

## 1. Investigations

A. Criminal investigations involving officer involved shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured will be conducted by the Major Crimes Division of the FCPD unless the Chief of Police, in consultation with the Commonwealth's Attorney, determines that the criminal investigation of a particular incident should be conducted by criminal investigators from another Northern Virginia jurisdiction by agreement with that jurisdiction.

**[B. Fairfax County should explore whether to establish a joint task force comprised of criminal investigators from each of the principal northern Virginia jurisdictions (i.e., Alexandria, Arlington County, Fairfax County, Falls Church, Loudon County, Prince William County, and Stafford County) to investigate investigations involving officer involved shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured. The Task Force would investigate the incidents without the participation of the member of police department in which the incident occurred.]**

C. Funds should be appropriated to the Commonwealth's Attorney to allow for the full-time employment of two (2) experienced criminal investigators who will report to and be subject to the direction of the Commonwealth's Attorney in connection with criminal investigations of officer involved shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured or as the Commonwealth's Attorney may so otherwise determine.

**D. [FCPD Internal Affairs Bureau (IAB) investigations will be conducted concurrently with the criminal investigation, and necessary safeguards will be established and maintained to ensure that the rights of any potential subject of the criminal investigation are fully protected.]**

E. The right of FCPD officers under the Virginia Law-Enforcement Officers Procedural Guarantee Act to be "questioned at a reasonable time and place" as set forth in the Act shall be preserved. **[There should be no formal or informal "waiting period" before the questioning of an FCPD officer shall commence.]** All FCPD officers will be required to abstain from speaking to other officers involved in or witnessing any conduct subject to a MCD or IAB investigation or to any third parties involved in or witnesses to such conduct until advised by MCD or IAB that they may do so.

## 2. Prosecution

A. The prosecution, including the decision whether to charge a FCPD officer with a crime, of alleged FCPD misconduct involving officer involved shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured will be handled by the Fairfax County Commonwealth's Attorney unless the Commonwealth's Attorney determines that the prosecution, including the decision to charge, should be handled by the Commonwealth's Attorney of another Northern Virginia jurisdiction by agreement with that Commonwealth's Attorney.

**[B. The Fairfax County Commonwealth's Attorney should explore whether to enter into an agreement with a Commonwealth's Attorneys from another northern Virginia jurisdiction to handle each other's prosecutions, including the decisions to charge, of incidents involving police officer**

**involved shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured.]**

3. Oversight/Citizen Investigation Review Panel

A. The Chairman of the Board of Supervisors shall appoint an outside independent auditor (Independent Auditor) with significant experience in the investigation of police use of force incidents to review all investigations conducted by the IAB which involve officer involved shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured. The Independent Auditor will receive a complete copy of the IAB file **[(including any administrative action taken)]** for each investigation reviewed. The Independent Auditor will review each IAB investigation to determine its thoroughness, completeness, accuracy, objectivity, and impartiality. The Independent Auditor may compel testimony and/or the production of documents or other evidence from any person (including the FCPD and its employees) in furtherance of the Auditor's responsibilities. Any hearing that the Independent Auditor determines to hold shall be open to the public. The Independent Auditor shall issue a public report as to the Auditor's conclusion as to the adequacy of each IAB investigation reviewed. **[The Independent Auditor shall/shall not express in the report an opinion as to whether the administrative action, if any, taken by the FCPD with respect to the FCPD officer(s) involved was adequate based on the results of the Auditor's review.]** The Independent Auditor shall be provided with an adequate budget and a trained staff to fulfill the Auditor's responsibilities.

B. If the Independent Auditor determines that an IAB investigation was deficient or that IAB's conclusion as to the facts was incorrect, the Auditor may request further investigation by IAB or the Auditor may conduct further investigation. Upon the completion of the further investigation, the Independent Auditor shall issue a supplemental public report concerning the matter being investigated.

C. The FCPD shall report quarterly to the Independent Auditor on the disposition of citizen complaints received by the FCPD in a mutually-agreed format. The Independent Auditor shall have the authority to require additional information as the Auditor may determine is necessary to determine if the FCPD is properly responding to and investigating all such complaints. If the Independent Auditor determines that a complaint alleging FCPD misconduct involving officer involved shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured or any FCPD conduct involving an alleged abuse of authority **[to be defined]** has not been sufficiently investigated by the FCPD or the IAB, the Independent Auditor may request further investigation by the FCPD or the IAB or the Auditor may conduct any further investigation deemed appropriate. The Independent Auditor shall issue a public report annually concerning the review undertaken of complaints and the timeliness and sufficiency of responses by the FCPD.

D. The Independent Auditor shall make recommendations to the FCPD Chief of Police concerning revisions to FCPD policies and practices based on the Auditor's review of the IAB investigations and of complaints received. The Chairman of the Board of Supervisors shall be informed of all such recommendations.

E. Fairfax County shall establish a Citizen Investigation Review Panel composed of five (5) citizens and two (2) alternates residing in Fairfax County with expertise and experience in fields relevant to the Panel's responsibilities. If a complainant or other person is dissatisfied with the Independent Auditor's

report and/or conclusions with respect to an IAB investigation involving alleged FCPD misconduct involving officer involved shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured, the complainant or other person may request the Panel to review the reports and conclusions of the Independent Auditor, including the IAB investigation. Within forty-five (45) days of its receipt of the complete file, the Panel shall hold a public hearing to review the Independent Auditor's reports and conclusions. The Panel shall, within thirty (30) days of the conclusion of the public hearing, issue its findings and recommendations in a public report. In so doing, the Panel may advise the Chairman of the Board of Supervisors: (i) that it concurs in whole or in part with the conclusions of the Independent Auditor; (ii) that the conclusions of the Independent Auditor are not supported in whole or in part by the record; or (iii) that the investigation is incomplete. The Panel may from time-to-time recommend to the Chairman of the Board of Supervisors revisions to FCPD policies and/or practices that the Panel concludes are needed.

**[Note: the requirement of public hearings and reports by the Independent Auditor and the Citizen Investigation Review Panel needs to make some accommodation for the redaction of information which could identify victims of sexual misconduct and juveniles.]**