

Certification under the Executive Order on Safe Policing for Safe Communities:

The deadline to maintain eligibility for discretionary federal grant funding for law enforcement agencies is January 22, 2021

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In June of 2020 President Trump signed the Executive Order on Safe Policing for Safe Communities (“the Order”). Among other items, the Order conditions eligibility to receive DOJ discretionary grant funding on state or local law enforcement agencies having received or seeking certification from a credentialing agency of the following two (2) conditions:

- (1) The State or local law enforcement agency’s use-of-force policies adhere to all applicable Federal, State, and local laws; and
- (2) The State or local law enforcement agency’s use-of-force policies prohibit the use of chokeholds, except in those situations where the use of deadly force is allowed by law.

In late October and pursuant to its authority under Section 2 of the Order, the Department of Justice designated the Pennsylvania Chiefs of Police Association, Law Enforcement Accreditation Program (“PA Chiefs”) as the certified credentialing body for Pennsylvania. Certification begins by sending a confirmation letter to the PA Chiefs in which the agency represents that its policies meet the mandatory conditions above, as well any discretionary conditions set forth below. A form confirmation letter for this purpose is available on the PA Chiefs website.¹ Importantly, the PA Chiefs has cautioned that this form letter is the only format which it will accept.

Pursuant to the Standards for Certification on Safe Policing for Safe Communities issued by the Department of Justice, agencies must have obtained, or be in the process of obtaining, certification from the credentialing agency by January 31 of each year to be eligible for funding. However, the PA Chiefs has indicated that letters must be received by the earlier date of **January 22, 2021**. Certification remains valid for the later of (1) thirty-six (36) months from its most recent certification, or (2) the lifecycle of any discretionary grant awarded.

The Standards issued by the Department of Justice include a list of recommended policing principles which the independent credentialing agency “should—but is not required to—consider.” However, the PA Chiefs has indicated that a failure to meet any non-mandatory condition described above will not impact an agency’s eligibility for certification.

All municipalities which wish to maintain their police department’s eligibility for Department of Justice discretionary grant funding in 2021 should take heed of the approaching deadline and, upon reviewing the applicable use of force policies for compliance with United States Supreme Court precedent and Commonwealth and local law, have their department leaders send the certification letter to the PA Chiefs by the January 22, 2021 deadline. While it is possible that the incoming

¹ <https://www.pachiefs.org/doj-certification> (last checked January 7, 2021).

administration may make changes to the Executive Order, or revoke it entirely, given the relatively low burden involved in seeking certification, municipalities should take the steps needed to maintain eligibility in advance of the January 22, 2021 deadline. The attorneys at Campbell Durrant stand ready to guide public employers through this process and to review use of force policies for constitutional and statutory compliance.