

An Assessment
of the University of Texas at San Antonio's
Recommendations Regarding
Fairfax Police Use of Force Policies, Practices & Data
Collection

Use of Force
Community Advisory Committee

A Report to the Fairfax County Board of Supervisors
March 11, 2022

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March 11, 2022

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

RE: Use of Force Community Advisory Committee Assessment of University of Texas at San Antonio's Recommendations Regarding Fairfax County Police Department Use of Force.

Dear Chairman McKay and Supervisor Lusk:

We write to convey to you the assessment by the Use of Force Community Advisory Committee (CAC or Committee) of recommendations made by the University of Texas at San Antonio (UTSA) in its report titled "An Investigation of the Use of Force by the Fairfax County Police Department." The Fairfax County Board of Supervisors received the official presentation of UTSA's report on June 29th 2021. It was subsequently revised and resubmitted in July 2021.

We commend Fairfax County for undertaking the UTSA study, which analyzed Fairfax County Police Department (FCPD) use of force and related data for the years 2016, 2017, and 2018. The study team was charged with investigating "the influence of civilian race, ethnicity, and other factors on force used by FCPD officers." The UTSA study team was also charged with "providing recommendations for reducing potential bias in officer decision-making and improving use of force data collection methods and processes to facilitate future analyses."

In a letter dated September 17, 2021, you invited selected members of the community to join a citizen advisory committee to "review the [UTSA] report's findings, recommendations, and to provide feedback on how that data can be interpreted, applied, and improved upon in the future." You further expressed the hope that our "committee will utilize the unique perspectives of each appointee to ensure that we are holistically considering the lessons of the report, and that the Board receives the benefit of those perspectives at a future meeting of the Public Safety Committee."

The Committee convened for the first time on October 15, 2021 with opening remarks and direction provided by Supervisor Lusk. The Committee also engaged with the UTSA authors, Michael R. Smith, J.D., PhD. and Rob Tillyer, PhD. The Committee conducted ten meetings, all virtually, and completed its work on February 28, 2022.

We affirm that your appointees brought to our collective deliberations a range of lived experiences and perspectives with regard to Fairfax County police practices. Importantly, we benefitted from the active participation and candid insights offered by members of the communities most directly impacted by use of force in Fairfax, including residents of color and those living in districts where force is most frequently used.

Due to the use of interpretation and document translation services, language was not a barrier to participation, allowing us to gain insight from the Latino immigrant community. The FCPD representatives who attended the meetings proved to be invaluable, as they explained current FCPD practices and provided their own in-field personal experiences. Through the able leadership and facilitation skills of Karla Bruce, Chief Equity Officer, and Theo Miller, Co-Principal, Equity & Results, the CAC members were able to reach consensus and successfully fulfill the charge given us.

We are pleased to provide this report detailing our work. We undertook three tasks: (1) review, comment on and, in some instances, suggest modifications to UTSA recommendations; (2) evaluate and propose supplemental recommendations based on CAC member lived experiences, insights shared by participating FCPD representatives, previous and ongoing County reform initiatives, national standard-setting organizations' recommended best use of force practices and policies adopted or proposed by other jurisdictions; and (3) identify topics on which we believe further study, with community input, is warranted. We express no opinion on the specific disparity findings, or methods and processes used by UTSA, as that was deemed beyond the scope of our mission.

We ratify the importance of comprehensive use of force data collection and publication to improve transparency and increase community trust, enable meaningful departmental and individual performance metrics, lessons-learned analyses, and improve practices and accountability.

Further, insights gained working together on this sensitive and complex topic underpin our conclusion that data should not be the sole factor in assessing and finding ways to limit FCPD use of force. Indeed, adopting new policies, while necessary, is not sufficient to effect change. It is essential that policy-makers, departmental leadership, supervisors, and line officers understand community members' lived experiences. This parallel source of understanding can not only help authenticate or challenge the conclusions derived from the data, but also enable FCPD to build and maintain bridges to the diverse communities it serves.

The large proportion of the study's recommendations, augmented by those proposed by our committee, will further promote police restraint in the use of force in Fairfax County and should be embraced by the Board and by the Department. We thank you for inviting our review and for the opportunity to serve the Board and our Fairfax County community.

Respectfully submitted,

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PREFACE

The work of the Use of Force Community Advisory Committee (CAC or Committee), as presented in this report, was specifically chartered to review a report completed by the University of Texas at San Antonio (UTSA) and offer feedback on the report's recommendations for how to improve use of force data collection, policy direction, and police officer training, and organization. The Committee was charged to provide "insights [that] will be invaluable as we work together to leverage the investment we have made in commissioning this study in order to ensure that Fairfax County is the safest and most equitable jurisdiction possible."¹

This preface provides context; *i.e.*, insights into the diverse community experience with police use of force that drove the County to seek UTSA's help and this Committee's consideration of UTSA's recommendations.

Often a major use of force incident, with attendant widespread community concern, will be a catalyst for action and generate calls for a review of a police department's policies and practices. Such an incident was the basis in 2015 for the formation by the Fairfax County Board of Supervisors of the Ad Hoc Police Practices Review Commission (Ad Hoc Commission), which made major recommendations regarding Fairfax County Police Department (FCPD) use of force (UOF) policies and practices.²

While 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. One of the Ad Hoc Commission recommendations was specific to this issue; *i.e.*, collect more data on use of force incidents and undertake an analysis of its impact, among other enforcement practices.³

At the heart of this recommendation was the perception that people of color, especially Black people, were subject to use of force disproportionately relative to White people

¹ 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).

² The August 2013 shooting death of Mr. 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 The full Commission recommendation was as follows: Collect and analyze data, and publish an annual statistical report, covering all FCPD stops, frisks, citations, arrests, and use-of force incidents by police station and magisterial district. Include the race, gender, and ethnicity of the individual in the data collected; and note whether the suspect is homeless and if a mental health crisis is suspected or a factor in the suspect being frisked, cited, arrested, and/or subjected to force. The data should also include the race, gender and ethnicity of the FCPD personnel conducting the stop, frisk, citation, arrest, and/or use-of-force and whether the interaction was initiated by FCPD or by the suspect. Finally, document the outcome of each incident and regularly report the collected data to the Board of Supervisors and the public and post the data and analysis online.

(also referred to as “disparate treatment” or a “disparity”). However, confidence in studies evaluating possible disparity in Fairfax, including two undertaken by the newly named Independent Police Auditor, was hampered by the limitations of available data and disagreements about proper methodology to evaluate and compare police use of force among different racial groups.⁴

The County subsequently sought independent research from UTSA to better understand if force was used differently against members of the Fairfax community based on the color of their skin or their ethnic background or some other characteristic. UTSA issued a detailed report in June 2021.

The UTSA’s analysis and following findings help advance our understanding of FCPD use of force: (a) Black civilians were two times more likely to experience high levels of force (Level 3) force than White civilians. (b) There is a high variance in disparity between districts. Mt. Vernon, McLean and Franconia showed higher levels of force for Black civilians. Mt. Vernon showed higher levels of use of force for Latino civilians. (c) Sully district officers used Level 3 force 63.8% of the time, by far the highest of any district. (d) Arrested Black civilians were 1.2 times more likely than arrested White civilians to face force against them.

The CAC expresses no opinion on UTSA’s specific disparity findings, or its methods and processes, as that was beyond the scope of our charter.⁵

The lived experiences of residents of color (as reflected in the subsequent CAC discussions), analyses of the frequency of UOF incidents over the past several years and public reports of incidents in Fairfax and elsewhere, reflect that FCPD use of force continues to be a concern to community members.

Despite the numerous Ad Hoc Commission-recommended changes to policies adopted by the Board of Supervisors and FCPD, the number of UOF incidents stayed relatively

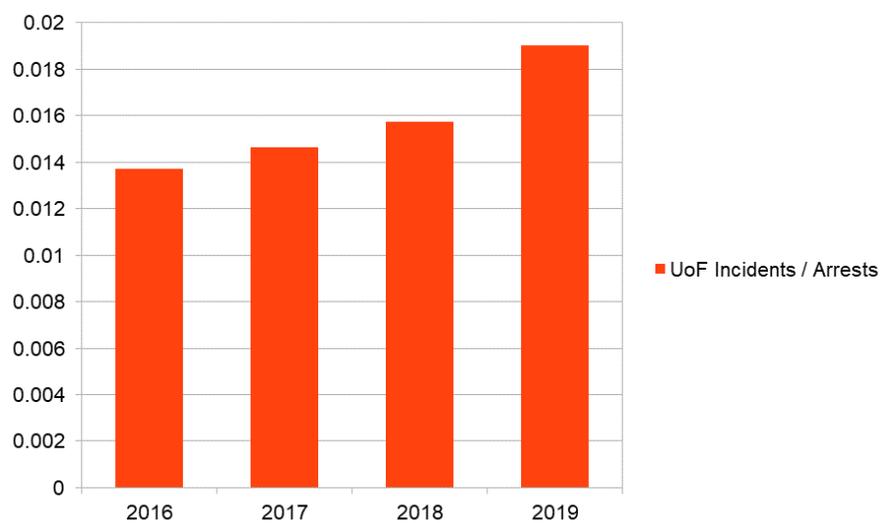
⁴The Independent Police Auditor, appointed by the Board of Supervisors in response to an Ad Hoc Commission recommendation, undertook studies in 2015 and 2016).

⁵ An *Ad Hoc Committee on Police Data Transparency*, was, however, established in August 2020 by former Police Chief Roessler “to enable stakeholders and decision-makers to assess the extent to which the FCPD is making progress toward the One Fairfax goal of equity and fairness in law enforcement.” In June 2021, The Ad Hoc Committee expressed serious reservations about the UTSA study’s over reliance on arrest rates as the key benchmark for calculating disparity and advocated that, to be balanced, that approach should be viewed as one part of a continuum of benchmarks that considers population demographics. See Ad Hoc Committee on Police Data Transparency, [Preliminary Comments on the UTSA Report on the Use of Force by FCPD](#) (June 27, 2021). The views expressed are those of that Committee and not those of FCPD. [Note: Two community organizations represented on the UOF CAC are also represented on the *Ad Hoc Committee on Police Data Transparency*.]

constant from 2016 to 2018, on a yearly basis. In 2019, however, UOF incidents increased over 2016 levels by almost 20%.

It is difficult to know whether the substantial increase in 2019 is an aberration or a trend. However, we do know that the *total number of arrests has decreased* each year over the same time period (about 15% from 2016 to 2019). This means that the *frequency of use of force is increasing* even in those years where the use of force stays constant. (See Figure 1)⁶

Figure 1: Trends in Use of Force by FCPD Relative to Total Arrests⁷



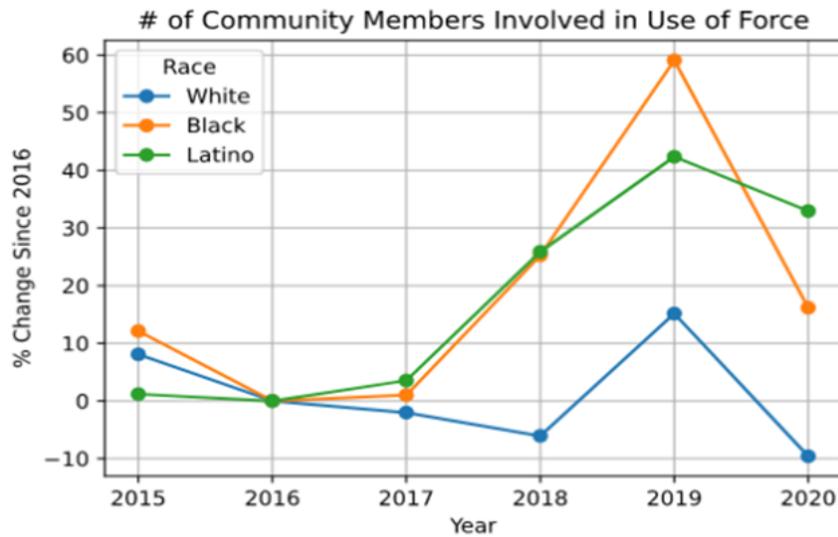
While the trend demonstrated in Figure 1 is clear and worth noting, it is important not to overstate its significance. The reduction in total arrests is unquestionably a positive, reflecting the decision to increase diversion programs. And this analysis of the increased frequency does not address the severity of the force used.

Regardless of the full significance of use of force frequency relative to arrests, Figure 2 demonstrates a troubling trend an increase in force use against people of color.

⁶The use of force numbers in 2020 reverted to “normal” levels, 505 from the 592 in 2019. However, the COVID-19 pandemic should be considered a major factor driving the 2020 decrease. Indeed, since arrests were down about 30%, even a total of 505 incidents reflects a significant increase in force use on a relative basis. Given the unique circumstances facing the public and police, the *Ad Hoc Committee on Police Data Transparency* did not include them in its analysis.

⁷ Source: Ad Hoc Committee on Police Data Transparency analysis, based on FCPD Use of Force data reporting (<https://www.fairfaxcounty.gov/police/chief/reports/iab>) and open data arrest data (<https://policedata-fcpdgis.hub.arcgis.com/pages/fairfax-county-arrests>). Calculations available at <https://drive.google.com/file/d/1VDOHaca-xUEeJkmQcTmWjePnreJg81Gy/view?usp=sharing>

Figure 2: Trends in Use of Force by FCPD by Race/Ethnicity⁸



A review of officer-involved shootings during the seven-year period (2016 to present), during which Fairfax County accepted and implemented most recommendations of the Ad Hoc Commission, finds that eight FCPD officer-involved shootings occurred.⁹ Two of these FCPD officer-involved shootings resulted in death; both of which were found to be justified because the officer or the public were clearly threatened. At least three deaths have occurred at the hands of other law enforcement officers operating in Fairfax.

While the low rate of Fairfax County officer-involved shooting is notable, there have been visible and controversial use of force incidents within Fairfax County involving both FCPD officers and law enforcement agencies operating in the County.

- In July 2021, a resident in a group home, who was experiencing a mental health crisis and threatening harm to others with a knife, was shot by a FCPD officer after she came toward the officer with the knife raised. The woman survived. The officer did not have a Taser; nor were mental health professionals available.¹⁰
- In 2020, La Monta Gladney, who was experiencing an apparent behavioral health crisis, was tased multiple times by a late responding Fairfax police officer. Other officers were already present and seeking to assist him into an ambulance.¹¹

⁸ Source: NAACP, *Data Use of Force Findings and Statement*, presented at 10/7/2021 Public Safety Committee Community Input Session (November 07, 2021) Available at: <https://drive.google.com/file/d/1ds9l0KAgtVEba3lqbW7vFsoXoUOVZLGA/view?usp=sharing>. As noted, the COVID-19 pandemic must be considered a major factor driving the 2020 decrease.

⁹ <https://www.fairfaxcounty.gov/police/chief/generalorders/policies/officerinvolvedshooting>.

¹⁰ <https://www.nbcwashington.com/news/local/person-shot-by-police-in-springfield-after-disturbance-at-group-home-authorities-say/2735118/>

¹¹ <https://www.nbcwashington.com/news/local/fairfax-county-officer-arrested-accused-of-assaulting-man/2325200/>

- In 2018, 12-year-old Amran Djama suffered serious brain damage when a truck slammed into her family’s van after the truck was chased by Fairfax police through four red lights.¹²
- In 2017, Bijan Ghaisar was killed in his stopped vehicle by federal Park Police at the end of a long vehicle chase recorded on a Fairfax police in vehicle camera.¹³
- In 2016, Jovany Amaya Gomez was killed as he threatened a Fairfax Sheriff’s deputy on the INOVA hospital campus. Subsequent reports indicated the individual was experiencing a mental health crisis and apparently suicidal.¹⁴
- In 2015, Natasha Mckenna was tased four times by Fairfax Sheriff’s deputies in an effort to remove her, while naked, from her cell. She became unresponsive and died five days later.¹⁵

While most of these incidents were found to be justified under existing policy, and some involved other agencies, these actions and other less reported on incidents have heightened public concern for law enforcement use of force practices. In their totality, they can act to undermine confidence in law enforcement’s commitment to the sanctity of human life.

Compounding local concerns, the May 2020 murder of George Floyd, a Black man, by a White Minneapolis police officer sparked nationwide outrage.¹⁶ 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.

The formation and work of the Use of Force Community Advisory Committee was undertaken within this broader context to assess the UTSA recommendations on UOF data collection, policy, and training.

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¹² https://www.washingtonpost.com/local/a-police-chase-ends-with-a-brain-damaged-child-and-a-family-forever-changed/2018/03/05/ee0ddffe-207f-11e8-86f6-54bfff693d2b_story.html

¹³ https://www.washingtonpost.com/opinions/the-latest-government-smokescreen-in-the-bijan-ghaisar-case/2020/03/11/e819d9dc-639d-11ea-acca-80c22bbee96f_story.html

¹⁴ https://www.washingtonpost.com/videonational/video-shows-fatal-police-shooting-of-mentally-ill-man-outside-va-hospital/2016/12/20/b577b60e-c6eb-11e6-acda-59924caa2450_video.html

¹⁵ https://www.washingtonpost.com/opinions/no-way-to-treat-a-person/2015/09/10/f3ef1882-5801-11e5-abe9-27d53f250b11_story.html

¹⁶ <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>

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I. INTRODUCTION

This assessment was undertaken by the Use of Force Community Advisory Committee at the behest of Fairfax County Board of Supervisor Chairman Jeff McKay and the Board's Safety and Security Committee (SSC) Chairman Rodney Lusk. The CAC formation followed the delivery in mid-2021 of a report by the University of Texas at San Antonio (UTSA) titled "An Investigation of the Use of Force by the Fairfax County Police Department."¹⁷

BACKGROUND

In the summer of 2019, Fairfax County, Virginia, through its Office of the Independent Police Auditor (OIPA),¹⁸ sought outside, data-driven independent research help to assess if force was used by Fairfax County Police Department (FCPD) officers differently against community members based on the color of their skin, their ethnic background or some other characteristic. The County also sought recommendations for (a) reducing potential or implicit bias in police officer decision-making and (b) improving use of force data collection methods and processes so that Fairfax County could gain better understanding of its officers' actions and conduct future analyses more effectively.

The County in January 2020 selected a research team, led by the University of Texas at San Antonio, with support from the University of Cincinnati (collectively referred to as "UTSA"), based on their experience conducting similar studies of racial disparities in police activities, including the use of force, traffic stops, and pedestrian stops. UTSA analyzed three years (2016-2018) of use of force and related data from FCPD to investigate the correlation, if any, of civilian race, ethnicity, and other factors on force used by officers. These data were supplemented with a variety of other records provided by Fairfax County that allowed for a detailed investigation of the characteristics of those involved (civilians and officers) in the incidents, and the situational contexts in which they occurred.

¹⁷ University of Texas at San Antonio, Department of Criminology and Criminal Justice, *An Investigation of The Use of Force By The Fairfax County Police Department* (June 27, 2021); as revised July 2021, <https://www.fairfaxcounty.gov/policeauditor/sites/policeauditor/files/assets/reports/revise%20final%20outs%20report%207-6-21.pdf>.

¹⁸ Eighteen months earlier, the OIPA published *A Review of the Disparity in FCPD Use of Force Incidents* in 2015 in which it found no discernable differences in the amount of force used against African-Americans compared to Whites who engaged in similar conduct. The OIPA also completed a subsequent report in 2016 (*A Review of the Disparity in FCPD Use of Force Incidents by Race*), which highlighted observed disparities in how force was experienced by Blacks and Whites in the county but did not make any conclusions about the causes. OIPA stated that it was unable to conclusively rule out the existence of racial bias and noted the limitations of the available FCPD data, including the OIPA's inability to determine whether force was not used against similarly-situated persons of different races or ethnicities.

A foundational activity for the UTSA use of force study was a literature review to identify studies that have been conducted on police use of force that could (1) be used as “benchmarks” against which FCPD can measure its use of force performance and practices; and (2) offer insights into best practices that will reduce the need to use force and reduce the severity of the force required to secure compliance, make arrests, prevent crime, and maintain public safety

UTSA also presented a detailed analysis of disparity finding based on benchmarks it selected. As described in more detail in the preface, UTSA found that Black civilians were two times more likely to experience high levels of force (Level 3) than White civilians and under some analyses were more likely to have force used against them.

CHARGE TO COMMITTEE

The September 17, 2021 charge to the CAC was to “review the [UTSA] report’s findings, recommendations, and to provide feedback on how that data can be interpreted, applied, and improved upon in the future.” The Committee membership was intentionally diverse, in terms of race/ ethnicity, gender, lived experiences and location of residence. The Committee was urged to “utilize the unique perspectives of each appointee to ensure that [the Board] is holistically considering the lessons of the report, and that the Board receives the benefit of those perspectives at a future meeting of the Public Safety Committee (PSC).”

Chairman McKay and Supervisor Lusk expressed confidence that the Committee’s “insights will be invaluable as we work together to leverage the investment we have made in commissioning this study in order to ensure that Fairfax County is the safest and most equitable jurisdiction possible.” They affirmed that they “share a deep sense of urgency and commitment ... to working to implement reforms and polices based on [UTSA’s] findings.”

Importantly, the charge to the Use of Force Citizen Advisory Committee was limited to evaluating UTSA recommendations on how to improve current use of force data collection, policy, training and organization. The CAC does not provide any observations, conclusions, or recommendations regarding UTSA’s methodology or findings related to its evaluation of disparity, based on demographic characteristics such as civilian race or ethnicity, in the frequency or severity of force used by FCPD officers.

CAC PROCEEDINGS

The CAC first met on October 15, 2021 with opening remarks and direction provided by Supervisor Lusk. The CAC also engaged with two of the UTSA study authors, Michael R. Smith, J.D., PhD. and Rob Tillyer, PhD. The Committee conducted ten meetings, all virtually due to the pandemic.

Each member provided insight that informed the Committee's assessment based on their own background, lived experiences and perspectives. We especially benefitted from the active participation and candid insights offered by members of the communities most directly impacted by use of force in Fairfax, including residents of color and those living in districts where force is most frequently used. Due to the use of interpretation and document translation services, language was not a barrier to participation, allowing us to gain key perspectives from the Latino immigrant community.

Other members provided feedback on lessons learned serving diverse communities and residents in need. Some advocate members reviewed, and suggested proposals for discussion based on an array of source documents that explore the use of force by police agencies as well as their work within the community. Special focus was placed on best practices recommended by national standards-setting organizations such as Police Executives Research Forum (PERF) and the International Association of Chiefs of Police (IACP), as well state and local reform measures across the country. The review covered but was not limited to sources relied upon by UTSA.

FCPD provided several representatives who attended the meetings to explain current FCPD practices and provide their own in-field personal experiences. Their perspectives as police officers and willingness to consider opposing views were invaluable. Karla Bruce, Chief Equity Officer, and Theo Miller, Co-Principal, Equity & Results provided able leadership and facilitation skills.

The diverse experiences CAC members brought to the discussion proved to be synergistic. Working in tandem with our advisors, we were able to reach consensus and successfully fulfill the charge given us. The Committee presented its assessment and recommendations to the SSC on March 1, 2022.¹⁹

¹⁹ <https://www.fairfaxcounty.gov/boardofsupervisors/board-supervisors-safety-and-security-committee-meeting-march-1-2022>.

ORGANIZATION OF REPORT

This report captures the essential work of the CAC between the nearly five-month period of October 15, 2022 and February 28, 2022. It is organized into five sections:

- Overarching considerations and recommendations
- UTSA data collection recommendations
- UTSA policy recommendations
- UTSA training and organization recommendations
- Summary and closing remarks

The CAC’s detailed analysis of each of the UTSA recommendations, as well as the explanation for the additional CAC recommendations, are found in this report’s **Appendix I**. It is an essential resource for those readers interested in getting into the “meat” of the Committee’s work. **Appendix II** contains citations to the sources relied upon by CAC, as well as a table sequentially listed links to the sources cited in in Appendix I. **Appendix III** lists the CAC members.

II. OVERARCHING CONSIDERATIONS AND RECOMMENDATIONS

The Committee believes that UTSA’s recommendations should not be viewed in isolation. Context is critical. The Fairfax community is extremely diverse and residents experience life—and policing—very differently, depending on our race, ethnicity, gender, disability, socio-economic status and the neighborhood in which we live. Data collection and analysis, for all of the value and insights gained from them, will be best understood if viewed through the lens of community members’ personal experiences; *i.e.*, what might be called the “heart behind the data.”

Policy changes developed after analysis of the data and consideration of lived experiences must be accompanied by a mindset change to be successful. Reducing unnecessary force will also require changes beyond direct constraints on the use of force. We must alter the nature and frequency of police-community interactions, thereby limiting the circumstances conducive to unnecessary police use of force.

Considerations

- Reform must be informed by the perspectives of those who have experienced trauma throughout their lives (and the lives of past generations) based on the color of their skin or other inherent characteristics.

- Communities of color and disadvantaged groups, including minority youth, immigrant and undocumented persons and residents with behavioral health and/or substance dependencies are more impacted by law enforcement contact and often face harsher consequences. Their level of fear of law enforcement is commensurately higher than that of other residents.
- Policy change is essential to reducing unnecessary force. However, meaningful and sustained improvements will be limited without cultural change within Department. This requires an understanding and appreciation of the cultures of communities being policed (cultural competency) and concerted efforts to build trust by regular, non-threatening interaction with the community.
- Trust building also requires community/police/policy-maker collaboration on topics important to all three groups. It should involve community members whose lived experiences have historically been a barrier to establishing a working relationship with local government.
- Policy-makers should give continuous consideration to the root causes underlying police use of force and unsatisfactory community contact, including the equity considerations highlighted in the One Fairfax policy.

Recommendations

- Expansion of co-responder and lead behavioral health/substance abuse programs that enable pre-arrest diversion is likely to yield the biggest benefit and reduce the use of force. Simply reducing arrests without providing assistance on the underlying contributor(s), however, is unlikely to provide consequential benefits.
- Comprehensive collection of, and public access to, use of force data are fundamental building blocks to improving community trust and providing accountability. To be meaningful, reports and data must be regularly updated and online data access to all data provided, subject to tactical and privacy concerns.
- Narrative and language change are also important to building trust. Documents should be user-friendly. Terminology should be respectful and follow the communities' generally-preferred designations (e.g., use "civilian" instead of "citizen"; "Black" instead of "African American"). Demographic data should combine race and ethnicity to avoid masking disparities (as occurs when Whites and Latinos are conflated).

- FCPD’s standards should meet or exceed national best practices for use of force and data collection, as recommended by the Police Executives Research Forum, the National Consensus Policy (developed by eleven key law enforcement organizations including the International Association of Chiefs of Police) and others.

III. UTSA DATA COLLECTION RECOMMENDATIONS

Fairfax County tasked UTSA to recommend improvements FCPD can make in its collection of use of force data to “facilitate future analyses, reduce potential bias, and enhance transparency and accountability.” FCPD captures use of force data in the *BlueTeam* module of the commercially-available *IAPro* software package, which is designed to help police agencies track use of force, citizen complaint, and internal investigation information. FCPD supervisors are responsible for conducting preliminary investigations of reportable force events and then entering the information resulting from their investigations into BlueTeam using the available fields and drop-down menu options.²⁰

UTSA found that collecting FCPD data on use of force was challenging, and required detailed review of FCPD files due to limitations in current data collection systems. It therefore provided substantial recommendations for improvement.

The following sections document the CAC’s assessment of the UTSA data recommendations and identifies those that it supports in full or as modified, and the one it does not support; CAC also offers its own supplemental recommendations for consideration.

SUPPORT

The CAC endorses the following UTSA recommendations, but with inclusion of key modifications, as noted:

- **Sequence of events.** Capture all instances of force and resistance sequentially during each encounter involving the use of force. However, the Committee recommended modifications to
 - Track use of force across entire interaction between civilian and officer, not solely circumstances prompting using of force.
 - Include reason for the initial contact (e.g., investigative stop or arrest) as well as reason for use of force.

²⁰ This description was adapted from the UTSA Report, An Investigation of the Use of Force by the Fairfax County Police Department (revised July 2021)
<https://www.fairfaxcounty.gov/policeauditor/sites/policeauditor/files/assets/reports/revised%20final%20utsa%20report%207-6-21.pdf>.

- **Reporting threshold.** Re-define the use of force reporting threshold downward to include any significant physical contact beyond a firm grip and to include threatened use or pointing of a weapon. The Committee suggested clarification of language used to describe the recommendation to comport to UTSA’s discussion.
- **Data disaggregation.** Break out data into key demographic categories. CAC added clarifications to permit meaningful group-to-group comparisons and not mask disparity (e.g., not conflating White and Latino), as well as culturally appropriate terminology. Consideration should be given to expanding gender identity and adding sexual orientation, as provided by PERF.
- **Resistance levels.** Divide *BlueTeam*’s long list of types of resistance into four categories. While agreeing in concept, the Committee found both current FCPD and UTSA categories confusing, especially “defensive” versus “passive” resistance. We would add additional options in each category, following PERF.
- **Demeanor versus affect.** Documenting officer perception of how civilian presents themselves, as suggested by UTSA, may be useful, However, we should replace “demeanor” with “affect” to describe the civilian’s observed attitude, posturing, gestures or words. Descriptions of options should be culturally appropriate and objective. Care should be taken to distinguish this category from “resistance.”

DO NOT SUPPORT

The CAC does not endorse the UTSA recommendation calling for capturing all instances when deadly force would have been authorized but not used. The Committee is concerned that the validity of this UOF-avoidance data would suffer from officer “selection bias,” by overly relying on an officer’s own perceptions of the event and create a possible incentive to report only on cases most favorable to the officer. Alternatively, and more importantly, the Committee believes that the UOF-avoidance data will be better informed by tracking de-escalation measures used.

COMMITTEE SUPPLEMENTAL RECOMMENDATIONS

Beyond the UTSA study recommendations, the CAC believes the following additional recommendations will strengthen the value and insights gained from FCPD’s data collection and analyses. **Further, the Committee strongly recommends the public be provided access to complete data, including that discussed below, through reports and online portals, anonymized where necessary to ensure privacy.** Such transparency and “predisposition to release” information are critical to the public trust.

- **De-escalation.** Document the use of de-escalation techniques and their effectiveness, including patience, distance from individual, protective cover, and tactical flexibility.
- **Duty to intervene.** Document officer intervention efforts to prevent or halt the use of excessive force by other officers. On a substantive basis, provide retaliation protections, stronger reporting and mechanisms to encourage intervention.
- **Demographic categories selected.** Provide the basis for the officer's description of the civilian's demographics—whether it is based on the civilian's self-identification or officer's perception (officer in all events should not ask the person). The Committee recommends use of the perception approach, as suggested by PERF. In order to evaluate whether bias occurs, what the officer believes is more important than what the demographic categorization actually is.
- **Additional variables.** Add additional variables that potentially can affect the use of force as recommended by PERF, including (a) chronic homelessness/ poverty, and (b) an officer/civilian history and familiarity.
- **Video.** Post video from all sources, including CCTV or bystander videos.

Moving forward, community involvement/review of these practices and standards would be helpful to increase community trust and ensure that CAC recommendations, if accepted, are implemented consistent with our goals.

IV. UTSA POLICY RECOMMENDATIONS

The FCPD maintains a comprehensive set of policies (General Orders) that guide the use of force by its officers. These policies emphasize the sanctity of human life, and require access to medical treatment for injured persons, de-escalation and patience to prevent situations from escalating or deteriorating, and intervention to prevent excessive force or violations of law or policy by other officers and to report such conduct to a supervisor.

The CAC acknowledges that these policies broadly demonstrate the seriousness with which FCPD takes the discretionary use of force by officers in the normal conduct of their work. These policies are intended to provide a regulatory environment to guide officer discretion, control the use of force, document and investigate instances of force, and hold officers accountable for violations of use of force policy.

At the same time, we believe that improvements can and should be made to clarify officers' duties and improve the protection of every community member's life and liberty.

Initially, we note our full support of both FCPD's and UTSA's emphasis that officers must use only the minimum amount of force necessary to overcome resistance (a "proportionality" standard). FCPD representatives emphasized that this is the foundation of their training and practices. The key question we focused on is how much force is necessary in a particular situation. Clarification of resistance levels, de-escalation duties and other considerations are critical.

The following sections document the CAC's assessment of the UTSA recommendations and identifies those that it supports in full or with modifications as noted. CAC also offers its own set of supplemental recommendations for consideration and suggests topics for further study and discussion with the community.

SUPPORT

The CAC endorses all of the UTSA policy recommendations as modified below:

- **Force definition.** Include any physical contact or strike or instrumental contact beyond a firm grip and the use or threatened use of any weapon. Exclude placing an individual in handcuffs in arrest activities. As with the parallel reporting requirement, the Committee suggests clarification of language used so it better comports with UTSA's discussion.
- **De-escalation.** Add time, distance, cover, and patience to the definition of de-escalation. The Committee further suggests FCPD revise and expand de-escalation requirements in General Order 540 to
 - Include effective, culturally aware communication, patience, time, distance and cover;
 - Clarify that de-escalation must be the officer's tactic of first resort, unless it would compromise the safety of the officers or others; also require that the individual be provided with a reasonable amount of time and opportunity to respond; and
 - If de-escalation is not possible, include explanation in post-encounter reporting of reasons why.
- **Levels of Resistance.** Further define and provide examples of civilian resistance within the specified levels of resistance.

- Endorse without reservation UTSA’s suggestion to distinguish aggressive resistance intended to cause “injury” (like throwing a punch) from those intended to cause “serious injury or death”.
 - Add an intermediate category because current ones are so broad that they seem to allow serious (albeit not deadly) force for lesser resistance (under a continuum). Provide a better explanation of “passive” resistance.
 - Reduce level of “verbal response to officer” (in the absence of a clear safety risk), which is now included in active resistance.
- **Continuum of force and resistance.** Incorporate a use of force continuum that better articulates and links levels of force to levels of resistance at specific moments in time. CAC recommends further community input on any proposed FCPD use of force continuum and recommends that
 - Less-lethal force should be divided into two or more categories. Less-lethal force currently includes a wide range of tactics, from empty hand strikes, kicks, or takedowns, to tasers, pepper balls and soft projectiles); and
 - Because pointing a gun or other weapon is traumatic for the individual and increases the likelihood of serious injury or death, it should be categorized at a higher level than low level techniques such as soft hand restraints.
 - **Limits on deadly force use.** Clarify use of deadly force for fleeing felons to include “immediacy” of threat of death or serious injury. The CAC recommends additional language to ensure that deadly force is permissible only where the officer has probable cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death.
 - **Limits on other force use.** Limit use of canines and add a foot pursuit policy.

COMMITTEE SUPPLEMENTAL RECOMMENDATIONS

- **Necessary and proportional.** Adopt a “necessary and proportional’ standard for use of force. This makes clear that conduct must be evaluated not simply at the moment force was used but during the events leading up to the force, including the nature and severity of the underlying crime or event. The current “objective reasonableness” standard, as construed by the courts, has proven unduly deferential to officers’ perception immediately before the force was used.

- **Force use where no grounds for arrest.** Where officers have no grounds for arrest (e.g., investigative stops), the use of permissible force should be subjected to greater scrutiny. Our preference is that it be limited to safety threats.
 - If there are other legitimate, law enforcement purposes where FCPD believes force must be a necessary option, the reasons should be discussed with the community and stated in General Order 540.
 - The types of force permitted in these circumstances should also be restricted. Currently, officers have discretion to use all less-lethal force (from hand controls to tasers and projectiles) based on the circumstances, even with temporary detentions.

- **Deadly force definition.** Clarify the definition of deadly force by specifying that “aggressive resistance,” which justifies its use, occurs only if there is imminent risk of serious injury or death to an officer or a third party. The current definition of aggressive resistance is not consistent with the deadly force definition.

- **Duty to intervene.** Strengthen the duty to intervene in General Order to require intervention *before* use of force occurs where feasible; expand retaliation protection to include all retaliatory conduct prohibited under the VA Code provision, effective in 2021, which imposes a duty on officers to intervene in the use of excessive force; and add reporting for circumstances where intervention was not possible.²¹

- **Prohibit or limit specific force tactics that are unnecessarily dangerous.** Prohibit or limit specific types of force beyond what is set forth in the current General Order, including *chokeholds, spit hoods and ketamine*.

- **Prone restraints.** Restrict use of prone position restraints, which are not currently addressed in General Order 540. Ensure person is placed in a recovery position as soon as is feasible.

- **Prohibit provocation.** Officers should not be permitted to act in a manner designed to elicit resistance that, in turn, justifies force.

- **Automatic drug testing in serious cases.** Mandate officer drug/steroid testing in officer-involved incidents resulting in death or serious injury.

²¹ VA Code § 19.2-83.6. *Failure of a law-enforcement officer to intervene in use of excessive force*, <https://law.lis.virginia.gov/vacode/title19.2/chapter7.1/section19.2-83.6/>. The Code imposes a duty to intervene when a fellow officer is “engaging or attempting to engage in the use of excessive force against another person” and provides that the “No employing agency shall retaliate, threaten to retaliate, or take or threaten to take any disciplinary action against a law-enforcement officer who intervenes.”

- **Vulnerable populations.** Expand the protections for vulnerable populations, namely minors and individuals with mental health, other impairments or limited English capability.
 - Include alcohol and drug impairment.
 - Impose a requirement that, where feasible, an officer try to ascertain whether a person is impaired rather than simply accommodating “known” impairments.
- **Study and further discussion.** Consider, and hold additional use of force policy discussions with community on, (1) *firearm usage* (i.e., standards for displaying or pointing a gun); (2) *strip searches*; (3) *SWAT policy*; (4) use of *protective shields* to avoid the need for force where appropriate; and (5) “*shoot to incapacitate*” rather than aiming at center mass with likelihood of death.

V. UTSA TRAINING AND ORGANIZATION RECOMMENDATIONS

UTSA’s recommendations on training rely in major respects on the Council of Criminal Justice (CCJ) Task Force on Policing.²² CCJ conducted an in-depth assessment of the effectiveness of training in the United States by examining the current practice and available research on training duration, content, and delivery, along with certification and national training standards. CCJ recommends that police training should (1) devote more time to teaching communication skills, de-escalation tactics, principles of procedural justice, and handling situations that officers are most likely to encounter, (2) adopt a resiliency-based approach rather than stress-oriented military training, and (3) include training, certification and periodic recertification standards beyond firearms training.

For its work with FCPD on use of force, UTSA emphasized use of trainings such as Integrating Communication Assessment and Tactics (ICAT), which has been empirically correlated with positive outcomes such as reductions in use of force incidents. Other standards have been identified in literature and best practices that UTSA found useful in reducing force. These include other de-escalation measures, peer-intervention, crisis intervention, procedural justice, and implicit bias. Yet, a survey conducted by PERF found that academies designate most of their training hours on weapons and defensive tactics (more than 120 hours per year), and less on de-escalation, communication skills, or crisis intervention (roughly 26 hours per year).

²² <https://policing.counciloncj.org/2021/03/22/task-force-calls-for-overhaul-of-u-s-police-training-national-standards-to-reduce-use-of-force/>

While not conducting a detailed evaluation of FCPD's training program, UTSA drew from this literature review to offer use of force training and organization recommendations.

The following sections document the CAC's assessment of the UTSA recommendations and identifies those that it supports and the one it does not support; CAC also offers its own set of supplemental recommendations for consideration, and identifies topics for further study.

SUPPORT

The Committee endorses all but one of the UTSA training and organization recommendations, modified as described below.

- **Council of Criminal Justice standards.** Review and enhance FCPD use of force best practice training requirements to include more time teaching communication skills, de-escalation tactics and principles of procedural justice; adopt a resiliency-based approach rather than stress-oriented military training; include periodic recertification beyond firearms training; and substantially increase the amount of training hours provided annually for de-escalation skills and tactics. The Committee additionally suggests:
 - Include training on effective communication techniques recommended by PERF to address a range of situations and varied communities, how to engage with people with mental health and/or substance abuse problems and basic negotiation skills; and
 - Equity and cultural competence of the training (particularly trauma-informed principles) are central.
- **Integrating Communication Assessment and Tactics (ICAT).** Adopt the evidence-based ICAT training developed by PERF to supplement the de-escalation training currently provided.²³ We understand that this is already in progress, but suggest it be expanded to ensure adequate coverage throughout the County with ICAT-trained officers.
- **Co-responder model.**—Expedite the design and necessary investment into co-responder programs involving behavioral health professionals to respond to

²³ PERF, *ICAT: Integrating Communications, Assessment, and Tactics*, <https://www.policeforum.org/icat-training-guide>.

incidents involving persons with behavioral health and/or intellectual/development disabilities (IDD). Additionally:

- Actively engage the community in its ongoing assessment of models like the CAHOOTS program used in Eugene, OR, where behavioral health experts take the lead, with officers not directly at scene but available for back up as needed.²⁴ This approach reduces the potential for the civilian to overreact and behave violently, particularly people of color who fear any contact with law enforcement based on their shared trauma history;
 - Ensure assistance is available, where possible, at the pre-arrest stage so as not create a criminal record for the person assisted; and
 - Give priority to neighborhoods disproportionately impacted by force for co-responder and other intervention programs.
- **De-escalation.** De-escalation training should be supported by policies, practices and oversight that focus on changing the culture. FCPD should prioritize, reward, and incentivize de-escalation first and the use of force as a last resort. CAC adds that:
 - Success is dependent on the details of the approach, which should include trauma-informed perspectives; and
 - Language of values and humanity should be included. Incentivizing use of force is helpful but mindset shifts and trust building should also be emphasized.
- **Annual or biannual data review.** As noted in the data recommendations section, reviewing data is key to measuring progress on new approaches and accountability. Publicly available data should be regularly updated. The CAC added:
 - Break out data into meaningful subcategories based on demographics, resistance levels and force level.
 - For transparency, share in public reports and make accessible on an open data website as much data as possible, subject to privacy limitations. Anonymization should be used to facilitate maximum disclosure.
 - Include training data (e.g., numbers/percentages of officers who have undertaken specialized training and received certifications).
- **Body worn camera review.** To improve training and accountability, review body worn camera videos to examine any differences (disparities) based on race, ethnicity or other characteristics, in the use of force, force escalation or de-escalation, and

²⁴ Eugene Police Department, *CAHOOTS (Crisis Assistance Helping Out On The Streets)*, <https://www.eugene-or.gov/4508/CAHOOTS>.

intervention in the use of force. CAC recommends including members of the community in this review for best results.

DO NOT SUPPORT

The Committee does not endorse UTSA's recommendation to routinely rotate officers from duty station assignments, with the belief that it takes time to build relationships of trust between officers and the community they serve. Once established, that trust benefits both law enforcement and the community. CAC has no objection to reassignment of officers or supervisors based on management considerations.

COMMITTEE SUPPLEMENTAL RECOMMENDATIONS

The CAC advocates for implementing the following additions to UTSA training and organization recommendations:

- **Root causes.** Utilize rigorous understanding of root causes (why a given disparity exists) to drive practice and standards changes, focusing on equity as outlined in One Fairfax.
- **Performance measures for rule changes.** The Committee lacks information on current performance measures so did not suggest specific changes. As a general approach, however, we note that
 - Performance measures should reflect the core values, attributes, and skills that the agency wants its personnel to exhibit in their work in the community.
 - They should be thoughtfully crafted to reflect de-escalation, duty to intervene and community respect, as well as any other changes reflected in General Order 540 on use of force.
- **Detailed standards for training.** Based on the description provided orally by FCPD at our meetings, the training program for officers appears robust. However, appropriate General Orders, and other public facing documents, should ensure that officers understand training expectations.
 - To increase public trust, the General Orders should also specify all non-weapon training topics where training is mandatory or recommended, not merely focus on weapon training.
 - The General Order or a supplemental public schedule should include training length, refresher schedules and applicable recertification requirements.

- As noted above, the numbers/percentages of officers who have undertaken specialized training and received certifications should be included in reports.

This will provide the community insight into the wide-array of training experiences provided to police officers and the relationship of training to achieving departmental use of force, de-escalation, and pre-arrest diversion goals.

- **General Order streamlining.** The General Orders and other use of force disclosures should be streamlined and simplified so they are clear to officers and more user-friendly for the public. UTSA recommended this undertaking in its Report. We understand that FCPD has initiated a process to streamline its other policies. Use of force discussions in other policies (e.g., General Order 002) should be incorporated into this new policy.²⁵
- **Written protocols for meaningful community participation.** Develop a written protocol for meaningful community participation, dialogue and feedback on changes to the General Orders and other organizational change efforts. It is essential that policy-makers, departmental leadership, supervisors, and line officers understand and take into account community members' lived experiences. This can not only help authenticate or challenge approaches FCPD is contemplating. It should also enable FCPD to build and maintain bridges to the diverse communities it serves, particularly those who historically may not have been directly involved in such processes.
- **Officer survey.** Undertake a second departmental culture and climate survey and compare results to the 2017 "baseline" survey. Such a survey will help the Department understand rank and file attitudes toward their profession, their development and training opportunities, their relationship with the community and their attitude toward changes underway, among other benefits.
- **Community observation and feedback on training.** Build on the 40-year experience sponsoring the FCPD Community Police Academy by seeking a community-member critique and incorporating a community advisory perspective into its design. Community involvement in developing racial, cultural, and ethnic bias training is critical.
- **Progress report.** Build a publicly available "progress report," modeled after the one used for the Ad Hoc Commission's recommendations, that provides a scorecard to

²⁵ FCPD, *General Order 002, Human Relations* (2021), <https://www.fairfaxcounty.gov/police/sites/police/files/assets/generalorders/go-002.pdf>

inform the Board and community on UTSA and CAC recommendations adopted and implemented.

- **Topics for future study with community involvement.** The CAC suggested the County and FCPD discuss with the community the best ways to engage the community in future efforts to reform use of force and related topics. Topics of interest are:
 - Implementation of CAC recommendations, if accepted, to ensure consistency with our goals.
 - Root causes and related key issues, including affordable housing incentives for officers in impacted communities, officer burnout and culture.
 - Immigrant residents' ongoing fear of contact with law enforcement. The County has made restoring trust a high priority and implemented significant policy changes, but implementation challenges remain. CAC community members reported incidents where officers still appear to have notified ICE of an immigrant's arrest and/or made threats to do so. Suggestions include public promotion of and further officer training on the Board's Trust Policy²⁶ to prohibit voluntary cooperation with ICE civil enforcement and FCPD's General Order 604 on immigration.²⁷

VI. SUMMARY AND CONCLUSION

This report by the Use of Force Community Advisory Committee offers a comprehensive community-based assessment of recommendations made by the UTSA in its investigation of the use of force by the Fairfax County Police Department. We commend Fairfax County for undertaking the UTSA study and for convening the CAC to offer our best judgment on how to improve FCPD's use of force data collection, policy, training and organization.

The Committee does not provide any or recommendations regarding UTSA's methodology or findings on disparity in the use of force based on civilian race or ethnicity, or in the frequency or severity of force used by FCPD officers.

During our ten meetings, each member provided insight that informed the Committee's assessment based on their own background, lived experiences and perspectives,

²⁶ Fairfax County, *Public Trust and Confidentiality Policy (Trust Policy)* (2021), <https://www.fairfaxcounty.gov/topics/immigrants-fairfax-county>.

²⁷ FCPD, *General Order 604, Immigration Status, Citizenship, and National Origin* (2020), <https://www.fairfaxcounty.gov/police/sites/police/files/assets/images/chief/generalorders/604.pdf>

particularly from residents of color and those living in districts where force is most frequently used. FCPD representatives attended as a resource and effectively explained current FCPD practices and shared their own in-field experiences.

The diverse experiences CAC members brought to the discussion proved to be synergistic. We were able to reach consensus and successfully fulfill the charge given us.

The core of the Committee's work is captured in four sets of considerations and recommendations: (1) overarching considerations based on the diversity of the community, the need to understand community members' lived experiences and build trust and development of a stronger community-FCPD-policymaker partnership, followed by a review of UTSA recommendations related to (2) data collection; (3) use of force policy; and (4) training and organization.

On each topic, the Committee (1) comments on and suggests modifications to the UTSA recommendations; (2) proposes and evaluates supplemental recommendations based on CAC member lived experiences, insights shared by participating FCPD representatives, previous and ongoing County reform initiatives, and national standard-setting organizations' recommended best use of force practices and policies adopted or proposed by other jurisdictions; and (3) identifies topics on which we believe further study, with community input, is warranted.

Appendix I provides CAC's detailed analysis on these topics. Sources and links to documents are provided in Appendix II.

Overarching considerations. On an overarching basis, we conclude that robust and transparent data collection, with public access, coupled with significant policy change, are essential to reducing unnecessary force. However, meaningful and sustained improvements will be limited without cultural change within the Department. Reform must also be informed by the perspectives of those who have experienced trauma throughout their lives (and the lives of past generations) based on the color of their skin or other inherent characteristics. Further, policy-makers, leadership, and line officers should regularly engage with the community in non-threatening ways to understand the "heart behind the data."

In this spirit, we must work to build and maintain bridges to the diverse communities FCPD serves, thereby creating the environment for growing community trust.

Implementing the UTSA recommendations, augmented by those advocated by our Committee, will enhance FCPD's existing practices on de-escalation, and alter the nature and frequency of police-community interactions. **Our support of UTSA recommendations is contingent on the modifications we advocate.**

UTSA data recommendations. The Committee supports all but one of UTSA data recommendations. FCPD should, among other recommendations, (1) track the entire interaction between civilian and officer, not merely the actions precipitating the use of force; (2) include in the force definition any significant physical contact beyond a firm grip and threatened use or pointing of a weapon; (3) break out data into demographic categories that permit meaningful group-to-group comparisons; (4) divide the current long list of types of resistance into four clear categories and provide additional options under each; and (5) document officer perception of how civilian presents themselves, with “affect” replacing “demeanor” to describe the civilian’s observed attitude, posturing, gestures or words.

The CAC does not endorse the UTSA recommendation calling for capturing all instances when deadly force would have been authorized but not used.

Beyond the UTSA recommendations, the Committee advocates that FCPD (1) document the use of de-escalation techniques and their effectiveness and officer intervention efforts to prevent or halt the use of excessive force by other officers; (2) clarify that selections for demographics listed are based on officer perception; and (3) add additional demographic variables, including chronic homelessness/ poverty, officer/civilian history and familiarity; and (4) consider adding gender identity and sexual orientation.

UTSA policy recommendations, CAC acknowledges that FCPD policies broadly demonstrate the seriousness with which FCPD takes the discretionary use of force by officers in the normal conduct of their work. In this context, we note our full support of both FCPD’s and UTSA’s emphasis that officers must use only the minimum amount of force necessary to overcome resistance (a “proportionality” standard). We nonetheless believe that clarification of resistance levels, de-escalation duties, and other considerations is critical.

Among the range of UTSA policy recommendations, we highlight our support for revising the policies to (1) define force to include any physical contact beyond a firm grip, including the use or threatened use of any weapon, but excluding using cuffs in arrest activities; (2) develop a culturally aware definition of de-escalation as the officer’s tactic of first resort; (3) clarify and expand civilian resistance categories that currently fail to distinguish resistance like throwing a punch from those intended to cause “serious injury or death;” (4) incorporate a use of force continuum that links levels of force to levels of resistance; and (5) clarify the use of deadly force for fleeing felons to include

“immediacy” of threat of death or serious injury and conform the definition of active resistance to that of use of force.

The Committee believes FCPD’s use of force policies should be further strengthened by revising the policies to (1) adopt a “necessary and proportional” standard for use of force; (2) subject the use of permissible force to greater scrutiny when an arrest is not warranted (e.g., investigative stops), limiting its use to safety reasons or other express law enforcement reasons; (3) strengthen the duty to intervene to require intervention *before* use of force occurs where feasible and expand retaliation protection and reporting; (4) prohibit or limiting specific types of force, including *chokeholds, spit hoods and ketamine*; (5) restrict use of prone position restraints; (6) prohibit officer provocation of civilians to elicit resistance that, in turn, justifies force; (7) mandate officer drug/steroid testing in officer-involved incidents resulting in death or serious injury; and (8) expand protections for vulnerable populations.

UTSA training and organization recommendations. The CAC supports all but one of UTSA recommendations. FCPD should, among other recommendations, (1) include more time teaching culturally aware communication, de-escalation, procedural justice and negotiation; (2) expand ICAT training; (3) expedite implementation of co-responder programs and receive adequate funding; (4) support de-escalation training through practices and oversight that focus on changing the culture, including incentivizing de-escalation; and (5) regularly update reports and provide full public access through online data sharing to all key information on demographics, resistance levels, and force levels, subject to privacy limitations.

The Committee does not endorse UTSA’s recommendation to routinely rotate officers from duty station assignments, with the belief that it takes time to build relationships of trust between officers and the community they serve. Once established, that trust benefits both law enforcement and the community.

The Committee endorses the following additional recommendations, among others: (1) seek an understanding of root causes (why a given disparity exists) to drive practice and standards changes; (2) establish performance measures that reflect the core values, attributes, and skills that the Department wants its personnel to exhibit in their community work; (3) provide detailed guidance on training programs and expectations in the General Orders or other public facing documents, to increase officer and public understanding; (4) streamline and simplify General Orders and other use of force disclosures so they are clear to officers and to the public; (5) establish a written protocol for meaningful community participation, dialogue and feedback on changes to the General Orders and other organizational change efforts; (6) conduct a second

departmental culture and climate survey; (7) incorporate a community advisory perspective into the FCPD Community Police Academy design and training; and (8) build a publicly available “progress report,” that provides a scorecard to inform the Board and community on UTSA and CAC recommendations adopted and implemented.

Closing. In closing, the Use of Force Community Advisory Committee thanks, in particular, Board of Supervisor Chairman Jeff McKay and Board Safety and Security Committee Chairman Rodney Lusk, for chartering the work of our Committee. We value the opportunity to provide an independent, community-based assessment of the work conducted by the University of Texas at San Antonio and the University of Cincinnati. We commend Fairfax County for its ongoing diligence in seeking to reduce use of force by Fairfax police and to address community concerns that our police officers use force disparately on people of color. Both County officials and the public can benefit from further engagement on these important issues.

APPENDIX I

Comprehensive Assessment by the Fairfax County Use of Force Community Advisory Committee of the Data, Policy, Training and Organization Recommendations in the 2021 University of Texas at San Antonio Use of Force Report March 11, 2022

The following reflects the comprehensive and unanimous assessment and recommendations of the Fairfax County Use of Force Community Advisory Committee convened by the Safety and Security Committee of the Board of Supervisors from October 2021-February 2022 (the “Committee”) in connection with University of Texas at San Antonio’s (“UTSA”) Report and Recommendations Regarding Fairfax County Policy Department Use of Force (the “Report”).

Across three core areas of inquiry—Data Collection, Use of Force Policy, and Training and Organization—the Committee provides: (a) a restatement of the UTSA recommendation, (b) detailed analyses and endorsements and/or proposed amendments, along with best practices references where applicable, (c) additional recommendations relating to use of force, and (d) suggestions for future study and discussion, including some outside of the scope of the Report.

1. DATA COLLECTION	
UTSA Recommendation	CAC Comment/Amendment
<p>1 Sequencing of use of force events</p> <p>Capture all instances of force and resistance sequentially during each encounter involving the use of force. Each force tactic or weapon used by each officer and each resistance action taken by each civilian should be documented in the order in which they occurred.</p>	<p>Agree with concept of sequencing. However, to fully understand when/how force is used, incident should be tracked across the entire interaction, not just during the physical confrontation. The International Association of Chiefs of Police (IACP) Model Policy p. 2 supports capturing the initial reason for contact.</p> <p>Proposed revision to UTSA:</p> <p><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.</i></p>

1. DATA COLLECTION	
UTSA Recommendation	CAC Comment/Amendment
	<p>In order to better understand the interplay between the arrest and the use of force, we recommend adding:</p> <p>Data fields specifying the reason why the individual was detained. E.g., for investigative stops that ultimately results in use of force, what were the grounds for “reasonable suspicion”? The basis for “probable cause in non-warrant arrests should also be explained. These should include a text field, although some drop downs may be possible.</p>
<p>2. “Other” option for “reasons for force” and “reason for contact”</p> <p>Adjust some of the drop-down fields in Blue Team to allow for “Other” entries when the most accurate choice does not neatly fit within one of the available options. Specific areas of concern noted were “Reasons for Force” and “Reason for Contact” (aka “services being rendered.”)</p>	<p>Generally agree, but we are concerned that “other” is too broad a catchall covering information that should be separated out. Therefore, whether or not “other” is included as an option, drop-down fields should be expanded.</p> <ul style="list-style-type: none"> • Recommend using “Reason for Initial Contact” as per the Police Executives Research Forum (PERF) Use-of-Force Data Recommendations Appendix D (starting at p 45) instead of “Services being Rendered”. This would expand options to include, e.g., criminal/suspicious activity, demonstration, follow up investigation, medical, mental health, welfare assistance, routine patrol, and whether subject engaged in felony or misdemeanor. • We question FCPD’s inclusion of “criminal activity”, in and of itself, as a reason for use of force in the absence of resistance or safety risk.
<p>3. Lighting and weather selections</p> <p>Reduce number of choices for weather and lighting and add fields for location (indoors or outdoors) and estimated temperature.</p>	<p>Agree overall, but a temperature range is sufficient, e.g., to assess whether wearing a hoodie makes sense.</p>
<p>4. Medical and injury data</p> <p>Improve the capture of medical and injury data for civilians and officers by adding treatment (medical treatment refused, treated and released on-scene, transported to hospital) and injury fields. Consider using the <i>Abbreviated Injury Scale</i> (or similar) from the medical</p>	<p>Agree in concept, but the <i>Abbreviated Injury Scale</i> might not be the most appropriate. Consider PERF standards that provide more detail (specific code for each injury type) and UTSA’s grouping of severity (minor, moderate, etc.).</p> <p>Severity classification warrants further explanation to community, and possible adjustment. For example, why is “loss of consciousness” up to 15 minutes considered moderate?</p>

1. DATA COLLECTION	
UTSA Recommendation	CAC Comment/Amendment
literature to more accurately categorize the nature and severity of injuries (if any) sustained.	
<p>5. Demographics of subject and officer</p> <p>Add officer and civilian age, race/ethnicity, and gender fields to the use of force data collection environment. In the case of officers, include their rank, years of service, assignment, education level, and veteran status.</p>	<p>Agree further specificity is needed. Data should be broken out in a way that is fully transparent, meaningful to community and uses respectful terms. For example, separating out the analyses of race and ethnicity masks the impact of police actions on both Latinos and Blacks by inflating the number of Whites arrested compared to other groups. About one half of Whites arrested are Latinos.</p> <p>Specific recommendations:</p> <p>(a) Combine race and ethnicity into a single category, consistent with Fairfax demographics and Census presentations. Suggested breakout: “Hispanic/Latino” of all races in one subcategory; White, Black, Asian and other subcategories would exclude Hispanics/Latinos.</p> <p>(b) Use term “civilian” rather than “citizen” (latter sometimes used by FCPD).</p> <p>(c) Do not include citizenship status unless required by law per Fairfax Trust Policy.</p> <p>(d) Do not use Mixed Race category because it can be used to mask race/ethnicity. UTSA put 18% of the studied population in this category. If category is used, data should include officer explanation of selection, e.g., mixed Asian and Black.</p> <p>(e) Clarify that data collected is based on perception of authoring officer (or if not, specify what was the source). Officer perception is used by PERF, and is helpful for assessing officer’s actions, whether or not perception is technically accurate.</p> <p>(f) Consider expanding gender options, and including identity and sexual orientation. See PERF.</p>
<p>6. Other information re civilians and officers</p> <p>Add fields for the number of civilians involved in the incident and the distance between the officer and civilian when a police weapon was used.</p>	<p>Agree. We note that this practice refers to civilians that were somehow directly involved (and not bystanders) with respect to the incident.</p>

1. DATA COLLECTION	
UTSA Recommendation	CAC Comment/Amendment
<p>7. Civilian demeanor</p> <p>Add a field to capture civilian demeanor at the time force initially was used.</p>	<p>Agree that it may be useful to understand what the officer’s perception is of how persons are presenting themselves, that is, the civilian’s observed attitude as evidenced by posturing, gestures or words. The term “demeanor” however, is problematic because it is subjective. It is often based on cultural differences.</p> <p>We recommend (a) replacing “demeanor” with “affect” similar or a more neutral term such as PERF’s “observed behavior”, (b) clarifying that the characterization is based on officer’s perception, (c) providing more objective and culturally competent definitional scale for civilian affect and (d) clarifying the distinction between affect and resistance.</p>
<p>8. Force against animals and vehicles</p> <p>Adjust the Force Type field to clearly distinguish force used against animals and vehicles from force used against persons.</p>	<p>Agree. We note that Blue Team codes the action as “use of force against persons” when force is used against person-occupied vehicles, which we agree seems appropriate.</p>
<p>9. Data fields consistency with General Order 540</p> <p>Align Force Type field with General Order 540.4 (defining levels and types of force) and add additional options as recommended.</p>	<p>Agree, subject to any Committee recommended amendments to General Order 540.4 (such as conforming recommendations consistent with “Use of Force Policy” discussed below).</p> <p>We are concerned about the actual categorization into levels of use of force, especially pointing of firearm as level one – see “Use of Force Policy” below.</p>
<p>10. Threatened weapon use</p> <p>Capture the pointing, threatened use, or use of all weapon types, not just firearms, by civilians and officers.</p>	<p>Agree, subject to (a) adding “credible” before civilian threats, (b) clarifying meaning of “capture”, (c) expanding weapons listed so as to constrain the vague “other” category, and (d) listing the pointing of a gun as use of force, not as a separate category.</p>
<p>11. Effectiveness of control</p> <p>Add an “Effectiveness” field for all control/force options to identify when a control tactic or weapon was effective, ineffective, or of limited effectiveness.</p>	<p>Agree, subject to (a) clarifying “effectiveness” to mean the modality was used successfully to subdue the civilian (or similar description), (b) clarifying that “effectiveness” is being applied to each step in the use of force sequence, and (c) deleting reference to “encounter” as opposed to modality.</p>
<p>12. Civilian resistance levels</p>	<p>Agree, subject to (a) development with community input of a more culturally competent scale, (b) clarifying confusing</p>

1. DATA COLLECTION	
UTSA Recommendation	CAC Comment/Amendment
Align Citizen Resistance levels with General Order 540.4 (outlining levels of resistance) and incorporate the recommended four item scale.	categories such as “passive” versus “defensive” resistance, (c) considering the more specific categories used by PERF (e.g., calm verbal, agitated verbal, threatened assault, assault, attempt to flee, threatened officer), and (d) including any Committee recommended amendments to General Order 540.4 in data (conforming recommendations – see “Use of Force Policy” below).
<p>13. Deadly force not used though permitted</p> <p>Begin capturing all instances when deadly force would have been authorized by law and policy but was not used.</p>	<p>Disagree. We do not see the value/purpose of capturing this information in this manner. Also, possible selection bias in reported cases could skew results. Documenting and rewarding de-escalation efforts will likely more impactful (see below).</p>

CAC Supplemental Data Recommendations	
Recommendation	Explanation
<p>1.De-escalation</p> <p>Document the use of de-escalation techniques and their effectiveness, including time, distance, cover, space, tactical flexibility and patience.</p>	Committee members note that this recommendation (a) reflects current policy aspiration, (b) currently receives training/resource support within FCPD, and (c) if adopted, should not only increase transparency but allow management to measure improvements in officers’ practices.
<p>2. Duty to intervene.</p> <p>Document attempts to prevent or halt the use of excessive or unnecessary force by other officers, including the measures employed.</p>	This should be included in data entry and reporting. It should also be incorporated into performance reviews and reward efforts by officers to halt the use of excessive or unnecessary force.
<p>3. Perceived chronic poverty and homelessness</p> <p>Capture perceived chronic poverty and homelessness.</p>	We should measure the extent to which force is used against our most vulnerable populations. We recommend a simplified version of that used by PERF . PERF includes options for chronic poverty, low, middle and above middle, and also includes separate field for homelessness.
<p>4. Video sources</p> <p>Add capability to link to videos of incident to include Dashcam and body-worn camera footage, as well as bystander video and CCTV.</p>	This additional capability conforms to PERF’s recommendation.

CAC Supplemental Data Recommendations	
Recommendation	Explanation
<p>5. Officer/civilian history and familiarity</p> <p>Capture the officer’s (a) prior incidents with civilian (citation, arrest, use of force etc.), (b) other knowledge of the civilian’s known or suspected criminal history or victimization or (c) personal (non-law enforcement) relationship with civilian such as family or neighbor.</p>	<p>This would adhere to the PERF standard which includes history of officer’s knowledge of the civilian. Committee additionally felt non-law enforcement familiarity with the civilian should be noted, utilizing an expansive definition of “history” and “relationship”.</p>

CAC Data Recommendations for Further Study with Community Input
<p>Input on development of specific standards to conform to recommendations.</p> <p>Community involvement/review of standards would be helpful to increase community trust and ensure that CAC recommendations, if accepted, are implemented consistent with our goals. Community involvement is especially helpful with respect to items</p> <ol style="list-style-type: none"> 1. Sequencing (type of contacts to be included, grounds for stop/arrest) 4. Medical and injury data (on categorizing as minor, moderate and severe) 5. Demographics (user friendly format and development of new characteristics to track) 7. Civilian demeanor/affect (culturally competent definitional scale for civilian affect) 12. Civilian resistance levels. (culturally competent and less confusing scale of resistance)

2. USE OF FORCE POLICY	
UTSA Recommendation	CAC Comment/Amendment
<p>1. Use of force reporting threshold</p> <p>Re-define the use of force reporting threshold to include any significant physical contact beyond a firm grip, including the use or threatened use of any weapon.</p>	<p>Agree. Pointing a gun should be reportable as a use of force along with other threatened weapon use. Currently, pointing a gun at a human “to gain control and compliance is considered a reportable action, but not a use of force.” GO 540.20 III A. However, UTSA’s proposed language change to G.O. 540.1 I.G. (Report p.90), omits the “threatened use” reference it recommends. It therefore should be revised for clarity:</p> <p style="text-align: center;"><i>Any use or threatened use of any weapon, physical strike or instrumental contact with an individual, or any significant physical contact beyond a firm grip used to overcome resistance or restrict an individual’s movement.</i></p>
<p>2. De-escalation definition</p> <p>Add time, distance, cover, and patience to the definition of de-escalation.</p> <p>UTSA Report (at pp. 90-91) includes proposed revision to G.O. 540.4 to reflect the change.</p>	<p>Agree. Note that communication should be culturally aware. Recommend adjusting UTSA language to clarify that de-escalation must be the officer’s tactic of first resort, unless it would compromise the safety of the officers or others, officers and that the individual has been provided with a reasonable amount of time and opportunity to respond.</p> <p style="text-align: center;"><i>De-escalation is the result of a combination of communication, tact, empathy, patience, time, distance, cover, and other sound officer safety tactics. The ultimate goal is to stabilize the situation and reduce or eliminate the need for force.</i></p> <p style="text-align: center;"><i>Officers shall, whenever possible, use de-escalation strategies to prevent situations from deteriorating to the point where they would need to use force. Unless a delay will compromise the safety of the officers or others, officers shall (1) attempt to gain voluntary compliance through patience and non-confrontational verbal and non-verbal communication efforts such as warnings, verbal persuasion and tactical repositioning and (2) provide the individual with a reasonable amount of time and opportunity to respond. If force is required, officers will use only the minimum amount of force reasonably needed to overcome an individual’s resistance and to gain control.</i></p> <p>Source: IACP’s National Consensus Policy Discussion Paper on Use of Force (National Consensus Policy) (p.3).</p>

2. USE OF FORCE POLICY	
UTSA Recommendation	CAC Comment/Amendment
<p>3. Emphasis on de-escalation</p> <p>Refine the policy preference for de-escalation by emphasizing the use of de-escalation to reduce 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</p>	<p>Agree, but recommend adding:</p> <p style="padding-left: 40px;"><i>Where de-escalation is not possible (for instance, because of exigent circumstances), the officer's post-encounter reporting must explain why de-escalation efforts were not (and could not be) used.</i></p> <p>Source: National Consensus Policy (p.3).</p>
<p>4. Suspect resistance</p> <p>Further define and provide examples of suspect resistance within the specified levels of resistance". UTSA's Report (pp. 91-92) includes specific recommendations for revising GO 540.4:</p> <ul style="list-style-type: none"> • Expand the levels of resistance to distinguish aggressive or assaultive resistance not intended to cause death or serious injury from aggravated resistance clearly intended to bring about that result. There is a big difference between a suspect throwing a punch at an officer and attempting to stab the officer with a knife or threatening to shoot the officer. Officer responses to those very different threats should necessarily be different, at least at the outset, but the current three-level resistance scheme lumps a punch into the same category as a firearm under the heading of "aggressive resistance." • Threats of self-harm should be eliminated 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." • The lower-level subject resistance categories – passive resistance and defensive resistance – are appropriate, but the FCPD should 	<p>Agree. However, Committee members noted this topic is very sensitive because of the role cultural differences plays in "affect" and perceived resistance.</p> <ul style="list-style-type: none"> • Endorse without reservation UTSA's suggestion to distinguish aggressive resistance intended to cause "injury" (like throwing a punch) from those intended to cause "serious injury or death" Need an intermediate category. • Regarding threats of self-harm, FCPD should prohibit the use of deadly force, and limit the use of many less-lethal options, against individuals who pose a danger only to themselves and not to other members of the public or to officers. See PERF p. 48. • Need clarification on passive resistance. What types merit anything other than handcuffing? If only handcuffing, this is by definition not force. If it is broader, need to ensure that <i>only</i> contact control is used. See New Orleans p. 9: <p style="padding-left: 40px;"><i>When confronted with a subject demonstrating minimal resistant behavior, the officer may use low-level anatomical compliance techniques or physical tactics to gain control and cooperation. These tactics can be psychologically manipulative as well as physical, and include additional verbal persuasion skills, pressure point applications, and escort positions.</i></p> • Regarding verbal response to officer: Currently, it is included in active resistance. We disagree unless the verbal confrontation poses an immediate safety threat or significantly impedes a legitimate law enforcement function. See approach taken by departments in (1) Tucson; (2) New Orleans; (3) Miami; (4) Seattle. See

2. USE OF FORCE POLICY	
UTSA Recommendation	CAC Comment/Amendment
<p>consider providing examples of actions that typically fall within these resistance levels to provide further guidance to officers.</p>	<p>also Campaign Zero (expressing an intent to resist is not considered resistance).</p> <ul style="list-style-type: none"> • Protection of property should <i>not</i> be a basis for use of deadly force. National Consensus Policy p. 4. • Recommend that FCPD revise its resistance categories for community review that includes UTSA recommendations, modified to address the concepts discussed above.
<p>5. Use of force continuum linked to resistance</p> <p>Incorporate a use of force continuum that clearly links levels of force to levels of resistance while allowing officers to escalate quickly if reasonably required under the circumstances.</p>	<p>Agree in concept, but suggest that FCPD develop a proposal and seek community input. Initial concerns noted:</p> <ul style="list-style-type: none"> • Less-Lethal Force seems overly broad, covering a broad array of force options, including empty hand strikes, kicks, or takedowns, baton hits, chemical spray, tasers, pepper balls, soft projectiles and patrol dog use. • Pointing a gun or other weapon should <i>not</i> be considered low level force. • Data categories should align with continuum.
<p>6. Injury scales and documentation</p> <p>Amend the policies requiring use of force documentation to include injury scales for officers and civilians. All injuries should be documented.</p>	<p>Agree in concept, while accounting for the issues noted in the discussion on injury data above.</p>
<p>7. Limit on deadly force for fleeing felon</p> <p>Amend General Order 540.8 to allow for the use of deadly force to apprehend a felon fleeing from a crime of violence only if the suspect poses an imminent risk of death or serious injury to the officer or a third party, or consider eliminating the fleeing felon provision entirely and adopt a single, clear standard for the use of deadly force – Deadly force is permissible only if the suspect poses an imminent risk of death or serious injury to the officer or others.</p>	<p>Agree with clarification. If the decision is made to keep the fleeing felon provision, we recommend additional revisions to ensure that deadly force is permissible only where:</p> <p style="text-align: center;"><i>the officer has probable cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to the officer or another if the subject is not immediately apprehended.</i></p> <p>Source: National Consensus Policy (p. 4).</p>

2. USE OF FORCE POLICY	
UTSA Recommendation	CAC Comment/Amendment
<p>8. Patrol dog use limits</p> <p>Review FCPD policies on the use of patrol dogs and consider limiting canine bites only to certain types of crimes or other narrowly-defined conditions</p>	<p>Agree in concept. PERF Guidance on Policies and Practices for Patrol Canines (pp. 14-24) contains a series of policy recommendations that are helpful.</p>
<p>9. Foot pursuit policy</p> <p>Consider adopting a foot pursuit policy to help reduce force and injuries to officers and suspects.</p> <p>UTSA Report at 94: “At a minimum, officers should be trained and guided by policy to ensure that before engaging in a foot pursuit, they have reasonable suspicion of a crime to support a detention (beyond the failure to submit to the detention itself) and that they have a reasonable belief that the suspect poses an immediate threat to officers or public safety.”</p>	<p>Agree in concept, and suggest further community input on this topic due to significant equity concerns.</p> <p>IACP recommends development of such a policy and provides guidance on its contents. IACP Considerations Document on Foot Pursuits (July 2019).</p>

CAC Supplemental Use of Force Policy Recommendations	
Recommendation	Explanation
1. When force can be used	
<p>1A. “Necessary and proportional” standard</p> <p>Clarify when force may be used. Standard should be increased to “necessary and proportional” in lieu of “objective reasonableness.”:</p> <p><i>A police officer may not use force against a person unless under the totality of the circumstances, said force is necessary and proportional.</i></p>	<p>As applied by the courts, “objective reasonableness” has focused excessively on whether a reasonable officer would believe it is reasonable to use force <i>at the moment</i> the force is used. It is important that conduct be evaluated not simply at the moment force was used but during the events leading up to the force, including the nature and severity of the underlying crime or event. The standard as applied has been unduly deferential to officers.</p> <p>FCPD should move to the “necessary and proportional” standard adopted by Maryland in the Maryland Police Accountability Act of 2021. Accord, National Consensus Policy p. 3; PERF’s Guiding Principles on Use of Force p. 38.</p>

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Recommendation	Explanation
	The same standard should be applied to “less lethal force,” although the circumstances in which its use is permitted may be broader. See Seattle .
<p>1B. Permissible force where no probable cause to arrest</p> <p>Clarify “necessary and proportional” where no probable cause to arrest exists. Use of force for non-safety reasons should not be permitted, or if there are legitimate law enforcement reasons for its use, they should be explained in the General Order.</p> <p>The broad range of less-lethal force seems excessive if the civilian cannot be arrested.</p> <p>Officers using force in an investigative stop must be prepared to articulate why their actions were reasonable under the circumstances.</p>	<p>GO 540.0 II permits force to “<i>control an individual during an investigative or mental detention.</i>” See also GO 540.6 I. GO 002 on Human Relations VII E addresses the use of force in investigative stops in more detail. This discussion should be moved to GO 540.</p> <p>Substantively, the Committee expressed reservations about the use of force for investigative stops. A stop does not require “probable cause” but the lesser “reasonable suspicion”. People of color are disproportionately subject to investigative and traffic stops.</p> <ul style="list-style-type: none"> • We agree that low-level force should be permitted for safety reasons. IACP Model Policy on Arrests and Investigatory Stops, Campaign Zero Model Policy (“current, active, and immediate threat”). However, GO 002 VII E is not limited to safety reasons. It should be. • The standard permits a broad range of force, its use should be circumscribed. • Even lesser types of force, such as requiring a suspect to lie down on the ground, are demeaning and potentially dangerous (see below discussion of prone restraint). • If any force is permitted for a non-safety reason FCPD should explain why in the General Order. Also, the officer should be required to articulate the specific reason relied upon, which should be subject to strict scrutiny. • Clarification is also needed for when force is permissible for mental detention.
<p>1C. Deadly force standard</p> <p>Clarify and limit deadly force use. General Order 540.8 I. A.’s standard for its use should be revised as follows:</p> <p><i>Deadly force shall not be used unless it</i></p>	<p>The definition of deadly force should conform to the “necessary and proportional” standard and take into account the danger to innocent people. We believe this is FCPD’s intent.</p>

CAC Supplemental Use of Force Policy Recommendations	
Recommendation	Explanation
<p><i>is necessary and proportional. The officer must believe, based on the totality of the circumstances known at the time, that deadly force is immediately necessary to protect the officer or another person, other than the subject of the use of deadly force, from the threat of serious bodily injury or death; that all other force options to control the individual(s) are not feasible, or have already proven to be ineffective; and using deadly force would not unnecessarily endanger innocent people.</i></p> <p>The definition of “aggressive resistance” should be modified as follows:</p> <p>Aggressive Resistance: <i>Where an individual takes action that poses an imminent risk of serious injury or death to an officer or a third party and prevents the officer from taking lawful action.</i></p>	<p>Its use in GO 540.4 II A. 3 should also be clarified. That section links permissible use of deadly force to aggressive resistance, by stating that:</p> <p><i>Deadly Force: Any level of force likely or intended to cause death or serious injury that is reasonably necessary to cease an individual’s aggressive resistance.</i></p> <p>Source: Campaign Zero p. 5.</p>
<p>2. Specific types of force restrictions</p>	
<p>2A. Chokeholds and vascular neck restraints</p> <p>GO 540.13 should be revised as follows:</p> <p>The use of a neck restraint by an officer should be prohibited unless the use of deadly force would be authorized because it is immediately necessary to protect the officer or another person from death or serious bodily injury and all other force options to control the individual(s) are not feasible, or have already proven to be ineffective. It should be used only until control is achieved. The officer’s report must explain why other techniques would have been ineffective.</p>	<p>Virginia law prohibits neck restraints unless “immediately necessary to protect the law-enforcement officer or another person from death or serious bodily injury. FCPD should further limit neck restraints due to the comparative risk and the variety of other tools available to officers to prevent death or serious injury.</p> <p>The National Consensus Policy makes clear that chokeholds are prohibited unless deadly force is authorized. Seattle and Tucson prohibit their use altogether.</p>

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Recommendation	Explanation
<p>2B. Prone restraints</p> <p>The prone restraint involves pushing an individual facedown to the ground, cuffing their hands behind them, and placing downward pressure on their neck, shoulders and/or torso.</p> <p>The General Order on Use of Force does <i>not</i> address its use. A new section should be added:</p> <ol style="list-style-type: none"> 1. Limiting its use to safety concerns or serious resistance. 2. Requiring that the subjects be placed on their side in the recovery position as soon as feasible. 3. Not restrain subjects in custody and under control in a manner that restricts the subject’s ability to breathe. 	<p>George Floyd is not the only person whose death stemmed from the use of the prone restraint. Multiple cases of death by positional asphyxia have been associated with this tactic, especially when the physical restraint includes the use of behind-the-back handcuffing combined with placing the individual in a stomach down position. See How to Prevent Positional Asphyxia - POLICE Magazine. See sources in 2021 New York Times analysis. The risk of positional asphyxia is further compounded when a suspect has predisposing medical conditions.</p> <p>As early as 1995, U.S. Department of Justice’s National Institute of Justice Program told officers: “As soon as the suspect is handcuffed, get him off his stomach.”</p> <p>Other sources: New Jersey and Seattle guidelines.</p>
<p>2C. Spit hoods ban</p> <p>The use of spit hoods should be banned. The safety of officers must be protected, but that can be accomplished through mask shields, K95 masks and other personal protection.</p>	<p>Use of a spit hood resulted in a death in Fairfax County in April 2002, and continues to be an option listed in Blue Team fields. UTSA Report at p. 78. The 2020 death of Daniel Prude in New York has again raised the following concerns.</p> <p>Spit hoods are unnecessary and a “relic of slavery”. See Why Spit-Hoods Should Be Banned - Public Seminar. Amnesty International has concluded that the use of spit hoods may violate the UN Convention on Torture. Their disproportionate use on the mentally ill means they may also violate the UN Convention on Disability.</p> <p>Sources: New York bill S04462; Chicago Police ban; Berkeley (under consideration).</p>
<p>2D. Ketamine and force restrictions for “excited delirium”</p> <p>GO 540.12 states officers should “strongly suspect” a person is suffering from “excited delirium” (ExDS) if certain behaviors are exhibited, and Emergency Medical Services contacted for treatment,</p>	<p>ExDS has a controversial history. Police departments and medical examiners use the term to explain why some people suddenly die in police custody; civil liberty groups suggest that it is used as a convenient way of covering up the use of excessive force by police officers. Some view ExDS as a racist justification to use force against Black male suspects. Excited delirium: valid clinical diagnosis or medicalized racism? Others question whether it is truly a</p>

CAC Supplemental Use of Force Policy Recommendations	
Recommendation	Explanation
<p>e.g., use of ketamine. Revision recommended to</p> <ol style="list-style-type: none"> 1. Clarify that use of force is justified only based on actual resistance, not suspected ExDS. 2. Prohibit an officer from using, directing, or unduly influencing the use of ketamine by the EMS provider. 3. Set standards for its administration, e.g., equipment to manage respiratory depression on hand and prompt transport to a hospital. 	<p>medical condition. See Byard, Ongoing Issues with the diagnosis of excited delirium.</p> <p>It is questionable that a police officer without a degree in medicine can make an accurate medical diagnosis of an individual based solely on behavior. See American College of Emergency Physicians.</p> <p>The use of chemical restraints such as ketamine to subdue a suspect thought to have excited delirium is equally controversial. Use of ketamine by medics was the likely cause for the 2019 death of Elijah McClain. Strict protocols should be in place for use of these chemical restraints.</p> <p>Source: Colorado bill HB21-1251 passed July 2021.</p>
<p>3. Duty to intervene strengthened</p> <p>Strengthen the duty to intervene by clarifying</p> <ol style="list-style-type: none"> 1. When to intervene (the goal is to intervene early and at every stage to prevent the unnecessary and non-proportional use of force). 2. Retaliation protection (more closely track new VA Code § 19.2-83.6, which mandates that no agency “retaliate, threaten to retaliate, or take or threaten to take any disciplinary action” against officer who intervenes). 3. Duty to report (more closely track the statute, requiring reporting of any excessive force observed, whether or not the reporting officer was able to intervene). 	<p>The policy should make clear that, where feasible, an officer must intervene <i>before the situation escalates</i>.</p> <p>It is important that the duty to intervene be incorporated into both FCPD’s rules and its culture. Police are perceived by many as embracing a “blue code of silence.” Source: Council on Criminal Justice; Task Force on Policing (CCJ).</p> <p>The police should explore other avenues to encourage officers to fulfill the duty to intervene, such as using it as a positive rating factor in employee reviews.</p>
<p>4. Mandatory officer drug/steroid testing in serious incidents.</p> <p>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 no later than 24 hours afterwards (the</p>	<p>This was a recommendation of the Ad Hoc Police Practices Commission (see No. 8h on p. 112).</p> <p>Committee discussion occurred on (a) adverse impacts on culture, (b) harm to officer in question, and (c) privacy concerns for officer. On balance, the Committee concluded that a strict requirement for testing in all cases of serious injury or deadly force should not raise suspicion on individual officers being tested. The testing will increase</p>

CAC Supplemental Use of Force Policy Recommendations	
Recommendation	Explanation
<p>maximum amount of time in which heroin and marijuana can be detected in one's system).</p>	<p>trust among community members and reassure officials that drugs was not a contributing factor.</p> <p>Committee member comment: "Can we also note that the culture of the PD impacts what happens in the community?"</p>
<p>5. Prohibition on provocation</p> <p>Prohibit officer provocation to justify force, including taunting, verbally baiting, or initiating needless or unnecessary physical contact with a subject.</p> <p>Provide that an officer who, without provocation, engages in this conduct and is compelled to use a control option immediately afterwards may not rely on the person's resistance as a justification for their use of force.</p>	<p>This may state the obvious, but there is benefit to spelling it out: Officers should not be permitted to act in a manner designed to elicit resistance that, in turn, justifies force. FCPD noted that such conduct would be deemed to violate the General Orders as "conduct unbecoming an officer." The Committee, however, sees a benefit to explicitly stating the prohibition to increase trust. Some community members believe provocation occurs. The rule could be tied into the more general standard as appropriate.</p> <p>Source: Charlotte-Mecklenburg Police Department policy in UTSA Report Appendix II; Tucson.</p>
<p>6. Protection for impaired/vulnerable individuals</p> <p>Strengthen protections for impaired individuals. This is covered in GO 540.4 I B, which should be revised as follows:</p> <p><i>Officers should also be mindful that people they interact with may not understand their directions or commands due to underlying medical issues, mental health issues, development disabilities, alcohol or drug impairment or language and/or cultural differences. This may not make the encounter any less dangerous. However, where feasible, officers must determine whether the failure to comply with an order is the result of one of these factors, take appropriate steps to factor these limitations into their critical decision-making process, and when feasible, take the necessary steps consistent with their departmental training to</i></p>	<p>The need to reform behavioral and mental health responses was raised by several members, and is a key concern given the frequency with which force is used against vulnerable individuals.</p> <p>FCPD policy is good, but can be strengthened. Key changes needed are to include alcohol and drug impairment and impose a requirement that, where feasible, an officer try to ascertain whether a person is impaired. Currently, the standards says only that they need to be mindful of "known" impairments.</p> <p>Sources: Seattle and Campaign Zero.</p>

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Recommendation	Explanation
<i>accommodate the rights and needs of these individuals.</i>	
<p>7. Protection of minors</p> <p>Strengthen protections for minors at the moment of detainment and prior to custody. Explore policy options to explicitly limit the use of force against minors.</p>	<p>Older minors—especially teenaged boys—can appear to be adults when in fact they are still immature and vulnerable. An explanation is needed of how FCPD approaches these interactions. A discussion should be held with community members to address concerns.</p>

Other CAC Use of Force Policy Issues Raised that Warrant Further Consideration with Community Input

Some use of force policy topics raised by CAC members were deemed beyond the scope of the Committee’s charge, or time did not allow for thorough analysis and consideration. They are offered as suggestions for future consideration.

S1. Firearm use (show of force and/or use of force)

UTSA recommended including threatened use of a firearm as a reportable use of force event, but did not address the standards for when threatened use is appropriate. The General Orders lack clarity about when shows or threats of force are appropriate. Standards are similarly lacking for precursor actions such as unholstering a gun. Whether or not they are considered use of force *per se*, they are preliminary steps that have a material impact on civilians, often invoking a strong fear reaction. It is helpful to have a clear understanding of when such actions are appropriate.

Numerous jurisdictions have clear standards about drawing or exhibiting a firearm. E.g., [New Orleans](#) (p.7), [New Jersey](#) (p.8), [San Francisco](#) (p. 12). See also [Campaign Zero](#) (p. 7). Members advocated that FCPD consider similar standards, and provide for community input.

S2. Use of personal protective shields for certain critical incidents

[PERF](#) (p. 68) recommends the use of personal protection shields to manage some potential use of force situations, stating that such shields can “enhance officer safety and may support de-escalation efforts during critical incidents, including situations involving persons with knives, baseball bats, or other improvised weapons that are not firearms.” The use of shields for example, might have avoided the shooting of a woman with mental health issues at the [Gosport group home](#) in July 2021.

S3. SWAT usage

SWAT actions (a/k/a Advanced Tactics) are authorized for "high risk" arrests and warrants under General Order 601. The standard for "high risk" appears to some more lax than the standard for use of

Other CAC Use of Force Policy Issues Raised that Warrant Further Consideration with Community Input

force, even though SWAT teams are authorized to use force. The General Orders should provide greater insight into how use of these tactics is authorized and how the SWAT standards intersect with the Use of Force policy. Specific tactical decisions should not be made public, but an explanation of the process, and reporting on the outcomes (nature of the offense, probable cause basis, success of the operation, etc.) would provide reassurance to the public. The [National Tactical Officers Association](#) has detailed SWAT standards that can serve as a starting point.

S4. Strip searches

Further information about the use of strip searches (including data on frequency and charges brought) is requested. The authority for officers to conduct these searches is inherently problematic, given the high level of humiliation and invasion of privacy involved. We understand that the Sheriff has authority to undertake strip searches at the time of incarceration, but it is not apparent why the police need to do so. A frisk with outer garments only removed should protect officers from harm from concealed weapons, especially if the individual is handcuffed. Moreover, GO 601 seems to permit strip searches [not only for actual arrests but also temporary custody of a prisoner for transporting, detention, interview, or interrogation](#). If pointing a gun is a use of force, is forcing someone to undress in the presence of officers any less so? Such a search should be allowed only if there are grounds for arrest. VA Code § [19.2-59.1](#) suggests as much, being entitled “Strip searches prohibited”, with certain “exceptions.” Narrow limits are set forth for strip searches during custodial arrests for misdemeanors. Whatever leeway exists for felony arrests, it is clear that non-custodial arrests, or custodial non-arrests are not permitted exceptions.

S5. Shoot to incapacitate

We understand that FCPD officers are trained to aim for available “the center mass” of the body—the chest and upper torso. This is consistent with most police across the country. However, departments in Israel, most of Europe and now in [LaGrange GA](#), have modified the practice to include “shoot to incapacitate” where feasible. The practice increases community trust and prevents serious injury and unnecessary deaths.

Approximately 1,000 people are fatally shot each year, a disproportionate number of them Black. According to the [Washington Post's](#) data on Fatal Force, of the 6,498 deadly police shootings between 2015 and 2021, [almost a third \(2,052, or 31.57%\) involved a subject who did not have a firearm](#) (1,107 had knives, 531 had “other” weapons, and 414 were unarmed). As a companion to de-escalation and lesser force options, shooting to incapacitate where feasible comports with the Department’s recognition of the sanctity of life.

3. TRAINING AND ORGANIZATION	
UTSA Recommendation	CAC Comment/Amendment
<p>1. Follow Council of Criminal Justice standards</p> <p>Conduct a review of FCPD training to determine adherence with the following recently released recommendations from the Council of Criminal Justice (2021): (a) Include more time teaching communication skills, de-escalation tactics, principles of procedural justice, and handling situations that officers are most likely to encounter; (b) Adopt a resiliency-based approach rather than stress-oriented military training (c) Include periodic recertification beyond firearms training; (d) Substantially increase the amount of training hours provided annually for de-escalation skills and tactics.</p> <p>Several years ago, the FCPD provided all officers with 4-hours of initial T3 de-escalation training and since has provided periodic 4-hour updates during in-service training in combination with other topics. Recent studies have demonstrated the need for increased dosage of de-escalation training to reduce training decay (Engel et al., 2020a; Engel et al., 2021a)</p>	<p>Agree. All FCPD training should be reviewed to see if they meet the CJC recommendations and support the resiliency-based approach. Additional topics to cover include:</p> <ol style="list-style-type: none"> 1. Duty to intervene and to report. 2. Effective communication in a range of situations and varied communities, including everyday contacts, dealing with people with mental health and/or substance abuse problems, and basic negotiations techniques. (PERF p. 56). 3. Use of less lethal options. 4. When a police officer may or may not draw a firearm or point a firearm at a person. (Maryland Police Accountability Act of 2021). 5. Recertification should cover de-escalation tactics, communications strategies, and principles of procedural justice, which promote more respectful encounters between officers and community members. (CCJ). .
<p>2. ICAT training</p> <p>Consider adoption of Integrating Communication Assessment and Tactics (ICAT) training, developed by the Police Executive Research Forum (PERF), to supplement the de-escalation training currently provided. This 16-hour training is the only police de-escalation training supported by empirical evidence demonstrating reductions in police use of force.</p>	<p>Agree.</p>
<p>3. Co-responder model</p> <p>If not already in place, consider adoption of a collaborative responder model for handling incidents with persons with behavioral health</p>	<p>Agree. The Committee advocates that expanding this concept and its implementation be a high priority goal.</p> <p>We appreciate that the Board of Supervisors and FCPD</p>

3. TRAINING AND ORGANIZATION	
UTSA Recommendation	CAC Comment/Amendment
<p>(BH) issues and/or intellectual/developmental disabilities (IDD). Ensure that officers have received adequate crisis intervention training (CIT), typically a 40-hour training curriculum.</p>	<p>have invested in Diversion First and Crisis Intervention Team training and begun to implement co-responder programming. We urge continuation of these initiatives and expedited expansion, in consultation with the community. The CAC discussed the following as important program design and implementation considerations; we recognize that such matters are likely already under consideration:</p> <p>(a) Where feasible, behavioral health professionals should take the lead, with police coming directly to the scene only when requested. This is the model used in the Eugene OR CAHOOTS program.</p> <p>(b) Advanced training may not be required for 100% of the force, but we need sufficient coverage of those with advanced training to achieve broad-based deployment, especially in impacted communities.</p> <p>(c) The goal should be pre-arrest diversion (especially mental health) first, without creation of a criminal record.</p> <p>(d) Equity and cultural competence of the training (particularly trauma informed principles) are central.</p>
<p>4. De-escalation training supported by polices and oversight</p> <p>Ensure that any training designed to reduce the use and severity of force is supported through comprehensive changes to policies, and also through supervisory activities and oversight designed to encourage subordinates' use of de-escalation tactics and skills in the field. Focus on changing the culture to one that prioritizes, rewards, and incentivizes de-escalation first and the use of force as a last resort.</p>	<p>Agree that training and policies need to be aligned. We support the other concepts UTSA expressed, but feel that more specificity is required for meaningful community impact.</p> <p>CAC recommends consideration be given to adding language of values and humanity and amending "incentivize" to emphasize mindset shifts and trust building (e.g., growth mindset and strength based).</p>
<p>5. Rotate officers</p> <p>Consider rotating officers out of high crime patrol areas and district stations on a regular basis to help reduce officer stress and the potential influence of implicit bias on decision-making</p>	<p>Disagree. The Committee sees benefit in officers being familiar with members of the community they serve. Issues of burn out or stress should be dealt with by management on a case-by-case basis. The Committee has no objection to reassignment of officers or supervisors based on management considerations.</p>

3. TRAINING AND ORGANIZATION	
UTSA Recommendation	CAC Comment/Amendment
<p>6. Annual or biannual review of data</p> <p>Conduct annual or biannual follow-up analyses with improved force data to evaluate whether observed disparities diminish or change over time</p>	<p>More specificity is required for meaningful community impact. Overall comments:</p> <p>(a) Data needs to be improved, and include the demographic, resistance and force breakouts discussed above in the data section.</p> <p>(b) Additional data about training (e.g., numbers/percentages of officers who have undertaken specialized training and received certifications) should be included.</p> <p>(c) More transparency is needed in order to be able to assess disparities and measure progress. Data (in anonymized form) should be available on FCPD's open data site and summarized in annual reporting.</p>
<p>7. Review BWC for disparities in treatment, etc.</p> <p>Utilize body-worn camera footage to evaluate racial/ethnic disparities in treatment by the FCPD, force escalation or de-escalation, and to improve training and accountability</p>	<p>Agree. Including community members in the review would be helpful.</p>

CAC Supplemental Training and Organization Recommendations	
CAC Recommendation	Explanation
<p>1. Understanding root causes to drive changes</p> <p>Training and organizational culture shifts should be driven by a rigorous understanding and/or analysis of the root causes of why (a given disparity exists) (e.g., with respect to structural racism).</p>	<p>We need to move beyond rhetoric and casting blame and understand how and why disparities exist. An ongoing dialogue is needed.</p>
<p>2. Performance measures for rule changes</p> <p>Ensure that performance measures and rewards are consistent with new policies and performance expectations, Performance measures should reflect the core values,</p>	<p>The community would benefit from receiving detailed information on current measures and how FCPD proposes they be changed to reflect revisions to use of force standards.</p>

CAC Supplemental Training and Organization Recommendations	
CAC Recommendation	Explanation
<p>attributes, and skills that the agency wants its personnel to exhibit in their work in the community. This should include respect for the sanctity of life, treating community members with respect, de-escalation and acting to intervene in excessive force.</p>	<p>It is critical that performance measures be thoughtfully crafted to reflect de-escalation, duty to intervene and community respect.</p>
<p>3. Key training topics inclusion in General Orders or other public-facing directive</p> <p>Include key training topics and schedules in General Orders, ensuring training on key topics prioritized by this Committee are disclosed to community.</p> <p>Year to year variation in training can be accommodated through public documents that reference the standards in the General Orders.</p>	<p>Based on the description provided orally by FCPD at our meetings, the training program for officers appears robust. However, no real guidance is provided in the General Orders or other public facing documents.</p> <ul style="list-style-type: none"> • GO 540.22 I. TRAINING describes use of force training only in terms of weapons used in “any authorized force options” (referencing training in firearms, ECW, pepper spray, baton, patrol dogs). • The general training standard (GO 201.17) simply requires training at the direction of the Chief. <p>To ensure that officers understand training expectations and to develop public trust, the General Orders should include non-weapon training topics where training is mandatory or optional The GO or a supplemental public schedule should include training length, refresher schedules and applicable recertification requirements.</p> <p>Other departments provide detailed explanations of their training requirements. See, e.g., Los Angeles Use of Force 2020 Annual Use of Force Report training discussion pp. 41-49.</p>
<p>4. Written protocols for meaningful community participation in development police practices</p> <p>Protocols for meaningful participation, dialogue, and feedback with communities should drive changes relating to data, policy and training. The goal is to improve the standards, but also to build community trust, particularly with those communities of color most impacted by law enforcement contacts.</p>	<p>Community members expressed confusion about when and how meaningful participation in policy and practice changes occurs. Establishing and following a protocol that includes outreach to communities of color and their advocates will go far to build community trust.</p>
<p>5. Community observation and feedback on training</p>	<p>Community members can inform officers about how police protocols are viewed, the fear that police presence generates for many, and how to remove</p>

CAC Supplemental Training and Organization Recommendations	
CAC Recommendation	Explanation
Key community members with a diverse representation and lived experience should be invited to observe and provide feedback on police training (similar to the implicit bias and procedural justice community partnership as a best practice).	barriers.
<p>6. Use of Force audit committee with community members, experts</p> <p>An internal use of force committee should regularly meet and convene (beyond the County Auditor) in the service of incorporating perspectives from community and outside external experts, and advancing lessons learned for the Department and public.</p>	A use of force audit committee was recommended by the Ad Hoc Commission on Police Practices . This would not be used as a means of discipline, but to develop lessons learned for future incidents. It could be combined with the BWC review discussed above.
<p>7. Community-based survey</p> <p>Improve upon the existing FCPD community-based survey for meaningful community feedback.</p>	Committee members discussed, noted, and commended the existing FCPD web-based survey, as well as a research-led qualitative survey focused on disproportionately impacted communities in connection with One Fairfax . However, Committee members struggled to understand and locate the findings and impact of these surveys, particularly as it pertains to changing training and organizational practices disproportionately impacting communities of color.
<p>8. Officer survey</p> <p>A previously utilized 2017 climate survey (assessing officers’ viewers of their duties and responsibilities with respect to the community) should be conducted regularly with reference to the first one as a baseline</p>	It has been five years since the last survey. Although an annual survey may be unnecessary, periodic surveys on an established schedule are recommended.
<p>9. General Order ease of use, length</p> <p>Review all use of force policies for streamlining and summary in a way that is accessible and understandable for community and the department.</p>	UTSA recommended the streamlining and simplification of the current use of force policies. Report pp.93-94. We understand that FCPD has initiated a process to streamline its other policies and recommend that it do so on use of force as well. Use of force discussions in other policies (e.g., General Order 002) should be incorporated into this new policy.
<p>10. Call-taker and dispatch training.</p>	Further information is needed regarding the extent of training currently provided to call-takers and

CAC Supplemental Training and Organization Recommendations	
CAC Recommendation	Explanation
Well trained call-takers and dispatchers are essential to the police response to critical incidents. Ensure that call-takers and dispatchers receive thorough, hands-on training to support the police response to critical incidents that may involve the use of force.	dispatchers. A public explanation and identification of any changes needed is recommended. PERF p. 68 recommends: “Well trained call-takers and dispatchers.... This training should include dealing with persons with mental illness (including communicating with family members and agency protocols), crisis communications, use-of-force policy, and de-escalation strategies.”
<p>11. Outreach and education to families re mental health</p> <p>Pair with community organizations to educate the families of persons with mental illness and behavioral health challenges broadly on communicating with call-takers.</p>	<p>PERF p. 71 recommends: “Educate the families of persons with mental illness on communicating with call-takers. Agencies should work with their local mental health provider community and organizations such as the National Alliance on Mental Illness (NAMI) to create outreach and education programs for the families of persons with mental illness. Specifically, agencies should instruct family members on the types of information and details they should provide when calling 9-1-1 for an incident involving their loved ones.”</p> <p>Any education should not be provided directly by the FCPD, but instead by a community partner. Further information is needed on current practices. Care of course should be taken to ensure privacy</p>

CAC Training & Organization Issues Raised that Warrant Further Consideration with Community Input

S1. The CAC discussed the need for development of specific standards to conform to its recommendations. Community involvement/review of standards would be helpful to increase community trust and ensure that CAC recommendations, if accepted, are implemented consistent with our goals. Community involvement could be especially helpful with respect to the following:

1. [Council of Criminal Justice standards](#) (input on topics where increased training appears warranted)
3. [Co-responder model](#) (expansion beyond mental health; lead taken by behavioral health)
4. [De-escalation training supported by polices and oversight](#) (focus on changing the culture to one that prioritizes, rewards, and incentivizes de-escalation first and the use of force as a last resort; emphasize values and humanity and trust building)

CAC Training & Organization Issues Raised that Warrant Further Consideration with Community Input

- 7. [Review BWC for disparities in treatment, etc.](#) (community members input of disparities, etc.)
- 8. [Understanding root causes to drive changes](#) (lived experiences)
- 9. [Performance measures for rule changes](#) (community input on how FCPD plans to revise performance measures to enhance de-escalation, etc.)
- 11. [Protocols for meaningful community participation](#) (dialogue with communities to drive policy changes and build trust)
- 12. [Community observation and feedback on training](#) (lived experiences)
- 13. [Use of Force audit committee with community members, experts](#) (incorporating perspectives from community and outside external experts in lessons learned)

S2. Interactions with immigrants and trust-building. The Board of Supervisors and FCPD have taken important steps to build trust with the immigrant community. In 2021 the Board adopted the [Trust Policy](#) to prohibit voluntary cooperation with ICE civil enforcement. In 2020, FCPD adopted [General Order 604](#), which expressly states that officers “are not authorized to participate in or facilitate the enforcement of federal civil statutes.” Unfortunately, CAC community members reported incidents where officers still appear to have notified ICE of an immigrant’s arrest and/or made threats to do so. This deprives the person of their liberty (ICE detention). Continued work is needed to build trust, including training about the fear that immigrants face in their daily lives, discussions between officers and immigrants and emphasis on the duty to report fellow officers who violate General Order 604.

S3. Progress report. Build a publicly available “progress report,” modeled after the one used for the Ad Hoc Commission’s recommendations, that provides a scorecard to inform the Board and community on UTSA and CAC recommendations adopted and implemented.

APPENDIX II

Sources Relied Upon by Use of Force Community Advisory Committee in its Comprehensive Assessment

With Table of Sequential Links to Appendix I

UTSA STUDY

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APPENDIX II

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APPENDIX II

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A-1	IACP Model Data Policy: https://www.policeforum.org/assets/CollectingAnalyzingUOFData.pdf
A-2	PERF: https://www.policeforum.org/assets/CollectingAnalyzingUOFData.pdf PERF: https://www.policeforum.org/assets/CollectingAnalyzingUOFData.pdf
A-3	Fairfax: https://www.fairfaxcounty.gov/demographics/fairfax-county-general-overview Census: https://www.census.gov/quickfacts/fairfaxcountyvirginia Trust Policy: https://www.fairfaxcounty.gov/topics/sites/topics/files/assets/documents/pdf/fairfax-county-trust-policy.pdf PERF: https://www.policeforum.org/assets/CollectingAnalyzingUOFData.pdf
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A-7	National Consensus Policy: https://www.theiacp.org/sites/default/files/2020-07/National_Consensus_Policy_On_Use_Of_Force%2007102020%20v3.pdf
A-8	National Consensus Policy: https://www.theiacp.org/sites/default/files/2020-07/National_Consensus_Policy_On_Use_Of_Force%2007102020%20v3.pdf PERF Guiding Principles: https://www.policeforum.org/assets/30%20guiding%20principles.pdf New Orleans: https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-1-3-Use-of-Force.pdf/ Tucson: https://www.tucsonaz.gov/files/police/general-orders/2000USE_OF_FORCE.pdf New Orleans: https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-1-3-Use-of-Force.pdf/ Miami: https://www.miami-police.org/DeptOrders/06%20Personnel%20Resource%20Management%20Section/06-21%20Use%20of%20Force.pdf Seattle: https://www.seattle.gov/police-manual/title-8---use-of-force/8200---using-force
A-9	Campaign Zero Model Use of Force Policy: https://campaignzero.org/force

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A-10	<p>IACP Foot pursuits: https://www.theiacp.org/sites/default/files/2019-07/Foot%20Pursuits%20Considerations%20-%202019.pdf</p> <p>Maryland Act: https://casetext.com/statute/code-of-maryland/article-public-safety/title-3-law-enforcement/subtitle-5-miscellaneous-provisions/section-3-524-effective712022through712023maryland-use-of-force-statute</p> <p>National Consensus Policy: https://www.theiacp.org/sites/default/files/2020-07/National_Consensus_Policy_On_Use_Of_Force%2007102020%20v3.pdf</p> <p>PERF Guiding Principles: https://www.policeforum.org/assets/30%20guiding%20principles.pdf</p>
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A-21	<p>GO 201.17: https://www.fairfaxcounty.gov/police/sites/police/files/assets/generalorders/go-201.pdf</p> <p>Los Angeles: https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2021/05/year-2020-uof-review.pdf</p>

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