

Communications Subcommittee

Final Report and Recommendations

Civilized communities grant special powers and entrust extra authority to law enforcement agencies to keep the peace and protect the lives of everyone. In response, the public expects and deserves a culture of transparency and accountability. Police departments should provide maximum disclosure of information (balanced against endangering people, due process or law enforcement efforts) with minimum delay, to ensure these powers are responsibly and humanely used with proper respect for the sanctity of human life. Timely, accurate, culturally appropriate information dissemination via numerous communication and news tools and platforms is essential to keep the community informed, change negative perceptions, narratives and visuals and ensure a culture of public trust.

Every interaction with the Fairfax County Police Department (FCPD) creates a personal reaction, perception and memory, contributing to the overall experience one has with the agency. Public perceptions of the FCPD based on these individual experiences impact belief in the legitimacy of police actions. Communications is the key – the more information provided about police cases, actions, policies and procedures, the better one is able to assess the legitimacy of the agency. When the public determines police actions are legitimate, it leads to increased support and trust in the dedicated public servants who risk their lives every day for our benefit and safety.

Communications in recent high-profile use-of-force and critical incident cases were mishandled, inadequate and untimely, leading to loss of public trust and questions about the legitimacy of police actions. A well-informed community is well served; these recent communication lapses lowered the level of service in Fairfax County. Our community deserves better.

Looking to the future, these challenges can be addressed and communications improved through a two-pronged approach: first, by improving and updating policies, procedures, personnel and tools to state-of-the-art best practices and second, effecting a change to the agency-wide culture to embrace a predisposition to disclose information. The Fairfax County Police Department (FCPD) should recognize the public's 21st century digital capabilities which allow everyone to see, hear and assess police actions in real time.

The failures in both communications and its FOIA (Freedom of Information Act) policies have created this crisis of confidence for FCPD. If the department had policies that fostered real transparency, it's unlikely the controversies in recent years would have lasted so long and there likely would not have even been a call to form this Commission.

If the Board of Supervisors expects to get out from under the negative perception hindering the good work of the men and women in FCPD, there must be significant change coming from the leadership of the County and the Fairfax County Police Department. No longer can they just pay lip service to the idea of transparency. Real change is needed – now.

The Board of Supervisors must insist on policies that lean toward releasing information as soon as possible whether it's in the department's daily communications, during a significant event or through a Freedom of Information Act request. There are now examples across the country of large, metropolitan area police departments operating in this manner, making those agencies both more efficient and more effective in serving their communities. It is well past time for the Fairfax County Police Department to start providing timely, honest and effective communications with everything it does. We deserve nothing less.

After many hours of discussion, research, speakers and public meetings, the subcommittee's recommendations to improve police communications and public dissemination of information for use-of-force and critical incident situations are listed below.

Maximum Disclosure, Minimum Delay

- Provide accurate, timely and actionable information using redundant forms of communication (both traditional media as well as social media), communicating both good and bad news. Constant “happy talk” breeds suspicion, while being direct and clear about mistakes and failures as well as accomplishments results in increased credibility.
- Adopt a “predisposition to disclose” approach, with **public records presumed to be public** and exemptions strictly and narrowly construed. Commit to not withholding information, providing key details and news before being asked for it by the public and media. Better balance privacy and the public interest.
- Share and regularly update news and details of all officer-involved shootings in multiple ways: via news conferences, media releases, text alerts, website postings and social media - explaining not only the facts of a particular incident, but also the procedures and timing. Publicly disclose the process and obligation of every party in the aftermath of the police shooting to include timelines and diagrams where specific events, common to all police-involved shootings, are discernable.
 - A) Provide the name of the officer(s) as soon as possible but preferably within a week, while maintaining the integrity of the criminal investigation and balancing the welfare and safety of the involved officer(s) and their families with the public's right to be kept informed. This is standard practice in most jurisdictions; the national average is 48 hours. If a decision is made not to release the name within a week,

publicly share specific information that illustrates the reason the name is being withheld.

- B) In cases where a suspect is deceased as a result of an officer-involved shooting, make available immediately upon FOIA request all body-camera, in-dash camera or audio recordings (i.e., digital recording of any type) of responding officers to an incident.

 - C) In officer-involved shootings where a suspect is shot but not deceased, provide a citizens' committee (a communications advisory committee appointed by either the Board of Supervisors or the Police Chief to carry out this function) access to the recordings for a recommendation on release which should balance public and private interest. This committee's recommendation would be submitted to the Chief of Police who would factor it into a final decision.

 - D) All officer-involved shooting investigations should end with the public release of all digital recordings of the incident. These records should be carefully logged for preservation as part of the initial stages of an investigation. This date should not exceed 6 months.
- Annually report on the demographics of the subjects in all use-of-force incidents including race, gender, age, whether mental health status was a factor, previous involvement with FCPD and other demographic data.

 - Devote more effort to sharing day-to-day information of police activity with the public. FCPD should facilitate unfettered access to blotter-type information, moving beyond what is currently provided in the daily blog to include a list of every incident and call with the basic who/what/when/where/how information.

 - Include incident based reporting (IBR) categories of statistical crime information for Fairfax County broken down by FCPD district stations and provided quarterly in accessible, comprehensive online reports, so that it is available to the general public as well as to homeowners associations, citizen associations, parent/teacher associations, nonprofits, faith groups, community-based organizations and businesses. Also provide quarterly information by district for all use-of-force and officer involved shootings, CIT calls for service, traffic and pedestrian accidents.

Community Engagement

- Embrace and practice increased, proactive community engagement.
 - Communicate with key community leaders as soon as bad news breaks.
 - Hold community meetings early and often.

- Continue cross-district command meetings to increase situational awareness, spot trends and provide a centralized forum to identify and coordinate responses to emerging community issues.
- Create a “Community Engagement Team” within FCPD to respond to community concerns and manage programs that create community trust and engagement. The team members should be fluent in the language and knowledgeable of the customs of the particular community they serve, and the team should reflect the diversity of Fairfax County in order to best serve as liaisons between the community and FCPD.
- Continue supporting Citizen Advisory Committees (CAC); the Chief’s Citizens Advisory Council; and Citizen’s Police Academy (CPA) classes.
 - Expand promotion of these valuable public forums.
 - Improve and expand CAC and Chief’s Citizens Advisory Council succession planning and online information.
 - Increase the meeting frequency of the Chief’s Citizens Advisory Council from four meetings per year to 10 monthly meetings to be in line with the 10 monthly CAC meetings.
 - The structure of the eight CACs and the Chief’s Citizens Advisory Council should facilitate a two-way flow of information about police services.
 - Expand the CPA program by offering a compact, three-hour version in addition to the current 10-session program and include in the CPA training the best practices and reports discussed at meetings of the Ad Hoc Police Practices Review Commission and subcommittee meetings.
 - The CPA should be designed and structured in such a way to be understood by all in the diverse communities of Fairfax County.

Policies, Procedures and Personnel

- Communications is a management function, requiring professional communicators and an appropriate place in the FCPD organizational hierarchy. Hire a civilian public information officer (a professional communicator knowledgeable of best communication practices and experienced in the practice and ethics of media and journalism) to lead the FCPD public information office, and have that position and function report directly to the Police Chief.
- Fund and employ 24/7 PIO staff in the central public information office; additionally, PIO staff should be assigned to each district station.
- Have the Police Chief be the official spokesperson for officer-involved shootings.
- Develop a policy statement regarding FCPD PIO release of information for critical events. This would include the relationship with the Office of Public Affairs and the process for a hand off to OPA in certain situations.

- FCPD should prioritize a realignment of resources to take the steps necessary to ensure more transparency, and become **the** trusted and valued source of information for Fairfax County.
- FCPD should develop a continuous process of information declassification, to help ensure proactive information release for cases that are no longer active or are closed.
- The current general order on the release of information overemphasizes the media. FCPD is not dependent on the media but should use its own platforms and tools to share information directly with the public. New improved general orders should acknowledge today's communications paradigm by promoting more community engagement and direct information dissemination to the community.
- Shorten the current 6-20 month timeframe to internally investigate and close officer-involved shooting cases, and throughout the shortened period be responsive to questions and concerns about the incidents by the public, news media and elected officials. We recommend the Board of Supervisors take an active approach throughout the investigative stage by periodically requesting and receiving updates on such incidents in a public forum.
- Words have meanings, language matters. Update policies (with the assistance of FCPD Community Engagement Team members) and mandate usage of language day-to-day that is culturally appropriate and respectful, acknowledging the very diverse communities calling Fairfax County home. This will help to eradicate any perceived biases in communications and improve everyone's experience with FCPD.

Freedom of Information Act

- The Board of Supervisors should publicly adopt a resolution (and forward it to the County's delegation in the General Assembly) to revisit FOIA laws with an eye toward expanding instead of limiting the public release of information related to police-involved shootings and other police practices and procedures related to official police activities.
- The County Executive should establish a countywide FOIA policy and procedure through issuance of a new procedural memorandum that would replace former County Executive Griffin's memo regarding FOIA compliance, which currently guides county staff. The new policy should encourage transparency and accountability by establishing a culture of disclosure. It should give guidance to all county staff custodians of public records to lean automatically toward releasing all public records upon request, changing the current practice of automatically withholding all exempt records.
- Where possible, release police reports with redactions where necessary, rather than creating a summary document.

- Develop FCPD administrative guidelines for FOIA, even in the absence of FOIA reform at the state level.
- Move the function and personnel for responding to requests for public records under the VA Freedom of Information Act out of FCPD Internal Affairs and into the FCPD Public Information Office.
- Stop the current blanket approach to Freedom of Information Act (FOIA) requests. The Code of Virginia allows discretionary release of public records, except where such disclosure is prohibited by law. Limited and judicious use of redaction should allow for the release of significant amounts of information, while safeguarding information essential to the accomplishment of the law enforcement mission. A culture change is needed to guide analysis of how to release the most information possible, by revising expectations of staff and through redacting and adjusting files to release as much information as possible. When records are withheld, an explanation should be provided without merely claiming the blanket exemption.

Culture of Transparency

- FCPD's goal should be to become one of the most transparent and publicly accountable police departments in the nation. The department should make proactive statements to the community it serves, communicating with the public on all aspects of police procedure, policy and actions. Especially when there is a police involved shooting or other high-profile incident involving use of force, numerous communications channels should be utilized to explain what happened, what is known at the time, what is revealed over time, and lessons learned and perspective after the fact.
- Fairfax County should adopt the more enlightened release of information practices and policies that govern most states, since FCPD's current practice on releasing information on officer involved shootings and the involved officer's name is not aligned with the practices of agencies located outside the Commonwealth of Virginia.
- Create and utilize written standards and criteria to govern the day-to-day release of information from FCPD's public information office, in order to standardize information flow. This will necessarily eliminate current practice which allows individuals to choose the degree of transparency and amount of information provided to the public. This centralized approach will embrace a robust model of professional communications, providing for increased transparency and accountability.
- Get "buy-in" and cooperation from all levels of the FCPD to improve communications and expand information release.
- FOIA governs public record disclosure. Basic requests for information are not governed by FOIA and should be addressed in a timely manner by openly providing orderly and routine

information about incidents, activities, calls, investigations (internal and external) with unfettered public access.

- Endorse and implement the recommendations of the President’s Task Force on 21st Century Policing Final Report that are related to communications, which call for establishing a culture of transparency and accountability to build public trust and legitimacy through such actions as making all department policies available for public review, clearly stating what types of information will be released, when and in what situation after serious incidents and communicating swiftly, openly and neutrally while respecting areas where the law requires confidentiality.
- The President’s task force also noted in its final report that rules and policies will fail if they conflict with the existing culture. FCPD will probably review and revise general orders and SOPs in response to the ad hoc commission’s recommendations. We recommend a change management process be undertaken to change the FCPD culture and facilitate the successful implementation of the improved and enlightened policies.
- Endorse and implement communications-related recommendations contained in the report of the U.S. Conference of Mayors Working Group of Mayors and Police Chiefs, “Strengthening Police-Community Relations in America’s Cities.”
- Endorse and Implement communications-related recommendations from PERF’s use-of-force policy and practice review of the Fairfax County Police Department.

Open Data

- Open data is a movement among governments to share public information with the community in formats that meet particular common standards, which allows not only self-service of information but encourages the public to consume information to see emerging trends in their community. FCPD should develop an open data policy and process to improve transparency of FCPD actions. This will also reduce the cost of responding to FOIA requests, since data and reports will be published online making FCPD more efficient and serving community needs more effectively.
- Provide more specificity and detail in crime stats and information that is released by the district stations.
- Make all department policies and procedures available for public review online, updating them as needed.

Moving Forward

- The Board of Supervisors should publicly set dates for community forums to revisit the recommendations of the Ad Hoc Police Practices Review Commission and the progress made toward their implementation. These reviews should take place in April 2016, October 2016, April 2017 and annually thereafter. Other methods should also be used to update the public, possibly an online 'report card' that is continually updated. It's important for both transparency and accountability to show ongoing progress to the community, to ensure the recommendations are not 'put on the shelf' and forgotten in upcoming years, especially if there are changes in the County's political representation, executive management and/or agency leadership.
- The unfortunate delay of contract for an independent report on communications resulted in this subcommittee's inability to review the consultant's work before completion of our final report and recommendations. We ask that this communications subcommittee continue its service beyond presentation of its final report, in order to meet with the PERF contractors and review and comment on the PERF report and recommendations when they are finally submitted.
- Anticipating a proposal for an independent citizen oversight group emerging from the Investigations and Oversight Subcommittee, we ask that any group established be mandated to provide robust communications in a transparent process that keeps the community informed and ensures a culture of public trust.

Submitted by the Communications Subcommittee on July 27, 2015

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