some cases by police officers and police leaders,¹ demanded changes to law enforcement practices in the wake of Floyd's death. In the 2021-2022 legislative session, North Carolina enacted new laws on a variety of policing issues, ranging from curbing excessive use of force to improving tracking and reporting requirements related to officers who are uncredible. This edition of the Diversity Gazette provides a brief overview of the new laws.²

Duty to Intervene. North Carolina's statute governing arrests by law enforcement officers, G.S. 15A-401, has been amended to impose a duty upon officers to intervene, if it is safe to do so, when they observe another officer use force against a person that the observing officer reasonably believes is excessive under North Carolina law. If an officer observes what he or she believes to be an excessive use of force, the officer must attempt to prevent it and also must report the incident to a superior officer within 72 hours.³

Body Cam Changes. Readers may remember that the issue of access to police body camera footage was in the news earlier this year following the killing of Andrew Brown, Jr., in Elizabeth City in April. State body cam law recently has changed with new rules related to recordings that depict a death or serious bodily injury. Under previous law, the head of the law enforcement agency possessing a body cam recording made the initial decision whether to allow access to the recording. Now, in cases involving recordings of a death or serious bodily injury, a judge is responsible for the initial determination about access to the footage.⁴ The change was controversial, with some saying it did not go far enough towards transparency while others said that access to

footage must be controlled to protect investigations.

Investigations of Officer-Involved Deaths. Another issue in the news coverage following the killing of Andrew Brown, Jr., was the state mechanisms for initiating an SBI investigation into shootings by police officers.⁵ Traditionally, the SBI investigated these incidents when a law enforcement agency or district attorney asked for SBI assistance. A newly enacted statute builds upon these investigative avenues by requiring SBI investigations of law enforcement use of deadly force at the Governor's request.

Officer Qualifications, Training, and Tracking. Several new laws relate to law enforcement officer qualifications, training, and tracking. There are new statutory requirements for criminal background checks for people applying for law enforcement officer certification, as well as a new requirement that uniform minimum standards for officers be developed that are applicable statewide. New databases also are being created that will track officers who have been barred from testifying at criminal proceedings in a particular jurisdiction because they lack credibility; track incidents of officer use of deadly or injurious force; and track revocations and suspensions of officer certifications.

Beyond Legislation – Local Solutions. Many law enforcement agencies are not waiting for state legislation to engage in reform efforts. Agencies across the state are increasing their use of citations rather than making custodial arrests, exploring options for responding to calls alongside social workers and mental health experts, and requiring officers to participate in de-escalation training. The success of these efforts may inform changes across the state in the future.

¹ North Carolina Public Radio, *Police Take Knee with Fayetteville Protesters; Local Group Calls for Police Reform*, WUNC.ORG (June 2, 2020), <https://www.wunc.org/race-demographics/2020-06-02/police-take-knee-with-fayetteville-protesters-local-group-calls-for-police-reform>.

² The legislative changes discussed here can be found in [S.L. 2021-138](https://legisinfo.com/l/2021/138).

³ Shea Denning has written a detailed blog post on these new requirements. See Shea Denning, *New requirement that Law Enforcement Officers Intervene and Report Excessive Use of Force*, NC CRIM. LAW BLOG (Sept. 13, 2021) <https://nccriminallaw.sog.unc.edu/new-requirement-that-law-enforcement-officers-intervene-and-report-excessive-use-of-force/>.

⁴ Shea also has a detailed blog post on these changes. See Shea Denning, *General Assembly Amends Rules for Disclosure of Body Cam Recordings*, NC CRIM. LAW BLOG (Sept. 22, 2021), <https://nccriminallaw.sog.unc.edu/general-assembly-amends-rules-for-disclosure-of-body-cam-recordings/>.

⁵ Laura Lee & Jordan Wilkie, *How Does the SBI Investigate Police Shootings in NC?*, CAROLINA PUBLIC PRESS (May 6, 2021), <https://carolinapublicpress.org/45348/how-does-the-sbi-investigate-police-shootings-in-nc/>.