

EXECUTIVE SUMMARY-DOJ INVESTIATION

FERGUSON, MO POLICE DEPARTMENT

JUNE 16 2015

Randy K. Sayles

Member—Use of Force Subcommittee

Ad Hoc Police Practices Review Commission

Fairfax County Government

**TABLE OF CONTENTS**

I. EXECUTIVE REPORT SUMMARY OF-DOJ INVESTIGATION	PAGE	2
II. BACKGROUND OF FERGUSON	PAGE	3
III. CITY AND POLICE PRACTICES	PAGES	4-8
IV. DOJ RECOMMENDATIONS FOR FERGUSON MO PD	PAGES	8-13
V. FOCUS	PAGES	9-13
VI. EXECUTIVE REPORT SUMMARY	PAGE	13
VII. RECOMMENDATIONS FAIRFAX COUNTY PD	PAGES	13-16
VIII. DOJ INVESTIGATION FAIRFAX COUNTY POLICE	PAGE	17
IX. CONCLUSION/RECOMMENDATION-USE OF FORCE COMMITTEE	PAGES	18-19

---

**REPORT SUMMARY**

This is an Executive Summary of the Department of Justice (DOJ) Report of Investigation (105 pages) initiated September 4, 2014, under Federal Civil Rights Law, finalized March 4, 2015, that revealed a pattern and practice of unlawful conduct within the Ferguson Police Department (FPD); violating stated Amendments to the United States Constitution and federal statutory laws below:

- **First**-prohibiting freedom of speech, press or right to peaceably assemble or petition the government for redress of grievances;
- **Fourth**-the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures; and
- **Fourteenth**-denying any person life, liberty or property without due process of law;

by City officials; including the City Manager, Mayor, Municipal Judge, Municipal Court Clerk, Finance Director, Chief of Police, FPD’s sworn officers and others.

This Executive Summary concludes with recommendations, based on the DOJ investigation, applicable to the Fairfax County Police Department.

The DOJ Report of Investigation, in its entirety, can be found at:

[http://www.justice.gov/sites/default/files/opa/pressreleases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/pressreleases/attachments/2015/03/04/ferguson_police_department_report.pdf)

## **BACKGROUND**

Ferguson's law enforcement practices overwhelmingly impacted African Americans from 2012 to 2014 accounting for 85% of vehicle stops; 90% of citations and 93% of arrests, despite comprising only 67% of Ferguson's population.

Ferguson is one of 89 municipalities in St. Louis County, Missouri (2010 Census) comprised of approximately 21,000 residents; 67% African Americans, 29% Whites and according to a 2009 2013 American Community Survey, 25% of the population lived below the federal poverty level.

FPD had a total of 54 sworn officers, with only four (4) African Americans, divided among several divisions within the patrol division at 28 patrol officers, supervised by four (4) sergeants, two (2) lieutenants and one (1) captain. Each of four (4) patrol squads had a canine officer. All patrol officers were engaged in traffic enforcement, with a dedicated traffic officer responsible for collecting traffic stop data required by the state of Missouri.

FPD had two (2) **School Resource Officers ("SROs")**; one (1) assigned to the local high school and the other to the local Middle School. There was a police officer assigned as the **"Community Resource Officer" (CRO)**, for attendance at community meetings; while also serving as public relations liaison and collecting crime data. FPD operated its own jail; which had 10 individual cells and a large holding cell staffed by three (3) non-sworn Correctional Officers.

DOJ Investigators spent collectively approximately 100 person-days onsite; participating in **"ride-along"** with on-duty officers; reviewing over 35,000 pages of police records; as well as thousands of emails and other electronic materials provided by the FPD. Investigators enlisted assistance of statistical experts; analyzed FPD's data on stops, searches, citations and arrests; as well as data collected by the municipal court.

Investigators also engaged the local community, conducting hundreds of in-person and telephone interviews of individuals who resided in Ferguson or who had interactions with the police department; as well as contacting neighborhood, other community groups and advocacy organizations.

The **evidence showed discriminatory intent** was part of the reason for disparities and that Ferguson's police and municipal court practices **created deep mistrust** among parts of the community and the FPD; thus **undermining law enforcement legitimacy among African Americans in particular**.

Investigators determined law enforcement practices were shaped by the City's **focus on revenue rather than by public safety needs**; thus compromising the institutional character of the police department and **contributing to a pattern of unconstitutional policing and procedures** that raised due process concerns and **inflicting unnecessary harm on members of the Ferguson community**. These law enforcement and municipal court practices **exacerbated existing racial biases** by having a clear **adverse impact to African Americans**, as confirmed by Ferguson's own data.

**Notwithstanding**, their findings about Ferguson's approach to law Enforcement and the policing culture it created, the investigation noted **many Ferguson police officers, and other City employees, to be dedicated public servants** striving each day to perform their duties lawfully and with respect for all members of the Ferguson community.

Investigators also noted that **most Ferguson residents, black and white, genuinely embraced Ferguson's diversity and wanted to re-emerge from events of record as a truly inclusive and united community**. The report concluded with a stated intent to strengthen residents' desires by recognizing harms caused by Ferguson's law enforcement practices so that these harms could be better understood and overcome with **below stated recommendations**.

## **CITY AND POLICE PRACTICES**

The City's emphasis (**collusion among City Finance Director, City Manager and Chief of Police**) on revenue generation had a profound effect on FPD's approach to law enforcement with patrol assignments; schedules geared toward aggressive enforcement of municipal codes; and insufficient thought given to whether enforcement strategies promoted public safety or **unnecessarily undermined community trust and cooperation**.

Officer evaluations and promotions depended, to an inordinate degree, on "productivity" and the number of citations issued. Partly as a consequence, many officers appeared to **see African-American residents, living in African-American neighborhoods**, less as constituents to be protected than **as potential offenders and sources of revenue**. As a result, routine misconduct by police officers had significant consequences for those whose rights were violated.

This culture influenced officers' activities in all areas of policing beyond ticketing; as **officers expected and demanded compliance even when they lacked legal authority**. Officers were inclined to interpret the exercise of free-speech rights as unlawful disobedience; innocent movements as physical threats; and indications of mental or physical illness as belligerence, **resulting in nearly 90% of documented force used against African Americans**.

**Police supervisors and leadership did too little to ensure officers acted in accordance with law and FPD policies**; while rarely responding meaningfully to

**civilian complaints of officer misconduct.** The result was a pattern of stops without reasonable suspicion and arrests without probable cause in **violation of the Fourth Amendment**; infringement on free expression; as well as retaliation for protected free expression in **violation of the First Amendment** and excessive force in **violation of the Fourteenth Amendment.**

Police, city officials, as well as some Ferguson residents insisted that **public outcry** regarding Police actions was **attributable to “outside agitators”** and not reflecting opinions of “real Ferguson residents”. This **was at odds with facts of the DOJ investigation.**

Investigators heard from community members about **uses of force that did not appear within FPD’s records** and learned from reviewing emails between FPD supervisors and officers that many uses of force incidents were **never officially reported or investigated.** This in turn raised the possibility that patterns of unreasonable force were greater than that found. **Even when** force was **reported,** the force review process fell so short of FPD’s policy requirements that it was **ineffective at properly addressing the issue(s).**

**ECWs (“Taser”;** an electro-controlled shock weapon that disrupts a person’s muscle control, causing involuntary contractions) were to be used as a way of averting potentially injurious or dangerous situations. However, FPD’s pattern of excessive force included **using ECW in a manner that was unconstitutional, abusive, and unsafe.**

FPD’s files reflected an over representation of ECW usage, reporting via a separate form, in which **officers seemed to regard as all-purpose tools bearing no risk;** despite existence of clearly established Fourth Amendment case law and explicit departmental policies. Officers routinely engaged in unreasonable usage, while **supervisors routinely approved their conduct.** It was much easier for officers to use physical blows and baton strikes without documenting them.

Officers did not follow FPD policy of using ECWs as one tool among many; a weapon of need; not a tool of convenience; nor depend on ECWs, or any type of force, at the expense of diminishing fundamental skills of communicating with subjects and de-escalating tense encounters.

First, and most significantly, **supervisors almost never actually investigated force incidents.** The record was replete with examples of a lack of meaningful supervisory review of force; as supervisors appeared to view force investigations as a ministerial task while merely summarizing the involved officers’ version of events or solely relying on officers’ offense reports. **Supervisory reviews started and ended with the presumption that officer’s versions of events were truthful** and that force was reasonable. As a consequence, though contrary to policy, supervisors almost never interviewed non-police witnesses, such as arrestees and independent witnesses; while also failing to review other critical evidence even when it was readily available.

A significant portion of documented uses of force occurred at the Ferguson jail, which employed surveillance cameras. Yet FPD records provided no indication that a supervisor ever sought to review footage for a jail incident. Nor did supervisors examine ECW camera video, even though FPD had the newer model containing this capability. Sometimes, supervisors provided no remarks on use-of-force reports; indicating simply “see offense report”.

The use-of-force report for a particular incident stated that a suspect claimed he had an ECW deployed against him and that he was punched in the head and face. The supervisor concluded simply, “other than the drive stun, no use of force was performed by the officers.” The report didn’t clarify what investigation the supervisor did, if any, to assess the suspect’s allegations or how he determined that the allegations were false.

Simply referring back to FPD policies should have ensured supervisors that many uses of ECWs against subjects, who were merely argumentative or passively resistant, violated policy. Yet, in another example, a supervisor wrote that the subject “turned to the officer in a fighting stance”; even though the officer’s report clearly stated he chased and tackled the subject as he fled. That particular use of force may have been reasonable; but the use-of-force report revealed how little attention supervisors gave to use of force investigations.

**Supervisors seemed to believe that any level of resistance justified any level of force.** They routinely relied on boilerplate language, such as the subject took “a fighting stance,” to justify force. Such language was not specific enough to understand specific behavior encountered by the officer and thus obviated an ability to determine whether the officer’s response was reasonable.

Another common justification, frequently offered by officers who used ECWs to subdue individuals who did not readily put their hands behind their backs after being put on the ground, was to claim that a subject’s hands were near his waist where he might have had a weapon

Other examples showed **supervisors missed opportunities to provide meaningful training** by stating that use of force could have been prevented if officers had not acted alone in risky situations. There were also examples where **supervisors either didn’t understand or choose not to follow FPD’s use-of-force policy.**

For example: 21 officers responded to a fight at a high school where several officers used force to take students into custody. FPD records contained only one offense report, which did not describe the actions of all officers who used force. The use-of-force report identified officers involved as “multiple” (without names) and provided only a one-paragraph summary stating that students “were grabbed; 41 handcuffed, restrained while using various techniques of control”. The offense report reflected that officers collected video from the school’s security cameras, which the supervisor apparently never reviewed. Further, while the offense report contained witness statements, those

statements related to the underlying fight; not the officers use of force. There appeared to be no statements from any of the 21 officers who responded to the fight.

Therefore, it was not possible for higher-level supervisors to adequately assess uses of force with so little information. Although a use-of-force packet was supposed to include all related documents; in practice, only a two-page use-of-force report, brief summary, by the supervisor went to the Chief. Therefore, the Chief only knew that there was a fight at the school and that force was used; not what type of force or actions by students that warranted the use of force.

**Offense reports were available** in FPD's records management system; but the **Chief stated he rarely retrieved them** when reviewing uses of force and that he **never overturned a supervisor's determination of whether a use of force fell within FPD policy.**

It was clear to Investigators that in many force incidents reviewed; offense reports documenting force use, was at the very least, contrary to FPD policy and that **first-line supervisors, and command staff, found all but one (1) of 115 incidents reviewed to be within policy.**

The review process broke down even further when officers at the **sergeant level, or above**, used force. Instead of reporting their use of force to an official higher up the chain who could evaluate it objectively, they **completed the use-of-force investigation themselves** and the **department was less likely to identify policy and constitutional** violations; causing the public to less likely trust the department's commitment to policing itself.

The **FPD did not perform** any comprehensive review of force incidents **sufficient to detect patterns of misconduct by a particular officer, unit or patterns regarding the type of force used.** The FPD did not keep records in a manner that would have allowed for such a review. Additionally, supervisors also **failed to provide recommendations on how to ensure officer safety and minimize the need for force** going forward.

Within FPD's paper storage system, the two-page use-of-force reports (which were usually handwritten) were kept separately from all other documentation; including ECW and pursuit forms for the same incidents. Offense reports were attached to some use-of-force reports but not others. Some use-of-force reports were removed from FPD's set of force files because the incidents became the subjects of an internal investigation or a lawsuit.

As a consequence, when FPD provided what it considered to be its force files, as described above, DOJ Investigators had reason to believe the FPD did not capture all actual force incidents. A majority of files provided were missing either a critical document; such as an offense report, ECW report or the use-of-force report itself.

Investigators made repeated requests for documents in attempts to be accurate and fair in their review.

Failure by the FPD to **construct, maintain complete files and records caused an inability to implement an early intervention system (EIS) to identify officers** who tended to use **excessive force** and therefore need for **more training or better equipment**; goals explicitly set out by FPD policy.

It also appeared **no annual review of force** incidents were conducted, **as required by the FPD General Order**; therefore, no meaningful annual audit was possible. Record keeping problems also explained why the Chief told Investigators he could not remember ever imposing discipline for an improper use of force or ordering further training based on force problems.

### **DOJ RECOMMENDATIONS:**

The DOJ investigation identified **deeply entrenched practices, priorities that were incompatible with lawful and effective policing** damaging community trust; thus, **requiring a fundamental redirection of Ferguson's approach to law enforcement**, including police and court practices, that reflected and perpetuated their approach. As a result, the following recommendations for changes were made:

- **Correct constitutional violations** identified to ensure meaningful, sustainable and verifiable reform;
- **Require** that these, and other measures, be part of a **court-enforceable remedial process**;
- **Implement** a robust system of **true community policing** versus that focused on raising revenue; requiring Police partnerships with community stakeholders in implementing a policy, detailed plan for policing and problem-solving principles, that include officers' specific roles in implementation;
- **Increase opportunities** for officers to have frequent, positive **interactions with people outside of an enforcement context**; especially, those having expressed high levels of distrust of police, such as Ferguson's apartment complexes and African-American youth. Such opportunities may include police athletic leagues and similar informal activities;
- **Modify officer deployment patterns and scheduling**; moving away from 12-hour shifts; assigning officers to patrol the same geographic areas consistently, **enhancing familiarity with areas and people with focus on** problem-oriented-policing projects; to include crime prevention versus arrest and citation productivity;



- **Evaluate officer, supervisory and agency performances** on community engagement;

## FOCUS

- **Adhere** to the law;
- **Stop** search, ticketing and arrest practices;
- **Prohibit** the use of ticketing and arrest quotas; whether formal or informal;
- **Require** officers to report in writing all stops, searches, arrests and pedestrian stops;
- **Reports** must **articulate legal authority** for law enforcement action and sufficient description of facts to support that authority;
- **Enforcement action** is to be taken because it **promotes public safety; not simply** because there is **legal authority to act**;
- **Require** documented **supervisory approval prior to**:
- **1 Issuing any citation/summons that includes more than two (2) charges;**
- **2 Making an arrest on any of the following charges:**
  - a. **Failure to comply** or obey;
  - b. **Resisting arrest**;
  - c. **Disorderly conduct**, disturbing the peace;
  - d. **Obstruction** of government operations;
  - e. **Arresting or ticketing an individual who sought police aid** or who is **cooperating with police** in an investigation;
  - f. **Arresting on** a municipal warrant or wanted orders;
- **Revise failure to comply municipal code** provision and provide sufficient guidance, training so that all stops, citations, and arrests based on the provision **comply with the Constitution**;
- **Train appropriateness of** the charge for **interference** with police activity **that threatens public safety**;
- **Require applicable legal standards** are met before officers conduct pat-downs or vehicle searches;
- **Prohibit searches** based on **consent** for the **foreseeable future**;

- **Develop a system** of correctable violation or “**fix-it**” **tickets** and that officers issue fix-it tickets wherever possible and when absent contrary instruction(s) by supervisors;
- **Develop, implement policy and training** regarding appropriate police response(s) to **activities protected by the First Amendment**; including the right to observe, record, and protest police action;
- **Provide initial and regularly recurring training on Fourth Amendment** constraints on police action and responsibility beyond what the fourth amendment requires; in the interest of public safety and community trust;
- **Discontinue** use of “**wanted**” or “**stop orders**” and prohibit officers from conducting stops, searches or arrests based on these orders, **and the same, issued by other agencies**;
- **Increase tracking**, review and analysis of stop, search, ticketing and arrest practices **at the first level of supervision** and as an agency;
- **Enhance, review vehicle stop data collection**, post-stop activity, as well as location **and demographic information more stringently** to ensure compliance with the Constitution and department policy;
- **Evaluate impact of officer activity** on police legitimacy and community trust;
- **Develop and implement a system capturing, for regular review**, stop, search, ticketing and arrest data **at supervisory and agency level** to detect problematic trends and ensure consistency with public safety and community policing goals;
- **Require supervisors to review** all officer activity and reports **before leaving shift**;
- **Analyze race and other disparities** to determine whether disparities can be reduced;
- **Re-orient and train officers’ approach** so that they are skilled in using tools and tactics **to de-escalate situations**, so that there is an incentive to avoid using force wherever possible and in the context of officer safety even where it would be legally justified;
- **Require on site supervisory approval before deploying any canine**; absent documented exigent circumstances;

- **Train and require canine officers** to take into account the nature and severity of an alleged crime when deciding whether to deploy a canine to bite in an attempt **to ascertain if objective facts suggest a lower level of force** can reasonably be used to secure the suspect;
- **Re-train officers in use of ECWs** to ensure usage as a tool of **necessity versus convenience** consistent with principles set out in 2011 ECW Guidelines;
- **Place more stringent limits on use of ECWs**; including limitations on multiple ECW cycles and detailed justification for **using more than one cycle**;
- **Develop and implement use-of-force reporting** that **requires a narrative, separate from the offense report**, requiring the level of force used with particularity and specificity of circumstances; including the **reason for the initial stop or other enforcement action**;
- Depending on levels of force, **all officers observing** should **complete separate force narrative**;
- **Develop and implement supervisory review of force** that requires a complete review of each use of force; **including gathering and considering evidence necessary, such as statements** from individuals against whom force is used, as well as civilian witnesses;
- **Prohibit supervisors from reviewing or investigating use of force in which they participated or directed**;
- **Ensure complete use-of-force reporting**, review and investigation files (including all offense reports, witness statements, medical reports, audio, video and other evidence) are **kept together in a centralized location**;
- **Develop and implement a system for collection, review** and response to use-of-force data, such as lethal force, canine deployment, ECWs and force **resulting in injury, for higher-level, inter-disciplinary review**;
- **Implement system of zero tolerance for use of force as punishment or retaliation** versus proportionate response to counter a threat;
- **Discipline officers who fail to report** force and **supervisors who fail to conduct adequate force investigations**;
- **Identify**, develop strategies to **eliminate avoidable disparities** regarding race in officers' use of force;
- **Staff jail with at least two (2) correctional officers, at all times**, to ensure **safety, minimization in use of force**; while also using de-escalation techniques

with intoxicated, combative prisoners, as well as those demonstrating passive resistance and noncompliance.

- **Implement policies and training** to Improve **interactions with vulnerable people** having physical or mental health crisis's and those with intellectual disabilities when force might be used;
- **Provide training to officers** regarding how to identify and respond to more **commonly occurring medical emergencies** that may at first appear or reflect a failure to comply with lawful orders **such as seizures and diabetic occurrences.**
- **Partner with school administrators, teachers, School Resource Officers (SROs), parents and students** to develop, implement **policy and training consistent with law and best practices** to more effectively **address disciplinary issues in schools versus treating as criminal matters or imposition of lengthy suspensions.** Thus fostering learning and staying in school. Regularly review and evaluate for compliance and success.
- **Implement measures to Identify any disparate impact or treatment by race** or other protected basis and its impact on police behavior; such as:
  - (a) Increasing positive interactions between police and the community;
  - (b) Increasing collection and analysis of stop data;
  - (c) Increasing oversight of the exercise of police discretion;
- **Provide initial and recurring training** that sends a clear, consistent and emphatic message that **bias-based profiling, and other forms of discriminatory policing, are prohibited.** Training should include:
  - (a) Relevant legal and **ethical standards;**
  - (b) Information on how **stereotypes and implicit bias** can infect police work;
  - (c) Importance of **procedural justice and police legitimacy** on community trust, police effectiveness, and officer safety;
  - (d) **Training to supervisors and commanders** on detecting and responding to **bias-based profiling and other forms of discriminatory policing;**
  - (f) **Include community members** from groups that have expressed high levels of distrust of police;
- **Eliminate all forms of workplace bias** from the Ferguson Police and the City of Ferguson;
- Ferguson can, should **attract and hire a more diverse group of qualified police officers, especially African Americans, in an overall effort at increasing community trust and improving officer behavior** to police respectfully, effectively, lawfully and with integrity.

- **Establish independent oversight of the Ferguson Police Department.**

## **EXECUTIVE REPORT SUMMARY**

In summary, with no systems in place or adherence to established policies to ensure officers operated within the bounds of the law resulted in a police department that did not give its officers supervision needed to do their jobs safely, effectively, and constitutionally. It was less likely that officers would be held accountable for excessive force and more likely constitutional violations occurred creating potentially devastating liability for the City. As a result, the Department of Justice (DOJ) made numerous recommendations covering every aspect of policing, training, supervision and interactions with the Ferguson community; including specific recommendations for use of force and reporting. Those uses of force recommendations believed to be applicable to the Fairfax County Police Department are included in following recommendations to the Use of Force Sub Committee of the Fairfax County Ad Hoc Police Practices Review Commission.

## **RECOMMENDATIONS FOR CONSIDERATIONS—FAIRFAX COUNTY POLICE**

There were a number of sound recommendations by the Department of Justice (DOJ) Report of Investigation (105 pages) initiated September 4, 2014, under Federal Civil

Rights Law, finalized March 4, 2015, and posted at:

[http://www.justice.gov/sites/default/files/opa/pressreleases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/pressreleases/attachments/2015/03/04/ferguson_police_department_report.pdf)

However, following recommendations are limited to use of force, the charge of this sub-committee:

- **Diversity**
- **Training**
- **Supervision**
- **Accountability**
- **Community Stakeholders**
- **ECW's**
- **Residency**
- **Independent Oversight**

## **DIVERSITY**

**The DOJ investigation recommended recruiting more African Americans**, with the caveat. I also agree that enhanced diversity with African Americans, especially in communities with high percentage living is necessary for overall sound, just policing.

As an African American, retired law enforcement Officer, I can attest that pressures to be accepted by your police officer colleagues, and others, at a police department or agency can be overwhelming, leading to unjust policing and unwarranted uses of force. Recruitment/hiring of minorities and others are critically important in an attempt to ensure officers with integrity and intestinal fortitude to do the right thing; regardless of internal police challenges or those encountered when interacting with citizens.

- Use of force sub committee emphasizes with appropriate sub committee regarding recruitment/hiring the importance of diversity and its potential positive, negative impact when there is a dearth of qualified minorities.

## **TRAINING**

**The DOJ investigation highlighted training for the FPD, to include initial and recurring to which I agree appropriate for use of force; as training is one of the critically key cornerstones of sound and just policing impacting use of force.**

I'm concerned with several responses received from FFCP Training Academy staff on June 3, 2015, requiring further discussion, review by the sub-committee; specifically, in the context of having a direct or indirect nexus to use of force. I have personal, negative experiences with FFCP regarding Field Training Instructors (FTIs), new officers; as well as officers with more than two (2) years tenure. Therefore, recommend Training Academy or FFCP Command, as appropriate:

- Provide ALL data, for subcommittee review, regarding FTIs; their selection, training, evaluations and tenures in positions up to five (5) years. I have personal, negative experiences in the field, as a civilian, with FTIs further supporting this recommendation;
- Provide enhanced Training and issue ECW's (Tasers) to ALL police officers; regardless of rank or assignment. The June 3 explanation for not carrying Tasers, due to **no** room on the Sam Brown belt, must be countered by making room to carry a less deadly use of force option in addition to the sidearm;
- Mandate ALL uniform patrol officers, regardless of rank, carry a Taser, in addition to sidearm;
- Mandate ALL detectives and plainclothes officers, regardless of rank, carry Tasers in vehicles when on duty;
- Provide mandatory, recurring training to Probationary Officers within two (2) years of ending probation to enhance, ensure training taught in the Academy is properly balanced with realities "in the field". It's more likely probationary officers are being told that handling realities in the field are, may be, contrary to that acknowledged or known by training staff officers on June 3;

- Provide data regarding evaluations, to include any recommendations, comments, regarding individual academy training staff, by the appropriate Captain, or Deputy Chief, beyond any outside agency certification.

## **SUPERVISION**

**The DOJ investigation highlighted poor supervision**, and/or lack of by the FPD; which is another cornerstone of sound, just policing having an importance to the use of force. Therefore, based on information, and comments made to-date, in the use of force sub-committee; as well as, personal, negative experiences with failure by FFCP supervisory and command staff to reasonably and timely respond to requests for explanation of questionable police actions, although legally justified, is further basis for below recommendation. Poor supervision, or the lack of, has a direct correlation to unjust, bias policing and inappropriate use of force. Therefore, recommend:

- FFCP provide ALL data, where legally permissible, for ALL use of force investigations (deadly); as well as, randomly selected use of force, with non-deadly or serious injuries; specifically for actions taken, not taken, to include opportunities for training, by supervisors, Commanders up to and including the Chief of Police, on the scene or not.

## **ACCOUNTABILITY**

The DOJ investigation highlighted failure by FPD supervisors up to and including the Police Chief to not only review, but to hold officers in use of force situations culpable for their actions. Data revealed that FPD “found all but one [1] of 115 incidents reviewed to be within policy. Accountability begins at all levels of interaction with the FFCP. Non-accountability for lack luster or non-performance can be precursors to unjust uses of force “in the field.” Therefore, based on commentary by other committee members in the use of force sub committee, as well as my own personal experiences (regarding above traffic stops). Recommend:

- FFCP provide randomly selected complaints, at all levels of use of force and non-uses of force, to the sub-committee for evaluation of appropriate accountability, discipline issued, formal or informal, of involved officers and others.

## **COMMUNITY STAKEHOLDERS**

I agree with DOJ’s recommendation regarding the overall importance of community stakeholders and specifically, its importance in minimization of the use of force. The use of force sub committee has heard community stakeholders are a more pertinent topic to another sub committee. However, I offer its importance, never-the-less, to use of force in that a supportive community can help minimize uses of force by Officers.

Recommend:

- Coordination with appropriate sub committee regarding community stakeholders as being potentially critical in helping minimize uses of force;
- Discuss, provide any recommendations for review, input from use of force sub committee to appropriate sub committee

### **ECW's (Tasers)**

FFCP should **immediately require mandatory carrying of ECWs (Tasers)**, in addition to sidearms, as potentially less deadly alternatives. Reason not to do so by FFCP Academy training staff on June 3, 2015, is not accepted as valid.

### **RESIDENCY**

DOJ Investigators didn't state a residency requirement for FPD. Never-the-less, **recommend requirement as appropriate for FFCP** overall and specifically beneficial to use of force for below reason:

- Police Officers, and others, living in a community more than likely will be inherently more deposed to policing justly; then if having an ability to police without thinking or in accordance to policies and then retiring to a community where it is less likely they will face the consequences of their actions; if unjust.

### **INDEPENDENT OVERSIGHT**

DOJ Investigators recommended independent oversight of the FPD based on **substandard policing negatively impacting the city of Ferguson, especially African American citizens**, done in collusion with other City Departments.

FFCP does not meet the dismal standard of FPD for independent oversight. However, FFCP meets the standard based on preliminary, partial data and limited discussions (due to current in court proceedings); as well as uses of force discussions (non-deadly) by specific committee members that justify serious consideration for independent oversight to ensure every aspect of FFCP police operations is responsive to citizens safety, well being; as well as receipt of just and respectful policing. Therefore, recommend In-depth discussion on establishing independent oversight of the FFCP, composed of (number of each to be recommended by sub-committee):

- Citizens from a recognized body, such as NAACP, Urban League or similar group;
- Independent citizen(s) residing legally in Fairfax County;
- FFCP police officer;



- Law enforcement official, current or retired, from a recognized body, such as FBI, State Police, etc.;
- Supervisor or representative of Fairfax County Board of Supervisors;
- Any other person deemed to be beneficial for independent, fair and sensible oversight to the benefit of citizens, FFCP and Fairfax County Government.

## **DOJ INVESTIGATION FAIRFAX COUNTY POLICE**

**DOJ Investigators conducted investigation of the FPD based on discriminatory actions identified as deeply entrenched with practices, priorities that were incompatible with lawful and effective policing** damaging community trust. Adrian Steel, member of the use of force sub committee , has made written recommendation, June 5, 2015, that there is no need for a DOJ investigation of the FCPD.

**I disagree with this definitive position, at this point. Recommend waiting for additional review, discussion of forthcoming data, discussion regarding FCPD operations before a decision is made.**

.

## **CONCLUSION/RECOMMENDATION TO USE OF FORCE SUB-COMMITTEE:**

The DOJ investigation of the Ferguson Police Department, and other City Agencies, concluded there was a systemic conspiracy to raise revenue at the expense of Ferguson citizens, especially African American; and in the process, violated Constitutional and internal policies of all agencies. To date, there is no evidence that the Fairfax County Police Department has degenerated to such dismal policing or widespread systemic failures, collusions to deprive citizens of the County. However, there is FCPD data and personal experiences of use of force committee members that warrant serious consideration for **establishment of an independent oversight committee.**

It is therefore recommended that there be **continued review of data, discussions regarding whether a Department of Justice (DOJ) investigation is warranted;** even though a written opposition to such investigation was forwarded dated June 6, 2015, to the committee by committee member Adrian Steel.

