



## **POLICE TRANSPARENCY AND ACCOUNTABILITY TALKING POINTS**

- The law enforcement profession is in crisis. Addressing the public's demand for increased transparency and accountability are necessary steps towards building greater trust between the police and the communities they serve.
- Today we are introducing a road map to strengthening law enforcement accountability and transparency
- The roadmap is founded on the principle of democratic policing which is a cornerstone of our society. The power of each community to shape its own policing practices and standards is something we desperately need to uphold in this time of national crisis.
- The public is demanding that we address barriers to disciplining law enforcement officials in cases of misconduct and this is an important step in that direction.
- In a time of nearly daily examples of rights violations and police brutality, it is time that we clearly define, in statute, what constitutes ethical policing and official misconduct.
- To that end, it is important that we work to examine all existing laws to strengthen rules, practices, and policies that govern law enforcement entities. The state should take bold steps to improve the transparency and standardization of law enforcement records, complaints, and disciplinary actions.
- The overwhelming number of hard working and honorable law enforcement officials need protections to safeguard the profession from bad apples. There is a tremendous need to provide protections for law enforcement whistle blowers and for citizens who file complaints.
- We need to examine the state's Law Enforcement Certification Commission protocols and standards to ensure our ability to maintain high quality and ethical standards in the recruitment, training and qualification of personnel.
- In the past few decades, the role of data has been a critically important factor in improving law enforcement. It is time we move law enforcement into the 21<sup>st</sup> century, and mandate the collection of data on complaints and disciplinary actions, and instances of the use of deadly force.
- Lastly, we need to look for innovative ways to strengthen our institutions. Professional liability insurance plays a key role in the legal profession. It is time that we examine the feasibility of requiring that personal professional liability insurance be maintained by law enforcement officials.

## SUMMARY

The Roadmap for Legislative Action on institutionalizing ethical policing has two main components. The first is creating and sustaining transparency in all law enforcement matters. And, the second is increasing accountability of law enforcement to the law, the public, and to clear standards. Together, they provide a framework for moving our state's law enforcement agencies into the 21<sup>st</sup> century.

A core foundation of transparency is the collection of data and the access to information by the public. The roadmap endorses recommendations by the FBI and other law enforcement entities that have recommended the development and use of modern data collection protocols and procedures. Those include databases cataloging the use of deadly force and officer complaint early warning systems. The roadmap also addresses a range of transparency measures including examining how we define important legal definitions including how we define what constitutes police misconduct, and defining the parameters of disciplinary action. In addition, the roadmap suggest standardizing complaint forms, the processes governing their use, and guarantee that certain information is made available to the public in each case.

Research by the National Criminal Justice Research Service consistently finds that increased accountability measures have not posed greater harm or risk to law enforcement officials. The roadmap takes its lead from the recommendations of these highly-esteemed researchers, and recommends the implementation of Citizen Review Boards. Citizen Review Boards are a critically important tool for improving community relations and ensuring the public has access to necessary information. Review boards should be formed and granted with the appropriate access and responsibilities to partner with every law enforcement entity in the state.

Accountability is also determined by how we define actions and roles. There are a number of areas where states should examine how they define critically important functions of law enforcement. These focus areas include defining ethical policing and defining police misconduct. Moreover, there are a number of areas where states should eliminate barriers to effectively disciplining law enforcement officials, while ensuring the public's notice and access to disciplinary hearings.

In order to have a police force that can operate with integrity, it is necessary to have protections for all law enforcement personnel [both sworn and non-sworn]. Whistle blower protection statutes in place in the military have been critically important tools to ensuring the necessary accountability of our armed services branches since 1988. Similar protective measures should be in place for law enforcement personnel all across the nation.

The roadmap also includes recommendations for improving the operation and purview of *Criminal Justice Standards and Certification Commissions*. Strengthening these entities ensures that we have the ability to track problem police officers and the ability to appropriately guide each of the state's law enforcement entities.



## **Ethical Policing Talking Points**

Ethical Policing is a response to the lack of common-sense mechanisms for holding police officers accountable for clear incidents of misconduct, including abuse of authority and excessive or deadly use of force.

Ethical Policing resolves the all-too-common patterns of police misconduct that go unaddressed, allowing bad actors to remain employed.

Ethical Policing replaces the grey areas in which police misconduct takes place, with clearly delineated expectations for professionalism.

Ethical Policing grounds policing in respect for the profession, the law, and public safety, bringing balance to what has become a highly imbalanced policing culture.

### **Ethical Policing legislation codifies:**

- Professional standards for law enforcement.
  - Couples best practices in the law enforcement profession with the public's right to consistently high professionalism in policing.
- A floor for professionalism.
  - Makes clear misconduct has no place in policing and spells out the consequences for failing to police in a professional manner.
- Expectations.
  - It ensures all members of law enforcement know what is expected of them and defines clear consequences for violating those expectations.

## **Ethical Policing legislation is a roadmap for legislative action.**

- Has two primary components: Transparency and Accountability.
- Components build on each other and together, lay the foundation for a comprehensive policy solution.
- The solution ensures no person incapable of engaging in Ethical Policing can be a part of the policing profession.
- Because, again, Ethical Policing codifies professional standards.

### **Transparency: 4 primary mechanisms**

- **Citizen Review Board** (includes guaranteed right to create a Board locally (i.e. at the city level));
- **Standardized Complaint Form**
  - Defines what data points must be on the form
  - Requires all police agencies use the form to record complaints of police misconduct *as well as* internal agency decisions to impose disciplinary action
  - Requires all police agencies use the form to record reinstatement decisions
  - Designates the form as public record
- **Updating** (requires Standardized Complaint Form be updated with outcome of investigation)
- **Inspection of Records** (mandates inspection of complaint history and disciplinary actions as a condition of transfer between departments, precincts, police agencies, and new employment)

### **Accountability: 6 primary mechanisms**

- **Mandates Ethical Policing** (without regard to rank)
  - Prohibits transfer, reinstatement or employment of anyone who violates Ethical Policing
  - Requires Ethical Policing be part of trainings (e.g. certification and licensing)
  - Defines and codifies Duty to Intervene
  - Defines and codifies use of Early Warning Systems to identify patterns of misconduct
- **Mandates Reporting**
  - Requires law enforcement officials report (on Standardized Complaint Form) violations of Ethical Policing, employer policies, and failure to act on the Duty to Intervene
  - Extends clear protections to law enforcement officials who report violations
- **Licensing and Certification** (of all law enforcement officials)
  - Identifies conduct requiring revocation of such licensing or certification (bodily injury, racial profiling, sexual violence, and failure to act on the duty to intervene)

- **Professional liability insurance** (like doctors and lawyers, law enforcement officials also have a heightened duty of care)
- **Data collection and release** (defines what misconduct information must be collected, how it must be disaggregated, and how often it must be published)
- **Investigation required** (requires investigation, for violation of Ethical Policing, of anyone (other than a member of the judiciary) who reinstates multiple law enforcement officials)