

Lines of Inquiry & Answers to Questions

Use of Force Subcommittee Members Ad Hoc Police Practices Review Commission Edited and Organized for Final Report

Question	Answer
Use of Force Reports, Data & Analyses	
1. Provide details on all deadly use of force cases since 2006, and all criminal and IAD investigations since 2009.	Synopsis for all officer involved shootings for the period of 2005-2013 are posted on the Chief's Page at www.fairfaxcounty.gov/police . Discharging a firearm towards animals are not included.
2. Provide the number of uniformed officers in FCPD per each year in the report?	The department has 1,339 sworn employees. Approximately 980 are assigned to patrol. This number fluctuates throughout the year due to attrition and vacancy rates but this is the base level.
3. Explain why the yearly totals of discipline cases was so small out of the total number of UOF cases (e.g., in 2010 three discipline cases out of 408). http://www.fairfaxcounty.gov/policecommission/subcommittees/materials/use-of-force-statistical-summary.pdf	Use of force incidents are unique to the circumstances the officer(s) were presented at the time of the calls for service. Both General Order 301 and 540.1 describe what is expected of an officer regarding the use of force. The vast majority of UOF incidents involve unambiguous officer compliance with these orders and hence not subject to administrative review. In this light, the use of force numbers will fluctuate and not all use of force incidents generate an administrative investigation.
4. Explain why the above report shows UOF incidents numbering over 400 in 2010-13 but page 6 of http://www.fairfaxcounty.gov/policecommission/materials/2013-iab-annual-report.pdf shows UOF for 2009-2013 ranged from 84-102 (the same upward trend as in #3 above) then p. 11 shows the same years ranged from 539 to 443?	In the 2013 IAB Annual Report, page 6 "Use of Force" refers to the number of administrative investigations that were conducted where the use of force by an officer was investigated. Not all use of force incidents are investigated as an administrative investigation. For example, if an individual who is being arrested but is resisting, the officer then utilizes a physical control technique to gain control is considered a use of force. However, that physical control technique does not necessarily generate an administrative investigation. Use of Force complaints which are investigated as an administrative investigation generally are generated by citizens, by injuries to the individual, and/or by officer/department. Therefore, the numbers on page 6 will differ from the numbers located on page 11. The numbers on page 11 describe the overall use of force incidents reported where the numbers on page 6 are the use of force incidents investigated as an administrative investigation.
Use of Force Policy, Training & Culture	
5. Based on the list of SOPs how can the UOF subcommittee gain access to: <ul style="list-style-type: none"> ▪ 06-024 CEW ▪ 06-025 PepperBall System ▪ 06-026 Citizen Reporting System 	Sent as attachments. SOP 06-025 CEW was previously provided. SOP 13-048, Special Operations Hostage/Barricaded Persons, will not be provided. A new General Order

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<ul style="list-style-type: none"> ▪ 08-034 Patrol Rifle Program ▪ 12-045 Investigation of Deadly Force Deployment 01-01-12 ▪ 12-046 Early Identification System 11-05-12 ▪ 13-047 Police Response to Bomb Threats and 01-01-13 Bomb Incidents ▪ 13-048 Special Operations Hostage/Barricaded 04-01-13 Persons ▪ 13-049 Marine Patrol 04-01-13 ▪ 13-050 Mandatory and Specialized Training 04-01-13 ▪ 13-051 Civil Disturbance Unit 04-01-13 	520.3 about Hostage/Barricade Persons is and has been provided to the Subcommittee.
6. What metrics does FCPD employ for UOF comparable to those used in the “Final Report of the President’s Task Force on 21 st Century Policing?” (see page 19)	For statistical purposes and analysis, the FCPD does not assign any values or metrics to the different types of use of force.
7. “Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all, especially the most vulnerable.” (see p. 45 - 4.4, Final Report of the President’s Task Force on 21 st Century Policing). How does FCPD do this?	The FCPD’s mission is to protect ALL persons and property by providing public safety services and the fair and impartial enforcement of the laws of the Commonwealth of Virginia in the County of Fairfax, while promoting community involvement, as well as stability and order through service, assistance and visibility. (derived in part from the Department’s mission statement)
8. Does FCPD have a similar Law Enforcement Code of Conduct that includes UOF to that of Sheriff David Clarke, Jr., of Milwaukee Co, WI? That is: “A police officer will never employ unnecessary force or violence and will use only such forces in discharge of duty as is reasonable in all circumstances. The use of force should be used only after discussion, negotiation and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every police officer will refrain from unnecessary infliction of pain or suffering and will never engage in cruel, degrading or inhuman treatment of any person.”	The FCPD does have a policy statement regarding use of force but it is not the same as Milwaukee. The policy is written as the policy statement of General Order 540.1. “II. POLICY It is the policy of the Police Department that force is used only to the extent reasonably necessary to defend oneself or another, to control a person during an investigative detention or mental detention, and to effect arrest. In all situations, medical assistance shall be provided to any person who is obviously injured, alleges an injury, or requests medical assistance.”
9. Does FCPD have use of force continuum from non-lethal to lethal? I don’t see that in Gen’l Order 540.1	In General Order 540.1, Section VI is the use of force model which is a use of force continuum from non-lethal to lethal.

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10. What is the FCPD definition of defense of self and defense of others?	<p>Officers are legally allowed to defend themselves and others from the threat of serious bodily injury or death.</p> <p>General Order 540.1, Section IV Regulations, Subsection A, Deadly Force reads as follows:</p> <p style="padding-left: 40px;">In any situation where an officer is otherwise acting lawfully, the use of deadly force is justified in the defense of the officer's life or other person's life. Also, the use of deadly force is justified in protecting the officer or public from serious injury.</p> <p>In addition, self-defense and in the defense of others were discussed in the meeting on June 3, 2015 and the discussion is captured in the meeting minutes.</p>
11. Are officers taught only to shoot to kill? Why?	<p>Any application of deadly force is to stop an aggressive action by a subject who poses a clear and immediate threat of death or bodily injury to the officer or another party. Officers are not instructed in any phase of training that the intent of discharging a firearm is to shoot to kill.</p>
12. How often do FCPD officers review UOF guidelines? Is there a written and practical (simulator) exam? How often? Do any fail? How are they remediated?	<p>Beginning in the Academy, officers are consistently reviewing use of force guidelines; whether it is in roll calls, inservice, academy classes, or academy training. During the Academy, officers are tested extensively on use of force. Recruits have to pass written exams, which covers use of force. In addition, recruits have to pass practical exercises in the use of force tools such as Tasers, Batons, firearms, hands on, etc. As for any written test and proficiency test, recruits have only three attempts to either answer questions correctly or demonstrate proficiency. If after three attempts the recruit fails to answer a question correctly or demonstrate proficiency, the recruit is either dismissed from the Academy or assigned to attend the next Academy class. Officers are required to meet the minimum standards as directed by the Department of Criminal Justice Services. However, the Department's standards not only include the Department of Criminal Justice Services standards, but are even more stringent. By having more stringent standards, the Academy and the Department are a national leader in training recruits.</p> <p>Beyond the Academy, officers are trained in and review</p>

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	<p>use of force through numerous methods. Officers are required to participate in two inservice training days a year which includes use of force. Officers who attend an elective class reference use of force have use of force policies reviewed. All squads have roll call training where use of force is discussed and in many instances, squads conduct their own practicals.</p> <p>During inservice, the Academy conducts refresher training in batons, handcuffing, and on hand cuffing techniques. Though there are no written exams for the refresher training, the Academy staff monitors each officer for proper technique and proficiency.</p> <p>Officers are not allowed to carry or use a Taser unless they complete and pass a Taser class. During that class, there is a written exam that the officer's must pass as well as a practical exercise.</p>
13. What UOF training do officers receive when others, including fellow officers, are in the line of fire.	<p>During firearms training and inservice training (twice a year), the cardinal rules of safety are discussed. One rule is to know your target and what is beyond to include pedestrians, buildings, vehicles, other officers, etc. Officers, during their training scenarios, are taught to be cognizant on cross fire and whether others are present and where they are located (not just for firearms, but also for other forms of use of force such as OC, baton, Tasers). Cross fire situations are sometimes inevitable but are to be avoided when possible.</p> <p>Officers who are rifle qualified are instructed on the speed and penetrating power of their round and to be extremely cognizant of what is beyond their target when discharging their weapon.</p> <p>The requirement to qualify twice a year at the firearms range, as well as the encouragement to practice at the range is essential to ensuring that officers place their rounds only on the intended target.</p>
14. Is there an SOP for a Sgt to arrive at the scene and take charge?	<p>Certain individual calls or situations require supervisor presence, action or oversight but there is no universal policy regarding a supervisor response, as there is only one or two supervisors per district with 12-15 units under their supervision. They cannot be everywhere at all times</p>

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	so some discretion and flexibility is required. The department utilizes Master Police Officer's to supplement police supervisors, as they are senior officers with proven leadership and knowledge/skills/abilities that are in a non-supervisory role but who can assist junior officers with scene management.
15. What are the policies, standard operating procedures, concerning giving chase?	The pursuit policy is in General Order 501.1 that is posted on the Commission web site.
16. How do officers and supervisors evaluate the risk to the public when chasing a suspect? Can there be any real time feedback? What about drawing guns in traffic/public/when people are present? Lunchtime on Richmond Highway seems like a circumstance where you would give chase or draw guns only in extreme circumstances, like the kidnapping of a child. This is a screenshot from the video: http://www.connectionnewspapers.com/photos/2015/may/13/74239/	Factors to be considered when pursuing a suspect in a vehicle are outlined in General Order 501.1. In addition, officers receive regular training in emergency vehicle operation at the Fairfax County Police Emergency Vehicle Operation Center.
17. Who is making the choices about how the police department and the county communicate with families of people who have been affected by police use of force? Written policy vs discretion?	<p>Detectives from the Major Crimes Division (MCD) handles the most serious use of force cases and an officer involved shooting is a good example.</p> <p>There is no written policy that specifically dictates how this is to be handled and has always been done at the discretion of the lead detective, with supervisory oversight. This is because each case is different, dynamics of those involved are unique and the lead detective is in the best position to determine timing. They take their role very seriously in regards to communicating with families and attempt to do so even under the most difficult circumstances.</p> <p>The reasons for communicating with the family are numerous and are done to help explain the investigative process, answer any questions the family may have in general, keep them abreast of the status of the investigation and gather additional information. Some families are more receptive than others, but it is our duty to maintain contact with them for the reasons listed above.</p> <p>In select cases over the years, detectives have been directed not to have contact with family members for</p>

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	<p>different reasons at different points during the investigative process. This direction did not come from MCD and was usually in regards to a potential civil law suit or other legal matter.</p> <p>The closest related policy is under GO 501.2 Investigative Responsibilities which states:</p> <p><i>Section IV B: Periodic contact shall be made with crime victims to determine if any further information can be learned and to notify them of any changes in case status. Contacts may be made either by telephone or in person. Notification of a change in case status should coincide with the status change. All contacts shall be documented in the incident reports and supplements.</i></p> <p><i>Section VI. A. 2. The term "victim" shall also mean a spouse or child of such a person, a parent or legal guardian of such a person who is a minor, or a spouse, parent, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in this section.</i></p>
18. Who does the Chief of Police report to? Under what circumstances does he need to communicate with superiors about use of force and the ongoing investigation? What did the Board of Supervisors know and when did they know it?	<p>The Chief of Police reports to the County Executive (CE) and the Deputy County Executive (DCE) for Public Safety. Methods of communicating with the Board of Supervisors (BOS) include direct emails, phone calls, awareness emails from the Police Public Information Office (PIO) or the Office of Public Affairs (OPA). When directed by the County Attorney, the Chief of Police attends closed session meetings with the BOS. All Officer involved shooting cases are communicated to the BOS, CE, and DCE methodically as the event unfolds through emails, phone calls and often alerts from the Police Liaison Commander at the Department of Public Safety Communications. The affected station commander will contact the BOS member whose district the OIS occurred. This is in addition to the Chief of Police, PIO and/or OPA making notifications as well.</p>
19. What is the UOF culture within FCPD?	<p>The matter of UOF culture was raised by the UOF Subcommittee with the Academy instructors at the June</p>

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	<p>3, 2015 meeting. FCPD’s UOF culture is indirectly addressed through its recruitment and training programs and through the oversight and accountability provided by its management and supervisory leaders. A key to maintaining a responsible UOF culture within the police ranks is the quality of its officers. The Academy staff noted that only 4% of applicants make it to Academy. Every officer is trained to understand that when a weapon is drawn someone may die, either by intentional firing of the weapon or by accident. Academy training stresses that the firearm will not injure someone when it is in holster. Finally, the goal of training officers on defensive tactics is restraint in the use of force and to create a culture of safety and a clear understanding of officers’ responsibility to serve their community. This training originally focused on compelling people to comply with the officer’s direction. But the focus has been changed to controlling the circumstances, through voluntary or involuntary compliance. They now look at defensive tactics as a means of control and are changing “defensive tactics” to “control tactics.” Recruits are trained, for example, to seek to prevent subjects from becoming emotionally out of control, through body language, contact, expressions, and voice tone and inflection.</p> <p>Two related issues were raised by Subcommittee members at the meeting. Department-wide climate surveys have been previously conducted, but there is no program for the annual conduct of such a survey. Climate surveys are, however, informally conducted by individual subunits of the Department.</p> <p>Finally, an observation was made that the only recruitment photo on the FCPD website shows an officer a police officer firing a gun, not interacting with public. The Department understands the observation, but believes that officers are attracted to the work because of the opportunity to serve the community and to help people.</p>
20. Is there is annual FCPD climate survey to monitor the operating culture, including police officer attitudes about their work or if there are issues	Department-wide climate surveys have been previously conducted, but there is no program for the annual conduct of such a survey. Climate surveys are, however,

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about which they are concerned?	informally conducted by individual subunits of the Department. The Department also receives formal feedback on a routine basis from all the employee groups, the Employee Quality Improvement Program, and the Supervisors Employee Quality Improvement Program, and when Departmental leaders visit roll calls and speak with officers.
21. Can FCPD post its policies regarding officers going out on or staying on patrol who are experiencing stress in their domestic life that could impact their performance on patrol?	The FCPD does not have a policy reference officers experiencing stress in their private life. However, when officers display signs of stress which are recognized by other officers, supervisors, or department staff, supervisors discuss the signs of stress with the employee. There are resources that are available to officers such as the Employee Assistance Program (different programs available such as counseling), Peer Support, Police Psychologists, Police Chaplains, and other county programs. In some instances, the supervisor, through their chain of command, can seek a Fit for Duty examination. (Example: A supervisor hears an officer making comments such as “The world would be better without me.” or “No one will miss me if I am not here.” Fearing the officer is suicidal, the supervisor immediately relieves the officer of duty and secures their weapon. The supervisor then recommends a fit for duty (as officer is not able to perform their job) via their commander. The commanders will determine whether a fit for duty examination is appropriate based on known and unknown information. Once the determination is made, the requests is processed through the Administrative Support Bureau and then to the Chief of Police for final approval.) Fit for Duty examinations are coordinated through the Administrative Bureau. All medical, including psychological diagnoses, are protected by confidentiality laws, including HIPAA unless there is a risk of harm to self or others, or there is a suspicion of child or elderly abuse, or if the employee signs a release form, or in response to a court order. Please refer to General Order 430.4, Incident Support Services for more information and Fairfax County Policies and Procedures Memorandum No. 32, Employee Assistance Program for more information.
22. How many FCPD officers are married or related to attorneys in the Commonwealth Attorney's office?	Unknown; this information is not collected.
Case Review & Excessive Force Litigation	

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23. Provide those cases and similar ones back to 2006 which is the period specified in our Scope of Work.	It is being prepared for the Chief's page of the FCPD website.
24. A list of all police involved incidents that resulted in death or injury that includes the date of the incident, a summary of the events and outcome (since 2006).	The Chief of Police will post a synopsis of Department involved shootings on the Department web site. This is under development at this time.
25. A timeline of information released, plus an explanation of why certain kinds of information were and weren't released.	The media releases for each of these events were posted on the ad hoc commission website. An explanation of what was or was not released is vague but would be willing to answer specific questions on this.
26. What is the policy for how information is made public in general. History and epistemology of the FCPC communications policy. Exactly what is it?	General Order 401 and 401.1 have the media release policy of the department and are posted on the ad hoc commission website.
27. It would be very helpful to have the presentation we had at the last meeting, but about a specific case and the details involved. In the case of David Masters, it appears the case is closed and it would be appropriate to understand the investigation step by step through this particular case.	A presentation of a closed case from our Criminal Investigation Bureau from the criminal perspective is possible. This would not include the administrative investigation. An entire meeting would be required for this and no documents would be handed out.
28. Can we see everything involved in at least one closed case, the incident reports, the investigation reports, etc. all of the documents that parallel the documents ordered released in the Geer case. What video exists? Other evidence? Again, it appears the Masters case might be a good case study. What can we see?	The Chief of Police will post a synopsis and other information regarding the Department's officer involved shootings but will not be releasing any case reports, files or documents from the criminal or administrative case.
29. Was the video released in the Masters case the only video? It appeared that another patrol car would have had a better view of the final moments of the event.	The video that was released was the only video the Department had of the incident. The other patrol vehicles involved were not equipped with in car video cameras.
30. The issue of access by the Subcommittee (and the full Commission) to the IAB and CIB reports for the closed "high visibility" UOF incidents which have been identified needs to be resolved in a way that is consistent with the VFOIA but still allows us to fully understand what happened in those situations so that we can evaluate whether polices changes should be considered and recommended. As I mentioned, the example of Dr. Culosi could provide valuable information on the decision to use SWAT and the manner in which weapons were held as the attempted service of the warrant	In reference to Dr. Culosi's case, please see "Report to the Community" dated January 11, 2007. http://www.fairfaxcounty.gov/police/news-releases/special-reports/pdf/community-report-salvatore-culosi.pdf

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<p>proceeded. I spoke with Deputy Chief Ryan about the issue after the meeting, and he said that he would look into how we could resolve the issue and provide access, but we need to follow up timely.</p> <p>Maybe, if the full reports can't be made available, then redactions could be made as necessary to protect confidential sources and the like before release. These are all closed cases so there would be no administrative or criminal proceedings that would still be ongoing. Synopses of the reports are not sufficient.</p>	
<p>31. Provide details of the Annual Comparison by Type of Litigation 2009-2013 for years 2010-13 involving the six Excessive Force (see p. 27).</p>	<p>The Department does not maintain the case files for each lawsuit. The Department receives notification of the lawsuit which is then logged and forwarded to the County Attorney. All documents associated with the lawsuits are maintained by the County Attorney's office or the court in which the lawsuit was filed. Therefore, for details on each court case, please refer to the case, docket number, and appropriate court:</p> <p>2010: Campbell vs Fairfax County, VA, et. al (United States District Court for Eastern District of Virginia, 1:10CV1245) The Department was advised that the case was tried before a jury, and the jury ruled in favor of the involved officers, finding that they did not arrest the plaintiff without probable cause, or use excessive force in effectuating the arrest.</p> <p>2010: Walls v Sepehri (Circuit Court of Fairfax County, CL-2009-0018394 then case was transferred to the Eastern District of Virginia, 1:10cv44). The Department was advised that the plaintiff dismissed her own lawsuit prior to trial.</p> <p>2010: Blondell v Amos, Wyatt, and Wright (United States District Court for Eastern District of Virginia, 1:10CV249) The Department was advised that the case was tried before a jury, and the jury ruled in favor of the involved officers, finding that they did not arrest the plaintiff without probable cause, or use excessive force in effectuating the arrest.</p>

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	<p>2012: Lodhi v Fairfax County Police Department (United States District Court for Eastern District of Virginia, 1:12CV485) The Department was advised that this matter was dismissed by the Court based upon finding that the plaintiff failed to show any evidence upon which a jury could find that the involved officer had used excessive force in the arrest of the plaintiff.</p> <p>2013: Akowuah v County of Fairfax, Fairfax County Police Department, and Waked (United States District Court for Eastern District of Virginia, 1:13CV83) The Department was advised that this matter was dismissed by the Court based upon finding that the plaintiff failed to show any evidence upon which a jury could find that the involved officer had used excessive force in the arrest of the plaintiff.</p> <p>2012 is listed as having two lawsuits referencing excessive use of force. The Department received a notice of claim (not a lawsuit) in 2012 which was captured as a lawsuit in the Internal Affairs Bureau 2013 Annual Statistical Report. The notice of claim was associated with the 2013 lawsuit, Akowuah v County of Fairfax, Fairfax County Police Department, and Waked. Therefore, the statistics for 2012 should be 1 instead of 2.</p>
32. Will the FCPD and Commonwealth’s Attorney explain to the UOF subcommittee why the FCPD officer who killed Mr. Geer on Aug. 29, 2013, has not been charged or exonerated 20 months after the fatal shooting and remains on paid administrative leave?	<p>The Commonwealth Attorney has convened a grand jury in this case to be held in July 2015.</p> <p>The Commission Chairman directed that the Commission members exclude the Geer case from their deliberations.</p>
33. Question about the statement that accompanied the release of the name of the officer who shot John Geer. In January 2015, this statement still asserts the explanation of the shooting officer, even though documents ordered released by the court show that four other officers agreed with each other and disagreed with the shooting officer. Why does the statement repeat the assertion that Geer lowered his hands?	The Commission was instructed to avoid discussion of the Geer case.
34. In November 2011, Officer Oluwa was the subject of a civil rights lawsuit after Oluwa and another	The case documents can be viewed at the United States District Court for the Eastern District of Virginia under

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<p>officer beat James Darden. Per p. 30 of the minutes of the 4/10/12 Board of Supervisors' meeting, business discussed in recess/closed session included: "<i>James Darden v. Colonel David M. Rohrer, Officer Christian J. Chamberlain, Officer Mohammed S. Oluwa, and Fairfax County, Case No. 1:11cv828 (E.D. Va.)</i>." Was the homeless man beaten in the face? Was a baton used? How did such a beating comport with General Order 540.1?</p>	<p>docket 1:2011cv00828. Synopsis: Officers were watching a hotel off of Jefferson Davis Highway in the Mount Vernon District Station for narcotics activity. Mr. Darden was stopped and the officer's believed Mr. Darden was attempting to swallow crack cocaine. The officer's employed a physical control technique to prevent Mr. Darden from swallowing the narcotic. Mr. Darden was subsequently drive stunned by another officer utilizing the Taser. The force used was in compliance with the Department's policies. The case was tried before a jury in the aforementioned civil litigation, and the jury ruled in favor of both involved officers, finding that they did not use excessive force against Mr. Darden.</p>
<p>35. In a 2005 incident, did Officer Oluwa employ UOF with a man described in the media as potentially suicidal? How did such a UOF comport with General Order 540.1? What UOF was used during this incident? Reporting indicated that the young man resisted being grabbed. "Oluwa distracted him through conversation while Buisch got close enough to grab the man. Though he resisted, the officers, together with a U.S. Park Police officer, managed to get him back from the river and into their police cruiser." Source: http://www.connectionnewspapers.com/news/2005/mar/02/mount-vernons-heroes-celebrated/</p>	<p>Officers were called for a suicidal subject who might be armed with a handgun (per subject's father). The subject was found near the river and there was concern the subject might jump in. Officer Oluwa distracted the subject while other officers were able to grab the subject and get him away from the river. The use of force used (hands on by grabbing the subject, bringing him away from the shore, and securing the subjects hands) was utilized to protect the individual from harming themselves and was in compliance with the Department's policies.</p>
FCPD Use of Force Committee	
<p>36. 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?</p>	<p>The FCPD is in process of returning, through revisions to departmental policy, the UOF Committee to a prominent means for learning lessons from significant UOF incidents.</p>
<p>37. What is the written Commonwealth or County directive that made past internal Use of Force Committee written reports "sensitive" and in need of "a determination made of how much, if anything, can be provided to the Subcommittee for review" according to Mr. Ryan? Are there Use of Force Committee written reports we can't see? Who made that determination? By what and whose authority would anything be redacted that's given to us?</p>	<p>Previous UOF Committee reports are sensitive because 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. Participation by officers in UOF Committee deliberations has been voluntary after good-faith assurances have been provided that information provided would only be internally available. In light of these assurances, FCPD is obligated to seek officer concurrence to publicly share the reports.</p>

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<p>The answer is not responsive to the questions. What is the written Commonwealth or County directive?</p> <p>The first sentence is a clear case 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 docs? 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?</p>	<p>Chief Roessler has committed to the Subcommittee to providing members access to additional UOF Committee reports.</p>
SWAT & Advanced Tactics	
<p>38. Which individual cases prompted SWAT to create the Warrant Risk Assessment Matrix and how each case would have scored had the matrix existed at the time?</p> <p>Are Warrant Risk Assessment Matrix and Threat Assessment Form one and the same?</p>	<p>The Culosi case prompted the development of the Threat Assessment Form. The threat assessments have not and currently do not provide a “score”.</p> <p>It is unlikely that if SWAT would be utilized today that same case were run through our current risk assessment matrix, there is no way to accurately recreate a past case (e.g., Culosi case) on the new form. Several of the detectives, supervisors and commanders are no longer available to provide the information they knew, or was available to them, at that time.</p> <p>The best the Department can provide is a statement that based on the information we have at this time, high risk tactics would not have been authorized based on today’s threat assessment form.</p> <p>The Warrant Risk Assessment is the same as the Threat Assessment Form. For continuity, the Department is only using the term “threat assessments” and is no longer using the term “risk assessments”. In the past, both terms were used interchangeably.</p> <p>The new form being piloted now (the one shared with the subcommittee) was not prompted by any case.</p>
<p>39. Which of the individual cases caused FCPD to</p>	<p>See above response – no additional cases.</p>

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employ UOF and what type(s)?			
40. Did any of the cases before use of the Matrix result in problems?	No.		
41. When did use of the Matrix become mandatory?	2008		
42. What are details of each case for which use of the Matrix resulted in SWAT being deployed and employed UOF?	Since 2008, SWAT has not utilized deadly force in a search warrant situation since the adoption of threat assessment.		
43. Can we see the completed Matrix so that we can see EINs to see if there are any patterns at all levels in the chain of command?	The Matrix, over the years, has almost always been completed by the same <u>command level</u> officers. The majority of SWAT cases start in Organized Crime and Narcotics (see Risk Assessment Statistical Summary) and their commander will sign the initial request. The Special Operations Division commander will then review the request. These are the same commanders for several years until they are promoted, they are transferred, or they retire. Therefore, yes there would be patterns because of organizational assignments and the chain of command required for approval. There is not a compiled spreadsheet tracking all approvals to provide, even if there was there would be patterns because of the business process cited above, in short it is certain commanders jobs to review and sign the matrix.		
44. At one of our subcommittee meetings, FCPD mentioned its Threat Assessment (TA). Does the TA equal the Warrant Risk Assessment Matrix? If not, can FCPD provide a copy of a blank TA & a completed TA from an actual situation for our review?	The FCPD Threat Assessment equals the Warrant Risk Assessment Matrix. Individual Subcommittee members are invited to review the Tactical Threat Assessment Form in its entirety, since only an abridged version can be made publicly available, as posted on June 18 th . Those interested should reach out to Major David Moyer at David.Moyer@fairfaxcounty.gov .		
45. What is the definition of “advanced tactics”? Is it SWAT? [see http://www.fairfaxcounty.gov/policecommission/materials/statistical-summary-risk-assessments.pdf “illustrate[s] the event types where advanced tactics were recommended.	There is no nationally recognized definition of advanced tactics. However, the Department believes that advance tactics is training outside of the basic recruit academy for specialized situations (hostage rescue, high risk search warrant, high risk vehicle intercept/takedown, etc.) and may utilize equipment not available to the standard patrol officer or detective.		
46. Where advanced tactics were recommended, which & how many events were accepted for their use?	Accepted versus rejected was not tracked. All search warrants will require the new risk assessment form so in the future we will be able to determine total risk assessments versus those where SWAT was approved.		
47. How many of each type of case occurred in the same period but didn’t require “advanced tactics”?			
RISK ASSESSMENT SUPPLEMENT Cases not Requiring Advanced Tactics*	2013	2014	

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Question	Answer			
	Total Cases	Adv. Tactics	Total Cases	Adv. Tactics
Burglary	1071	3	914	4
Gang Participation Charges**	28	1	62	0
Grand Larceny	13,677	1	13,162	0
Narcotics	5,041	25	4,449	34
Narcotics/Gang Participation	***	1	***	0
Robbery	411	3	400	2
Sex Offense	326	1	264	0
Gambling	17	0	11	1
Sovereign Citizen (fraud-type case)	2,970	0	3,748	1
Human Trafficking Investigations**	22	0	40	1

*The above numbers are located

here: <http://www.fairfaxcounty.gov/police/crime/statistics/2013/20132014groupaibroffensesstatisticalreport.pdf>.

**The Gang Participation Charges and Human Trafficking numbers were obtained from the specific divisions who investigate those crimes. FCPD only began collecting human trafficking statistics in October 2013.

***The data base does not collect information on how many gang participation and narcotics cases overlapped.

48. Can FCPD provide a table showing entities (Patrol Bureau thru Organized Crime/Narc) and all event types and numbers for each event by entity with totals?

FAIRFAX COUNTY RISK ASSESSMENT SUPPLEMENT	2013	2014
ORGANIZED CRIME AND NARCOTICS	25	31
Event:		
1. Narcotics	25	30
2. Gambling	0	1
PATROL BUREAU	4	7
Events:		
1. Burglary	3	4
2. Grand Larceny	1	-
3. Robbery	0	2
4. Narcotics	0	1
CRIMINAL INVESTIGATIONS BUREAU	4	1
Events:		
1. Robbery	3	0
2. Sex Offense	1	0
3. Human Trafficking	0	1
CRIMINAL INTELLIGENCE DIVISION (GANG UNIT)	2	4
Events:		
1. Gang Participation	1	0
2. Gang Participation/Narcotics	1	0
3. Narcotics	0	3
4. Sovereign Citizen	0	1

49. As to SWAT, some have questioned why SWAT was used recently in Great Falls in connection with a gambling situation involving a high stakes poker game. I don't think that we have ever asked about that, and it seems that we should understand why SWAT was used given that it would appear to be a low risk situation in terms of possible violence or

Previously, the Organized Crime and Narcotics conducted a search warrant using SWAT on a high stakes poker game in Great Falls which involved hundreds of thousands of dollars. The organizer hired armed security who were armed with high power rifles and handguns. There were 60 individuals participating in the poker game and 6 of those individuals were armed with handguns.

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Question	Answer
resistance.	<p>In the referred case, Organized Crime and Narcotics conducted a search warrant using SWAT on a high stakes poker game in Great Falls which involved hundreds of thousands of dollars. Some hands were \$10,000 buy-ins. SWAT was used because:</p> <ul style="list-style-type: none"> • An individual in the previous investigation was participating in this poker game. That individual was one of the 6 armed individuals. • With the expectation of large amounts of cash, there was concern that the participants would be armed (as in the previous case) and there would be armed security present. • In cases of high stakes poker games, the advertisement for such games tends to be word of mouth. Since word of mouth cannot be controlled, there is a possibility that individuals who want to commit a robbery are either participating in the poker games or will arrive to commit a robbery. In this particular case, the poker game was by invitation only. However, the concern for unknown individuals participating and/or arriving was high. • The size of the house was approximately 10,000 square feet. Executing the search warrant on that size of residence was beyond the capabilities of Organized Crime and Narcotics.
Barricade	
50. Provide definition of barricade situation	<p>The newly released GO 520.3 - HOSTAGE / BARRICADED PERSON - defines a barricaded person as:</p> <p>A person who uses any shelter, conveyance, structure, building, open field, or other location as a barrier against law enforcement, and refuses to exit and submit to lawful authority.</p>
51. There were no barricade cases in 2013. Is that true or which UOF situations are not in this report? Where are they?	All use of force incidents are included in FCPD reporting; there were no barricade cases in 2013.
52. Sounds like the definition of barricade would permit SWAT action short of a known, unarmed suspect in the open. <ul style="list-style-type: none"> ▪ As defined by SWAT: BARRICADE "A person who uses any shelter, conveyance, 	<p>Proposed Barricaded Person's definition:</p> <p>Any person who uses any shelter, conveyance, structure, building, open field, or other location as a barrier against law enforcement and refuses to exit and submit to lawful</p>

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Question	Answer
<p>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."</p> <ul style="list-style-type: none"> ▪ Does standing behind a closed screen door inside one's home constitute a "barrier" under the definition of "barricade"? 	<p>authority.</p> <p>A barricade is not defined by the obstacle with which an individual is standing behind. In fact, a barricade can exist without any obstacles present. The "barricade", in context, is related to the totality of the circumstances to include threats made, perceived or potential weapons, environment, charges, etc., and not just the obstacle with which a person may or may not be standing behind.</p> <p>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. However, the term barricade does not in any way mandate a specific response by the officers nor does it automatically require advanced tactics. In fact, the overwhelming number do not, as indicated by the low frequency of a SWAT response to barricade situations. The response or actions of the officers will depend, as stated, on the totality of the circumstances known to or encountered by the officer(s), to include threats made by the subject, actual, perceived or potential weapons, environment, charges, etc.</p>
<ul style="list-style-type: none"> ▪ If a person doesn't open the door to someone who claims to be FCPD, but is unknown to the person, is he/she a barricade candidate? 	<p>If the person doesn't open their door and is unsure it is the police, the officers will ensure that the person clearly knows they are the police. They will have DPSC call the home, utilize the PA system, knock repeatedly on the door if safe to do so and yell to identify themselves as police officers. This is routinely done. In any action where the potential to arrest exists or a search warrant</p>

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<ul style="list-style-type: none"> ▪ How is "lawful authority" defined for a barricade and where? 	<p>will be executed, the department will always have a uniform presence so that there is no mistake on the part of the person that they are dealing with the police. So while someone may initially not know who they are dealing with, the department has measures in place to ensure that they know exactly who is at their door. Could this eventually result in being considered a barricade situation by the police if it's a person who claims they did not know that they were the police? Highly unlikely that they would not know that they were dealing with the police based on the measures utilized as mentioned above, but if they refuse to open the door and the police have legal authority to issue the lawful commands, then it could be considered a barricade. However, just because it is considered a barricade, it doesn't in any way mean that advanced tactics (SWAT) would be deployed. It would depend on the totality of the circumstances as to whether advanced tactics would be warranted.</p> <p>There is no specific definition for legal authority as it relates to a barricade. Rather, law enforcement officers are granted legal authority by the Code of Virginia. VA Code 15.2-1704 states:</p> <p style="padding-left: 40px;">A. The police force of a locality is hereby invested with all the power and authority which formerly belonged to the office of constable at common law and is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances.</p> <p style="padding-left: 40px;">B. A police officer has no authority in civil matters, except (i) to execute and serve temporary detention and emergency custody orders and any other powers granted to law-enforcement officers in § 16.1-340, 16.1-340.1, 37.2-808, or 37.2-809, (ii) to serve an order of protection pursuant to §§ 16.1-253.1, 16.1-253.4,</p>

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<ul style="list-style-type: none"> ▪ 1st sentence is mute on weapon. So, if a person doesn't open the door to someone who claims to be FCPD, but is unknown to the person, is he/she a barricade candidate? 2nd sentence mentions being armed. 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. ▪ The definition of "barricade" in the SWAT SOP is different than the one used in the draft GO distributed at the 06/03/15 meeting; which is operable? ▪ For example, "open field" is in the draft GO, but not the SWAT SOP. How can a barricade situation be in an open field? ▪ Sect. IV of GO 520.3 contradicts with the above hypothetical scenario: "In the event of 	<p>and 16.1-279.1, (iii) to execute all warrants or summons as may be placed in his hands by any magistrate serving the locality and to make due return thereof, and (iv) to deliver, serve, execute, and enforce orders of isolation and quarantine issued pursuant to §§ 32.1-48.09, 32.1-48.012, and 32.1-48.014 and to deliver, serve, execute, and enforce an emergency custody order issued pursuant to § 32.1-48.02. A town police officer, after receiving training under subdivision 8 of § 9.1-102, may, with the concurrence of the local sheriff, also serve civil papers, and make return thereof, only when the town is the plaintiff and the defendant can be found within the corporate limits of the town.</p> <p>Situations that officers respond to are complex and often rapidly evolving, and they must take into account the totality of circumstances known to them at that time. Individual situations depend on the totality of circumstances and situational assessments are conducted routinely by officers and supervisors on scene. The assessments include facts and circumstances known and unknown.</p> <p>They are different as the draft general order has a new definition which will be the governing definition.</p> <p>As stated in the draft General Order, an open field can mean an individual who is in the open, not actively using a structure, conveyance, shelter, building or other structure as a barrier against law enforcement and refuses to exit and submit to lawful authority.</p>

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<p>a <u>single person barricade</u>, and based on the priority of life, entry into the shelter, conveyance, structure, building, open field, or other location should be avoided.”</p>	<p>Example: Officers respond to a call for service for a suicidal subject sitting in the middle of a soccer field, armed with a rifle, refusing to submit to lawful authority. The individual is considered in an “open field.” This distance and lack of cover provide an impediment to police safely making an arrest.</p>
<p>Administrative Investigations & Disciplinary Action [Ref: FCPD Internal Affairs Annual Report http://www.fairfaxcounty.gov/policecommission/materials/2013-iab-annual-report.pdf]</p>	
<p>53. Explain why only 20% of UOF cases result in admin investigation and the sustained rate is 1-4/year and why “all reported use of force incidents do not require an administrative investigation” [see the second figure on p. 11].</p>	<p>Use of force incidents are unique to the circumstances the officer(s) were presented at the time of the calls for service. As such, the use of force numbers will fluctuate and not all use of force incidents generate an administrative investigation. For further information, refer to General Order 540.1 and General Order 301.</p> <p>General Order 540.1, Use of Force, Section IV, Regulations, Subsection H. http://www.fairfaxcounty.gov/policecommission/materials/5401-general-order.pdf</p> <p>H. Reporting the Non-Deadly Use of Force and Investigation of Injuries</p> <p>1. Officers who use non-deadly force shall immediately inform their on-duty supervisor of the use of force incident. Unless circumstances exist which prohibit the notified supervisor from responding, the supervisor shall respond to the scene of any use of force incident where injury results, or a vehicle, CEW, or PepperBall System is utilized. The notified supervisor shall review the circumstances surrounding the use of force incident and notify the duty officer or appropriate commander of the occurrence of:</p> <p>a. Any non-deadly use of force, accidental injury, or any other situation resulting in serious injury or death to any person.</p> <p>b. Any medical treatment provided by EMS, Department personnel approved by OMD, or medical facility resulting from the non-deadly use of force, accidental injury, or any other situation resulting in medical treatment to any person.</p> <p>c. Any use of the Precision Immobilization Technique (PIT).</p> <p>2. The duty officer or the appropriate commander will</p>

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	<p>determine if an injury is to be designated a serious injury. This determination will be based, in part, on information from medical personnel. At the earliest opportunity, the duty officer or commander will notify the appropriate bureau commanders of all injuries designated serious.</p> <p>3. The on-duty supervisor shall ensure that the use of all non-deadly force is documented on an Incident Report in I/LEADS. Self-inflicted and/or accidental injuries and all non-deadly force that involves the complaint of injury or medical treatment shall be documented in I/LEADS on a Use of Force Supplement, and investigated as follows:</p> <p>a. Serious injury or death to any person resulting from the use of non-deadly force, self-inflicted and/or accidental injury, or any other situation:</p> <ul style="list-style-type: none"> ▪ Investigative Authority: The Major Crimes Division and the Internal Affairs Bureau. ▪ Investigative Format: CIB Criminal Investigation and Internal Affairs Bureau Administrative Investigation. ▪ Documentation Review: The commander of the Internal Affairs Bureau shall review the administrative investigation and forward the investigation to the appropriate bureau commander. <p>b. Medical treatment for non-serious injuries, provided by medical facility personnel resulting from the use of non-deadly force, self-inflicted and/or accidental injury, or any other situation to any person:</p> <ul style="list-style-type: none"> ▪ Investigative Authority: The on-duty supervisor. ▪ Investigative Format: Administrative investigation and a Use of Force Supplement in I/LEADS detailing the incident, describing the type of force used, extent of injuries, and type of medical treatment provided. ▪ Documentation Review: The on-duty supervisor shall review all investigation reports and forward copies of the incident reports and administrative investigation to the division commander for approval and subsequent forwarding to the appropriate bureau commander and to the Internal Affairs commander. <p>c. Medical treatment for non-serious injuries provided by EMS personnel, Department personnel approved by OMD, or refusal of treatment by any person who has obvious non-serious injuries or alleges a non-serious injury resulting from the use of non-deadly force, self-inflicted and/or accidental injury, or any other situation:</p>

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Question	Answer
	<ul style="list-style-type: none"> ▪ Investigative Authority: The on-duty supervisor or above. ▪ Investigative Format: Use of Force Supplement in I/LEADS detailing the incident, describing the type of force used, extent of injuries observed or the complaint of injuries, and the fact that medical treatment was administered or refused by the injured person. ▪ Documentation Review: The on-duty supervisor shall review all investigation reports and forward copies to the division commander for approval and subsequent forwarding to the appropriate bureau commander and to the Internal Affairs Bureau commander. <p>4. The on-duty supervisor shall ensure that the use of all non-deadly force that does not involve the complaint of injury or medical treatment shall be documented and investigated as follows:</p> <p>a. Use of non-deadly force which involves striking a person, discharging a chemical agent or CEW, or utilizing a vehicle to contact a vehicle or person, to include use of the PIT:</p> <ul style="list-style-type: none"> ▪ Investigative Authority: The on-duty supervisor or above. ▪ Investigative Format: Use of Force Supplement in I/LEADS detailing the incident, describing the type of force used, the fact that no injuries were observed or the fact that no complaint of injuries were made. ▪ Documentation Review: The on-duty supervisor shall review all investigation reports and forward a copy to the division commander for approval and subsequent forwarding to the appropriate bureau commander and to the Internal Affairs Bureau commander. <p>b. Use of non-deadly force which involves pointing a firearm in response to the actions of a subject, physical control techniques to establish control and gain compliance, or vehicle incident techniques that do not involve contact with a person or object:</p> <ul style="list-style-type: none"> ▪ Investigative Authority: The on-duty supervisor or above. ▪ Investigative Format: Incident Report completed by the involved officer, detailing the incident, describing the type of force used, the fact that no injuries were observed or the fact that no complaint of injuries

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	<p>were made.</p> <ul style="list-style-type: none"> ▪ Documentation Review: The on-duty supervisor shall review all investigation reports and forward a copy to the division commander for concurrence and subsequent forwarding to the appropriate bureau commander and to the Internal Affairs Bureau commander. 																											
54. What is the definition of PIT (Precision immobilization technique)?	Precision Immobilization Technique (PIT): The intentional act of using a police vehicle to physically force a fleeing vehicle from a course of travel in order to stop it. The Precision Immobilization Technique is a specific, technical maneuver that requires advanced practical training prior to use. The use of the Precision Immobilization Technique is considered non-deadly force.																											
55. In 2013, were there 66 investigated UOF cases (p. 2, par 6) OR were there 102 Administrative Investigation cases for UOF (p. 6 bottom table)?	There were 66 administrative investigations involving 102 employees. The number 443 is the total number of use of force incidents reported during 2013 which include both citizen generated complaints (15) and internally generated documentation (428). The 442 use of force incidents are inclusive of the 66 administrative investigations that involved 102 employees.																											
56. Explain why as the number of criminal cases dropped by 11% from 2010 to 2013, the UOF cases rose by 8.5%?	A more appropriate data indicator for comparison/possible explanation of increase in use of force in the two specific years 2010 and 2013 is the increase in number of arrests. Use of Force incidents increased from 408 to 443, an increase in 35 incidents in the four year period. Arrests increased from 49,568 to 53,269, an increase in 3,701 during this same period. The Use of Force cases increased by 8.5% during this period, while the number of arrests increased by 7.5%. As there is a definite correlation between use of force and arrest, it is likely that the increase of 35 Use of Force incidents is the result of the increase of 3,701 arrests during this same period. The Use of Force incidents (35) represent an increase of less than one percent of the total increase in the number of arrests during this time period (3,701).																											
57. For 2006-15, how many UOF cases resulted in each type of Administrative Discipline shown across the top of the table on p. 8? Please add a column showing for 2006-15, how UOF incidents there were each year and how many were investigated by IAD.																												
Use of Force Incidents*	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 10%;">2006</th> <th style="width: 10%;">2007</th> <th style="width: 10%;">2008</th> <th style="width: 10%;">2009</th> <th style="width: 10%;">2010</th> <th style="width: 10%;">2011</th> <th style="width: 10%;">2012</th> <th style="width: 10%;">2013</th> </tr> </thead> <tbody> <tr> <td>Total</td> <td style="text-align: center;">386</td> <td style="text-align: center;">446</td> <td style="text-align: center;">515</td> <td style="text-align: center;">539</td> <td style="text-align: center;">408</td> <td style="text-align: center;">482</td> <td style="text-align: center;">417</td> <td style="text-align: center;">443</td> </tr> <tr> <td>Administrative Investigations</td> <td style="text-align: center;">60</td> <td style="text-align: center;">63</td> <td style="text-align: center;">77</td> <td style="text-align: center;">85</td> <td style="text-align: center;">78</td> <td style="text-align: center;">72</td> <td style="text-align: center;">56</td> <td style="text-align: center;">66</td> </tr> </tbody> </table>		2006	2007	2008	2009	2010	2011	2012	2013	Total	386	446	515	539	408	482	417	443	Administrative Investigations	60	63	77	85	78	72	56	66
	2006	2007	2008	2009	2010	2011	2012	2013																				
Total	386	446	515	539	408	482	417	443																				
Administrative Investigations	60	63	77	85	78	72	56	66																				

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Question				Answer				
Conducted by IAB	**	**	**	14	13	14	6	4
Resulting in Disciplinary Action	2 ^{2,2}	1 ¹	0	0	3 ^{2,3,4}	7 ^{1,1,1,1,1,1,3}	5 ^{1,1,1,2,3}	2 ^{2,3}
<p>* The Internal Affairs Bureau Annual Statistics report has not been completed for 2014 and 2015.</p> <p>**Unknown, was not recorded</p> <p>1. Oral</p> <p>2. Written</p> <p>3. Suspension</p> <p>4. Disciplinary transfer</p>								
58. Explain both reports where UOF is mentioned and explain the data so the Subcommittee can do some data analysis. How could Internal Affairs be the subject of UOF incidents (slide 12) and how does IAD investigate its own?				The table "Use of Force Reports by Assignment (Investigative Office)" (provided on page 12) refers to the entities that investigated/recorded any use of force incidents. In order to know where employees who were involved in an administrative investigation were assigned, please refer to the attached table titled "Employee Assignments " which can also be found on page four, "Employees Involved in Administrative Investigations by Assignment".				
59. All reported use of force incidents do not require an administrative investigation (see p. 11 under the 2nd table). Who decides that an administrative investigation is N/A?				Policy determines whether an administrative investigation is conducted by either a supervisor or the Internal Affairs Bureau. See General Order 540.1, Use of Force, Section V., "Use of Force Reporting by Type of Force Employed and Injury/Treatment". The table is provided as an attachment, "Table GO 540.1".				
60. How is it decided that an administrative investigation is N/A? What GO or SOP applies?				General Order 301 and 540.1 outlines this process. They are posted on the Commission website.				
61. Which UOF incidents require documentation? What's the reference?				General Order 301 and 540.1 outlines this process. They are posted on the Commission website.				
62. Use of Force Investigative Outcome histogram: 2012 "Not sustained" bar is too short (see p. 11); it should be 52 per the table above that figure.				The bar should be at the 52 mark and has since been corrected.				
63. Why does the above report state on p. 2 that there were 10 suspensions in 2013, but the table on pp. 8-9 shows a total of 20? Perhaps the answer is the * on p. 9. If so, it indicates that some suspended officers violated UOF in 2 or more categories.				On page 2, there were 10 suspensions in 2013 yet on page 8/9, it shows there were 20 suspensions. The 20 listed suspensions include every violation an employee was suspended for. There were 10 officers suspended for a total of 20 violations (administrative cases had multiple sustained violations).				
64. Explain the second table on p. 9. Is it saying one civilian was suspend for UOF? What are the details as to why one officer was terminated?				The table is saying that a civilian was suspended for a sustained violation which was not for use of force. The officer was not terminated but rather resigned prior to termination (see question 24).				
65. Provide details on all "discharge firearm" cases shown on p. 13? The # of discharges went from 2 in 2009 upward every year until 6 in 2013.				All officer involved shootings synopsis (2005 – 2013) will be posted on the Chief's Page at www.fairfaxcounty.gov/police . Discharging a firearm towards animals will not be included.				

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Question	Answer
66. The asterisk on p. 13 shows discharge firearm includes against 2 animals. Provide the data for firearm discharges only against people in 2009-2012.	All officer involved shootings synopsis (2005 – 2013) will be posted on the Chief’s Page at www.fairfaxcounty.gov/police . Discharging a firearm towards animals will not be included.
67. Does an officer under investigation retain his firearm?	Please refer to SOP 12-045, Investigation of Deadly Force Deployment, Section D, Subsection 3.
68. For FCPD, explain the benefit to the taxpayers and appropriateness of “retirement in lieu of discipline” vs. “termination.”	<p>This action is not taken as any benefit to the taxpayers and without consideration of appropriateness as any employee vested in the system has the right and option to retire at any point they are eligible. The department has no legal standing to prevent an employee from retiring, even in lieu of termination.</p> <p>There is no disciplinary action that can legally be taken which could impact retirement benefits. Retired personnel are subject to criminal prosecution but are not subject to internal disciplinary action.</p>
Body-Worn Camera	
69. Would body worn camera have expedited investigation of any officer-involved shootings in Fairfax? How?	It is unknown if a body worn camera would have expedited any investigation involving an officer-involved shooting and an answer would require speculation that may or may not address the unique circumstances involved in each shooting incident. This noted, FCPD is proposing a pilot program for introducing body-worn cameras into patrol officer use to generate just this type of information for evaluation.
70. Attached is a PDF copy of an article from the Sunday, May 31, 2015 Outlook Section of the Washington Post called "Five Myths" regarding use by police of body cameras. Does FCPD agree or disagree with the claims made in this article?	The Department is aware of the experiences of other departments as outlined in the article. As a result, the Department is preparing to initiate a pilot body camera program. During and after the pilot program is complete, the Department will evaluate all aspects of the program.
71. Are all police cars equipped with dashboard cameras at this point? How is the video triggered? Does it run continuously? When is it reviewed?	<p>All patrol cruisers are equipped with ICV cameras, (to include k-9 vehicles). 650 ICV units were purchased.</p> <p>The ICV cameras can be triggered by following:</p> <ul style="list-style-type: none"> ▪ Activation of Emergency lights ▪ Officers can manually trigger a recording either from the camera or their belt worn Mic ▪ There is also a G-FORCE sensor in the car that will trigger a recording in an accident or if the vehicle experiences high G forces

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Question	Answer
	<p>The cameras are running continuously and capturing data. However, the Video Processing Unit (VPU) does not store this data (A/V) until ICV has been activated. Once activated, the system records 30 seconds of data prior to the activation. The video data can be reviewed on the MCT prior to being uploaded or can be reviewed in the back end client after being uploaded.</p> <p>The New GO has the following section under Supervisor Responsibilities:</p> <p>A. Supervisors should review their officers' recordings for the purposes of gathering information that may be useful in preparing employee evaluations or establishing training needs. A supervisor may request a DVD of the video for training purposes. When a recording is burned to DVD for training purposes, a copy may also be forwarded to the Criminal Justice Academy for inclusion in their training files.</p>
Choke Hold	
<p>72. Provide a copy of its recent order banning choke holds. I searched for "choke hold" and "chokehold" on the Fairfax Co. website and found only GO 540.1 which wasn't "recently issued" (see below); it came out 1/1/13.</p> <p>Background: P. 62 of the PERF report states: RECOMMENDATION #48: Prohibit "choke" holds in policy. The FCPD should prohibit "choke" holds and neck restraints as a use-of-force option. (Note: The Fairfax County Police Department has recently issued an order to implement this recommendation.)</p>	<p>General Order 540.1 IV. G. 1. c. states "a choke hold is prohibited except...threat of serious physical injury or death) and the academy does not teach recruits or incumbent officers to use the carotid restraint as a primary control hold. What the academy did teach was how to escape the hold if it was ever put on them while in the field, but in so doing the recruits have to apply the carotid restraint so that their partner can escape from it. The academy also discussed with officers, that as a last resort, they could use the carotid restraint in situations where deadly force is justified and they have no other options available. They did not however, teach the carotid restraint to be a standard or effective tool for officers. In addition, the academy was complying with Department of Criminal Justice Services (DCJS) mandated teaching objectives in teaching the carotid restraint, as DCJS requires that it be taught in order to complete the academy and be certified as a law enforcement officer.</p> <p>The PERF review looked at what the Department was doing and said that technically, even though the Department doesn't teach it to use it, demonstrating how it is done is considered teaching it and therefore, if it is</p>

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	<p>taught it becomes policy. Their recommendation was that all demonstrations of it be stopped, which the Department immediately did. Colonel Roessler also issued an order based on the PERF report to further emphasize his commitment that the Department does not teach the carotid restraint. To comply with the DSCJS mandate, the instructors during academy training will demonstrate the carotid restraint on each other but no recruit will demonstrate or use or attempt the carotid restraint.</p>
<p>73. Provide the DCJS Requirement on choke-holds and Colonel Roessler’s order regarding teaching the carotid restraint.</p>	<p>DCJS requirement is as follows: Performance Outcome 6.14. Use touch pressure or striking pressure to control a person.</p> <p>Training Objectives Related to 6.14. A. Given a written, audio-visual, or practical exercise, identify body pressure points. B. Given a practical exercise, demonstrate pressure point control techniques.</p> <p>Criteria: The trainee shall be tested on the following: 6.14.1. Identification of body pressure points a. identify carotid choke hold as deadly force 6.14.2. Demonstration of pressure point control techniques a. touch b. strike</p> <p>Lesson Plan Guide: The lesson plan shall include the following: 1. Identification of body pressure points a. identify carotid choke hold as deadly force 2. Demonstration of pressure point control techniques 115 of 270 VIRGINIA CRIMINAL JUSTICE TRAINING REFERENCE MANUAL 2012 a. touch b. strike</p> <hr/> <p>Colonel Roessler’s order, “Choke Hold Prohibition,” dated May 28, 2015, is attached. The essence is captured in the following excerpts: “The Fairfax County Police Department's Criminal Justice Academy shall immediately cease teaching, demonstrating, training, and using the carotid artery</p>

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	<p>restraint (choke hold)... ‘Choke’ holds and neck restraints as a use of force option are not sanctioned by the Fairfax County Police Department.”</p> <p>“In a situation wherein it is necessary for an officer to protect himself or others from imminent threat of death or serious bodily injury, and the officer's most appropriate tools and training have not worked or are not available, the officer may as a last resort turn to other tools and defensive tactics to save themselves or others.”</p>
<p>Use of Conducted Energy Weapons Tasers Gen'l Order 540.1 - "Conducted Energy Weapons are designed to offer the police officer an alternative to physical force in many situations. The use of the CEW is regulated by SOP 06-025."</p>	
74. Can FCPD clarify whether conductive energy devices (CED) = Conducted Energy Weapons (CEW)? Can FCPD provide a copy of SOP 06-025?	Yes, Conducted Energy Weapons and Conducted Energy Devices is the same as Tasers. A copy of SOP 06-925 is provided on the Subcommittee website.
75. Why does FCPD uniformly distribute Tasers to all stations rather than those with the most incidents of UOF? Why does FCPD not require that all Tasers at each station that can be issued on each shift are issued?	As was presented in the June 3, 2015 meeting, each officer who is trained in using a Taser has the opportunity, at each shift, to have a Taser. Each station has approximately 33 Tasers for patrol and at no point is there more than 33 officers on patrol in a district at the same time. There are no shortages of Tasers at the stations. This matter was discussed further with Chief Roessler at the Subcommittee’s July 1st meeting.
<p>Crisis Intervention Model</p>	
76. Does FCPD have CIT? How many? Crisis Intervention Team (CIT) model was first developed in Memphis in 1988 following a tragic incident in which a Memphis police officer shot a mentally ill man. The police department teamed up with local mental health experts, advocates, and academics to design a comprehensive plan for police training and policies for managing individuals with mental illness. The model was successful, and other police departments began implementing their own CIT programs.	<p>Yes. The Department has an extensive and robust CIT program, with approximately 400 patrol officers and approximately 100 non-patrol officers (supervisors, detectives, command staff) certified, which is modeled after Memphis and been in effect since 2007. The Community Services Board in Fairfax County partners with the Police Department in this effort.</p> <p>Since the formation of the program in 2007, we have trained as follows:</p> <ul style="list-style-type: none"> ▪ 2007- 1 class with approximately 30 officers (total 30 officers) ▪ 2010- 1 classes with approximately 30 officers (total 30 officers) ▪ 2011- 2 classes with approximately 40 officers each (total 80 officers) ▪ 2012- 4 classes with approximately 40 officers each (total 160 officers) ▪ 2013- 3 classes with approximately 40 officers each (total 120 officers) ▪ 2014- 2 classes with approximately 40 officers each (total 80 officers)

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	The total number of officers based on the listing is actually 500
After Action Reporting Lessons Learned [See attached "Preparedness Cycle] Without collecting AARs and taking corrective action (11 o'clock on the figure), an organization or system never improves and keeps making the same errors. AARs are crucial feedback to prepare officers for incidents as demonstrated in the preparedness cycle.	
77. Does FCPD have a formal, written after action report (AAR) system for UOF cases? Does it address what went right and what didn't and identify the persons and supervisors responsible for good and bad decisions?	Yes, as has been discussed with the Subcommittee at its June 17, 2015 meeting, an internal UOF Committee has been convened in the past for this explicit purpose. An example of a Use of Force Committee report has been provided to the Subcommittee. FCPD is in process of revising this process in order to be able to make lessons learned public to the extent possible.
78. Has the Chief of Policy shared UOF lessons learned from the deaths caused by FCPD officers within FCPD to prevent recurrence? Which shootings? What lessons were implemented from each case? How quickly did officers receive those lessons?	<p>From many officer involved shootings, the Department has learned lessons which have helped develop training courses such as tactical decision making for supervisors and officers, shoot/don't shoot scenarios, sympathetic response, etc. In addition, there have been use of force reports produced which analyzed the incident and provided recommendations. The administrative investigations associated with officer involved shootings also provides recommendations which, in many instances, are implemented. Also, in the Culosi report to the community, there were recommendations that were provided and also implemented. Some recommendations that were implemented were risk assessments and the appropriate entities to review the risk assessments. Plus, the lessons learned included training in sympathetic response, command oversight and review of high risk incidents, and required training before engaging in high risk tactics.</p> <p>The Department expanded first aid training and issued equipment is a lesson learned from officer involved incidents. Lessons learned and new training, equipment, and discussions come from all different cases, incidents, and events. Lessons learned are not exclusively generated by officer involved shootings.</p>
79. Does the PD have a separate unit whose function it is to follow the needed changes and evaluate policies after they have been adopted by FCPD?	While FCPD performs the functions characterized in Mr. Shumaker's chart, it does not maintain a separate unit that is uniquely assigned these functions.
For example, the FBI has a Critical Incident	

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<p>Response Division which, among other things, evaluates critical incidents in terms of tactics; the Bureau (at least used to) an Office of Planning & Evaluation which looked more at what I think is the type of planning to which Mr. Shumaker refers. It is this latter function to which I refer as to whether the FCPD has an office for such evaluation.</p>	
<p>80. "Mr. Ryan said psychological effects on involved officers of seeing the public retelling of the event is a factor in considering release of this information." Weren't most of the UOF cases reported in open source media which suggests the psychological effects have already been experienced? How will the officer in the report know we're looking at a report about him? Why does he right (to what exactly?) trump the right of the public to know? Is there a law barring the UOF subcommittee or public from seeing them? Does the public have a right to know what its employees are doing?</p>	<p>The matter of psychological impact on officers of mortally wounding another human being was explored in depth at the June 22, 2015 Ad Hoc Commission meeting. The slide set used by Dr. Steve Band is located on the Commission's website and is informative in this regard.</p>
<p>Resources</p>	
<p>81. From the 05/20th meeting, "Are there parts of the PD that have staffing shortages?" The answer is "No response offered." Can we get a response to this?</p>	<p>FCPD actively participates in the Fairfax County annual budgeting process by making funding recommendations to the County Executive, who must make a determination of the FCPD priorities in relation to other service demands on County resources. The County Executive proposes his priorities and funding profile to the Board of Supervisors for its consideration. FCPD actively participates in the BOS considerations by answering questions posed to it.</p> <p>Relative to staffing, at any moment in time, there are numerous vacancies on the Department. Vacancies that occur from retirements, resignations, deaths, or terminations tend to take, at a minimum, 1 year to fill. There is consistently a 5-6% vacancy rate. See www.fairfaxcounty.gov/dmb/fy16-fy20-public-safety-staffing-plan.pdf for more information.</p>
<p>82. Related to the above question is a two part question: How many officers are assigned to the unit (whatever its name) responsible for investigation of police shootings (I'm assuming</p>	<p>Answer: Internal Affairs Staffing: 1 Major (Commander) 1 Captain (Commander of Investigations)</p>

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<p>obviously that there is one) and what is their usual length of assignment there? How many officers are assigned to Internal Affairs and what is the usual length of assignment there?</p>	<p>1 Lieutenant (Commander of Inspections) 6 Second Lieutenants (1 assigned to Inspections) 2 Sergeants</p> <p>The average length of assignment is 2 years.</p> <p>Cold Case Unit Staffing 1 Second Lieutenant 4 Detectives</p> <p>Not considering promotions, temporary assignments, and transfers, the average length of assignment is 5 – 8 years.</p>
<p>83. Address the types and quantity of Dept of Defense equipment it has received, how it has used it, which equipment was involved in UOF incidents? Can FCPD explain whether it has returned DOD equipment?</p>	<p>The FCPD used to participate in the federal 1033 program. However, the FCPD has not obtained any federal equipment in over 15 years and any such equipment is no longer in inventory. The federal 10-33 program is which allowed law enforcement agencies to acquire property for bona fide law enforcement purposes that assist in their arrest and apprehension mission (see www.dispositionservices.dla.mil/leso/pages/1033programfaqs.aspx) Any equipment the FCPD acquired is no longer in service or used. The FCPD, when it participated in the 1033 program, obtained small scale items such as helmets, night vision, and rifles. The rifles were used to begin the FCPD’s Patrol Rifle Program after the LA bank robbery shoot out (see www.dailynews.com/general-news/20120227/north-hollywood-shootout-15-years-later) The Department is currently researching whether any equipment obtained through the 1033 program was used in a use of force incident.</p>