

## **APPENDIX**

### **Comprehensive Assessment and Recommendations of the Fairfax County Use of Force Community Advisory Committee in Connection with 2021 University of Texas at San Antonio Use of Force Report**

March 1, 2022

The following reflect the comprehensive and unanimous assessment and recommendations of the Fairfax County Use of Force Community Advisory Committee convened by the Public Safety 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 suggested amendments, along with best practices references where applicable, and, (c) additional recommendations and areas of potential study and discussion outside of the initial scope of the Report.

## 1. DATA COLLECTION

UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>1 Sequencing of Use of Force events</b></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, it should be tracked across the entire interaction, not just during the physical confrontation. The International Association of Chiefs of Police (<a href="#">IACP</a>) Model Policy p. 2 supports capturing the initial reason for contact.</p> <p>Proposed revision to UTSA:</p> <p style="padding-left: 40px;"><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> <p>In order to better understand the interplay between the arrest and the use of force, we recommend adding:</p> <p style="padding-left: 40px;"><i>Include a drop-down field to specify the reason why the individual was detained. E.g., for investigative stop that ultimately results in use of force, what were the grounds for “reasonable suspicion”? Basis for “probable cause” in non-warrant arrests should also be explained. This should include a text field, although some drop downs may be possible.</i></p>	<p>Approved-Force, whenever used by FCPD officers, is documented and tracked in the FCPD Internal Affairs Bureau (IAB) Records Management System (BlueTeam). This includes any/all force instruments utilized during the encounter. Levels of resistance displayed by resisting individuals is also documented by reporting officers sequentially and tracked in BlueTeam. Officers are required by FCPD General Order 540 Use of Force) to articulate the need for force whenever it arises and avoid the use of “boilerplate” language regarding documentation of use of force incidents, to include reasons for the initial encounter and what led to the use(s) of force.</p>

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1. DATA COLLECTION		
UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>2. “Other” option for “reasons for force” and “reason for contact”</b></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 are concerned that “other” is too broad a catchall that covers 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"> <li>• Recommend using “Reason for Initial Contact” as per the Police Executives Research Forum (<a href="#">PERF</a>) 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, Or Welfare Assistance, Routine Patrol, and whether Subject Engaged in Felony or Misdemeanor.</li> <li>• The need is not readily apparent for FCPD to list “criminal activity” as a reason for use of force in the absence of resistance.</li> </ul>	<p>Approved-Data requested by UTSA study is collected by FCPD IAB.</p>

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**1. DATA COLLECTION**

UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>3. Lighting and weather selections</b></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>Approved-FCPD IAB will adjust the number of weather/lighting choices in BlueTeam per request.</p>
<p><b>4. Medical and injury data</b></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 Abbreviated Injury Scale (or similar) from the medical literature to more accurately categorize the nature and severity of injuries (if any) sustained.</p>	<p>Agree in concept, but the <i>Abbreviated Injury Scale</i> might not be the most appropriate. Consider <a href="#">PERF</a> standards that provides more detail (specific code for each injury type) and UTSA's grouping of severity (places into 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>	<p>Approved-FCPD IAB collects the requested medical/injury data in BlueTeam.</p>

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1. DATA COLLECTION		
UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>5. Demographics of subject and officer</b></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 ½ of Whites arrested are Latinos.</p> <p>Specific recommendations:</p> <p>(a) Combine <b>race and ethnicity</b> into a single category, consistent with <a href="#">Fairfax</a> demographics and <a href="#">Census</a> presentations. Suggested breakout: “Hispanic/Latino” of all races in one subcategory; White, Black, Asian and other subcategories would exclude Hispanics/Latinos</p> <p>(b) Modify to use term “<b>civilian</b>” and not “citizen” (latter sometimes used by FCPD),</p> <p>(c) Do not include <b>citizenship status</b> unless required by law per Fairfax <a href="#">Trust Policy</a></p> <p>(d) Do not use <b>Mixed Race</b> category because it can be used to mask race/ethnicity. UTSA put 18% of the studied population in this category. If category is used, should require officer to explain why.</p> <p>(e) Clarify that data collected is <b>based on perception</b> 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 accurate.</p> <p>(f) Consider expanding <b>gender</b> options, and including <b>sexual orientation</b>.</p>	<p>Approved-FCPD IAB is collecting the requested data and since 2015, has distinguished known Hispanic community members from white/other races for transparency purposes. FCPD is not able to accurately collect nor professionally inquire as to the sexual orientation of individuals for data collection purposes.</p>

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<p><b>6. Other information re civilians and officers</b></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 and we note that this practice refers to civilians that were somehow directly involved (and not bystanders) with respect to the incident.</p>	<p>Approved-FCPD BlueTeam already allows multiple civilians to be added into UOF events. Includes dropdown list for known or approximated distance between officer and community member.</p>
<p><b>7. Civilian demeanor</b></p> <p>Add a field to capture civilian demeanor at the time force initially was used.</p>	<p>Agree that it is useful to understand what the officer's perception is of how persons are present themselves. The term "demeanor" however, is problematic and very subjective. It is often based on cultural differences.</p> <p>We recommend (a) replacing "demeanor" with "affect", (b) clarifying that characterization is based on officer's perception and (c) providing more objective and culturally competent definitional scale for civilian affect.</p>	<p>Approved-Requested data already collected via BlueTeam in "Employee Assessment of Citizen Condition" field. New version of BlueTeam will call this field "Citizen Influence Assessment."</p>
<p><b>8. Force against animals and vehicles</b></p> <p>Adjust the Force Type field to clearly distinguish force used against animals and vehicles from force used against persons</p>	<p>Agree and we note that Blue Team codes "use of force against persons" when use of force is used against person-occupied vehicles, which we agree seems appropriate.</p>	<p>Approved- FCPD IAB BlueTeam tracks all force deployment against animals and persons, to include attacking and euthanized animals. Vehicle contacts are also tracked via the TVI/Pursuit Module. Where deadly force is deployed for any reason, to include against a vehicle, FCPD IAB tracks the deployment.</p>

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1. DATA COLLECTION		
UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>9. Data fields consistency with General Order 540</b></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 below “Use of Force Policy”).</p> <p>We are concerned over what constitutes levels of use of force (e.g., pointing of firearm as level one – see below “Use of Force Policy”)</p>	<p>Approved-FCPD BlueTeam is not equipped for this request, but FCPD IAB will manually track.</p>
<p><b>10. Threatened weapon use</b></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>Approved-All pointing of firearms and ECWs are required by FCPD to be reported by officers and tracked by FCPD IAB. All pointing instances are reviewed by supervisors and subject to command approval.</p>
<p><b>11. Effectiveness of control</b></p> <p>Add an “Effectiveness” field for all control type 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 utilized to successfully subdue the civilian (or similar description), (b) clarifying that “effectiveness” is being applied to each step in the use of force sequence, (c) deleting reference to “encounter” as opposed to modality.</p>	<p>Approved-Tracked by FCPD IAB.</p>
<p><b>12. Civilian resistance levels</b></p> <p>Align Citizen Resistance levels with General Order 540.4 (outlining levels of resistance) and incorporate the recommended four item scale.</p>	<p>Agree, subject to (a) development with community input of a more culturally competent scale, (b) clarifying confusing 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</p>	<p>Approved-Tracked by FCPD IAB.</p>

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	– see below “Use of Force Policy”).	
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1. DATA COLLECTION		
UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>13. Deadly force not used though permitted</b></p> <p>Begin capturing all instances when deadly force would have been authorized by law and policy but was not used.</p>	<p><b>Disagree.</b> We do not see the value/purpose of capturing this information in this manner. Also, possible selection bias in reported cases could skew results. Capturing and rewarding de-escalation efforts will likely more impactful (see below).</p>	<p>FCPD IAB BlueTeam is not designed to track this data point as it is highly subjective, non-quantifiable, and cannot be recorded with any verifiable degree of accuracy.</p>

CAC Supplemental Data Recommendations		FCPD Response
Recommendation	Explanation	
<p><b>1.De-escalation</b></p> <p>Document the use of de-escalation techniques and their effectiveness, including time, distance, cover, space, tactical flexibility and patience.</p>	<p>Committee members note that this recommendation (a) reflects current policy aspiration, (b) currently receives some training/resource support within FCPD, and (c) if adopted, should not only increase transparency but allow management to measure improvements in officers' practices.</p>	<p>Approved-Per FCPD General Order 540, officers are required to document any/all de-escalation measures and avoid the use of "boilerplate language."</p>
<p><b>2. Duty to intervene.</b></p> <p>Document attempts to prevent or halt the use of excessive or unnecessary force by other officers, including the measures employed.</p>	<p>It is important to document in performance reviews and reward efforts by officers to halt the use of excessive or unnecessary force.</p>	<p>Approved-FCPD officers are required to intervene in cases of excessive force per General Order 540 and in accordance with the Code of Virginia. Should intervention measures against an officer occur, the actions utilized are required to be fully documented through RMS and BlueTeam</p>

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		administrative case by a supervisor subject to command review.
CAC Supplemental Data Recommendations		FCPD Response
Recommendation	Explanation	
<p><b>3. Perceived chronic poverty and homelessness</b></p> <p>Capture perceived chronic poverty and homelessness.</p>	<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>	<p>FCPD does not have the means or reasonable methodology to accurately collect the income levels of individuals who have force used against them by FCPD officers with any verifiable degree of accuracy.</p>
<p><b>4. Video sources</b></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>	<p>This additional capability conforms to <a href="#">PERF</a> recommendation.</p>	<p>All videos, to include Body-Worn Camera (BWC), In-Car Video (ICV), and any capturable surveillance, cell phone video, etc. are included as part of BlueTeam administrative cases. BlueTeam operates on a County server (not controlled by FCPD) which has file storage constraints that occasionally exceed BlueTeam capabilities. Where a file is too large for upload, videos are reviewed and summarized by investigating supervisors and links/paths are created for</p>

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		<p>commander review. Videos can be restricted by IAB and Department command for viewing and links to video can further be forwarded electronically for review during review and action period of administrative investigation case review via evidence.com, which creates audit each time video is forwarded or reviewed.</p>
<p><b>5. Officer-civilian history</b></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 <a href="#">PERF</a> 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>	<p>Approved-FCPD BlueTeam captures previous contacts between officer/civilian by running “officer specific” history reports. Also, all contacts between officers and community members are required to be documented in the Department’s Records Management System (I/LEADS).</p>

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CAC Data Recommendations for Further Study with Community Input	FCPD Response
<p><b>Input on development of specific standards to conform to recommendations.</b></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> <ul style="list-style-type: none"><li><b>1. Sequencing</b> (type of contacts to be included, grounds for stop/arrest),</li><li><b>4. Medical and injury data</b> (on categorizing as minor, moderate and severe)</li><li><b>5. Demographics</b> (user friendly format and development of new items to track)</li><li><b>7. Civilian demeanor/affect</b> (culturally competent definitional scale for civilian affect)</li><li><b>12. Civilian resistance levels.</b> (culturally competent and less confusing scale of resistance)</li></ul>	

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2. USE OF FORCE POLICY		
UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>1. Use of force reporting threshold</b></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, not a use of force.” GO 540.20 III A. UTSA’s proposed language change to G.O. 540.1 I.G. (Report p.90), however, omits the “threatened use” reference and should be revised for clarity:</p> <p style="text-align: center;"><i>Any <b>use or threatened use of any weapon</b>, 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>FCPD General Order 540 defines “force” as “<i>any physical strike or instrumental contact with an individual, or any significant physical contact that restricts a person’s movement.</i>” Consistent with the United States Court of Appeals for the 4<sup>th</sup> Circuit (<a href="#">US v. Taylor</a> and <a href="#">Harris v. Commonwealth</a>), the pointing of a firearm by an officer constitutes a “show of authority” or “method of restraint” and does not constitute a level of force.</p>

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<p><b>2. De-escalation definition</b></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. Recommend, however, adjusting UTSA language for clarity</p> <p><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><i>Officers shall, whenever possible, use de-escalation strategies 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, 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 <a href="#">National Consensus Policy Discussion Paper on Use of Force</a> (National Consensus Policy) (p.3).</p>	<p>Approved-Requested components constitute benchmark factors of ongoing FCPD de-escalation training and Fairfax County Criminal Justice Academy (FCCJA) lesson plans.</p>
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**2. USE OF FORCE POLICY**

UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>3. Emphasis on de-escalation</b></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><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: <a href="#">National Consensus Policy</a> (p.3).</p>	<p>Approved-Requested UTSA components are included in revised FCPD General Order 540 (Use of Force). Where force is utilized, documentation in both I/LEADS and BlueTeam are required by policy by investigating supervisors, which is then subject to command review. Officers are required to articulate the</p>

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		<p>need for force and where de-escalation measures would not have been reasonable or possible under the circumstances. Where de-escalation measures are not utilized, this is documented and investigated further during the administrative review process by supervisors and reviewing commanders to ensure compliance with FCPD General Order 540.</p>
<p><b>4. Suspect Resistance</b></p> <p>Further define and provide examples of suspect resistance within the specified levels of resistance”.</p> <p>UTSA’s Report (pp. 91-92) includes specific recommendations for revising GO 540.4:</p> <ul style="list-style-type: none"> <li>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</li> </ul>	<p>Agree. Committee members noted this topic is very sensitive, however, because of the role cultural differences plays in “affect,” i.e., how the person presents themselves, as perceived by the officer 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 <a href="#">intermediate category</a>.</p> <ul style="list-style-type: none"> <li>Regarding <a href="#">threats of self-harm</a>, 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.</li> <li>Need clarification on <a href="#">passive resistance</a>. What types merit anything other than handcuffing? If only handcuffing, this is not force. If it is broader, need to ensure that only contact control is used. See <a href="#">New Orleans</a> p. 9:</li> </ul> <p><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</i></p>	<p>FCPD General Order 540 (Use of Force) includes Resistance Definitions that were created with community (2015 Fairfax County Ad Hoc Committee) input and extensive feedback. These definitions incorporate the <i>Graham</i> standard by accounting for an officer’s objective reasonableness assessment concurrent with a resisting subject’s actual/displayed intent, which cannot accurately be determined <b>after</b> force is deployed, which is wholly subject to conditioned responses and retroactive assessment. Levels of</p>

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<p>the same category as a firearm under the heading of “aggressive resistance.”</p> <ul style="list-style-type: none"> <li>• 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.”</li> <li>• The lower-level subject resistance categories – passive resistance and defensive resistance – are appropriate, but the FCPD should consider providing examples of actions that typically fall within these resistance levels to provide further guidance to officers.</li> </ul>	<p><i>verbal persuasion skills, pressure point applications, and escort positions.</i></p> <ul style="list-style-type: none"> <li>• Regarding <a href="#">verbal response to officer</a>: 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) <a href="#">Tucson</a>; (2) <a href="#">New Orleans</a>; (3) <a href="#">Miami</a>; (4) <a href="#">Seattle</a>. See also <a href="#">Campaign Zero</a> (Expressing an intent to resist is not considered resistance).</li> <li>• <a href="#">Protection of property</a> should not be a basis for use of deadly force. <a href="#">National Consensus Policy</a> p. 4.</li> </ul> <p>Recommend that FCPD revise its resistance categories for community review that includes UTSA recommendations, modified to address the concepts discussed above.</p>	<p>resistance are consistent with June 2015 PERF report on FCPD use of force (Recommendation #12).</p>
<p><b>5. Use of Force continuum linked to resistance</b></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 that and seek community input. Initial concerns noted:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Pointing a gun or other weapon should <i>not</i> be considered low level force.</li> </ul> <p>Data categories should align with continuum.</p>	<p>Approved- Use of Force Continuum is routinely taught by FCCJA to officers and recruits and remains part of the training curriculum. This continuum was originally included in FCPD General Order 540 (Use of Force) before removal was requested by the Ad Hoc Committee in 2016. Was also recommended by in final PERF report written for FCPD in June 2015 (Recommendation #45).</p>



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<p><b>6. Injury scales and documentation</b> 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 data discussion on injury.</p>	<p>Approved-All injuries and severity occurring from an officer's use of force to any individual are required to be documented by responding supervisors. General Order 540 (Use of Force) differentiates between death/serious injury, non-serious injuries, and no report of injuries.</p>
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2. USE OF FORCE POLICY		
UTSA Recommendation	CAC Recommendation	FCPD Response
<p><b>7. Limit on Deadly Force for Fleeing Felon</b></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 <b>probable cause to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death</b>, 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: <a href="#">National Consensus Policy</a> (p. 4).</p>	<p>UTSA request mirrors <i>Tennessee vs. Garner</i> standard language (“imminent” vs. “significant,”) which is part of FCPD General Order 540 (Use of Force). FCPD policy language mirrors Code of Virginia requirements on the deployment of deadly force by officers and the <i>Garner</i> standard.</p>
<p><b>8. Patrol dog use limits</b></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. <a href="#">PERF Guidance on Policies and Practices for Patrol Canines</a> (pp. 14-24) contains a series of policy recommendations that are helpful.</p>	<p>Approved-FCPD Canine deployments are limited to violent/certain felonies, misdemeanor crimes of violence posing danger to public, building searches, narcotics, etc. Bites are considered a use of force and must be objectively reasonable under the circumstances. Deployment criteria is listed in FCPD General Order 531 (Canine Operations)</p>

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<p><b>9. Foot pursuit policy</b></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>Agree. IACP recommends development of such a policy and provides guidance on its contents. <a href="#">IACP Considerations Document on Foot Pursuits (July 2019)</a>.</p>	<p>FCPD officers who engage in foot pursuits are required to do so in accordance with all current FCPD General Orders, Standard Operating Procedures, and in accordance with their training and nationwide best practices. This includes FCPD General Order 002 (Human Relations), General Order 540 (Use of Force), General Order 509 (Body-Worn Camera and In-Car Video Systems), General Order 601 (Arrest Procedures), and General Order 605 (Juvenile Procedures).</p>
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CAC Supplemental Use of Force Policy Recommendations		FCPD Response
Recommendation	Explanation	
<b>1. When force can be used</b>		

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<p><b>1A. “Necessary and proportional” standard</b></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 use force <i>at the moment</i> the force is used. This has proved unfairly deferential to officers. 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.</p> <p>FCPD should move to the “necessary and proportional” standard adopted by Maryland in the <a href="#">Maryland Police Accountability Act of 2021</a>. Accord, <a href="#">National Consensus Policy</a> p. 3; <a href="#">PERF’s Guiding Principles on Use of Force</a> p. 38.</p> <p>The same standard should be applied to “less lethal force,” although the circumstances in which its use is permitted may be broader. See <a href="#">Seattle</a>.</p>	<p>FCPD General Order 540 (Use of Force) follows the Code of Virginia and established Supreme Court precedent (<i>Graham vs. Connor</i> and associated decisions) as it pertains to the use of force. The “necessary and proportional” standard has not been adopted by the Commonwealth of Virginia or recognized by the Supreme Court, however, any legislative or judicial alterations to the standard would be incorporated by FCPD accordingly. Use of “objectively reasonable” terminology is also consistent with June 2015 PERF report on FCPD Use of Force (Recommendation #13) as well as recommendation of Independent Police Auditor’s office.</p>
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<p><b>1B. Permissible Force Where No Probable Cause to Arrest</b></p> <p>Clarify “necessary and proportional” where no probable cause to arrest exists. Use of force for non-safety reasons should be subject to heightened scrutiny and not used, except when such force is necessary for the officer’s safety. 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 “control an individual during an investigative or mental detention.” See also GO 540.6 I. <a href="#">GO 002 on Human Relations</a> 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"> <li>• We agree that low-level force should be permitted for safety reasons. <a href="#">IACP Model Policy on Arrests and Investigatory Stops</a>, <a href="#">Campaign Zero Model Policy</a> (“current, active, and immediate threat”). However, GO 002 VII E is not limited to safety reasons. It should be. Even the lesser force, such as requiring a suspect to lie down on the ground, is demeaning and potentially dangerous (see below).</li> <li>• 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.</li> <li>• Clarification is also needed of when force is permissible for mental detention.</li> </ul>	<p>FCPD declines to adopt this standard at this time for previously stated reasons. Any use of force associated with an investigative detention/mental health crisis detention would still be assessed under the <i>Graham</i> standard as officers have lawful authority to detain under both the <i>Graham</i> test and in accordance with the Code of Virginia. The “necessary and proportional” standard has not been adopted by the Commonwealth of Virginia or recognized by the Supreme Court, however, any legislative or judicial alterations to the standard would be incorporated by FCPD accordingly. Use of “objectively reasonable” terminology is also consistent with June 2015 PERF report on FCPD Use of Force (Recommendation #13) as well as recommendation of Independent Police Auditor’s office.</p>

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<p><b>1C. Deadly Force standard</b></p> <p>Clarify and limit deadly force use. General Order 540.8 I. A.'s definition of "deadly force" should be revised as follows: <i>Deadly force shall not be used unless it 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>Conforming amendments to the definition of "aggressive resistance" are also needed</p>	<p>The definition of deadly force should be conformed to the "necessary and proportional standard and take into account the danger to innocent people. We believe this is FCPD's intent.</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, stating that: "Deadly Force: Any level of force likely or intended to cause death or serious injury that is reasonably necessary to cease an individual's <a href="#">aggressive resistance</a>."</p> <p>The definition of "aggressive resistance" should be modified as follows:</p> <p><i>Aggressive Resistance:</i> Where an individual takes action that <a href="#">poses an imminent risk of serious injury or death to an officer or a third party</a> and prevents the officer from taking lawful action.</p> <p>Source: <a href="#">Campaign Zero</a> p. 5</p>	<p>FCPD declines to adopt this standard at this time for previously stated reasons. The potential deployment of deadly force (and language in FCPD General Order 540) mirrors <i>Graham</i> and <i>Garner</i> standards as well as the Code of Virginia. The "necessary and proportional" standard has not been adopted by the Commonwealth of Virginia or recognized by the Supreme Court, however, any legislative or judicial alterations to the standard would be incorporated by FCPD accordingly. Use of "objectively reasonable" terminology is also consistent with June 2015 PERF report on FCPD Use of Force (Recommendation #13) as well as recommendation of Independent Police Auditor's office.</p>

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<b>2. Specific kinds of force restrictions</b>		
<p><b>2A. Chokeholds and vascular neck restraints</b></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 <a href="#">National Consensus Policy</a> makes clear that chokeholds are prohibited unless deadly force is authorized. <a href="#">Seattle</a> and <a href="#">Tucson</a> prohibit their use altogether.</p>	<p>Approved-FCPD General Order 540 strictly prohibits the use of neck restraints/chokeholds in accordance with the Code of Virginia unless immediately necessary to protect an officer or another from death or serious bodily injury. FCPD officers are not routinely taught chokeholds/neck restraints as part of basic and subsequent use of force training. The use of chokeholds has been prohibited by FCPD officers since 2015 unless deadly force would be authorized.</p>
<p><b>2B. Prone restraints</b></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> <ul style="list-style-type: none"> <li>• Limiting its use to safety concerns or serious resistance.</li> </ul>	<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 <a href="#">How to Prevent Positional Asphyxia - POLICE Magazine</a>. See sources in 2021 <a href="#">New York Times</a> analysis. The risk of positional asphyxia is further compounded when a suspect has predisposing medical conditions.</p> <p>As early as 1995, U.S. <a href="#">Department of Justice’s</a> National Institute of Justice Program told officers: “As soon as the</p>	<p>Approved-The purported “prone restraint” as outlined here is neither a taught nor sanctioned use of force application by FCPD instructors. The use of a knee on a person’s neck would comprise a neck restraint by definition under FCPD General Order 540, and the Code of Virginia, and thus be prohibited unless deadly force was authorized. The Virginia Department of Criminal Justice Services (DCJS) requires mandatory law enforcement training involving</p>

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<ul style="list-style-type: none"> <li>• Requiring that the subjects be placed on their side in the recovery position as soon as feasible.</li> <li>• Not restrain subjects in custody and under control in a manner that restricts the subject’s ability to breathe.</li> </ul>	<p>suspect is handcuffed, get him off his stomach.”</p> <p>Other sources: <a href="#">New Jersey</a> and <a href="#">Seattle</a> guidelines.</p>	<p>handcuffing, searching, disarming, and applying leg restraints to an individual in the “prone” position. DCJS training requirements emphasize the potential physiological effects of the prone position, to include positional asphyxia. FCPD training adheres to the DCJS standard with a purposeful focus for all officers on the safety of the detained individual, and FCPD General Order 540 (Use of Force) includes requirements for officers to account for potential positional asphyxiation and excited delirium.</p>
<p align="center"><b>CAC Supplemental Use of Force Policy Recommendations</b></p>		<p align="center"><b>FCPD Response</b></p>
<p align="center"><b>Recommendation</b></p>	<p align="center"><b>Explanation</b></p>	
<p><b>2C. Spit hoods ban</b></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 78. The 2020 death of <a href="#">Daniel Prude</a> in New York has again raised the following concerns.</p> <p>Spit hoods are unnecessary. See <a href="#">Why Spit-Hoods Should Be Banned - Public Seminar</a>. 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 <a href="#">S04462</a>; <a href="#">Chicago Police</a> ban; <a href="#">Berkeley</a> (under consideration).</p>	<p>Spit hoods are rarely used by FCPD officers; however, they are vital tools to be used with violently resisting subjects to protect officers from exposures to contagious diseases that N95 masks, PPE, and other devices cannot account for or protect. Spit hoods utilized by FCPD are officers are lightweight, breathable instruments that are only used in the most exceptional of circumstances as they prevent officers from contact with saliva that may carry infectious diseases that land on their skin or into open wounds. It is further noted that medical studies have shown that spit hoods <a href="#">do not significantly impair an individual’s ability to breathe</a>.</p>



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<p><b>2D. Ketamine and Force for “excited delirium”</b></p> <p>Limit use of ketamine and other force against “excited delirium” (ExDS)</p> <ol style="list-style-type: none"> <li>1. Emphasize that use of force is justified only based on actual resistance, not suspected ExDS.</li> <li>2. Prohibit an officer from using, directing, or unduly influencing the use of ketamine by the EMS provider.</li> <li>3. Set standards for its administration, including having equipment to manage respiratory depression, and immediate transport to a hospital.</li> </ol>	<p>ExDS has a controversial history. Police departments and medical examiners using the term to explain why some people suddenly die in police custody; civil liberty groups question whether it really exists, with suggestions that it is used as a convenient way of covering up the use of excessive force by police officers. Some question whether it is truly a medical condition. See <a href="#">Byard, Ongoing Issues with the diagnosis of excited delirium</a>. Still others view ExDS as a racist justification to use force against Black male suspects. <a href="#">Excited delirium: valid clinical diagnosis or medicalized racism?</a></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 <a href="#">American College of Emergency Physicians</a>. 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 <a href="#">Elijah McClain</a>. Strict protocols should be in place for use of these chemical restraints.</p> <p>Source: Colorado bill <a href="#">HB21-1251</a> passed July 2021.</p>	<p>Approved-FCPD officers are not equipped, trained, nor authorized to deploy ketamine against any individual. Excited delirium is specifically defined and addressed in FCPD General Order 540 (Use of Force) and officers are routinely trained on warning signs of individuals potentially experiencing excited delirium. Individuals that demonstrate these warning signs require immediate summoning of medical assistance by any observing FCPD officer.</p>
<p><b>CAC Supplemental Use of Force Policy Recommendations</b></p>		<p><b>FCPD Response</b></p>
<p><b>Recommendation</b></p>	<p><b>Explanation</b></p>	

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<p><b>3. Duty to intervene strengthened</b> Strengthen the duty to intervene by clarifying</p> <p>A. <b>When to intervene</b> (the goal is to intervene early and at every stage to prevent the unnecessary and non-proportional use of force).</p> <p>B. <b>Retaliation protection</b> (more closely track new VA Code § <a href="#">19.2-83.6</a>, which mandates that no agency “retaliate, threaten to retaliate, or take or threaten to take any disciplinary action” against officer who intervenes).</p> <p>C. <b>Duty to report</b> (more closely track the statute, requiring reporting of any excessive force observed, whether or not the reporting officer was able to intervene).</p>	<p>The policy should make clear that, where feasible, an officer must intervene <i>before the situation escalates</i>. 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: <a href="#">Council on Criminal Justice; Task Force on Policing</a> (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>The Duty to Intervene has been part of FCPD policy, training, and culture for over a decade and current revisions to General Order 540 on this requirement continue to impose a strict prohibition against retaliation or discouragement of reporting cases by all employees in accordance with the Code of Virginia.</p>
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<p><b>4. Mandatory officer drug/steroid testing in serious incidents.</b></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 longer than 24 hours afterwards (the maximum amount of time after which heroin and marijuana can be detected in one’s system).</p>	<p>This was a Recommendation (No. 8h on p. 112) of the <a href="#">Ad Hoc Police Practices Commission</a>.</p> <p>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 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>The Code of Virginia’s <a href="#">Law Enforcement Procedural Guarantees Act</a> outlines procedures for taking blood and urine specimens from officers and under what conditions. Under the Act, the Chief of Police reserves the right to test any and all FCPD employees under the appropriate conditions.</p>
<p><b>5. Prohibition on provocation</b></p> <p>Prohibit officer provocation to justify force, including taunting, verbally baiting, or initiating needless or unnecessary physical contact with a subject. 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 spelling out 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 Appendix II; <a href="#">Tucson</a>.</p>	<p>Approved-Officers are prohibited in multiple FCPD General Orders (as well as by the Code of Virginia) from intentionally provoking or antagonizing any individual for <b>any</b> reason, to include as a prelude to the deployment of force.</p>

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<p><b>6. Protection for impaired/vulnerable individuals</b></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, <a href="#">alcohol or drug impairment</a> or language and/or cultural differences. This may not make the encounter any less dangerous. However, <a href="#">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 accommodate the rights and needs of these individuals.</a></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: <a href="#">Seattle</a> and <a href="#">Campaign Zero</a>.</p>	<p>Approved-FCPD has multiple General Orders and participates in County initiatives to protect impaired individuals. FCPD is committed to Diversion First and CIT/Co-Responder Initiatives. Persons who are heavily intoxicated are referred to County detox or hospitals. FCPD General Orders prohibit most police actions from taking place at certain facilities, to include halfway houses, hospitals, homeless shelters, rehab centers, etc.) FCPD General Orders require offices to account for cultural differences, lack of understanding/mental health issues, substance abuse etc. and seek voluntary compliance through de-escalation measures whenever feasible.</p>
<p><b>7. Protection of minors</b></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>	<p>Approved-FCPD General Order 610 (Juvenile Procedures) is solely devoted to officer interactions and added protections for juvenile encounters. The potential use of force against a minor, as with all others, is judged under the <i>Graham</i></p>

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		standard of objective reasonableness, which includes accounting for the training, age, size, and perceived strength of a resisting or combative individual.
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Other CAC Use of Force Policy Issues Raised that Warrant Further Consideration with Community Input	FCPD Response
<p>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.</p> <p><b>S1. Firearm use (show of force and/or use of force)</b></p> <p>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 <i>per se</i>, they are preliminary steps that have a material impact on civilians. It is helpful to have a clear understanding of when such actions are appropriate.</p> <p>Numerous jurisdictions have clear standards about drawing or exhibiting a firearm. E.g., <a href="#">New Orleans</a> (p.7), <a href="#">New Jersey</a> (p.8), <a href="#">San Francisco</a> (p. 12). See also <a href="#">Campaign Zero</a> (p. 7). Some members advocated that FCPD should consider similar standards, and provide for community input.</p>	<p>In accordance with FCPD policy and training, officers are not permitted to threaten any individual with a firearm or force instrument. Officers are allowed by policy to produce and/or point their firearms in any circumstances where there is a risk of death or serious bodily injury to themselves or another in order to preserve life. Any time an officer points their firearm at another, this event is required to be documented and reviewed through both a first-lines supervisor and station/bureau commander(s). Annual training standards re-enforce the circumstances in which officers are permitted to point their firearms at another person.</p>

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<p><b>S2. Use of personal protective shields for certain critical incidents</b></p> <p><a href="#">PERF</a> (p. 68) recommends the use of personal protection shields to manage some potential use of force situations, asserting 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 <a href="#">Gosport group home</a> in July 2021.</p>	<p>FCPD patrol officers and SWAT units are routinely issued and trained on protective shield usage.</p>
<p><b>S3. SWAT usage</b></p> <p>SWAT actions (a/k/a Advanced Tactics) 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 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 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 <a href="#">National Tactical Officers Association</a> has detailed SWAT standards that can serve as a starting point.</p>	<p>SWAT is utilized for high-risk/arrest situations after supervisor request and multiple layers of commander review. All officer uses of force, to include FCPD SWAT members, are assessed under the same standard (General Order 540) as it pertains to force deployment against an individual.</p>
<p><b>S4. Strip searches</b></p> <p>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</p>	<p>FCPD officers are only permitted to conduct strip searches in extreme circumstances (1) where officer can articulate a weapon is hidden in a manner that cannot be detected through traditional search methods and/or (2) under a Magistrate/judge issued search warrant. FCPD officers are strongly discouraged against conducting strip searches unless exigent circumstances exist. In past 5 years, no strip searches</p>

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<p>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.</p>	<p>have been conducted by FCPD officers. It should further be noted that in the past 3.5 years, arrest data shows 3 incidents of arrested subjects with firearms hidden in their genitalia/anus regions being discovered during transport or at the ADC, and 120 incidents of suspects with hidden narcotics in similar regions.</p>
<p><b>S5. Shoot to incapacitate</b></p> <p>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 <a href="#">LaGrange GA</a>, have modified the practice to include “shoot to incapacitate where feasible. The practice increases community trust and prevents serious injury and unnecessary deaths.</p> <p>Approximately 1,000 people are fatally shot each year, a disproportionate number of them Black. According to the <a href="#">Washington Post’s</a> 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.</p>	<p>FCPD training, policy, and DCJS standards require center mass focus, to increase likelihood of contact, decrease possibility of missing and striking individuals in the background. The aiming of center mass is consistently taught to all law enforcement agencies across the country to significantly reduce the likelihood of unintentionally deploying rounds that may injure bystanders and increase the likelihood of rendering medical attention after deployment that may potentially preserve life. The “shoot to incapacitate” reduces the contact surface of an individual for whom deadly force would be lawfully authorized, and would increase the likelihood of misfired rounds that could potentially injure innocent bystanders and is not considered a best practice.</p>



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3. TRAINING AND ORGANIZATION		FCPD Response
UTSA Recommendation	CAC Comment/Amendment	
<p><b>1. Follow Council of Criminal Justice standards</b></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 Include periodic recertification beyond firearms training; (c) Substantially increase the amount of training hours provided annually for de-escalation skills and tactics. 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 use of resiliency-based approach. Additional topics to cover include:</p> <ol style="list-style-type: none"> <li>1. Duty to <a href="#">intervene</a> and to <a href="#">report</a>.</li> <li>2. <a href="#">Effective communication</a> in a range of situations and varied communities, including everyday contacts, dealing with people with mental health and/or substance abuse problems, and basic <a href="#">negotiations techniques</a>. (<a href="#">PERF</a> p. 56).</li> <li>3. Use of less lethal options.</li> <li>4. When a police officer <a href="#">may or may not draw a firearm or point a firearm</a> at a person. (<a href="#">Maryland Police Accountability Act of 2021</a>).</li> <li>5. <a href="#">Recertification</a> should cover de-escalation tactics, communications strategies, and principles of procedural justice, which promote more respectful encounters between officers and community members. (<a href="#">CCJ</a>). .</li> </ol>	<p>FCPD is legally required to comply with all DCJS training standards as part of maintaining requisite statewide certification standards and per the <a href="#">Code of Virginia</a>. The Council of Criminal Justice is self-described as an “<i>independent and nonpartisan invitational membership organization and think tank serving as a center of gravity and incubator of policy and leadership for the criminal justice field.</i>”</p>

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<p><b>2. ICAT training</b></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 style="text-align: center;">-</p>	<p>Approved-FCPD is instituting ICAT/ABLE training via the FCCJA beginning in the Fall of 2022, which is anticipated to take between 18-24 months to complete for all sworn FCPD officers.</p>
<p><b>3. Co-responder model</b></p> <p>If not already in place, consider adoption of a collaborative responder model for handling incidents with persons with behavioral health (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>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 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 to already be under consideration:</p> <p>(a) Where feasible, behavioral health professionals should take the lead, with police coming directly to the scene only when requested.</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) Baseline 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>Approved-FCPD remains fully committed to CIT training, Diversion First, and further community-wide implementation of the nationally recognized co-responder model.</p>

3. TRAINING AND ORGANIZATION		
UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>4. De-escalation training supported by policies and oversight</b></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>Potentially add language of values and humanity and amend "incentivize" to emphasize mindset shifts and trust building (e.g., growth mindset and strength based).</p>	<p>Approved-FCPD General Order 540 (Use of Force) is fully committed to de-escalation principles and was community co-produced. Chief Kevin Davis has also created a de-escalation citation for officers and routinely highlights through the Department notable acts of de-escalation via internal messaging and through the Officer of the Month award at Command Staff meetings.</p>
<p><b>5. Rotate Officers</b></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><b>Disagree.</b> 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.</p>	<p>FCPD does not concur with this recommendation. The Department maintains a robust Incident Support Services Division that addresses officer needs and any displayed attributes of officer stress or burnout. Furthermore, all FCPD employees are undergoing mandatory implicit bias and procedural justice training in 2021-2022 via outside vendor.</p>

3. TRAINING AND ORGANIZATION		
UTSA Recommendation	CAC Comment/Amendment	FCPD Response
<p><b>6. Annual or biannual review of data</b></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 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</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 <a href="#">available on FCPD's open data</a> site and summarized in <a href="#">annual reporting</a>.</p>	<p>Data is collected, assessed, and continually reviewed through the Department's Office of Data Analytics and Strategic Initiatives as well as through the Department's Internal Affairs Bureau, which annually publishes Department use of force statistics.</p>
<p><b>7. Review BWC for disparities in treatment, etc.</b></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>	<p>BWC and ICV footage are required by General Order 509 (Body-Worn Camera and In-Car Video systems) to be reviewed monthly and documented by supervisors. All officers are reviewed at a minimum every four months. All use of force/complaints generating BWC/ICV footage are required to be reviewed by supervisors and commanders. Any disparities are immediately addressed and</p>

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		forwarded for command attention and review.
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CAC Supplemental Training and Organization Recommendations		FCPD Response
CAC Recommendation	Explanation	
<p><b>1. Understanding root causes to drive changes</b></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>Approved-All FCPD officers are currently undergoing mandatory implicit bias and procedural justice training, which is expected to be completed by the end of 2022.</p>
<p><b>2. Performance measures for rule changes</b></p> <p>Ensure that performance measures and rewards are consistent with new policies and performance expectations, Performance measures should reflect the core values, 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>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. It is critical that performance measures be thoughtfully crafted to reflect de-escalation, duty to intervene and community respect.</p>	<p>Approved-All FCPD employees are evaluated annually. Robust merit/award systems are currently in place for acts of exemplary service in these categories. FCPD General Orders reflect, with community input, a commitment by the agency to community values and expectations.</p>

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<p><b>3. Key training topics inclusion in General Orders or other public-facing directive</b></p> <p>Include key training topics and schedules in General Orders, ensuring training on key topics prioritized by this Committee and disclosed to community.</p> <p>Year to year variation 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"> <li>• 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).</li> <li>• The general training standard (GO 201.17) simply requires training at the direction of the Chief.</li> </ul> <p>To ensure that officers understand training expectations and to develop public trust, the General Orders should specify non-weapon training topics where training is mandatory. The GO or a supplemental public schedule should include training length, how often officers must attend refresher for various topics and applicable recertification requirements.</p> <p>Other departments provide detailed explanations of their training requirements. See, e.g., <a href="#">Los Angeles</a> Use of Force 2020 Annual Use of Force Report training discussion pp. 41-49.</p>	<p>FCPD General Order 540 (Use of Force) contains training language on requirements for officers to refresh knowledge of deadly and less-lethal force options. General Order 504 (Vehicle Pursuits) includes vehicle training requirements (EVOC, MEVO, PIT, etc.). The FCCJA is holding two community use of force days each year for those community members who wish to participate. Training requirements are standardized by the Virginia DCJS and Accreditation Teams. These standards are located on the <a href="#">DCJS public website</a>.</p>
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CAC Supplemental Training and Organization Recommendations		FCPD Response
CAC Recommendation	Explanation	
<p><b>4. Protocols for meaningful community participation in development police practices</b></p> <p>Across training, data collection, and use of force policy, protocols for meaningful participation, dialogue, and feedback with communities should drive policy and practice changes with the goal of building 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>Community advocates are an essential part of ongoing FCPD dialogue pertaining to data collection, policy reviews, and feedback. Also were recently invited and continue to be invited to participate in FCPD Use of Force Training Days at FCCJA. Department has created a Community Engagement and Equity Division and maintains ongoing partnerships with Community Advisory Committees, which are comprised of diverse community representation open to all members of the Fairfax County residential and business communities at each police district station.</p>
<p><b>5. Community observation and feedback on training</b></p> <p>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).</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 barriers.</p>	<p>Community advocates are an essential part of ongoing FCPD dialogue pertaining to data collection, policy reviews, and feedback. Also were recently invited and continue to be invited to participate in FCPD Use of Force Training Days at FCCJA. Department has created a Community Engagement and Equity Division and maintains ongoing partnerships with Community Advisory Committees, which are comprised of diverse community representation open to all members of the Fairfax County</p>



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		residential and business communities at each police district station.
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CAC Supplemental Training and Organization Recommendations		FCPD Response
CAC Recommendation	Explanation	
<p><b>6. Use of Force audit committee with community members, experts</b></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>	<p>A use of force audit committee was recommended by the <a href="#">Ad Hoc Commission on Police Practices</a>. 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>	<p>FCPD is currently reviewing this request.</p>
<p><b>7. Community-based survey</b></p> <p>Improve upon the existing FCPD community-based survey for meaningful community feedback.</p>	<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>	<p>FCPD has a QR code survey for all community members who have interactions with officers. Community members are encouraged to utilize the code to provide feedback on their encounters with FCPD officers and employees. Also in May 2022, FCPD partnered with Axon My90 to further community feedback by sending text messages to people requesting police services.</p>

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<p><b>8. Officer survey</b></p> <p>A previously utilized 2017 climate survey (assessing officers' views of their duties and responsibilities with respect to the community) should be conducted regularly with reference to the first one as a baseline</p>	<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>	<p>FCPD will continue to conduct internal surveys in accordance with CALEA accreditation standards.</p>
<p style="text-align: center;"><b>CAC Supplemental Training and Organization Recommendations</b></p>		<p style="text-align: center;"><b>FCPD Response</b></p>
<p style="text-align: center;"><b>CAC Recommendation</b></p>	<p style="text-align: center;"><b>Explanation</b></p>	
<p><b>9. General Order ease of use, understanding</b></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>	<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>	<p>General Order 540 (Use of Force) has undergone a streamlining process with community feedback, along with all other FCPD General Orders. This General Order, along with all other FCPD General Orders, is available for public viewing on the Chief's webpage.</p>
<p><b>10. Call-taker and dispatch training.</b></p> <p>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.</p>	<p>Further information is needed regarding the extent of training currently provided to call-takers and dispatchers. A public explanation and identification of any changes needed is recommended.</p> <p><u>PERF</u> p. 68 recommends: <b>Well trained call-takers and dispatchers</b>.... 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>	<p>Request pertains to the Fairfax County Department of Public Safety Communications (DPSC) and not FCPD.</p>

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**11. Outreach and education to families re mental health**

Pair with community organizations to educate the families of persons with mental illness and behavioral health challenges broadly on communicating with call-takers.

[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.

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

Request pertains to the Fairfax County Department of Public Safety Communications (DPSC) and Fairfax-Falls Church Community Services Board (CSB).

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CAC Training & Organization Issues Raised that Warrant Further Consideration with Community Input	FCPD Response
<p><b>The CAC discussed the need for development of specific standards to conform to recommendations and how</b> 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:</p> <ul style="list-style-type: none"> <li><b>1. Council of Criminal Justice standards</b> (input on topics where increased training appears warranted)</li> <li><b>3. Co-responder model</b> (expansion beyond mental health; lead taken by behavioral health)</li> <li><b>4. De-escalation training supported by polices and oversight</b> (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)</li> <li><b>7. Review BWC for disparities in treatment, etc.</b> (community members input of disparities, etc.)</li> <li><b>8. Understanding root causes to drive changes</b> (lived experiences)</li> <li><b>9. Performance measures for rule changes</b> (community input on how FCPD plans to revise performance measures to enhance de-escalation, etc.)</li> <li><b>11. Protocols for meaningful community participation</b> (dialogue with communities to drive policy changes and build trust)</li> <li><b>12. Community observation and feedback on training</b> (lived experiences)</li> <li><b>13. Use of Force audit committee with community members, experts</b> (incorporating perspectives from community and outside external experts in lessons learned)</li> </ul>	