



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** 12/15/2023

**TO:** Fairfax County Board of Supervisors

Colonel Kevin Davis  
Chief of Police

Major John Lieb  
Commander - Internal Affairs Bureau

**FROM:** Richard G. Schott  
Independent Police Auditor

**SUBJECT:** Non-Use of Force Incident Review (IPA-23-15)

An individual was handcuffed by a Fairfax County Police Department (“FCPD”) officer for the purpose of an Emergency Custody Order (“ECO”). When the individual intentionally struck his own head against the plastic partition in the police cruiser into which he was placed after being arrested, the officer notified his supervisor. The responding supervisor was told by the individual that the officer had assaulted him and had purposefully struck his head against the partition in the police cruiser. The FCPD investigated and determined that no force had been used by any of its officers during the incident. Based on the initial complaint and allegation, the Office of the Independent Police Auditor (“OIPA”) opened a review of the investigation. My review confirmed that no FCPD officer used force during the incident. I am submitting this Memorandum (rather than a formal report) to document my review of the internal investigation.

## **INCIDENT**

On July 17, 2023, at approximately 8:00 p.m., FCPD Officer #1 (“OFFC#1”) and FCPD Officer #2 (“OFFC#2”) responded to the vicinity of INOVA Fairfax Hospital because of calls from community members and personnel from the Fairfax County Fire and Rescue Department (“FCFRD”). The callers advised that an individual (hereinafter identified by his initials “GE”) was outside of the hospital wearing a hospital gown, and that he was in the road striking at vehicles when people stopped to check on his wellbeing. When the responding officers approached GE, he directed an obscene gesture to them. He also told OFFC#1 that he was walking to McLean, although OFFC#1 noted that GE only had socks on his feet. GE also stated that he did not care if he lived or died, and that if OFFC#1 touched him he “would do something.”

The officers took custody of GE under the authority of an ECO.<sup>i</sup> While OFFC#1 and OFFC#2 walked GE to their patrol vehicle, GE said he was going to “break his wrist.” Before placing GE into the police cruiser, the officers ensured that the handcuffs were secure and double-locked. While being placed into the cruiser, GE stated he was going to hit his head on the cruiser. OFFC#2 used his hands to shield GE’s head and prevent him from striking his head. However, once he was inside the car, GE did strike his forehead against the plastic partition between the front and rear seats. At this point, the officers removed GE from the car, requested an ambulance, and notified their supervisor of a potential self-inflicted injury to GE. The officers’ second lieutenant (“2LT#1”) responded to the scene.

When 2LT#1 arrived, GE alleged that the officers assaulted him by purposely hitting his head against the cruiser door.<sup>ii</sup> GE was transported to Fairfax Hospital via ambulance. At the hospital, GE was initially handcuffed to the bed with his left hand. When he became aggressive—by kicking the bed rails and threatening to drag the bed from his room—both of his hands were handcuffed to the bed rails. GE tried to pull his right hand out of the handcuffs, resulting in a cut that was bandaged by hospital staff. A temporary detention order<sup>iii</sup> was obtained after GE was examined by Merrifield Crisis Center personnel.

## **INTERNAL ADMINISTRATIVE INVESTIGATION**

Based on GE’s allegations made to 2LT#1, the FCPD conducted an internal administrative investigation into this incident. That investigation determined that no force was used by OFFC#1 and OFFC#2 during the incident. Based on my review of the

investigation, I agree that no force was deployed.

The investigating supervisor interviewed both officers and reviewed the body-worn camera (“BWC”) footage of the encounter. The officers reported that the incident transpired as described in this Memo. Additionally, the BWC footage confirmed their account, and disproved GE’s allegation of force being used on him. The FCPD concluded that OFFC#1 and OFFC#2 were “exonerated” after examining their actions relating to the care and custody” of an arrestee.<sup>iv</sup> Based on my review of this investigation, I believe it was complete, thorough, objective, impartial, and accurate.

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<sup>i</sup> Va. Code § 37.2-808 G. allows for “[a] law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated in this section [to] take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization.”

<sup>ii</sup> The complaint about an alleged use of force prompted this review by the Office of the Independent Police Auditor.

<sup>iii</sup> Va. Code § 37.2-809 B. provides that “[a] magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician, clinical psychologist, clinical social worker, or licensed professional counselor treating the person, that the person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs; (ii) is in need of hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.”

<sup>iv</sup> FCPD General Order 203.1, REGULATION – PRISONER CARE AND CUSTODY provides, in relevant part: “Arresting officers shall be responsible for the safety and protection of all individuals within their legal custody and shall notify their immediate supervisor of any apparent injury, illness, or other condition(s) necessitating medical care.”