COLLABORATIVE REFORM INITIATIVE

Assessment Report on the Fayetteville Police Department

Denise Rodriguez, Laura Kunard, Will Johnson,
James LaRochelle, and Zoë Thorkildsen

COPS
Community Oriented Policing Services
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ANALYSIS & SOLUTIONS

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Letter from the Director

Dear colleagues,

As many American law enforcement leaders review their policies and address the issue of trust and legitimacy within their communities, some departments are taking these issues head on by taking proactive steps to improve police-community relations.

An inspiring example of this is North Carolina's Fayetteville Police Department (FPD), whose chief, Harold Medlock, voluntarily requested participation in the Office of Community Oriented Policing Services' (COPS Office) Collaborative Reform Initiative for Technical Assistance (CRI-TA) as a way to improve his department's policies and procedures.

A nonadversarial but rigorous process that helps agencies develop long term strategies for sustainable, positive change, CRI-TA requires a comprehensive assessment of a police department's key operational areas. By identifying issues that affect public trust, agency effectiveness, and officer safety, CRI-TA helps agencies develop long term strategies for sustainable, positive change and can assist them in building positive, collaborative relationships with the communities they serve.

The COPS Office and the FPD are working together to assess the department's policies, training, and operations with a focus on the use of force and interactions with the community. This report summarizes their initial findings and recommendations for improving the FPD's policies and procedures in those areas.

This is a labor-intensive effort and requires the commitment and participation of many stakeholders. To that end, the CRI-TA team conducted five site visits and interviewed 73 department personnel. Members of the community participated as well, devoting time to meetings and interviews. All of these individuals are to be commended for their efforts to promote justice and public safety.

It is our hope that this report on the FPD's efforts can serve as a guide to police departments and communities across the country. In recommending strategies for preventing as well as responding to problems, it can serve as a road map for the implementation of practices which strengthen relations between law enforcement agencies and the people they serve.

On behalf of the COPS Office, I thank Chief Medlock and his department. They exemplify the highest standards of community policing—and set an example of collaboration and dedication to fair and impartial policing that we hope to see everywhere going forward.

Sincerely,

Ronald L. Davis
Director
Office of Community Oriented Policing Services

Acknowledgements

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Our colleagues at CNA provided valuable feedback and support. Many thanks to the Executive Vice President of CNA's Institute for Public Research, Tim Beres; Vice President of the Safety and Security Division, Dave Kaufman; Managing Director of the Safety and Security Division Justice Programs, Dr. James "Chip" Coldren; Stephen Rickman; Vivian Elliott; Ashley Shultz; Rachel Mathieu; and Andrea Wiltse.

Most of all, we want to express our deepest gratitude to the members of the Fayetteville community and the Fayetteville Police Department. We thank the community members who participated in the May 14, 2015 listening session, as well as in individual interviews and telephone conversations; Fayetteville State University for assisting us in coordinating the listening session and providing the location; and the entire Fayetteville Police Department for the many candid conversations about the department's affairs.

Collaborative Reform assessment team

Denise Rodriguez, Principal Investigator

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Executive Summary

Police leaders and researchers agree that policing in the 21st century, specifically police-community relationships, has reached a tipping point. The community's uproar in response to a number of officer-involved shootings since 2014 has highlighted the strain and lack of trust among some police agencies and the communities they serve. In response to community concern, the President formed the Task Force on 21st Century Policing. After convening police executives, researchers, and community leaders to discuss potential solutions to this issue, the task force produced a report[1] documenting a number of recommendations for police agencies across the country to increase legitimacy, improve accountability, and build trust.

Reevaluating policing strategies, policies, and training is an integral part of meeting these objectives. As a result, a number of police executives across the nation have proactively sought assistance in identifying and addressing gaps in policy, training, and community outreach strategies before a critical incident occurs. Such approaches can potentially mitigate community uproar and calls for civil rights investigations and consent decrees.

One police department showing such initiative is the Fayetteville (North Carolina) Police Department (FPD). Since being appointed chief of the department in February 2013, Chief Harold Medlock has made a number of organizational changes, such as moving from two patrol sectors to three, instituting a sector lieutenant position, implementing a Chain of Command Review Board (CCRB), and requiring all officers to attend training on fair and impartial policing. Then, in fall 2014, he requested technical assistance from the U.S. Department of Justice's (DOJ) Office of Community Policing (COPS Office) through its Collaborative Reform Initiative for Technical Assistance (CRI-TA).

The COPS Office and the FPD established the goal of collaboratively reforming FPD policies, training, and operations as they relate to use of force and interactions with members of the public, taking into account national standards, best practices, current and emerging research, and community expectations. The COPS Office and the FPD agreed upon the following objectives:

- Improve FPD policy as it relates to use of force and interactions with the community.
- Improve the quality and transparency of deadly force investigations from both a criminal and administrative standpoint.
- Improve FPD training as it relates to use of force and interactions with the community.
- Improve oversight and accountability for uses of force, traffic stops, and pedestrian stops conducted by FPD officers.
- Improve community engagement at all levels of the department, particularly with communities of color.

This report assesses the current department status of use of force policy, training, investigations, and community outreach strategies in the FPD. A team of researchers, analysts, and subject matter experts conducted the assessment over a seven-month period beginning in January 2015.

1. President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing* (Washington, DC: Office of Community Oriented Policing Services, 2015), http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf.

Data collection and analysis

Over the course of the assessment, the team conducted five site visits, interviewed 73 department personnel and 31 community members, held a community listening session, observed police training and other activities, and conducted 12 ride-alongs. In addition, the team reviewed departmental policies, memos, training lesson plans, deadly force investigation files, Internal Affairs (IA) files and annual reports, and CCRB memos and conducted data analysis of use of force reports, traffic stops, field interviews, and complaints.

As part of the data analysis of the use of force incident reports, traffic stops, and field interviews, the team examined the impact of race on the reasons for and outcomes of these events. As such, the team feels it is important to note that concerns about racially biased policing practices among law enforcement in general are not new and have recently been highlighted in the *Final Report of the President's Task Force on 21st Century Policing*. However, when using aggregate data, as in this report, there are important limitations when exploring the possibility of racially biased practices by officers. While a great deal of guidance has been published explaining valid methods of analyzing race data from traffic stops, field interviews, and other police activities,[2] no one clear methodology has emerged as both effective and efficient. In this case, by *effective*, we mean a method that can clearly establish the underlying cause of racial disparities in enforcement actions; by *efficient*, we mean a method that can be easily accomplished using typically available data. Thus, the assessment team cautions that throughout this report, it reports findings concerning the FPD's policing activities as they relate to the race of the suspects, offenders, and members of the public with whom the police engage. While the team is able to establish in many cases that disparity in enforcement, outcomes, and other behavior exists, because of limitations in the data and the defined scope in which this analysis was conducted, it cannot identify with certainty the underlying cause of the disparity nor whether it reflects intent (explicit or implicit) on the part of FPD's officers.

Through data analysis, interviews, observations, and document review, the assessment team was able to identify recurring themes, gaps, and areas for improvement related to use of force policies and procedures. As a result, it developed 49 findings and 76 recommendations. The findings—coupled with a review of national standards and best practices when possible—informed the recommendations documented in this report. The section that follows highlights key findings and recommendations. A complete list of findings and recommendations noted throughout this report can be found in the appendix.

2. Lorie Fridell, *By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops* (Washington, DC: Office of Community Oriented Policing Services, 2004), http://ric-zai-inc.com/Publications/cops-w0242-pub.pdf; Lorie Fridell, *Understanding Race Data: A Stakeholder's Guide* (Washington, DC: Office of Community Oriented Policing Services, 2005), http://ric-zai-inc.com/Publications/cops-w0220-pub.pdf; Joyce McMahon, et al., *How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends On It!* (Washington, DC: Office of Community Oriented Policing Services, 2006), http://ric-zai-inc.com/Publications/cops-p044-pub.pdf; Lorie Fridell, *Racially Biased Policing: Guidance for Analyzing Race Data from Vehicle Stops Executive Summary* (Washington, DC: Office of Community Oriented Policing Services, 2005), http://ric-zai-inc.com/Publications/cops-w0173-pub.pdf; Joyce McMahon and Amanda Kraus, *A Suggested Approach to Analyzing Racial Profiling* (Washington, DC: Office of Community Oriented Policing Services, 2005), http://ric-zai-inc.com/Publications/cops-p071-pub.pdf.

Key findings and recommendations

Analysis of use of force and complaints in the Fayetteville Police Department

Finding: The FPD's use of force and citizen[3] and departmental complaints record keeping systems are insufficient for maintaining accurate records of use of force incidents. **(3)**

Recommendation: The FPD should ensure that all key variables, such as demographic information and level of resistance, are consistently captured in every citizen and departmental complaint and use of force report. *(3.1)*

Finding: The FPD's Use of Force Report database and associated Incident Summary Reports are not equipped to handle complex use of force incidents including multiple officers and citizens. In addition, the FPD does not consistently record key variables for use of force and citizen and departmental complaints. **(1)**

Recommendation: The FPD should revise its Use of Force Report database to ensure that unique officer-incident-citizen dynamics are properly associated. *(1.1)*

Use of force policies and procedures

Finding: The FPD's General Order 4.11 "Use of Deadly Force" allows officers to fire warning shots. Warning shots can lead to unintended injury to the suspect(s), the public, and officers. **(10)**

Recommendation: The FPD should revise General Order 4.11 to prohibit officers to fire warning shots under any circumstances. *(10.1)*

Finding: De-escalation is a minor component of FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" and General Order 4.11 "Use of Deadly Force." **(11)**

Recommendation: The FPD should revise General Order 4.1 and General Order 4.11 to highlight the importance of de-escalation. *(11.1)*

Finding: The FPD's narrative of the Force Option Model within both General Order 4.1 "Use of Nondeadly and Less-Lethal Force" and General Order 4.11 "Use of Deadly Force" is vague and provides little guidance on the components of the model and officer's response as it relates to the model. **(13)**

Recommendation: The FPD should provide a detailed narrative description of the Force Option Model within General Orders 4.1 and 4.11. *(13.1)*

Training: Use of force and community policing

Finding: The FPD's current overall training strategy fails to consider important community characteristics of Fayetteville. **(16)**

Recommendation: All FPD personnel should undergo training that emphasizes sensitivity and awareness addressing Fayetteville's community characteristics, including training on the military community, people with mental illness, building cross-cultural understanding, and the LGBTQ community. *(16.1)*

3. This report uses "citizen" to refer to all individuals in a city or town who are not sworn law enforcement officers or government officials. It should not be understood to refer only to U.S. citizens.

Finding: The FPD's current overall training strategy fails to emphasize the philosophy of community-oriented policing. **(17)**

Recommendation: All current FPD personnel should undergo in-service training on community-oriented policing and the SARA (scanning, analysis, response, assessment) model. *(17.1)*

Finding: The FPD focuses mostly on state-mandated training standards rather than using training as a tool to achieve strategic departmental goals and objectives. **(18)**

Recommendation: The FPD should develop a strategic training plan that identifies goals and objectives beyond state-mandated minimum standards. This training plan should advance community policing efforts, communication and de-escalation techniques, cultural competencies, and problem solving. *(18.1)*

Investigations

Finding: FPD officers who use deadly force are not required to provide a public safety statement to the first-responding supervisor. **(27)**

Recommendation: The FPD should establish a standard checklist of public safety questions for the first responding supervisor. *(27.1)*

Finding: The lack of information-sharing protocols between the FPD and the State Bureau of Investigation significantly hinder the FPD's investigative efforts. **(28)**

Recommendation: The FPD should establish a formal information-sharing protocol with the State Bureau of Investigation and the District Attorney's Office regarding deadly force incidents involving FPD officers. *(28.1)*

Finding: The FPD's IA Unit focuses its administrative investigation almost exclusively on policy and the actions of the officer who used deadly force at the moment of force itself. This narrow approach hampers the FPD's ability to adequately probe all the issues that could be found in a training and tactical review. **(31)**

Recommendation: IA investigators should significantly expand the scope and purpose of their investigation. *(31.1)*

Oversight and accountability

Finding: The FPD does not track the implementation of CCRB recommendations. **(36)**

Recommendation: The FPD's Operational Procedure1.1 "Internal Investigative Procedure" should state who is accountable for implementing CCRB approved policy and training recommendations. *(36.1)*

Finding: CCRB memos lack a common format and are inconsistent in the level of information presented. **(37)**

Recommendation: The FPD should develop a template to ensure consistency across CCRB memos. *(37.1)*

Finding: Improvements to the design of the CCRB are necessary to improve accountability of the board and improve the effectiveness of the disciplinary process. **(38)**

Recommendation: The FPD's Operating Procedure 1.1 "Internal Investigative Procedure" should clarify supervisory responsibilities during an internal investigation. *(38.1)*

Analysis of traffic stops and field interviews in the Fayetteville Police Department

Finding: Although in decline, racial disparities in motor vehicle stops persist; an analysis of searches and enforcement activity also indicates Black motorists are more likely to receive a citation or to be searched than White motorists. **(43)**

Recommendation: The FPD should monitor officer activity closely for disparate treatment. *(43.1)*

Finding: FPD General Order 1.8 "Preventing Biased Policing and the Perception of Biased Policing" reporting standards are unclear, and the aggregate reporting should be expanded. **(44)**

Recommendation: The FPD should conduct an aggregate analysis of biased policing reporting on an annual basis and release these reports to the public. *(44.2)*

Community engagement

Finding: The FPD lacks a systematic mechanism to hear community voices on critical organizational and community issues. **(47)**

Recommendation: The FPD should use the newly Community Advisory Committee to provide community insights to the FPD on a variety of issues. *(47.1)*

Finding: The FPD emphasizes a community-policing strategy, but the entire organization is not engaged toward this goal at the same or appropriate levels. The FPD has not yet embraced community policing as a philosophy, so it does not inform departmental planning and decision making to the extent that it should. **(48)**

Recommendation: The FPD should adopt procedures for all sworn officers to connect with community members, especially after critical incidents (e.g., shootings) that happen in neighborhoods. *(48.1)*

Finding: There is little incentive for FPD employees to embrace the philosophy of community policing because the evaluation structures in place do not include relevant activities. **(49)**

Recommendation: The FPD should reinforce the importance of community-policing activities through their formal performance evaluation mechanisms. *(49.1)*

Conclusion and next steps

Since his appointment, Chief Medlock has made a number of organizational changes within the FPD such as moving from two patrol sectors to three, instituting a sector lieutenant position, implementing a CCRB, and requiring that all officers attend fair and impartial policing training. These changes, along with his proactive request for a CRI-TA assessment, are all indicators that the FPD is on the right track to positive reform and improvement. In addition to the implementation of the reforms noted in this report, continual refinement of these reforms will be essential to the continued success and sustainment of the progress within the department.

Over the next 18 months, the CRI-TA assessment team will work with the FPD and the COPS Office to monitor and assist in the implementation of the reforms. The department's progress will be published in two monitoring reports, an initial progress report and a final progress report.

Chapter 1. Introduction

As part of the U.S. Department of Justice's (DOJ) Office of Community Oriented Policing Services (COPS Office) Collaborative Reform Initiative for Technical Assistance (CRI-TA), the Fayetteville (North Carolina) Police Department (FPD) voluntarily engaged in an assessment of its policies, training, investigations, and community outreach strategies as they relate to use of force. A team of researchers, analysts, and subject matter experts conducted the assessment over a seven-month period beginning in January 2015.

Over the course of the assessment, the team conducted five site visits, interviewed 73 department personnel and 31 community members, held a community listening session, observed police training and other activities, and conducted 12 ride-alongs. In addition, the team reviewed departmental policies, memos, training lesson plans, deadly force investigation files, and annual reports and conducted data analysis of use of force reports, traffic stops, field interviews, and complaints.

This report documents the team's findings, presents the current department status as related to these issues, and provides recommendations to address gaps or areas for improvement.

Fayetteville Police Department

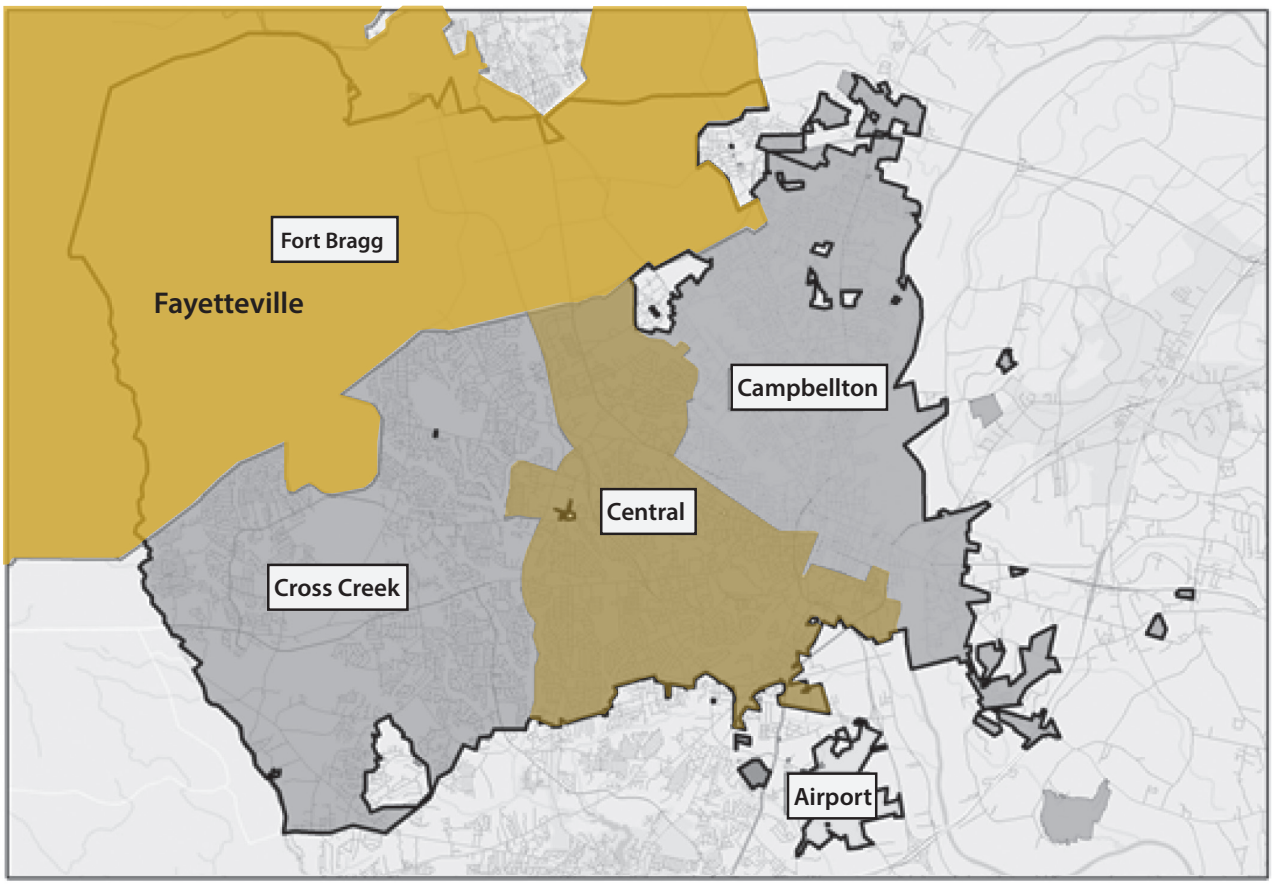
The city of Fayetteville, North Carolina, is the sixth-largest municipality in the state and has a population of approximately 200,000 people. Of this population, 45.7 percent are White, 41.9 percent are Black (or African American), 1.1 percent are American Indian, 2.6 percent are Asian, and 10.1 percent are Hispanic.[4] The city is also home to Fort Bragg, a major U.S. Army installation. The FPD patrols 95.2 square miles with 433 sworn officers and 160 civilian staff, for a total of 593 personnel.[5]

The FPD patrol area is divided into three patrol districts—Campbellton, Central, and Cross Creek—as well as the area around the airport (see figure 1). Since the appointment of Chief Harold Medlock in 2013, the FPD has undergone a number of organizational changes, including the implementation of a sector-based policing concept. This concept aligns lieutenants with specific geographical areas of responsibility. A district captain oversees each of the three patrol districts, which are further broken into three sectors, each of which a lieutenant oversees. The Assistant Chief of the Patrol Operations Bureau provides supervision of all three districts. In addition to the Patrol Operations Bureau, the FPD has an Administrative Bureau and an Investigative Bureau, each of which is overseen by an Assistant Chief. Medlock oversees all three bureaus.

4. "State and County QuickFacts: Fayetteville (city), North Carolina," U.S. Census Bureau, U.S. Department of Commerce, accessed November 17, 2015, http://quickfacts.census.gov/qfd/states/37/3722920.html.

5. Fayetteville Police Department, in collaborative conference with CNA assessment team, November 9, 2015.

Figure 1. FPD patrol districts



Source: Esri, HERE, DeLorme, MapmyIndia, @ OpenStreetMap contributors, and the GIS user community

Collaborative Reform Initiative

From March to September 2014, at the request of Chief Medlock, the DOJ's Office of Justice Programs Diagnostic Center conducted a review of the FPD. This review focused on identifying data-driven solutions to address violent crime among young offenders, improving community-police relations, and reviewing internal policies and procedures. One of the items highlighted by this review was the recommendation that the FPD ask to participate in the COPS Office's CRI-TA to further examine issues related to use of force. Therefore, in November 2014, Medlock made a formal request to participate in CRI-TA, and the assessment began in January 2015.

The goal of CRI-TA for the FPD is to reform the department's policies, training, and operations as they relate to use of force and interactions with citizens[6], taking into account national standards, best practices, current and emerging research, and community expectations. To achieve this goal, the FPD and the COPS Office agreed to the following objectives:

Improve FPD policy as it relates to use of force and interactions with the community.

- Improve the quality and transparency of deadly force investigations from both a criminal and administrative standpoint.
- Improve FPD training as it relates to use of force and interactions with the community.
- Improve oversight and accountability for uses of force, traffic stops, and pedestrian stops conducted by FPD officers.
- Improve community engagement at all levels of the department, particularly with communities of color.

Organization of this report

This report is organized into nine chapters. In chapter 1, we review the CRI-TA goal and objectives for the FPD. Chapter 2 describes our data collection and analysis processes. Chapter 3 provides an analysis of use of force incidents and complaints and includes an examination of suspect, officer, and incident dynamics in the context of use of force incidents. Chapters 4 through 8 illustrate the operational process related to use of force policies; the training on these policies; the investigation of use of force incidents; the internal review of use of incidents; and finally the engagement of the community before, during, and after such critical incidents. More specifically, chapter 4 provides an assessment of the department's use of force and related policies. Chapter 5 provides an assessment of departmental training related to use of force and community policing. Chapter 6 provides an assessment of the quality of deadly force investigations and the FPD's operational practices in the criminal and internal administrative investigation of deadly force incidents. Chapter 7 examines the department's internal review and oversight processes as well as officer accountability. Chapter 8 provides an analysis of traffic stops and field interviews in the FPD. Chapter 9 presents the department's community-outreach efforts and examines the extent of the police-community relationships. Each of these chapters concludes with the assessment team's findings and recommendations for the department. Finally, the team presents initial conclusions and next steps in Chapter 10.

Note to the reader

In each chapter, the team presents an overview of the chapter's contents and explains the methods used for examining that particular topic area. We then describe the key policies and procedures related to that topic. These descriptions are intended only to highlight the key related policies and procedures; they should not be understood to be complete or comprehensive descriptions and should not be interpreted as approval of the department policy or procedure being described. Concluding statements are reserved for the findings and recommendations section of each chapter.

6. This report uses "citizen" to refer to all individuals in a city or town who are not sworn law enforcement officers or government officials. It should not be understood to refer only to U.S. citizens.

In addition to the above, it is also important to note the following. As part of our data analysis of the use of force incident reports, traffic stops, and field interviews, the team examined the impact of race on the reasons for and outcomes of these events. As such, the team feels it is important to note that concerns about racially biased policing practices among law enforcement in general are not new and have recently been highlighted in the *Final Report of the President's Task Force on 21st Century Policing*. However, when using aggregate data, as in this report, there are important limitations when exploring the possibility of racially biased practices by officers. While a great deal of guidance has been published explaining valid methods of analyzing race data from traffic stops, field interviews, and other police activities,[7] no one clear methodology has emerged as both effective and efficient. In this case, by *effective*, we mean a method that can clearly establish the underlying cause of racial disparities in enforcement actions; by *efficient*, we mean a method that can be easily accomplished using typically available data. Thus, the assessment team cautions that throughout this report, it reports findings concerning the FPD's policing activities as they relate to the race of the suspects, offenders, and citizens with whom the police engage. While the team is able to establish in many cases that disparity in enforcement, outcomes, and other behavior exists, because of limitations in the data and the defined scope in which this analysis was conducted, it cannot identify with certainty the underlying cause of the disparity, nor whether it reflects intent (explicit or implicit) on the part of the FPD's officers.

Finally, while there are many things that the department does exceedingly well, this report by its very nature focuses on areas of improvement. As such, our findings and recommendations reflect that objective.

7. Fridell, *By the Numbers* (see note 2); Fridell, *Understanding Race Data* (see note 2); McMahon et al., *How to Correctly Collect and Analyze Racial Profiling Data* (see note 2); Fridell, *Racially Biased Policing* (see note 2); McMahon and Kraus, *A Suggested Approach* (see note 2).

Chapter 2. Data Collection and Analysis

Overview

The CNA assessment team gathered data using four different methods: (1) interviews with law enforcement personnel and community stakeholders; (2) direct observation of Fayetteville Police Department (FPD) training and policing operations; (3) examination of related internal documents; and (4) analysis of use of force incidents, traffic stops, field interviews, and complaints. Over the course of seven months (January–July 2015), these efforts gave the research team an in-depth understanding of the department, its operations, and its culture with respect to use of force and community relations. The team then identified gaps and areas for improvement, including recommendations necessary to bring the FPD in alignment with best policing practices.

In the following sections, we detail the tasks and activities associated with each of the methods.

Interviews

Interviews with both department personnel and community members played a key part in the team's data collection. These interviews provided important insights on officers' understanding of policies and procedures related to use of force, incident review mechanisms, accountability systems, and perceptions of police-community relationships. Interviews with community members also provided a better understanding of the community's perspectives and concerns regarding the department's use of force and the relationship between the police and the community. Initial interviewees were identified through various sources, including FPD leadership and community leaders. The team relied on these initial interviewees to identify other interested participants. In total, the team interviewed 73 personnel from the department and 31 community members. Interviews were semi-structured and often held one-on-one.

Department personnel

In order to obtain a comprehensive set of police perspectives, the assessment team interviewed 73 members of the department of various ranks and at different levels of the department (e.g., patrol officers, detectives, sergeants, captains, assistant chiefs, and the chief). Interviewees also represented various divisions within the department, including training, Internal Affairs (IA), patrol, crime analysis, homicide investigations, support services, and crime prevention. In addition to interviewing personnel to gain awareness of departmental policies and practices, we conducted more than 40 interviews with patrol officers, selected at random. The random selection was stratified to ensure representation across patrol assignments, ranks, and officer demographics. The interviews of the 40 patrol officers were semi-structured and sought to gauge each officer's perspectives on and knowledge of use of force incidents, the quality of use of force investigations, the adequacy of training related to use of force and community policing, the department's policies and procedures on use of force, and the department's relationship with the community.

Community stakeholders

In addition to FPD personnel, we interviewed 31 community stakeholders, including representatives of the National Association for the Advancement of Colored People (NAACP), First Baptist Church, Fayetteville Urban Ministry, Bringing about Change, Let's Make it Happen Together, the U.S. Attorney's office, the district

attorney, the mayor, the city manager, the city attorney, City Council members, Fayetteville Police Foundation, the State Bureau of Investigation, various media outlets, and a number of community watch leaders. These interviews were semi-structured and often held in person at the interviewees' respective offices or requested locations.

To augment our interviews with community members, the team (in partnership with the COPS Office) also held a community listening session. Community leaders in Fayetteville, North Carolina, were notified via e-mail, phone calls, and flyers. The press release invitation was widely distributed to the public via the COPS Office. This listening session provided community leaders with the opportunity to voice their members' concerns and issues related to FPD use of force and the quality of FPD use of force investigations. The listening session also sought to gather community members' feedback on their relationship with the FPD and ways to enhance and improve community partnerships.

Direct observation

Along with the interviews, the team directly observed some of the FPD's operational activities. Specifically, it observed CompStat meetings on four separate occasions, two Chain of Command Review Board (CCRB) meetings, a Citywide Community Awareness Meeting, academy training, and a training session on search and seizures. Team members also participated in 12 ride-alongs during the five site visits.

Document review

The CNA assessment team reviewed hundreds of documents provided by the FPD, such as policies, training lesson plans, annual reports, IA investigations, CCRB memos, complaints, and use of force incident reports. This review provided the team with a baseline understanding of the department's policies, procedures, and practices related to use of force. We also examined these documents for comprehensiveness; clarity; consistency with current departmental practices; and consistency with national standards, best and emerging practices, and current research.

Data analysis

The data gathered from use of force incident reports, traffic stops, field interviews, and complaints allowed us to identify areas where the FPD could improve its processes, specifically those related to use of force investigations and oversight and accountability.

As part of the data analysis specifically of use of force incident reports, traffic stops, and field interviews, the team examined the impact of race on the reasons for and outcomes of these events. As such, the team feels it is important to note that concerns about racially biased policing practices among law enforcement in general are not new and have recently been highlighted in the *Final Report of the President's Task Force on 21st Century Policing*. However, when using aggregate data, as in this report, there are important limitations when exploring the possibility of racially biased practices by officers. While a great deal of guidance has been published explaining valid methods of analyzing race data from traffic stops, field interviews, and other police activities,[8] no one clear methodology has emerged as both effective and efficient. In this case, by *effective*, we mean a method that can clearly establish the underlying cause of racial disparities in enforcement actions; by

8. Fridell, *By the Numbers* (see note 2); Fridell, *Understanding Race Data* (see note 2); McMahon et al., *How to Correctly Collect and Analyze Racial Profiling Data* (see note 2); Fridell, *Racially Biased Policing* (see note 2); McMahon and Kraus, *A Suggested Approach* (see note 2).

efficient, we mean a method that can be easily accomplished using typically available data. Thus, we caution that, throughout this report, we report findings concerning FPD's policing activities as they relate to the race of the suspects, offenders, and citizens that the police engage with. While we are able to establish in many cases that disparity in enforcement, outcomes, and other behavior exists, we cannot say with certainty, due to limitations in the data and the defined scope in which this analysis was conducted, the underlying *cause* of the disparity, nor whether it reflects *intent* (explicit or implicit) on the part of FPD's officers.

Use of force incident reports

The analytical review of the context of use of force, while fundamentally descriptive, provides the FPD with a current understanding of the common factors and themes present in their use of force incidents (e.g., types of force used, tenure of officer, and weapons used by the suspect). In total, we coded and analyzed 169 use of force incident reports from January 2013 to December 2014.

In addition to examining the contextual circumstances of these use of force incidents, we also conducted a more in-depth analysis of the quality of the internal administrative investigations of 10 deadly force incidents from January 2010 to December 2014. We evaluated each deadly force incident and its corresponding administrative investigative file using four different evaluation areas: (1) officer-involved shooting incidents, (2) scene investigation and documentation, (3) interviews, and (4) incident reconstruction and analysis. This evaluation process allowed us to identify common themes on the quality of these internal administrative investigations and informed the findings and recommendations noted in chapter 5.

Traffic stops

The FPD's traffic stop database contains coded data on citizen and stop characteristics including citizen race; reason for stop; date, time, and location of stop; and stop disposition (e.g., warning, ticket, and search). It also includes information about consent to searches (e.g., citizen consented to search or no consent required due to outstanding arrest warrant). The assessment team retrieved data on all traffic stops in 2013 and 2014; there were more than 68,000 traffic stops during this time period.

The team conducted a series of descriptive analyses to understand the relationship between citizen race and traffic stop reasons and outcomes. We compared the race of drivers across different reasons for traffic stops. We also compared the likelihood based on the driver's race of a stop resulting in a search with the relative likelihood based on the driver's race of the driver receiving a citation rather than a warning. Where appropriate, we conducted bivariate analyses to gain a better understanding of the observed differences in traffic stop reasons and outcomes. The findings from these analyses provide an empirical foundation for understanding the reasons for and disposition of traffic stops and are used throughout this report to support our findings and recommendations for the FPD's policies related to traffic stops.

Field interviews

The FPD's field interview database comprises field contact data. It includes fields for citizen age, race, and sex, though these are not required (see chapter 8 for further discussion of this point). The assessment team conducted basic descriptive analysis (e.g., reason for the stop and the race of the citizen involved) of the field interviews conducted from January 2013 and December 2014.

Complaints

The team also analyzed citizen (external) and departmental (internal) complaints. These complaints are investigated by chain of command or IA (or both). In total, we examined 23 citizen complaints and 76 departmental complaints from January 2013 to December 2014. We extrapolated data on the allegation, finding, and corrective actions from each file and conducted aggregate analysis to provide descriptive context, identify common themes across the data, and identify gaps in the process.

Developing findings and recommendations

The information gathered from data analysis, observations, interviews, and review of policies and procedures allowed the CNA team to identify common themes, gaps, and areas for improvement. In addition, we reviewed FPD policies and practices in the context of related research and best and emerging practices when possible, which are cited throughout the report. This process informed the development of our findings and recommendations. The FPD's current capacity to implement such recommendations was also taken into consideration, which allowed us to ensure that the recommendations were tailored to the department and that the FPD would be able to implement and sustain the recommendations provided.

Chapter 3. Analysis of Use of Force and Complaints in the Fayetteville Police Department

This chapter presents a descriptive analysis of use of force incidents, traffic stops, field interviews, and complaints in Fayetteville involving Fayetteville Police Department (FPD) officers. It lays the groundwork for understanding the prevalence and nature of use of force in the city. The analysis presented here has implications for FPD policy, training, investigations, and oversight processes. We conclude with a series of findings and recommendations.

Use of force

The FPD provided Incident Summary Reports containing information about 169 use of force (UOF) incidents occurring in 2013 and 2014. The CNA assessment team coded various data about each incident based on those reports. This analysis presents findings from 137 of these incidents.[9] The team examined officer, citizen, and incident characteristics in the following analysis and placed these findings in the context of the department and community when possible. We also briefly called out the characteristics of the five deadly force incidents between 2013 and 2014, specifically, in a separate section.

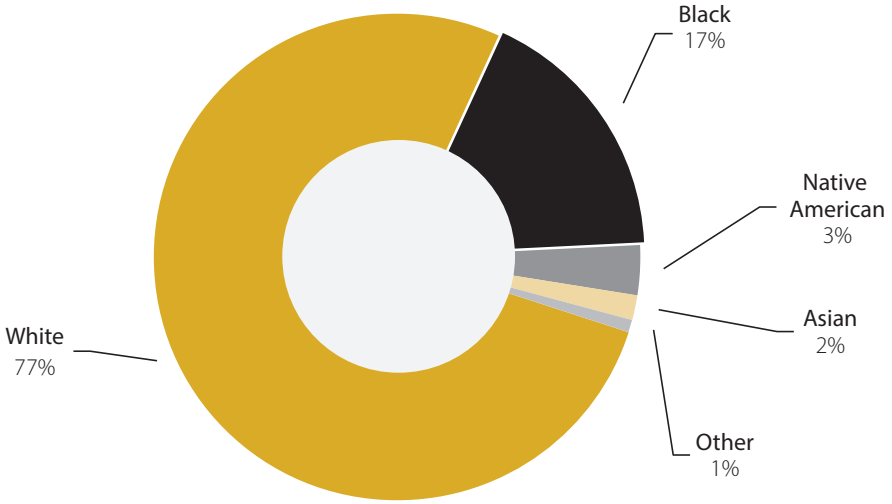
In order to compile the use of force data, the team collated information from the Incident Summary Reports, which included information about the disposition process for each investigation. The data showed that, on average, it took 114 days for an investigation to move from being opened to being closed and filed. In reviewing the chain of command documentation for some of the longest investigations, no clear trend or pattern emerged regarding delays in processing.

Officer characteristics

The 137 UOF incidents involved 121 unique officers. Eighty-nine percent of these officers were male; in 2015, 84 percent of the FPD's sworn officers were male. Figure 2 shows the breakdown in terms of race of the officer. In 2015, 68 percent of the FPD's sworn officers were White, 20 percent were Black, 7 percent were Hispanic, and 5 percent were listed as "other."

9. We excluded 32 incidents for the following reasons: six incidents involved shooting canines for humanitarian reasons, and five incidents involved shooting canines in self-defense; 10 incidents involving drawing or pointing the officer's weapon but not firing; two incidents were accidental discharge incidents; two incidents were missing incident summaries; in four incidents, specific officer-citizen interactions could not be determined from the incident summary report; one incident involved a sidearm discharge without a target; one incident had no disposition noted in the incident summary; and one incident was a duplicate entry. We exclude all UOF incidents involving drawing or pointing of a weapon without firing because the FPD's policy on these incidents changed during the analysis period; in 2014, the FPD stopped counting these as UOF incidents. Thus, for consistency, all are excluded from analysis.

Figure 2. Officers involved in UOF incidents by race, 2013–2014



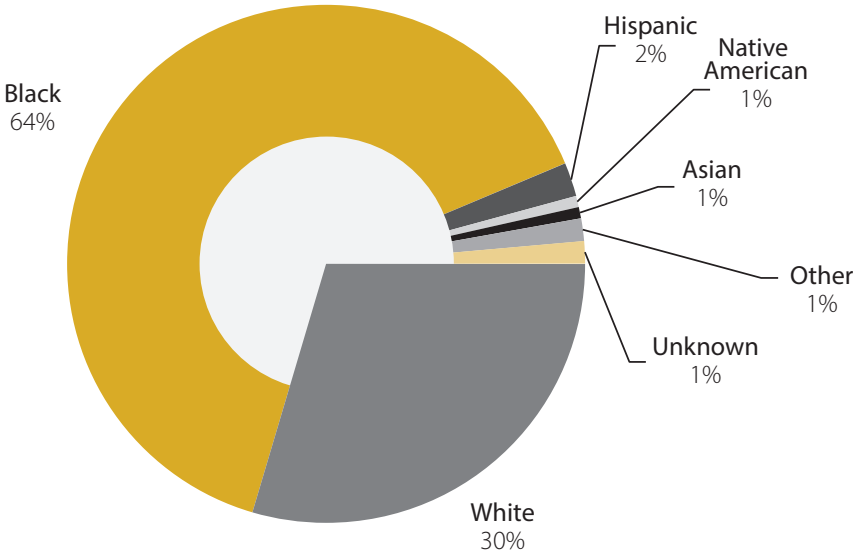
Eighteen of the officers involved in UOF incidents between 2013 and 2014 were not included in the employee database provided by the FPD;[10] for those officers, no age or tenure data are available. For the remaining 103 officers, the average age at the time of the incident was 34 years old and the average tenure in the department was six years. In 2015, the average age of a sworn officer in the FPD was 38 years old and the average tenure was 10 years.

Citizen characteristics

The 137 UOF incidents involved 142 total citizens. Eighty-eight percent of those citizens were male. Figure 3 shows the breakdown in terms of race of the citizen involved in the incident. According to U.S. Census data from 2013, the population of Fayetteville included 41 percent Black citizens.[11] However, the disparity between the percent of Black citizens involved in uses of force (64 percent) and in the general population (41 percent) cannot necessarily be interpreted to imply biased behavior by FPD officers. Black citizens were involved in 69 percent of arrests in Fayetteville in 2013 and 2014, which increases their likelihood of UOF interactions with police simply because of opportunity.

10. These 18 officers were no longer employed with the FPD; thus, their information was not included in the employee roster provided to the assessment team.
11. Note that this figure includes all age ranges and does not omit individuals identifying with two or more races, which is why it does not accord with the racial breakdowns presented in the traffic stop section.

Figure 3. Citizens involved in UOF incidents by race, 2013–2014

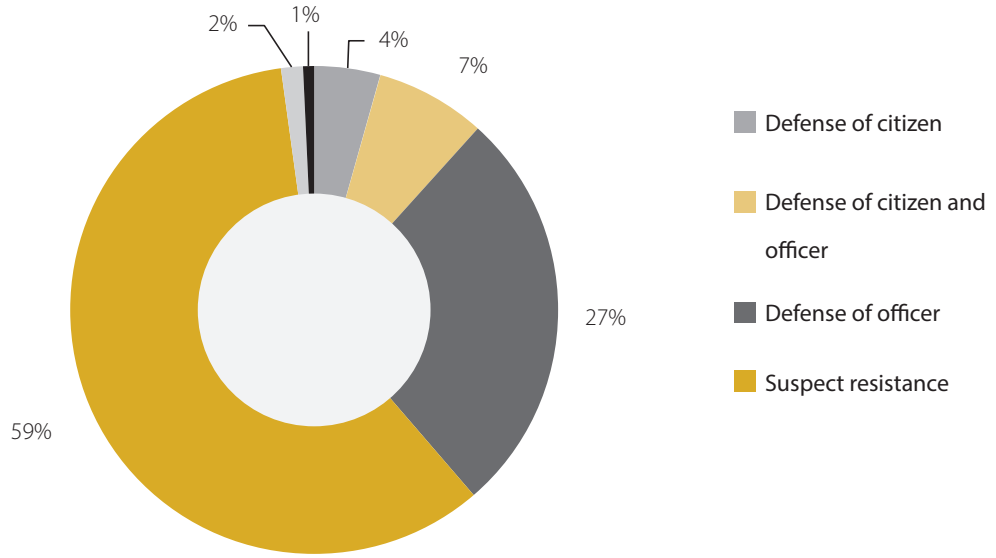


On average, citizens involved in UOF encounters were 32 years old. Twenty-two percent were observed to be experiencing mental illness or distress, 37 percent were under the influence of drugs or alcohol, and 15 percent were armed or suspected of being armed. In the cases in which the citizens were known to be armed, most commonly they were armed with a gun (6 cases in total) or a knife or other sharp implement (6 cases in total).

Incident characteristics

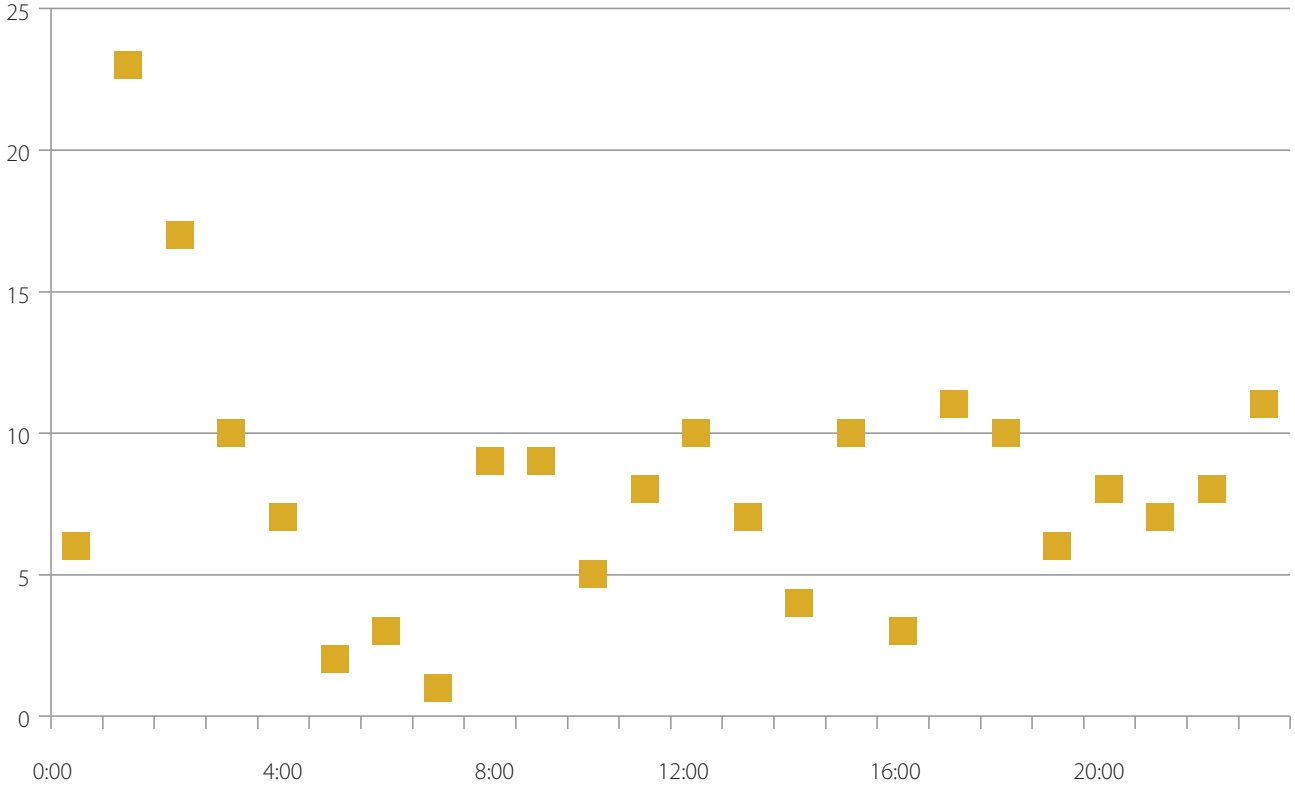
As shown in figure 4, the most common reason for use of force during an incident was suspect resistance (59 percent), frequently during the act of arrest.

Figure 4. Reasons for UOF, 2013–2014



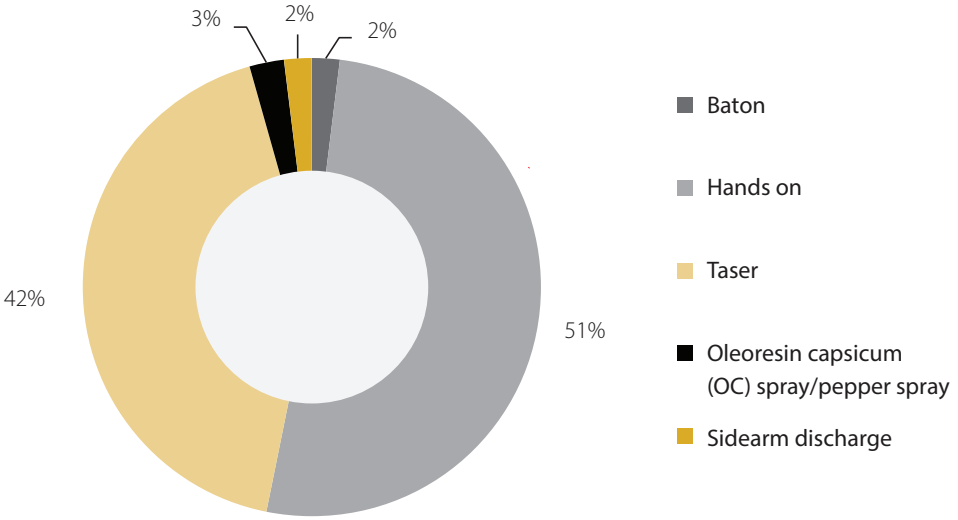
The majority of UOF incidents occur in the early hours of the morning, as shown in figure 5.

Figure 5. UOF incidents by time of day, 2013–2014



When considering unique officer-incidents (of which there are 194), the most common type of force used by officers is hands on, followed by use of a Taser. Of the incidents included in our analysis, only four involved officers discharging their weapon, as shown in figure 6.

Figure 6. UOF by type of force, 2013–2014



Note: Some UOF incidents involved multiple uses of force; for example, an officer might have used hands-on force but then used his Taser. In that case, both "hands on" and "Taser" would have been coded for type of force.

UOF outcomes

Last, the team investigated the outcomes from UOF incidents in the FPD. Again, considering unique officer-incidents, the vast majority resulted in exoneration for the officer involved: 182 officer-incidents out of 194 (94 percent). Of the remainder, in five incidents the allegation of improper use of force was sustained, in one incident the allegation was found to be unfounded, and in six officer-incidents (which all took place as part of a single encounter) the assessment team could not determine the disposition based on the incident summary report.

Deadly force incidents

The FPD experienced five deadly force incidents during the time period analyzed (2013–2014), making statistical analysis inappropriate because of the small number of cases. In this section, we briefly describe the characteristics of these incidents from a descriptive perspective.

Of the five deadly force incidents, four occurred in 2013 and one in 2014. A total of six unique officers and five unique citizens were involved in the incidents. In each of these incidents, the citizen was armed during the encounter with a firearm. None of these incidents happened during the midnight to 4:00 a.m. time-frame identified earlier as having the highest rates of UOF incidents. Of the five incidents, four included information about the reason for the use of deadly force; in all cases, that reason was the defense of an officer. Of the five incidents, two were citizen-initiated (i.e., 911 calls) and three were officer-initiated.

Of the six officers involved in these incidents, all were male. Four were White, and two were Native American. Their average age was 34 years old, and their average tenure with FPD was three years at the time of the incident. Three of the six officers were injured during the deadly force incident; two required medical attention at a hospital. Of the five citizens involved in these encounters, all were male. Four were Black and one was White. Their average age was 26 years old.

Complaints

In addition to reviewing UOF reports, the assessment team also reviewed complaints. Examining complaints in the context of UOF provided a clearer context of potential outcomes of UOF as well as the department's process and accountability systems in related complaints. It should be noted that 5 percent of the total (internal and external) allegations (n=167) were noted as excessive force or use of force.

In total, we examined 76 departmental (internal) complaints and 23 citizen (external) complaints from 2013 to 2014. We extrapolated data on the allegation, finding, and corrective actions from each file and conducted aggregate analysis to provide descriptive context and identify common themes across the data.

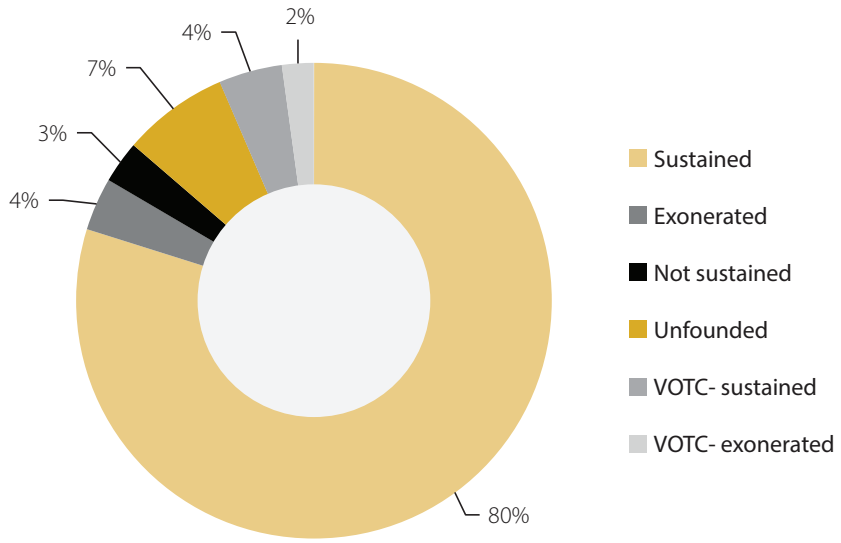
Internal complaints

We examined 76 departmental complaints from January 2013 to December 2014.[12] A number of complaints involved more than one employee or more than one alleged violation. As such, a total of 78 employees and 139 alleged violations were listed within the 76 departmental complaints. Alleged violations noted in these complaints ranged from unsatisfactory performance to use of force. Of the 139 violations,

12. The complaint process within the FPD was changed in early 2015. In 2013, if a supervisor in their review of an external complaint agreed with the allegations, the complaint would then be filed as an internal or departmental complaint. This explains the higher number of internal complaints than complaints received from external sources.

111 were found to be sustained, five were exonerated, four were not sustained, 10 were unfounded, six were violations other than complaint (VOTC) sustained, and three were VOTC exonerated. (See figure 7.) Corrective actions as a result of the violations ranged from written reprimands to termination. In a number of cases, employees were required to attend training, or counseling or received probationary hours.

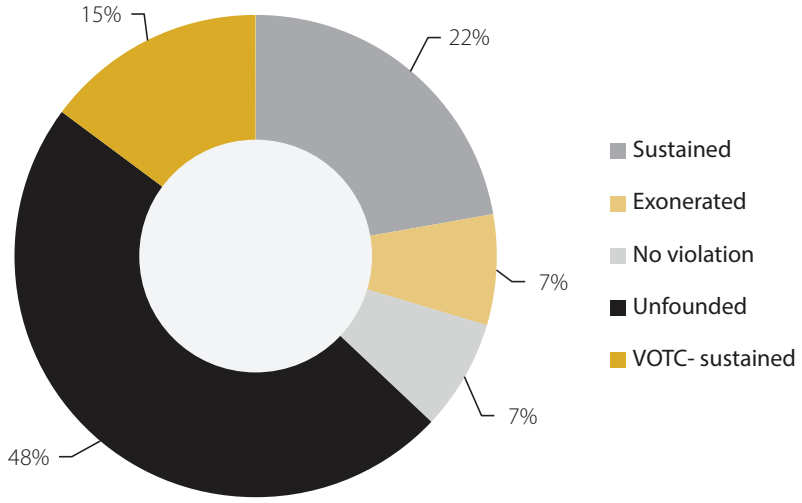
Figure 7. FPD internal complaints, January 2013–December 2014



Citizen complaints

In total, we reviewed 23 citizen complaints from 2013 to 2014. Like the internal complaints, a number of the citizen complaints involved more than one employee or more than one alleged violation. As such, a total of 40 employees and 28 alleged violations were listed within the 23 citizen complaints. Alleged violations noted in these complaints included unsatisfactory performance, rudeness, unbecoming conduct, and excessive force. Of the 28 alleged violations, chain of command found six to be sustained, two were exonerated, two were found to have no violation, 13 were unfounded, four were found to be VOTC sustained, and one complaint did not list an outcome. (See figure 8.) Of those complaints in which the complaint file was provided, corrective actions as a result of the sustained violations ranged from written warnings to written reprimands.

Figure 8. Citizen complaints, January 2013–December 2014



Findings and recommendations

Finding 1

The FPD's Use of Force Report database and associated Incident Summary Reports are not equipped to handle complex UOF incidents including multiple officers and citizens. In addition, the FPD does not consistently record key variables for use of force and citizen and departmental complaints.

In our review of UOF incident reports, the assessment team found that when multiple officers and multiple citizens are both present, the Incident Summary Reports do not clearly delineate which officers were involved in UOF against which subjects. This information can sometimes be determined based on the incident summary narrative, but these narratives are not consistent in level of detail. In addition, fields such as "Reason for Use of Force", "Citizen Injured", "Officer Assessment of Citizen Condition," and others allow for only one entry. Therefore, when there are multiple citizens involved, only the narrative can be used to attempt to determine to which subject the coded values apply. The inability to enter multiple values of "Reason for Use of Force" is particularly limiting during dynamic incidents involving multiple officers in which one officer might have used force for different reasons than others.

All the information noted here is an important aspect of oversight, particularly as it allows the agency to analyze trends and self-initiate reforms as necessary.

Recommendation 1.1

The FPD should revise its Use of Force Report database to ensure that unique officer-incident-citizen dynamics are properly associated.

The FPD must ensure that all officers and all citizens involved in a multiple-person use of force incident are clearly linked to the individuals they interacted with. If multiple citizens are involved in the incident, each must have a status (injury, arrest, officer assessment) coded separately for all incidents.

Recommendation 1.2

The FPD should revise Operating Procedure 1.1 to establish a routine inspection and audit of its use of force and citizen and departmental complaint data to ensure that they are being captured consistently and accurately.

Along with the importance of using the complaint data to inform policing strategies and training plans, auditing these data to ensure consistency and accuracy is also important. The Internal Affairs (IA) Unit should conduct auditing on an annual basis. The FPD should revise Operating Procedure 1.1 "Internal Investigative Procedure" to reflect this new auditing procedure. In addition, this audit should be perpetual. The commander of training, IA commander, and other officials should meet on a biweekly or monthly basis to discuss what types of events are occurring and what they are learning about the performance of the organization based on the data.

Finding 2

The chain of command investigation of use of force incidents is lengthy; the process from reporting to completion of the investigations and filing of the report took an average of 114 days.

In our analysis of the use of force reports from 2013–2014, the assessment team found that the chain of command investigation of these noncritical incidents took an average of 114 days. In further examination of the chain of command review documentation, we were unable to identify a clear trend or pattern for this delay.

Recommendation 2.1

The FPD should require that all chain of command investigations be completed within 30 days of the initial report of use of force and should update its Operating Procedure 1.1 to clearly note the timeline in which these investigations must be completed.

The current Operational Procedure 1.1 notes the time guideline requirements (section 1.1.2, E.1) by stating, "All internal investigations must be completed and submitted for review within thirty (30) days of their initiation."[13] However, this statement is vague; it is difficult to determine if the requirement is for the investigation to be completed within 30 days or for the investigation to be submitted for review within 30 days. The FPD should revise this section of its Operating Procedure 1.1, section 1.1.2 E.1 to clearly state, "All internal investigations of use of force incidents and complaints must be completed within thirty (30) days of their initiation." This revision eliminates any potential misinterpretation of the guideline and clearly establishes the investigatory timeline requirement for both UOF incidents and complaints. In addition, the FPD should conduct further review of these delays to determine how to process these incidents more efficiently. The

13. *Operating Procedure 1.1: Internal Investigative Procedure* (Fayetteville, NC: Fayetteville Police Department, 2013), §1.1.2, E.1.

results from the chain of command reviews should be developed and disseminated in a timely manner. This allows the department to recognize patterns of behavior necessary to guide policy and training interventions. In addition, in cases where the use of force decision is sustained, disciplinary action must take place in a timely fashion in order to be corrective rather than punitive.

Finding 3

The FPD's use of force and citizen and departmental complaints record keeping systems are insufficient for maintain accurate records of use of force incidents.

Although the FPD has recently acquired an electronic case-processing system for all complaints, including uses of force, the department has not yet used the system to its full capability. The FPD sometimes fails to enter complete UOF incident data, resulting in incomplete incident reports; for example, citizen date of birth is missing for numerous incidents. In addition, the FPD does not code information about level of suspect resistance or whether the citizen was armed during the encounter. This information can sometimes be extracted from the narrative, but not in all cases.

Recommendation 3.1

The FPD should ensure that all key variables, such as demographic information and level of resistance, are consistently captured in every citizen or departmental complaint and use of force report.

The FPD should revise their databases to ensure all incident dynamics are coded consistently and correctly. All fields should be required or require explanation if they are left blank. Including all key variables like demographic information and the suspect's level of resistance provides a more comprehensive review of complaints and incidents. Tracking these variables and identifying trends can inform policing strategies and training plans and can help to identify training needs and lead to greater transparency and accountability. The FPD should revise the forms and tracking sheets it uses to capture departmental and citizen complaints to include these key variables.

Chapter 4. Use of Force Policies

Overview

This chapter presents a review of the Fayetteville Police Department's (FPD) General Orders and Operational Procedures as they relate to use of force. The analysis focuses on General Orders 4.1 "Use of Nondeadly and Less Lethal Force" and 4.11 "Use of Deadly Force," which are the use of force (UOF) policies. However, as part of our assessment, the CNA team also reviewed several other policies that influence public encounters and critical incidents, including Operating Procedure 3.14 "Mental Health Call Response," Operating Procedure 3.15 "Homeless/Transient/Street People/Trespasser Response," Operating Procedure 4.7 "Special Operations," Operating Procedure 4.1 "Emergency Response Team," and General Order 4.10 "Conducted Electrical Weapon TASER Use and Care."

The review of these policies centered on the following characteristics: consistency with departmental practice and other policies; consistency with best and emerging practices, research literature, and the department's unique needs; court decisions; and the importance of officer and public safety. The team finds it important to note that the FPD has recently made changes to its use of force policies, and an assessment of these changes is not reflected in this report; however, one will be conducted during the monitoring phase of the collaborative reform process. The following sections present a summary of the FPD's General Orders 4.1 and 4.11. They conclude with a set of findings and recommendations.

General Order 4.1 "Use of Nondeadly and Less Lethal Force"

The FPD's General Order 4.1[14] was last revised in September 2013 as a result of the findings made in the Office of Community Oriented Policing Services (COPS Office) Collaborative Reform Assessment of the Las Vegas Metropolitan Police Department. The eight-page document contains nine sections: "Objective," "Policy," "Definitions," "Nondeadly Force Procedure," "Nondeadly Weapons," "Less Lethal Force and Weapons," "Notification and Reporting," "Exceptions to Reporting," and "References."

Policy statement

This is the policy statement for General Order 4.1:

> The Fayetteville Police Department acknowledges [that] the protection and reverence for human life should be paramount in every officer's mind. Although we are often called upon to make split-second decisions regarding life or death situations, it will be the intent of our officers to use only the amount of force which is reasonably necessary. Unreasonable or unjustifiable force can result in an overall degradation in public trust. The sanctity for human life must be foremost in the minds of every member of this department and every opportunity to avoid using force, when feasible, should be considered.

14. *General Order 4.1: Use of Non-Deadly and Less Lethal Force* (Fayetteville, NC: Fayetteville Police Department, 2013). This document is the source of all quoted material in this section of the report.

Definitions

The definitions section of the General Order defines five key concepts that are necessary to understand the policy statement: Nondeadly Force, Less Lethal Force, Reasonably Necessary, Serious Physical Injury, and Force Option Model.

- *Nondeadly Force*: "Any use of force neither likely nor intended to cause death or serious physical injury."
- *Less Lethal Force*: "Any use of force that by its very nature is not intended to, nor is it likely to cause death; however, death may result depending on its use."
- *Reasonably Necessary*: "Those actions, based upon the known facts or circumstances, which would normally be expected from a reasonable and prudent officer under similar circumstances."
- *Serious Physical Injury*: "Any injury that could result in disfigurement, disability, or death."
- *Force Option Model*: "Most use of force options are listed from the least life-threatening to the most life-threatening. The appearance of a hierarchy or specific order to employ any force option is unintended. The systematic listing of force options is only used to clarify and illustrate the variety of applications and is not intended to be a specific path for officers to follow in every situation. Any perceived pecking order or tier has nothing to do with the officer's individual thought processes for choosing the most reasonable option. Simply stated, officers do not have to exhaust a force option before moving to another, so long as it is justified. The appropriate level of force depends on the type of resistance, threat, force, and other force variables with which the officer is confronted."

Nondeadly force procedure

This section of the General Order begins by noting the following

> Officers will modify their level of force in relation to the amount of resistance offered by the subject. Officers will increase or decrease the amount or type of force used as the subject offers more or less resistance. Only non-deadly weapons listed in this policy (General Order 4.1) are authorized for use by personnel who have received department-approved training.

It continues by stating, "Officers who encounter a situation where the possibility of violence or resistance to lawful arrest is present should, if possible, attempt to diffuse or de-escalate the situation through advice, warning and verbal persuasion."

In addition to noting some force variables to determining the threat level, this section of the General Order also notes that "defensive weapons will not be used to threaten people or evoke information." It also provides the following list of prohibited actions:

> Chokeholds, Brachial stun pressure point technique to the head and neck area; and Flashlights, radios, and any other items not issued specifically as defensive weapons, as a means of force, except when there is reason to believe that imminent threat of death or serious physical injury exists and no other option is available.

The section concludes by noting the responsibilities of field supervisors in response to a nondeadly force incident.

The next section of the General Order—Nondeadly Weapons—provides an overview of the circumstances in which officers should use TASERs, impact weapons, and chemical agents. The section on Less Lethal Force and Weapons is longer and includes descriptions of each weapon as well as how and when each tool should be used.

The final sections of the General Order on reporting describe officer and supervisor responsibilities after a nondeadly use of force and the exceptions to reporting use of force, which include the following:

- "A suspect sustains an injury that is **not** the result of a use of force or alleged use of force.
- A suspect injures himself while fleeing from the officer **prior** to being taken into custody.
- A suspect in custody sustains a minor injury **not** due to or caused by the officer's actions or intentionally inflicts injury to him/herself."

General Order 4.11 "Use of Deadly Force"

The FPD's General Order 4.11[15] is five pages long and contains seven sections, a number of which are the same as those included in General Order 4.1. These sections include "Objective,""Policy,""Definitions,""Deadly Force Procedure,""Use of Deadly Force,""Department Response to Deadly Force Incidents," and "References."

The objective, the policy statement, and the definitions are all the same as those included in General Order 4.1. General Order 4.11 continues with the procedures specific to deadly force.

Deadly force procedure

In this section, the policy outlines the justification for using deadly force:

A law enforcement officer is justified in using deadly physical force only when it is or appears to be reasonably necessary:[16]

- "To defend themselves or a third person from what they reasonably believe to be the use or imminent use of deadly physical force.
- To effect an arrest or to prevent the escape from custody of a person who they reasonably believe is attempting to escape by means of a deadly weapon, or who by their conduct or any other means[,] indicates they present an imminent threat of death or serious physical injury to others unless apprehended without delay.
- To destroy an animal that represents a threat to themself [*sic*] or others.
- Destroying an animal for humanitarian purposes (for example, the animal has been struck by a vehicle and it's apparent the animal will soon expire) is not considered deadly force. No internal investigation or Chain of Command notification is required. The officer will complete a call for service report, notify a supervisor[,] and notify the communications center of the situation. Officers will also ensure the animal can be destroyed safely and without placing members of the public at risk."

15. *General Order 4.11: Use of Deadly Force*, (Fayetteville, NC: Fayetteville Police Department, 2013).
16. Ibid., § 4.11.3.

This section of the General Order also lists restrictions on the types of deadly force officers are permitted to use:

- "Officers will not fire at a moving vehicle unless the vehicle operator is deliberately attempting to strike an officer or citizen or an occupant of the vehicle is using or threatening to use deadly force against the officer or another person.
- Officers will not fire from a moving vehicle except under extreme circumstances to protect themselves or others from death or serious bodily injury, and when doing so[,] does not unduly endanger the lives of bystanders and/or members of the general public.
- Officers will not use deadly force when, based on the totality of the circumstances[,] the use of deadly force constitutes a greater risk to innocent bystanders than the actual acts being committed by the subject for which the force is intended."

In addition, this section provides officers with guidance on pointing a firearm and warning shots.

Section 4.11.4 of the General Order provides officers with guidance on officer responsibility and supervisor responsibility after deadly force has been used. The order concludes with a review of the department response to deadly force incidents by outlining the investigatory process and policies on administrative leave, as well as providing a list of references.

Findings and recommendations

Finding 4

The FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" lacks guidance on the circumstances in which physical force should be used.

The FPD's description in General Order 4.1 of the types of physical force allowed or prohibited is limited to the following brief statements:[17]

"In extreme situations where a subject cannot be brought under control even after being handcuffed/secured, nondeadly weapons may be used to assist in gaining control. Officers should avoid the use of:

1. Chokeholds
2. Brachial stun pressure point technique to the head and neck area
3. Flashlights, radios, and any other items not issued specifically as defensive weapons, as a means of force, except when there is reason to believe that imminent threat of death or serious physical injury exists and no other option is available."

In addition to the above, the order also states, "Defensive weapons will not be used to threaten people or evoke information. Defensive weapons or hands-on techniques **will not** be utilized to obtain narcotics or other foreign objects from a subject suspected of ingesting/inserting these into a body cavity or swallowing them . . . . Any abuse or misuse of nondeadly defensive weapons will result in disciplinary action being taken against the officer."[18]

17. *General Order 4.1*, § G (see note 13).
18. Ibid., § 4.1.3E.

Recommendation 4.1

The FPD should revise General Order 4.1 to include when the use of defensive weapons is authorized, the types of physical force allowed, and the specific circumstances in which this type of force should be used.

While the FPD's General Order 4.1 identifies the types of force that officers should avoid, the order does not articulate under what circumstances these options are available. This is of noted importance with regard to the use of physical force. Physical force, defensive weapons, or hands-on techniques were used in more than 51 percent of all FPD use of force incidents from 2013 to 2014. The extensive use of hands-on techniques makes it particularly important for the order to further define the circumstances and extent in which these techniques can and should be used. By comparison, while General Order 4.11 includes a section on authorized force, General Order 4.1 does not.

Finding 5

The FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" does not clearly define what types of force require reporting and the level of investigation required.

Section 4.1.8 of General Order 4.1 lacks clarity on what types of force require reporting. The order states that "In any situation in which an officer is required to use force against another person, the officer shall contact a supervisor to come to the scene . . . ."[19] This lacks clarity regarding what constitutes "use of force."

While the order fails to clarify when a use of force incident must be reported, it does clearly outline the instances in which supervisors are required to investigate use of force incidents. Specifically, General Order 4.1 provides the following "examples of situations where completion of a Use of Force Investigation is required:

- When an officer discharges a firearm for other than training or recreational purposes.
- When the officer takes an action that results in, or is alleged to have resulted in, injury or death of another person.
- Whenever an officer applies force through the use of lethal, less lethal[,] or nondeadly weapons.
- If an officer applies weaponless physical force at a level that requires medical attention, even if treatment is refused, or there is a claim of injury.
- Whenever an officer applies physical force that involves striking or hitting another person.
- When an individual alleges excessive force was used."[20]

Recommendation 5.1

The FPD should provide additional distinction and clarity between the activities and responsibilities associated with the reporting and the investigation of use of force incidents.

Some officers interviewed noted that, in many instances, they often resorted to reporting low levels of force (e.g., arrest and control techniques) even when unnecessary.[21] Officers interviewed often noted a lack of clarity on what uses of force should be reported and the lack of guidance provided with the

19. *General Order 4.1* § 4.1.8 (see note 13).
20. Ibid., § 4.1.8B.10.
21. CNA interviews, 2015.

department's General Orders on when to call a sergeant to report use of force.[22] The ambiguity surrounding which uses of force should be reported, in contrast to the more extensive detailed guidance provided within the General Order on the investigation of use of force incidents, also demonstrates the organizational importance of the investigatory aspect of use of force incidents. As such, the FPD should revise its General Orders 4.1 and 4.11 and separate the tasks and responsibilities associated with the reporting of use of force and the investigation of use of force incidents as well as clarify the types of force that require reporting. These activities should be noted under clear and separate subheadings. Differentiating these tasks will clarify when officers should contact a sergeant to file use of force reports and reinforce the importance of using these reports to identify trends, identify the effectiveness and consistency of use of force applications, and potentially inform policy or procedural changes (e.g., training development).

Finding 6

The FPD has conflicting policies on using a flashlight as a weapon.

Section 4.1.3 (G) of the FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" states that officers should avoid the use of "flashlights, radios, and any other items not issued specifically as defensive weapons, as a means of force, except when there is reason to believe that imminent threat of death or serious physical injury exists and no other option is available."[23] However, in conflict with this, section 4.1.4 (B) identifies the use of flashlights as an impact weapon and an intermediate level of force and further states that the use of such impact weapons "will not be used to strike any person in the head, spine, neck, kidney[,] or groin unless circumstances justify the use of deadly force."[24]

Recommendation 6.1

The FPD should revise General Order 4.1 to eliminate the conflicts from the guidance provided regarding the use of flashlights as impact weapons.

The FPD should reconcile the different guidance on the use of flashlights in sections 4.1.3 (G) and 4.1.4 (B) to ensure that the order is consistent throughout. The FPD should revise section 4.1.3 (G) to read like section 4.1.4 (B) and state that while a flashlight can be used as an impact weapon, it should not be "used to strike any person in the head, spine, neck, kidney[,] or groin unless circumstances justify the use of deadly force."[25]

Finding 7

Less lethal force tools that are specific to emergency response teams (ERT) are included unnecessarily in the FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force."

Less lethal options such as impact munitions, multirole projectile launchers, sponge rounds, and sting grenades are options, as stated in the policy, most appropriately used by ERTs and in instances requiring crowd management. These items are identified as tools for crowd control and crowd management situations and are carried by active members of ERTs.

22. Ibid.
23. *General Order 4.1*, § 4.1.4 B (see note 13).
24. Ibid.
25. Ibid.

Recommendation 7.1

The FPD should remove less lethal items specific to ERTs from General Order 4.1 and instead include these items in the ERT Operating Procedures.

Any reference to the use of less lethal tools that are only applicable to ERTs should be removed and included in the ERT operating procedures. In addition, the FPD should ensure that the ERT operating procedures accurately note that, in some cases, officers (non-ERT) may employ such equipment in response to critical incidents involving crowd management and crowd control.

Finding 8

The FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" incorrectly references "officer's opinion" in the decision to use nondeadly defensive weapons.

According to General Order 4.1, "Nondeadly defensive weapons may be used when, in the officer's opinion, persuasive speech or physical contact controls are insufficient or will be insufficient to control or stop an aggressive act of resistance."[26] The policy fails to note the importance of the "objectively reasonable" standard when using force or determining its appropriateness. Other than the policy statement, which includes references to using the amount of force that is reasonably necessary, no additional guidance on the "objectively reasonable" standard as outlined in the *Graham* v. *Conner* U.S. Supreme Court decision[27] is provided.

Recommendation 8.1

The FPD should revise General Order 4.1 to no longer reference "officer's opinion" in the decision to use nondeadly defensive weapons.

The FPD should revise the general order to align with the use of the "objectively reasonable" standard, as outlined in the *Graham* v. *Conner* U.S. Supreme Court decision.[28] According to that standard, officers must apply the appropriate level of force based on the circumstances of the situation, and the force applied should be reflective of the force an "objectively reasonable" officer would apply under the same circumstances. Updating the policy and outlining and referencing this standard will help to ensure that officers understand that their "opinion" is not the only variable to consider if the use of force is to be authorized and constitutional.

Finding 9

The current title of the FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" can be misconstrued, as some of the tools and tactics listed within the order (e.g., conducted electrical weapons or TASERs) can cause death.

Identifying the tools, tactics, and less lethal weapons identified in the General Order on Use of Nondeadly and Less Lethal Force as "nondeadly" places the department at risk in cases where these tools could cause death due to poor application or a suspect's prior medical history (most often unknown to the officer using force). Updating the title of the order reduces the potential for miscommunication, especially when sharing these policies with the community or the affected community after a critical incident.

26. *General Order 4.1*, § 4.1.3 D (see note 13).
27. *Graham* v. *Connor,* 490 U.S. 386 (1989).
28. Ibid.

Recommendation 9.1

The FPD should revise the title of General Order 4.1.

The FPD should revise the title of General Order 4.1 to read either "Use of Less Lethal Force" or "Use of Force." This eliminates potential miscommunication about the potential lethalness of the tools, tactics, and weapons noted within the policy and presents clear and transparent policy to both the department and the community it serves.

Finding 10

The FPD's General Order 4.11 "Use of Deadly Force" allows officers to fire warning shots. Warning shots can lead to unintended injury to the suspect(s), the public, and officers.

With regard to warning shots, the FPD's General Order 4.11 states, "Warning shots are authorized when (a) the use of deadly force is justified **and** (b) the warning shot can be made without substantial risk to other persons and the officer **and** (c) the officer reasonably believes the warning shot will reduce the possibility that deadly force will have to be used directly against a violator."[29]

In a 2010 study of the FPD's operational procedures, the Police Executive Research Forum (PERF) found the practice of warning shots to be outside the spectrum of best policing practices.[30] In a 2012 report reviewing FPD practices, the National Organization of Black Law Enforcement Executives affirmed the PERF recommendation to eliminate the practice of authorizing warning shots.[31] However, despite these recommendations, the FPD has continued to authorize warning shots and has made no revisions to its policy to further prohibit or restrict this practice.

Notably, in our qualitative review of 10 deadly force incidents from January 2010 to December 2014, the assessment team did not find any instances in which an officer fired a warning shot, nor did we find any incident in which the use of a warning shot prevented use of force against a person. According to the FPD, there have been no warning shots fired by any officers under any circumstances since 2009.[32]

Recommendation 10.1

The FPD should revise General Order 4.11 to prohibit officers to fire warning shots under any circumstances.

Warning shots present a safety concern, and permitting their use poses a challenge to firearms discipline—particularly for negligent discharges, where an officer can claim that they fired a deliberate warning shot. Not only does the practice of firing warning shots present potential officer and public safety issues but the practice also poses a liability for the police department on cases involving injury, death, and poor firearm discipline. General Order 4.11 should be revised to prohibit the use of warning shots under any circumstances.

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29. *General Order 4.11*, § 3 (see note 14).
30. *An Operational Study of the Fayetteville Police Department* (Washington, DC: Police Executive Research Forum, 2010), http://www.bethebadge.com/files/pdf/Fayetteville%20Final%20Report%20Feb%202010.pdf.
31. *The NOBLE Fayetteville Study* (Alexandria, VA: National Organization of Black Law Enforcement Executives, 2012), http://faytoday.com/NOBLE_Report_2012_Fayetteville.pdf.
32. CNA interviews, 2015.

Finding 11

De-escalation is a minor component of the FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" and General Order 4.11 "Use of Deadly Force."

De-escalation is briefly mentioned within both the FPD's General Order 4.1 and General Order 4.11. Specifically, the FPD's General Order 4.1 notes, "Officers who encounter a situation where the possibility of violence or resistance to lawful arrest is present should, if possible, attempt to diffuse [*sic*] or de-escalate the situation through advice, warning[,] and verbal persuasion."[33] General Order 4.11 states, "The amount and type of force may be escalated, or de-escalated as reasonably necessary in accordance with the Force Option Model."[34] No further description or guidance is provided on the importance of de-escalation and how officers should use de-escalation techniques in the context of a continuum of officer response to various levels of threat or resistance.

Recommendation 11.1

The FPD should revise General Order 4.1 and General Order 4.11 to highlight the importance of de-escalation.

While officers interviewed were able to recall the aspects of de-escalation included in FPD training, they were unsure whether de-escalation was noted within policy. This affirms the discrepancy between what is being practiced and what is listed in FPD policies. The importance in emphasizing de-escalation techniques within policy was also recommended as part of the *Final Report of the President's Task Force on 21st Century Policing* (action item 2.2.1).[35] As such, the FPD should revise its related General Orders to emphasize de-escalation. See recommendation 18.1 for a further discussion on training of de-escalation techniques.

Finding 12

The FPD's General Order 4.11 "Use of Deadly Force" permits officers to shoot at moving vehicles.

The FPD's General Order 4.11 permits officers to shoot at moving vehicles and provides the following restriction: "Officers will not fire at a moving vehicle unless the vehicle operator is deliberately attempting to strike an officer or citizen or an occupant of the vehicle is using or threatening to use deadly force against the officer or another person."[36] It should be noted that the department has not been involved in any motor vehicle shootings during the assessment period. However, the policy is overly permissive and outside of best policing practices.[37]

33. *General Order 4.1*, § 4.1.3B (see note 13).
34. *General Order 4.11*, § 4.11.3A (see note 14).
35. President's Task Force on 21st Century Policing, *Final Report* (see note 1).
36. *General Order 4.11*, § 4.11.3A.1 (see note 14).
37. George Fachner and Steven Carter, *An Assessment of Deadly Force in the Philadelphia Police Department*, Collaborative Reform Initiative (Washington, DC: Office of Community Oriented Policing Services, 2015), http://ric-zai-inc.com/Publications/cops-w0753-pub.pdf.

Recommendation 12.1

The FPD should revise General Order 4.11 to further restrict officers from shooting at moving vehicles.

High-profile cases across the nation in the last 10 years have led to further restrictions in policies and procedures regarding shooting at moving vehicles.[38] As a result, a number of agencies have revised their policies to further restrict shooting at moving vehicles. Recent incidents involving motor vehicles and officer-involved shootings[39] continue to highlight the public safety and liability issues that this practice could involve.

The FPD should revise General Order 4.11 to further restrict officers from shooting at moving vehicles. The language in the General Order should be revised to read,

> Officers will not discharge a firearm at or from a moving vehicle, except when the suspect is using deadly force against the officer or others by means other than the vehicle, or when all other reasonable means of defense have failed. Officers will not place themselves in a position in front of an oncoming vehicle where deadly force is a likely outcome.

Finding 13

The FPD's narrative of the Force Option Model within both General Order 4.1 "Use of Nondeadly and Less Lethal Force" and General Order 4.11 "Use of Deadly Force" is vague and provides little guidance on the components of the model and officer's response as it relates to the model.

According to both General Orders 4.1 and 4.11, the force option model is defined as follows:

> Most use of force options are listed from the least life threatening to the most life threatening. The appearance of a hierarchy or specific order to employ any force option is unintended. The systematic listing of force options is only used to clarify and illustrate the variety of applications and is not intended to be a specific path for officers to follow in every situation. Any perceived pecking order or tier has nothing to do with the officer's individual thought processes for choosing the most reasonable option. Simply stated, officers do not have to exhaust a force option before moving to another, so long as it is justified. The appropriate level of force depends on the type of resistance, threat, force, and other force variables with which the officer is confronted.[40]

38. Americans for Effective Law Enforcement, "Shooting at Moving Vehicles," *AELE Monthly Law Journal* 101, no. 9 (2010), 301–308, http://www.aele.org/law/2010all09/2010-09MLJ101.pdf.
39. Noelle Phillips, "Denver Police Change Policy on Shooting at Cars," *The Denver Post*, last modified June 10, 2015, http://www.denverpost.com/news/ci_28280661/denver-police-change-policy-shooting-at-cars; Glenn Smith et al., "Moving Targets," *The Post and Courier,* accessed June 30, 2015, http://data.postandcourier.com/shots-fired/page/2.
40. *General Order 4.1*, § 4.1.2 (see note 13).

In addition to this definition, the FPD's General Order 4.1 provides the following narrative on variables to consider when using force:

> "The amount of force used will be in response to the threat level recognized by the officers and as deemed necessary to protect themselves or another from physical harm, to restrain or subdue a resistant subject, or to bring an unlawful situation safely and effectively under control. Some force variables include, but are not limited to:
>
> 1. Subject's behavior
> 2. Totality of the circumstances
> 3. Environmental conditions
> 4. Multiple subjects/officers
> 5. Reaction time/distance from subject
> 6. Size and gender of the officer and the subject
> 7. Skill level of the officer
> 8. Apparent skill level of the subject
> 9. Age of subject/officer
> 10. Injury or exhaustion
> 11. Weapons availability
> 12. Availability of alternative action
> 13. Previous knowledge of subject"[41]

The FPD's General Order 4.11 defines the Force Option Model as follows: "A Force Options Model is trained as a guide for officers on their use of force decisions."[42] This statement and the definition are the only two notations and descriptions provided on the FPD's Force Option Model.

A common theme that emerged from CNA's officer interviews was the unawareness and lack of clear understanding of the Force Option Model. These officers often referred to being trained on a Wheel Continuum and were unable to note when and if training using a continuum ceased. It should be noted that upon review of the FPD's training materials dating from 2010 to 2015, the CRI-TA assessment team was unable to locate any illustration of the Force Option Model or Wheel Continuum. This discrepancy is further complicated by the unclear description of the Force Option Model provided within the orders.

41. *General Order 4.1*, § 4.1.3E (see note 13).
42. *General Order 4.11*, § 4.11.3A (see note 14).

Recommendation 13.1

The FPD should provide a detailed narrative description of the Force Option Model within General Orders 4.1 and 4.11.

Additional narrative or an illustrative depiction of the Force Option Model—including how the tools and tactics presented within these General Orders fit into the model—are necessary to ensure that officers understand the varying levels of response. The Force Option Model presented in the General Orders should reflect what officers are being trained to do and should provide a clear depiction of the levels of force officers are permitted to use in response to various threat or resistance levels. The FPD should also audit these General Orders on an annual basis to ensure that they coincide with departmental training on use of force. See recommendation 19.1 for additional discussion on the training of use of force policies.

Recommendation 13.2

The FPD should revise the list of force variables in General Order 4.1 to include the nature of the offense and possible mental state of the subject.

Officers should consider the nature and seriousness of the offense and possible mental state of the subject when determining threat level and deciding the level of force to use in response. Although it is not practical to expect an officer to be able to definitively determine the mental state of an individual, there are trainable observations officers can use to reasonably determine if an individual is experiencing a mental health crisis (e.g., unrelenting fear of persons, places, or things or extremely inappropriate behavior).[43] As such, these considerations should be added to list of force variables that officers use to determine the level of threat and level of response.

In addition, the FPD's General Orders on use of force should reference the FPD's Operating Procedure 3.14 "Mental Health Call Response."

Finding 14

The FPD's General Orders 4.1 and 4.11 on use of force lack guidance on responding to subjects with possible mental illness.

Based on our review of the FPD's 137 uses of force between 2013 and 2014, we found that 22 percent of all subjects were noted to be mentally ill. However, the FPD's General Orders 4.1 and 4.11 do not include language on dealing with such subjects, nor do they reference Operating Procedure 3.14 "Mental Health Call Response." According to research conducted by the Treatment Advocacy Center, people with mental illness are killed by police at a rate four times greater than the general population.[44] It should be noted that as of June 26, 2015, 234 department personal have undergone crisis intervention training (see finding 20).

43. *Operating Procedure 3.14: Mental Health Call Response* (Fayetteville, NC: Fayetteville Police Department, 2013), § 3.14.3).
44. *Law Enforcement and People with Severe Mental Illness—Backgrounder* (Arlington, VA: Treatment Advocacy Center, 2007), http://www.treatmentadvocacycenter.org/problem/law-enforcement-backgrounder; Joshua A. Ederheimer, *Strategies for Resolving Conflict and Minimizing Use of Force,* Critical Issues in Policing (Washington, DC: Police Executive Research Forum, 2007), http://www.policeforum.org/assets/docs/Critical_Issues_Series/strategies%20for%20resolving%20conflict%20and%20minimizing%20use%20of%20force%202007.pdf.

Recommendation 14.1

The FPD should revise General Orders 4.1 and 4.11 to highlight that subjects may be unable to respond to officer commands because of mental incapacities.[45]

In addition to the need to reference Operating Procedure 3.14, the FPD's General Orders 4.1 and 4.11 should highlight that subjects may not be able to respond to an officer's commands because of mental incapacities. Officers should take impairments into consideration when determining the appropriate level of force.

Finding 15

The FPD does not document, track, or review instances of officers aiming or pointing a firearm at a person.

The FPD's General Order 4.11 "Use of Deadly Force" provides the following guidance regarding the pointing of a firearm:

- "Officers may draw their firearm when they reasonably believe it may be necessary to use the weapon (e.g., building searches, confronting armed subjects, felony vehicle stops).
- An officer may point a firearm at an individual when the officer believes the potential need to use deadly force exists. The officer does not need to wait for a threat to become imminent prior to pointing a firearm. However, the officer must be able to articulate why they believed the use of deadly force may have been necessary.
- Officers will report the pointing of a firearm to their immediate supervisor. If their immediate supervisor is unavailable, the officer will contact another on-duty supervisor, Watch Commander[,] or Sector Lieutenant. The officer will document the pointing of a firearm by including it in the narrative portion of their Criminal Incident Report (CIR). If the incident does not require a CIR, the officer will complete a 'Calls for Service' report documenting the incident in detail.
- Unless additional circumstances exist that would warrant examination, the pointing of a firearm **will not** be considered a level of force which would require an internal investigation.
- Due to the nature and frequency of pointing firearms during Emergency Response Team operations, officers assigned to conduct ERT operations, such as search warrants, barricaded subject, and hostage situations will be exempt from completing a CIR. However, such use of a weapon will be documented and reviewed through the after action report process that is completed for each incident."

45. Fachner and Carter, *An Assessment of Deadly Force in the Philadelphia Police Department* (see note 35).

During this review, the assessment team received information that the FPD at one time had required officers to report incidents where an officer pointed a firearm at a person, but the department ceased tracking this information in 2014. The 2014 Annual Report, completed by the Internal Affairs Unit and published in March 2015,[46] relates,

> [the] FPD has recognized the need to continue tracking these types of events[,] and policy was modified for 2015, requiring that officers complete a Field Interview (FI) module outlining the nature of the incident, along with biographical information of the suspect(s) whenever our officers are forced to draw and aim their weapons at an individual.

Recommendation 15.1

The FPD should revise its General Order on deadly force to require officers to report every occurrence in which an officer, whether on duty or off, points a firearm—regardless of whether another force option was used. In addition, the pointing of a firearm should be reviewed by a supervisor to ensure that the officer's actions were in accordance with policy and were reasonably objective.

Pointing a firearm by an officer may constitute excessive force, depending on the circumstances. To start, officers should have good cause or reason that they have drawn a weapon. Moreover, the unnecessary or premature drawing and pointing of a firearm may limit the alternatives to control a situation, create unnecessary anxiety on the part of a citizen, or result in an unintentional discharge. When aiming a firearm, an officer must consider the seriousness of the offense and the particular danger a person has posed. As such, the FPD should revise its General Orders to require the officers to report every occurrence in which a firearm is pointed at a suspect.

The pointing of a firearm is a high-risk encounter, and supervisors, in managing critical incidents, should respond to situations that predictably may become aggravated. As part of their response, supervisors should provide training on tactics and give counseling when they observe an incident that might have been handled more effectively. To this end, the FPD should require supervisors to respond to the scene of an incident where an officer has pointed a firearm to investigate and document it. A supervisor should, through an administrative review, determine if an officer's actions in pointing a firearm were objectively reasonable for the given circumstances.

An administrative review of the pointing of a firearm is a greater inquiry than that which is currently required (a field interview module completed by an officer, without significant oversight). The 2014 Annual Report documents that there were 22 service weapon pointings in 2012 and 11 service weapon pointings in 2013.[47] The total yearly numbers are manageable for conducting a greater, in-depth review in the future. Outcomes and use of pointing of a firearm should continue to be tracked and recorded in the FPD's annual reports. Similar recommendations calling for the reporting and review of pointing a firearm as a use of force have been made in previous U.S. Department of Justice settlement agreements.[48]

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46. Michael P. Petti, *2014 Annual Report (Internal Affairs Unit)*, memorandum to Harold E. Medlock, Chief of Police, Fayetteville (NC) Police Department, March 27, 2015, http://police.ci.fayetteville.nc.us/files/pdf/2014IAUYearlyReport.pdf.
47. Ibid.
48. See "B. Use of Force Policies, 55–56," Settlement Agreement, *United States of America* v. *City of Cleveland*, May 26, 2015, 15, http://www.justice.gov/sites/default/files/crt/legacy/2015/05/27/cleveland_agreement_5-26-15.pdf.

Chapter 5. Training: Use of Force and Community Policing

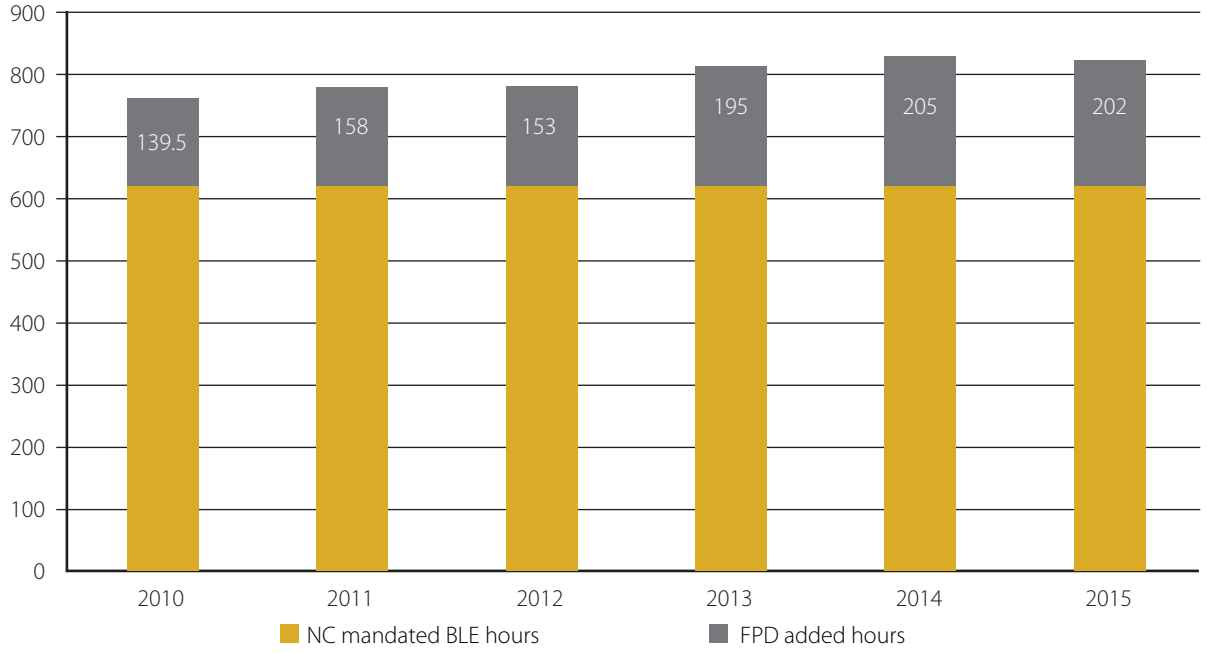
Overview

This chapter reviews Fayetteville Police Department (FPD) training programs that can affect the prevalence and nature of use of force incidents in the department, as well as the training programs that help to shape FPD employees' problem-solving capabilities and their interactions with the community. This chapter concludes with a series of findings and recommendations.

Training—Fayetteville Police Department

Our review of FPD's Basic Law Enforcement (BLE) curriculum reveals that the FPD is in compliance with the state mandates set forth by the North Carolina Justice Academy (NCJA).[49] In addition to teaching the 620 hours of Basic Law Enforcement training required by the NCJA, the FPD regularly teaches additional hours beyond the 620 hours required, averaging 201 additional hours in 2013–2015. Along with mandated recruit training, every law enforcement officer certified by the Criminal Justice Education and Training Standards Commission (CJETSC) must receive 24 credits of in-service training annually.[50] The FPD offers the required 14 credits of in-service training topics as determined by the CJETSC as well as the 10 credits of "department topics of choice." Figure 9 highlights the additional academy hours taught by the FPD beyond the North Carolina mandates for the years 2010–2015.

Figure 9. FPD BLE curriculum hours



49. "BLET Topic List," North Carolina Justice Academy, accessed November 23, 2015, http://ncja.ncdoj.gov/getdoc/c5459b4a-7d9b-4627-a3c9-1807483b3150/BLET-Topic-List.aspx.

50. *2015 In-Service Training: Frequently Asked Questions* (Raleigh, NC: Criminal Justice Education and Training Standards Commission, 2015), http://ncja.ncdoj.gov/getdoc/f9bca167-da54-4722-a6ec-3b545f465815/2015-In-Service-CJ-FAQs.aspx.

The following sections provide an overview of FPD's use of force and community policing training. These sections are followed by a number of related findings and recommendations.

FPD use of force training

In addition to the state-required recruit-level and in-service training, optional classes covering a wide range of topics are offered to FPD officers from time to time, such as leadership training and emotional survivor training. The FPD's training on the topic of use of force is spread throughout the BLE; use of force concepts appear in the many courses, such as Arrest, Search and Seizure, Elements of Criminal Law, and Firearms. Training on use of force topics during annual in-service training has been inconsistent from 2010–2015, though the FPD did provide a four-hour North Carolina CJETSC-approved use of force refresher course in 2015. The refresher course, *Officer Safety: Use of Force Overview*, includes the following topics and training strategies: legal authority for use of force, videos, use of deadly force, critical legal cases, force concepts such as time, and writing use of force reports.

De-escalation training

Since 2008, FPD training has focused on use of force, particularly on the topic of de-escalation. The concept of de-escalation refers to behavior that is intended to escape the escalation of commitment bias. *Commitment bias* refers to situations in which people make irrational decisions based upon past rational decisions or justify actions they have already taken. For example, if we make a request of another person and that person does not comply, it is our natural inclination to restate the request more forcefully, more emphatically, or more loudly. In doing so, we escalate our commitment to the request. Since escalation of commitment can lead to escalation of conflict, de-escalation can also refer to approaches in conflict resolution. De-escalation, when done properly and under the right circumstances, can be a key officer safety resource. It can help officers avoid injuries to themselves and to others and it can make them safer while they perform their duties. As police departments across the nation reassess how and when to make arrests and how officers approach and interact with members of the public, new types of police training focuses on the variety of methods officers use to defuse potentially violent encounters, such as talking and behaving calmly and reasonably with people who are sometimes unreasonable.[51]

Some FPD officers have recently participated in two types of de-escalation training. One course, titled *Surviving Verbal Conflict: Verbal De-escalation for Public Safety Officers*, was taught by retired Raleigh (North Carolina) Chief Harry Dolan and focused on "communications skills proven to help de-escalate volatile situations, safeguard fellow officers' emotional and professional well-being, and significantly enhance the agency's professional image."[52] As of November 2015, all FPD officers have received this training.

51. Timothy Williams, "Long Taught to Use Force, Police Warily Learn to De-escalate," *The New York Times,* last modified June 27, 2015, http://www.nytimes.com/2015/06/28/us/long-taught-to-use-force-police-warily-learn-to-de-escalate.html?_r=0.
52. *Surviving Verbal Conflict* (Indianapolis, IN: Public Agency Training Council, 2014), http://www.columbuspolice.org/lawenforcementtraining/academy/courses/2014/September%202014/Surviving%20Verbal%20Conflict.pdf.

The second course, titled *De-Escalation Training*, was taught by Dr. Barbara Thompson, an expert in the field of addiction and recovery. Dr. Thompson's de-escalation course is founded upon the concept of teaching police officers the art of "communicating with the addict."[53] A total of nine FPD officers participated in this course in March 2015.

Relatedly, the FPD also trains its officers in crisis intervention team (CIT) training. Since June 2008, 234 FPD officers have attended a 40-hour CIT course. The last CIT class was held in June of 2015. CIT also promotes principles of de-escalation for officers and focuses on interactions with people with mental illness. The FPD has also incorporated CIT training into its BLE curriculum; the current recruit class attending the FPD Training Academy will receive 40 hours of CIT training.

Reality-based training

The FPD has also been addressing use of force through adopting some reality-based training (RBT), which is defined as

> any type of simulation training that prepares an individual for future performance through experiential learning. Because of the often immersive nature of the training, the brain and body absorb and process the experience as if it were actually occurring. If done properly and effectively, it can program a participant for effective future behavior to nearly the same degree as if it had been an actual situation.[54]

To explore ways in which RBT could be integrated into the FPD's current training structure—especially in firearms and use of force training—the FPD participated in a train-the-trainer course taught by Ken Murray, Director of Training for the Armiger Police Training Institute. During the course, titled *Training at the Speed of Life: 5-day Reality Based Training Instructor School*, FPD officers working with Murray wrote RBT scenarios that addressed suspicious persons in neighborhoods, the stopping of motorists who then become agitated, and response to domestic violence calls.

FPD community-policing training

While the FPD has made some strides in recent years to improve police-community relationships (see chapter 9 for more information on this topic), the organization's community policing philosophy, as reflected in its mission and core values statements, has not yet been reflected in its training activities. The current BLE requirements of the State of North Carolina do not address community policing at all, nor do the training hours added by the FPD. Similarly, CJETSC-required in-service training topics have not addressed community policing in the last four years (data available online for 2012–2015),[55] the FPD has not trained on community policing-related topics such as problem-oriented policing or procedural justice. Some FPD officers participated in the COPS Office's Fair and Impartial Policing[56] training in 2014 (a curriculum based in principles of community policing, social psychology and cognitive psychology).

53. "Barbara Thompson, Executive Director," National Council on Alcoholism and Drug Dependence, last modified August 13, 2012, https://ncaddsac.org/2012/08/barbara-thompson-executive-director-2/.
54. "Welcome to the RBTA," Reality Based Training Association, accessed August 24, 2015, http://www.rbta.net/.
55. "In-Service FAQs," North Carolina Justice Academy, accessed August 24, 2015, http://ncja.ncdoj.gov/getdoc/bbd4f933-8a87-492f-aa45-b8f2eece7953/In-Service-FAQs.aspx.
56. "FIP Clients," Fair and Impartial Policing, accessed November 18, 2015, http://www.fairimpartialpolicing.com/.

Findings and recommendations

Finding 16

The FPD's current overall training strategy fails to consider important community characteristics of Fayetteville.

The FPD's current training plans fail to capture the characteristics of the residents of Fayetteville, including the significant racial and ethnic diversity of the community. Fayetteville is home to Fort Bragg, a major U.S. Army installation where soldiers are typically stationed for between one and four years. Fort Bragg's sizeable transient population of 29,183[57] poses challenges to creating and maintaining meaningful relationships with the police. Community-policing training tailored to Fayetteville's unique demographics will aid officers in building connections and building trust among community members.

Recommendation 16.1

All FPD personnel should undergo training that emphasizes sensitivity and awareness addressing Fayetteville's community characteristics, including training on the military community, people with mental illness, building cross-cultural understanding, and the LGBTQ community.

The FPD does not engage in regular training that addresses the community characteristics of Fayetteville. BLE, in-service, and specialized training have not regularly addressed specific populations in Fayetteville. By increasing the understanding of FPD officers about specific community groups, the FPD not only increases the likelihood of positive community-officer interactions but also reinforces its prioritization of community policing.

Finding 17

The FPD's current overall training strategy fails to emphasize the philosophy of community-oriented policing.

The FPD does not engage in regular training on community-oriented policing. Currently, the FPD's BLE training curriculum for recruits, in-service training provided during the last five years, and training for non-sworn staff have all failed to regularly and directly address the philosophy of community policing and its primary pillars of community partnerships, problem solving (via the SARA [scanning, analysis, response, assessment] model [58] among other problem solving models and concepts such as CAPRA [clients, acquire/analyze information, partnerships, response, assessment of action taken][59] and DMAIC [define, measure, analyze, improve, control][60]), and organizational transformation. While the FPD received Fair and Impartial Policing training in 2014, more training that advances the community policing philosophy should be a priority.

57. "Total Population – Universe: Total population: Census 2000 Summary File 1, 100-Percent Data, Fort Bragg CPD, North Carolina," American Fact Finder, accessed December 7, 2015, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_00_SF1_P001&prodType=table. In the 2010 Census, Fort Bragg was annexed to Fayetteville city and Spring Lake town. *North Carolina: 2010 Population and Housing Unit Counts—2010 Census of Population and Housing* (Washington, DC: U.S. Department of Commerce, 2012), iii-7, http://www.census.gov/prod/cen2010/cph-2-35.pdf.
58. "The SARA Model," Center for Problem-Oriented Policing, accessed August 23, 2015, http://www.popcenter.org/about/?p=sara.
59. Royal Canadian Mounted Police, *CAPRA Problem Solving Model* (Albany, NY: Center for Problem-Oriented Policing, n.d.), http://www.popcenter.org/library/unpublished/ProblemAnalysisTools/164_CAPRA_Problem_Solving_Model_Booklet.pdf.
60. Michael J. Carroll, "Motorola Imparts Key Training Concepts for Law Enforcement Leaders," *The Police Chief* 78, no. 2 (February 2011), 10–11, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=print_display&article_id=2304&issue_id=22011.

Recommendation 17.1

All current FPD personnel should undergo in-service training on community-oriented policing and the SARA model.

In order for the FPD to advance as a community policing agency, all personnel—irrespective of rank or position—should receive training on community-oriented policing principles and how to apply them to their role within the organization. Such training involves community members as partners in public safety problem-solving and sets expectations about procedural justice during interactions between the FPD and the public. This training should also include sworn, nonsworn, and community representatives commingled to encourage the formation of partnerships and model collaboration.[61] Classes that lead community-police partnership teams through the SARA model of problem solving will not only enable productive community-police partnership teams to form but also enable the language and philosophy of community policing to spread into community groups.

Recommendation 17.2

The FPD should add community policing to its BLE training curriculum.

In order for the FPD to introduce new sworn personnel to its community policing mission, values, and priorities, the FPD should provide basic community policing training at the academy level. Given that the FPD's mission statement reflects community policing principles, new recruits should receive training appropriate to assist them in fulfilling that mission. Community policing concepts should be woven throughout the academy curriculum so that they are reiterated and reinforced at meaningful junctures throughout a cadet's learning experience.

Recommendation 17.3

All FPD personnel should undergo training in procedural justice.

An important concept that is complementary to community policing is procedural justice. Procedural justice is concerned with the process of police-community interactions as well as the process of employer-employee interactions within police agencies. The similarity between procedural justice and community policing rests upon an emphasis on relationships both internal and external to the agency. Community policing is concerned not only with building and maintaining productive problem-solving partnerships with the community through procedurally just interactions but also with organizational transformation. Concepts of internal procedural justice provide important insights into how such organizational transformation can occur. Learning about procedural justice will enhance the FPD's overall understanding of community policing and the internal organizational changes necessary to foster and institutionalize it.[62] There are several national level curricula that address procedural justice aimed at both officer-level understanding as well as organization-level understanding. Both levels of training are appropriate for the FPD.

61. President's Task Force on 21st Century Policing, *Final Report* (see note 1)

62. Jason Sunshine and Tom R. Tyler, "The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing," *Law and Society Review* 37, no. 3 (September 2003), 513–548.

Finding 18

The FPD focuses mostly on state-mandated training standards rather than using training as a tool to achieve strategic departmental goals and objectives.

The FPD's substantial focus on state-mandated training requirements has reduced strategic focus on how training connects to the department's philosophy and mission. This reduces the department's ability to achieve community goals and reduces individual accountability.

Recommendation 18.1

The FPD should develop a strategic training plan that identifies goals and objectives beyond state-mandated minimum standards. This training plan should advance community policing efforts, communication and de-escalation techniques, cultural competencies, and problem solving.

The 2015 FPD BLE recruit training class received 822 hours of training; this is 202 hours more than the North Carolina mandate. The strategic training plan should be a five-year plan that the FPD reviews and updates annually. The multiyear strategic training plan should identify departmental training goals and emphasize community policing strategies; cultural competencies; officer interactions with specific populations, especially people of color, people with mental illness, the military community, and the LGBTQ community; communication and de-escalation techniques; and the SARA model of problem solving.[63] The training plan should also address the FPD's analysis regarding use of force trends, connecting those trends to the training plan. A specific supervisory in-service training and leadership track should also be developed in alignment with community priorities and expectations. The five-year plan should be guided by the FPD's mission and values statement and clearly state how training plans will advance the department's mission.

Recommendation 18.2

When adding hours to the state-mandated BLE training standards, the FPD should emphasize hours that support the philosophy of community policing.

The FPD has trained recruits for more than the North Carolina-mandated number of BLE hours (620) since at least 2010. The majority of the additional hours have been assigned to topics such as Techniques of Traffic Law Enforcement (29 additional hours), Patrol Techniques (29 additional hours), and Firearms (17 additional hours). No additional hours have been added to topics such as Communication Skills for Law Enforcement Officers; Interviews: Field and In-Custody; or Crime Prevention Techniques. One additional hour was added to a course titled Responding to Victims and the Public.[64] (See table 1.)

63. President's Task Force on 21st Century Policing, *Final Report* (see note 1)
64. Kellie Berg, sergeant, Fayetteville Police Department, interview with CNA assessment team, 2015; "Fayetteville Police Academy 2015-1," internal document provided by Fayetteville Police Academy to CNA assessment team, 2015.

When adding future additional hours, the FPD should emphasize officer skills that will serve to enhance police-community relations as well as skills that enhance their abilities to enforce laws. One interviewee said that additional hours are generally added to "high-liability" areas of police work. While skills such as arrest techniques are critically important to police work and making arrests may raise the levels of police legitimacy within the Fayetteville community, the FPD's focus should extend beyond "high-liability" areas of police work into skills that enhance police-community relations directly such as continued de-escalation training.

Table 1. Fayetteville Police Department selected BLE added hours

Course title	NC mandated hours	FPD added hours	Total hours
Techniques of Traffic Law Enforcement	24	29	53
Patrol Techniques	28	29	57
Firearms	48	17	65
Communication Skills for Law Enforcement Officers	8	0	8
Interviews: Field and In-Custody	16	0	16
Crime Prevention Techniques	6	0	6
Responding to Victims and the Public	10	1	11

Recommendation 18.3

The FPD should include the topics of community policing, problem solving, procedural justice, and communication skills into annual in-service training.

Training topics taught in in-service training (in addition to state-mandated topics) from 2010 to 2015 have rarely included training on community-oriented issues such as communications and special populations. Limited offerings have included such topics as Mental Illness: Suicide by Cop and Force Options (2010, 2 hours); Emotional Intelligence: Effective Communications (2010, 4 hours); and Responding to Individuals to Mental Illness (2013, 2 hours). According to the *Final Report of the President's Task Force on 21st Century Policing,* training on such topics addresses officers'"capacity to build trust and legitimacy in diverse communities and offer better skills for gaining compliance without the use of physical force."[65] Providing such training annually reinforces the FPD's mission and values statement and facilitates organizational change. Table 2 below illustrates in-service and specialized training topics from 2013–2015 (as of July 2015).

65. President's Task Force on 21st Century Policing, *Final Report*, 56–57 (see note 1).

Table 2. FPD In-service and specialized training topics

Year	Topic
2015	Verbal Judo
	Domestic Violence: Teen Dating Violence
	Missing and Abducted Children
	Active Shooter
	Juvenile Minority Sensitivity Training
	Emotional Survival
	Legal Update
2014	Advanced FTO/PTO Seminar
	Advanced Line Supervision
	Biased-Based Policing Refresher
	Fair and Impartial Policing
	Reality-Based Training
	Subject Control Arrest Techniques
	Sexual Harassment Prevention
	Taser/OC Recertification
	Managing Professional Relationships
2013	Surviving the First Three Seconds
	CPR Recertification
	Domestic Violence
	Firearms
	Hazmat
	Juvenile Minority Sensitivity Training
	Mental Illness
	Managing Professional Relationships
	Below 100
	Taser Recertification
	Legal Update

Recommendation 18.4

The FPD should establish a Community Advisory Committee consisting of divisions and units within the police department and community member advisors.

The department should work with community organizations, leaders, and individuals to create a viable Community Advisory Committee. This committee should include representatives from various relevant divisions and units within the police department (e.g., Internal Affairs, Training, Crime Analysis, Communications, and Patrol). In addition, community leaders representing a spectrum of perspectives—such as the National Association for the Advancement of Colored People (NAACP), city council, related city boards and commissions, religious leaders, community advocates, and community watch liaisons—should also partici-

pate in this committee. It is important that the committee should also include critics of the FPD. This will create an environment of transparency and increase trust both within the police department and among community groups.

The Community Advisory Committee will focus on such things as resource needs (equipment, training), policy changes, adoption of new technologies, the status of police-community relations, and community outreach strategies. Such a collaboration is consistent with recommendation 5.2 of the *Final Report of the President's Task Force on 21st Century Policing,* which states, "Law enforcement agencies should engage community members in the training process."[66] The recommendation goes on to explain that "Not only can agencies make important contributions to the design and implementation of training that reflects the needs and character of their communities, but it is also important for police training to be as transparent as possible. This will result in both a better informed public and a better informed officer."[67] The FPD's willingness to value the Community Advisory Committee's input into shaping policy and training content and delivery will also increase transparency throughout the community.

Among other activities (see recommendations 20.2, 42.2, and 47.1), the committee members should be full partners in the development of the FPD's training strategy. By engaging the Community Advisory Committee in the training strategy, the department will be in an optimal position to meet community needs and expectations in how their officers are trained and developed. At the same time, the community will benefit from gaining an informed and transparent view of the FPD's strategic planning process, the needs of officers, and the capabilities and constraints of the department.

The committee's involvement in training should focus on reviewing FPD priorities and emerging issues in the community and how best to incorporate them into the training strategy. This may include an overall review of BLE and in-service training, review of specific course curricula, or review of instructor qualifications and experience. The committee's feedback on such issues will assist the FPD in understanding community priorities and concerns about how its officers are trained and developed.

Finding 19

Current use of force training does not produce a clear understanding of policy for the FPD's officers.

Many of the officers interviewed revealed that FPD officers struggle with use of force concepts. While their understanding of use of *deadly* force is relatively robust, when posed scenarios about using lower levels of force, they consistently struggled to explain departmental policy. Interviews with more than 40 FPD officers revealed that while they could recite the department's policy on deadly use of force verbatim, they gave a variety of answers when asked to articulate the department's general use of force policy. Some interviewers posed specific scenarios to interviewees, asking them how they would approach potential force situations and asking them to explain their decision making. Several officers were unable to clearly articulate when and why they would use force in the hypothetical situations.

66. Ibid., 54.
67. Ibid., 54.

Recommendation 19.1

The FPD should update its use of force in-service training to reflect clear terminology regarding the department's use of force policy.

Current training materials conflate the terms "less lethal force" and "nondeadly force." Clearer definitions of terms may be helpful to solidify officers' understanding of FPD policy. Moreover, the training materials list "force variables to take into consideration" but fail to include levels of aggression or levels of resistance and authorize certain force options, which potentially contributes to officers' misunderstanding. In addition, the current curriculum uses ambiguous phrases, such as "when it would be unsafe to approach the suspect;" such wording should be rewritten in accordance with FPD policy.[68]

Finding 20

Crisis intervention team (CIT) training does not occur at regular intervals.

Community members voiced some concerns about FPD officer interactions with people with mental illness, citing a few stories illustrating tense and disrespectful interactions. The assessment team's exploration into the FPD's training on interacting with people with mental illness and CIT in particular revealed that some of the FPD's officers are fully trained in CIT strategies, having completed a 40-hour course of instruction. Continuing training on CIT-related topics, however, does not occur on a regular basis at the FPD.

Recommendation 20.1

The FPD should institute an eight-hour CIT refresher course to be offered every two years.

While 234 FPD officers have attended a 40-hour CIT course in the last seven years, many of those officers have not revisited CIT concepts and strategies since their original training sessions occurred. The FPD should institute an eight-hour refresher course required every two years for all officers who have completed an initial 40-hour CIT course. The refresher course should review de-escalation and talking skills for officers, review signs and symptoms of mental illness and substance use disorders, review psychotropic medications, include new relevant research in the area (such as research on use of force),[69] and address specialized populations such as veterans or those with post-traumatic stress disorder (PTSD) and juveniles. It should be noted that the FPD is currently at work on a curriculum for an eight-hour CIT refresher course.

Recommendation 20.2

The FPD should use the Community Advisory Committee (recommendation 18.4) to assist in the development of the CIT refresher training curricula.

The FPD should seek the input of the community advisory committee (see recommendation 18.4) to develop the CIT refresher training curricula. In addition to the committee, the FPD should seek the input of other community stakeholders from the local mental health community as well as other subject matter experts in the field (e.g., National Alliance on Mental Illness) to provide input and review the curricula.

68. *Use of Force Refresher Training* (Fayetteville, NC: Fayetteville Police Department, 2015).
69. Melissa S. Morabito et. al, "Crisis Intervention Teams and People With Mental Illness: Exploring the Factors That Influence the Use of Force," *Crime and Delinquency* 58, no. 1 (2012), 57–77.

Chapter 6. Investigations

Overview

This chapter provides a comprehensive assessment of the Fayetteville Police Department's (FPD) internal administrative investigation of deadly force incidents including officer-involved shootings (OIS) and other instances of deadly force.

The CNA team's assessment of the FPD's deadly force investigations was exclusive to OISs and focused primarily on the internal administrative investigation. The purpose of the internal administrative investigation is to determine if there are policy violations, policy failures, training needs, or other performance issues that need to be addressed.

To develop a full appreciation of the FPD's model for deadly force investigations, the team undertook several tasks. First, we met numerous times with the FPD's chief and members of his executive staff. Second, we interviewed personnel from the FPD's Homicide Unit, Internal Affairs (IA) Unit, and legal counsel. We also spoke with the Cumberland County District Attorney and his staff, a senior supervisor with the North Carolina State Bureau of Investigation (SBI), and personnel from the Cumberland County Sheriff's Department. We also examined policies and reviewed literature writ large on the use of force. We reviewed FPD media releases as they related to past deadly force incidents. Finally, we conducted a systematic evaluation of 10 deadly force incidents dating from 2010 to 2014.

For the purposes of this assessment, the CNA team did not assess the SBI's operations, policies, and protocols, as it was not intended that the SBI be a participant in the Collaborative Reform Initiative for Technical Assistance (CRI-TA) process. The team was focused solely on efforts to improve FPD polices, training, and operations as they relate to the use of force and interactions with citizens. As such, the purpose of this assessment is to improve upon the FPD's investigative model for uses of deadly force, though there are occasions where recommendations mention the SBI. In these instances, it is the team's goal that further collaboration between the SBI and the FPD may present an opportunity to strengthen the FPD's model.

In the following sections, we describe this approach and conclude with a series of findings and recommendations based on our assessment.

Current practice

As an overview, the FPD has a three-pronged approach to deadly force investigations, using the SBI, the FPD's Homicide Unit, and the FPD's IA Unit. Thus, there are three concurrent investigations that take place when a deadly force incident occurs.

Initial response

The FPD's policy mandates that an officer notify the Communication Center and his or her supervisor of any deliberate or accidental firearm discharge. The officer's chain of command and FPD staff members are contacted, and personnel from the Homicide Unit, the IA Unit, and the Public Information Office report to the scene. The FPD's forensic technicians also respond to assist in crime scene documentation by photographing the area.

The involved officer is transported from the scene to the FPD's Police Administration Building, where the officer is placed in a static environment and the officer's firearm is handed over to an FPD IA investigator. The weapon information is recorded and later released to a responding SBI agent. IA investigators conduct a compelled, *Garrity*-protected interview with the involved officer at the time of the initial response to the scene. The statement given by the officer to IA must not be released to the criminal investigators.

From the onset of a deadly force investigation, the SBI focuses on the legal justification of the officer's actions in accordance with state law. The SBI is authorized pursuant to state statutes to provide assistance to law enforcement agencies and district attorneys investigating the use of deadly force by police officers. According to FPD policy, the chief of police or his or her designee may request that the SBI conduct an independent investigation. In practice, the FPD chief and the district attorney have concurred in their requests for investigative assistance from the SBI.

SBI criminal investigation

In the immediate aftermath of a deadly force incident, the SBI will initiate their rollout to the scene after receiving a phone call from the FPD's captain of the IA Unit, who has been given the authority by the FPD's chain of command to make such a call. SBI personnel document and process the crime scene; the FPD will not impound evidence. The SBI takes the physical evidence into custody and requests analysis from the State Crime Laboratory. The SBI will collect the clothing of the involved officer at the time of their initial response. SBI agents complete the canvass (which is often begun by the FPD), identifying and interviewing additional witnesses. In the days following the incident, the SBI will solicit a statement from the involved officer, using a template approach to questioning. These interviews are documented through a written statement; the interviews are not recorded.

At the conclusion of their investigation, the SBI delivers an investigative file to the Cumberland County District Attorney's Office for their final disposition. The SBI presents only the facts and circumstances of the incident to the district attorney; they do not offer an opinion on the legality of an officer's actions. The SBI file is confidential; state law prohibits the FPD from receiving a copy of the SBI investigative file.

FPD Homicide Unit investigation

The FPD's Homicide Unit investigates criminal actions of the subject upon whom force was used and then submits a case to the District Attorney's Office for prosecution when appropriate. This investigation runs parallel to the SBI's criminal inquiry into the officer's actions. For an OIS investigation, the FPD Homicide Unit will assist the SBI in conducting the canvass and other tasks, such as applying for search warrants. As a practice, the FPD Homicide Unit will interview the involved officer two to three days after the incident; this is a voluntary interview. The FPD Homicide Unit's interviews are video and audio recorded and are maintained as part of the FPD's Homicide file; these interviews do not become part of the SBI's file. The Homicide Unit will forward its criminal case on the subject upon whom force was used to the district attorney. A case submittal still occurs in incidents where there is a fatality.

FPD Internal Affairs Unit investigation

The FPD's IA Unit conducts an administrative review, focusing on whether or not an officer's use of deadly force is in accordance with department policy and procedures. The IA Unit takes a compelled statement from the officer involved and, as a result, their investigation must not be shared with the SBI or the FPD's Homicide Unit. During the initial callout to the scene, IA investigators will obtain an overview of the incident from Homicide detectives. IA investigators do not conduct walkthroughs of the scene.

As their investigation concludes, the IA Unit conveys the facts to the Chain of Command Review Board (CCRB).[70] The board makes recommendations to address any gaps in policy and officer performance. In 2015, the FPD revised their administrative review to expand the scope of its assessment in an effort to look at an officer's tactics surrounding the incident to a greater degree.

Findings and recommendations

Finding 21

The FPD's procedures for investigating deadly force incidents lack consistency.

Though the roles and responsibilities of the FPD's Homicide Unit and SBI agents are defined, tasks and investigative steps taken by both entities are often intermingled and, at times, duplicated. In addition, the FPD's policies on use of deadly force[71] and IA investigations[72] fail to clearly and comprehensively describe the FPD's investigative procedures for a deadly force incident. There have been variances in the application of protocols in the FPD's deadly investigation. For example, in October 2014, at the request of the chief, the Cumberland County Sheriff's Office rather than the SBI conducted the criminal side of a deadly force investigation. This divergence is perhaps the most extreme example.

Recommendation 21.1

The FPD should establish a protocol between the FPD, the SBI, and the District Attorney's Office that details roles and responsibilities of each entity as it relates to deadly force investigations involving FPD officers.

The *Final Report of the President's Task Force on 21st Century Policing* recommends that police agency policy be revised to "mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths."[73] While FPD policy already incorporates such aspects by having the SBI conduct the investigation of such incidents, there are important details on the standard operating procedures, roles, and responsibilities that require further refinement in order to ensure and address the need for information exchange between the agency and the investigating body.

The FPD needs to work with its criminal justice counterparts to address and respond to deadly force incidents using a more formal and consistent protocol. The protocol should establish standard operating procedures and detail the investigative steps to be taken by each entity. The shared protocol should include aspects of sharing information in addition to determining who is responsible for providing updates to the

70. Additional detail on the Chain of Command Review Board is provided in chapter 7.
71. *General Order 4.11* (see note 14).
72. *Operating Procedure 1.1* (see note 12).
73. President's Task Force on 21st Century Policing, *Final Report*, 21 (see note 1).

media. The protocol should also establish communication procedures to ensure that compelled *Garrity* statements made by officers in an internal administrative investigation do not contaminate the SBI's criminal investigation of the officer. (See recommendation 34.1 for more details on developing a communications plan for addressing the public and media.)

Recommendation 21.2

The FPD should establish a manual that contains the investigative process and protocols for the FPD's deadly force response and investigation.

The manual should define the process, providing the objectives and expectations of the FPD's first responders, Homicide Unit, and IA Unit in deadly force investigations. The manual should detail the steps taken to construct a comprehensive, accurate, objective, transparent, and timely investigation.

Finding 22

The FPD's initial response procedures for deadly force investigations lack consistency.

Deadly force investigations lack consistency in the time it takes for the SBI or the FPD to process the crime scene. It should be noted that it was difficult to assess crime scene management inasmuch as the supplemental reports by individual officers included in these files were limited to discussion of their individual roles in protecting or securing the scene. Crime scene management was also not discussed in detail in the reports found in the internal investigative files.

As a practice, it is preferable that the SBI process the crime scene to ensure the preservation of evidence and the integrity of the scene as well as to limit the chain of custody or items of evidentiary value. However, the SBI's response time appears to differ widely from one hour to more than three hours. The reason for the delay varies and can result from a communication failure or a lack of available and nearby SBI agents.[74] As a result, much of the crime scene may be left unprocessed for an extended period of time—including the examination and removal of the decedent in the case of a fatal incident, which can exacerbate discontent in the community. In addition, a delay in the response of the SBI ultimately means a delay in other investigative activities, including key witness interviews and forensics.

Recommendation 22.1

The FPD should establish a clear procedure for the department to notify the SBI that a deadly force incident has occurred.

Establishing proper channels for notifying the SBI that a deadly force incident has occurred will ensure that crime scenes are processed in a timely fashion. The steps the FPD takes to notify the SBI should be outlined in a clear procedure, delineating who is responsible for making the notification and at what point in the process the notification should be made. In addition, the FPD should consider the aid of technology (e.g., a notification system) to ensure that the request for assistance is made in the most timely manner possible.

74. CNA interviews 2015.

Finding 23

The FPD does not have a clear protocol outlining who is responsible for the area canvass as the agency responds to a use of deadly force or directing what steps should be taken. The documentation of the area canvass found in the internal, administrative file was incomplete.

A timely and exhaustive canvass is a critical task to be completed from the early stages of a deadly force investigation. First-responding officers and the ensuing detectives must be vigilant in attempting to contact, maintain, and gather witnesses upon their arrival to the scene.

In reviewing the FPD's internal administrative files, it is difficult to decipher who was responsible for the canvass, who completed the canvass, and what were the comprehensive results. Numerous supplemental reports by individual officers mentioned contact with witnesses, but a clear, thorough, and encompassing report on the canvass could not be found in the files.

Recommendation 23.1

The FPD should establish a written protocol outlining the steps to be taken for completing an area canvass to a standard. The FPD should create a template report that documents the results of the canvass.

The FPD's neighborhood canvassing efforts should be thoroughly documented and a detailed account of how this information was passed to the subsequent arriving SBI personnel should be noted.

Investigators should follow up with all addresses not contacted and keep a complete list of addresses with the names of those who were contacted as part of the canvass. Likewise, negative results should be well documented. The goal of a canvass is for investigators to be able to identify and interview any potential eye and ear witnesses. The effort should be conducted and documented in a way that makes it replicable.

Either the SBI or the FPD should publish a media release with email and phone contact information, requesting that witnesses come forward. Such an appeal to the public for additional information may not only help identify additional witnesses but also bolster the community's trust in the investigative process.

Finding 24

After the initial response by patrol officers to a deadly force incident, the FPD does not have a clear and comprehensive protocol defining who is responsible for crime scene management.

Having a thorough understanding of roles in the management of a crime scene will ensure consistency, thoroughness and proper preservation.

All crime scenes should be managed to a quality standard, including consistent documentation in a crime scene log, assignment of a log officer, and setting of a perimeter. Thorough and comprehensive documentation of the steps taken to secure a crime scene permit a reviewer to assess whether or not first-responding patrol officers, and subsequently the arriving detectives, properly managed the scene.

There are critical areas in the FPD's practice of documenting the crime scene of a deadly force incident that were relayed during our interviews that were not specified in a procedure or protocol. The photographing the involved officer, the impounding the officer's clothing, and the handling of the officer's firearm are tasks that need to be completed to a standard to ensure a quality investigation has been accomplished. As

a practice, FPD personnel respond to the scene and their crime scene investigators take the first steps in managing the scene before passing on these duties to SBI agents who arrive at a later time. The issue with this process is that there is no written protocol that clearly defines roles, responsibilities, and tasks, and this current process leaves open the possibility that a scene will not be managed to a high standard.

Recommendation 24.1

The FPD should establish a written protocol, detailing the crime scene management process from the FPD's early response to the transfer of the scene to the SBI's control.

The FPD should establish a written protocol detailing the tasks and expectations for crime scene management in a deadly force incident. In addition, the department's overall management of the crime scene should be recorded in detail in the final investigative report.

Finding 25

The FPD's internal administrative files lack thorough documentation of the crime scene.

Pictures, crime scene diagrams, and video-recorded documentation can significantly bolster the level of understanding of what occurred in a critical incident. In examining an officer's decision making and use of tactics, it is as important to the internal administrative investigation as it is to the criminal that the reviewer grasp all details surrounding an officer's actions in a dynamic situation. A thorough comprehension is needed in rendering a fair opinion.

Crime scene documentation is a problematic area in the review of the FPD's internal administrative investigative files. The files lacked thorough documentation such as video-recorded crime scene walkthroughs, photography, distance measurements, crime scene diagrams, and identification of physical and forensic evidence. It is reasonable to presume that the SBI has a more in-depth record of the physical evidence at the scene.

Recommendation 25.1

The FPD's investigative manual for deadly force investigations should standardize all the tasks and actions to complete as far as documenting a crime scene.

The manual should describe the appropriate steps for a thorough documentation of the crime scene including video-recorded crime scene walk-throughs, photography, distance measurements, development of crime scene diagrams, and identification of physical and forensic evidence. Photographs should always be labeled with the perspective from which they were taken and items of importance. All suspects, involved officers, casings, and projectiles should be photographed and labeled.

To strengthen the FPD's model, the IA Unit should have timely access to the crime scene documentation, and have the ability to present this material in the administrative review. During this assessment, both FPD Homicide detectives and IA investigators relayed that they are permitted to review contents of the SBI file. However, this occurs months after the incident and is limited in scope; state law does not permit the SBI to copy their file. For the FPD model to progress, it is essential that the FPD and the SBI look to strengthen information sharing within the extent allowed by law to enable the FPD to complete its own internal investigation in a timely manner and thereby ultimately address community concerns in a fair and transparent manner.

Finding 26

The FPD does not have an investigative protocol that provides consistency and minimizes redundancy in interviewing the involved officers in a deadly force incident.

In our review of the FPD's internal administrative deadly force investigative files, we found that there was inconsistency in the FPD's model on the timeliness, the sequence, and the number of interviews an involved officer provides. On occasion, an involved officer is interviewed three times, providing statements to each of the three investigative prongs. In deadly-force investigation models, there is a benefit for the criminal investigation to have access to and conduct the first interview of an involved officer. The drawback is that this interview may be delayed as the officer seeks legal representation or in some cases refuses to provide a voluntary statement to a criminal investigator—whether it is to an SBI agent or a FPD Homicide detective.

Recommendation 26.1

The FPD should establish a written protocol detailing both the FPD's Homicide and IA Units' approach to all officer and witness interviews.

The protocol should clearly describe the investigative steps and practices for interviewing or interrogating all witnesses and involved persons including interviews of civilian witnesses, witness officers, and discharging officers (if applicable); supervisor roles and responsibilities; taking of a public safety statement; and documentation of interviews and interrogation. The manual should establish protocols in an effort to reduce duplication among the SBI and the FPD's Homicide and IA Units.

As protocol, the FPD takes a compelled *Garrity*-protected interview from the involved officer at the time of initial response to a deadly force incident. This interview allows the chief and the agency to have an early appreciation of the circumstances surrounding the incident; however, the IA investigator is often interviewing the officer with limited information and without the ability to prepare fully for probing problem areas. The FPD's model could improve if the criminal interviews—the SBI's and the FPD's Homicide Unit's—preceded the internal administrative investigation; but having said this, it is vital that the FPD police chief receive an early briefing by both criminal investigative teams on all the facts and contexts about the officer's use of deadly force. The purpose of this briefing is to allow the FPD police chief to make important decisions on the duty status of an involved officer; on the need to make corrective and immediate changes in operations, policy or training; and on further communications with the media and the public.

As a practice, IA Unit interviewers should have access to previous interview transcriptions while ensuring information that is gathered in the internal administrative investigation is safeguarded from both the SBI and Homicide Unit's investigations. In addition, the interviews obtained during the course of the parallel criminal investigations can be shared to reduce duplication and to ensure that an officer's factual assertion of the incident can be appropriately challenged. The inclusion of all interviews in the IA file presents a level of thoroughness in the documentation.

Though a goal of this recommendation is to increase efficiency in the FPD deadly force investigative model and reduce duplication at times, it is also important to acknowledge that some level of redundancy is acceptable to ensure a thorough, scientific, and unbiased investigation.

Finally, the manual should discuss the importance of refraining from using leading questions to conduct an unbiased and objective investigation. The manual should emphasize the use of open-ended questions that solicit a broader response while allowing for a greater detailed narrative by the interviewee (see finding 32 and recommendation 32.1).

Finding 27

FPD officers who use deadly force are not required to provide a public safety statement to the first-responding supervisor.

FPD officers in an OIS (or deadly force incident) do not relay information to first-responding officers or supervisors in a structured and consistent manner using public safety statements. A public safety statement is based upon an immediate need to know specific dynamics of a shooting and is often taken after a high-stress encounter. The involved officer should provide a thorough statement to the first-responding supervisor or the supervisor should ask the officer a structured set of questions to obtain inform required for this statement. The lack of structured information reported by an officer can be problematic in deadly force incident, which can often result in subsequent "emergency circumstances" impacting the investigation and public safety. For example, it can present difficulty locating suspects who may have fled the scene or identifying potential victims or witnesses.

Though this issue is not a chronic problem at the FPD, a policy that mandates a statement from the involved officer can ensure that adequate and essential information is obtained quickly to address an emergency that may exist in order to safeguard the investigation and safety of the community.

Recommendation 27.1

The FPD should establish a standard checklist of public safety questions for the first-responding supervisor.

The FPD should create a document that lists the structured questions a first-responding supervisor should ask to an officer involved in an OIS. The checklist could include items such as the following:[75]

- What force was used
- Direction of shots fired
- Knowledge of any injured persons and their locations
- Knowledge of any suspects at large and direction of travel
- Time lapse from the event
- Any knowledge of witnesses, including names, descriptions, and locations
- Any knowledge of evidence at the crime scene
- The scope of the crime scene

75. "Administrative Investigations of Police Shootings and Other Critical Incidents: Officer Statements and Use of Force Reports Part Two: The Basics," *AELE Monthly Law Journal* 201, no. 8 (2008), 201–216, http://www.aele.org/law/2008FPAUG/2008-8MLJ201.pdf.

Recommendation 27.2

The FPD should train supervisors on how to take public safety statements.

The public safety statement is based upon an immediate need to know specific dynamics of a shooting and is often taken after a high-stress encounter. Training on how a supervisor should take such as statement is important. These statements are a crucial area that supervisors may struggle with in attempting to capture information shortly after an OIS has occurred. Learning objectives on how to obtain a public safety statement should be included in first-line supervisory classes.

Finding 28

The lack of Information-sharing protocols between the FPD and the SBI significantly hinders the FPD's investigative efforts.

In our review of 10 FPD deadly force investigative files, the assessment team found that key information (e.g., crime scene documentation and some interviews) was often missing because of restrictions on information sharing between the SBI and the FPD. We learned through our interviews that current practice is for the SBI to share information with the District Attorney's Office but not with the FPD. FPD investigators must physically go to the District Attorney's Office to examine the SBI case file, as it is not to be photographed, copied, or electronically transmitted in any way.

Although the criminal review of an officer's actions is the most consequential, internal administrative investigations more effectively handle problem areas with officer performance and agency responses.[76] Therefore, it is vital for the FPD to have access to all information related to deadly force incidents involving its officers if the agency is going to self-critique and improve as a result of these incidents.

Recommendation 28.1

The FPD should establish a formal information-sharing protocol with the SBI and the District Attorney's Office regarding deadly force incidents involving FPD officers.

In a deadly force incident, the same set of facts should apply to all three investigations: (1) the SBI investigation looking into an officer's actions at the time the officer used force; (2) the underlying offense and criminal culpability of the civilian suspect upon whom force was used;[77] and (3) the internal administrative investigation into the officer's action and decision compared with policy, training, and approved tactics.

The administrative review is an analysis of an officer's performance. In order to construct and deliver a meaningful critique of an event, the investigator must be well informed. In addition, for an involved officer to understand and accept the outcomes and lessons learned in the review, the officer must be confident that a true picture of the incident was presented during the review process. Lack of information in an administrative review dampens the review's credibility with officers, the agency, and the community alike. This becomes particularly important when it comes to critiquing tactics and decision making. Reviewers of the internal administrative inquiry must consider all evidence and ultimately render determinations and recommendations on whether the use of force was consistent with FPD policy. This deliberative process

76. Samuel E. Walker and Carol A. Archbold, *The New World of Police Accountability, 2nd edition* (Los Angeles: Sage Publications, 2013).

77. In cases in which the subject is deceased, the FPD's Homicide Unit also submits a report to the district attorney documenting the criminal culpability of the civilian suspect.

can also effect positive change in policy formation, training, tactics, and equipment, but for this to occur, it is imperative that the administrative inquiry deliver a product that has relayed—in every aspect—what actually occurred during the incident.

The shared protocol described in recommendation 13.2 should include a provision that allows FPD investigators access to such information. This information should be incorporated into the FPD administrative investigative file. The following are examples of information that is captured in the criminal investigation but should also be included in the internal administrative investigation: all officer statements; witness statements; crime scene photographs; a video recording of the crime scene; crime scene diagrams; forensic or scientific analysis reports; perspective photographs depicting where officers, witnesses, and subjects stood at the time shots were fired; trajectory workups and photography; and medical examiners' reports.

Finding 29

The FPD's case files for internal administrative investigations of deadly force incidents included reporting inconsistencies, which hampered clarity.

The FPD's administrative reporting on a deadly force incident relies heavily on a template report from a software system. This reporting does not provide a logical and readable summary from which a reviewer can draw conclusions and findings.

We reviewed 10 deadly force administrative files and found that the underlying evidence—such as civilian witness statements, officer statements, crime scene diagrams, forensic evidence, crime scene analysis, photographs, and video evidence—was not sufficiently gathered in the FPD's administrative files to allow for accurate, well-informed conclusions. The interviews gathered by other investigative units (e.g., the SBI, and, at times, the FPD's Homicide Unit) are not included in the FPD's administrative review, which results in information gaps and unresolved inconsistencies. Because of the lack of information in the administrative file, key evidence cannot be examined. The chronology of events and the overall agency response was difficult to decipher from the FPD's administrative review. In addition, specific information such as the number of times an officer fired or from what distance the officer fired was substantially missing in the files.

Recommendation 29.1

The administrative file should encompass all available information surrounding the deadly force incident.

To ensure fairness, objectivity, and accuracy, an administrative file must be well organized and systematic and must include documentation that can support managerial decisions. For all deadly force incidents, the FPD should construct a single-source, comprehensive report that thoroughly documents the investigation and provides a definitive reference in providing the details of the incident and the subsequent investigative steps. The investigative file should contain but not be limited to the following information: a definitive index that catalogues the investigative file; the final comprehensive administrative report; *all* involved and witness officer interviews (audio and transcribed files); all reports from the FPD's Homicide detectives; crime scene logs; canvass documentation; crime scene diagrams; forensic requests; scientific analysis, such as ballistic evidence, blood spatter, and DNA analysis; employee administrative notices and obligations; 911

and dispatch transcripts; Computer Aided Dispatch reports; coroner's autopsy reports; subject's criminal history and other background information; medical reports; photographs; video and audio evidence; news and media coverage; officer performance history; training records (both historical and any remedial training completed as related to the reviewed incident); applicable FPD policies, procedures, and lesson plans; the presentation material to the CCRB; and the findings of the board.

Finding 30

The FPD's documentation of witness interviews is insufficient for a quality administrative review.

Based on our review of 10 FPD investigative files, supplemental reports completed by officers occasionally summarized the information obtained from witnesses rather than including documentation of actual witness statements. Other times, witnesses filled out written statements.

Witness interviews are a critical part of any criminal or internal administrative investigation, and summarized statements can lead to incompleteness, inaccuracies, or unintentional bias.

Recommendation 30.1

All interviews conducted by FPD investigators in the course of a deadly force investigation should be video recorded.

The FPD should video record and transcribe witness interviews. Thorough documentation of witness interviews can provide evidence to safeguard investigations against bias or inappropriately leading questions. In addition, the transcript can show that investigators probed facts deeply, addressed the discrepancies or inconsistencies in statements found in the investigation, and made efforts to resolve them. A recording of a statement aids against accusations that investigators did not acknowledge or glossed over unfavorable facts.

When applicable, witnesses should place themselves at the time of the incident, through pinpointing their positions on either a diagram or a map. Perspective photographs should be considered, when applicable, showing the field of view of a witness at the time of the deadly force encounter.

Finding 31

The FPD's IA Unit focuses its administrative investigation almost exclusively on policy and the actions of the officer who used deadly force at the moment of the use of force. This narrow approach hampers the FPD's ability to adequately probe all the issues that could be found in a training and tactical review.

IA investigations of deadly force incidents tend to focus narrowly on department policy and the moment of the use of force. Often neglected are actions leading up to that moment and tactical decision making.

IA investigators also rely heavily on supplemental reports submitted by witness officers or other responding officers rather than conducting the interviews themselves. The supplemental reports and the homicide investigation do not probe all of the issues and concerns related to training, tactics, and the agency's broader response to the incident. Although IA regularly interviews the involved officer, they rarely interview witnesses. Instead, investigators rely heavily on homicide detectives' interviews with witnesses.

Recommendation 31.1

IA investigators should significantly expand the scope and purpose of their investigation.

Expansive internal administrative investigations are becoming increasingly common and are often called for by police reformers and police practice experts.[78] In order for the FPD to learn and improve from such incidents, investigators must conduct investigations that reflect this goal. In addition to policy violations, FPD investigators should probe incident dynamics including but not limited to communication among officers, assessment of environmental backdrop, weighing the risks involved in actions, the officer's training and disciplinary history, the supervisors' actions, the availability of less lethal equipment, and steps taken to de-escalate the situation. One example of such a model for comprehensive internal administrative investigations is that of the Las Vegas Metropolitan Police Department's Collaborative Reform team.[79] The FPD should consider adopting a similar model to address the learning needs of that agency.

Recommendation 31.2

IA investigators should conduct interviews with all officers and, when needed, witnesses in a deadly force incident.

The FPD's Homicide Unit is primarily concerned with the criminal investigation of the subject who was shot by the police. Therefore, their line of questioning will not reflect the nuanced and different objectives of an IA investigator. IA investigators should conduct their own interviews with key actors and witnesses, all of which should be video recorded. This should include officer witnesses, supervisors, suspects, and community witnesses.

Recommendation 31.3

IA investigators should consult with departmental subject matter experts to help uncover potential training and tactical errors.

Investigators should provide a briefing of the incident and their preliminary investigative findings before they are finalized to a cadre of FPD officials who have expertise in the policies, training, and tactics that were pertinent to that incident. The purpose of this briefing is to obtain feedback. Often, investigators are not the authority on a particular subject or issue that is an aspect of the officer's performance to be reviewed. The use of a cadre of subject matter experts ensures that IA investigators are considering the latest training and are aware of the approved tactics and practices to which they may have not been exposed previously. The trainers, supervisors, and other experts can provide valuable information to investigators on how an officer was trained and what are the best practices or tactics to employ for the particular scenario that an officer faced. Participants in this dialogue can also help identify additional root causes that may have contributed to errors in judgment or substandard performance.

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78. Fachner and Carter, *An Assessment of Deadly Force in the Philadelphia Police Department* (see note 35); President's Task Force on 21st Century Policing, *Final Report* (see note 1); Walker and Archbold, *The New World* (see note 74).

79. James K. Stewart et al., *A Review of Officer Involved Shootings in the Las Vegas Metropolitan Police Department*, Collaborative Reform Model (Washington, DC: Office of Community Oriented Policing Services, 2012), http://ric-zai-inc.com/Publications/cops-p273-pub.pdf; Walker and Archbold, *The New World* (see note 74).

Recommendation 31.4

The FPD's IA Unit should render specific recommendations for the CCRB to deliberate and offer a final decision.

Current practice is for IA investigators to simply present the case file to the CCRB. However, deadly force investigations are complex, and there are many areas to analyze and assess in the investigative process. This takes considerable time and research; if left unresolved prior to the CCRB review, issues can pass through the process unaddressed. As a rule, the administrative files are a collection of facts but lack analysis or a detailed examination of the information presented.

Investigators should render specific recommendations—based on inconsistencies in policy, procedure, and training—for the CCRB to consider in the conduct of their review. In their presentation to the CCRB, investigators should point out conflicting evidence and any issues that were unresolved.

Finding 32

The FPD's IA Unit's recordings and transcribed statements of the involved officer showed, on occasion, that investigators used closed-ended or leading questions or provided feedback on an officer's performance.

In one case, an investigator provided feedback to the involved officer that he had performed justifiably during the incident, though the investigation was in the early stages of the process. This type of interaction between the investigator and the involved officer displays a lack of professional standards and inhibits the completion of an objective, unbiased IA investigation.

Investigators should refrain from providing feedback or an assessment of an officer's performance during an interview. This can lead to accusations of prejudgment, presumptions, or preconceived ideas in the investigation. Administrative interviews must be held to rigorous standards to promote fairness and objectivity.

Recommendation 32.1

The FPD should establish a protocol to ensure that closed-ended and leading questions are minimized and the investigators remain unbiased and nonjudgmental in the interviews.

Interviewers should use questions that solicit an open narrative response and that encourage the interviewee to provide the most descriptive language. Interviewers should guard against questions that tend to suggest a particular answer. The use of leading questions in an interview can create the appearance that the investigator is trying to coach the interviewee on how to answer. The preponderance of leading questions can seriously diminish the credibility of an investigation, creating the perception that the investigators were not objective or unbiased in their approach. In addition, IA's chain of command should ensure that investigators are adequately probing and challenging an officer's assertion of facts when there is inconsistent or conflicting information that needs to be reconciled.

Finding 33

The FPD lacks official training requirements for Homicide detectives and the IA Unit investigators for conducting deadly force investigations.

The FPD does not currently require specialized training for detectives within the Homicide Unit and the IA Unit who conduct officer-involved investigations. Because deadly force incidents, specifically OIS incidents, are complex investigations, specialized training in interview techniques and crime scene analysis is important to ensure that these investigations are comprehensive, complete, and consistent.

Recommendation 33.1

All FPD Homicide detectives and IA investigators should be required to attend specialized training for officer-involved shootings, and this training should be assessed annually.

The FPD should take steps to ensure that training has been received in a timely manner, especially when a detective or investigator transfers to the unit. Training can be developed by outside entities or in house by FPD instructors. The FPD should conduct annual assessments of its training needs for the Homicide and IA Units.

Finding 34

The FPD's media releases and press conferences have not been consistent in the aftermath of an officer-involved shooting. This inconsistency furthers the lack of understanding on use of force investigative processes among the FPD and the community.

The community has not been consistently provided with a clear narrative of the event by the police department other than a preliminary media release and sparse information found in media updates. Community members expressed that there is a general lack of transparency and timeliness in providing details to the public.[80]

In addition, the assessment team's interviews with community members indicated that the levels of understanding of use of force investigation processes are low. They do not understand, for example, the difference between an internal administrative investigation (performed by the FPD) and a criminal investigation (performed by the SBI).[81] They reported that they rarely hear about the results of either investigation.

Recommendation 34.1

The FPD should establish a comprehensive communications plan for relaying consistent information to the community and media.

This plan should include an initial briefing by the chain of command at the time of first response while at the scene. An updated press conference should occur after the chief has been briefed on the investigation.

80. CNA interviews, 2015.
81. Ibid.

All deadly force incidents should be addressed by a media interview and press release at the time of the FPD's initial response to the incident or, as recommended by the President's Task Force on 21st Century Policing, "as soon as possible and within 24 hours."[82] A member of the FPD's executive staff should relay basic facts and circumstances surrounding the incident.

Although the SBI leads the investigation, the FPD's chief should request a timely briefing (e.g., 48 hours after the occurrence) from the SBI on their preliminary investigation. An early briefing by the criminal investigation to the head of a police agency is a recognized best practice that enables the agency to prepare for public discourse about the event and to address any agency practices or training needs. From the head of an agency's perspective, the best way to evaluate an event is to be well informed with accurate information. From this point forward, the FPD chief or his or her designee should present factual information at a press conference while explaining the next steps in the investigative process.

A procedure for this communication plan should be written and shared with the media. This recommendation mirrors the recommendations of the President's Task Force on 21st Century Policing, which suggest that departments have procedures on the release of a summary statement regarding the circumstances of the use of deadly force.

Recommendation 34.2

At the conclusion of the SBI's criminal investigative process and the FPD's Internal Affair Unit administrative process, the FPD should provide a detailed narrative of what occurred in the OIS to the media and community.

The FPD should publish a report of the event on its website along with outcomes of each investigation resulting from the deadly force incident. The FPD should also consider providing this level of detail in response to other critical incidents.

82. President's Task Force on 21st Century Policing, *Final Report*, 22 (see note 1).

Chapter 7. Oversight and Accountability

Overview

In this chapter, the assessment team describes the state of review and oversight (internal and external) related to the Fayetteville Police Department's (FPD) use of force. We begin by reviewing the constraints on the FPD to implement an external oversight entity and then provide a review of the FPD's internal review of use of force incidents and officer accountability mechanisms. The chapter concludes with a set of findings and recommendations on the reforms the FPD should implement in order to address the gaps and areas for improvement discovered in the review of related policies, data, interviews, and observations of department operations.

External oversight

North Carolina General Statute 160A-168 currently limits the FPD's ability to share personnel information with a civilian review board.[83] As such, no such external oversight board exists in Fayetteville. As of 2015, only four large cities in North Carolina (Durham, Winston-Salem, Greensboro, and Charlotte) have been granted permission from the North Carolina General Assembly to share police officer personnel information with civilian review boards.[84]

Internal review

The FPD's Internal Affairs (IA) Unit oversees many of the FPD's internal oversight and accountability mechanisms. These mechanisms include the production of annual IA reports, review of serious complaints (internal and external), the early warning system, the internal administrative investigation of deadly force incidents, and the Chain of Command Review Board (CCRB). The following sections go into detail on the complaint and chain of command review board process.

Complaints

All complaints (internal and external) and nondeadly use of force incidents are investigated by the involved officer's supervisor and reviewed by his or her chain of command within the FPD. If deemed necessary, the supervisor or chain of command may recommend disciplinary action. After this investigation and review is complete, the file is forwarded to the FPD's IA Unit for review, which then forwards the file to the assistant chief and chief of police. The assistant chief signs off on all disciplinary action that is equal to or less than a written reprimand; in cases warranting a greater disciplinary action, the chief will review and approve. In any case, the chief reviews all investigations and can determine if a lesser or greater disciplinary action is warranted or request an additional review by IA.

83. North Carolina General Statutes, chapter 160A "Cities and Towns," § 160A-168 "Privacy of employee personnel records," effective 2010.

84. Ray Gronberg, "Civilian Board's Oversight of Police Limited, City Says," *The Herald-Sun*, last modified January 7, 2014, http://www.heraldsun.com/archive/civilian-board-s-oversight-of-police-limited-city-says/article_a553b54d-0a0b-5e9f-b571-9a178fa6d7c6.html; CNA interviews, 2015.

If the officer's supervisor or chain of command deems an incident or complaint to be serious (i.e., allegation of excessive force, use of force involving a serious injury, or deadly force), the file will be forwarded to IA for a full administrative investigation. As part of this process, the CCRB will also conduct a review of the incident. This serves as an additional objective review mechanism in the process.

Chain of Command Review Board

If a complaint or incident is deemed serious within the chain of command, an administrative IA Unit investigation is conducted. In all cases where an administrative IA investigation is conducted, the investigation is forwarded to the CCRB "for administrative review and disciplinary recommendations, in lieu of the involved employee(s) [*sic*] immediate chain of command."[85]

The FPD first implemented the CCRB in 2014 as a mechanism for enhanced and objective oversight of the department's most serious complaints and uses of force. The operating procedure on the CCRB is included within section 1.1.3 of the FPD's Operating Procedure 1.1 "Internal Investigative Procedure." According to the procedure,

> members who serve on the CCRB are selected for each individual case brought before the board. The IAU [Internal Affairs Unit] Commander is responsible for selecting members to serve on the board and will attempt to select those who they believe can remain objective and unbiased.[86]

The CCRB will normally consist of the following personnel when the involved employee holds the rank of Officer:[87]

1. Assistant chief—board chair
2. Captain
3. Lieutenant
4. Sergeant
5. Peer (if selected)
6. City Human Relations representative (selected by the chief of police)
7. IA Unit representative(s) (advisor only)
8. Training representative(s) (as needed—advisor only)
9. Member(s) of the involved employee's immediate chain of command (observer)
    a. The IA Unit and Training representatives will not have voting rights or render disciplinary decisions.
    b. Member(s) of the involved employee's immediate chain of command will serve as observers only and will not be involved in any of the CCRB's decision-making process.

85. *Operational Procedure 1.1*, § 1.1.3 (see note 12).
86. Ibid., §1.1.3.
87. Ibid., §1.1.3.

After the members have been selected, "the IAU Commander (or his representative) will provide board members with a copy of the administrative file and all associated documents. Members of the CCRB will be given time to review the files prior to the board convening.

1. CCRB members will be required to sign a confidentiality statement concerning the content of the investigative file and/or anything discussed during the hearing.
2. Involved employee(s) will be available during the hearing in the event any member of the CCRB has clarifying questions. The involved employee(s) do not have the right to speak to the board, nor do they have the right to have counsel present during the hearing.
3. CCRB members will indicate whether they feel the involved employee(s) have [*sic*] violated FPD rules and regulations, policies, procedures, or core values relevant to the investigation under review. If the CCRB determines that a violation occurred, board members will then render a disciplinary recommendation based on the violation(s).
4. At the conclusion of the CCRB hearing, each member will sign the CCRB findings page indicating their recommendation(s). The IAU Representative and the Training Representative (if in attendance) will also sign the findings page indicating their attendance.
5. At the conclusion of the hearing, the IAU Commander, or his designee, will submit a memorandum to the Chief of Police indicating the board's decision/recommendation and how each member of the CCRB voted.
6. The involved employee may appeal the decision rendered by the CCRB or the Chief of Police through the normal appeals process, as outlined in *General Order 3.3: Discipline Procedure*."[88]

Findings and recommendations

Finding 35

The FPD's Operating Procedure 1.1 "Internal Investigative Procedure" lacks clarity with regard to which investigations are authorized to be investigated by chain of command and which are required to be investigated by the IA Unit.

The FPD's Operating Procedure 1.1.1.(E) describes the IA Unit's investigative authority as "responsible for conducting administrative investigations regarding allegations of criminal misconduct, serious allegations of misconduct, complex and time consuming investigation, use of force investigations . . . ."[89] However, the Operational Order also states that chain of command investigations are authorized to investigate "serious violations of the rules." While the FPD provides examples of "serious violations of the rules," additional guidance on how supervisors can determine what constitutes a serious violation of the rules versus serious violation of misconduct is not provided.

88. Ibid., § 1.1.3.
89. Ibid., §§ 1.1.1.E and 1.1.1.F.1.a.

Recommendation 35.1

The FPD should revise Operating Procedure1.1 "Internal Investigative Procedure" to clearly delineate between a major investigation led by the IA Unit and a minor investigation led by chain of command.

Delineating policy violations into a classification system will aid supervisors in determining the most appropriate investigative response for the alleged infraction. This will allow both the supervisors and the officers to better comprehend the investigatory procedures required, according to the alleged policy violation. In turn, this level of detail provides greater internal transparency and sense of internal procedural justice.

Finding 36

The FPD does not track the implementation of CCRB recommendations.

In an effort to improve the consistency and transparency of the disciplinary process, the department implemented a CCRB. The CCRB comprises of a member from each rank in the chain of command; a civilian representative from the City of Fayetteville Human Resources Department; and, if desired, a peer member of equal rank to the individual under investigation. By policy, the CCRB is chaired by a captain; however, direct observations indicate that an assistant chief chairs the CCRB (policy was updated during the assessment's team review period to reflect that an assistant chief chairs the CCRB). Members of the CCRB provide their individual recommendations for the case reviewed. The IA Unit produces a memo with each individual recommendation, which is then forwarded to the chief of police to render a final decision. The CCRB may also issue recommendations to address policy or training deficiencies. However, it is unclear who is accountable to implement these nondisciplinary recommendations.

Recommendation 36.1

The FPD's Operating Procedure 1.1 "Internal Investigative Procedure" should state who is accountable for implementing CCRB-approved policy and training recommendations.

Identifying the person or division in charge of tracking the implementation progress and completion of the CCRB's recommendations will help to ensure that these corrective actions take place, are effective, and occur in a timely manner.

Recommendation 36.2

FPD policy should clearly state that the chair of the CCRB is the presiding officer of the board and is accountable for the findings and recommendations rendered by the CCRB.

The chair should actively enforce all rules and procedures associated with the CCRB, including but not limited to participation, review of the investigative file, and presentation to the CCRB. All memos communicating CCRB findings and recommendations should originate with the CCRB chair.

Finding 37

CCRB memos lack a common format and are inconsistent in the level of information presented.

A common theme noted in our review of the 2014 CCRB memos was the inconsistency of information communicated. In a number of the memos, a brief description of the behavior that necessitated the need for the investigation was included. In other memos, only the policy citation of the alleged violation was listed along with the CCRB recommendations.

Recommendation 37.1

The FPD should develop a template to ensure consistency across CCRB memos.

The template memo should clearly communicate the alleged policy violation (charge) and specific standards of conduct that violated the policy in question (specification). In addition, this memo should provide opportunity for the clear documentation of each committee member's recommendations and findings.

Finding 38

Improvements to the design of the CCRB are necessary to improve accountability of the board and improve the effectiveness of the disciplinary process.

With regard to the level of accountability and responsibility of the CCRB chair, Operating Procedure 1.1 fails to identify how the CCRB chair as the presiding officer of the board is accountable for communicating final recommendations of the committee to the chief.

Furthermore, according to Operating Procedure 1.1, the CCRB may call an employee under investigation to testify before the board. However, absent clear policy guidance, this option is problematic, as the CCRB could inadvertently expand the scope of the investigation through the use of inappropriate questions. Additionally, the FPD's Operating Procedure 1.1 allows employees to appeal decisions rendered by the CCRB but then fails to clarify that the CCRB does not make decisions, as it only supplies disciplinary recommendations to the chief.

Finally, the FPD's Operating Procedure 1.1 is inconsistent concerning the role of the investigating supervisor. This creates confusion among supervisors and reduces supervisory accountability. Policy states, "Once the supervisor has concluded their [*sic*] investigation, the supervisor will complete a post internal conference with the involved employee(s) and advise the employee of their findings . . . ."[90] This is further supported by elements noted in a supervisor's investigative report that require "the actual findings of the investigation."[91] However, policy fails to clearly identify who is responsible for the actual adjudication classification (sustained, not sustained, exonerated, etc.) of the investigation. This responsibility is given to the "reviewers," but the term "reviewers" is never defined.[92]

90. Ibid., § 1.1.2.C.1.E.
91. Ibid., § 1.1.2.D.1.C.
92. Ibid.

Recommendation 38.1

The FPD Operating Procedure 1.1 "Internal Investigative Procedure" should clarify supervisory responsibilities during an internal investigation.

The FPD should update this policy to clarify that the investigating supervisor has the responsibility to investigate the material facts of an allegation of employee misconduct. This responsibility includes making a recommendation for final adjudication. This will improve the supervisory accountability for the quality of investigations.

Recommendation 38.2

The FPD should revise Operating Procedure 1.1 "Internal Investigative Procedure" to clarify that while the CCRB may ask clarifying questions of the involved officer, these questions must not expand beyond the purview of the noted investigation.

The revised Operating Procedure should note that the questions asked of the involved officer should be included in the CCRB's finalized memo and should only be presented to the employee under investigation by the chair of the board. The revised Operating Procedure should also note that if the CCRB is not satisfied with the quality and content of the investigative file, then it should be returned to IA for additional investigation.

Recommendation 38.3

The FPD should revise Operating Procedure 1.1 "Internal Investigative Procedure" to clarify that the involved officer may only appeal the chief's decision and not the CCRB's recommendations to the chief.

Because the purpose of the CCRB is to present recommendations for the chief, the Operating Procedure should be amended to remove the ability for the involved officer to appeal decisions rendered by the CCRB. This clarifies the procedure to the officers involved and provides clarity on the appeal mechanisms available to officers.

Recommendation 38.4

The FPD should incorporate additional community members into the CCRB.

The community members on the CCRB should not have former law enforcement experience nor any close relatives that are current or former members of law enforcement. Involving citizens in the department's internal review process for critical incidents can help engender external legitimacy and trust within the community.[93]

Recommendation 38.5

The FPD should train community members to participate on the CCRB.

Community members selected to serve on the CCRB should receive training related to FPD policies and training. Whether community members are incorporated into the CCRB as voting or nonvoting members, participants would benefit from a basic understanding of policies and procedures as they relate to the discussion process for internal reviews.

93. President's Task Force on 21st Century Policing, *Final Report* (see note 1).

Finding 39

In the assessment team's review of the FPD complaint process, supervisory staff members were found at times either to defer corrective action decisions to the next organizational rank or not to recognize that corrective action was required.

Procedural failures exercised by first-line supervisors or mid-level managers when investigating community complaints about the department or the actions of an employee can diminish public trust. Not only is the investigation into the alleged misconduct important but the manner in which the department responds to the complaint is equally important. The organization has compensated for this observed deficiency by sending higher-ranking officials to critical incidents in the field or involving them when responding to community concerns. This is an appropriate short-term solution but is not sustainable for long-term performance and accountability.

Supervisory staff members have to be held accountable for their performance. When they fail to execute their responsibilities, higher-ranking supervisory staff should not perform the job tasking of the subordinate rank but rather should ensure that the subordinate rank fulfills the responsibility of the job tasking by holding the employee accountable.

Recommendation 39.1

Supervisory staff should practice procedural justice in complaint resolution and in the disciplinary system.

Legitimacy of the police improves within a community when the community believes the organization is providing procedural justice. Departments that practice fairness, transparency, and unbiased decision making and that provide the community the ability to participate in the governance process improve service delivery and build community trust.[94] This is especially true in communities where a distrust of police may already be present, such as communities of color.

Managing community complaints effectively—and, when necessary, initiating and managing internal investigations—are valuable tools for building trust and providing the community with a voice. However, ineffective complaint management can reduce police legitimacy in the eyes of the community.[95] Supervisors must be held accountable for their management of the investigation of complaints. The FPD's IA Unit should annually audit and review the complaint process, with a specific focus on supervisors' management of the process irrespective of the outcome of the complaint.

Recommendation 39.2

Field employees should be held accountable for the delivery of police services according to assigned geographic areas and sectors. Field employees, especially supervisors, should be geographically assigned on an annual basis.

94. Tom R. Tyler, *Why People Obey the Law*. (Princeton, NJ: Princeton University Press, 2006); *Department of Justice Report Regarding the Criminal Investigation into the Shooting Death of Michael Brown by Ferguson, Missouri, Police Officer Darren Wilson* (Washington, DC: U.S. Department of Justice, 2015), http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/doj_report_on_shooting_of_michael_brown_1.pdf.
95. *Department of Justice Report* (see note 92).

The FPD has assigned senior management and mid-level managers based on sector and geography. This practice should continue and be expanded to additional employees assigned to the field. Geographic accountability should be assigned at every level of the organization (officer, sergeant, lieutenant, captain) for greater accountability to the community. Long-term geographic assignments for staff can assist in minimizing the negative relational effects of a transient community. Geographically assigned supervisors and managers become de facto police chiefs in the neighborhoods for which they are responsible and should be held accountable in ensuring that department processes are procedurally fair and responsive to community concerns.

Finding 40

The FPD's General Order 3.7 "Employee Early Warning System" is comprehensive but does not require post-investigation recommendations to be tracked or documented when completed by supervisors.

The FPD's General Order 3.7 describes the employee early warning system (EWS) for the department and establishes the elements of the program, roles, and responsibilities of each level of supervisor. If a sustained finding is determined during the supervisory review of the EWS alert, the policy describes in detail the options supervisors have available to remediate the concern, such as informal counseling, training, or reassignment. However, the policy does not require supervisors to track recommendations that are approved during the chain of command process, nor does it require subsequent reporting documenting the completion of approved recommendations.

Recommendation 40.1

Supervisors should ensure that recommendations made following an EWS alert are tracked and should submit an updated report upon successful implementation of the mitigation plan.

The FPD's General Order 3.7 should require supervisors to track EWS alert recommendations and document mitigation efforts before the alert is formally completed. By documenting the outcomes of recommendations made during the review of EWS alerts, not only can supervisors ensure that potentially harmful behavior is identified but they can also capture the organization's efforts to mitigate the behavior before disciplinary action was required (particularly in officers who might change assignments during the mitigation phase).[96]

Finding 41

The FPD does not use a discipline matrix when evaluating disciplinary cases.

Currently, the FPD relies on supervisors to inquire with IA about past disciplinary actions with similar circumstances in an effort to form a baseline for reasonableness of proposing discipline for the case in question. Direction observation revealed this information exchanged during the deliberation phase of the CCRB. However, each individual incident is unique, and circumstances such as employee motivation, organizational or community harm, and employee past performance or disciplinary history are all relevant in

96. Samuel Walker, *Early Warning Systems for Law Enforcement Agencies: A Planning and Management Guide* (Washington, DC: Office of Community Oriented Policing Services, 2003), 90, http://ric-zai-inc.com/Publications/cops-w0085-pub.pdf.

the decision-making process to establish a fair disciplinary outcome.[97] It is necessary to effectively communicate mitigating and aggravating factors that are considered in the disciplinary process[98] when implementing a procedurally fair and transparent disciplinary process.

Recommendation 41.1

The FPD should revise General Order 3.3 "Discipline Procedures" to describe the disciplinary matrix and the mitigating and aggravating factors that will be considered if establishing discipline for policy violations.

General Order 3.3 should clearly communicate organizational expectations concerning employee conduct. These expectations should delineate a presumptive range of discipline for alleged misconduct, including mitigating and aggravating factors that will be considered, and should clearly establish supervisor responsibilities to articulate the facts and behaviors considered when establishing discipline.[99]

Finding 42

The FPD has experienced multiple organizational reviews since 2010 and has implemented previous recommendations to varying degrees; however, a number of recommendations have not been implemented.

The department has undergone two different management reviews since 2010. These include reviews by the Police Executive Research Forum (PERF) in 2010 and the National Organization of Black Law Enforcement Executives (NOBLE) in 2012. A third review by the U.S. Department of Justice's (DOJ) Office of Justice Programs Diagnostic Center was conducted in 2014; this evaluation is still in progress.

The PERF review produced 53 recommendations.[100] The NOBLE report acknowledged and accepted the recommendations provided in the PERF report and provided an additional 24 recommendations.[101] Many, but not all, of these recommendations have been implemented to varying degrees. However, the acknowledgement and acceptance of these recommendations, the proposed implementation strategy, and the communication of reform progress have been inconsistently documented and inconsistently communicated to the organizations and the community.

Recommendation 42.1

The FPD should create a clear communication strategy to convey to both internal and external stakeholders the status of the reform process.

This communication strategy should include individual recommendations, the name of the FPD employee or unit responsible for implementation, the implementation status, and the final outcome for each recommendation. The FPD should assign a singular command employee to be accountable to manage the implementation process. This employee should be a direct report to the chief of police, as the chief is ultimately responsible for leading the reform process. In addition, the reform communication strategy

97. Darrel W. Stephens, *Police Discipline: A Case for Change*, New Perspectives in Policing (Washington, DC: National Institute of Justice, 2011), https://www.ncjrs.gov/pdffiles1/nij/234052.pdf.
98. See "G. Discipline Process and Transparency, 201–202," Settlement Agreement, *United States of America* v. *City of Albuquerque*, November 14, 2014, 65–66, http://www.justice.gov/sites/default/files/usao-nm/legacy/2015/01/20/DOJ-ABQ%20Settlement%20Agreement%20EXECUTED.pdf.
99. Ibid.
100. *An Operational Study* (see note 28).
101. *The NOBLE Fayetteville Study* (see note 29).

should use the department's website as well as other media outputs to publish update reports, contact information (phone or e-mail) for responsible staff, and contact information for members of the community advisors' working group to promote transparency.

Recommendation 42.2

The FPD should use the Community Advisory Committee consisting of representatives from divisions and units within the police department and community member advisors to assist in developing the implementation strategy for reform recommendations and to assist in assigning implementation priority to these recommendations.

State law presently does not authorize the creation of a citizen oversight panel in North Carolina.[102] However, community involvement and engagement is essential to community-oriented policing, particularly during the reform process.

The Community Advisory Committee should provide feedback to the chief of police concerning the reform process and provide feedback on the strategic training objectives for the department. These committee members should initially meet to discuss the implementation strategy and prioritization of the recommended reforms and thereafter meet to discuss the progress updates on routine intervals until all recommendations have been implemented. This recommendation should be completed in coordination with recommendations 18.4, 20.2, 42.2, and 47.1.

Recommendation 42.3

The FPD should provide systematic written updates to the City Manager's Office and City Council communicating reform progress.

These updates should continue until the department has officially responded to all recommendations received. In addition, the updates should be provided to the City Manager's Office and the City Council on a reoccurring systematic reporting basis (e.g., quarterly) until the recommendations have been implemented. Last, the updates should identify necessary actions required for the completion of the recommendation, an explanation of why the recommendations were not implemented, or both.

102. North Carolina General Statutes, chapter 160A "Cities and Towns," § 160A-168 (see note 81); Gronberg, "Civilian Board's Oversight" (see note 82).

Chapter 8. Analysis of Traffic Stops and Field Interviews in the Fayetteville Police Department

This chapter examines the use of traffic stops and field interviews in the Fayetteville Police Department (FPD) from 2013–2014. While they are an important measure for police accountability, the conduct of traffic stops and field interviews are also reflective of the type of engagement with the community. Improper and biased traffic stops and field interviews can negatively affect the community's perception and hinder the department's legitimacy and trust with the community. This chapter begins with a summary of the assessment team's analysis of traffic stops, continues with an analysis of field interviews, and concludes with a set of related findings and recommendations.

Traffic stops

Guidance on traffic stops is provided within Operating Procedure 9.5 "Traffic Law Enforcement" and General Order 1.8 "Preventing Biased Policing and the Perceptions of Biased Policing." Operating Procedure 9.5 provides officers with the enforcement actions related to traffic stops. General Order 1.8 provides officers with guidance on impartial policing and the prevention of misperceptions of biased policing and identifies how data collection on traffic stops and investigative stops should be conducted and the supervision and accountability of these enforcement actions. It should also be noted that the FPD has recently changed its traffic stop procedures and strategy and has de-emphasized citations for nonmoving or regulatory traffic stops. This change in procedure has resulted in fewer complaints and traffic-related fatalities.

Our analysis of traffic stops conducted by the FPD in 2013–2014 follows.

The FPD conducted 68,047 traffic stops in 2013 and 2014.[103] The traffic stop database contains information about the driver stopped (race, sex, and ethnicity); the date, time, and location of the stop; the reason for the stop; what enforcement action was taken, if any; whether a search was conducted; and by what consent mechanism the search was allowed (e.g., driver consented to search, probable cause, or search incidental to arrest).

Before beginning analysis, the assessment team mapped all location data (provided in the form of addresses) to latitude and longitude to allow for geographic analysis of the data. Of the 68,047 stops, 64,557 (94.9 percent) could be coded to a point or street address; the remainder could only be coded to a street or locality. All geographic maps and analysis include only the subset of stops mapped to a specific point.

In addition, the team checked the data related to searches and consent mechanisms for discrepancies; 101 traffic stops had incompatible information in the search and consent fields (e.g., the search data indicated that a search was conducted but the consent data indicated no mechanism for consent, or the consent data indicated the citizen consented to a search but the search data indicated no search was conducted). Based on the data available, it is impossible to know if these inconsistencies represent data-entry errors or deviations from policy or expected procedure, so those 101 stops were excluded from any analysis of search and consent-related actions. They are included in analysis unrelated to search and consent actions such as racial breakdowns and reasons for stops.

103. The CNA assessment team retrieved this figure from the Fayetteville Police Department traffic stop database.

In the following sections, we discuss characteristics of traffic stops: timing, location, characteristics of drivers, reasons for stops, and outcomes from stops. Where appropriate, we conduct analyses to uncover differences among racial categories, specifically in the reasons for stops and the outcomes.

Timing of traffic stops

Figure 10 illustrates traffic stops by month from January 2013 to December 2014. During these two years, FPD made an average of 2,835 traffic stops per month, with the highest number of stops made in September 2014. The average number of stops was considerably higher in 2014 (average of 3,057 stops per month) than in 2013 (average of 2,613 stops per month). There is not a consistent seasonal fluctuation in the number of stops during the two-year period; in 2013, the most stops were made during the early part of the year (winter), while in 2014, the most stops were made in the fall.

Figure 10. Traffic stops by month, January 2013–December 2014

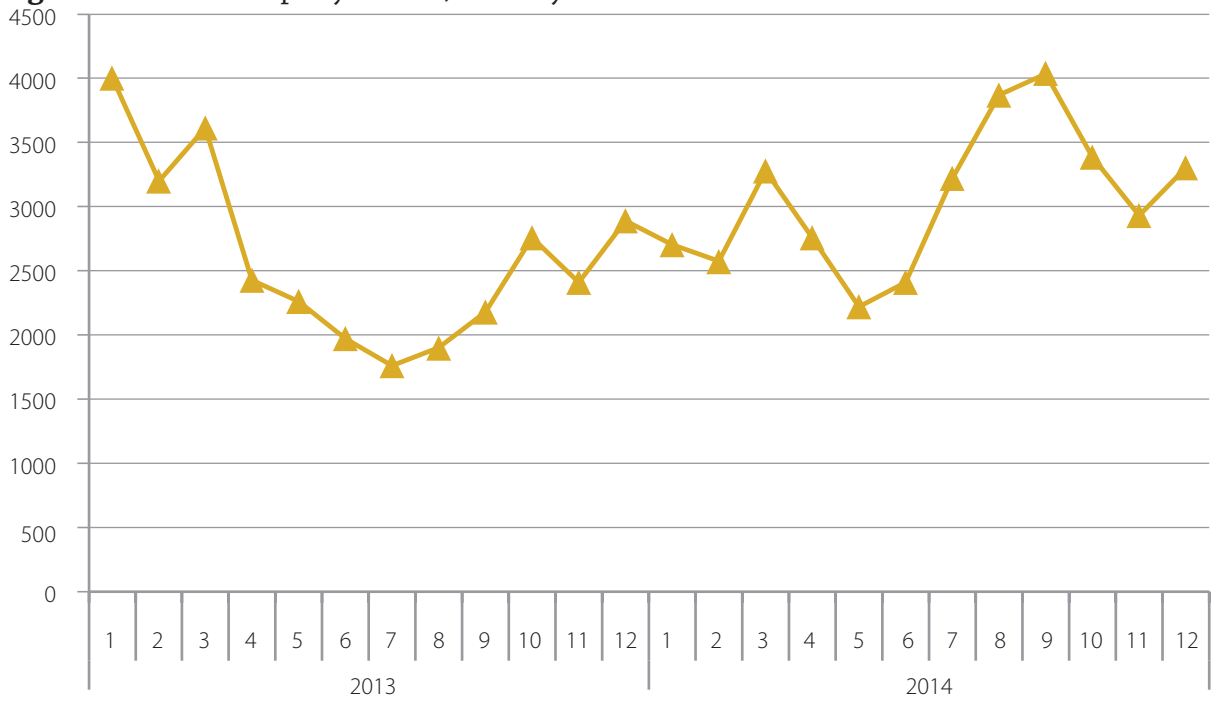
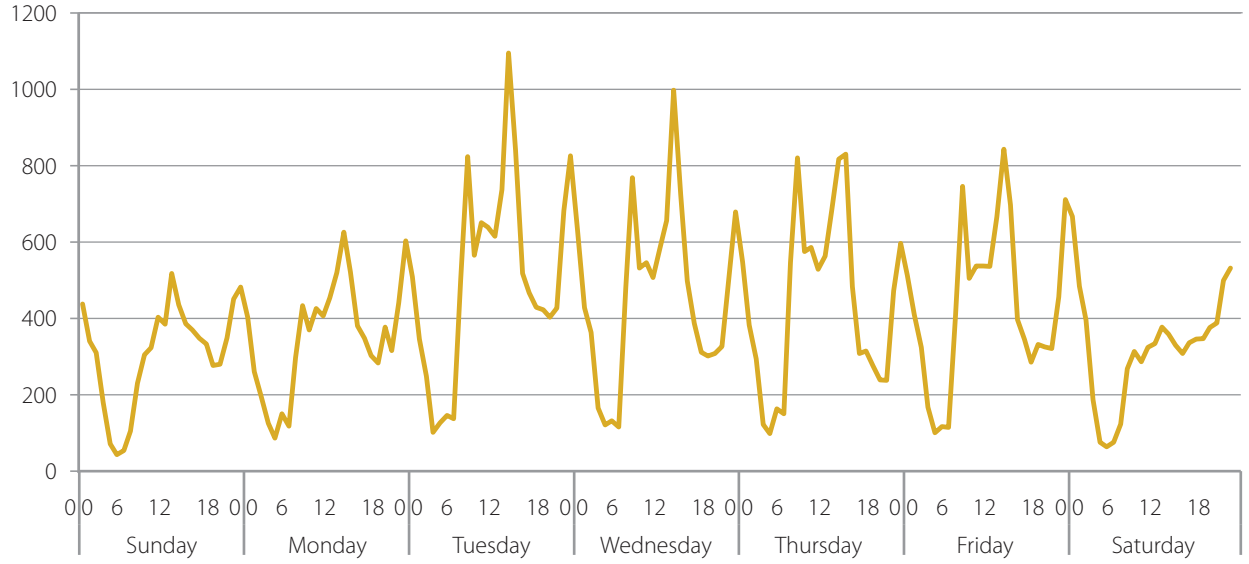


Figure 11 illustrates traffic stops by day of the week and time. On average, the FPD makes more traffic stops on Tuesdays, Wednesdays, Thursdays, and Fridays (on average, more than 100 stops per day each of those days). On Mondays and over the weekend, average stops per day are fewer than 82.

Figure 11. Traffic stops by day of the week and time, January 2013–December 2014



Location of traffic stops

The assessment team geocoded 64,557 of the traffic stops from 2013 and 2014 to points or addresses. The following maps show the result of the geocoding in terms of individual stop locations (figure 12) and via a heat map showing the areas with the highest concentration of stops (figure 13).

Figure 12. FPD traffic stop locations, January 2013–December 2014

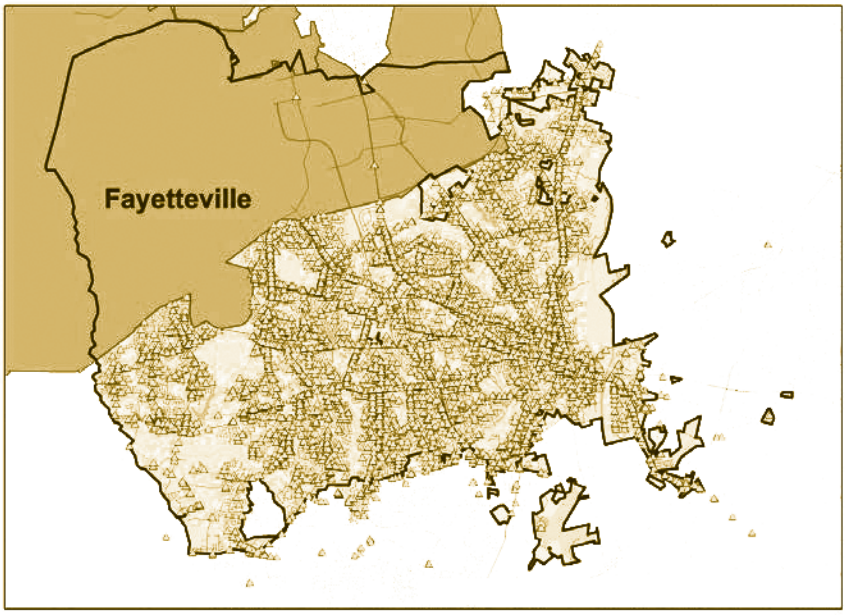
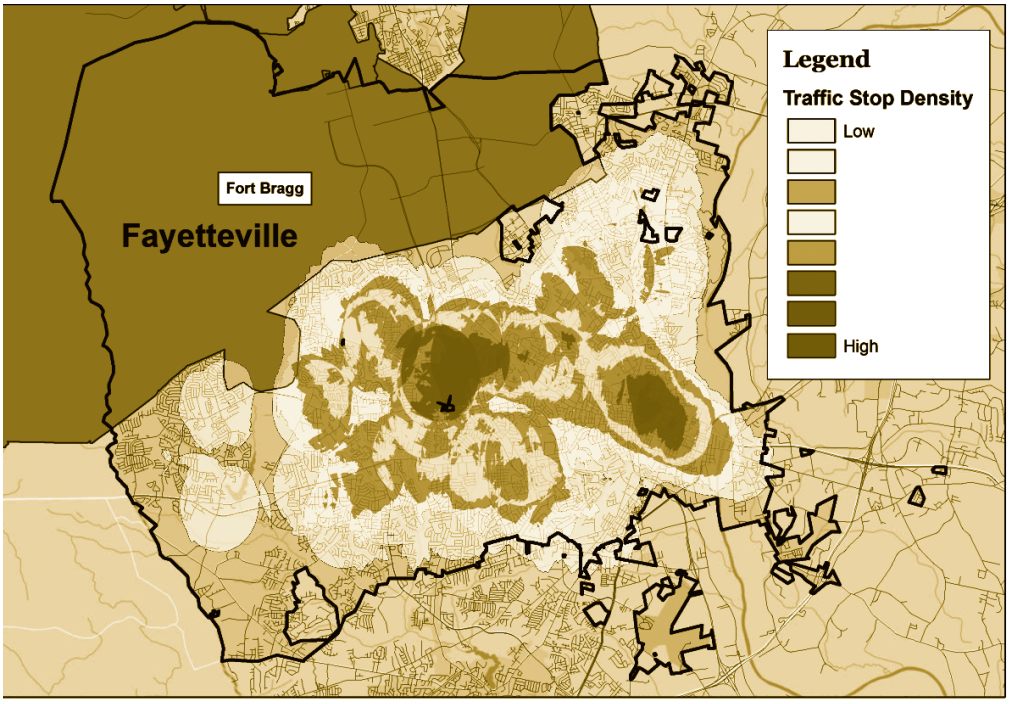


Figure 13 (heat map) shows the areas with the highest concentration of traffic stops in the city of Fayetteville. The northern section of the city is Fort Bragg, which is not under the FPD's jurisdiction. The highest concentration of traffic stops are conducted in the central and southeastern sections of the city, which align with the downtown and commercial districts. The area to the west of the city with few traffic stops is composed of residential and agricultural zoned areas.

Figure 13. Areas with the highest concentration of traffic stops in the city of Fayetteville, January 2013–December 2014



Source: Esri, HERE, DeLorme, MapmyIndia, @ OpenStreetMap contributors, and the GIS user community

Driver characteristics

The FPD collects information[104] about driver race, age, and ethnicity (Hispanic/non-Hispanic only). Of the total number of stops, 57.2 percent were of male drivers, 42.8 percent were of female drivers, 93.6 percent were of non-Hispanic drivers, 6.2 percent were of Hispanic drivers, and 0.1 percent were not categorized. We focus the remainder of our analysis on race in this report, because most observed disparities in traffic stops are attributed to race. Of the 68,047 traffic stops, 350 had "unknown" coded for race. These stops are excluded from the analysis in this section. Table 3 below illustrates the race of the driver in the remaining 67,697 traffic stops.[105]

Table 3. Number of traffic stops by race, 2013–2014

Race of driver	N	%
White	26,691	39
Black	39,110	57
Asian	950	1.4
Native American	894	1.3
Other	52	.07
Total	67,697	100

We compared the race of drivers stopped by the FPD with U.S. Census data about the racial characteristics of Fayetteville. We used population counts from the Census by racial category for individuals over the age of 18 to capture driving age population.[106] To align the Census race categories with the race categories used by the FPD,

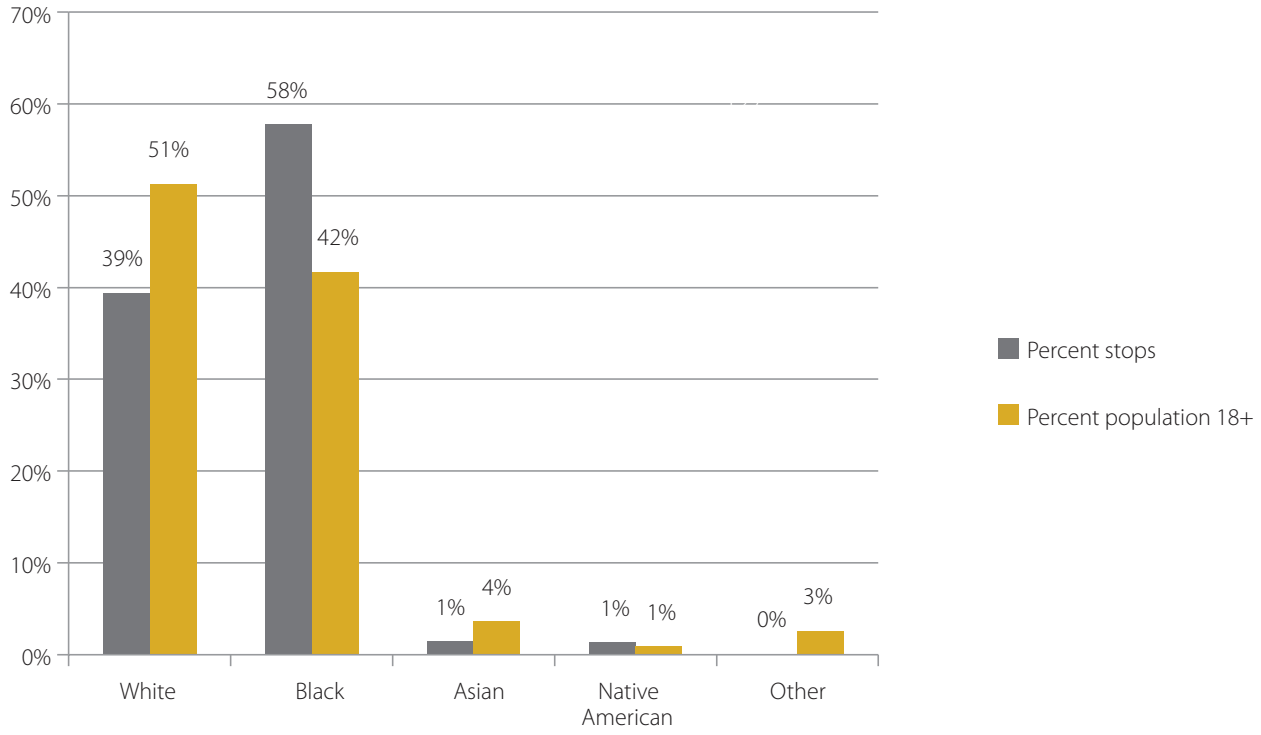
104. Race and ethnicity is most often collected by officer observation or driver's license records.
105. Hispanic is not included in table 1 as it is not a racial category and is tracked separately.
106. We use population over the age of 18 to estimate driving age population for two reasons. First, Census data can be broken out at age 15 and up or age 18

we used the Office of Management and Budget's 1977 standards to map single-race categories into the FPD's race categories.[107] Because no standard method exists for mapping the two-or-more-races Census category into single-race systems, that category (representing 5.9 percent of Fayetteville's total population) was excluded from calculations of racial breakdown in Fayetteville.

In addition, although 2015 traffic stop data is not included in this analysis, it is important to note that of the total number of traffic stops conducted from January 1 through November 10, 2015, 53 percent were of Black drivers.

Figure 14 compares the percentage of traffic stops for each racial category against the percentage of the adjusted Fayetteville population identifying as that race. As can be seen in this figure, Black drivers were involved in traffic stops disproportionately more often than would be expected based on their prevalence in the population. Bivariate statistical tests confirm that this difference is statistically significant. It is important to note, though, that this outcome could be explained by various underlying mechanisms (such as differences in driving behavior), not only by biased traffic stop practices, and this analysis cannot be used to differentiate between those explanations.

Figure 14. Comparison of percentage of traffic stops by race and percentage of the adjusted Fayetteville population



and up, but not at age 16 and up. To avoid overcounting drivers, we use age 18 and up. Second, North Carolina uses a graduated licensing system, under which the earliest age a teenager can have a full license is 16.5 years. For discussion of adjusting Census population numbers when conducting traffic stop analysis to account, for example, for differences in general population versus driving population, see Fridell, *By the Numbers* (see note 2). Unfortunately, because of data limitations, we were not able to make other adjustments suggested by Fridell such as accounting for vehicle access, nonresident population, or daytime versus nighttime populations.

107. *Office of Management and Budget Directive No. 15: Race and Ethnic Standards for Federal Statistics and Administrative Reporting* (Washington, DC: Office of Management and Budget, 1977), http://wonder.cdc.gov/wonder/help/populations/bridged-race/directive15.html.

The disparity between the race of drivers stopped in traffic stops and population has been decreasing over time, as shown in figures 15 and 16. Figure 15 shows each racial category as a percentage of total traffic stops. Figure 16 shows that the percentage of traffic stops involving black drivers has decreased since January 2013.

Figure 15. Racial category as a percentage of total traffic stops

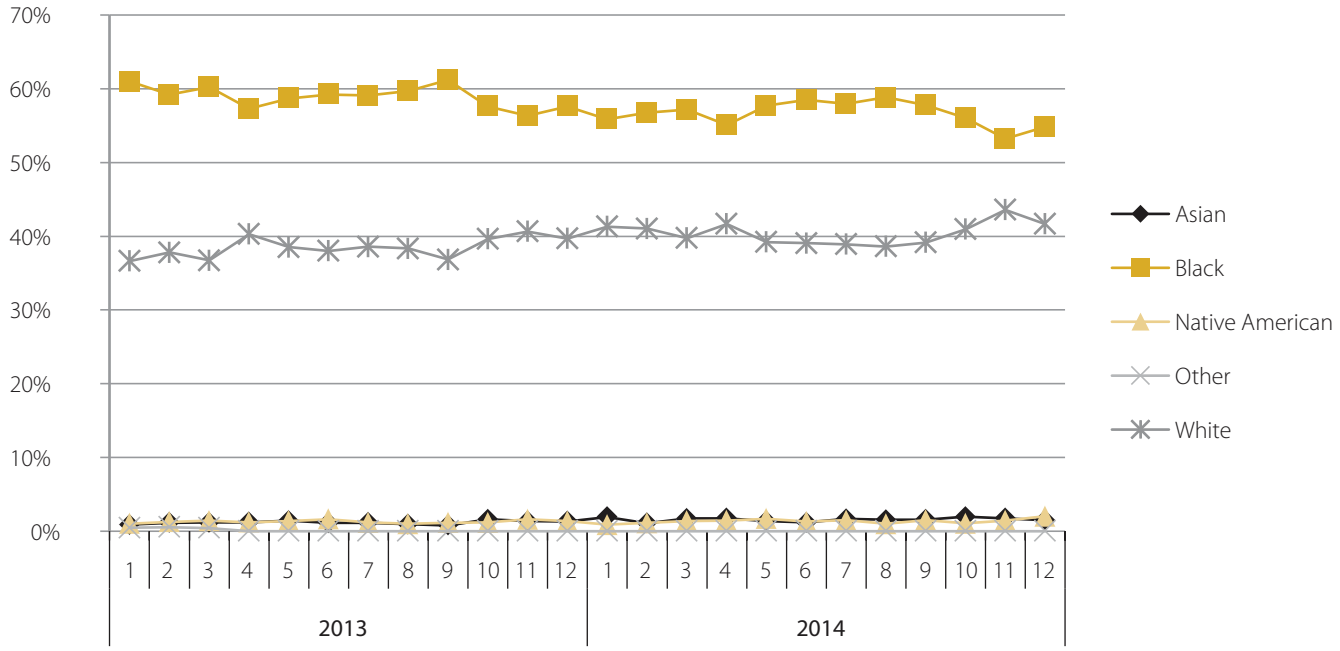
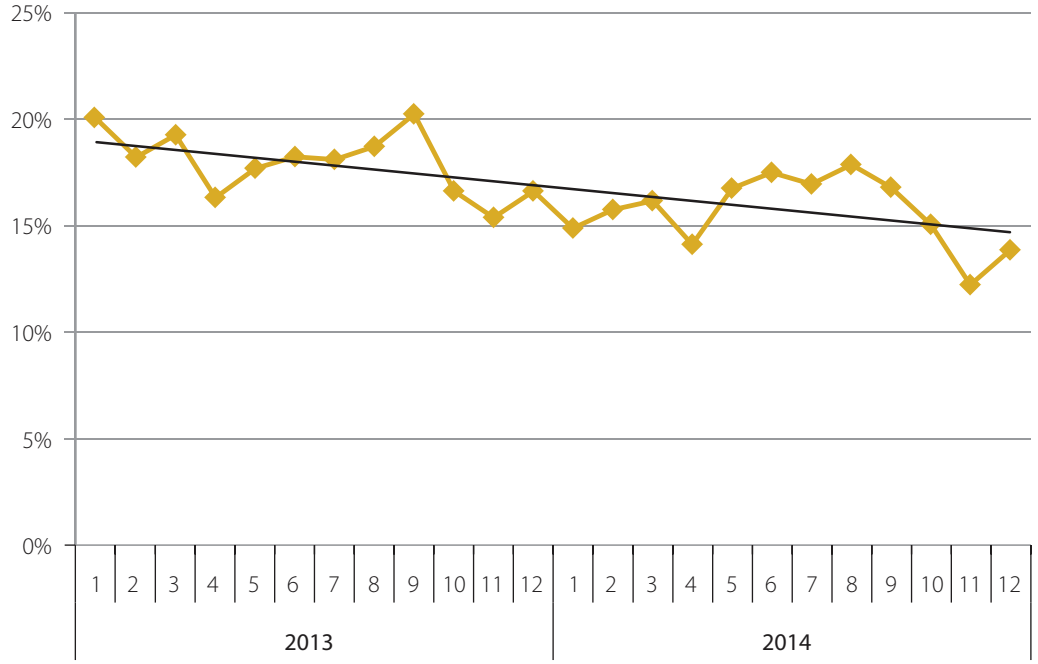


Figure 16 presents this information in another way; this figure shows the difference between the percentage of traffic stops involving Black drivers and the percentage of the Census population that is Black over the same time period. It includes a trendline that shows that the disparity between these measures has been steadily decreasing. The downward nature of this trendline is statistically significant ($p<0.001$). The values in this chart can be interpreted by saying that in January of 2013, Black drivers were stopped almost 20 percent more often than would be expected based on their prevalence in the adjusted population. In other words, Black citizens make up 42 percent of the adjusted population and 62 percent of drivers involved in traffic stops. By December 2014, this disparity had dropped to about 14 percent.

Figure 16. Disparity between race of stopped drivers and population for Black drivers, 2013–2014



Reasons for traffic stops

The FPD codes nine possible reasons for traffic stops: Checkpoint; Driving While Impaired; Other Motor Vehicle Violation; Safe Movement Violation; Seatbelt Violation; Speed Limit Violation; Stop Light/Sign Violation; Vehicle Equipment Violation; Vehicle Regulatory Violation. Of these, the most common reasons coded in 2013 and 2014 were speed limit violation (34.1 percent), vehicle regulatory violation (29.0 percent), vehicle equipment violation (12.9 percent), and stop light/sign violation (11.7 percent). Together, these four reasons account for 87.7 percent of all traffic stops.

Table 4 displays the breakdown of traffic stop reasons by race of the driver. The assessment team performed statistical tests on the differences between reasons for traffic stops, comparing White with Black drivers and White with Asian drivers. These tests show the following ($p<0.05$):

- Compared with White drivers (37%), Black drivers were less likely to be stopped for speed limit violations (32%), and Asian drivers were more likely to be stopped (47%) for speed limit violations.
- Compared with White drivers (28%), Black drivers were more likely to be stopped for vehicle regulatoryviolations (30%), and Asian drivers were less likely to be stopped (18%) for vehicle regulatory violations.
- Compared with White drivers (11%), Black drivers were more likely to be stopped for equipment violations (14%), and Asian drivers were less likely to be stopped (9%) for equipment violations.
- Compared with White drivers (13%), Black drivers were less likely to be stopped for stop light/sign violations (11%), and Asian drivers were more likely to be stopped for these violations (18%).

Table 4. Reasons for traffic stops by race, 2013–2014

Race	White (%)	Black (%)	Asian (%)	Native American (%)	Other (%)	TOTAL (N)
Checkpoint	0	0	0	0	2	203
Driving While Impaired	1	0	1	0	0	269
Other Motor Vehicle Violation	3	4	2	4	8	2435
Safe Movement Violation	6	6	5	6	2	4041
Seatbelt Violation	2	2	1	2	2	1335
Speed Limit Violation	37	32	47	33	31	23100
Stop Light/Sign Violation	13	11	18	10	12	7893
Vehicle Equipment Violation	11	14	9	11	23	8763
Vehicle Regulatory Violation	28	30	18	33	21	19658

*Rounding may cause column totals not to add up to 100%.

Outcomes of traffic stops

In this section, we discuss two types of outcomes associated with traffic stops for the period analyzed: (1) the enforcement action the officer ultimately took for the traffic stop and (2) whether the officer conducted a search (of either a person or the vehicle) as part of the traffic stop.

Table 5 shows the ultimate adjudication of the stop across all the categories of traffic stop reasons. White drivers received a considerably higher rate of written warnings (as opposed to citations) than Black or Native American drivers ($p<0.05$).[108] However, it is possible that this could be explained by the reason for the traffic stops; as noted above, there are observable differences in the reasons that drivers of different races were stopped. We explore this further below by controlling for the reason for the stop.

Table 5. FPD enforcement actions during traffic stops by race, 2013–2014

	White (%)	Black (%)	Asian (%)	Native American (%)	Other (%)	TOTAL (N)
Citation Issued	43	46	40	51	62	30444
No Action Taken	3	3	2	2	2	1874
On-View Arrest	2	3	1	4	4	1941
Written Warning	53	47	57	43	33	33438

*Rounding may cause column totals not to add up to 100%.

For the purposes of this analysis, we omit data for stops in which no action was taken or an on-view arrest was performed, as these outcomes represent a small percentage of total stops. This exclusion also allowed us to clearly interpret the results from our analysis by comparing the chances of a more lenient outcome (written warning) to the chances of a stricter outcome (citation issued). We used logistic regression to calculate the odds of non-White drivers being issued a citation (as opposed to a written warning) compared with White drivers who were stopped for the same violation. The results are shown in table 6. Entries in the

108. While observed differences between White and Asian drivers and between White and Native American drivers are also significant ($p<0.05$), we focus our analysis on differences between White and Black drivers for the purposes of this report. It is also important to note that Asians make up less than 4 percent of the population in Fayetteville and Native Americans less than 1 percent.

table show the percent of non-White drivers who received citations at greater or lesser rates than White drivers stopped for the same violation ($p<0.05$). We use "X"s to indicate results that were not statistically significant. Only results from the four most common reasons for stops are presented, as the remaining reasons were too relatively rare to support this type of analysis. When considering Black drivers being stopped for speed limit violations, Black drivers are 7.1 percent more likely than White drivers to receive a citation as opposed to a written warning.

Table 6. Percent differences of citations issued for traffic stop violations by race compared to White drivers, 2013–2014

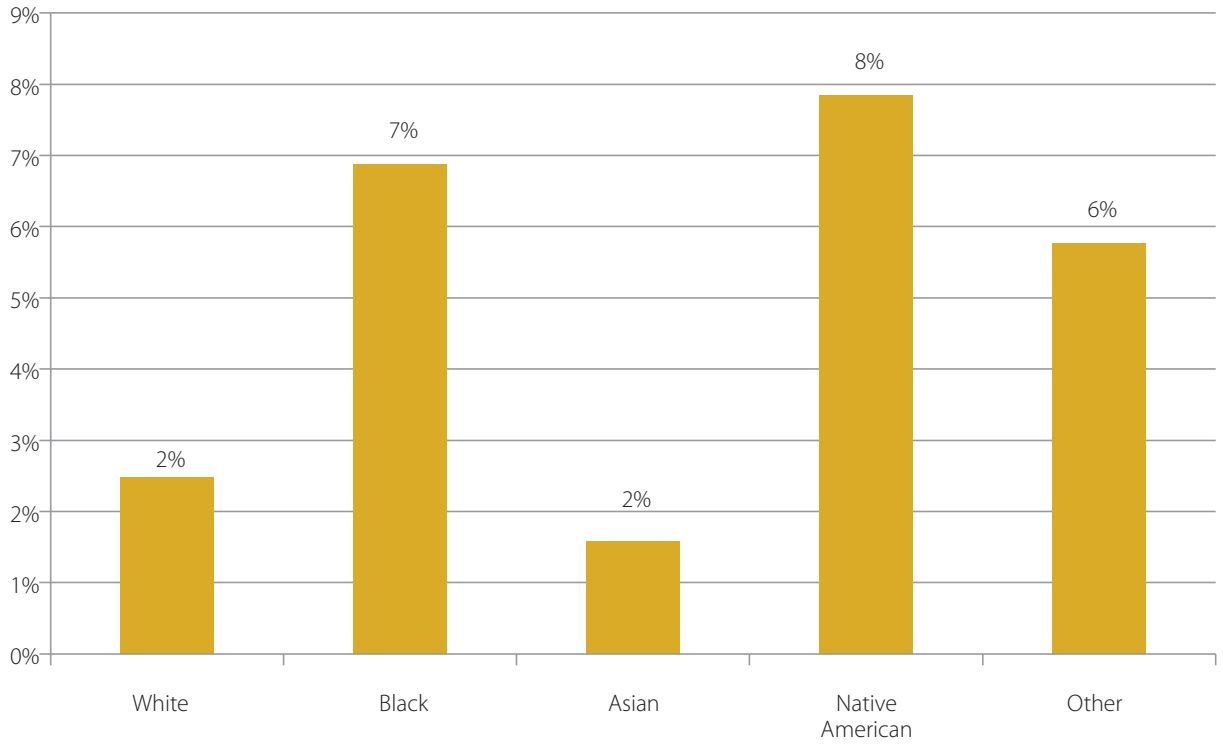
Violation Resulting in Citation	Black driver	Asian driver	Native American driver
Speed Limit Violation	+7.1%	X	+36.3%
Stop Light/Sign Violation	+30.3%	-30.2%	X
Vehicle Regulatory Violation	+40.1%	X	+73.3%
Vehicle Equipment Violation	+55.5%	-62.6%	+79.3%

As table 6 shows, for the four most common reasons for traffic stops, Black drivers were more likely than White drivers to receive a citation as opposed to a written warning. While this discrepancy cannot directly be used as evidence of biased practices, controlling for the type of violation that prompted the traffic stop does reduce the number of alternate explanations. Since this analysis controls for the type of violation the driver was stopped for, the differences in outcome cannot be attributed to being stopped for more or less serious violations. These results are therefore more suggestive of the presence of racially biased practices, though they are not conclusive. The results related to Native American and Asian drivers reflect disparate outcomes, but the sample sizes for both are relatively small, as neither group makes up a large percentage of traffic stops or of Fayetteville's population.

We also analyzed the likelihood of stops resulting in searches, broken out by race. For this analysis, in addition to the 350 traffic stops where race was unknown (i.e., not recorded), we also omitted 101 stops where the coded data for searches and consent rationale do not make logical sense. Overall, in 2013 and 2014, the FPD conducted searches (of either persons or vehicles) during 3,436 traffic stops, representing 5.1 percent of all stops. Figure 17 shows the percentage of stops during which a search was conducted, broken out by race of the driver. Across all stops, Black drivers were almost three times as likely to be subject to a search during a traffic stop than White drivers, a difference that is statistically significant ($p<0.001$).[109] Unfortunately, we were not able to access data about outcomes from searches, so we cannot look for disparities in the outcomes from searches.

109. While observed differences between White and Native American drivers are also significant ($p<0.05$), we focus our analysis on differences between White and Black drivers for the purposes of this report. It is also important to note that Native Americans represent less than 1 percent of the total population of Fayetteville.

Figure 17. Percentage of FPD searches during traffic stops by race, 2013–2014 (N=3,436)



Searches are the most likely to occur during stops for Driving While Impaired; 31.3 percent of these stops included a search. Searches also occurred during 15.0 percent of Other Motor Vehicle Violation stops and during 12.5 percent of Seatbelt Violation stops. We analyzed each of these three most common situations in which searches were conducted to identify potential disparities in search likelihood by race. Table 7 shows the results from the logistic regressions we used to analyze this data. The table shows the percent of non-White drivers that were searched at greater or lesser rates than White drivers stopped for the same violation ($p<0.05$). We used "X"s to indicate results that were not statistically significant. The numbers in this table can be interpreted as showing that compared with White drivers, other drivers are that percent more or less likely to experience a search during that type of stop. So when considering Black drivers being stopped for seatbelt violations, Black drivers are 398 percent more likely than White drivers to receive a citation as opposed to a written warning, or nearly four times as likely.

Table 7. Percent differences of searches conducted during traffic stop violations by race compared to White drivers, 2013–2014

Violation Resulting in Search	Black driver	Asian driver	Native American driver
Driving While Impaired	X	X	X
Seatbelt Violation	+398%	X	X
Other Motor Vehicle Violation	+177%	X	+242%

Perhaps the most striking finding in table 7 is that Black drivers were almost four times more likely to have a search conducted after being stopped for a seatbelt violation than White drivers. Again, holding the type of violation constant eliminates explanations related to differences in underlying rates of traffic offenses. This makes these findings suggestive of biased practices, though not completely conclusive. Further inquiry such as a careful investigation of report narratives, analysis of outcomes of searches, and qualitative inquiry like interviews could help shine more light on the underlying reasons for these disparities.

Field interviews

The FPD uses field interview forms (also referred to as "field contact forms") to collect information about officer contact with citizens. These forms can be used to document field interviews, citizen contact during incidents, observed activity by citizens known to have criminal history, and interactions during traffic stops. According to the FPD's General Order 4.6 "Field Interviews," field interviews are defined as "The brief detention of an individual, whether on foot or in a vehicle, based on reasonable suspicion of a crime for the purposes of determining the individual's identity and resolving the officer's suspicion."[110] Also noted in this General Order is the definition for Investigative Stop, which is defined as

> An investigative stop involves the stopping of either a vehicle or a person. Reasonable suspicion is the necessary standard for investigative stops based on a reasonable suspicion that the person committed, is committing, or is about to commit a crime. The stop must be brief, and the officer must pursue an investigation in a diligent and reasonable manner to confirm or dispel their suspicions quickly. *Terry* v. *Ohio*, 392 U.S. 1, 11-27 (1968).[111]

In addition to General Order 4.6's brief guidance on field interview documentation and processing (Section 4.6.2), General Order 1.8 "Preventing Biased Policing and the Perceptions of Biased Policing" provides guidance on the proper collection of data when conducting a field investigation/field interview as well as impartial policing and the prevention of misperceptions of biased policing. The following is an analysis of field interviews conducted by the FPD in 2013–2014.

In 2013 and 2014, the FPD conducted 109,040 field interviews. As noted in chapter 2, the FPD does not consistently collect demographic data for field interviews. The FPD collected data on race for only 17.7 percent of field interviews and data on sex for only 17.8 percent of field interviews for 2013 and 2014.

The FPD coded field interviews into 80 categories by the reason for the stop. Of those 80 codes, 15 reasons were used for 1 percent or more of stops, making up 87.8 percent of all stops. We focus on these most common reasons for stops. The most commonly coded reason was "Deter Crime," representing nearly half of field interviews.

110. *General Order 4.6: Field Interviews*, (Fayetteville, NC: Fayetteville Police Department, 2014).
111. Ibid.

Table 8. FPD reasons for field interviews, January 2013–December 2014

Reason	Count	% of total stops
Deter Crime	54255	50
Park and Walk	8442	8
Breaking & Entering and Larceny Related	6812	6
Suspicious Activity	4957	5
Suspicious Person	3907	4
Confidential Hit and Run*	3661	3
Crash Analysis Reduction Strategy Initiative	2788	3
Robbery Related	2683	2
Narcotics	1962	2
Suspicious Vehicle	1307	1
Information Exchange	1304	1
Domestic Related	1301	1
Public Relations	1197	1
Traffic Stop	1156	1
Other	13308	12

* A Confidential Hit and Run is described as an instance in which the vehicle stopped may have fit the description of a vehicle involved in a hit and run accident.

For the subset of stops where race data had been collected (19,292 stops), the reasons for making stops differed considerably from those in table 8, suggesting that racial data are collected on stops that differ in some systematic way from "normal" stops—though the data we had access to do not allow us to determine what differences exist other than reason. The most common reasons cited were Suspicious Person (18 percent), Confidential Hit and Run (14 percent), Suspicious Activity (7 percent), Domestic Related (6 percent), and Disturbance (5 percent) (together making up nearly half of the field interviews where race data were collected).

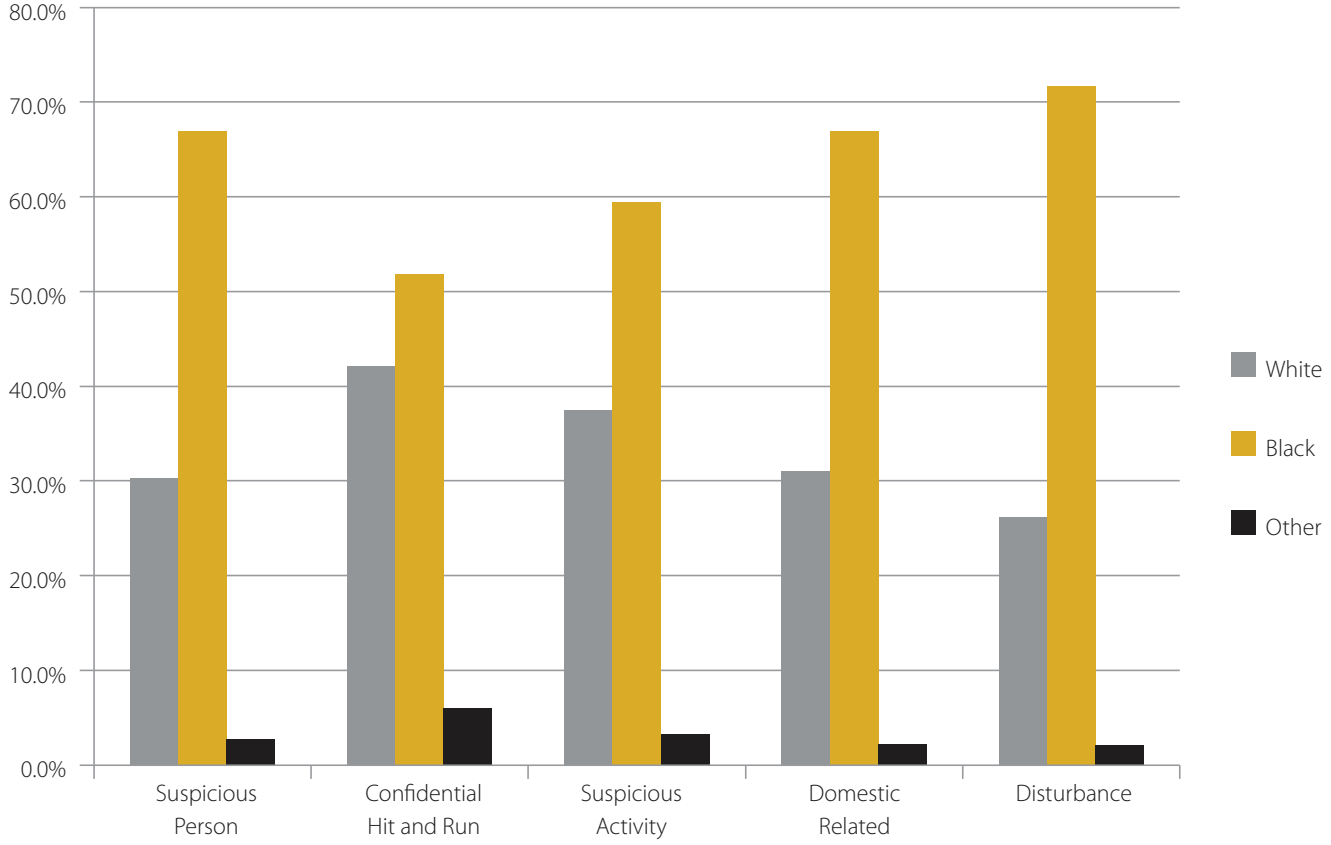
Table 9. FPD reasons for field interviews in which race data were collected, 2013–2014

Reason	Count	% of total stops in which race data were collected
Suspicious Person	3471	18
Confidential Hit and Run	2790	14
Suspicious Activity	1269	7
Domestic Related	1133	6
Disturbance	901	5
Traffic Stop	796	4
Narcotics	766	4
Suspicious Vehicle	719	4
Homeless	631	3
Trespassing	573	3
Panhandling	542	3
Mental Commitment	539	3
Deter Crime	521	3
Information Exchange	500	3
BE&L Related	436	2
Investigative Stop	389	2
Prostitution	361	2
Loitering	354	2
Aggressive Driver	273	1
Gang Member/Activity	266	1
Other		11

When considering the subset of field interviews in which race was recorded, Black community members were included in this data more often than would be expected based on Census population. For the period analyzed, Black citizens made up 61.3 percent of stops where race was recorded, while they made up 41.1 percent of the population of Fayetteville according to the 2013 American Community Survey five-year estimates.[112] Similarly, White residents were underrepresented in field interviews in which race was recorded, making up 35.1 percent of the stops but 46.5 percent of the population.[113] Figure 18 shows the racial disparity for the top five most common stops within the subset of data for which race was recorded. As can be seen in that figure, the racial disparity in stop percentages is especially large for Suspicious Person, Domestic Related, and Disturbance stops.

112. "Race – Universe: Total population: 2009–2013 American Community Survey 5-Year Estimates, Fayetteville city, North Carolina," American Fact Finder, accessed November 18, 2015, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_5YR_B02001&prodType=table.
113. Ibid.

Figure 18. Most common reasons cited in field interview forms for FPD pedestrian stops that include race data, 2013–2014



As is often the case when analyzing racial trends in police behavior, it is not possible from the aggregate data to determine the underlying cause of disparities in field interviews by race. These disparities may indicate biased policing practices but could also be explained by differential rates of police contact due to other factors not controlled for in this analysis. This is especially true given that the FPD collects race data only for a subset of field interviews; the mechanism by which an officer decides whether or not to enter racial data is not known and may influence the interpretation of these data. However, the finding that Black citizens are considerably more likely to be involved in field interviews for "suspicious person" or "suspicious activity" is suggestive of biased practices, because both of these stop reasons are ultimately very subjective. Previous research has found that police are more likely to view minorities as "suspicious" than White citizens.[114]

114. Geoffrey P. Alpert, John M. MacDonald, and Roger G. Dunham, "Police Suspicion and Discretionary Decision Making During Citizen Stops," *Criminology* 43, no. 2 (May 2005), 407–434, http://onlinelibrary.wiley.com/doi/10.1111/j.0011-1348.2005.00012.x/epdf.

Findings and recommendations

Finding 43

Although in decline, racial disparities in motor vehicle stops persist; furthermore, an analysis of searches and enforcement activity also indicates Black motorists are more likely to receive a citation or be searched than White motorists.

Disparities in motor vehicle stops and searches of Black residents are declining but still persist. The assessment team analyzed more than 50,000 traffic stops from 2013 to 2014 and found that Black motorists were stopped at a rate 16 percent greater than what one would expect, given their makeup of the general driving-age population (see figure 14).

However, it is worth noting that this disparity has been dropping since early 2013. Between 2013 and 2014, the disparity rate at which Black motorists have been stopped has dropped from a high of 20 percent in January 2013 to a low of about 12 percent in November 2014, generally trending downward over the two-year period (see figure 16).

Black motorists who were stopped were significantly more likely to be searched (7 percent) than White motorists (2 percent). In addition, when holding the reason for the stop constant, Black motorists were more likely than White motorists to be subject to searches for two of the three stop reasons making up the majority of searched traffic stops. For "Other motor vehicle violation" stops, Black drivers were searched at nearly twice as the rate of White drivers, and for seatbelt violation stops, Black drivers were searched at four times as the rate of White drivers. Though these figures should not be taken to imply the intent or bias of FPD officers, they highlight the disparate impact of FPD enforcement activity on communities of color.

Furthermore, outcomes from traffic stops varied by race. The FPD considers traffic stops to have four possible outcomes: on-view arrest, citation issued, written warning, and no further action taken. Across all violations, Black drivers were more likely than White drivers to receive a citation as opposed to a written warning. In order to control for the possibility of Black drivers being pulled over for different violations, we also investigated this trend holding violation type constant. In that analysis, Black drivers remained more likely to receive citations as opposed to warnings for the four most common violation types. Again, these findings should not be taken to imply the intent of FPD officers nor conclusively be said to show evidence of biased policing practices, but they do highlight disparate enforcement actions for communities of color.

Last, we found that the reason for stops varied significantly. Black motorists were significantly more likely to be stopped for vehicle equipment and regulatory violations than White motorists; conversely, when White motorists were stopped, it was more likely to be for speeding violations.

Recommendation 43.1

The FPD should monitor officer activity closely for disparate treatment.

The FPD should develop a robust internal mechanism to monitor disparate treatment of residents and citizens interacting with the department. An internal working group should use the analysis of biased policing (see recommendation 44.2) to examine whether people are being treated fairly and equitably. The working

group should routinely report its activities and findings to the public. The working group should comprise FPD personnel and community members. In addition, the department should routinely release all enforcement activity in disaggregate form to the public.

Finding 44

The FPD's General Order 1.8 "Preventing Biased Policing and the Perception of Biased Policing" reporting standards are unclear, and the aggregate reporting should be expanded.

General Order 1.8 defines bias-based policing, traffic stops, and investigative stops. The definition of traffic stops and investigative stops should assist in determining which police-community interactions should be recorded for reports on biased policing. However, section 1.8.2 uses the terms "investigative detention" and "field contact stop," which creates confusion as to whether they are reportable as the defined term "investigative stops."

Furthermore, section 1.8.7 outlines supervisory responsibilities for reviewing traffic and investigative stop trend information. However, there is no requirement outlined in policy to publish this trend information to the community.

Recommendation 44.1

The FPD should update General Order 1.8 to strengthen reporting criteria for biased policing.

The definition of "investigative stops" should be expanded to include all field interviews, including pedestrian investigative detentions and pedestrian field contact stops.

Recommendation 44.2

The FPD should conduct an aggregate analysis of biased policing reporting on an annual basis and release these reports to the public.

The FPD should publicly release an aggregate analysis of reporting on biased policing and stop-and-search data annually. The FPD currently collects traffic and investigative stop trend information. Annual release of an aggregate analysis of this information will enhance organizational transparency and build community trust.

Finding 45

The FPD does not track racial demographic information for field interviews.

Section 1.8.5 of General Order 1.8 outlines the reporting requirements for investigative stops. Currently, officers are not required to report demographic data related to the field interview and do so in only 20 percent of field interviews. Analysis of field interviews in which racial data are collected describes racial disparities in overall stop decisions as well as potential reasons for field interview stop decisions; with these data being based on a potentially nonrandom subset of field interviews, it is unclear what these findings may indicate in terms of biased policing behavior.

Recommendation 45.1

The FPD should collect racial demographic information for all field interviews.

Failure to collect demographic data can prevent an effective analysis of investigative stop data. The inability to analyze these data can hinder the department's ability to hold officers accountable, diminish public trust, and make it harder for the department to improve its legitimacy in the community.[115] Collecting demographic data for all field interviews will allow for more authoritative analysis of officer behavior with respect to the race of citizens stopped. The FPD should follow similar procedures to those used when collecting information on a driver's race during traffic stops when collecting demographic information during field interviews.

Finding 46

The FPD's field interview database collates data from a variety of citizen interactions, but the field interview form does not provide sufficient fields to differentiate between these interactions.

The FPD's field interview form is used to document a variety of officer-citizen encounters. These include pedestrian and investigative stops, but the form is also used to collect field interview data during traffic stops and domestic incidents. Officers can also use the form to note the location or activities of known criminals without any interaction with these individuals.

The field interview form does include a reason code entry field; however, this field requires further refining. As the form is currently structured, it is not possible to extract an officer's purpose for using the form with certainty. In order to support analysis of police behavior and to potentially uncover biased policing practices, it is important that pedestrian stops can be clearly differentiated from the other uses of this form.

From 2013 to 2014, we identified 80 codes from either the database or the official code book. However, 66 of these reasons were used on less than 1 percent of field interview data entries, and 45 were used in less than 0.1 percent of entries. Three codes were not used at all during the period investigated, and one entry uses a code that is not part of the FPD's code book. The reason codes themselves also presented logical difficulties. Some are so generic as to have seemingly become a default option to select; for example, "Deter Crime" is used as the reason in 50 percent of field interview entries. Furthermore, many reasons could easily be present in the same field interview (e.g., there are individual codes for "Homeless" and "Loitering," issues that may be present simultaneously), but officers can select only one reason code per field interview form.

115. *Operational Procedure 1.1*, section 1.1.3 (see note 12).

Recommendation 46.1

The FPD should add a field to the field interview form that clearly differentiates the type of field interview (pedestrian stop, traffic stop, etc.) conducted.

At a minimum, the field should differentiate between pedestrian stops, domestic violence-related field interviews, officer reports on known criminals' locations and activities, and field interviews conducted during traffic stops. This revised field should make it easy to extract data that comes solely from pedestrian stops. The new field should be developed using input from patrol officers through focus groups and pilot testing to ensure that it includes options for all the distinct ways patrol officers use the field interview form. Each data-entry option in the new field should be clearly defined, and officers should be trained on the definitions. Revising the field interview form will ensure the department's ability to comprehensively track field interviews and identify potential trends.

Recommendation 46.2

The FPD should reevaluate the data collection categories included in its field interview form, specifically the "reason" field.

Past data should be analyzed to determine which fields are used on only rare occasions, and a working group should determine whether these fields warrant continued inclusion in the reason field. Fields that have not been used in any field interview form for an extended period of time (for example, more than two years or some other time period established by the agency) should be eliminated. Each reason code included should be clearly and specifically defined; codes that cannot be clearly and specifically defined should be eliminated. In addition, officers must be able to capture all reasons for stops through multiple selections for the reason code. The FPD should consider either allowing multiple selections or breaking the field out into a single "primary reason" selection and a multiple-entry "secondary reason(s)" field.

Chapter 9. Community Engagement

Overview

This chapter documents the assessment team's review of the perspectives of the Fayetteville community on the Fayetteville Police Department's (FPD) use of force as well as overall police-community relationships. We review the community perspectives we gathered through our interviews and discussions with community leaders and stakeholders. We also discuss the evolution of FPD community-outreach programs. We then provide a series of findings regarding the FPD's interactions with the community as well as recommendations to improve community relations and public transparency.

Not unlike most municipalities, police-community relations in Fayetteville are complicated, and opinions on the state of affairs differ widely. During interviews with community members, some described their interactions with the FPD as positive, and others described them as negative. It is clear from the interviews that there is room for improvement in the FPD's approaches to community engagement.

FPD-Community Relationship

The FPD's relationship with its community was significantly altered in 2011 when some community residents accused the FPD of racial profiling during traffic stops. The community concern ultimately led to a review and 2012 report by the National Organization of Black Law Enforcement Executives (NOBLE), which found that Black citizens are disproportionately subjected to traffic stops and warrantless searches but did not assert that officers knowingly engaged in racial profiling.[116] Following the accusations of unnecessary consent searches targeting Black residents, changes in leadership occurred, including a new mayor, a new city manager, and a new chief of police. The new leadership has aimed to improve police-community relationships and alleviate past tensions, but substantial distrust remains throughout the Fayetteville community.

A recent community survey conducted in 2013 by the FPD found that 39 percent of respondents indicated that they felt the FPD was providing "overall excellent agency performance," 37 percent indicated they felt the FPD was providing a "good level of performance," and 24 percent rated the FPD's performance as "poor."[117] The ratings represent no significant change from the findings of FPD community surveys from the prior three years.[118] Furthermore, the survey findings indicate that 83 percent of respondents felt that the individuals they interacted with from the FPD were "courteous and professional," a 3 percent increase from the prior three years. The survey also reveals that while 62 percent of the respondents indicated that they were "satisfied" with the service the FPD was providing, 38 percent of the respondents were "not satisfied." The survey also asked about awareness of the community programs the FPD offers. Of the respondents, 51 percent indicated that they were aware of the various programs the FPD offers while 33 percent indicated that they were not aware. The survey respondents comprised both Fayetteville residents (88 percent) and those who live outside Fayetteville but work in the city (12 percent).

116. "Report: Racial Profiling by Fayetteville Police Can't Be Proven," Capitol Broadcasting Company, last modified March 13, 2012, http://www.wral.com/news/local/story/10848784/.
117. T. Pippen and A. House, "Triennial Citizen Survey Results," memo to Police Chief H. Medlock, 2013.
118. Ibid.

It should be noted that the FPD recently partnered with Methodist University (MU) to design an updated survey instrument to be administered by MU faculty and students.

Further, the FPD's community engagement activities also include the use of social media. The FPD has approximately 21,000 followers on Facebook (up from 4,000 a few years ago) and a sizeable portion of their community participating in safety updates on Nextdoor.com (around 4,000).

Common themes

It is clear from our interviews that the FPD's relationship with the community has grown more positive in2015.[119] Community members interviewed indicated that positive relationships between the FPD and the community have increased and noted that there are signs of positive progress within the organization (e.g., increased FPD attendance at community events). During our interviews with community members, we also noted concerns about issues mentioned in other sections of this report—officer use of force and traffic stops in particular—that also affected police-community relationships. While noting that there has been some progress on the part of the FPD to improve police-community relationships, many community members interviewed also stated that there is a continued sense of mistrust and a "wait and see" approach. Residents also noted that the FPD should focus community-outreach efforts on youth.

Community outreach

Community and neighborhood organizations and residents almost universally noted improved FPD outreach and engagement under Chief Harold Medlock. His engagement, both with the media after major incidents and with the community in steady-state operations, has improved community attitudes toward the FPD. Specifically, several community members noted that Medlock's public comments indicate his willingness to be transparent.[120] Some of the FPD's community-outreach activities garnered praise, such as the Re-Entry Job and Resource Fair for Ex-Offenders held on May 2, 2015.[121] The job and resource fair was a community effort involving the FPD, the Fayetteville Regional Chamber of Commerce, Fayetteville Technical Community College, Fayetteville Area System of Transit (FAST), the public library, the "Let's Make it Happen Together" nonprofit, and a number of other county and city groups and churches at which ex-offenders could meet with potential employers, receive assistance with resumes, and get professional work clothing. Organizers stressed the important link between employment and lower crime rates.

Other community-outreach efforts also earned praise from community interviewees. Community members appreciate the FPD's participation at community watch-group meetings and acknowledge the FPD's Crime Prevention Specialists for their commitment, knowledge, and follow-up.[122] The FPD also participates in a variety of other community-oriented events such as Habitat for Humanity; Coffee with a Cop; the Police Explorers program; and the Police Activities League, which features cooking and sewing in addition to sporting activities for Fayetteville youth.

119. CNA interviews, 2015.
120. Ibid.
121. Nicole Carr, "*Fayetteville Community Prepares for Ex-Offender Job Fair,*" ABC Inc., last modified April 22, 2015, http://abc11.com/news/fayetteville-community-prepares-for-ex-offender-job-fair/676738/.
122. CNA interviews, 2015.

The FPD's efforts to reach young people have also been noticed by those in the community. For example, the FPD had a robust presence at a community event in February 2015 for young African-American boys entitled "From Bookbags to Briefcases: Combating Racial Profiling," which took place at a local high school on a Saturday.[123] The assessment team also acknowledges the FPD's efforts to establish a "Chief's Youth Advisory Council" aimed at increasing communication between the FPD and Fayetteville's younger residents.[124] Councils are currently in place at four high schools. While the council is still in the planning stages, it is evidence of the FPD's efforts to engage community youth, which was another theme in interviews with Fayetteville residents.[125]

Findings and recommendations

Finding 47

The FPD lacks a systematic mechanism to hear community voices on critical organizational and community issues.

While the FPD currently engages community members systematically through regularly scheduled meetings of its Community Crime Council, the council's narrow focus does not allow the FPD to hear community opinions on issues other than crime control. The council is made up of community watch leaders from across the city who voice concerns about crime problems in Fayetteville neighborhoods. The current council does not offer advice on FPD priorities, policies, procedures, or operations.

Recommendation 47.1

The FPD should use the newly formed Community Advisory Committee (see recommendation 18.4) to provide community insights to the FPD on a variety of issues.

The Community Advisory Committee established as part recommendation 18.4 should also be used to provide FPD leadership with the opportunity to hear community voices on issues ranging from training priorities to policy changes. The FPD Community Advisory Committee should meet regularly (quarterly or monthly) to offer their views. The Community Advisory Committee should represent the geographic neighborhoods of the City of Fayetteville and should include members that represent the Fort Bragg military community; the LGBTQ community; people with mental illness or people associated with mental illness advocacy groups or both; people of color; youth; and members of other underrepresented communities. Others the FPD could consider including on the Community Advisory Committee include representatives from primary schools, secondary schools, community colleges, universities, the business community (both large and small employers), the faith-based community, nonprofit groups, social service providers (e.g., substance abuse), and other municipal or county government partners.

123. Ibid.
124. Ibid.
125. Ibid.

Finding 48

The FPD emphasizes a community-policing strategy, but the entire organization is not engaged toward this goal at the same or appropriate levels. The FPD has not yet embraced community policing as a philosophy, so it does not inform departmental planning and decision making to the extent that it should.

While the FPD's mission and values statement contains references to community policing and problem solving, the CNA team found little evidence of active partnership teams solving community-policing problems. As noted in the *Final Report of the President's Task Force on 21st Century Policing*, "community policing must be a way of doing business by an entire police force, not just a specialized unit of that force."[126] Crime Prevention Specialists do the bulk of community-oriented work, and they are well known and respected throughout the community. The Crime Prevention Specialists are nonsworn members of the FPD who develop, implement, and monitor crime-prevention programs; conduct security surveys; participate in community watch activities; recommend crime-prevention methods; and maintain important program documentation. Involvement of sworn staff in community policing and problem-solving efforts is limited. The FPD's commitment to community policing may increase with continued geographic accountability for officers and Crime Prevention Specialists. When employees are assigned to geographic sectors, they become more invested in community interests for the neighborhoods they serve over substantial periods of time.

The assessment team's interviews with community members and patrol officers cited limited contact outside of community watch meetings' standard security checks—when, for example, officers on the night shift stop into gas station mini-marts to chat with the clerks on duty. There is little problem solving based on the SARA (scanning, analysis, response, assessment) model occurring throughout the community. Furthermore, the FPD does not regularly reinforce community-oriented policing concepts through training. The 2015 academy curriculum for recruits does not include a course on community policing, nor did the curricula used from 2010 through 2014. Furthermore, in-service training provided from 2013 to 2015 did not address community-oriented policing concepts (see finding 17). Finally, community-policing outcomes are not included in current employee performance evaluations.

Recommendation 48.1

The FPD should adopt procedures for all sworn officers to connect with community members, especially after critical incidents (e.g., shootings) that happen in neighborhoods.

FPD officers should engage in informal conversations with concerned community members to explain, in general terms, what happened after a given incident is over. They could engage community members by talking to those who gather outside to watch when police are in neighborhoods, knock on doors after an incident is over to talk with residents of the area, or invite residents to a special community meeting to explain the latest neighborhood incident. Procedural justice research finds that police officers who "clearly explain the reasons for their actions" engender higher levels of trust and legitimacy with the public.[127] The FPD could also lead community-restoration efforts, which aim to heal neighborhoods after a significant

126. President's Task Force on 21st Century Policing, *Final Report*, 43 (see note 1).
127. Sunshine and Tyler, "The Role of Procedural Justice and Legitimacy" (see note 60).

crime or police response. Beyond police responding to crime, community restoration battles the perception of the crime and not just the crime alone. By embracing notions of conflict resolution and restorative justice, officers could play a large role in restoring police-community trust. Officers could also engage community members informally by spending more time outside of their patrol cars, walking the neighborhoods, and talking to residents when possible.

Recommendation 48.2

The FPD should form problem-solving partnership teams (organized by geographic regions) that include other city agencies and community and business leaders to engage in the SARA problem-solving model.

There was little evidence of collaborative problem-solving teamwork at the community watch meetings we observed, which included opening prayers, reading and approval of minutes from previous meetings, community updates, treasury reports, and crime statistics reports (provided by Crime Prevention Specialists). We did not directly observe discussion of solving neighborhood problems and heard no mentions of the SARA problem-solving model. Rather, the FPD presented raw crime data in a particular geographic area without discussion of how to minimize the problem or how the community might get involved in problem solving. Moreover, community residents did not seem to know their officers, sergeants, or lieutenants well; rather, they seemed well acquainted only with the Crime Prevention Specialists and the captains. FPD staff—both sworn and nonsworn—should lead community problem-solving efforts and seek participation from many sectors of the community, including (but not limited to) other city departments, community organizations, faith-based organizations, the local business community, schools, parks and recreation facilities, and public health organizations. The nature of a particular problem in a particular neighborhood or geographic area should help to shape the membership of a problem-solving partnership team. Concerned residents who regularly engage in community watch meetings may make up some of the participants, and the nature of the problem should suggest other participants to recruit. For example, a partnership team to address problems with drug dealing within apartment complexes could include area residents, landlords, management companies, local businesses, school officials, and other city departments. While the FPD should encourage the formation of such partnership teams, it should ultimately be able to take a step back from leading problem-solving efforts by demonstrating problem solving and then empowering the community to lead the implementation efforts.

Recommendation 48.3

In addition to community watch meetings, the FPD should engage in regularly scheduled community trust-building activities such as "Coffee with a Cop."

Engaging community members informally in nonthreatening locations without a public safety agenda is an effective way to build trust. As noted in the *Final Report of the President's Task Force on 21st Century Policing*, promoting public trust by initiating positive nonenforcement activities can have beneficial results for both agencies and the communities they serve.[128] "Coffee with a Cop" events are designed with this very purpose in mind; they provide an opportunity for officers to engage the public informally. Conversations could range from the latest sports scores or community events to clarifications of city ordinances or police department priorities. Similar events that provide the opportunity for police and the community to engage

128. President's Task Force on 21st Century Policing, *Final Report* (see note 1).

in casual conversations in informal settings are also encouraged. Such events might include neighborhood barbeques, block parties, holiday events, or the FPD's Citizen Police Academy, which is currently held about once per year. The quality of police-community conversations is more important than the quantity of informal conversations, of course, but providing opportunities for quality interactions to take place is an important step.

Finding 49

There is little incentive for FPD employees to embrace the philosophy of community policing because the evaluation structures in place do not include relevant activities.

While FPD leadership stressed community-oriented policing principles during interviews, the lack of formal accountability for community-policing activities leaves employees without proper incentive to engage creatively with their community. The FPD's current evaluation structure is a City of Fayetteville rating form that does not capture performance measures specific to community-policing behaviors and tasks. Officers interviewed noted that the current form is "generic" and that "everyone meets expectations." They would welcome more specialized evaluation forms that considered specific duties for each type of officer (e.g., separate forms for detectives, training officers, and narcotics officers). While the FPD does have specialized performance evaluation forms by type of officer, these forms should also stress the importance of community policing by including related metrics in all evaluation forms.

Recommendation 49.1

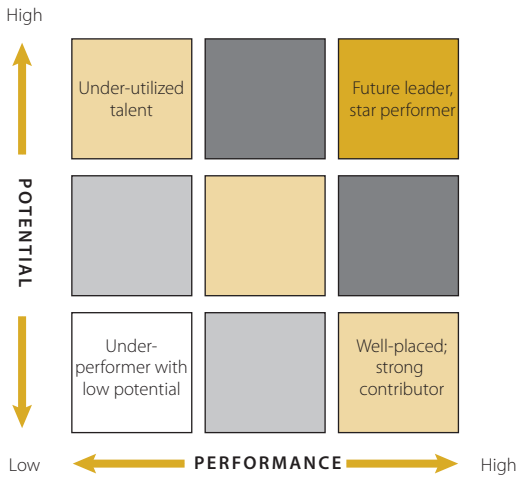
The FPD should reinforce the importance of community-policing activities through their formal performance evaluation and reward system mechanisms.

We acknowledge that the FPD must employ the City of Fayetteville's employee-evaluation standards, but the FPD could also employ an FPD-specific set of evaluation measures that would serve to encourage mission-consistent behavior among FPD staff. As noted in the *Final Report of the President's Task Force on 21st Century Policing*, "evaluat[ing] officers on their efforts to engage members of the community and the partnerships they build . . . places increased value on developing [community] partnerships."[129] Both the FPD's evaluation and promotional processes would benefit from a focus on community-policing activities. Examples of evaluation mechanisms that the FPD could consider using include 360-degree evaluations, in which officers evaluate their supervisors and their peers; the incorporation of community voices into evaluation processes; officer self-evaluation; and leadership evaluation focused on performance versus potential (e.g., a nine-box chart [see figure 19] that is good for starting conversations between officers and supervisors, adapted from the business community). The nine-box chart is used by Target Corporation and was featured in the COPS Office publication entitled *Reaching Out to the Private Sector: Building Partnerships and Managing your Workforce*.[130] This potential measurement tool works off of a simple grid. The X-axis has three boxes representing different levels of work performance, and the Y-axis has three boxes representing different levels of talent potential. The assessment tool allows you to measure an employee's actual performance and potential levels on the grid and then compare the two. Evaluating employees on this grid can

129. Ibid., 44.
130. *Reaching Out to the Private Sector: Building Partnerships and Managing your Workforce.* (Washington, DC: Office of Community Oriented Policing Services, 2010), http://ric-zai-inc.com/Publications/cops-p193-pub.pdf.

be highly useful in determining how to best use and support them. The importance of tying community policing activities to the reward systems at the FPD cannot be underestimated; meaningful conversations (as led by the nine-box chart, for example) will help reinforce the department's commitment to its community-policing mission.

Figure 19. Nine-box performance



Source: *Reaching Out to the Private Sector* (see note 130).

Recommendation 49.2

The FPD should add community-policing outcomes to its CompStat measures.

The FPD's weekly CompStat meeting is an ideal setting to reinforce community-policing and community-engagement principles and activities. By focusing only on crime-fighting goals, CompStat misses an opportunity to hold ranking officers responsible not only for crime and case outcomes but also for trust-building and community-engagement activities. The results of a community opinion survey by sector, for example, could be incorporated into CompStat meetings.

Chapter 10. Conclusion and Next Steps

The Fayetteville Police Department (FPD) is not unlike many of the police agencies across the country. With nearly 400 officers and a diverse community, a number of agencies across the country can resonate with the FPD and its practices. Since 2013, the department has made a number of organizational changes that have brought the agency into best policing practices or closer to meeting them. These changes, along with the chief's proactive request to participate in the Collaborative Reform Initiative for Technical Assistance (CRI-TA) and the department's cooperation with our assessment, are indicators that the FPD is on the right track to positive reform and improvement. Implementation and continual refinement of the reforms noted in this report will be essential to the continued success and sustainment of the progress within the department.

The overarching goal of CRI-TA in the FPD was to reform the department's policies, training, and operations as they relate to use of force and interactions with citizens, taking into account national standards, best practices, current and emerging research, and community expectations. Our assessment uncovered a number of areas for improvement to departmental policy, investigations, training, and community engagement. Overall, the assessment yielded 49 findings and 76 recommendations.

Specifically, we found that

- FPD policies could be further streamlined and refined to align with departmental practice or best policing practices;
- the quality of internal administrative investigations of deadly force incidents could be enhanced to ensure consistency;
- training could be expanded to include courses on problem solving, community policing, and cultural diversity;
- the department's accountability systems could be improved to ensure that corrective actions noted by chain of command or the Chain of Command Review Board are implemented;
- the department must embrace community policing as a departmental philosophy.

Over the next 18 months, the collaborative reform assessment team will work with the FPD and the Office of Community Oriented Policing Services to monitor and assist in the implementation of the reforms. The department's progress will be published in two monitoring reports, an initial progress report and a final progress report.

Appendix. Findings and Recommendations

Finding 1

The FPD's Use of Force Report database and associated Incident Summary Reports are not equipped to handle complex UOF incidents including multiple officers and citizens. In addition, the FPD does not consistently record key variables for use of force and citizen and departmental complaints.

Recommendation 1.1

The FPD should revise its Use of Force Report database to ensure that unique officer-incident-citizen dynamics are properly associated.

Recommendation 1.2

The FPD should revise Operating Procedure 1.1 to establish a routine inspection and audit of its use of force and citizen and departmental complaint data to ensure that they are being captured consistently and accurately.

Finding 2

The chain of command investigation of use of force incidents is lengthy; the process from reporting to completion of the investigations and filing of the report took an average of 114 days.

Recommendation 2.1

The FPD should require that all chain of command investigations be completed within 30 days of the initial report of use of force and should update its Operating Procedure 1.1 to clearly note the timeline in which these investigations must be completed.

Finding 3

The FPD's use of force and citizen and departmental complaints record keeping systems are insufficient for maintain accurate records of use of force incidents.

Recommendation 3.1

The FPD should ensure that all key variables, such as demographic information and level of resistance, are consistently captured in every citizen or departmental complaint and use of force report.

Finding 4

The FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" lacks guidance on the circumstances in which physical force should be used.

Recommendation 4.1

The FPD should revise General Order 4.1 to include when the use of defensive weapons is authorized, the types of physical force allowed, and the specific circumstances in which this type of force should be used.

Finding 5

The FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" does not clearly define what types of force require reporting and the level of investigation required.

Recommendation 5.1

The FPD should provide additional distinction and clarity between the activities and responsibilities associated with the reporting and the investigation of use of force incidents.

Finding 6

FPD has conflicting policies on using a flashlight as a weapon.

Recommendation 6.1

The FPD should revise General Order 4.1 to eliminate the conflicts from the guidance provided regarding the use of flashlights as impact weapons.

Finding 7

Less lethal force tools that are specific to emergency response teams (ERT) are included unnecessarily in the FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force."

Recommendation 7.1

The FPD should remove less lethal items specific to ERTs from General Order 4.1 and instead include these items in the ERT Operating Procedures.

Finding 8

The FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" incorrectly references "officer's opinion" in the decision to use nondeadly defensive weapons.

Recommendation 8.1

The FPD should revise General Order 4.1 to no longer reference "officer's opinion" in the decision to use nondeadly defensive weapons.

Finding 9

The current title of the FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" can be misconstrued, as some of the tools and tactics listed within the order (e.g., conducted electrical weapons or TASERs) can cause death.

Recommendation 9.1

The FPD should revise the title of General Order 4.1.

Finding 10

The FPD's General Order 4.11 "Use of Deadly Force" allows officers to fire warning shots. Warning shots can lead to unintended injury to the suspect(s), the public, and officers.

Recommendation 10.1

The FPD should revise General Order 4.11 to prohibit officers to fire warning shots under any circumstances.

Finding 11

De-escalation is a minor component of the FPD's General Order 4.1 "Use of Nondeadly and Less Lethal Force" and General Order 4.11 "Use of Deadly Force."

Recommendation 11.1

The FPD should revise General Order 4.1 and General Order 4.11 to highlight the importance of de-escalation.

Finding 12

The FPD's General Order 4.11 "Use of Deadly Force" permits officers to shoot at moving vehicles.

Recommendation 12.1

The FPD should revise General Order 4.11 to further restrict officers from shooting at moving vehicles.

Finding 13

The FPD's narrative of the Force Option Model within both General Order 4.1 "Use of Nondeadly and Less Lethal Force" and General Order 4.11 "Use of Deadly Force" is vague and provides little guidance on the components of the model and officer's response as it relates to the model.

Recommendation 13.1

The FPD should provide a detailed narrative description of the Force Option Model within General Orders 4.1 and 4.11.

Recommendation 13.2

The FPD should revise the list of force variables in General Order 4.1 to include the nature of the offense and possible mental state of the subject.

Finding 14

The FPD's General Orders 4.1 and 4.11 on use of force lack guidance on responding to subjects with possible mental illness.

Recommendation 14.1

The FPD should revise General Orders 4.1 and 4.11 to highlight that subjects may be unable to respond to officer commands because of mental incapacities.

Finding 15

The FPD does not document, track, or review instances of officers aiming or pointing a firearm at a person.

Recommendation 15.1

The FPD should revise its General Order on deadly force to require officers to report every occurrence in which an officer, whether on duty or off, points a firearm—regardless of whether another force option was used. In addition, the pointing of a firearm should be reviewed by a supervisor to ensure that the officer's actions were in accordance with policy and were reasonably objective.

Finding 16

The FPD's current overall training strategy fails to consider important community characteristics of Fayetteville.

Recommendation 16.1

All FPD personnel should undergo training that emphasizes sensitivity and awareness addressing Fayetteville's community characteristics, including training on the military community, people with mental illness, building cross-cultural understanding, and the LGBTQ community.

Finding 17

The FPD's current overall training strategy fails to emphasize the philosophy of community-oriented policing.

Recommendation 17.1

All current FPD personnel should undergo in-service training on community-oriented policing and the SARA model.

Recommendation 17.2

The FPD should add community policing to its BLE training curriculum.

Recommendation 17.3

All FPD personnel should undergo training in procedural justice.

Finding 18

The FPD focuses mostly on state-mandated training standards rather than using training as a tool to achieve strategic departmental goals and objectives.

Recommendation 18.1

The FPD should develop a strategic training plan that identifies goals and objectives beyond state-mandated minimum standards. This training plan should advance community policing efforts, communication and de-escalation techniques, cultural competencies, and problem solving.

Recommendation 18.2

When adding hours to the state-mandated BLE training standards, the FPD should emphasize hours that support the philosophy of community policing.

Recommendation 18.3

The FPD should include the topics of community policing, problem solving, procedural justice, and communication skills into annual in-service training.

Recommendation 18.4

The FPD should establish a Community Advisory Committee consisting of divisions and units within the police department and community member advisors.

Finding 19

Current use of force training does not produce a clear understanding of policy for the FPD's officers.

Recommendation 19.1

The FPD should update its use of force in-service training to reflect clear terminology regarding the department's use of force policy.

Finding 20

Crisis intervention team (CIT) training does not occur at regular intervals.

Recommendation 20.1

The FPD should institute an eight-hour CIT refresher course to be offered every two years.

Recommendation 20.2

The FPD should use the Community Advisory Committee (recommendation 18.4) to assist in the development of the CIT refresher training curricula.

Finding 21

The FPD's procedures for investigating deadly force incidents lack consistency.

Recommendation 21.1

The FPD should establish a protocol between the FPD, the SBI, and the District Attorney's Office that details roles and responsibilities of each entity as it relates to deadly force investigations involving FPD officers.

Recommendation 21.2

The FPD should establish a manual that contains the investigative process and protocols for the FPD's deadly force response and investigation.

Finding 22

The FPD's initial response procedures for deadly force investigations lack consistency.

Recommendation 22.1

The FPD should establish a clear procedure for the department to notify the SBI that a deadly force incident has occurred.

Finding 23

The FPD does not have a clear protocol outlining who is responsible for the area canvass as the agency responds to a use of deadly force or directing what steps should be taken. The documentation of the area canvass found in the internal, administrative file was incomplete.

Recommendation 23.1

The FPD should establish a written protocol outlining the steps to be taken for completing an area canvass to a standard. The FPD should create a template report that documents the results of the canvass.

Finding 24

After the initial response by patrol officers to a deadly force incident, the FPD does not have a clear and comprehensive protocol defining who is responsible for crime scene management.

Recommendation 24.1

The FPD should establish a written protocol, detailing the crime scene management process from the FPD's early response to the transfer of the scene to the SBI's control.

Finding 25

The FPD's internal administrative files lack thorough documentation of the crime scene.

Recommendation 25.1

The FPD's investigative manual for deadly force investigations should standardize all the tasks and actions to complete as far as documenting a crime scene.

Finding 26

The FPD does not have an investigative protocol that provides consistency and minimizes redundancy in interviewing the involved officers in a deadly force incident.

Recommendation 26.1

The FPD should establish a written protocol detailing both the FPD's Homicide and IA Units' approach to all officer and witness interviews.

Finding 27

FPD officers who use deadly force are not required to provide a public safety statement to the first-responding supervisor.

Recommendation 27.1

The FPD should establish a standard checklist of public safety questions for the first-responding supervisor.

Recommendation 27.2

The FPD should train supervisors on how to take public safety statements.

Finding 28

The lack of Information-sharing protocols between the FPD and the SBI significantly hinders the FPD's investigative efforts.

Recommendation 28.1

The FPD should establish a formal information-sharing protocol with the SBI and the District Attorney's Office regarding deadly force incidents involving FPD officers.

Finding 29

The FPD's case files for internal administrative investigations of deadly force incidents included reporting inconsistencies, which hampered clarity.

Recommendation 29.1

The administrative file should encompass all available information surrounding the deadly force incident.

Finding 30

The FPD's documentation of witness interviews is insufficient for a quality administrative review.

Recommendation 30.1

All interviews conducted by FPD investigators in the course of a deadly force investigation should be video recorded.

Finding 31

The FPD's IA Unit focuses its administrative investigation almost exclusively on policy and the actions of the officer who used deadly force at the moment of the use of force. This narrow approach hampers the FPD's ability to adequately probe all the issues that could be found in a training and tactical review.

Recommendation 31.1

IA investigators should significantly expand the scope and purpose of their investigation.

Recommendation 31.2

IA investigators should conduct interviews with all officers and, when needed, witnesses in a deadly force incident.

Recommendation 31.3

IA investigators should consult with departmental subject matter experts to help uncover potential training and tactical errors.

Recommendation 31.4

The FPD's IA Unit should render specific recommendations for the CCRB to deliberate and offer a final decision.

Finding 32

The FPD's IA Unit's recordings and transcribed statements of the involved officer showed, on occasion, that investigators used closed-ended or leading questions or provided feedback on an officer's performance.

Recommendation 32.1

The FPD should establish a protocol to ensure that closed-ended and leading questions are minimized and the investigators remain unbiased and nonjudgmental in the interviews.

Finding 33

The FPD lacks official training requirements for Homicide detectives and the IA Unit investigators for conducting deadly force investigations.

Recommendation 33.1

All FPD Homicide detectives and IA investigators should be required to attend specialized training for officer-involved shootings, and this training should be assessed annually.

Finding 34

The FPD's media releases and press conferences have not been consistent in the aftermath of an officer-involved shooting. This inconsistency furthers the lack of understanding on use of force investigative processes among the FPD and the community.

Recommendation 34.1

The FPD should establish a comprehensive communications plan for relaying consistent information to the community and media.

Recommendation 34.2

At the conclusion of the SBI's criminal investigative process and the FPD's Internal Affair Unit administrative process, the FPD should provide a detailed narrative of what occurred in the OIS to the media and community.

Finding 35

The FPD's Operating Procedure 1.1 "Internal Investigative Procedure" lacks clarity with regard to which investigations are authorized to be investigated by chain of command and which are required to be investigated by the IA Unit.

Recommendation 35.1

The FPD should revise Operating Procedure1.1 "Internal Investigative Procedure" to clearly delineate between a major investigation led by the IA Unit and a minor investigation led by chain of command.

Finding 36

The FPD does not track the implementation of CCRB recommendations.

Recommendation 36.1

The FPD's Operating Procedure 1.1 "Internal Investigative Procedure" should state who is accountable for implementing CCRB-approved policy and training recommendations.

Recommendation 36.2

FPD policy should clearly state that the chair of the CCRB is the presiding officer of the board and is accountable for the findings and recommendations rendered by the CCRB.

Finding 37

CCRB memos lack a common format and are inconsistent in the level of information presented.

Recommendation 37.1

The FPD should develop a template to ensure consistency across CCRB memos.

Finding 38

Improvements to the design of the CCRB are necessary to improve accountability of the board and improve the effectiveness of the disciplinary process.

Recommendation 38.1

The FPD Operating Procedure 1.1 "Internal Investigative Procedure" should clarify supervisory responsibilities during an internal investigation.

Recommendation 38.2

The FPD should revise Operating Procedure 1.1 "Internal Investigative Procedure" to clarify that while the CCRB may ask clarifying questions of the involved officer, these questions must not expand beyond the purview of the noted investigation.

Recommendation 38.3

The FPD should revise Operating Procedure 1.1 "Internal Investigative Procedure" to clarify that the involved officer may only appeal the chief's decision and not the CCRB's recommendations to the chief.

Recommendation 38.4

The FPD should incorporate additional community members into the CCRB.

Recommendation 38.5

The FPD should train community members to participate on the CCRB.

Finding 39

In the assessment team's review of the FPD complaint process, supervisory staff members were found at times either to defer corrective action decisions to the next organizational rank or not to recognize that corrective action was required.

Recommendation 39.1

Supervisory staff should practice procedural justice in complaint resolution and in the disciplinary system.

Recommendation 39.2

Field employees should be held accountable for the delivery of police services according to assigned geographic areas and sectors. Field employees, especially supervisors, should be geographically assigned on an annual basis.

Finding 40

The FPD's General Order 3.7 "Employee Early Warning System" is comprehensive but does not require post-investigation recommendations to be tracked or documented when completed by supervisors.

Recommendation 40.1

Supervisors should ensure that recommendations made following an EWS alert are tracked and should submit an updated report upon successful implementation of the mitigation plan.

Finding 41

The FPD does not use a discipline matrix when evaluating disciplinary cases.

Recommendation 41.1

The FPD should revise General Order 3.3 "Discipline Procedures" to describe the disciplinary matrix and the mitigating and aggravating factors that will be considered if establishing discipline for policy violations.

Finding 42

The FPD has experienced multiple organizational reviews since 2010 and has implemented previous recommendations to varying degrees; however, a number of recommendations have not been implemented.

Recommendation 42.1

The FPD should create a clear communication strategy to convey to both internal and external stakeholders the status of the reform process.

Recommendation 42.2

The FPD should use the Community Advisory Committee consisting of representatives from divisions and units within the police department and community member advisors to assist in developing the implementation strategy for reform recommendations and to assist in assigning implementation priority to these recommendations.

Recommendation 42.3

The FPD should provide systematic written updates to the City Manager's Office and City Council communicating reform progress.

Finding 43

Although in decline, racial disparities in motor vehicle stops persist; furthermore, an analysis of searches and enforcement activity also indicates Black motorists are more likely to receive a citation or be searched than White motorists.

Recommendation 43.1

The FPD should monitor officer activity closely for disparate treatment.

Finding 44

The FPD's General Order 1.8 "Preventing Biased Policing and the Perception of Biased Policing" reporting standards are unclear, and the aggregate reporting should be expanded.

Recommendation 44.1

The FPD should update General Order 1.8 to strengthen reporting criteria for biased policing.

Recommendation 44.2

The FPD should conduct an aggregate analysis of biased policing reporting on an annual basis and release these reports to the public.

Finding 45

The FPD does not track racial demographic information for field interviews.

Recommendation 45.1

The FPD should collect racial demographic information for all field interviews.

Finding 46

The FPD's field interview database collates data from a variety of citizen interactions, but the field interview form does not provide sufficient fields to differentiate between these interactions.

Recommendation 46.1

The FPD should add a field to the field interview form that clearly differentiates the type of field interview (pedestrian stop, traffic stop, etc.) conducted.

Recommendation 46.2

The FPD should reevaluate the data collection categories included in its field interview form, specifically the "reason" field.

Finding 47

The FPD lacks a systematic mechanism to hear community voices on critical organizational and community issues.

Recommendation 47.1

The FPD should use the newly formed Community Advisory Committee (see recommendation 18.4) to provide community insights to the FPD on a variety of issues.

Finding 48

The FPD emphasizes a community-policing strategy, but the entire organization is not engaged toward this goal at the same or appropriate levels. The FPD has not yet embraced community policing as a philosophy, so it does not inform departmental planning and decision making to the extent that it should.

Recommendation 48.1

The FPD should adopt procedures for all sworn officers to connect with community members, especially after critical incidents (e.g., shootings) that happen in neighborhoods.

Recommendation 48.2

The FPD should form problem-solving partnership teams (organized by geographic regions) that include other city agencies and community and business leaders to engage in the SARA problem-solving model.

Recommendation 48.3

In addition to community watch meetings, the FPD should engage in regularly scheduled community trust-building activities such as "Coffee with a Cop."

Finding 49

There is little incentive for FPD employees to embrace the philosophy of community policing because the evaluation structures in place do not include relevant activities.

Recommendation 49.1

The FPD should reinforce the importance of community-policing activities through their formal performance evaluation and reward system mechanisms.

Recommendation 49.2

The FPD should add community-policing outcomes to its CompStat measures.

Acronyms, Abbreviations, and Initialisms

AELE	Americans for Effective Law Enforcement
BLE	basic law enforcement
CAPRA	clients, acquire/analyze information, partnerships, response, assessment of action taken
CCRB	Chain of Command Review Board
CIR	criminal incident report
CIT	crisis intervention team
CJETSC	Criminal Justice Education and Training Standards Commission
COPS Office	Office of Community Oriented Policing Services
CRI-TA	Collaborative Reform Initiative for Technical Assistance
DOJ	U.S. Department of Justice
ERT	emergency response team
EWS	early warning system
FPD	Fayetteville Police Department
IA	Internal Affairs
LGBTQ	lesbian, gay, bisexual, transgender, queer/questioning
MU	Methodist University
NAACP	National Association for the Advancement of Colored People
NCJA	North Carolina Justice Academy
NOBLE	National Organization of Black Law Enforcement Executives
OIS	officer-involved shooting
PERF	Police Executive Research Forum
RBT	reality-based training
SARA	scanning, analysis, response, assessment
SBI	State Bureau of Investigation
UOF	use of force
VOTC	violation other than complaint

About CNA

CNA is a not-for-profit organization based in Arlington, Virginia. The organization pioneered the field of operations research and analysis 70 years ago and today applies its efforts to a broad range of national security, defense, and public interest issues, including education, homeland security, public health, and criminal justice. CNA applies a multidisciplinary, field-based approach to helping decision makers develop sound policies, make better-informed decisions, and lead more effectively. CNA is one of the technical assistance providers for the U.S. Department of Justice's Office of Community Oriented Policing Services Collaborative Reform Initiative for Technical Assistance.

About the COPS Office

The **Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.

Community policing begins with a commitment to building trust and mutual respect between police and communities. It supports public safety by encouraging all stakeholders to work together to address our nation's crime challenges. When police and communities collaborate, they more effectively address underlying issues, change negative behavioral patterns, and allocate resources.

Rather than simply responding to crime, community policing focuses on preventing it through strategic problem solving approaches based on collaboration. The COPS Office awards grants to hire community police and support the development and testing of innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders, as well as all levels of law enforcement.

Another source of COPS Office assistance is the Collaborative Reform Initiative for Technical Assistance (CRI-TA). Developed to advance community policing and ensure constitutional practices, CRI-TA is an independent, objective process for organizational transformation. It provides recommendations based on expert analysis of policies, practices, training, tactics, and accountability methods related to issues of concern.

Since 1994, the COPS Office has invested more than $14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.

- To date, the COPS Office has funded the hiring of approximately 127,000 additional officers by more than 13,000 of the nation's 18,000 law enforcement agencies in both small and large jurisdictions.
- Nearly 700,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.
- To date, the COPS Office has distributed more than eight million topic-specific publications, training curricula, white papers, and resource CDs.
- The COPS Office also sponsors conferences, roundtables, and other forums focused on issues critical to law enforcement.

The COPS Office information resources, covering a wide range of community policing topics—from school and campus safety to gang violence—can be downloaded at www.cops.usdoj.gov. This website is also the grant application portal, providing access to online application forms.

Many jurisdictions are seeking ways to build trust with the communities they serve by improving policies, training, and procedures. To re-evaluate his department's policies, the chief of North Carolina's Fayetteville Police Department, Harold Medlock, requested participation in the Collaborative Reform Initiative for Technical Assistance (CRI-TA) process. Beginning in January 2015, a team of CRI-TA researchers, analysts, and subject matter experts assessed the department's use of force policies, training, and community interactions. This report summarizes their findings and recommendations.

Community Oriented Policing Services
U.S. Department of Justice

U.S. Department of Justice
Office of Community Oriented Policing Services
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Visit the COPS Office online at **www.cops.usdoj.gov**.

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