

**COMMUNITY RECOMMENDATIONS FOR MORE
EQUITABLE POLICING IN FAIRFAX COUNTY**

A Proposed Action Plan

**Police Reform Matrix Working Group
May 12, 2023**

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May 8, 2023

The Honorable Rodney Lusk
Chair, Safety and Security Committee
Fairfax County Board of Supervisors
12000 Government Center Parkway
Fairfax, Virginia 22035

RE: Report of the Police Reform Matrix Action Plan Working Group

Dear Supervisor Lusk:

We write to convey to you our report: *Community Recommendations for More Equitable Policing in Fairfax County: A Recommended Action Plan*.

As background, you solicited in July 2020 reform proposals the community believed were needed for the Fairfax County Police Department's (FCPD's) conduct of its public safety and security responsibilities. The community's response was substantive and extensive, which was originally organized into a spreadsheet "matrix." The Matrix became a compendium of community-based ideas, offered in a range of formats, styles, and descriptions. As such, the Matrix was not easily accessed and considered by policymakers and the public.

In a desire to ensure the community's input was given meaningful consideration, you organized the Police Reform Matrix Working Group. You charged us to transform the Fairfax County Police Reform Matrix into an action plan.

The scope of this effort was limited to synthesizing the wide-ranging critiques and reform proposals into a smaller, more organized, and more actionable set of policy and program initiatives that would have the most significant potential beneficial impacts on law enforcement practices in Fairfax County.

The Working Group considered all the Matrix's over 300 recommendations, selected a subset of those that best met rating criteria, edited them, and organized them into eight primary topics as an action plan.

We extend our appreciation to subject matter experts and important resources to the Working Group, FCPD's Deputy Chief of Police for Investigations Eli Cory and Captain Robert Hines; the Independent Police Auditor Richard Schott; and Civilian Review Panel Executive Director Steven Richardson.

The accompanying report captures the results of our effort on your behalf and is respectfully submitted to you and your colleagues on the Board of Supervisors for your consideration and action.

Respectfully Submitted,

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PREFACE

This is the consensus report of the Police Reform Matrix Working Group (MWG) that was specifically charged with “...helping the [Fairfax County] Board of Supervisors (Board) transform an existing Police Reform Matrix into an action plan.”¹ The outcome of its work is grounded in an extensive set of community-originated recommendations that were generated in response to a request in 2020 by the Chairman of the Board of Supervisor’s Safety and Security Committee for input on needed Fairfax County Police Department (FCPD) reforms.

The call for police reform recommendations was made in the broader context of national and local racial unrest. The May 2020 murder of George Floyd, a Black man, by a White Minneapolis police officer sparked nationwide outrage and brought even greater awareness to the Black Lives Matter movement. In Fairfax as elsewhere, this horrific event energized communities of color and social justice groups to undertake their own review of County use of force history, policies, and practices and to seek holistic reform of law enforcement.

This report is one of several commissioned by the Board since 2015, most often in response to a major use of force incident that generated calls for a review of the FCPD’s policies and practices. Such an incident was the basis in 2015 for the formation by the Board of the *Ad Hoc Police Practices Review Commission* (Ad Hoc Commission), which made major recommendations regarding the FCPD’s use of force (UOF) policies and practices, the vast majority of which were subsequently implemented by the County.²

More recently, a *Use of Force Community Advisory Committee* (CAC) was specifically chartered to review the recommendations of the University of Texas at San Antonio (UTSA) on how to improve FCPD’s use of force data collection, policy direction, and officer training. The CAC was charged to provide “insights [that] will be invaluable as we work together to leverage the investment, we have made in commissioning this [UTSA] study in order to ensure that Fairfax County is the safest and most equitable jurisdiction possible.”³ The CAC made over 60 detailed recommendations to the FCPD and the BOS, based on its review of the UTSA report, as well as its independent review of best practices.

¹ See Appendix I for invitation letter from Supervisor Rodney Lusk, distributed by a 1/30/2023 email from Matthew Renninger, Supervisor Lusk’s Chief of Staff.

² The August 2013 shooting death of a White man, John Geer, by a Fairfax County police officer was the catalyst for the Commission’s formation. Mr. Geer was unarmed and standing in his doorway with arms raised when he was shot. The officer who shot Mr. Geer was successfully prosecuted. The investigation of the incident, however, took months to conduct with little information available to the public throughout.

³ Appointment letter to CAC members from Jeff McKay, Chairman, Fairfax County Board of Supervisors, and Rodney Lusk, Chairman, Board Safety and Security Committee (September 17, 2021).

One of the insights the CAC offered in the Preface to its March 11, 2022, report was that “[w]hile a single use of force incident may result in a call for action, so too can concerns about perceived patterns of police behavior over time, particularly as relates to people of color.”⁴

The UTSA’s analysis and findings helped advance the community’s understanding of the FCPD’s use of force. As examples:

(a) Black civilians were two times more likely to experience high levels of force (Level 3) than White civilians.

(b) There is a high variance in disparity between police districts. Mt. Vernon, McLean, and Franconia showed higher levels of force for Black civilians. Mt. Vernon showed higher levels of force for Latino civilians.

(c) Arrested Black civilians were 1.2 times more likely than arrested White civilians to have force used against them.

Disparity in arrests in population demographics is recognized as significant and can indicate a pattern of police behavior and/or racial profiling. An Ad Hoc Committee for Police Data Transparency found that Black residents were 4.2 times more likely to be arrested than White residents and Latino residents were 2.9 times more likely to be arrested than their White resident counterparts.⁵

Further, recent FCPD reports indicate that there have been 8 police shootings in the past 15 months (6 in 2022, and 2 already this year). The average for the prior 10 years was 1.5 (15 overall).⁶

Finally, there have been three deaths caused by Fairfax police in the past nine months, the most recent involving a February 2023 foot pursuit of an unarmed Black man, Timothy Johnson, who allegedly stole a pair of sunglasses at Tysons. Another death occurred on April 5, 2023, of a kidnapping victim where a FCPD canine officer came to the assistance of the Virginia State Police, although it is unclear who fired the fatal shot. Deaths have been historically rare; one occurring in 2017 and one in 2013.

Additionally, Fairfax County has made a commitment to equity through the adoption of its One Fairfax policy in 2017.⁷ This policy “defines the expectations for consideration of racial and social equity, and in particular, meaningful community involvement when planning, developing,

⁴ Preface to Fairfax County Use of Force Community Advisory Committee, *An Assessment of the University of Texas at San Antonio’s Recommendations Regarding Fairfax Police Use of Force Policies, Practices & Data Collection*, March 11, 2022.

⁵ See Presentation to FCPD Chief Kevin Davis by the Ad Hoc Committee on Police Data Transparency, [Data Transparency in Fairfax County Policing](#) (June 21, 2021) p. 10. The Ad Hoc Committee was tasked by the FCPD with making recommendations on data transparency and conducted its work from 2020 through January 2023.

⁶ <https://www.fairfaxcounty.gov/police/chief/generalorders/policies/officerinvolvedshooting>

⁷ <https://www.fairfaxcounty.gov/topics/one-fairfax>

and implementing policies, practices, and initiatives... [and] informs all other policies and applies to all publicly delivered services in Fairfax County Government and Fairfax County Public Schools.”

The creation and adoption of One Fairfax was driven by the recognition that the county’s growing diverse population is a tremendous asset but that racial and social inequities still exist.

The policy also includes two recommendations pertinent to public safety and the recommendations considered by the Working Group:

1. Community and public safety that includes services such as fire, emergency medical services, police, health, emergency management and code enforcement that are responsive to all residents so that everyone feels safe to live, work, learn, and play in any neighborhood of Fairfax County.
2. A criminal justice system that provides equitable access and fair treatment for all people.

The One Fairfax policy also places a strong emphasis on community engagement, noting that to “foster civil discourse and dialogue, community engagement shall ensure that the breadth of interests, ideas, and values of all people are heard and considered. Outreach and public participation processes will be inclusive of diverse races, cultures, ages, and other social statuses.”

Furthermore, Chairman McKay established the Chairman’s Task Force on Equity and Opportunity in 2020 to “leverage the insights, experiences, professional networks, and industry and institutional understanding that exists within our community to better understand the drivers of inequity in Fairfax County and to development recommendations for accelerating the country’s progress towards becoming One Fairfax.”⁸

The Chairman’s Task Force also included recommendations around community safety and justice that are aligned with One Fairfax and many of the recommendations considered by this Working Group:

1. Create meaningful opportunities for the community to be involved in defining the role of law enforcement and other public safety personnel.
2. Implement policies to enable public safety personnel to live in and come from the communities they serve.
3. Implement training such as implicit bias, cultural competency, and community engagement in the public safety academies and annually for first responder personnel.

⁸ <https://www.fairfaxcounty.gov/chairman/chairmans-task-force-equity-and-opportunity>

4. Develop and institutionalize accountability mechanisms that monitor and evaluate occurrences of racial profiling and excessive use of force by law enforcement and other first responders.

Finally, shortly before the Police Reform Matrix Working Group started its work in January 2023, Tyre Nichols, a Black man in Memphis TN was beaten to death by a police special unit.⁹ Locally, the next month, Mr. Johnson was killed by FCPD officers, renewing the urgency with which we undertook our work. The MWG could not overlook the totality of these events and the context within which we reviewed and created an actionable set of policy and program initiatives. These recommendations are informed by the county's stated commitment to equity through One Fairfax and the community's first-hand experience with, and knowledge of, policing.

⁹ [Harrowing videos show police fatally beat Tyre Nichols, who cries out for his mother \(nbcnews.com\)](https://www.nbcnews.com/news/nbcnews/harrowing-videos-show-police-fatally-beat-tyre-nichols-who-cries-out-for-his-mother-nbcnews.com)

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EXECUTIVE SUMMARY

An extensive set of community-originated recommendations were generated in response to a 2020 request by the Chair of the Board’s Safety and Security Committee for input on needed FCPD reforms. These recommendations were organized into, what came to be called, the “Matrix.”

The Supervisor subsequently organized a small community-based Police Reform Matrix Working Group (Working Group or MWG) for a short-term project to synthesize the wide-ranging critiques and reform proposals into a smaller, more organized, and more actionable set of policy and program initiatives. The MWG benefitted from engagement with the FCPD, the Civilian Review Panel (CRP), and the Independent Police Auditor (IPA), all of whom were *ex officio* non-voting Working Group members.

The Working Group considered all of the over 300 recommendations, selected a subset of those that best met rating criteria, edited them, and organized them into eight primary topics for ease of reference and to avoid duplication. A listing and brief description of these eight topics are as follows:

Rethinking Policing

FCPD’s mission is to “prevent and fight crime.” Numerous recommendations in the Matrix focused on the need to shift non-safety responsibility for addressing low-level crimes associated with mental health, substance use, other behavioral disorders, and homelessness to clinical and social service professionals. Largely by default, police have historically been tasked with being the first responders when behavioral health crises arise. This unduly burdens the police, pushes them to perform tasks for which they are not professionally trained, and unfairly criminalizes the affected population.

A significant decrease in these arrests can occur, and the quality of life can be improved for our residents, through a full expansion and implementation of the Diversion First and co-responder programs. Expansion is needed most especially in programs that adopt a “behavioral health care first” approach. Community-based treatment and services reduce crime rates and help reduce law enforcement costs.

Use of Force Policy and Accountability

The mission of the FCPD is to prevent and fight crime in a manner which protects and preserves the sanctity of all human life.¹⁰ Noteworthy practices to achieve these goals are protecting constitutional rights, engaging in de-escalation and crisis intervention strategies, and affirming a duty to intervene if an officer sees another officer using excessive force.¹¹

¹⁰ [Department’s Mission Statement \(fairfaxcounty.gov\)](#)

¹¹ See *Ad Hoc Police Practices Review Commission* Final Report, October 8, 2015.

The BOS has already chartered significant work on FCPD's use of force, most notably the study by the University of Texas at San Antonio's (UTSA) of UOF data, policies, training and practices,¹² and the March 2021 report assessing that study from a community perspective by the *Use of Force Community Advisory Committee* (CAC).¹³ Both the UTSA and the CAC UOF recommendations became part of the Matrix reviewed and are accepted by the MWG largely intact.

The MWG recommends that the FCPD provide an item-by-item explanation of its position for each of them, much as was done for recommendations by the *Ad Hoc Police Practices Review Commission*. Additionally, the MWG recommended action plan includes UOF recommendations from the community.

Independent Oversight

The increase in officer involved shootings, as noted in the preface, with 3 deaths caused by Fairfax police in the past 9 months has engendered within the Working Group a sense of urgency to consider the independent oversight recommendations found within the Matrix. A robust Civilian Review Panel can provide needed police accountability, but only if it is granted independent investigatory authority. Despite the Ad Hoc Commission's urging in 2015, the CRP was not given independent investigatory authority due to concerns about whether this was permitted under Virginia law. However, effective July 1, 2021, the Virginia General Assembly gave localities the authority to substantially increase civilian oversight to include, for example, independent investigatory and subpoena authority.

As such, the Working Group recommends a two-pronged approach of (a) granting some expanded authority to the CRP immediately; and (b) directing that the CRP and the Independent Police Auditor draft a coordinated plan for implementing full expanded authority by a date certain (e.g., July 1, 2024).

Police Officer Excellence

Attracting, training, and retaining, a highly capable, high-performing, and resilient police force offers the most fundamental and essential means of assuring Fairfax County residents that their safety will be protected, as well as their rights. The FCPD has well-established policies and programs around recruitment, training, readiness, and performance to develop and maintain officer excellence. Indeed, the FCPD just recently convened its largest and most diverse recruitment class in years. The MWG offers community-based recommendations that seek to improve FCPD's policies and programs such that this recent recruitment success is followed by retention of highly effective officers who are accountable for their performance and embrace their responsibility to protect the total community.

¹² [Revised final UTSA report 7-6-21.pdf \(fairfaxcounty.gov\)](#)

¹³ [Public-Safety-UOF-CAC-Final-Report-mar01.pdf \(fairfaxcounty.gov\)](#)

Community Engagement and Participation

Community members “engage” with the FCPD when they play a meaningful role in the deliberations, discussions, decision-making and/or implementation of projects or programs affecting them. The FCPD has over the years designed and implemented numerous programs and initiatives to engage with Fairfax County residents on policy and program matters; however, more can be done to engage community members with intensity and authenticity. Several key benefits are commonly identified in the literature, including the increased likelihood that projects or solutions will be widely accepted and that these solutions will be more effective, and that trust will be built.

Building on the One Fairfax policy and recommendations from the Chairman’s Task Force, the MWG highlights community recommendations that will ensure robust community engagement from diverse members of the community with lived experience, including establishing a Community Advisory Group from a broad spectrum of the community to provide input and concerns on the role of policing and FCPD practices.

Transparency, Data Reporting, and Data Analysis

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.

The FCPD has made great strides in providing open data with dashboards for public dissemination. The current data made public however, discourages year-over-year comparisons, lacks standardized formats, and rarely includes any measures of disproportionality. Additionally, the FCPD needs to be consistently careful with premature judgments or information about an incident that is either exculpatory of an officer’s behavior, or judgmental about a person of interest due to previous law enforcement history. Such shortcomings increase the challenge of building and sustaining community trust. Recommendations from the community that are highlighted by the Working Group will help support transparency and data reporting and analysis, all of which will increase the community’s confidence in FCPD’s policing integrity.

Specialized Police Units

Both the community and the CAC recommend looking at FCPD’s specialized police units for the policy framework within which they operate and their operational history, specifically in relation to the potential for disparate treatment of people of color. The recent shooting by officers of FCPD’s Tysons Urban Team (and the high-profile shooting of Tyre Nichols earlier in 2023 by a

specialized unit of the Memphis police called the Scorpions) prompted MWG questions regarding the use and practices of specialized units and the belief their use in Fairfax should be better understood. FCPD maintains 34 specialized units. The MWG recommends that FCPD specialized units be examined so that the community can understand their value, impact, and practices, particularly as relates to potential disparate treatment of people of color.

Monitoring and Evaluating Program Progress

Evaluating the effectiveness of programs in meeting public objectives is an essential component of local government management. The basic questions are (a) is the program designed to achieve better policing in Fairfax County accomplishing its intended purpose; (b) are the resources being put into the program being well used; and (c) what lessons are learned through the implementation that will make the program better? The best and most useful program evaluation is data-driven, which is one of the key reasons this report gives such emphasis to collecting quality performance information.

I. BACKGROUND

A. History of Matrix

In July 2020, the BOS Safety and Security Committee Chair invited community input into needed FCPD reforms. The response was substantive and extensive and originally organized into a spreadsheet “matrix,” a compendium of community-based ideas. With over 300 suggestions offered in a range of formats, styles, and descriptions, however, the Matrix was cumbersome, diffuse, and not easily accessed and understood by policymakers and the public.

The ideas were subsequently organized into eight categories and assigned a short, medium, and long-term timeframe within which they would be considered. Each recommendation was reviewed and commented upon by the FCPD, as captured in the *FCPD and BOS Police Reform Tracker*.¹⁴ The eight categories are as follows:

1. Civilian Oversight (CO)
2. Digital Data: Body Worn and In-vehicle Cameras (BWC)
3. Transparency and Community Trust (TCT)
4. Use of Force (UOF)
5. Police Roles and Responsibilities (PRR)
6. Police Accountability (PA)
7. Police Culture and Practices (PCP)
8. Constitutional Officers: Commonwealth's Attorney & Sheriff's Office (CWA)

In the nearly three years since the original call for recommendations, several reform initiatives have been undertaken, such as a police-social services co-responder pilot program; a University of Texas at San Antonio (UTSA) analysis completed on FCPD UOF; and a set of community advisory boards and committees made recommendations.¹⁵

B. Formation of Matrix Working Group

The Chair of the BOS Safety and Security Committee organized a community-based Police Reform Matrix Working Group (Working Group or MWG) to synthesize the Matrix into an action plan that the Working Group believed would have the most significant potential beneficial impacts on law enforcement practices in Fairfax County. The members are from a variety of backgrounds, including those with lived experiences in communities most impacted by policing, faith leaders, advocacy groups focused on police reform and individuals who have served on prior Fairfax police reform committees and working groups.

¹⁴ See <https://www.fairfaxcounty.gov/topics/police-updates> (September 28, 2021).

¹⁵ As examples, the *Community Safety and Justice Committee* (CSJC) of the *Chairman's Task Force on Equality and Opportunity* critiqued the FCPD and provided a set of police reform recommendations and a *Citizen Advisory Committee* (CAC) reviewed the UTSA UOF recommendations. The CSJC, UTSA, and CAC recommendations are included in the Matrix.

The Working Group made decisions and/or recommendations based on information presented to it, secured independently, or based on its collective extensive experiences. The Working Group made decisions by consensus but periodically resorted to voting to gauge the breadth of support for a topic.

The Working Group consulted with the FCPD, the CRP, and the IPA, all of whom were *ex officio* non-voting Working Group members. The purpose for the consultation was to ensure access to full and accurate information concerning community suggestions and that the synthesizing, organizing, and prioritizing of the ideas was a fully informed process.

C. Process

The Working Group methodically worked through the full set of community recommendations captured in the Matrix. After a discussion of the structure of the Matrix and the general topics under which the community recommendations were organized, the Working Group selected 77 recommendations for further consideration. These 77 were originally organized into five tiers of relative significance. Members proposed recommendations that deserved further consideration, and which could be consolidated. The full Working Group evaluated the remaining recommendations against the following criteria:

1. Provides policy or program level direction that could be acted upon by the Board of Supervisors or the Chief of Police.
2. Is a policy or program level initiative that would have significant potential impact.
3. Is evidence-based, including the member's lived experience.
4. Is consistent with national best practice or has the potential to become national best practice.

D. Organization of Proposed Action Agenda

Ultimately, the recommendations the Working Group rated highest were edited, organized, and are presented under the headings identified in **Section II. Proposed Actions**, as follows:

- Rethinking Policing
- Use of Force Policy and Accountability
- Independent Oversight
- Community Engagement and Participation
- Transparency, Data Reporting, and Data Analysis
- Police Officer Excellence
- Specialized Police Units
- Monitoring and Evaluating Program Progress

The recommendations conveyed herein should be understood to work as an integrated whole, though they are organized by primary topic for ease of reference and to avoid duplication. For example, we believe that community participation is essential to building trust in all significant phases of reforms, from development of practices and procedures to assessment of efficacy of changes made. Similarly, data collection on topics addressed in the recommendations, from rethinking policing to use of force to training, not only ensures transparency but allows for informed assessment of the value of reforms made.

Of final note, the Working Group conducted its work mindful of the need to link recommended actions back to the original community-originated inputs, initiatives, and recommendations. Appendix II lists the community-originated recommendations that underpin this proposed action agenda.

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II. PROPOSED ACTIONS FOR BOARD CONSIDERATION

A. Rethinking Policing

1. Overview

FPCPD's mission is to "prevent and fight crime." The Department recognizes that the police role in achieving that mission should be "determined by the community it serves; through a partnership with the citizens."¹⁶ Numerous recommendations in the Matrix focused on the need to shift responsibility for addressing low level crimes associated with mental health, substance use, other behavioral disorders, and homelessness to clinical and social service professionals.

Largely by default, police have been tasked with being the first responders when behavioral health crises arise. This unduly burdens the police and unfairly criminalizes the affected population.¹⁷ Treatment is more effective if it is provided at the earliest possible point before arrest.¹⁸ Community-based treatment reduces crime rates and helps reduce law enforcement costs.^{19,20,21}

Fairfax already has made substantial progress in addressing these concerns, establishing in 2016 a nationally recognized *Diversion First* program. The FPCPD is also building solid co-responder programs and enhancing its Crisis Intervention Training (CIT). We applaud and support these programs. To achieve their true potential, however, we recommend a shift in who responds first and an increase in behavioral health resources.

From 2016—2021, there were 2,600 diversions from potential arrests.²² This is an impressive accomplishment. The magnitude of the work yet to be done, however, is profound:

- The number of arrests relating to only one category of offenses—drunk or drinking in public—exceeded this number *in a single year* (2662 arrests in 2022).²³ Minor offenses often correlated with behavioral disorders such as

¹⁶ <https://www.fairfaxcounty.gov/police/sites/police/files/assets/generalorders/go-missionvisiongoals.pdf>

¹⁷ <https://www.theiacp.org/news/blog-post/pre-arrest-diversion-an-effective-model-ready-for-widespread-adoption>.

¹⁸ [Diversion First | Topics \(fairfaxcounty.gov\)](https://www.fairfaxcounty.gov/diversion-first/topics)

¹⁹ <https://justicepolicy.org/research/substance-abuse-treatment-and-public-safety/>. While a prison sentence for a drug offense cost \$26,188 in 2019, a sentence to existing treatment cost just \$3.143, demonstrating that treatment is a more cost-effective use of taxpayer dollars.

²⁰ <https://csgjusticecenter.org/2021/02/25/prioritizing-prison-over-substance-use-treatment-costs-kansans-safety-and-money/>

²¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2681083/>

²² [2021 diversion first annual report.pdf \(fairfaxcounty.gov\)](https://www.fairfaxcounty.gov/diversion-first/2021-annual-report) p. 15.

²³ 2022 FPCPD Arrests for Low-Level Misdemeanors, *ACLU People Power Fairfax*, <https://drive.google.com/file/d/1asilv2OhRpKMdk83yF1vkbEyH8NfaqS/view?usp=sharing>; calculations based on data downloaded from Fairfax Police Open Data site, <https://www.fcpod.org/pages/crime-data>.

disorderly conduct, trespass, alcohol crimes and simple assault combined exceeded 27% of all arrests in 2022.²⁴

- These arrests disproportionately involve people of color; accounting for over 70% of such arrests.²⁵

A significant decrease in these arrests can occur, and the quality of life can be improved for our residents, through an intentional expansion of the Diversion First and co-responder programs and added focus on intervention led by behavioral health professionals. Our specific recommendations are set forth below.

2. Recommended Actions²⁶

- a. Increase co-responder resources to eight teams. This will provide coverage for all eight District Stations in the County. Also expand the current coverage (shifts) from 2:00PM - 10:00PM to 24hrs, 7 days a week.²⁷ The goal would be to have the resources in place and fully operational by a set date (*e.g.*, by December 2024).
- b. Significantly expand use of a “behavioral health first” approach for low level offenses in the Diversion First continuum (sometimes referenced as “Intercept 0”²⁸). Behavioral health personnel should have primary responsibility for the initial contact and transport for people who are intoxicated, mentally ill, disoriented or otherwise in a behavioral health crisis. Police backup should be available upon request.
- c. Measurably increase the number of staff (clinical and support) and other needed resources such as treatment beds, with a goal of meeting community needs and reducing arrests for low-level offenses. Establish a timeline for implementation over a reasonable timeframe (*e.g.*, 5 years). Consideration should be given to contracting for the necessary staff on an interim basis.
- d. Expand regional Crisis Receiving Center (CRC) services within Fairfax County to provide much needed resources for individuals experiencing behavioral health crises.

(i) Establish additional regional adult CRC and Youth CRC geographically spaced in Fairfax Country. [Staff has indicated a need for two adult and one youth CRC in the Mount Vernon and Reston areas.]

²⁴ Ibid

²⁵ Ibid

²⁶ See PRR01, PRR22, PRR38, PRR40, PRR41, PRR 45, PRR48, PRR 46, PRR49, PCP18, UTSA25.

²⁷ Per the Community Services Board Director, there are currently two Co-Responder CIT teams based at CSB. The plan is to increase to four teams in 2023; and per discussion with Abbey L May, Emergency and Acute Services Director, March 16, 2023.

²⁸ <https://www.samhsa.gov/criminal-juvenile-justice/sim-overview>

- (ii) Expand the existing Chantilly CRC to add temporary stay (“23-hour”) beds and other services. The additional CRC capabilities would increase pre-arrest diversion and reduce hospitalization.
- e. Increase Community Services Board (CSB) public awareness and outreach efforts to the general population. Better ensure that individuals who need services are aware that they can get help, even if they lack health insurance or their insurance is inadequate.
- f. Fairfax County and FCPD must continue their efforts to identify and be open to innovation in police practices, including other models of policing being tried in other communities, such as the CAHOOTS model in Eugene OR that informed the County’s co-responder initiative and COMPASS, an initiative implemented in Huntington, WV, designed to mitigate against police officer “compassion fatigue.”

B. Use of Force Policy and Accountability

1. Overview

Fairfax County police policies and practices must be anchored in the values of protecting public safety and the sanctity of human life. Noteworthy among these are protecting constitutional rights; implementing de-escalation and crisis intervention strategies; and imposing and embracing a duty to intervene if an officer sees another officer using excessive force.²⁹

The *Use of Force Community Advisory Committee* conducted an in-depth analysis of a UTSA study and associated recommendations on use of force data, policies, training, and practices; it culminated in a report submitted to the BOS in March 2021. These recommendations became part of the matrix reviewed by the MWG. Because of the extensive work already done by the CAC, the MWG determined it would accept them largely intact, with minor modifications discussed below to reflect subsequent events. The MWG reviewed the many UOF recommendations that came directly from the community as shown on the matrix, and determined its action plan reflects that input as well.³⁰

Some of CAC’s recommendations were adopted in the revision to the Use of Force [General Order 540](#) published in 2022. Most, however, do not appear to have been adopted in full. We believe that the FCPD should provide an item-by-item explanation of

²⁹ Adapted from sentiments expressed in the Ad Hoc Police Practices Review Commission Final Report, October 8, 2015.

³⁰ See CAC01, CAC02, CAC05, CAC08, CAC09, CAC14, PA03, PA26, UOF6, UTSA 10, UTSA 14, UTSA 16, UTSA 17, UTSA22, UTSA 23, UTSA 24, UTSA 26.

its positions, much as it had done for recommendations by the *Ad Hoc Police Practices Review Commission*.³¹

2. Recommended Actions

a. Follow Through on Use of Force Community Advisory Committee Recommendations

The FCPD should either adopt the complete CAC recommendations as written or explain to the BOS and the public why a recommendation should be revised or not implemented. A deadline for response, e.g., July 1, 2023, should be set, and a mechanism for co-production and BOS review of FCPD's responses should be established. If the FPCD believes legally it is prohibited from adopting a recommendation, the BOS should ask the Office of the County Attorney to advise whether legislative action would be required to implement the change.

b. Direct Staff to Address Issues Known to Require Legal Clarification

The CAC believed the following action could be taken without legislative action. County staff disagrees with the CAC's position. As such, we recommend that the County pursue legislative revision of these standards. Any such revision would be designed to allow police departments to adopt standards that are more stringent than those underlying constitutional caselaw.

i. Principles Underlying the "Necessary and Proportional Legal Standard"

- (a) UTSA and the CAC recommended that the UOF General Order 540 be revised to state that "A police officer may not use force against a person unless under the totality of the circumstances, said force is necessary and proportional."
- (b) The current "objective reasonableness" standard as applied has focused on the reasonableness of the action at the moment force was used.
- (c) That standard should be revised to be consistent with the principles underlying the UTSA/CAC recommendation and with further explanation to make clear that force used must be proportional to the risk of harm to the officer or others; and events leading up to the force, including the nature and severity of the underlying crime or event, are to be taken into account.

³¹ Chief Davis advised the Public Safety Committee in May 2022 that he believed about 80% of the CAC's recommendations had been implemented. Some members of the CAC subsequently disagreed with Chief Davis' assessment, finding substantial differences in current practices from those recommended. See [A Roadmap to Compare UTSA and CAC Recommendations and FCPD Responses](#) (May 16, 2022).

(d) To be considered necessary, force must not continue longer than is required to accomplish a legitimate law enforcement objective, and officers must have taken reasonable non-force steps to gain compliance and de-escalate conflict if possible. The standard should apply to both deadly and non-lethal force, modified as appropriate.³²

ii. Pointing a Gun and Any Other Threatened Weapon Use

The CAC recommended that pointing a gun and any other threatened weapon use should be reportable as a use of force and included in the definition of force. Currently, pointing a gun is considered a separate reportable action, but not subject to a use of force investigation. [General Order 540.H]³³

c. Assess and Strengthen Key Program Reforms Already Being Implemented

- i. Revise the de-escalation standards in GO 540 IV. E. to clarify that de-escalation be used to reduce both the need for and the level of force required and to emphasize that officers must use only the minimum amount of force reasonably needed to overcome resistance. Make companion changes to reporting and training.
- ii. Clarify levels of civilian resistance that can justify the use of force and link each to the corresponding force permitted (continuum of force).
- iii. Eliminate threats of self-harm from the definition of aggressive resistance. While force may be a legitimate option to prevent self-harm under some circumstances, threats of self-harm are not “aggressive resistance.”
- iv. Strengthen the duty to intervene and report, including stronger anti-retaliation protection and performance standards rewarding intervention and reporting.
- v. Set or improve standards for particularly fraught force practices such as prone restraints, chokeholds, strip searches and ketamine, and expressly prohibiting others such as spit hoods.

³²After issuance of the CAC report, [Chief Davis](#) stated that he could not alter the “objective reasonableness” standard because he is bound by state law to employ it where deadly force is used. VA Code § 19.2-83.5. We interpret the law differently and believe FCPD can adopt an alternative standard because § 19.2-83.5 also requires consideration of whether the officer used de-escalation tactics, the seriousness of the suspected crime, and the officer’s conduct “prior to the use of deadly force.”

³³ Chief Davis declined to adopt this recommendation because “the pointing of a firearm is not considered to be a use of force per the 4th Circuit Court of Appeals.” The Fourth Circuit cases were related to individual civil or criminal liability and, in our understanding, do not preclude a police force from adopting a higher standard of conduct for officers. Other jurisdictions in the 4th Circuit include pointing a gun as a use of force, e.g., [Baltimore](#).

- d. Direct that a Foot Pursuit Policy be Established with Community Participation
 - i. Adopt a foot pursuit policy to help reduce force and injuries to officers and suspects. The FCPD recently announced it will develop such a policy with input from PERF, a well-regarded organization. However, the proposed policy should be subject to co-production with the community to ensure local concerns are addressed. Consideration should also be given to the inclusion of a bike pursuit policy.
 - ii. Adopt in the short term (30-45 days) an interim foot pursuit policy developed in consultation with the community through the issuance of a Standard Operating Procedure (as was done for BWCs) that would limit foot pursuits, pending the development of a General Order after the receipt of the PERF report.

D. Independent Oversight

1. Overview

The increase in officer involved shootings in the past year and a half, with 3 deaths caused by Fairfax police in the past 9 months, including that of Mr. Johnson, has engendered within the Working Group a sense of urgency to consider the independent oversight recommendations found within the Matrix. Subsequent questions by community members as to the status of the Johnson investigation—and the extent to which such investigation was independent and free of bias—greatly influenced the importance the Working Group gave these considerations.

A robust CRP can provide the needed police accountability, but only if it is granted independent investigatory authority. Until recently, Fairfax was a leader in civilian review in Virginia, establishing the CRP in 2016 at the recommendation of the Ad Hoc Police Practices Commission.³⁴ Despite the Ad Hoc Commission's urging, the CRP was not given independent investigatory authority due to concerns about whether this was permitted under Virginia law.

However, effective July 1, 2021, the Virginia General Assembly gave localities the authority to substantially increase civilian oversight. Other Virginia jurisdictions of [Arlington](#), [Alexandria](#), [Richmond](#) and [Virginia Beach](#) have passed ordinances providing expanded authority, as have many large urban jurisdictions nationally. The State of Maryland enacted a law similar to Virginia's, but made oversight boards mandatory.

³⁴ <https://www.fairfaxcounty.gov/policecommission/ad-hoc-police-practices-review-commission-final-report>, p. 19.

As such, the MWG is recommending a two-pronged approach that grants some expanded authority immediately, while also directing the CRP and the IPA to draft a coordinated plan for implementing full expanded authority by a date certain (e.g., July 1, 2024).

It should also be noted that there is a strong and urgent need to educate the community about the role and authority of both the CRP and the IPA, particularly considering the proposed expanded authority.

2. Recommended Actions³⁵

B. Strengthen the Role of CRP and IPA by Assigning Them the Full Authority Permitted under VA Code § 9.1-601.³⁶

- i. The CRP and the IPA should be directed to develop coordinated plans, with community participation, for implementation of their respective new responsibilities for the BOS's approval by a date certain (e.g., July 1, 2024). Any differences between the plans will be presented to the BOS as part of the approval package.
- ii. The CRP and the IPA coordinated plans should include a delineation of circumstances in which the CRP and/or the IPA would monitor FCPD investigations or conduct independent ones; the CRP's role in use of force investigations and whether the IPA's automatic authority in use of force would extend beyond cases involving serious injury or death; and whether the CRP and/or the IPA should impose or recommend disciplinary actions. The plan should also include a preliminary estimate of resources needed e.g., to hire additional investigatory staff and/or an analyst expert in racial bias and statistical analysis of police data.

³⁵ See CO01, CO02, CO16, CO13, CO24, CO33.

³⁶ VA Code § 9.1-601. Localities are permitted to give civilian oversight boards broad authority, including the right to:

- Receive, investigate, and issue findings on complaints from civilians.
- Investigate and issue findings on incidents involving “the use of force ... death or serious injury of a person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops and other ... conduct.”
- Make “binding disciplinary in cases that involve serious breaches of departmental and professional standards, as defined by the locality” up to and including termination. The discipline is to be implemented by the official with ultimate supervisory authority over the officers.
- Review all investigations conducted internally by law enforcement agencies.
- Undertake “any other duties as reasonably necessary.”

Before the Expanded Authority can be implemented, the BOS must approve the “policies and procedures” the CRP will follow.

- C. CRP Should be Immediately Authorized to:
 - I. Clarify its standard for review to include a determination whether FCPD's internal administrative decision and/or key findings are correct, and if not, recommend reversal to the FCPD or the BOS.
 - II. Provide for automatic CRP review of all FCPD administrative investigations involving allegations of bias or profiling;
 - III. Provide contemporaneous input to the IPA through the CRP Executive Director on the IPA's monitoring and review of use of force that results in serious injury or death and as to in-custody deaths.
- D. Conduct an Independent Audit of FCPD Internal Administrative Investigation Systems and Processes.
- E. Independent Criminal Investigations of Fairfax County Police Officers
 - i. Authorize the IPA to make a recommendation to the Commonwealth's Attorney when he/she deems it necessary that criminal investigations of FCPD officer involved shootings and in-custody deaths be handled by independent investigators retained by Commonwealth's Attorney and funded by the County.

E. Police Officer Excellence

1. Overview

Attracting, training, and retaining, a highly capable, high-performing, and resilient police force offers the most fundamental and essential means of assuring Fairfax County residents that their safety will be protected, as well as their rights.

A well-trained police force drawn from a pool of highly qualified candidates that is both reflective of the Fairfax County population and is responsive to the concerns of the community helps to build trust and legitimacy. The FCPD has established policies and programs around recruitment, training, readiness, and performance to develop and maintain officer excellence. Indeed, the FCPD recently welcomed its largest recruiting class in more than a decade. Fifty-six new recruits make up FCPD's first majority non-white recruiting class.

The following community-based recommendations seek to improve FCPD's policies and programs such that recent recruitment success is followed by retention of highly effective officers who are accountable for their performance and embrace their responsibility to protect the total community.

2. Recommended Actions³⁷

a. Recruitment and Retention

- i. Ensure the FCPD is competitive in salary and benefits (access to fitness, educational reimbursement, developmental opportunities) in comparison to surrounding jurisdictions and in response to the increase in the cost of living, with particular attention to detective pay bands.
- ii. Require the FCPD to provide summary reports of its recruiting activities and outcomes, including the number of applicants, interviewees, and selectees, broken down by gender, race, ethnicity, and national origin, the extent to which the FCPD has been able to recruit qualified applicants, and a discussion of any challenges to recruiting high-quality applicants.³⁸

b. Officer Performance

- i. Require the FCPD to demonstrate a commitment to addressing areas of concern highlighted in this action plan by prioritizing, incentivizing, and rewarding positive policing behaviors, by, for example, modifying existing performance evaluations of both officers and supervisors to account for:
 - (1) demonstrated commitment to the duty to intervene (General Order 540);
 - (2) de-escalation tactics and skill in the field and de-escalation as a first resort;
 - (3) development of community partnerships and community engagement;
 - (4) crisis intervention skills and training; and
 - (5) complaints against an officer.

c. Officer Readiness

- i. Study programs like the COMPASS Center in Huntington, West Virginia, which focus on preparing first responders for high-stress environments and critical incident responses. Physical and mental wellness is critical to office readiness. The goal would be to look for new opportunities to engage and assist officers in developing skills, resiliency, self-care, training, and mental health resources for

³⁷ See PRR52, UTSA26, PCP18, PA04, PA12, TCT16, TCT21, UOF06, CAC10, CAC 19, PCP05, CAC22.

³⁸ The CALEA Fairfax County Police Department Assessment Report 2016 ("2016 FCPD Assessment") provides recruitment and selection of sworn officer selection activity from 2013-2015.

overcoming burnout and compassion fatigue that can impact readiness and personal, professional, and community well-being.

- ii. Drug and steroid testing should be conducted on all police officers involved in incidents that result in death or serious injury. This testing should take place as soon as possible after the incident, but within the time in which targeted substances are still traceable in the body.
- d. Independent Assessments
- i. Obtain independent assessments of the following programs to determine their effectiveness and whether modifications should be made to address any deficiencies:
 - (1) Incident Support Services provided to officers under General Order 430.4 with a particular focus on assessing whether employee assistance and support services (e.g., Employee Assistance Program, Peer Support Team, psychologist, and chaplain services) adequately address the needs of officers involved in circumstances involving death or serious injury.³⁹
 - (2) Early Intervention System to ensure demonstrated success in proactively identifying and treating officers at risk of using excessive force or other conduct that would subject them to discipline.
 - (3) Physical examination and wellness sessions, which are required under General Order 201.13 on an annual, biennial, or triennial basis depending on officer age, with a particular focus on assessing whether the established timeframes are appropriate and whether these services adequately address officer needs.
- e. Actionable Feedback
- i. Implement means for the BOS and the FCPD to obtain actionable input from sworn officers on a periodic basis to inform decision-making on topics such as those covered in a 2018 Fairfax County Policy Department Officer Survey performed by George Mason University.⁴⁰

³⁹ The 2018 survey section on Officer Health and Wellness noted that “[w]hen asked how comfortable they would be in using resources like an Employee Assistance Program counselor or police psychologist for stress management or general wellness, 15% said they were “very comfortable”, 34% responded as being “somewhat comfortable”, 27% were “somewhat uncomfortable”, and 22% were “very uncomfortable.”

⁴⁰ The 2018 survey obtained responses on the following topics: FCPD’s general goals as well as specific strategies in daily work, job satisfaction, salary and compensation, advancement opportunities, workplace climate, officer preparedness, officer mental health, crisis intervention, perceptions of Use of Force training and policies, perceived public support, and officer health and wellness.

- ii. The results should also provide a basis for dialogue between and among police officers, supervisors, and the command structure to monitor operating culture including attitudes about work, leadership, training, and equipment along with any perceived barriers to officer performance consistent with FCPD's values and policies. Summaries that maintain the confidentiality of responses should also be published.⁴¹

F. Community Engagement and Participation

1. Overview

Community members are “engaged” with the FCPD when they have a meaningful role in the deliberations, discussions, decision-making and/or implementation of projects or programs affecting them. The FCPD has over the years designed and implemented numerous programs and initiatives to engage with Fairfax County residents on policy and program matters; however, more can be done with intensity and authenticity to engage community members. Some community members feel that their voices are not heard, resulting in distrust of those tasked with keeping them safe, undermining community policing. While research regarding the benefits and importance of community engagement varies, several key opportunities are commonly identified. Among these are:⁴²

- Increase the likelihood that projects or solutions will be widely accepted. Community members who participate in these processes show increased commitment to help make the projects happen.
- Create more effective solutions. Drawing on local knowledge from a diverse group creates solutions that are grounded in lived experiences, increasing the probabilities of success. The converse is also true: solutions that do not draw from the community's experiences have a reduced chance of success.
- Improve residents' knowledge and skills in problem solving. Participants learn about the issues in-depth. Greater knowledge allows them to see multiple sides

⁴¹ The survey, which had an over 70% sworn officer response rate, concluded that FCPD officers “have low levels of job satisfaction and believe they are not adequately compensated. Some officers also do not believe they have equal opportunity for advancement and promotion.” It also concluded that “Sworn officers also view command staff, “the department”, and the Fairfax County Government negatively, believe that officer interest and concerns are not the priority of these groups. And while officers generally believe that citizens in Fairfax County support them, these feelings are comparatively less strong when asked about how minority residents in the county view them.” With respect to specialized units, the survey noted that “sworn personnel in specialized units also felt comparatively less satisfied, less healthy, and less adequately compensated than patrol units.” Finally, it noted that “older personnel or those with greater time-in-service had more negative ratings of satisfaction, performance, compensation and opportunities, workplace climate, and wellness more generally.”

⁴² *Developing Effective Citizen Engagement: A How-to Guide for Community Leaders*, Bassler, Allan, 2008.

of the problem. Residents can also practice communication and decision-making skills.

- Empower and integrate people from different backgrounds. Groups that feel ignored can gain greater control over their lives and their community. When people from different areas of the community work together, they often find that they have much in common.
- Create local networks of community members. The more people who know what is going on and who is willing to work toward a goal, the more likely a community is to be successful in reaching its goals.
- Create several opportunities for discussing concerns. Regular, on-going discussions allow people to express concerns before problems become too big or out of control.
- Increase trust in community organizations and governance. Working together improves communication and understanding. Knowing what government, community citizens and leaders, and organizations can and cannot do may reduce future conflict.

The FCPD has recognized the need to develop and sustain strong community partnerships. Its mission includes the goal of building community relationships built on mutual respect, understanding and trust. The community must have confidence both in the process of law enforcement and in the people who are sworn to administer it fairly and judiciously.⁴³

2. Recommended Actions⁴⁴

- a. Build on FCPD's commitment to community-based policing by devising and implementing a comprehensive and integrated plan for strengthening police officer relationships with the community they serve, including adding evaluation criteria to performance reviews.
- b. Establish a public protocol for regular community participation, to include both listening sessions and a Community Advisory Group (CAG), on the role of police and FCPD practices, policies, and training. The CAG will meet regularly with County and FCPD leadership to discuss concerns and will have the authority to issue public reports. Membership should include both advocates and members of affected communities and should be appointed by the BOS.

⁴³ [Department's Mission Statement \(fairfaxcounty.gov\)](#)

⁴⁴ See CAC18, CAC14, CAC26, CO15, PRR38, TCT31, TCT19, CAC19, PCP5, TCT16.

- c. Conduct customer-service audits, developed with community input, of after traffic, pedestrian and all other routine stops by FCPD officers. Audit findings should be reviewed with the CAG and published annually.
- d. Require that representation on FCPD policy co-production initiatives include representatives from affected communities and provide advance public disclosure of the representatives. A protocol for resolving disagreements between FCPD and the community representatives should be established.
- e. Key community members with a diverse representation and lived experience should be invited to observe and provide feedback on FCPD training (similar to the implicit bias and procedural justice community partnership as a best practice), and a public forum should be held on FCPD training and internal oversight as it relates to the racial and other disparities in FCPD officer actions.

G. Transparency, Data Reporting, and Data Analysis

1. Overview

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.⁴⁵

Data collection and transparency are essential for police leadership, policy makers and the community to (1) assess the effectiveness (and efficiency) of policing strategies; (2) identify “standouts,” or outliers in officer behavior; (3) understand disparities in and the equity of treatment of different groups; and (4) if shared transparently and in an easy-to-understand function, develop trust with impacted communities.⁴⁶

The FCPD has made great strides in providing open data with dashboards for public dissemination. Public data, however, is often presented in a manner that overstates the proportion of White arrestees by including Latino individuals in that category,⁴⁷

⁴⁵ Adapted from the *Ad Hoc Police Practices Review Commission* Final Report, October 8, 2015.

⁴⁶ See [Center for Policing Equity Data Handbook](#) (p.4) and [Growing Number of Communities are Using Data to Improve Policing and Criminal Justice](#) | OPA | Department of Justice.

⁴⁷ Ad Hoc Committee on Police Data Transparency, [Policy Recommendation # 1: Combine Race and Ethnicity Data](#) (January 19, 2022) and sources cited therein.

discourages year-over-year comparisons, lacks standardized formats, and rarely includes any measures of disproportionality.⁴⁸

Additionally, the FCPD needs to be consistently careful with premature judgments or information about an incident that is either exculpatory of an officer's behavior, or judgmental about a person of interest due to previous law enforcement history.

Finally, data on police pedestrian stops and searches is not made public. Body worn camera release has appeared slow from the perspective of the public and does not appear to be expressly reviewed to assess disparities in treatment. Information on other key topics of public concern, such as more detail on the nature and extent of training, is also not disclosed.

These shortcomings increase the challenge of building and sustaining community trust by suggesting there is something to hide, even though FCPD's approach is consistent with historical policing practice throughout much of the country. Best practices have evolved, however, and FCPD public data and its analyses will benefit from current national best practices.

In addition to addressing general data practices, the recommendations below are intended to support the substantive recommendations made on other topics.

2. **Recommended Actions**⁴⁹

a. Transparency of Demographic Data

- i. Provide public access to demographic data through an online searchable database and annual reports for all key police actions, to include pedestrian and traffic stops, frisks, searches, citations and warnings, summons, custodial arrests, and uses of force. Include data breaking out actions by district and by specialized police units (*i.e.*, those units of potential concern, per section F below).
- ii. Standardize use of a combined race/ethnicity categories (Hispanic/Latino individuals of all races together) to better reflect proportionality, consistent with the practice of Virginia Community Policing Act and Fairfax demographic dashboards.
- iii. Work with community members to identify minor offenses linked to behavioral and mental health issues and those with significant disparity in arrest rates for

⁴⁸ Ad Hoc Committee on Police Data Transparency, [Recommended Changes to FCPD Data Practices](#) (February 1, 2023) and sources cited therein.

⁴⁹ See BWC12, BWC13, CAC17, CO04, PCP48, TCT01, TCT02, TCT14, TCT26, TCT30, UTSA01, UTSA28, UTSA29.

people of color. Monitor the reduction in arrest rates and disparity of identified offenses, noting year over year changes.

b. Specific Use of Force Analysis

- i. For each encounter involving the use of force, capture all interaction between the civilian(s) and officer(s) sequentially, in the order in which they occurred. This includes for each officer, preliminary interactions such as a consensual or investigatory stop, each force tactic or weapon used, each non-force tactic used by each officer (verbal warnings, de-escalation measures such as time, cover, and distance), each action taken by each civilian, and any efforts to intervene in excessive force.
- ii. Conduct annual or biannual follow-up analyses with enhanced use of force data to evaluate whether observed disparities diminish or change over time.
- iii. Analyze all police stops that evolve from a minor violation into a use of force; identify and flag police officers whose interactions reflect a pattern of escalation.
- iv. Report annually demographic and disparity data on specialized police units previously identified as being of concern. The reports should include use of force and possible precursor police actions, such as stops and arrests.

c. Multi-year Disparity Analysis on Major Topics

- i. Publish annually a multi-year disparity analysis of major police actions such as stops, arrests and use of force, developing benchmarks in consultation with community and experts.
- ii. Contract for an independent study by expert researchers of disparity in police stops.

d. Digital Data Access, Release, and Analysis

- i. Adopt a policy that provides for the mandatory release of all officer BWC footage within 10 days of any incident in which the FCPD officer(s) use deadly or serious force (subject to consent by the victim or the victim's family after review of the footage). The Chief of Police may, by public notice, extend the time for release up to a maximum of 30 days, but only to the extent that additional time is required for due process, e.g., to maintain the integrity of the investigation.
- ii. Establish a Data Control Board made up of representatives from the FCPD, Commonwealth Attorney, and the public to oversee access to digital data collected from dashboard and body-worn cameras.

- iii. Utilize body-worn camera footage to evaluate racial/ethnic disparities in treatment by the FCPD, force escalation or de-escalation, accuracy of characterization of the community member's race and other factors relevant to equitable treatment.
- e. Access to a Summary of Officer Misconduct Complaints and Disposition
 - i. Make accessible to the public, to the extent permissible, a database showing when officers are found to have violated FCPD policy or the law, committed official misconduct or resigned under investigation for these offenses.
- f. FOIA Reform to Promote Less Restricted Information Release
 - i. Adopt a "predisposition to disclose" approach with FCPD public records, with any exceptions strictly and narrowly construed.
 - ii. Revise County and Department FOIA regulations to significantly narrow the Chief's discretion to withhold officer personnel records and administrative investigative materials (including investigative materials subject to IPA and/or CRP review) absent an adverse investigatory effect. The Department should develop a formal policy, through co-production with the community, on the release of such records and the definition of "adverse investigatory effect."
- g. Key Training Programs and Schedules Publicly Available
 - i. Include key training topics and schedules in General Orders, specifying which training is mandatory and which is recommended, to provide transparency to the community. Identify proportion of officers who have received training, and year-to-year variations in training requirements, in public documents that reference the standards in the General Orders.⁵⁰

H. Specialized Police Units

1. Overview

Both the community and the CAC recommended looking at FCPD's specialized police units for the policy framework within which they operate and their operational history, specifically in relation to the potential for disparate treatment of people of color. The recent killing of Timothy Johnson by officers of FCPD's Tysons Urban Team (and the high-profile shooting of Tyre Nichols earlier in 2023 by a specialized unit of the Memphis police called the Scorpions) prompted MWG questions regarding the use and practices of specialized units and the belief their use in Fairfax should be better understood.

⁵⁰ <https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2021/05/year-2020-uof-review.pdf> pp. 41-49.

Research on police special units is limited. “Some studies have shown that they are not necessarily more likely to engage in use of force.” Other studies, such as “...a 2020 study of police in Tempe, Arizona, showed that police in special units are four times as likely to engage in the use of force as ordinary patrol officers;” and, nationally, “Special units have also been implicated in some of the most notorious cases of police misconduct.”⁵¹

The FCPD maintains 34 specialized units. While the MWG is not able to make specific recommendations, we believe that FCPD specialized units should be examined so that the community can understand their value, impact, and practices, particularly as relates to profiling and bias toward people of color.

2. Recommended Actions⁵²

- a. Evaluate the roles and responsibilities of each specialized police unit. Identify, in consultation with impacted community member representatives, units of potential concern, including reason for formation, criteria used to target suspects, how officers are selected, trained, and rewarded for participation, and the ratio of supervisor (sergeant) to patrol officers compared to regular patrol units.
- b. Report annually demographic and disparity data on key police actions by each specialized police unit, previously identified as being of potential concern. This report should include use of force for each identified unit, including with regard to stops, frisks, searches, consents (written and oral), and arrests.
- c. For each specialized unit identified as being of potential concern, assess, with community input, potential disparate treatment among diverse groups of residents.
- d. Limit role of School Resource Officer criminal investigations to serious violent offenses not appropriate for resolution through a school’s disciplinary procedures.^{53,54}

⁵¹ [Police special units like the one that killed Tyre Nichols are common. Here’s why they’ve drawn criticism | PBS NewsHour.](#)

⁵² See PRR22, CAC14.

⁵³ While SROs are no longer part of the disciplinary process, a criminal investigation can be initiated for anything that is arguably a crime, which has substantial overlap with disciplinary violations. The disciplinary process, in such cases, is put on hold until the criminal investigation is completed. This potentially criminalizes youthful misbehavior, and often disproportionately impacts students of color. The SRO Annual Report shows that 23% of cases were filed against Black youth, 48% for Hispanic youth and 21% were for White youth. SRO charged criminal offenses include Tobacco use, Possession of Marijuana, Verbal or Written Threats, Trespassing, Vandalism, Alcohol Use and Unlawful Filming. See:

<https://www.fairfaxcounty.gov/police/sites/police/files/assets/documents/sro%20mou%20assessment%20final.pdf>

⁵⁴ The diversion process must be made more accessible to families who may be reluctant to interact with schools, e.g., families with an undocumented member.

H. Monitoring and Evaluating Program Progress

1. Overview

Evaluating the effectiveness of programs in meeting public objectives is an essential component of local government management. The basic questions are (a) is the program being implemented for better policing in Fairfax County accomplishing its intended purpose; (b) are the resources being put into the program being well used; and (c) what lessons are learned through the implementation to make the program better? The best and most useful program evaluation is data-driven, which is one of the key reasons this report gives such emphasis to collecting quality performance information.

2. Recommended Actions⁵⁵

- a. The County Executive should report annually to the BOS, a community working group, and the public assessing FCPD's implementation of (i) the Ad Hoc Commission, the UTSA, and the CAC recommendations, (ii) changes in Virginia law, and (iii) policies and practices adopted by the FCPD in response to community recommendations (e.g., UOF and de-escalation, Diversion First, BWC, CIT, and the use of internal UOF and vehicle pursuit lessons-learned committees).
- b. Establish a capability that is independent of the FCPD to monitor the implementation of police reform initiatives and report annually to the BOS, Chief of Police, and the public on their findings and recommendations.

⁵⁵ See CO14, CO28, PRR14, PRR33, TCT31

III. Conclusion

The community response to a call for public safety and security reform proposals was substantive and extensive. This is a consensus report that captures the results of our effort to transform the Police Reform Matrix into an action plan.

In so completing its charge, the MWG could not overlook recent police use of force and officer involved shooting events occurring within the community context; nor those that are taking place nationwide. There is an urgency upon the Working Group, the community, and the county to act on these recommendations expeditiously to further demonstrate the county's commitment to One Fairfax and ensure the safety of all county residents.

To that end, the Working Group urges the BOS to direct the FCPD to adopt these recommendations, document how they are currently being met, and/or explain in detail why the FCPD recommends against their adoption.

Additionally, full transparency and a ramped-up effort to communicate broadly the status of these recommendations is of the utmost importance in building trust and community confidence in the ongoing efforts by the County and the FCPD to achieve protective, equitable, responsive, and respectful policing. The Working Group challenges the County and the FCPD to continue to rethink the fundamentals of applying force and to distinguish criminal behavior from mental health, substance use, and other behavioral disorders.

The Working Group welcomes the opportunity to remain actively engaged, and we offer our continued service in support for the adoption and implementation of this proposed action plan.

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APPENDIX I

SUPERVISOR LUSK INVITATION LETTER TO MATRIX WORKING GROUP MEMBERS



Commonwealth of Virginia

RODNEY L. LUSK

Fairfax County, Franconia District Supervisor
6121 Franconia Road, Alexandria, Virginia 22310



Greetings,

It is my great pleasure to invite you to join the Police Reform Matrix Action Plan Working Group (Working Group), a set of community advisors that is charged with helping the Board of Supervisors (Board) transform an existing Police Reform Matrix into an action plan. The Working Group will convene for a **virtual** one-hour kick-off meeting on **February 6, 2023 at 7:00 pm**. The product of your efforts will be completed in time to present a draft reform action plan to the Board's Public Safety and Security Committee on March 28, 2023.

Background

As you know, I invited community input in July 2020 on needed Fairfax County Police Department (FCPD) reforms. The response was substantive and extensive, with over 300 suggestions that were originally organized into what became known as the "Police Reform Matrix." As a compendium of community-based ideas, the Reform Matrix is invaluable. However, with over 300 suggestions offered in a range of formats, styles, and descriptions, the Matrix was originally cumbersome, diffuse, and not easily accessed and understood by policymakers, FCPD, and the public.

After nearly two years of effort, I now believe we need to approach the County's reform efforts more strategically and I ask for your assistance. I plan to propose to the Board an action plan that synthesizes the wide array of critiques and reform proposals into a set of police-reform policy and program initiatives having the most significant potential impact.

Objectives

1. Transform the Fairfax County Police Reform Matrix into an action plan.
2. Synthesize, streamline, and prioritize reform proposals into a set of police-reform policy and program initiatives having the most significant impact potential.
3. Collaborate with FCPD to ensure that meaningful feedback is provided on each community-based recommendation.

Working Group

You are one of a small group of individuals I am inviting to be a member of this short-term working group. Each Working Group member will have depth of experience, as a contributor to previous reform initiatives and, for some, lived experiences. Additionally, the Working Group will closely consult with the FCPD, the Civilian Review Panel, and the Independent Police Auditor, each of whom will be represented by *ex officio*, non-voting, members. I attach the full list as Attachment I.

I will convene a virtual one-hour meeting on **Monday February 6th at 7:00 pm** to introduce this task directly to you and to answer your questions. The Working Group will then meet in person for two hours on four Mondays, according to the attached schedule, starting with **February 13, 2023** and ending on **March 20th**.

I have asked Phil Niedzielski-Eichner to lead the Working Group as its convener. Phil chaired the Use of Force Subcommittee of the 2015 *Ad Hoc Police Practices Review Commission* and co-drafted with Diane Burkley Alejandro the 2022 *Use of Force Community Advisory Committee Report*. He has helped me think through how to best benefit from the Reform Matrix, organize the Matrix suggestions into more easily accessible categories, and follow through on the Board's commitment to consider and respond to each suggestion. As an experienced facilitator, he will also help the Working Group conduct its work smoothly, cooperatively, and effectively.

Outcome

The Working Group will recommend an action agenda to the Board of Supervisors Public Safety and Security Committee at a public meeting on **March 28, 2023**. I attach for your use a copy of the Working Group's draft charter so that you have a more complete understanding of your charge, organization, and expected outcome.

Thank you for all that you do for our community. I sincerely hope that you will join the Working Group. I ask that you confirm your willingness to serve for this limited time frame by sending an email to Phil Niedzielski-Eichner (pneichner@outlook.com) by February 1, 2023, with a cc to my Chief of Staff, Matt Renninger (matthew.renninger@fairfaxcounty.gov).

Sincerely,



Rodney L. Lusk
Fairfax County Franconia District Supervisor

Attachments:

- I. Working Group Charter
- II. Working Group Invitees
- III. Proposed Meeting Dates

APPENDIX II

Community-based Recommendations that Underpin Recommended Action Plan Priorities

COMMUNITY-BASED RECOMMENDATIONS UNDERPINNING ACTION PLAN⁵⁶

RETHINKING POLICING

- PCP18
- PRR01
- PRR16
- PCP18
- PRR22
- PRR38
- PRR40
- PRR41
- PRR44
- PRR45
- PRR46
- PRR48
- PRR49
- UTSA17
- UTSA25

USE OF FORCE POLICY AND ACCOUNTABILITY

- CAC 1
- CAC02
- CAC05
- CAC08
- CAC09
- CAC14
- PA03
- PA26
- UOF01
- UOF06
- UOF07
- UTSA10
- UTSA14
- UTSA16
- UTSA17
- UTSA22
- UTSA23
- UTSA24
- UTSA25
- UTSA26

INDEPENDENT OVERSIGHT

- CO01
- CO02
- CO13
- CO16
- CO24
- CO29
- CO33
- CWA01
- PA05
- PA26

COMMUNITY ENGAGEMENT AND PARTICIPATION

- CAC14
- CAC18
- CAC19
- CAC26
- CO15
- PCP05
- PRR38
- TCT16
- TCT19
- TCT21
- TCT31

⁵⁶ Each suggestion conveyed by the community to the Safety and Security Committee was assigned a number within one of eight categories within the Matrix: Civilian Oversight (CO); Digital Data: Body Worn and In-vehicle Cameras (BWC); Transparency and Community Trust (TCT); Use of Force (UOF); Police Roles and Responsibilities (PRR); Police Accountability (PA); Police Culture and Practices (PCP); and Constitutional Officers: Commonwealth's Attorney & Sheriff's Office (CWA). The Matrix can be found at <https://www.fairfaxcounty.gov/topics/police-updates>.

TRANSPARENCY, DATA REPORTING, AND DATA ANALYSIS

- BWC03
- BWC09
- BWC12
- BWC13
- CAC17
- CO04
- PCP 48
- PRR 14
- TCT01
- TCT02
- TCT04
- TCT05
- TCT06
- TCT07
- TCT09
- TCT10
- TCT12
- TCT13
- TCT14
- TCT17
- TCT19
- TCT20
- TCT25
- TCT26
- TCT27
- TCT30
- UTSA 01
- UTSA28
- UTSA29

POLICE OFFICER EXCELLENCE

- CO04
- CO10
- CAC 2
- CAC 9
- CAC10
- CAC15
- CAC17
- CAC19
- CAC22
- PA03
- PA04
- PA08
- PA12
- PA23
- PA24
- PCP05
- PCP06
- PCP10
- PCP16
- PCP18
- PCP22
- PCP48
- PRR38
- PRR52
- TCT11
- TCT12
- TCT16
- TCT21
- UOF06
- UTSA23
- UTSA24
- UTSA26

SPECIAL POLICE UNITS

- CAC14
- PRR22
- **PRR24**
- PRR36
- PRR37

MONITORING AND EVALUATING PROGRAM PROGRESS

- CAC14
- CAC18
- CAC26
- CO14
- CO15
- CO28
- PRR14
- PRR33
- PRR38
- TCT31
- UOF01
- UOF07
- UOF08

