

**Ad Hoc Police Practices Review Commission  
Use of Force Subcommittee  
July 29, 2015, 7:00PM  
Room 232, Fairfax County Government Center**

**Subcommittee members present:**

Sal Culosi  
William Moncure  
Phil Niedzielski-Eichner  
Randy Sayles  
Jodi Shlesinger  
Michael Shumaker  
Joseph Smith  
Adrian Steel  
George Becerra  
Joe Cammarata  
Ralph Cooper

**Not present:**

Hassan Aden  
Mary Kimm  
Bernard Thompson

**Others present:**

Clayton Medford  
Katie Boyle  
Anita Culosi  
Gordon Dean  
Gervais Reed  
Yani Yancey  
Matt Graham  
Jeff Stewart  
Tom Ryan  
Mike Kline

Mr. Niedzielski-Eichner opened the meeting at 7:01pm by welcoming members and the public.

Will McLaughlin, Boy Scout, is in attendance to earn a merit badge.

Mr. Niedzielski-Eichner reviewed the night's agenda, and the process for moving forward with final recommendations.

Mr. Niedzielski-Eichner said Mr. Hershman, Commission Chairman, will rely on subcommittee reports to be the core of the Commission's report and the executive summary, introduction and background will integrate all of them.

Mr. Niedzielski-Eichner asked Deputy Chief Ryan to comment on the Sunday July 26<sup>th</sup> Washington Post Op Ed story regarding the FCPD action against Alex Horton. Mr. Ryan said the Commander at the relevant station had conducted an inquiry based on a concern voiced by Mr. Horton. The Internal Affairs Bureau (IAB) is also looking into the incident.

Mr. Ryan asked IAB's Mr. Kline to provide background on the incident. Mr. Horton made a complaint with line-level supervisor on June 14. That day, the supervisor wrote up summary of complaint, which is not different from what was in the Post. Mr. Horton said the room clearing was efficient but his problem was with the policy if officers are in fact to clear the room in that manner.

Mr. Horton was authorized to be in the apartment, was an Iraq War veteran, and was not doing anything wrong. But the one who made the 911 call, a dentist, was not aware of these facts. The police

perspective, “vagrants” range from homeless looking for a place to sleep, drug addicts, extremely intoxicated people, people with multiple warrants, fugitives from out of state or the mentally ill in need of hospitalization.

Officers are also trained to knock-and-announce – knocking very loud. Mr. Kline said Mr. Horton did not hear the officer’s loud knocking and the announcing of their presence.

Therefore, when an officer knows there is someone inside and they do not respond, they enter prepared for the possibility that anyone inside could be armed. With this possibility, training dictates that rooms be cleared with weapons drawn. When the officers determine there is no threat, they holster their weapon.

Mr. Steel asked about whether the security was contacted as Mr. Horton suggested, which could have prevented the situation. Mr. Kline said the guard gave the officers access to the outside door.

Mr. Shumaker asked where the dentist was during this. Mr. Kline said he stayed outside the door. Mr. Shumaker asked whether he was at risk. Mr. Kline said he couldn’t answer that. Mr. Shumaker asked when FCPD notified management. Mr. Kline said he did not know. Mr. Shumaker asked how long between 911 call and arrival. Mr. Kline said he did not know – not prepared for detailed questions at tonight’s meeting.

Mr. Niedzielski-Eichner indicated that the main question for Subcommittee consideration at this meeting should be whether or not it is Departmental policy to point a gun at the individual or maintain the weapon in a “ready gun” posture.

Mr. Kline addressed Mr. Horton’s concern over waking up with guns pointed at him. Mr. Kline said the resident was covered by a blanket.

Mr. Culosi noted that the management office was closed on Sunday. Mr. Steel and Ms. Shlesinger said the security guard should have known Mr. Horton was in the model apartment.

Mr. Shumaker repeated his question about whether the dentist being outside his apartment during the entry was in line with FCPD policy. Mr. Ryan said he didn’t believe he would be in danger but the inquiry into what happened is still ongoing so he cannot say definitively where he was. Mr. Ryan said by the next meeting the inquiry should be complete.

Mr. Kline then showed a video of an entry into a trailer that had been illegally occupied and in which the occupant had a weapon and reached for it as the officers entered the structure.

Mr. Becerra asked if Oversight Subcommittee should updated this subcommittee on its work. Mr. Niedzielski-Eichner said the subcommittee is under a time constraint and the focus must continue to be on narrowing the recommendations to their final form.

The discussion moved to the draft outline of the report as presented by Mr. Niedzielski-Eichner. He proposed an Executive Summary, Introduction (with paragraph-sized subsections on Scope, Work Plan, Lines of Inquiry (Q&As) and Resources, Studies and Activities), Findings, Recommendations and Conclusion.

Mr. Culosi said the what, not the how, of the recommendations is most important; the summary and introduction should be minimal and the report should focus on recommendations.

Mr. Moncure moved to adopt outline, Mr. Sayles seconded, motion passed unanimously.

Discussion moved to recommendations and the categories proposed and presented by Mr. Niedzielski-Eichner. He proposed the categories to be: PERF Report, Guardian Culture, UOF Policies & Practices, SWAT, Tasers/ECWs, Cameras' HR Policies & Practices, Training, Community Trust, Data Collection/Reporting and Oversight.

Mr. Culosi recommended transmitting the Oversight recommendations to the Oversight and Investigation Subcommittee. Mr. Steel, who is also a member of that Subcommittee, offered that while there is overlap, some of the recommendations might be relevant to the UOF Subcommittee. Mr. Culosi believes the oversight recommendations should be omitted, and Mr. Stewart described how Mr. Niedzielski-Eichner's process would accomplish that.

Mr. Shumaker said the PERF Report category recommendations are part of the PERF Report and don't need to be included. Mr. Niedzielski-Eichner said where there is overlap with PERF recommendations, the default language should be that used in the PERF Report. A member of the subcommittee will scrub the subcommittee's recommendations for potential overlap with PERF Report. Mr. Smith concurred with this process.

Mr. Niedzielski-Eichner asked whether the subcommittee wants to rank its recommendations. Mr. Culosi relayed his understanding of the report format.

Mr. Becerra relayed his understanding that the report will be whole when it is delivered to the Board of Supervisors. Mr. Niedzielski-Eichner deferred to Mr. Hershman and said he did not know the final form and how the recommendations will be presented.

Mr. Smith said since use of force is central to the Commission's work, it would be beneficial to prioritize the categories but there may be some recommendations that need to be prioritized above its category. Also, some recommendations are not strictly use of force.

Mr. Cooper said he does not see how these recommendations improve public trust. There are a lot of policy recommendations but we don't seem to see bridging that gap. Mr. Stewart said on the other subcommittees, particularly Oversight and Communications, the recommendations revolve around perception. The use of force brings us to the accountability recommendations. The Subcommittee discussed how implementation of many of the recommendations would support and be expected to have a positive impact rebuilding public trust.

Mr. Moncure moved to approve the recommended categories, as amended, for organizing the recommendations. The motion had multiple seconds.

Discussion was opened. Mr. Cammarata asked what the next step is for tonight. Mr. Niedzielski-Eichner said walking through recommendations. Mr. Niedzielski-Eichner said vote on recommendations will be held on August 12. Mr. Cammarata asked whether the Subcommittee could move to the recommendations and beyond the categories.

Mr. Becerra moved that the category "Community Trust" be changed to "Public Trust." The motion was seconded by Mr. Cammarata and the motion passed with Mr. Steel voting no. Mr. Cammarata "called the question" on the main motion. The main motion, as amended, passed unanimously.

The Subcommittee reviewed recommendations from the following for possible inclusion in the final report:

- Chip Moncure
- Randy Sayles
- Sal Culosi
- Mike Shumaker
- Adrian Steel
- Mary Kimm
- Jodi Schlesinger
- Bernard Johnson
- Ralph Cooper
- George Becerra
- Joseph Smith

Moving to the matter of the minutes of the July 15<sup>th</sup> meeting, a motion was made by several members to approve the minutes, with multiple seconds. Ms. Shlesinger moved that her statement about Chief Roessler about narcotics/SWAT/risk assessment be reflected in the minutes and with multiple seconds the motion passed unanimously. The minutes, as amended, were approved unanimously.

Mr. Niedzielski-Eichner asked the public for comments for the Subcommittee.

Mr. Stewart said the officer he rode along with has only used the use of force simulator once in 18 years despite trying, due to limited staffing/resources. Mr. Stewart said the training should be mandatory, perhaps twice annually.

Ms. Shlesinger asked about the Aug 12 meeting. Are there provisions being made for votes by members not in attendance? Mr. Niedzielski-Eichner said that is not possible.

Mr. Culosi and Mr. Cammarata sought clarification on how recommendations will be finalized. Mr. Niedzielski-Eichner indicated that he will organize the recommendations into the approved categories, identify those that he believes should be forwarded to other Subcommittees as more pertinent to their scope, and also identify those that do not warrant further consideration. He will assign categories to individual Subcommittee members to review, organize and consolidate in preparation for the August 12<sup>th</sup> meeting.

He noted that if a particular recommendation that is identified as being more appropriately within the scope of another subcommittee or as warranting no further consideration, any member can move the recommendation be returned to UOF Subcommittee consideration upon majority approval to do so.

The Subcommittee further discussed the ground rules for this process.

Mr. Shumaker moved to file a FOIA request with FCPD on the summaries of use of force incidents, seconded by Mr. Sayles. The motion was considered by the Subcommittee.

Mr. Niedzielski-Eichner said the summaries of the use of force cases are still in preparation, modeled after the Philadelphia approach. He said he has been assured they will be made available to the Subcommittee soon. Mr. Niedzielski-Eichner said the subcommittee has received two analyses, with redactions, from the FCPD Use of Force Committee and he understands more are in the works. These are the two items currently being prepared for the subcommittee.

After discussion of the motion, the question was called by Mr. Cammarata. The motion was not approved with three aye (Shumaker, Shlesinger, Sayles) and seven no (Cooper, Becerra, Culosi, Smith, Steel, Niedzielski-Eichner, Moncure).

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Minutes prepared by Clayton Medford, Office of Chairman Sharon Bulova  
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