

#19 from 6/30/15 Set 5 Q&As doesn't appear on the list of Q&As dated 7/26 and most importantly why didn't we receive the statistical snapshot as promised.

Which & how many recommendations were accepted?	A statistical snapshot will be provided to the subcommittee.
---	--

Looking over the 7/26 edition of the answers:

19. The 2nd sentence of the answer from FCPD notes “FCPD’s UOF culture is indirectly addressed through its recruitment and training.” It remains unclear what the UOF culture is within FCPD. The fact that more hours are devoted to gun qualifications than required by outside standards, the continued use in a recruitment photo of an officer firing a gun, and the Chief’s recent statements that he waived or reduced some punishments for UOF incidents because supervisors weren’t held accountable, yet he has the power to hold them accountable, suggest a propensity toward accepting UOF. On p. 7 on the June 3 minutes, I found Officer Davila’s goal is to create a culture of safety which isn’t the same as what the UOF culture is within FCPD, but rather what’s being taught now at the Academy and includes voluntary or involuntary [presumably UOF] compliance. What are we to make of this part of the FCPD answer: “The Academy staff noted that only 4% of applicants make it to Academy.” Is FCPD arguing its Academy is more selective than the top US universities? This is more selective than America’s most selective college, Stanford University @ 5%, and the #3 USNA at 7.5% acceptance.

36. FCPD failed to answer: Why did FCPD allow its internal Use of Force Committee to become dormant circa 2012? Who and on what date decided to revive it? Why? When will it be revitalized?

37. What is the written Commonwealth or County directive? The first sentence is a clear demonstration of the ambiguity inherent in passive voice: “they have historically always been considered internal-use documents to support officer training and to identify gaps in FCPD practices that needed closure or action.” Who historically ruled they were internal use documents? Why can’t the UOF subcommittee view them? Officers talking to the internal UOF Committee are being given immunity without calling it that. Will the reconstituted internal UOF Committee continue giving such assurances? Why?

38. I read the FCPD answer to #12 as saying there’ll be no more Culosi-like arrests due to the new form. Yet, in January SWAT busted a gambling event. In the Post write up there was no mention of guns being found. One lesson learned is that the intel on which FCPD relied was flawed. Our subcommittee deserves to know how the FCPD has dealt with that. One gambler was quoted as saying a detective with a clipboard could have arrested them; the same could be said of Dr. Culosi in his sock feet. Given the uses of SWAT it appears FCPD is trying to justify the high cost of its continued existence by flashy raids; I’ve drafted a recommendation on this in view of next year’s \$100M county budget shortfall. Arresting gamblers could turn out just as bad as the NYPD cops who killed the untaxed cigarette seller in NYC with a choke hold. The adjacent & comparable Montgomery Co. has a better record on UOF than FCPD when it comes to shootings/officer and fatal shootings/officer. On 7/8, I took up Lt. Col. Ryan’s offer in

answering #44 & emailed my question to Maj Moyer who didn't answer me: "Which cases (not just Dr. Culosi's) prompted SWAT to create the Threat Assessment form and how would each case have scored had the form existed at the time of each case? If four cases prompted creation of the Threat Assessment form I'm asking that FCPD provide the UOF subcommittee with four Threat Assessment forms filled out with the same facts that were known when SWAT deployed to the scene."

42. After reading the FCPD answer which talks to "deadly force," one can conclude FCPD hasn't provided details of each case for which the threat assessment resulted in SWAT being deployed and what, if any, UOF SWAT employed in each case. My original question was always broadly about UOF and not limited to deadly force.

43. Shouldn't this answer provide the Threat Assessment Forms requested so we can judge whether it's the same officers and supervisors?

45. Given the answer, we should recommend that FCPD formally define advanced tactics

47. The answer is very illuminating. It shows that advanced tactics were used in only 0.1% of cases in 2013 & 2014; most of which were narcotics related.

50. One can see that a barricade can happen anywhere ("open field, or other location"). That is a recipe for calling out SWAT and UOF and situations that won't end well for citizens. I addressed the problems with the new GO 520.3 in my latest recommendations. Chief Roessler rushed into effect General Order 520.3 for HOSTAGE / BARRICADED PERSON dated July 1, 2015, without consulting the UOF subcommittee and despite concerns that subcommittee had voiced about the previous barricade policy. One might conclude the Chief did so to create the impression he is addressing a Recommendation #62 in PERF's June 2015 *Use-of-Force Policy and Practice Review of the Fairfax County Police Department*, i.e., "Policy on hostage/barricaded person situations also should be expanded to include definitions of legal authority, the command post, immediate action team, staging area, and other key terms. Given the critical role played by the first on scene supervisor at hostage/barricades person incidents, a new section on this supervisor's responsibilities should be added to the policy."

1. However, GO 520.3 failed to address the responsibilities of the first on-scene supervisor at hostage/barricades person incidents.
2. It also defines barricade so broadly that anywhere in our County constitutes a barricade, e.g., "open field, or other location," which could well violate 4th Amendment rights. GO 520.3 glaring fails to address citizens who barricade themselves when faced with an active shooter.
3. The Dept. of Homeland Security collaborated with FCPD on Active Shooter How to Respond that states that when faced with an active shooter people should evacuate (p. 3) but if they can't per p. 9 they should "Lock and barricade doors." How the arriving FCPD will deal with those citizens who've followed protocol and barricaded themselves is a disaster waiting to happen. How will the FCPD differentiate between barricaded citizens and a barricaded active shooter?

52. The answer includes this: “The dictionary definition does not, in this instance, define what a “barricade” is. A barricade in law enforcement is not simply a “thing,” such as a barrier, fortification, or blockage, but a “situation.” This situation is one in which the person is using a shelter, conveyance, structure, building, open field, etc, as a barrier to law enforcement and refuses to exit and submit to lawful authority when instructed to do so. A screen door is a barricade if the person is standing behind it and refuses to exit and submit to lawful authority.”

So, a “situation” is when one uses a “thing.” Who comes up such answers? When asked at an early UOF meeting, FCPD SWAT told us that John Geer’s case didn’t qualify as a barricade. However, this FCPD answer seems to be that the Geer’s closed screen door would constitute a barrier. How is the definition not a violation of the 4th Amendment? This is a clear example of why a citizen committee should review General Orders before they are issued. At the very least the chief should have asked the UOF subcommittee to review it especially in light of our questions. We don’t know why the Chief broadened the SWAT definition of barricade in GO 520.3 to include open field or anywhere. Sect. IV of GO 520.3 contradicts the part of the FCPD answer at the bottom of p. 19 about an individual in the open: “In the event of a single person barricade, and based on the priority of life, entry into the shelter, conveyance, structure, building, open field, or other location should be avoided.”

56. I raised this question on 6/26 & consider it unanswered. UOF cases rose faster than the rate of arrests and FCPD has no explanation. FCPD asserts “there is a definite correlation between use of force and arrest” which means if arrests went up 7.5% then UOF should have gone up 7.5% but it went up 8.5% meaning more reliance on UOF.

How is this part of the answer by FCPD germane to my question: “For statistical purposes, the Department looked at the difference in the number of Group A offenses reported in 2010 v 2013. There were fourteen categories and there was an increase in seven* [sic] categories (with an overall decrease in crime).”

*on the next page of the answer from FCPD as written on 6/30/15 it showed eight categories; I converted the bullets to numbers for ease of confirmation. Those eight categories have been deleted.

57. Based upon a footnote, when will the Internal Affairs Bureau Annual Statistics report for 2014 be completed given that this year is half over?

75. This answer from FCPD contradicts Chief Roessler’s July 1 assertion to us of a shortage of Tasers within FCPD. Lt. Col. Ryan contradicted him prior to that meeting and on July 1 (see minutes) by basically giving the answer shown here that 33 Tasers/station is adequate. What are we to make of the veracity of the Chief’s statements on this or any topic? The best one might conclude is that he makes things up answers and didn’t care enough about our questions to read them and the answers from his staff.