



# Fact Sheet

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## Safe Policing for Safe Communities

Compliance with the safe policing certification does not ensure compliance with federal, state, or local law, and such certification shall not constitute a defense in any federal law suite. Nothing in the safe policing certification process or safe policing certification requirement is intended to be (or may be) used by third parties to create liability by or against the United States or any of its officials, officers, agents, or employees under any federal law. Neither the safe policing certification process nor the safe policing certification requirement is intended to (or does) confer any right on any third-person or entity seeking relief against the United States or any officer or employee thereof. No person or entity is intended to be (or is) a third-party beneficiary of the safe policing certification process, or, with respect to the safe policing certification requirement, such a beneficiary for purposes of any civil, criminal, or administrative action.

### Section 2. Standards for Certification

#### Implementation of the Executive Order on Safe Policing for Safe Communities

On June 16, 2020, President Donald J. Trump issued Executive Order (EO) 13929 on Safe Policing for Safe Communities.<sup>1</sup> The EO's goal is to ensure that law enforcement agencies continue striving to provide transparent, safe, and accountable delivery of services to communities. This delivery will enhance community confidence in law enforcement and facilitate the identification and correction of internal issues before they result in injury to the public or to law enforcement officers.

#### Contact the COPS Office

For more information about COPS Office programs and resources, please call the COPS Office Customer Care Center at 800-421-6770 or by email at [AskCopsRC@usdoj.gov](mailto:AskCopsRC@usdoj.gov) or visit the COPS Office website at [cops.usdoj.gov](https://cops.usdoj.gov).

Pursuant to authority vested in the Attorney General by the EO, a group of designated organizations will serve as the independent credentialing bodies. An independent credentialing body will be responsible for certifying that an applying law enforcement agency is in compliance with two mandatory safe policing principles in the U.S. Department of Justice (DOJ) *Standards of Certification*. A list of approved certifying agencies and the DOJ Standards of Certification can be found at <https://cops.usdoj.gov/SafePolicingEO>.

The DOJ *Standards of Certification* identifies two **safe policing principles that independent credentialing bodies must consider**<sup>2</sup> when assessing certification of applying law enforcement agencies:

- 1. Adherence to applicable laws.** The applying agency maintains use of force policies that adhere to all applicable federal, state, and local laws.<sup>3</sup>
- 2. Prohibition of choke holds.** The applying agency maintains use of force policies that prohibit the use of choke holds,<sup>4</sup> except in situations where the use of deadly force is allowed by law.

1. The White House, *Executive Order on Safe Policing for Safe Communities*, Executive Order 13929, June 16, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-safe-policing-safe-communities/>.

2. The DOJ *Standards* document identifies other factors that the credentialing bodies may also consider in their own reviews.

3. Policies apply to both paid and volunteer law enforcement officers.

4. A *choke hold* is a physical maneuver or technique that restricts an individual's ability to breathe for the purpose of incapacitation.

All state, local, and university or college law enforcement agencies must be certified by an approved independent credentialing body or have started the certification process to be allocated FY 2021 DOJ discretionary grant funding as either a recipient or subrecipient. Certifications will be good for three years from their date of issue. The credentialing body will maintain a list of certified agencies within its jurisdiction and submit this list to the DOJ's Office of Community Oriented Policing Services (COPS Office), which will serve as the repository for the list of all eligible law enforcement agencies.

Independent credentialing bodies in each state will be able to provide agencies with guidance on how they can obtain certification. Agencies should contact their state bodies directly for this information. Agencies in areas where there is not an independent credentialing body should contact the International Association of Directors of Law Enforcement Standards and Training (IADLEST).

## Frequently Asked Questions

### FOR ALL

#### **EO 13929 and the DOJ *Standards of Certification* apply to which entities?**

The DOJ *Standards of Certification* are applicable to state, local, and university or college law enforcement agencies (LEA) seeking DOJ discretionary grant funding. They do not apply to tribal law enforcement agencies.

#### **How are law enforcement officers or deputies defined?**

For the purposes of the DOJ *Standards of Certification*, a law enforcement officer or deputy is a state, local, or university or college employee or volunteer who is licensed under applicable state law or certified by an applicable POST commission.

#### **Are state, county, or local agencies that house offenders but do not have arrest authority or who are not otherwise considered by the state to be an LEA required to be certified?**

Agencies that employ officers who do not meet the definition of a law enforcement officer as described in the DOJ *Standards of Certification* do not need to be certified.

#### **Are parole, probation, and prosecutor agencies required to be certified?**

If the state or local government body considers parole, probation, and prosecutor agencies to be authorized law enforcement agencies, these agencies must be certified or in the process of certification at the time of grant application to be allocated DOJ discretionary grant funds.

#### **Are methods to reduce blood flow included in the definition of a choke hold?**

According to the EO, a choke hold is defined as "a physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation." Therefore, methods to reduce blood flow are not included.

#### **What does "in the process of certification" mean?**

A law enforcement agency is considered in the process of certification if they have contacted an independent credentialing body to begin the process of certification. For the purposes of applying for an award, the law enforcement agency will need to affirm that they are in process of certification with the funding application.

#### **Where do I go if I have questions or receive inquiries?**

For questions related to the certification process, we encourage you to reach out to your state or national certification organization. Updated information will continue to be posted to the COPS Office website at <https://cops.usdoj.gov>, and you may also contact the COPS Office at 800-421-6770.

*continued on p. 3*

**Frequently Asked Questions, cont'd****FOR INDEPENDENT CREDENTIALING BODIES****What entity will serve as the primary credentialing or certifying body for law enforcement agencies seeking certification?**

In states where there is a state accreditation program, that accreditation program will serve as the primary credentialing or certifying body. If the program has or experiences a capacity challenge (meaning the volume of requests exceeds its capabilities), the default credentialing or certifying body will be the respective Peace Officer Standards and Training (POST) board. In states without an existing accreditation program, the state POST will be responsible for certifying agencies. IADLEST will be available to provide assistance to these states without certifying agencies.

The Commission on Accreditation for Law Enforcement Agencies (CALEA) will serve as the certifying body for its client pool; however, if a requesting agency would prefer certification from its state accreditation program (if a program exists in its state), the state accreditation program will serve as the certifying body.

The International Association of Campus Law Enforcement Administrators (IACLEA) will serve as the certifying body for its client pool of colleges and universities; however, if a requesting law enforcement agency prefers to be certified by a state accreditation program, the state program will serve to certify the agency.

**What processes will certifying entities use to issue their certifications?**

Each individual certifying entity will develop its own locally tailored process. Some may conduct policy reviews of law enforcement agencies to ensure that they are compliant with the two mandatory requirements of the EO. Other entities may request that law enforcement agencies provide a statement of declaration attesting that agency policy has been

reviewed and is compliant with the EO. The statement of declaration is a legally binding document and assures that the agency head has reviewed the policy or policies and complies with the two mandatory requirements of the EO. Other certifying entities may require both a policy review and a statement of declaration or other means that they develop to assure that agencies are in compliance. Beginning in 2021, independent credentialing bodies must provide the names of each certified law enforcement agency to the Director of the COPS Office or his or her delegate. Each certified law enforcement agency is qualified to receive DOJ discretionary funds for up to (i) 36 months from the date of its most recent certification by an independent credentialing body or (ii) the life cycle of any discretionary grant awarded, whichever is longer.

**Should the credentialing bodies review the policies after the LEA has certified compliance?**

There are three approaches to certifying law enforcement agencies to meet the requirements of the EO:

1. The chief, sheriff, or chief executive officer of the law enforcement agency submits to the certifying body a "letter of declaration" attesting that their agency is in compliance with the two mandatory conditions of the EO.
2. The certifying body may choose to review the use of force policies for compliance with the understanding that the certification applies only to the mandatory requirements. This option will service two purposes: (1) for the certifying body to develop a comprehensive set of best practices and (2) to determine which agencies are including in their respective policies the "should" principles spelled out in the EO.
3. This option is a combination of the first two options whereby the certifying body accepts a "letter of declaration" for certification but will also at a later date review the other "should" principles.

*continued on p. 4*

## Frequently Asked Questions, *cont'd*

### **One of the requirements of certification is that the applying agency maintain use of force policies that adhere to all applicable federal, state, and local laws. What are the applicable federal laws?**

The federal laws pertaining to use of force are context-specific and as such cannot be succinctly defined in their entirety for a state or local law enforcement agency. At a minimum, law enforcement agencies may want to review 18 U.S.C. § 242, Deprivation of Rights Under the Color of Law; 42 U.S.C. § 1983, Civil Action for Deprivation of Rights; and federal case law such as the following:

- *Graham v. Connor*, 490 U.S. 386 (1989)
- *Tennessee v. Garner*, 471 U.S. 1 (1985)
- *Kingsley v. Hendrickson*, 576 U.S. 389 (2015)
- *Whitley v. Albers*, 475 U.S. 312 (1986)
- *Albright v. Oliver*, 510 U.S. 266 (1994)
- *Brothers v. Klevenhagen*, 28 F.3d 452 (5th Cir. 1994)
- *Wricht v. Whiddon*, 951 F.2d 297 (11th Cir. 1992)

### **We plan on having law enforcement agencies submit a letter of declaration for the certification process. Is an agency allowed to submit the letter with an electronic signature?**

The COPS Office will accept an electronic signature on documents submitted to us. However, agencies should consult with state and local laws to determine if electronic signatures are allowed on legal documents.

### **Are the independent credentialing bodies authorized to start work right away?**

Yes. The independent credentialing bodies are authorized to start certifying law enforcement agencies.

### **Who can help the credentialing body develop its process for certification, particularly if it doesn't already have one?**

For existing state accreditation programs that do not have an established process, programs in Texas, Michigan, Tennessee, and New Jersey are available to provide technical assistance at no cost to assist in the development of a process, forms, etc. For states without an accreditation program, IADLEST will provide technical assistance at no cost to assist in the development process (including forms, etc.).

### **I am an independent credentialing body. How do I submit my list of certified agencies?**

Credentialing bodies will be provided additional information on the submission process.

### **What information will need to be collected from agencies applying for certification?**

The COPS Office recommends collecting the following information:

- One of the following identifiers: Originating Agency Identifier (ORI), Employer Identification Number (EIN), or Data Universal Number System (DUNS) number
- Agency name
- Agency city and state
- Date of certification (if applicable)

ORI is assigned by the Federal Bureau of Investigation for crime reporting. EIN is assigned by the Internal Revenue Service and can be found on an employee's W2 or payroll statement. A DUNS number is a unique nine- or 13-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds.

*continued on p. 5*

## Frequently Asked Questions, *cont'd*

### How were the credentialing bodies identified?

The agencies that have been initially identified to serve as the credentialing bodies are organizations that are recognized for routinely establishing law enforcement standards and processes for reviewing adherence to those standards. The Attorney General has sole discretion for the selection of these organizations.

### How can corrections be made to the names of participating credentialing bodies?

If a credentialing body has an update to how their name is listed, please contact the COPS Office.

### Is there a process of becoming a DOJ-approved independent credentialing body?

The Attorney General has already identified numerous entities to serve in this capacity. However, an entity inquiring about becoming a DOJ-approved independent credentialing body can petition the DOJ by submitting an application to the Director of the COPS Office. Applications should include (1) the name of the entity, (2) point of contact and contact information, and (3) detailed information as to why the entity requires the ability to serve as an independent credentialing body.

## FOR LAW ENFORCEMENT AGENCIES

### As it relates to certification of safe policing standards, what does an LEA that plans to apply for DOJ discretionary grant funds in fiscal year (FY) 2021\* need to do?

LEAs that plan to *or could* apply to receive DOJ discretionary grant funds should begin reviewing their policies to determine whether they meet the criteria as set forth in the *Standards of Certification*. LEAs can contact the DOJ-approved independent credentialing body or bodies in their state or a nationally recognized entity with questions and assistance. Those LEAs that believe they comply with the *Standards of Certification* can immediately initiate a letter to one of the independent credentialing bodies seeking further review and approval. LEAs

that plan to apply for DOJ discretionary grant funds for FY 2021 must be certified or have started the certification process at the time of grant application.

### Does the certification requirement apply to funds awarded prior to FY 2021?

No, the certification requirement does not apply to existing awards. The certification requirement will be applicable beginning with FY 2021 funds and going forward.

### Do these requirements apply to LEAs receiving subawards from a primary grant recipient under a DOJ discretionary grant program?

Yes, DOJ discretionary grant program recipients are required to apply these eligibility requirements to any subrecipient state, local, or university or college law enforcement agency. The EO does not apply to statutory-formula grant programs and therefore also does not apply to subawards made by statutory-formula grant recipients.

### Will the credentialing bodies charge a fee to certify pursuant to the EO and DOJ Standards?

Some credentialing bodies could charge a nominal fee to certify law enforcement agencies. LEAs can contact the DOJ-approved independent credentialing body or bodies in their state or a nationally recognized entity with questions and assistance.

### What if there is not a credentialing body in the state?

LEAs that do not have a DOJ-approved independent credentialing body in their state may use one of the following approved nationally recognized entities:

- The Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA)
- International Association of Campus Law Enforcement Administrators (IACLEA)
- International Association of Directors of Law Enforcement Standards and Training (IADLEST)

*continued on p. 6*

\* FY 2021 grant solicitations occur between October 1, 2020, and September 30, 2021.

## Frequently Asked Questions, *cont'd*

### **Can I use my CALEA or IACLEA accreditation in lieu of certification?**

Agencies that have current active accreditation from CALEA or IACLEA may request certification from the respective agencies, and certification may be issued using the existing accreditation as a basis provided the required safe policing principles are also taken into consideration.

### **Is there recourse if my application for certification is denied?**

Applying agencies denied certification by an independent credentialing body may make an appeal to the Deputy Attorney General for review and relief.

### **How often do I need to renew my certification?**

The certifications will be valid for a three-year period and will need to be renewed according to that schedule.