

Preliminary Observations and Recommendations
Following Data Collection and Review Activity
Use of Force Subcommittee
Ad Hoc Police Practices Review Commission
June 15, 2015

ADRIAN STEELE

1. Use of Force Committee –

The existing FCPD Use of Force Committee should be reconstituted to incorporate not only a review of administrative and tactical issues in each UOF event, but also a review of the substantive decision to employ UOF, the use of de-escalation and alternatives, and compliance with applicable law and FCPD policies and practices. The Committee should receive and consider after action reports (AARs) on each UOF event, identify lessons learned, and make recommendations to the Chief of Police as to any needed changes in policy or practice.

When the subcommittee removed consideration of the establishment of a Serious Incident Review Board (as recommended by the White House Task Force in Action Item 2.2.6) from the draft scope of work at its May 6 meeting, it was understood that the existing FCPD Use of Force Committee addressed not only administrative and tactical issues but also substantive issues such as the decision to employ UOF and de-escalation and alternatives that were applied as well as supervisory, training, or policy issues that needed attention. We have now been advised that the existing Committee does not consider such additional issues. I perceive that there is a fairly strong view in the subcommittee that those substantive issues should be considered by an internal FCPD board. In addition, the Cleveland settlement agreement provides for the establishment of an internal police department Force Review Board. I have attached the relevant paragraphs (paragraphs 124 -130) from the agreement since they set forth the composition, responsibilities, and activities of the FRB. The language concerning AARs is taken from Michael Shumaker's suggestions. The format for the AARs would need to be determined by the Use of Force Committee and/or other FCPD personnel.

2. SWAT –

FCPD policies and protocols for the use and documentation of SWAT and other advanced tactics (including threat assessment, supervisory approval, training and post-use review and lessons learned) should be consolidated and clarified. Existing policies and protocols for threat assessment and deployment of SWAT are set forth in various FCPD General Orders and procedure memos. SWAT and other advanced tactics should only be used in situations where there is a high risk of violence, resistance, or injury or harm to the officers involved, the public and/or the subject as reflected in a defined set of "high risk" factors.

According to the presentation by Commander Moyer at the subcommittee's May 20 meeting, the FCPD currently uses a three step process together with a threat assessment in determining whether to employ SWAT. There is no decision-making flow chart, but the FCPD uses a non-public six page Risk Assessment and Mitigation Form. (The subcommittee was provided with a one page form for public

dissemination.) Commander Moyer indicated that the FCPD is considering pulling all of the pertinent policies and guidance on the use of SWAT together into one general order. A draft general order for the use of the Warrant Risk Assessment Matrix and the Tactical Analysis Worksheet has been prepared and provided to the subcommittee, but the draft general order does not collect all SWAT policies and protocols. While the policy of the FCPD appears to now be to use SWAT only in “high risk” situations, it is not certain that there is a definitive formally-approved list the factors to be used in making the determination that a situation presents “high risk” nor does there appear to be guidance as to how to balance the various factors to make the required “high risk” determination. The recent use of SWAT in Great Falls in connection with a gambling situation involving a high stakes poker game in what would appear to be a low risk situation in terms of possible violence or resistance raises a question as to whether the stated policy of using SWAT only in “high risk” situations is fully understood.

3. Body and Dashboard Cameras –

FCPD officers who interact with the public should employ body and dashboard cameras to record all such interactions. Issues relating to the required operation of the cameras, the retention of and access to the video, privacy interest, and administrative burdens should be addressed in connection with the use of such cameras.

This recommendation (which was orally confirmed by FCPD personnel at the April 27 Commission meeting) will require decisions as to when the cameras are required to be in operation, the retention of the video, the public release of and public access to the video, how best to respect individual privacy interests, and the administrative burdens associated with the use of such cameras. Bernard Thompson will address those issues when he makes his report on this issue.

4. Tasers (ECWs) –

All FCPD officers in uniformed enforcement units should be required to carry electronic control weapons (ECWs) on their duty belt (or elsewhere on their person if necessary) when on patrol. Supervisory approval should be required for ECW use in excess of three cycles on a subject absent exigent circumstances. Consideration should be given to classifying ECWs as less-lethal weapons rather than non-deadly weapons as recommended by the 2011 Electronic Control Weapons Guidelines.

This recommendation is based on the fact that ECWs provide a critical tool for use in avoiding escalation of a situation as confirmed by the FCPD training officers in their presentation and the fact that the FCPD has a sufficient number of ECWs to allow patrol officers to have a ECW when on patrol. The Philadelphia DOJ report makes a similar recommendation on required carry as well as on the number of multiple uses (although the limit is mandatory)(Recommendations 8.3 and 9.1). The Cleveland settlement agreement has similar language as well concerning multiple use (Paragraph 62). Current FCPD SOP 06-025 provides in Section IV.D.1 that only one ECW should be used against a subject, but that subsequent cycles may be used to achieve the desired result if reasonably necessary. The 2011 ECW Guidelines recommendation on the classification of ECWs is at page 11 of the Guidelines.

5. Officer Fitness for Duty –

The FCPD should fully implement the Early Identification System (EIS) it has adopted to objectively detect and monitor problematic patterns of officer misconduct, assist officers who may need

attention or treatment, identify officer training needs, and limit or restrict officers' use of weapons when there are concerns as to an officer's fitness for full unrestricted duty.

The 2013 Internal Audit Office report on IAB recommended that the EIS be fully implemented. The Ferguson DOJ report included a recommendation that an "early intervention system" be adopted (Recommendation 10.b). In addition, concerns have been raised that the officer who shot and killed John Geer had a history of anger management issues (including on the day of the shooting) that may have warranted his not being present at a high risk situation such as occurred.

6. Medical Treatment –

The policy set forth in Section II of FCPD General Order 540.1 (Use of Force) that "[i]n all situations, medical assistance shall be provided to any person who is obviously injured, alleges an injury, or requests medical assistance" should be strictly adhered to by the FCPD, and the General Order should be amended to incorporate a section detailing and implementing the policy.

In the John Geer shooting, questions were raised as to the reasons why medical assistance was not provided to Mr. Geer until nearly an hour after he had been shot. The UOF General Order sets forth a policy requiring such assistance but does not detail how the policy should be applied or provide guidance and instruction to FCPD officers as to the provision of medical assistance.

7. Training –

FCPD officer training should emphasize (i) the proper use of "ready gun"; (ii) the required use of de-escalation and alternatives to UOF (including ECW), particularly when dealing with vulnerable individuals; and (iii) the required use of CIT. This training should be both a part of basic officer training and part of continuing in-service training (including re-certification). Scenario and reality-based training should be used to provide officers with opportunities to exercise judgment in UOF and other critical response situations. In addition to evaluation that occurs during recruitment, candidate fitness for service as a police officer should be monitored and evaluated during basic officer training.

While the three areas mentioned are included in FCPD officer training to an extent (and perhaps adequately for the basic training program), the need for continuing in-service training and re-certification is critical as has been recognized in the DOJ. *See, e.g.,* Philadelphia DOJ report (Recommendations 22-30). There seemed to be a sense among the subcommittee that there should be an emphasis on scenario/reality-based training and that candidate fitness should be monitored and evaluated during the basic training process on more than an anecdotal basis.

I considered several others proposals that have been made. For instance, I recognize that Sal Culosi has concerns about the current "ready gun" and "center of mass" policies and practices used by the FCPD and that he would like the FCPD to follow Uniform Control Mode. He has several other suggestions for weapons policy and practice modifications. I do not feel that I have a sufficient basis at this point on which to judge his proposals and suggestions (although it does seem on initial review that the responses provided to Mr. Culosi's questions by the FCPD would indicate that the current policies may well be appropriate). I do not see a basis for asking the DOJ to review the FCPD's use of force policies and practices.

MICHAEL SCHUMAKER

Recommendation	Rationale
<p>1. The Board of Supervisors should request a DOJ review of UOF by FCPD from 2006-2015.</p>	<p>DOJ has expertise and can baseline FCPD against its reviews of police in Ferguson, Cleveland, Albuquerque, etc. The UOF subcommittee doesn't have time to do a thorough review of UOF (DOJ's review of Cleveland took 18 months) and compare to other jurisdictions due to the deadline imposed upon it.</p>
<p>2. The Chief of Police shall publish a clear and consistent definition of what constitutes a "barricade" situation after obtaining public input.</p>	<p>The SWAT definition of "barricade" is at variance with that in the draft General Order subject: Hostage/Barricaded Person the UOF subcommittee received from FCPD on 6/3/15.</p> <p>As defined by SWAT: BARRICADE "A person who uses any shelter, conveyance, structure, or building as a barrier against law enforcement and refuses to exit and submit to lawful authority. A person who is known or believed to be armed and in a position of hiding and refuses to submit to lawful authority." Where is this definition of barricade written down in FCPD policy? Does standing behind a closed screen door inside one's home constitute a "barrier" under the definition of "barricade"? How is "lawful authority" defined for a barricade and where? (My search of Fairfax Co. website found no definition) First sentence is mute on weapon. So, if one doesn't open the door to someone who claims to be FCPD, but is unknown, does that constitute a barricade candidate? 2nd sentence mentions being armed. How does being armed make a difference? What constitutes being armed in the barricade definition? Does a knife constitute being armed? If so, then any person who refuses to exit their home or allow FCPD entry could be considered potentially armed, i.e., knives in kitchen and therefore justify SWAT.</p> <p>Why does the SWAT definition of barricade differ from the one in the draft General Order subject: Hostage/Barricaded Person? "Any person who uses any shelter, conveyance, structure, building, open field or other location [emphasis added] as a barrier against law enforcement and refuses to exit and submit to lawful authority." How can an open field or other location constitute a barrier? How does one exit an open field? Per this definition, does anywhere one refuses to exit and submit to lawful authority constitute a barrier situation? This draft General Order has conflated the definition of "barricade" and "stronghold" in SWAT Team SOP Hostage/Barricade Response.</p>
<p>3. The Chief of Police shall revise weapons</p>	<p>FCPD firearms range training exceeds other jurisdictions</p>

<p>qualifications to incorporate sanctity of life and train FCPD officer to be able to wound a suspect</p>	<p>and results in only one outcome: “one shot – one kill.” The “Priorities of Life” in sect. IV of SWAT Team SOP Hostage/Barricade Response dated 2/11/15, ranks the life of the “Subjects/Suspects” last. That seems contrary to sanctity of life on p. 19 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>
<p>4. The Chief of Police shall update General Order 540.1 to provide clearer wording (e.g., definitions, deadly force against humans (when it’s appropriate, why, how to use, etc.); less-lethal force (when it’s appropriate, why, how to use, etc.); non-deadly force (when it’s appropriate, why, how to use, etc.), when each type of UOF is allowed, why, etc. The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.</p>	<p>By creating an improved UOF policy we could then compare against historic cases in Fairfax and elsewhere to see how the revised UOF might play out. See p. 2 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>
<p>5. The Board of Supervisors should review the chief’s determination in all UOF cases</p>	<p>The BOS could override his determination. It appears the chief reports only to the County Executive and the previous one left the Geer case for the current County Executive. The BOS are our elected representatives and provide for public oversight of the FCPD; the County Executive and chief are not directly accountable to the taxpayers.</p>
<p>6. The Chief of Police shall require all armed officers to complete an annual Judgmental Use of Force course that emphasizes: judgmental education, training, and practice.</p>	<p>A lot of talk about muzzle control & trigger finger positioning in FCPD documents but no mention of judgmental education, training, and practice. See p. 19 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>
<p>7. The Fairfax Co. Board of Supervisors should require the use of external and independent investigations and prosecutions of officer-involved shootings and other use of force situations and in-custody deaths Investigations shall be via outside agency (DOJ, FBI, multi-agency, etc.) with visibility by members of a citizen board of review.</p>	<p>This will limit the possibility of self-protectionism on the part of the police and ensure transparency to the public / press. See 2.2.2 Action Item on p. 21 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>
<p>8. The Chief of Police shall ensure FCPD policies for training on use of force emphasize de-escalation and alternatives to arrest or summons in situations where appropriate. The Chief</p>	<p>See 2.2.1 Action Item on p. 20 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>

<p>of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.</p>	
<p>9. The Chief of Police shall ensure FCPD has comprehensive policies on use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.</p>	<p>See 2.2 Recommendation on p. 21-22 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>
<p>10. The Chief of Police shall establish policies on use of force that require it to collect, maintain, and report data to the Federal Government (Bureau of Justice Statistics (BJS) and to the U.S. Department of Justice through the FBI’s Uniform Crime Reporting System or an expansion of collections managed by the BJS) on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.</p>	<p>See 2.2.4 Action Item on p. 20 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>
<p>11. The Chief of Police shall establish policies on use of force that clearly state what types of information will be released, when, and in what situation, to maintain transparency. The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.</p>	<p>See 2.2.5 Action Item on p. 20 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>
<p>12. Each FOIA exemption sought by FCPD shall require 2/3 endorsement by the entire Board of Supervisors.</p>	<p>See 2.2.5 Action Item on p. 20 of President’s Task Force on 21st Century Policing. 2015. <i>Final Report of the President’s Task Force on 21st Century Policing.</i></p>
<p>13. The Chief of Police shall establish policies requiring all officers previously involved in UOF to wear body-worn cameras (BWC) while on duty and likewise for all officers with less than five years of service in FCPD.</p>	<p>“The Effect of Police Body-Worn Cameras on Use of Force and Citizens’ Complaints Against the Police: A Randomized Controlled Trial,” <i>Journal of Quantitative Criminology</i> 2014 found that the officers wearing the cameras had 87.5 percent fewer incidents of use of force and 59 percent fewer complaints than the officers not wearing the cameras. One of the important findings of the study was the impact BWCs might have on the self-awareness of officers and citizens alike. When police officers are acutely aware that their behavior is being monitored (because they turn on the cameras) and when officers tell citizens that the cameras are recording their behavior, everyone behaves better. The results of this study strongly suggest that this increase in self-awareness contributes to more positive outcomes in police-citizen interaction. See p. 32</p>

	of President's Task Force on 21st Century Policing. 2015. <i>Final Report of the President's Task Force on 21st Century Policing.</i>
14. The Chief of Police shall review and consider the Bureau of Justice Assistance's (BJA) Body Worn Camera Toolkit to assist in implementing BWCs.	See 3.3.3 Action Item on p. 36 of President's Task Force on 21st Century Policing. 2015. <i>Final Report of the President's Task Force on 21st Century Policing.</i>
15. The Chief of Police shall ensure that basic recruit training includes tactical and operations training on lethal and nonlethal use of force with an emphasis on de-escalation and tactical retreat skills.	See 5.7 Recommendation on p. 57 of President's Task Force on 21st Century Policing. 2015. <i>Final Report of the President's Task Force on 21st Century Policing.</i>
16. The Chief of Police shall collaborate with the BJS and FBI to establish a central repository for data concerning police use of force resulting in death, as well as in-custody deaths, and disseminate this data for use by both community and police	See 7.3 Recommendation on p. 69 of President's Task Force on 21st Century Policing. 2015. <i>Final Report of the President's Task Force on 21st Century Policing.</i>
17. The Chief of Police shall coordinate with the Auditor of the Board for annual audits of use of force. The Auditor of the Board shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.	App. B, par. 6 of the Fairfax Co. Internal Audit Office's <u>Police Department Administrative Investigation Process Audit</u> , Final Report, April 2013.
18. The Chief of Police shall coordinate with the Auditor of the Board for annual audits of IAB. The Auditor of the Board shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.	App. B, par. 7 of the Fairfax Co. Internal Audit Office's <u>Police Department Administrative Investigation Process Audit</u> , Final Report, April 2013.
19. FCPD IAB shall annually classify use of force complaints and investigations by accused officer and supervisor(s) and review for trends. The IAB shall report to the Board of Supervisors by 12/31 that its annual classification of use of force complaints and investigations by accused officer and supervisor(s) and review for trends has been accomplished.	Per App. B, par. 11 of the Fairfax Co. Internal Audit Office's <u>Police Department Administrative Investigation Process Audit</u> , Final Report, April 2013, "FCPD and 22% of the jurisdictions did not review for trends while 65% of the jurisdictions answering the survey questionnaire reviewed complaints by officer and supervisor for trends."
20. The Chief of Police shall report by September 30 annually to the Board of Supervisors how FCPD's special investigative team used for deadly force cases is composed and works and its	Per App. B, par. 15b of the Fairfax Co. Internal Audit Office's <u>Police Department Administrative Investigation Process Audit</u> , Final Report, April 2013: "FCPD's special investigative team used for deadly force cases included the Internal Affairs Bureau, Criminal Investigations Bureau,

findings and recommendations.	Crime Scene Section, Peer Support Services and the Police Department psychologist.” This seems inconsistent with “CIB & IAB Conduct Joint Investigation” shown in Fairfax County Police Administrative Investigation Process and General Order 540.1 IV.B.4, IV.B.7, etc. Additionally, General Order 540.1 makes no reference to Crime Scene Section, Peer Support Services and the Police Department psychologist being part of FCPD’s special investigative team used for deadly force cases.
21. The Chief of Police shall immediately make available to the public criminal and administrative investigations of use of force incidents.	Per App. B, par. 15c of the Fairfax Co. Internal Audit Office’s Police Department Administrative Investigation Process Audit , Final Report, April 2013: “The FCPD and 61% of the jurisdictions’ criminal and administrative investigations were not available to the public, while 39% of reporting jurisdictions’ criminal and administrative investigations were available to the public. Further, one jurisdiction reported to the public if at least one day of discipline was issued. In addition, one jurisdiction reported to the public if a case involved death. Lastly, one jurisdiction made the chief of police’s closing letters to accused personnel and complainants available to public.”
22. The Chief of Police shall require drug and steroid testing within 12 hours when police officers are involved in incidents that result in death or serious injury.	Per App. B, par. 18 of the Fairfax Co. Internal Audit Office’s Police Department Administrative Investigation Process Audit , Final Report, April 2013: “FCPD and 68% of jurisdictions did not require drug testing in such incidents absent cause or suspicion.”
23. The Chief of Police shall fully implement Early Identification System (EIS) by (a date chosen by UOF subcommittee) .	p. 6 of the Fairfax Co. Internal Audit Office’s Police Department Administrative Investigation Process Audit , Final Report, April 2013.
24. The Chief of Police shall report annually to the Board of Supervisors the status of implementing the EIS and any enhancements it requires.	p. 6 of the Fairfax Co. Internal Audit Office’s Police Department Administrative Investigation Process Audit , Final Report, April 2013.
25. The Chief of Police shall report to the Board of Supervisors whether IAB compiled monthly EIS reports, when they were completed, submitted, and reviewed, who in FCPD reviewed them, and appropriate intervention measures taken by whom. After the initial status report, FCPD shall report quarterly to the Board of Supervisors and the public on the results of EIS reports.	pp. 2, 6, and 7 of the Fairfax Co. Internal Audit Office’s Police Department Administrative Investigation Process Audit , Final Report, April 2013.
26. The Chief of Police shall amend all General Orders, Standard Operating Procedures, and Memos that employ a word order similar to “the department	FCPD exists first and foremost to protect the residents of Fairfax Co. rather than itself. Ranking the public #2 in priority may devalue the lives of citizens who could be subject to use of force. “[T]he department and the public”

and the public” or “officer and the public” to place the “public” or equivalent first in priority. The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.	appear on p. 6 of the Fairfax Co. Internal Audit Office’s <u>Police Department Administrative Investigation Process Audit</u> , Final Report, April 2013. “[O]fficer and the public” appears in par. IV on p. 3 of General Order 540.1.
27. The Chief of Police shall publicly answer all recommendations by the UOF subcommittee not later than October 16, 2015, and ensure all media outlets covering Fairfax Co. receive the questions and FCPD answers.	Accountability so that the public can weigh in before the 2015 election for the Board of Supervisors.
28. The Chief of Police shall issue require that all Tasers at each station that can be issued per shift are issued to patrol officers.	On June 3, 2015, a FCPD representative answered a UOF subcommittee question by saying there is no requirement to issue even one Taser per shift.
29. Because Tasers are worn on the support side, the Chief of Police should consider training officers to draw and employ the Taser with their non-dominant hand.	This will help prevent an accidental fatal shooting such as the one perpetrated against an unarmed black man by a Reserve Sheriff’s Deputy in Tulsa, OK, in April 2015, who thought he’d drawn his Taser when he in fact drew his service weapon.
30. The Chief of Police shall explain to the Board of Supervisors his rationale for providing SWAT with two times the number of Tasers.	When SWAT has been called it is because the situation is deemed to require very capable high end deadly use of force, hence a large inventory of Tasers seems like a misallocation of resources. SWAT representatives told the UOF subcommittee that SWAT has ~41 calls/year. That means its Tasers go unused when they could be issued to patrol officers who are involved in the vast majority of UOF situations.
31. In all cases of UOF, IAD shall develop a systematic review check sheet to ensure it determines whether and how the officer tried to negotiate, persuade, and warn before employing UOF. The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.	On June 3, 2015, a FCPD representative answered a UOF subcommittee question on de-escalation procedures by saying officers use in order: negotiation, persuade, and warning and that time is not a factor because there is no need to rush. Mr. Davila told us that for UOF incidents IAD looked at them in totality where the UOF template (what is that?) acts as checklist.
32. The Chief of Police shall require officers to attend annual re-training on judgment and decision-making. The Chief of Police shall report to the Board of Supervisors annually that this has been accomplished.	Mr. Davila told us weapons qualifications include some additional scenario-based training, but are not required to focus on an officer’s judgment or decision making.
33. The UOF subcommittee should define when SWAT can be used. The Chief of Police shall adopt the subcommittee’s recommendation.	Use of SWAT for ~35 search warrants/year out of ~41-43 SWAT calls/year is an insufficient reason for the taxpayers to bear the cost of 27 SWAT-related officers: 12 full time SWAT officers <i>plus</i> a supplemental team of 15 equally

	<p>trained officers to backup SWAT. SWAT has never been called for an active shooter. Cmdr. Moyer provided the preceding data at the May 20, 2015, UOF subcommittee meeting. SWAT may be used for VIPs but they have their own security detail, e.g., the President has Secret Service protection.</p>
<p>34. The Chief of Police shall immediately provide the Board of Supervisors with information on use of SWAT.</p>	<p>When asked "Is SWAT use information provided to the Board of Supervisors?" the minutes of the May 20, 2015, UOF subcommittee meeting state that Cmdr. Moyer's answer was unclear.</p>
<p>35. The Chief of Police shall amend General Order 540.1 to include (1) a clearly state a "sanctity of life" philosophy and (2) the "objective reasonableness" standard and its definition (a non-exhaustive list of factors for balancing an individual's rights vs. an officer's: 1) "the severity of the crime at issue"; 2) "whether the suspect poses an immediate threat to the safety of the officers or others"; and 3) "whether he is actively resisting arrest or attempting to evade arrest by flight.") per the Supreme Court, and add these elements to the definition: Whether the circumstances are tense, uncertain and rapidly evolving; and the foreseeable risk of injury to involved subjects and others.</p> <p>The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.</p>	<p>The Supreme Court decided in the 1989 case <i>Graham v. Connor</i> that an "objective reasonableness" standard should apply to claims of excessive use of force by police officers. The Court defined "objective reasonableness in <i>Graham</i>. The additional elements come from p. 2 of the US Customs and Border Protection "Use of Force Policy, Guidelines and Procedures Handbook," May 2014. "Objective Reasonableness Standard" appears on p. 26 of 27. Otherwise, only reasonable is used. See p. 19 of President's Task Force on 21st Century Policing. 2015. <i>Final Report of the President's Task Force on 21st Century Policing</i>.</p>
<p>36. The Chief of Police shall explain to the Board of Supervisors by October 16, 2015, how body worn cameras (BWCs) (1) would have deterred any of its UOF incidents since 2006 and (2) how BWCs will deter future UOF incidents. FCPD should require BWCs be turned on at all times. Failure to turn on a BWC should have adverse consequences for the negligent officer.</p>	<p>If BWCs wouldn't have deterred most UOF incidents then cost-benefit analysis suggests they aren't worth the expense. If BWCs won't deter future UOF incidents then how are they worth the expense?</p>
<p>37. The Chief of Police shall ensure that FCPD complies with the letter and spirit of laws that apply to the public. The FCPD cannot view itself as above the law when it comes to UOF nor can it risk being perceived as holding such views.</p>	<p>Pillar One of <i>Final Report of the President's Task Force on 21st Century Policing</i>. May 2015.</p>

<p>38. The Chief of Police shall ensure that FCPD culture embraces a guardian—rather than a warrior—mindset to build trust and legitimacy both within itself and with the public. Toward that end, FCPD shall adopt procedural justice¹ as the guiding principle for internal and external policies and practices to guide their interactions with rank and file officers and with the citizens they serve. FCPD shall also establish a culture of transparency and accountability to build public trust and legitimacy. The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.</p>	<p>Pillar One of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>39. The Chief of Police shall acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.</p>	<p>1.2 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>40. The Chief of Police shall establish a culture of transparency and accountability in FCPD in order to build public trust and legitimacy. The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.</p>	<p>1.3 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>41. To embrace a culture of transparency, the Chief of Police shall make all FCPD policies available for public review and regularly post on FCPD’s website information about stops, summonses, arrests, reported crime, UOF, and other law enforcement data aggregated by demographics.</p>	<p>1.3.1 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>42. When serious incidents occur, including those involving alleged police misconduct, the Chief of Police shall communicate with citizens and the media swiftly, openly, and neutrally,</p>	<p>1.3.2 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>

¹ Internal procedural justice refers to practices within an agency and the relationships officers have with their colleagues and leaders. Research on internal procedural justice tells us that officers who feel respected by their supervisors and peers are more likely to accept departmental policies, understand decisions, and comply with them voluntarily. External procedural justice focuses on the ways officers and other legal authorities interact with the public and how the characteristics of those interactions shape the public’s trust of the police. It is important to understand that a key component of external procedural justice—the practice of fair and impartial policing—is built on understanding and acknowledging human biases, both explicit and implicit.

respecting areas where the law requires confidentiality.	
43. The Chief of Police shall promote legitimacy internally within the FCPD by applying the principles of procedural justice.	1.4 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i> . May 2015.
44. In order to achieve internal legitimacy, the Chief of Police shall involve employees in the process of developing policies and procedures.	1.4.1 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i> . May 2015.
45. The Chief of Police shall examine opportunities to incorporate procedural justice into the internal discipline process, placing additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process.	1.4.2 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i> . May 2015.
46. The Chief of Police shall proactively promote public trust by initiating positive non-enforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies.	1.5 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i> . May 2015.
47. In order to achieve external legitimacy, the Chief of Police shall involve the community in the process of developing and evaluating FCPD policies and procedures, including SWAT and use of force. The Chief of Police shall report on this annually to the Board of Supervisors.	1.5.1 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i> . May 2015.
48. To foster a greater sense of community, the Board of Supervisors should mandate that all FCPD officers and supervisors reside in our County.	1.5.2 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i> . May 2015.
49. The Chief of Police shall create opportunities in schools and communities for positive non-enforcement interactions with police. FCPD shall also publicize the beneficial outcomes and images of positive, trust-building partnerships and initiatives.	1.5.3 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i> . May 2015.
50. Use of physical control equipment and techniques against vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited	1.5.4 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i> . May 2015.

<p>English proficiency, and others—can undermine public trust and should be used as a last resort. The Chief of Police shall carefully consider and review FCPD policies towards these populations and adopt policies if none are in place. The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.</p>	
<p>51. The Chief of Police shall consider the potential damage to public trust when implementing crime fighting strategies.</p>	<p>1.6 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>52. The Chief of Police shall ensure any research conducted to evaluate the effectiveness of crime fighting strategies specifically looks at the potential for collateral damage of any given strategy on community trust and legitimacy.</p>	<p>1.6.1 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>53. The Chief of Police shall track the level of trust in the FCPD by our community just as the FCPD measure changes in crime. Annual community surveys, ideally standardized across jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.</p>	<p>1.7 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>54. The Chief of Police shall create a diverse workforce to improve understanding and effectiveness in dealing with all communities in Fairfax Co.</p>	<p>1.8 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>55. The Chief of Police shall ensure that policies for deadly and non-deadly uses of force clearly state a “sanctity of life” philosophy that is in the forefront of the mind of every FCPD officer.</p>	<p>Pillar Two of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>56. The Chief of Police shall issue clear and comprehensive policies and continual training on the use of force (including training on the importance of de-escalation), mass demonstrations (including the appropriate use of equipment, particularly rifles and armored personnel carriers), consent before searches, gender identification, racial profiling, and performance measures— among others such as</p>	<p>Pillar Two of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>

<p>external and independent investigations and prosecutions of officer-involved shootings and other use of force situations and in-custody deaths.</p>	
<p>57. For all General Orders (GOs), SOPs, and memoranda, the Chief of Police shall:</p> <ol style="list-style-type: none"> (1) seek public comment on them, especially where they touch upon use of force, (2) create a process for gathering lessons learned from within the FCPD and the public on implementation of them, and (3) schedule annual reviews of them considering new technology, research, and lessons learned here and nationwide. (4) GO 540.1 should incorporate an unambiguous “sanctity of life” philosophy. (5) GO 540.1 should replace “reasonable” with “objectively reasonable” throughout. (6) GO 540.1 should modify the definition of reasonable to include: a particular use of force is based on the totality of circumstances known by the officer at the time of the use of force and weighs the actions of the officer against the rights of the subject, as well as the safety of ALL involved or in jeopardy of actions taken in light of the circumstances surrounding the event. Reasonableness will be judged from the perspective of a reasonable officer/agent on the scene, rather than with the 20/20 vision of hindsight. - (7) GO 540.1 should incorporate the text regarding “Objectively Reasonable and the Totality of Circumstances” in I.B.1-3 (p. 2) in <i>the Use of Force Policy, Guidelines and Procedures Handbook, Office of Training Development, HB 4500-01C</i> of the U.S. Customs and Border Protection. 	<p>Pillar Two of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>
<p>58. The Chief of Police shall make relevant statistics readily available in print and online by district/office, by types of administrative investigations by</p>	<p>Pillar Two of <i>Final Report of the President’s Task Force on 21st Century Policing. May 2015.</i></p>

<p>violation, by violation type, etc. To the maximum extent possible, such reports should be written clearly and in layman's terms easily understood by officers of the FCPD and the taxpayers.</p>	
<p>59. The Fairfax Co. Board of Supervisors should establish a civilian oversight board for the FCPD with one member appointed by each member of the Board and an ex officio representative from the FCPD or other vested agency, state or federal. The oversight board members shall choose their chairman.</p>	<p>Pillar Two of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i></p>
<p>60. The Chief of Police shall collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionately affected by crime for deploying resources that aim to reduce crime by improving relationships, greater community engagement, and cooperation.</p>	<p>2.1 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i></p>
<p>61. The Chief of Police shall implement comprehensive policies on the use of force that include continual training, investigations, prosecutions, data collection, and information sharing. These policies shall be clear, concise, and openly available for public inspection.</p>	<p>2.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i></p>
<p>62. The Chief of Police shall implement policies for training on use of force that emphasize de-escalation and alternatives to arrest or summons in situations where appropriate and most importantly use of common sense.</p>	<p>2.2.1 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i></p>
<p>63. The Board of Supervisors should mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.</p>	<p>2.2.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i></p>
<p>64. The Board of Supervisors should mandate the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.</p>	<p>2.2.3 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i></p>

<p>65. The Chief of Police shall collect, maintain, and report data annually to the Board of Supervisors and the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.</p>	<p>2.2.4 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i>. May 2015.</p>
<p>66. The Board of Supervisors should approve FCPD policies on use of force and these shall clearly state what types of information will be released, when, and in what situation, to maintain transparency.</p>	<p>2.2.5 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i>. May 2015.</p>
<p>67. The Chief of Police shall establish a Serious Incident Review Board comprising sworn staff and Board of Supervisors-appointed community members to review cases involving officer involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency. The purpose of this board should be to identify any administrative, supervisory, training, tactical, or policy issues that need to be addressed. The Chief of Police shall report to the Board of Supervisors by 12/31/15 that this has been accomplished.</p>	<p>2.2.6 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i>. May 2015.</p> <p>Per App. B, par. 15c of the Fairfax Co. Internal Audit Office’s <u>Police Department Administrative Investigation Process Audit</u>, Final Report, April 2013: “FCPD and 33% of the jurisdictions did not use a police department review board. It was noted that 42% of jurisdictions used a review board that was internal to the police department, 12.5% of jurisdictions used a review board external to the police department, and 12.5% of jurisdictions used review boards with external and internal personnel.”</p>
<p>68. The Chief of Police shall implement non-punitive peer review of critical incidents separate from criminal and administrative investigations.</p>	<p>2.3 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i>. May 2015.</p>
<p>69. The Chief of Police shall collect, maintain, and analyze demographic data annually on all detentions (stops, frisks, searches, summons, and arrests). This data should be disaggregated by school and non-school contacts.</p>	<p>2.6 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i>. May 2015.</p>
<p>70. The Chief of Police shall create policies and procedures for policing mass demonstrations that employ a continuum of managed tactical resources that are designed to minimize the appearance of a military operation and avoid using provocative tactics and equipment that undermine civilian trust. The Chief of Police shall report to the</p>	<p>2.7 Action Item of <i>Final Report of the President’s Task Force on 21st Century Policing</i>. May 2015.</p>

<p>Board of Supervisors by 12/31/15 that this has been accomplished.</p>	
<p>71. The Chief of Police shall address procedures for implementing a layered response to mass demonstrations that prioritize de-escalation and a guardian mindset.</p>	<p>2.7.1 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing</i>. May 2015.</p>
<p>72. Some form of civilian oversight of FCPD is important in order to strengthen trust with the community. The Board of Supervisors should ensure that the community participates, along with FCPD, in defining the appropriate form and structure of civilian oversight to meet the needs of our community.</p>	<p>2.8 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing</i>. May 2015.</p>
<p>73. The Chief of Police shall and Fairfax Co. shall refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate investigative contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.</p>	<p>2.9 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing</i>. May 2015.</p>
<p>74. The Chief of Police shall ensure that FCPD officers seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Unless exigent circumstances involving life or death exist. Furthermore, FCPD officers shall ideally obtain written acknowledgement that they have sought consent to a search in these circumstances.</p>	<p>2.10 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing</i>. May 2015.</p>
<p>75. The Chief of Police shall adopt policies requiring officers to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. Having to write down such information may detract from the police officer's alertness. One example of how to provide such information is for FCPD officers to carry business cards containing their name, rank, command, and contact information that would enable individuals to offer suggestions or</p>	<p>2.11 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing</i>. May 2015.</p>

	commendations or to file complaints with the appropriate individual, office, or board. These cards should be distributed in all encounters.	
76.	The Chief of Police shall establish policies requiring its officers to state the reason for a stop and the reason for a search if one is conducted.	2.11 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
77.	The Chief of Police shall provide the maximum information on UOF cases to the public as it becomes available.	Pillar Three of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
78.	The Chief of Police shall encourage public engagement and collaboration, including the use of community advisory bodies, when developing a policy for the use of a new technology.	3.2.1 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
79.	The Chief of Police shall include an evaluation or assessment process to gauge the effectiveness of any new technology, soliciting input from all levels of the agency, from line officer to leadership, as well as assessment from members of the community.	3.2.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
80.	The Chief of Police shall provide maximize citizen input on law enforcement an UOF and identify community members who can help de-escalate situations where feasible so that UOF becomes unnecessary or kept to the bare minimum.	Pillar Four of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
81.	The Chief of Police shall develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.	4.1 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
82.	The Chief of Police shall infuse community policing throughout the culture and organizational structure of FCPD.	4.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
83.	The Chief of Police shall continually evaluate officers on their efforts to engage members of the community and the partnerships they build. The Chief of Police shall make this part of the performance evaluation process to place an increased value on developing such partnerships.	4.2.1 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
84.	The Chief of Police shall continually	4.2.2 Action Item of <i>Final Report of the President's Task</i>

evaluate its patrol deployment practices to allow sufficient time for patrol officers to participate in problem solving and community engagement activities.	<i>Force on 21st Century Policing. May 2015.</i>
85. The Chief of Police shall continually engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.	4.3 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
86. The Chief of Police shall involve peer support counselors as part of multidisciplinary teams when appropriate. Persons who have experienced the same trauma can provide insight to the first responders and immediate support to individuals in crisis.	4.3.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
87. Auditor of the Board shall evaluate the efficacy of the FCPD Crisis Intervention Team and the Board of Supervisors should hold the Chief of Police accountable for outcomes.	4.3.3 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
88. The Chief of Police shall support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all.	4.4 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
89. The Chief of Police shall continually underscore the importance of language used and adopt policies directing officers to speak to individuals with respect. Non-compliance should be dealt with quickly, via appropriate officer discipline, to include written admonitions to dismissal, and written apology to the citizen(s).	4.4.1 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
90. The Chief of Police shall develop programs that create opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders.	4.4.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
91. The Chief of Police shall work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.	4.5 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
92. The Chief of Police shall schedule regular forums and meetings where all	4.5.1 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>

community members can interact with police and help influence programs and policy.	
93. The Chief of Police shall regularly engage youth and communities in joint training with law enforcement, citizen academies, ride-alongs, problem solving teams, community action teams, and quality of life teams.	4.5.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
94. The Chief of Police shall establish formal community/citizen advisory committees to assist in developing crime prevention strategies and agency policies as well as provide input on policing issues.	4.5.3 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
95. The Board of Supervisors shall adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.	4.6 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
96. FCPD and FCPS shall establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline	4.6.8 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
97. The Chief of Police shall regularly engage community members in the FCPD training process.	5.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
98. The Chief of Police shall ensure that FCPD provides leadership training to all personnel throughout their careers.	5.3 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
99. The Chief of Police shall establish a deadline and milestones to achieve his stated goal of 100% of officers completing Crisis Intervention Training (CIT and provide that information to the Board of Supervisors.	5.6 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
100. The Chief of Police shall ensure that CIT is a part of both basic recruit and in-service officer training.	5.6 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
101. The Chief of Police shall ensure that basic officer training includes lessons to improve social interaction as well as tactical skills.	5.7 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
102. The Chief of Police shall require both	5.10 Action Item of <i>Final Report of the President's Task</i>

basic recruit and in-service training on policing in a democratic society.	<i>Force on 21st Century Policing. May 2015.</i>
103. The Chief of Police shall promote safety and wellness at every level of the FCPD.	6.2 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
104. The Chief of Police shall provide every patrol officer with individual tactical first aid kits and training as well as anti-ballistic vests.	6.4 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
105. The Chief of Police shall adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so.	6.6 Action Item of <i>Final Report of the President's Task Force on 21st Century Policing. May 2015.</i>
106. The Chief of Police shall provide to the Board of Supervisors by 12/31/15 a detailed list of all equipment obtained from or provided by the US Department of Defense (DOD) to and still in the possession of the FCPD and the rationale for retaining each item. Any equipment lacking such a rationale shall be returned to DOD. Any equipment that DOD won't take back, the Chief of Police shall dispose of or place it in long term storage.	There is no justification for militarization of the FCPD.
107. The Board of Supervisors should assume oversight of the Chief of Police, including hiring and firing.	Currently the Chief reports to the County Executive.
108. Before choosing not to press charges for UOF by a FCPD officer, the commonwealth's attorney shall seek and abide by the opinion of the Virginia Attorney General.	

SAL CULOSI (Proposals for Changing the General Order 540.1)

I. Ready Gun and Verbal Warning:

Page 3 of General Order 540.1 states:

2. If feasible, when using a firearm for the purpose of deadly force, officers shall give the verbal warning, "Police, don't move!" prior to using deadly force. The pointing of a firearm in response to the actions of a subject to establish control and gain compliance shall be considered non-deadly use of force.

The proposed change is:

2. When a weapon is taken from a holster in anticipation of using the firearm, this is a reportable action. The unholstered firearm will be maintained in a "ready gun" position which is defined as pointing the weapon so the officer can see the suspect's hands and waist. The officer will announce "Police, don't move" after attaining the "ready gun" position and if feasible prior to using deadly force. The pointing of a firearm in response to the actions of a subject to establish control and gain compliance will be consistent with the "ready gun" position and shall be considered non-deadly use of force if the weapon is not aimed at center of mass, which is normally the chest.

II. Use of SWAT

Proposed change for inclusion in General Order 540.1:

When a combination of the factors listed below is present, the investigating entity must consult with the SWAT chain of command for approval for the use of SWAT and must complete the Tactical Analysis Worksheet. This does not mean SWAT is guaranteed to be serving the warrant as other strategies may be possible to apprehend the suspect or serve the search warrant.

Everyone agrees that SWAT was developed to address high risk situations. This does not mean that an officer who is assigned to a SWAT unit cannot partake in non-SWAT operations.

The General Order 540.1 should address the use of SWAT as presented by LtCol Ryan with some modifications to ensure SWAT will only be considered as an option for the high risk categories listed by Lt Col Ryan in his response to my question repeated below. My proposal is a modification to the closing paragraph to the response to my question that is noted below:

[Culosi Question: What factors determine "high risk"?

[A] Any one of the following may indicate the need for SWAT assistance:

- Use of a firearm in a crime
- History of violent crimes involving weapons
- Use of explosive devices
- Using arson as a weapon
- Known body armor, fully automatic weapons, armor piercing ammunition

- Suspect is wanted for homicide, violent sex offense using a weapon, armed robbery, abduction while armed
- Verified threats to harm law enforcement, verified threats of suicide by police
- Subjects present are a known terrorist or is a violent extremist
- Warrant location has armed counter surveillance, booby traps, or is clandestine lab
- Warrant location is fortified and requires special breaching tools

A combination of two or more of the following may indicate the need for SWAT assistance:

- Firearms are present
- Prior history of assaulting police or resisting arrest
- Subject present with criminal gang affiliation
- Suspect is drug user, alcohol abuser, mentally unstable
- Suspect has formal weapons training
- Suspect is on probation/parole
- The structure is large/multi-level and beyond the ability of the requesting entity to secure
- Anticipated multiple felony arrests
- Counter surveillance or monitoring devices are present (lookouts, cameras, etc)
- Presence of vicious animals (guard dogs)

Closing paragraph in LtCol Ryan's answer to Culosi Question:

When a combination of the above factors is present, the investigating entity must consult with the SWAT chain of command and complete the Tactical Analysis Worksheet. This does not mean SWAT is guaranteed to be serving the warrant as other strategies may be possible to apprehend the suspect or serve the search warrant.]