

Investigations

1. Criminal investigations of officers involved in shootings, in-custody deaths, and any use of force incident in which an individual is killed or seriously injured (“Death or Serious Injury Cases” or “Cases”) should continue to be conducted by the Major Crimes Division of the FCPD unless the Chief of Police, in consultation with the Commonwealth Attorney, determines that the criminal investigation of a particular incident should be conducted by criminal investigators from another Northern Virginia jurisdiction police department, by agreement with that jurisdiction.
2. Funds should be appropriated to the Commonwealth Attorney’s office to allow for the fulltime employment of two (2) independent experienced criminal investigators who will report to and be subject to the direction of the Commonwealth Attorney in connection with criminal investigations of Death or Serious Injury Cases as the Commonwealth Attorney may determine.
3. FCPD Internal Affairs Bureau (IAB) investigations of Cases will be conducted concurrently with the criminal investigation to the extent practicable, and necessary safeguards will be established and maintained to ensure that the Constitutional and statutory rights of any potential subject of the criminal investigation are fully protected.
4. The right of FCPD officers under the Virginia Law Enforcement Officers Procedural Guarantee Act to be “questioned at a reasonable time and place” with respect to such Cases shall be preserved. The questioning shall commence as soon as reasonable, under all of the relevant facts and circumstances, as determined by the Commonwealth Attorney in consultation with the Chief of the FCPD.
5. 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 of a Case or to any third parties involved in or witnessing such conduct until advised by MCD or IAB that they may do so.

Prosecution

6. The prosecution, including the decision whether to charge a FCPD officer with a crime arising out of a Death or Serious Injury Case, will be handled by the Fairfax County Commonwealth Attorney unless s/he determines that the prosecution, including the decision to charge, should be handled by the Commonwealth Attorney of another Northern Virginia jurisdiction by agreement with that jurisdiction.

Oversight/Citizen Review

7. A. The Chair of the Fairfax County Board of Supervisors shall appoint an outside independent auditor (the “Auditor”) with significant experience in the investigation of police use of force incidents to review all investigations of Cases conducted by the IAB. The Auditor will receive a complete copy of the MCD criminal investigation file as well as a complete copy of the IAB file, including any administrative action taken, for each investigation so reviewed. The Auditor will determine with respect to each such IAB investigation its thoroughness, completeness, accuracy, objectivity and impartiality.

B. The Auditor may, subject to the enactment of any required legislation, compel testimony and/or the production of documents or other evidence from any person in furtherance of the Auditor’s responsibilities. The FCPD and all Fairfax County employees shall be subject to interview, testimony and

document production at the request of the Auditor. Any hearing conducted by the Auditor shall be open to the public.

C. The Auditor shall issue a timely public report with respect to each reviewed Case.

D. If the Auditor determines that an IAB investigation was deficient or that IAB's conclusions as to the relevant facts were incorrect or unsupported by the facts, the Auditor may request further investigation by IAB or the Auditor may conduct such further investigation. If such investigation is conducted after the public report, the Auditor shall issue a supplemental public report concerning the further investigation.

E. The FCPD shall report quarterly to the Auditor on the disposition, collectively and not individually, of all other citizen complaints received by the FCPD in a mutually agreed format. The Auditor shall be provided such additional information as the Auditor may deem necessary to enable him/her to determine that the FCPD is properly responding to and investigating such citizen complaints in a timely manner.

F. A citizen who prefers to file a complaint concerning alleged misconduct by a Fairfax County police officer (other than involving a Death or Serious Injury Case) may file with the Auditor, who shall immediately forward the complaint to the FCPD, with or without the Auditor's recommendation on how the complaint should be handled, in the Auditor's discretion.

G. The Auditor shall make recommendations to the FCPD Chief of Police, with copies to the Chair of the Board of Supervisors, concerning revision of FCPD policies and practices based on the Auditor's reviews.

H. The Auditor shall have an adequate budget and a trained staff to meet his/her responsibilities as outlined herein. The Auditor's office shall be separate and apart (physically and administratively) from those of the FCPD and the Commonwealth Attorney.

8. A. 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.

B. 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 in writing within thirty (30) days of the public issuance of the Independent Auditor's final report that the Panel review the report(s) and conclusions of the Independent Auditor, including the IAB investigation.

C. 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 report(s) and conclusions. The County Executive or his/her designee may require the attendance of any Fairfax County employee whose appearance at the hearing is requested by the Panel and may also require the production of any documents or other materials in the possession of the FCPD or other County offices and departments.

D. 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.

E. 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.

9. A. Fairfax County shall establish an Ad Hoc Police Practices Review Commission every five (5) years to review and, as needed, make recommendations concerning FCPD policies and practices on use of force and critical incident response and to review complaints and investigations 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, taking into consideration the reports of the FCPD, the Independent Auditor, and the Citizen Investigation Review Panel.