

Answers to Questions
Use of Force Subcommittee Members
Ad Hoc Police Practices Review Commission
Updated as of: 06.30.2015

Question	Answer
Mike Shumaker Questions	
1. The FCPD should provide details on all deadly use of force cases since 2006, and all criminal and IAD investigations since 2009. If there are ongoing UOF cases by MCD or IAD, aside from Pfc Torres, the subcommittee should at least know that they are happening and be given as many details as possible, e.g., use pseudonyms for the officer under investigation.	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.
2. Can FCPD explain why slide 2 shows the yearly totals of discipline cases was so small out of the total number of UOF cases on slide 3? E.g., in 2010 three discipline cases out of 408.	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.
3. Can FCPD provide the number of uniformed officers in FCPD per each year in the report? Percentage of Use of Force Incidents Versus Total Criminal Traffic and Service Calls is not a normal metric from what I've read in DOJ and PERF reports, a better one is number of UOF/officers.	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.
4. Can FCPD explain why as the number of criminal cases dropped by 11% from 2010 to 2013, the UOF cases rose by 8.5%?	The criminal cases refer to calls for service. The calls for service is decided based upon the information the caller provides and then the dispatcher assigns an event. The total criminal cases do not mean there was that number of criminal cases in Fairfax County. The numbers mean that officers were dispatched to an event which was initially classified/dispatched as criminal. The outcome of the call for service determines if there was an actual crime attempted or committed. One cannot compare the criminal calls for service to the number of use of force incidents. The numbers submitted on the Use of Force Statistical Summary were to show the percentage of use of force incidents compared to the total calls for service (Criminal, Traffic, and Service) officers handled. Use of Force incidents are unique to each situation an

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	<p>officer encounters. As such, the use of force incidents will fluctuate year to year, regardless of the total calls for service. For statistical purposes, the Department looked at the difference in the number of Group A offenses reported in 2010 v 2013. There were fourteen categories and there was an increase in seven categories (with an overall decrease in crime).</p> <p>The categories for which the County experienced an increase in reported crimes in 2013 compared with 2010 were:</p> <ul style="list-style-type: none"> • Bribery (increase of 2 incidents) • Counterfeiting/Forgery (increase of 33 incidents) • Drug/Narcotic Offenses (increase of 1,045 incidents which equates to a 26.15% increase) • Extortion/Blackmail (increase of 3 incidents) • Fraud (increase of 562 incidents which equates to a 23.34% increase) • Pornography/Obscene Material (increase of 69 incidents which equates to a 98.57% increase) • Prostitution Offenses (increase of 48 which equates to a 58.54% increase) • Robbery (increase of 22 incidents for an increase of 5.64%)
<p>5. Can FCPD 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?</p>	<p>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</p>

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	Incidents reported where the numbers on page 6 are the use of force incidents investigated as an administrative investigation. (See answer to question 6)
6. Can FCPD explain why the second figure on p. 11 states “all reported use of force incidents do not require an administrative investigation?”	Please refer to General Order 540.1, Use of Force, Section IV, Regulations, Subsection H.
7. Can FCPD explain why the second figure suggests that only 20% of UOF cases result in admin investigation and the sustained rate is 1-4/year.	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.
8. Overall, FCPD needs to explain both reports where UOF is mentioned and explain the data so the subcommittee can do some data analysis. How could IA 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. “Employees Involved in Administrative Investigations by Assignment” (provided on page 4) provides where employees who were involved in an administrative investigation were assigned.
9. Can FCPD 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?	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/1033programfaq.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.
10. 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	The policy statement of General Order 540.1 provides a statement of conduct regarding use of force.

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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.”	
11. Provide definition of barricade situation	See answer to question # 66.
12. 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?	The Culosi case prompted the development of the Threat Assessment Form. It is unlikely that if SWAT would be utilized today that same case were run through our current risk assessment matrix.
13. Which of the individual cases caused FCPD to employ UOF and what type(s)?	See above response – no additional cases.
14. It was my understanding that none of the cases before the Matrix resulted in problems.	Correct.
15. When did use of the Matrix become mandatory?	2008
16. What are details of each case for which use of the Matrix resulted in SWAT being deployed and employed UOF?	SWAT has not shot a person using the Search Warrant Matrix since January 2006. OSB doesn’t track other use of force events. The Internal Affairs Bureau tracks use of force by officer, not by assignment.
17. 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 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 commander for several years until they are promoted, they are transferred, or they retire.
18. 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.
19. Which & how many recommendations were accepted?	A statistical snapshot will be provided to the subcommittee.

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20. How many of each type of case occurred in the same period but didn't require "advanced tactics"?	In the past, this was not captured. However, cases which didn't require "advanced tactics" are now captured. A statistical snapshot will be provided to the subcommittee.
21. Can FCPD provide a table showing entities across the top (Patrol Bureau thru Organized Crime/Narc) and on the left all event types and numbers for each event by entity with totals on the far right and across the bottom?	Risk Assessment statistical summary already posted on Ad Hoc website with this information.
22. 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)?	66 refers to the number of officers who were under an administrative investigation. 102 refers to the number of incidents of use of force within the 66 officer administrative investigations. There are instances where multiple use of force applications are utilized by officers. For example, an officer utilizes the Taser and then applies a Rip Hobble, which is considered two incidents of use of force. If this case generated an administrative investigation that would be one administrative investigation for two incidences of use of force. In addition, an officer might have several use of force incidents throughout a year which caused several administrative investigations. The 66 would cover the officer and the 102 would cover the separate use of force incidents.
23. p. 2: In par. 3, 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.
24. P. 2, par. 5: the 1 termination isn't shown on pp 8-9?	Answer: This was a data retrieval error. There was an employee recommended for termination but resigned prior to the termination effective date. The resigned column should be increased by 1. This has been corrected in the report.
25. p. 2, par. 6: For FCPD, explain the benefit to the taxpayers and appropriateness of "retirement in lieu of discipline" vs. "termination."	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.
26. p. 8: only 1 written and 1 suspension, the lowest	No question is posed.

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forms of administrative punishment for 443 UOF cases (p. 11).	
27. 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 this report.
28. p. 11 says under the 2nd table: all reported use of force incidents do not require an administrative investigation. The above chart depicts Use of Force incidents that required documentation as an administrative investigation. The above chart depicts Use of Force incidents that required documentation as an administrative investigation”	No question is posed.
29. Who decides that an administrative investigation is N/A?	They are posted on the ad hoc website
30. How is it decided that an administrative investigation is N/A?	General Order 301 and 540.1 outlines this process. They are posted on the ad hoc website
31. What GO or SOP applies?	General Order 301 and 540.1 outlines this process. They are posted on the ad hoc website.
32. Which UOF incidents require documentation? What’s the reference?	General Order 301 and 540.1 outlines this process. They are posted on the ad hoc website.
33. p. 11 Use of Force Investigative Outcome histogram: 2012 “Not sustained” bar is too short; it should be 52 per the table above that figure.	We are not sure why the bar is too short. The bar should be at the 52 mark and has since been corrected.
34. Can FCPD 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.
35. The asterisk on p. 13 shows discharge firearm includes against 2 animals. Can we see 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.
36. p. 27: can we see details of the Annual Comparison by Type of Litigation 2009-2013 for years 2010-13 involving the six Excessive Force?	<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</p>

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	<p>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> <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.</p>

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	Therefore, the statistics for 2012 should be 1 instead of 2.
37. 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? SOP 12-045 mentions "report" twice but its contents and what becomes of it aren't stated.	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.
38. [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. At our 5/20 meeting, I asked the SWAT team whether after action reports (AAR) are used. AARs are crucial feedback to prepare officers for incidents as demonstrated in the preparedness cycle.	No question posed. This was discussed in the meeting on June 17, 2015.
39. 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 .
40. 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?]	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

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	<p>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>
41. What is the UOF culture within FCPD?	Answered by the Academy during their presentation.
42. 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?	The Commission was instructed to avoid discussion of the Geer case.
43. In November 2011, Officer Oluwa was the subject of a civil rights lawsuit after Oluwa and another 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>The case documents can be viewed at the United States District Court for the Eastern District of Virginia under docket 1:2011cv00828.</p> <p>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. 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>
44. 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?	<p>Answer: 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 was utilized to protect the individual from harming themselves and was in compliance with the Department’s policies.</p>
45. UOF 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</p>

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	<p>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>
46. Does FCPD have use of force continuum from non-lethal to lethal? I don't see that in Gen'l Order 540.1	Answer: 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.
47. 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>
48. Are officers taught only to shoot to kill? Why?	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.
49. How often do FCPD officers review UOF guidelines? Is there a written and practical (simulator) exam? How often? Do any fail? How	Beginning in the Academy, officers are consistently reviewing use of force guidelines; whether it is in roll calls, inservice, academy classes, or academy training.

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are they remediated?	<p>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 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>
50. Does an officer under investigation retain his firearm?	Please refer to SOP 12-045, Investigation of Deadly Force Deployment, Section D, Subsection 3.
51. What metrics does FCPD employ for UOF? See p. 19.	For statistical purposes and analysis as mentioned on page 19, the FCPD does not assign any values or metrics to the different types of use of force.

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52. p. 19 Not only should there be policies for deadly and nondeadly uses of force but a clearly stated “sanctity of life” philosophy must also be in the forefront of every officer’s mind.	No question posed.
53. p. 21 item 2.2.1 and 2.2.2 (who & how to investigate officer-involved shootings resulting in injury or death, or in-custody deaths)	No question posed.
54. p. 22 item 2.2.3 - 2.2.6 & 2.3	No question posed.
55. p. 45 item 4.4 How does FCPD do this?	<p>“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.” (4.4, Final Report of the President’s Task Force on 21st Century Policing)</p> <p>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)</p>
56. p. 91 recommendation 2.2 and associated action items	No question posed.
57. 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.
58. 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. Department has extensive and robust CIT program with over 400 officers (43%) certified that 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 ▪ 2010- 1 classes with approximately 30 officers ▪ 2011- 2 classes with approximately 40 officers each

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	<ul style="list-style-type: none"> ▪ 2012- 4 classes with approximately 40 officers each ▪ 2013- 3 classes with approximately 40 officers each ▪ 2014- 2 classes with approximately 40 officers each
59. Is there an SOP for a Sgt to arrive at the scene and take charge?	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 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.
60. If my memory is wrong, I'd like the FCPD to 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.
61. 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?	Pending
62. 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).
63. I'd like an explanation of the second table on p. 9. Is it saying one civilian was suspended 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).
64. How many FCPD officers are married or related to attorneys in the Commonwealth Attorney's office?	Unknown
65. We need a copy of SOP 06-925. It would also be helpful if FCPD clarified whether conductive energy devices (CED) = Conducted Energy Weapons (CEW). [Rationale: per p. 13 of Gen'l Order 540.1 - "Conducted Energy Weapons are designed to offer	This is the same question as Question 72.

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the police officer an alternative to physical force in many situations. The use of the CEW is regulated by SOP 06-025."]	
<p>66. Sounds like the definition of barricade would permit SWAT action short of a known, unarmed suspect in the open.</p> <ul style="list-style-type: none"> ▪ As defined by SWAT: BARRICADE "A person who uses any shelter, conveyance, structure, or building as a barrier against law enforcement and refuses to exit and submit to lawful authority. A person who is known or believed to be armed and in a position of hiding and refuses to submit to lawful authority." ▪ Does standing behind a closed screen door inside one's home constitute a "barrier" under the definition of "barricade"? ▪ How is "lawful authority" defined for a barricade and where? 	<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 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>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,</p>

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<ul style="list-style-type: none"> ▪ 1st sentence is mute on weapon. So, if I don't open my door to someone who claims to be FCPD, but unknown to me is, am I 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, 	<p style="color: red;">37.2-808, or 37.2-809, (ii) to serve an order of protection pursuant to §§ 16.1-253.1, 16.1-253.4, 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 style="color: red;">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 style="color: red;">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 style="color: red;">They are different as the draft general order has a new definition which will be the governing definition.</p> <p style="color: red;">As stated in the draft General Order, an open field can mean an individual who is in the open, not actively using</p>

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but not the SWAT SOP. How can a barricade situation be in an open field?	a structure, conveyance, shelter, building or other structure as a barrier against law enforcement and refuses to exit and submit to lawful authority. 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.
67. 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. 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.
68. 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?	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.
69. 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	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

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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?	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.
70. "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?	Please see the answer to questions #69. Additionally, 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.
71. 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?	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 was discussed in the June 3, 2015 meeting.
72. Can FCPD provide a copy of SOP 06-925? Can FCPD clarify whether conductive energy devices (CED) = Conducted Energy Weapons (CEW)? Rationale: per p. 13 of 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."	Yes, Conducted Energy Weapons and Conducted Energy Devices is the same as Tasers.
73. 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 ▪ 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 	Sent as attachments. SOP 06-025 CEW was already provided. SOP 13-048, Special Operations Hostage/Barricaded Persons, will not be provided. A new General Order about Hostage/Barricade Persons is in the final stages of approval. Once all approvals and signatures have been obtained, it will be provided to the committee.

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04-01-13 Persons <ul style="list-style-type: none"> ▪ 13-049 Marine Patrol 04-01-13 ▪ 13-050 Mandatory and Specialized Training 04-01-13 ▪ 13-051 Civil Disturbance Unit 04-01-13 	
Mary Kim Questions	
1. 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.
2. 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.
3. 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.
4. Are all police cars equipped with dashboard cameras at this point? How is the video triggered? Does it run continuously? When is it reviewed?	All patrol cruisers are equipped with ICV cameras, (to include k-9 vehicles). 650 ICV units were purchased. The ICV cameras can be triggered by following: <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 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. The New GO has the following section under Supervisor

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	<p>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>
5. 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.
6. 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.
7. 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</p>

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	<p>above.</p> <p>In select cases over the years, detectives have been directed not to have contact with family members for 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>
8. 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.
9. 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.
10. Policy what information is made public in general. History and epistemology of the FCPC communications policy. Exactly what is it? (I assume this will come in communications committee)	General Order 401 and 401.1 have the media release policy of the department and are posted on the ad hoc commission website.
11. Who does the Chief of Police report to? Under	The Chief of Police reports to the County Executive (CE)

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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?	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.
12. 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.
Joe Smith Questions	
1. From the 05/20 th 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>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>
2. Related to the above question is a two part	Answer:

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<p>question: How many officers are assigned to the unit (whatever its name) responsible for investigation of police shootings (I'm assuming 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>Internal Affairs Staffing: 1 Major (Commander) 1 Captain (Commander of Investigations) 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>3. In connection with Mr. Shumaker's chart on Preparedness Cycle, 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? For example, the FBI has a Critical Incident 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>While FCPD performs the functions characterized in Mr. Schumaker's chart, it does not maintain a separate unit that is uniquely assigned these functions.</p>
<p>4. Attached is a PDF copy of an article from the Sunday, May 31, 2015 Outlook Section of the Washington Post called "Five Myths." Does FCPD agree or disagree with the claims made in this article?</p>	<p>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.</p>
Adrian Steele Questions	
<p>1. 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</p>	<p>In reference to Dr. Culosi's case, please see "Report to the Community" dated January 11, 2007.</p> <p>http://www.fairfaxcounty.gov/police/news-releases/special-reports/pdf/community-report-salvatore-culosi.pdf</p>

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<p>changes should be considered and recommended.</p> <p>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 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>2. 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 resistance.</p>	<p>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.</p> <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

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	<p>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.</p> <ul style="list-style-type: none"> • 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.
Phil Niedzielski-Eichner Questions	
<p>1. Is there is annual FCPD climate survey to monitor the operating culture, including police officer attitudes about their work or if there are issues about which they are concerned?</p>	<p>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. 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.</p>