



Assessment of University of Texas at San Antonio's Recommendations Regarding Fairfax County Police Department Use of Force

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Use of Force Community Advisory Committee

Safety and Security Committee Meeting

March 1, 2022

Agenda

- ❖ Background and Committee Purpose
- ❖ Summary of Key Findings and Recommendations
- ❖ Concluding Recommendations and Next Steps

Committee Charge: “Holistic Considerations”

1. Review and provide feedback on UTSA findings
2. Assess data and policy recommendations, application, and improvements
3. Holistically consider and elevate report through Committee members’ unique community perspectives
4. Present findings and perspectives to BOS Public Safety Committee

Committee Recommendations

SUMMARY OF KEY FINDINGS AND CONSIDERATIONS FOR THE USE OF FORCE BY THE
FAIRFAX COUNTY POLICE DEPARTMENT

Overarching Data, Policy, and Practice Recommendations

- Advance changes ground in **trauma-informed perspectives** that privilege lived experience of those communities of color most impacted by law enforcement contact, including minority youth, residents with behavioral health and/or substance dependencies, and immigrant and undocumented persons
- **Policy change** is essential to reducing unnecessary force. However, it must be embraced by leadership and officers. **Without cultural change** (internal and external to FCPD) yields no meaningful improvements
- Comprehensive use of force data collection *and* **transparent community publication, in both user-friendly reports and online data access** go hand in hand for “strong and effective data collection”
- **Narrative and language change are critical** to a new mindset of trusting relationships between community and law enforcement. This includes respectful terminology and data groupings by combined race and ethnicity that reflect the community

Overarching Data, Policy and Practice Recommendations (cont'd)

- Continuous consideration by policy makers of the **root causes that underly police use of force and community contact** are essential, including those equity considerations previously identified by One Fairfax
- **Further study, with community input and FCPD partnership**, is essential for effective community/police reform efforts, including by expanding co-responder training models
- Leveraging and examining ways in which **stronger internal self-policing** (beyond external policy) will improve FCPD institutional integrity

Data Collection: Endorsement & Essential Considerations

- **Unanimous committee agreement** on overriding UTSA Data Collection imperative to capture all instances of force and resistance sequentially during each encounter involving the use of force
- However, **Committee critical modifications** to UTSA Data Collection recommendations include:
 - Track use of force across entire interaction between civilian and officer, not solely circumstances prompting using of force. Include reason for detention/arrest as well as for use of force
 - De-escalation and intervention efforts should be tracked
 - Data must be broken out transparently and meaningfully (e.g., problematically conflating White and Latino, or referencing “citizen”)
 - Objectivity and cultural competence included in defining resistance and civilian affect (as opposed to “demeanor”)
 - Seek community input on development of specific standards, namely sequencing, medical and injury data, demographics, and civilian affect

Data Collection: Rejections & Additions

- **Unanimous Committee rejection** of UTSA Data Collection recommendation #13 to capture all instances when deadly force would have been authorized but not used due to **concerns of selection bias**.
- **Committee unanimously suggests additional Data Collection** recommendations, including:
 - Document and collect data on the use of de-escalation techniques and their effectiveness, including time, distance, cover, space, tactical flexibility and patience
 - Document, collect data (and praise) officer attempts to prevent or halt the use of force by other officers.
 - Clarify the basis for the demographic selection (officer perception preferred by PERF)
 - Document additional material variables relevant to use of force from a community perspective, including (a) chronic homelessness/poverty, and (b) officer civilian history.

Use of Force Policy: Endorsement & Essential Considerations

- **Unanimous Committee agreement** on the following overriding general UTSA Use of Force Policy imperatives:
 - **Re-define the use of force reporting threshold downward to include any significant physical contact beyond a firm grip and to include threatened use of a weapon (Committee suggested clarification of language);**
 - **Emphasize through policy (and training) that officers must use only the minimum amount of force needed to overcome resistance, if any; and**
 - **FCPD must incorporate a use of force continuum that better articulates and links levels of force to levels of resistance at specific moments in time]**
 - **FCPD should clarify use of force for fleeing felons, use of canines and foot pursuit policy.**

Use of Force Policy: Essential Considerations

- However, **Committee essential modifications** to UTSA Use of Force Policy recommendations include:
- Adopt a “necessary and proportional” standard for use of force. This standard makes clear 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.
- Use of force in circumstances where officers have no grounds for arrest (e.g., investigative stop) should be limited to safety reasons or other specifically articulated grounds.
 - **Require further community validation and input on any proposed FCPD use of force continuum and injury scales**, namely so that (a) Less-Lethal Force be divided into two or more categories (currently includes empty hand strikes, kicks, or takedowns, baton hits, chemical spray, Tasers, pepper balls, soft projectiles and patrol dog use) and (b) Pointing a gun or other weapon should not be considered low level force.

Use of Force Policy: Additional Essential Considerations

- Additional **Committee critical modifications** to UTSA Use of Force Policy recommendations with respect to **defining and reporting on de-escalation efforts** include:
 - **Clearly define de-escalation in a culturally competent fashion** as being the result of a combination of communication, tact, empathy, patience, time, distance, cover, and other sound officer safety tactics.
 - **Clarify the ultimate goal of de-escalation** as stabilizing the situation and preventing or reducing the need for force.
 - **Set an explicit policy standard for de-escalation** that officers shall, whenever possible, use de-escalation strategies whenever possible to prevent situations from escalating or deteriorating to the point where they would need to use force, unless a delay will compromise the safety of the officers or others

Use of Force Policy: Rejections & Additions

- **Committee unanimously suggests additional material Use of Force Policy recommendations, including:**
 - Clarify the definition of deadly force as it relates to “aggressive resistance” to ensure that imminent risk of serious injury or death to an officer or a third party
 - Strengthen the **officer duty to intervene by clarifying a goal of intervention early and at every stage, providing retaliation protection consistent with VA law, and strengthening a duty to report;**
 - Prohibit or limit specific types of force, including chokeholds, prone position restraints, spit hoods and ketamine.
 - **Prohibit officer provocation to justify force;**
 - **Mandate officer drug/steroid testing** in officer-involved incidents resulting in death or serious injury; and
 - **Enhance the use of force protections prior to custody for vulnerable populations,** namely minors and impaired individuals to include drug, alcohol and mental impairments
- Additional Use of Force Policy discussion with community is warranted around various issues, including firearm usage (**standards for display or pointing a gun**), **strip searches, SWAT policy, and “shoot to incapacitate” policy.**

Training and Organization: Key Endorsements

- **Unanimous Committee agreement** on the overriding UTSA Training and Organization **imperative to enhance FCPD use of force best practice training requirements**, including reviewing current trainings to ensure adherence with the Council of Criminal Justice standards, adoption of the evidence based ICAT training, expanding the co-responder model, and aligning de-escalation training with aligned policy changes.
- **Overwhelming unanimous Committee agreement** specifically on advancing **crisis intervention training and responder models** that give primacy to behavioral health professionals for handling incidents with persons with behavioral health and/or intellectual/development disabilities (IDD) or understandable (mis)trust issues with law enforcement.

Training and Organization: Essential Considerations

- However, **Committee critical modifications** to UTSA Training and Organization recommendations include:
 - **Focused expansion, in consultation with community**, of co-responder or lead behavioral health models, especially in neighborhoods disproportionately impacted;
 - **Ensuring and transparently communicating the equity-focus and cultural competence** of all trainings;
 - Adding **human-centered language, values, and principles** in the efforts to shift officer mindsets and build trust with community; and
 - **Require more specificity on organizational reporting of disparate treatment**, ensuring data demographic improvements, training transparency, and better use of FCPD's open data site.

Training and Organization: Rejections & Additions

- **Unanimous Committee rejection** of UTSA Training and Organization recommendation #5 to rotate out officers due to **community benefit of maintaining familiar and trusted officers**.
- **Committee unanimously suggests additional** Training and Organization recommendations, including:
 - **Utilize rigorous understanding of root causes** (why a given disparity exists) to drive practice changes, including with respect to equity as outlined in ONE FAIRFAX;
 - Add **individual and organizational performance accountability measures and rewards**, consistent with the goals of use of force policy;
 - Ensure **protocols for meaningful community participation**, dialogue and feedback across organizational change efforts, particularly with communities of color; and
 - Include key training topics and schedules in General Orders, moving to a **streamlined, simplified, and community-accessible set of disclosures**.
- Additional Training and Organization discussion with community is warranted around various issues, including affordable housing incentives for officers in impacted communities, officer burnout and culture.

Training and Organization: Rejections & Additions

- **Unanimous Committee rejection** of UTSA Training and Organization recommendation #5 to rotate out officers due to **community benefit of maintaining familiar and trusted officers.**
- **Committee unanimously suggests additional Training and Organization recommendations, including:**
 - Include key training topics and schedules in General Orders so public understands rigorous training. Provide data on percentage of officers trained in specific skills
 - **Streamline and simplify use of force standards so that they are community-accessible set of disclosures.**
 - Ensure **protocols for meaningful community participation**, dialogue and feedback across organizational change efforts, particularly with communities of color.
 - **Utilize rigorous understanding of root causes** (why a given disparity exists) to drive practice changes, including with respect to equity as outlined in One Fairfax; and
 - Add **individual and organizational performance accountability measures and rewards**, consistent with the goals of use of force policy.
- Additional Training and Organization discussion with community is warranted around various issues, including affordable housing incentives for officers in impacted communities, officer burnout and culture.

Key Committee Considerations and Next Steps

- ❖ Continuing Community-Police-Policy Maker Collaboration

Use of Force Policy and Practice concerns and considerations are broader than issues covered by UTSF

- ❖ Reissue 2017 Office Culture and Climate Survey

Opportunities for deepened community transparency critical now more than ever

- ❖ Issue Summary Report on Current Trainings, Providers and Purpose

Build trust with community with excellent work ongoing in FCPD

- ❖ Center Community Humanity to this Discourse

Community-driven efforts like those encouraged through One Fairfax provide opportunities for continuing and deepening engagement

Key Committee Considerations and Next Steps

- **Feedback by Fairfax County Police Chief Kevin Davis**
 - Response
 - Plan moving forward