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July 29, 15

This is a revision of my written recommendations, submitted via an Addendum, dated July 16, 2015, read during oral presentation to the Use of Force Sub Committee ((UOF) on July 17, regarding a finalized Department of Justice (DOJ) investigative report, subsequent recommendations, for the Ferguson, Mo Police Department, dated March 4, 2015. The DOJ 100 pages plus report was extremely critical identifying 59 recommendations for implementation for corrections. Of those, I believe that eight (8) have a direct or indirect nexus to the use of force (UOF) and the charter of the UOF sub committee of the Fairfax County Ad Hoc Police Practices Review Commission.

I provide my background and practical experiences below in framing my **sincere** recommendations, beginning with current, as a civilian, since retirement from law enforcement in 2003:

- Fairfax Clean Streets Program; daily removal of trash, signs along a nine (9) miles route (2A-4A), alone
- Fraternal Order of Police (FOP), Lodge 69, Sterling, VA, Executive Board
- National Association of Retired, Active Federal Employees (NARFE), Dulles Chapter, Executive Board
- Association of Former Federal Narcotic Agents (AFFNA), Active Member
- National Association of Black Narcotic Agents (NABNA), Photographer
- Northern Virginia Law Enforcement, Intelligence Breakfast Club (semi-formal group), Executive Board
- DEA-TAG Ashburn Group (semi-formal Group), Executive Board

Background Prior to Law Enforcement:

I am an African American raised by a single parent (mother) living in 11 different locations, Denver, Colorado, in what many would characterize as the "Ghetto". Police, citizens' relationship was strained with distrust of Police Officers, who only responded timely when there were situations in which uses of forces were likely; i.e. shootings, robberies of businesses; gang violence, domestic disturbances with weapons (no weapons, may not respond at all). Calls for assistance, such as home burglaries, stolen vehicles, suspicious persons, etc., took Police 45 minutes to hours, if they responded at all. When citizens made repeated calls, complaining of non arrival of Police Officers, we were repeatedly lied to by dispatchers or Police Officials at Police Stations, advising that Officers

arrived and there was no one present; when in fact we would be at the window or door watching as Officers slowly passed by without stopping.

This was an era, around 1959, in which the Denver Police Department had over 50 Police Officers indicted, with 40 convicted for participating in an organized burglary ring and others demeaning African Americans verbally, physically and publicly in the "Ghetto". It is also a time when many African Americans, **me included**, had nothing other than our dignity and respect and were willing to go to jail, or die, before giving them up. Some may say that there were also poor non-African Americans living in less than desirable conditions; to which I will reply that the "system", and especially the Police, generally **did not further exacerbate** their situation, creating almost un-penetrable social challenges.

Although, having other non-law enforcement opportunities, I decided to be a Police Officer, specifically in Denver, and police in a manner that I thought honorable. This was no easy task on a 900-1000 person plus department with less than 15 African Americans and the stated stigma of corruption and poor policing.

Denver Colorado Police Officer/Detective (1969-1974)

I had to overcome riding in Police vehicles with White partners, who would stop for lunch, advising that they were going to the restroom and leaving me in the car. When time for lunch, they advised that they had already eaten (during the alleged bathroom break) and directed that we continue our shift. Having African Americans citizens, in the "Ghetto" where I grew up, calling me a turncoat and considered less worthy than the White Police Officers, thus creating additional challenges much more difficult to resolve than for my White partners. However, I met the challenges and policed with integrity, respect and competence for ALL encountered and to the benefit of the Police Department earning the earliest ever promotion, 2 ½ years, to Detective in less than the normal five (5) years.

DEA Agent (1974-2003)

In 1974, I became a DEA Agent subsequent to recruitment by the FBI and DEA, electing to become a DEA Agent with more opportunities for world assignments and travel. Again, as an African, I encountered many of the same challenges with DEA ((less than 200 African Americans among 2700 Agents), as with the Denver Police; beginning with my White classmate refusing to share our assigned room during Basic Agent training; Training Counselors attempting to un-qualify me, and the other three (3) African Americans in the 30 person class; along with other varied, un-successful, illegal attempts. In spite of all, I graduated a questionable number 3 versus number 1 and my African American colleagues in the top 15 versus top 7.

Although my evaluations with DEA were overall outstanding for 26 of 30 years and outstanding in every category for 25 of 30 years, **I was targeted** as a GS-7 thru Senior Executive Service (SES)-5 **with prejudice, resentment, disparate treatment and unfair reprisals (as was other African American Agents for varied reasons) for my refusing to be disrespected.** Following are but a few examples (believe me there are many more examples), as I stated earlier, that many African Americans, me included, **are willing to die for before allowing one to disrespect us verbally or with demeanor,** meant to accomplish the same.

Personal Examples of Being Targeted For Resisting Disrespectful Behavior

- GS-7/9, advising Training Academy Staff that I would return to the Police Department for disrespectful behavior
- GS-11, refusing to work exclusively undercover (UC), when the entire Phoenix office (12 Agents) refused to cover me during my first UC purchase of drugs from two (2) drug dealers; who suspected me of being “the Police” and then trapping me (first and only time I was un-armed) in a room, threatening me with a gun and knife;
- GS-11, refusing to continue riding the city bus back and forth to work (Phoenix), when all non-African American Agents (I was the only African American assigned to the Office) were assigned vehicles, 24/7, due to work schedules (there were five (5) brand new extra vehicles available);
- GS-11, refusing to work exclusively undercover when someone in the Phoenix Office distributed a racist flyer, in the office and to counterparts external to DEA, characterizing me as a shoe shine boy with an undeserving badge as a federal agent
- GS-11, refusing to work undercover (Arizona) unless a vehicle and surveillance were provided by Agents; and subsequent to my sending the racist flyer to DEA’s Administrator
- GS-11, refusing to participate in unprofessional behavior of beating, without cause, a minority, non-African American informant (NYC) and not supporting the false story of the Senior White Agent who did the beating
- GS-12, refusing to work undercover when after working 15 hours undercover against a Mafia organization was dropped off in the snow by a Senior White Agent at 3AM near his house and told to find my way home (Queens, NY)
- GS-12, physically attempting to assault DEA’s Chief Counsel (DEA Headquarters) during his direct, verbal, disrespectful and incorrect rebuke (DEA, State Department and DOJ certifications and guidelines confirmed his incorrectness); 10 days post US Attorney General Benjamin Civiletti awarding me DOJ’s highest award, medal for heroism with respect to my role in saving the lives of 90 in which four (4) were killed and remaining employees trapped for seven (7) hours, burning American Embassy, Islamabad, Pakistan, November, 1979;

- GS-12, directly confronting DEA's Chief of Operations, advising that I would not accept discipline, firing or further disrespectful behavior from him or anyone else regarding my actions toward the Chief Counsel;
- GS-14 thru GM-15, causing the firing, discipline of more than 90 days, of White and African American Agents, who had ingratiated themselves with others versus acceptable work performance
- GS-14 thru GM-15, representing plaintiff class (African American Agents) in previously stated "Segar" lawsuit; documented in the victorious 1980 US Federal Court Case "SEGAR" versus each residing US Attorney General since initiation of the suit. DEA stubbornly continues to fight to this day; even though an appeal made by DEA to the US Supreme court was rejected over 30 years ago;
- GM-15, directly advising Acting Administrator (one on one) that I would respond with physical violence to him for any future loud, disrespectful and unwarranted verbal assault, which included his saliva hitting me in my face;
- GM-15, taking initial steps in legal action for promotion to SES based on being held in grade as a GM-15 for 11 years (at the spiteful direction of this same Acting Administrator, who successfully manipulated the delay in his retirement); in spite of my outstanding evaluations in varied assignments as Executive Secretary of DEA's Career Board; Assistant Special Agent in Charge (ASAC) Chicago, Senior Liaison Narcotic Officer, US Army's Southern Command, (SOUTHCOM) Panama City Panama, in which I accomplished noteworthy leadership, legal, administrative and operational successes in each assignment; well documented during my career at DEA, in DEA's 2013, 40 years Commemorative Anniversary Book (Acclaim Press, 2013).
- SES-5, when again, I directly advised the DEA Administrator (in a room of 25) that I would respond with physical violence to her, if she continued with unprofessional, loud and disrespectful yelling and behavior; not because I had done anything wrong, but because I disagreed with her when asked my opinion and options to that of the discussion

I beg you to view the above NOT as self serving adulation but a sincere attempt to state my ability to make recommendations based on experiences of a very personal and professional nature for more than 60 years (I'm 68), in which I've been deeply involved on both sides of the discussions, challenges relative to UOF, as an African American citizen and law enforcement Officer.

I've been involved in numerous UOF situations, in which I've fired my weapon; used my baton; mace; vehicle (pit maneuver in chases) and as self defense against firebombs, and other weapons, missiles discharged at my partners or me. I fully support Chief Edwin Roessler's statement that **when fighting for your life, or that of your partner, your first and foremost effort is to survive in whatever manner you can.** I've been there on more occasions than I care to

re-count. However, **my just, sensible and attempts to de-escalate tense law enforcement experiences are well documented.**

I'm very pro and proud to be a former law enforcement officer. I AM NOT anti- Fairfax County Police Department. I AM ANTI unprofessional, unwarranted disrespectful behavior; as well as intentional or un-intentional actions by Police Officers with no accountability by Supervisors or Command personnel for failure of supervision, training or termination, as appropriate, of subordinates to include that for Supervisors and Command level personnel themselves.

I believe that there has been sufficient UOF committee discussion, debate, review of data received or not, to include examples, other than my own briefed on July 17, that indicate a need for further effort by the Fairfax County Police Department to meet the goal of wanting to be the best, stated by Chief Roessler, with forthcoming recommendations of the UOf sub committees, as well as other sub-committees, of which I've heard comment.

Therefore with reference to the DOJ recommendations for the Ferguson Police Department, previously submitted, and my background now included, **I modify my July 16 recommendations to read as follows as having direct and/or indirect nexuses to uses of force:**

DIVERSITY

1. **RECOMMEND:** Chair of UOF sub committee communicate to the appropriate sub committee that the Fairfax County Police must strive for greater diversity of highly capable police officers by strengthening its recruitment/hiring program via numbers reflective of our communities to promote mutual respect and trust between citizens and the FCPD.

TRAINING

2. **RECOMMEND:** Chair of UOF sub committee communicate to the appropriate sub committee that FCPD conduct mandatory, recurring **yearly** training in every aspect of its operations; whether routine traffic enforcement; general investigations; potentially dangerous operations (SWAT or other specialty units, such as narcotics enforcement); as well as routine inquiries from citizens for explanation of police actions, non-actions to ensure probationary, and Police officers, at all levels, continually perform according to just policies of the Fairfax County Police Department reviewed, deemed appropriate by the Ad Hoc Commission and its sub committees; **with emphasis that poorly trained Officers are subject to be involved in UOF situations.**

SUPERVISION

3. **RECOMMEND:** Chair of UOF sub committee communicate to the appropriate sub committee that FCPD supervisors, commanders up to and including the Chief of Police, on the scene or not, need to always exercise their supervisory and leadership responsibilities, as failure to do so **HAS** contributed to questionable UOF actions and that continuation of failed supervision, as described has the potential to lead to other unnecessary UOF situations. DOJ Ferguson highlighted poor supervision, and/or lack of as a major issue in UOF. The [Police Executive Research Forum](#) (PERF) report, while not specific, appears to have indirectly come to the same conclusion that the FCPD doesn't provide adequate supervision overall.

Also, I found it concerning, when reviewing past Subcommittee discussions, to include rebuttals by Commissioner Sal Culosi, regarding the report on his son, Dr Culosi, in which the officer received discipline; however, there was no discussion, discipline for Supervisors, to include Command Official(s), approving the operation that resulted in deadly Use of Force.

Therefore, I'm concerned that non-law enforcement citizens will unnecessarily engage with the FCPD, as I did when not identifying myself as a former law enforcement officer during traffic stops, when officially engaged in Fairfax County Clean Streets Program, in prolonged, useless back and forth dialogue via email, phone, attempting to achieve a compromise, balance during my early morning (2A-4A) efforts, with minimal or no traffic; while Police Officers unnecessarily applied strict applications of traffic laws to the letter versus leeway given to White citizens engaged in the same volunteer effort on mornings during busy traffic around 9A-9:30A, in the same general area.

My stated background and experiences more than qualify me to know that the actions of the Police Officer weren't justified and that there was a failure by Supervisors, up to, including Chief Roessler, either to obtain the truthful facts, and if they did so, ignored the same when I complained.

ACCOUNTABILITY

4. **RECOMMEND:** Chair of UOF sub committee communicate to the appropriate sub committee that FCPD should submit randomly selected complaints, at all levels of use of force and non-uses of force, for independent review and evaluation of appropriate accountability, discipline issued, formal or informal, of involved officers and others.

The DOJ Ferguson highlighted **failures by FPD supervisors**, up to and including the Police Chief, to not only review, but to hold officers in use of force

situations culpable for their actions and **thus a direct nexus to uses of force “in the field.”**

COMMUNITY STAKEHOLDERS

5. **RECOMMEND:** Chair of UOF sub committee communicate to the appropriate sub committee that FCPD should assess the effectiveness of its engagement with citizen advisory committees as to how citizens can better understand, monitor and engage in those interactions; including a review of all pertinent data, agendas, and minutes from civilian committees, formally or informally interacting with the FCPD, as highlighted in DOJ’s Ferguson Report.

Also, I didn’t see where Mr. Wexler, and his PERF team, make any attempts to hear from citizens; and if they did, I believe citizens’ comments will support the **importance of stakeholders, as stated, regarding a nexus to and minimization of the uses of force.**

Chief Roessler, during the UOF Subcommittee meeting on July 1, alluded to an alliance with the “Public Safety Committee” when stating that he wanted the “Public Safety Committee to challenge us” (FCPD). It’s now my confirmed understanding that this committee hasn’t met in four (4) years. **The FCPD should ensure that there are timely meetings with community stakeholders to sustain the stated objective.**

ECW’s (Tasers)

6. **RECOMMEND:** Chair of UOF sub committee forwards a recommendation from the sub committee to the Ad Hoc Commission directing:

- a. FCPD provide enhanced training and **issue ECW’s (Tasers) immediately to all trained police officers**; regardless of rank or assignment and **if not trained, initiated immediate training to be completed within one (1) year for compliance**
- b. FCPD mandate all **uniform patrol officers**, regardless of rank, **carry a Taser, in addition to sidearms.**
- c. FCPD mandate **all detectives and plainclothes officers**, regardless of rank, **carry Tasers in vehicles when on duty;**

The DOJ Ferguson Report, as well as discussion with the UOF sub committee has established that Officers should **view ECWs as one tool among many, and “a weapon of need, not a tool of convenience”;** while **NOT depending on ECWs, or any type of force, “at the expense of diminishing the fundamental skills of communicating with subjects and de escalating tense encounters.**

I believe that **room should be made to carry on Police Officers' bodies, however determined by FCPD.**

RESIDENCY

7. **RECOMMEND:** Chair of UOF sub committee forward a recommendation from the sub committee to the Ad Hoc Commission that FCPD police officers be required to live within the boundaries of Fairfax County.

The DOJ Ferguson Report didn't state a residency requirement; however, based on my background and experiences living and working in Denver, Phoenix, NYC, Washington, DC metro area, New Orleans, Prince Williams County, Chicago, Mississippi, Francisco, Oakland, CA, **I believe the requirement appropriate for FCPD overall operations and specifically beneficial to mitigation against unnecessary use of force.**

Police officers living in a community **will more likely be inherently more disposed to policing justly; then if having an ability to police without thinking or in accordance to policies and then retiring to a community where it is less likely they will face the consequences of their actions; if unjust.**

INDEPENDENT OVERSIGHT

8. **RECOMMEND:** Chair of UOF sub committee forward a recommendation from the sub committee to the Ad Hoc Commission request the Fairfax County Board of Supervisors (BOS) **establish an Independent Auditor (IA), or Independent Civilian Oversight Committee (COC), reporting to the BOS, in consultation with the FCPD to:**

- To collaboratively ensure that citizens, FCPD and the BOS engage in **meaningful oversight** and interactions among ALL
- Composition of IA to be similar to that in San Jose, CA, recommended by Sub Committee member Michael Shumaker
- Composition of COC **should be determined by Ad Hoc Commission, (of which the Chairman of Fairfax County Supervisors is a member) in consultation with the FCPD** and include
- Citizens of a recognized advocacy body; such as the NAACP, Urban League or similar group;
- Independent citizen(s) residing legally in Fairfax County;
- A FCPD police officer;
- A law enforcement official, current or retired, from a recognized agency; such as FBI, State Police, etc.;
- A member of the Fairfax County Board of Supervisors or designate;

- Any other person deemed to be beneficial for independent, fair and sensible oversight to the benefit of citizens, FCPD and Fairfax County Government.

DOJ Investigators recommended independent oversight of the FPD based on substandard policing negatively impacting the city of Ferguson, especially African American citizens, done in collusion with other City Departments. **Although, FCPD doesn't meet the dismal standard of FPD, I believe independent oversight is warranted based on discussions to date by this Subcommittee and Chief Roessler's statement that he welcomed the "Public Safety Committee" to challenge the FCPD.**

DOJ INVESTIGATION FAIRFAX COUNTY POLICE

8. **RECOMMEND:** Chair of UOF sub committee hold additional discussions on data, information received, known regarding deadly uses of force by the FCPD.

I believe that sufficient data has been reviewed and discussion, since my July 16, 2015 review, summary of DOJ Ferguson PD report indicating **NO entrenched systematic failures exist, as egregious as that in Ferguson**, with collusion by the Police, and other City Agencies, to deprive citizens, especially African Americans of their constitutional rights.

However, I'm deeply troubled by information and deadly UOF facts discussed by the UOF Sub committee to date, specifically the rebuttal by Commissioner Sal Culosi's to that presented to the UOF sub committee regarding his son, Dr. Culosi's deadly UOF investigation and believe that discussed, at this point, may warrant a DOJ investigation.

Therefore, I continue to disagree with Adrian Steel, member of the use of force Subcommittee, June 5, 2015 written recommendation, that there is no need for a DOJ investigation of the FCPD. I would like for the UOF subcommittee, with additional discussion, to take a definite position, make a recommendation.

Respectfully and Sincerely Recommended:

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Retired Deputy Assistant Administrator
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US Department of Justice**

