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Letter to the NMSU Community June 19, 2020

NMSU Community Members,

Over the past 4 months, there have been increasing questions and concerns related to police departments across the United States. This has resulted in vigils, protests, and cries for justice, and it has even touched communities and police departments in our state. Even though the attention has been focused elsewhere, we are reaching out to you now to let you know our thoughts and positions on many of the concerns raised, and what you can expect from the New Mexico State University Police Department. This letter is long, but we want to provide you with the detail that these serious issues deserve.

One of the most commonly referenced lists of concerns is called "8 Can't Wait". These center primarily on "use of force" incidents, which are the times when a police officer exerts some level of physical force against a suspect (less than 5% of police encounters). This list is a good starting point for community discussion, and we have addressed each one of these points below. We agree in principle with these, and, in fact, the NMSU Police Department has been a leader in many of those areas.

In addition to the "8 Can't Wait", there are seven more areas where we think changes can be made to address the types of situations that have taken place. We offer them for your consideration, and hope you will help us push for positive changes in these areas. If you don't agree, we hope you engage in discussion with us so we can find common ground and help move our community, our state, and our country forward.

First, the details related to the "8 Can't Wait":

- **Chokeholds & Strangleholds:** We consider these to be a use of deadly force. The NMSU Police Department does not teach these methods, and has never included them in our practices.
- **De-escalation:** While some incidents take place in a fraction of a second and officers have to react immediately, most incidents provide sufficient time for officers to engage in dialogue and attempt to de-escalate. Our officers have demonstrated time and again that they understand the importance of de-escalation, and they do it well. They receive specific training in de-escalation techniques (both in the academy and after), and we will continue to provide ongoing training in this vital area.
- **Requiring warnings before shooting:** The US Supreme Court ruled on this way back in 1985. They said, "*if the suspect threatens the officer with a weapon or there is probable cause to believe that he has . . . threatened infliction of serious physical harm, deadly*

force may be used if necessary . . . and if, where feasible, some warning has been given.” We agree.

- **Requires exhaust all alternatives before shooting:** We agree on the concept. We suggest this goal be re-worded to something that better reflects both the underlying intent and the practicalities, such as, “*Officers should only shoot a firearm in a situation involving an imminent deadly threat, and where alternatives are not practical.*”
- **Duty to intervene:** If a police officer observes another officer violating the rights of someone, they should have a duty to intervene. We already expect our officers to do so, and we support this being codified in statute so that it is not just an expectation, but a requirement under the law. At the same time, there should be legal protections for officers who intervene to ensure there is no possibility of retaliation.
- **Ban shooting at moving vehicles:** We agree that it is not appropriate to shoot at a moving vehicle, as long as there is an allowance to address situations like a killer who is using a vehicle as a weapon (such as intentionally driving through a crowd).
- **Require a Use of Force Continuum:** The NMSU Police Department has been using a force continuum to train our police officers (and security officers) since the early 1990s. Based on this, our training requires that the officer should react to the threat posed by the person, with behaviors grouped in only four categories so it is quick and easy to recall under stress. The first category is people who are *cooperative* (which is over 95% of people we encounter), and no force is ever justified in these circumstances. And since the last category is a *deadly incident* where the person is placing other people’s lives in immediate danger, thus justifying lethal force, there are really only two categories for officers to remember. These are people who are *uncooperative*, and people who are *unarmed but threatening or attacking*. For uncooperative people, only low levels of force such as empty hands are appropriate. For people who are unarmed but threatening or attacking, higher levels of nonlethal force (like batons and TASERS) are appropriate. Our training also takes into consideration special circumstances. Just because the person's behavior fits a category, the level of force still might not be appropriate. For example, while a 5-year old may be kicking a teacher or police officer (an unarmed attack), use of a baton or TASER is absolutely not going to be reasonable.
- **Require Comprehensive Reporting:** Reporting promotes transparency regarding both police activity and misconduct. The NMSU Police Department is one of only a handful of agencies in New Mexico that has consistently and publicly reported our incidents since our agency was created in 1957. Although we support reporting, we urge legislators to enact privacy protections in any statutes related to this. For example: Public databases should not include personal information of people who have been contacted by an officer, but who have not been accused of, nor charged with, a crime. This ensures that people can’t call police on someone they don’t like just so they can later get access to that person’s private identifying information. If more than aggregate data is needed, it could be accessed by demonstrating to a judge that the public need outweighs the privacy rights of the individual.

The other issue related to comprehensive reporting is ensuring that police misconduct is not hidden. New Mexico has an administrative code that requires a police chief or sheriff to report serious misconduct to the NM Law Enforcement Academy Board, but not all states do. In addition, no penalties are currently levied if a chief or sheriff fails to do so. While the NMSU Police Department complies and does report misconduct to the NM Law Enforcement Academy Board, some agencies do not. This is an important area that should be addressed in state statute, and it should include clear penalties against a chief or sheriff who knowingly violates it.

There are areas beyond the “8 Can’t Wait” that we think should also be considered or addressed in order to improve policing across our country:

- **Community involvement in police officer hiring.** The NMSU Police Department has involved members of our community in the oral interview panels we use to hire officers for several decades. We do this because it is critical that officers meet community standards. We believe citizen participation in hiring should be a routine practice for all police departments.
- **Distinguish between police brutality and excessive force, and address them.** Often, these terms are used interchangeably, but it is important to understand the differences, as the approaches to preventing them are very different. Police brutality is when an officer uses force to torture or punish, often because of the officer’s personal beliefs. This is an act of evil intent, and a person who would do it should never be a police officer. These people need to be screened out during a thorough selection process, and flagged so other agencies can be forewarned.

On the other hand, excessive force is when some force was justified, but the officer used too much force, or continued the force for too long. In this case, the officer doesn’t have evil intent, but likely either didn’t have adequate training, or became emotionally involved in the incident. Here, better training can reduce this likelihood, and there are also policy solutions. One such policy is to have a non-involved officer assume custody of a suspect as soon as possible if any level of force has been used so the officer who used force can be separated and emotions can be calmed.

- **Require a college education for police officers.** There are many examples of great police officers who never took a single college course, and some who didn’t even finish high school. However, benefits of officers having a college education have been known for over 50 years, since the 1967 President’s Commission on Law Enforcement and the Administration of Justice. To date, the NMSU Police Department remains one of only a handful in the region to include a college education as one of the requirements to become a new police officer.
- **Mandatory use of body cameras by field officers.** The NMSU Police Department has been using video cameras in the field for well over a decade. While they don’t always capture everything (due to problems like poor angles or batteries that die), the latest

generation that we use have performed very well and have helped tremendously when investigating incidents. We support legislation that funds and requires body cameras.

- **Stop using police to take care of things that police don't need to be involved with.** At the top of the list is dealing with mental illness when no crime has been committed. Mental illness is tragic and a large number of people in our society, especially in our minority communities, do not have access to adequate mental health care. In addition, the mental health assistance that is available often cannot be accessed during the night or on weekends when most crises happen. Patients also might wait days, weeks, or months before they can be seen. Our community built a crisis center 7 years ago, but it sits vacant and unused. During those 7 years, people have been calling police for help when family members or friends are in crisis because they don't have a better alternative.
- **We need to find a way to attract people from all races, ethnicities, genders, sexual orientations, etc. to police work.** This discussion must include honest dialogue about how society can help young individuals avoid mistakes that might disqualify them from this service, such as engaging in hard drug use or gang violence. We also need to change the way police are sometimes portrayed that subconsciously discourages young people from considering a career in policing. For example, when a parent tells their child that they better do something or, "I will have that police officer arrest you!", it runs against the message that police officers are here to help, not hurt.
- **We need to engage in regular, ongoing dialogue with each other.** We likely agree on many things, which can make it easier to identify and address areas of dissent, but we have to communicate with each other. We should not wait for a crisis to develop before we start talking. At NMSU, we already encourage our officers to talk to people in the regular course of business just to see how they are doing and see if there are any concerns. Some officers are also involved with youth or campus organizations. Now, we all need to find ways to expand this dialogue in the days, weeks, and months ahead.

We look forward to continuing to move the policing profession forward in conjunction with our community to ensure that we are meeting the highest standards and ideals.

Sincerely,

The NMSU Police Department

Issued June 19, 2020 by:



Stephen Lopez,
Chief of Police