

Fairfax County Independent Police Auditor Recommendations

Updated March, 2022

| IPA Case # | Incident Date | Report Date | Auditor Recommendation | FCPD Action/Response | Status (as determined by the IPA) |
|------------|---------------|-------------|---|---|--|
| 17-02 | 1/16/2017 | 1/31/2018 | Use term "non-deadly" force instead of "less-lethal" force | FCPD has had discussions on this matter and as this term is among the best practices outlined by PERF, CALEA, AD HOC Item UOF-16, and leading law enforcement agencies, the FCPD will continue the use of the term less lethal. | Not implemented |
| 17-02 | 4/14/2017 | 1/31/2018 | Consider new factors for UOF on an individual not engaged in criminal activity | FCPD continuously updates its use of force training. See lesson plan in Appendix A. | Implemented with modifications |
| 17-01 | 1/16/2017 | 1/26/2018 | Make available more "less lethal" options to each patrol shift | Patrol shift lineups specifically list the officers on each shift that are assigned with less lethal options to ensure that all officers and dispatchers have the less lethal options. Update 3/2022: FCPD has received additional funding for purchase of additional ECW devices. All operational officers/detectives are expected to receive issued ECWs by the end of summer 2022. Graduating recruits are also being issued ECWs for their use in patrol. Additionally, the Department has initiated a Bolawrap pilot program and is awaiting results. | Implemented with modifications (2018) Fully implemented March, 2022 |
| 17-01 | 1/16/2017 | 1/26/2018 | 100% of full-time SWAT members and at least 50% of supplemental SWAT members be equipped with "less-lethal" options | On any SWAT mission there are multiple less lethal options available. Outfitting each and every officer with their own assigned less lethal weapons would cause a significant fiscal impact. In addition, because of the confined spaces of the SWAT trucks the additional weapons for each officer would be challenging. SWAT officers are trained to operate as a team and the current procedure allows for each officer to have access to all FCPD less lethal options even if they are not specifically assigned to that weapon. Update 3/2022: FCPD has received additional funding for purchase of additional ECW devices. All operational officers/detectives are expected to receive issued ECWs by the end of summer 2022. Graduating recruits are also being issued ECWs for their use in patrol. Additionally, the Department has initiated a Bolawrap pilot program and is awaiting results. | Implemented with modifications |

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| 17-04 | 6/22/2017 | 3/2/2018 | <p>Revise "Vehicle Stopping Techniques" policy: provide prior notification, when feasible, that officer intends to use the PIT</p> | <p>FCPD determined that in a pursuit, when an officer makes the decision to use a Vehicle Stopping Technique, there is not time to provide prior notification. However, in order to address this item, in General Order 505, Vehicle Stopping Techniques, the policy statement includes the following language "any officer, upon hearing that a vehicle stopping technique will be utilized, and who has pertinent information that may affect the successful utilization of the vehicle stopping technique, or has information which may protect the officer, public, and offender, including passengers, shall immediately relay that information via the police radio so that a controlling pursuit supervisor, commander, or duty officer can decide if the more prudent decision is to not utilize a vehicle stopping technique at that time."</p> <p>Update 3/2022: Recommendation discussed during community policy input discussions but not adopted as impractical request for both officers and controlling first-line supervisors as vehicle pursuits are highly dynamic, unpredictable and evolve in a split-second. First-line supervisors cannot see the pursuit unless directly involved. Pursuit and PIT may only be used in accordance with training, are subject to review by first-lines and commanders. All pursuits that do not meet current revised FCPD pursuit policy shall be terminated by controlling supervisors/commanders, and thus where inherently dangerous or outside of policy, the controlling supervisor is required to terminate immediately and thus prior to PIT being deployed.</p> | Implemented with modifications |
| 17-07 | 6/23/2017 | 6/19/2018 | <p>Officers should request a CIT officer/Mobile Crisis Unit to engage person in crisis; obtain voluntary commitment</p> | <p>DPSC is provided with a list of all CIT trained officers to ensure they are available for incidents involving those in crisis. The Department is continuing the with goal of all officers receiving CIT Training. The Department has worked with CSB to enterprise ways to get more officers trained. One such way is the addition of all FCPD dedicated classes. The revision of General Order 603 is in progress and includes this language.</p> <p>Update 3/2022: FCPD GO 609 has been revised and is currently being reviewed by senior Department leadership. Revisions include MCU language and co-responder program language, which has received funding for additional officers and is expected to increase in coming months.</p> | Implemented (see G.O. 609, effective 3/26/22) |

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| 17-07 | 6/23/2017 | 6/19/2018 | <p>Officers should seek additional information from family members and other witnesses about past behavior when dealing with a person in crisis</p> | <p>The revision of General Order 603 is in progress and includes this language.</p> <p>Update 3/2022: FCPD GO 609 includes definition of "reliable reporter" (family member with firsthand knowledge of the crisis incident and/or substantial risk to the person or others), recommendaiton that where a person does not meet ECO criteria they should refer them to MCRC and request family member accompany them, request family members to serve as petitioners to testify about past and current behaviors, and diversion alternatives for ECO and domestic violence cases for officers to incorporate family member input in calculation to divert from criminal arrest as applicable.</p> | <p>Implemented (see G.O. 609, effective 3/26/22)</p> |
| Memo | N/A | 12/11/2018 | <p>Make policy changes to General Order 610.3 Search Warrant Procedures to include:</p> <ul style="list-style-type: none"> • Clarifying in G.O. 610.3 III. C. that warrants must be served within 15 days after being obtained and removing the possibility of an exception to this timeline and ensuring adherence to VA code § 19.2-56. | <p>Addressed in revision of GO 610.3 Search Warrant Procedures.</p> | <p>Implemented (see G.O. 611, effective 7/1/2021)</p> |
| Memo | N/A | 12/11/2018 | <p>Make policy changes to General Order 610.3 Search Warrant Procedures to include:</p> <ul style="list-style-type: none"> • Specifying within G.O. 610.3 IV. B. that the presence of domesticated animals should be presented at the briefing prior to executing a search warrant to make it consistent with G.O. 540.10 I. B. | <p>Addressed in revision of GO 610.3 Search Warrant Procedures.</p> | <p>Implemented (see G.O. 611, effective 7/1/2021)</p> |
| Memo | N/A | 12/11/2018 | <p>Make policy changes to General Order 610.3 Search Warrant Procedures to include:</p> <ul style="list-style-type: none"> • Clarifying in G.O. 610.3 V. B. that a member of the search team should "document" the execution of a search warrant, not "record" it, which could be construed as audio or video recording. | <p>Addressed in revision of GO 610.3 Search Warrant Procedures.</p> | <p>Implemented (see G.O. 611, effective 7/1/2021)</p> |

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| Memo | N/A | 12/11/2018 | Make policy changes to General Order 610.3 Search Warrant Procedures to include: <ul style="list-style-type: none"> • Adding language to G.O. 610.3 VI. to specify that the knock and announce requirements prior to entry still apply when a search site is known or thought to be vacant. | Addressed in revision of GO 610.3 Search Warrant Procedures. | Implemented (see G.O. 611, effective 7/1/2021) |
| Memo | N/A | 12/11/2018 | Make policy changes to General Order 610.3 Search Warrant Procedures to include: <ul style="list-style-type: none"> • Clarify in G.O. 610.3 VII. C. that no frisk can occur unless the officer conducting the frisk can articulate reasonable suspicion that the individual frisked is armed and poses a danger. | Addressed in revision of GO 610.3 Search Warrant Procedures. | Implemented (see G.O. 611, effective 7/1/2021) |
| Memo | N/A | 12/11/2018 | Make policy changes to General Order 610.3 Search Warrant Procedures to include: <ul style="list-style-type: none"> • In G.O. 610.3 IX. B. removing confusing language regarding where a statement should be filed when no items are seized in a search. | <u>Item modified per State Code</u> <u>Code section 19.2-57</u> states that ... “within three days after the execution of such search warrant in the circuit court clerk's office, wherein the search was made , as provided in <u>§ 19.2-54</u> ”. For entire code section, See Appendix C. The lead detective/officer shall return the warrant to the issuing authority as soon as practical, within the 72 hours required by statute. A copy of the list of items seized shall be sworn to under oath, and such fact shall be stated in the inventory sheet before return to the court. If nothing is seized, a statement to that effect shall be filed with the Clerk of Circuit Court of the jurisdiction where it was seized <i>the warrant was executed</i> within 72 hours (auditor recommends verbiage where “warrant was issued”). | Implemented with modifications (see G.O. 611, effective 7/1/2021) |
| 18-03 & 18-02 | 6/2/2018 6/26/2018 | 4/24/2019 4/30/2019 | Agree with FCPD Commander who requested reviews by the Fairfax County Criminal Justice Academy staff and the FCPD’s Director of Accreditation of the department’s use of and training on the Ripp Hobble device and SOP 07-029. | Revised SOP 07-029 III. B. 3. (effective date 7-20-2020) on Supplemental Restraints and reviewed associated training on use of Ripp hobble | Implemented |

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| Data Review: UoF 2016 | N/A | 3/11/2020 | The FCPD should take steps to collect and publish data on other kinds of police activities by subject race, such as traffic stops, consents to search, arrests, and citations. | FCPD, in compliance with the Virginia Community Policing Act, provides race and ethnicity data to the VSP for citations, warnings and arrest; and now publishes race and ethnicity data on our FC PoD portal. Breaking race and ethnicity down at the District level is not a straight forward endeavor - census data does not adhere to our district boundaries. There are GIS tools that can extrapolate estimates; and population statistics do not accurately reflect day time (work) population or the demographics of visitors, tourists, or offenders that frequent the County. The FCPD's collection of voluntary information is governed by the Trust Policy. | Partially implemented and in progress Further implementation will be determined by FCPD's Director of the Office of Data Analytics & Strategic Initiatives. |
| Memo | N/A | 5/26/2020 | Policy changes to G.O. 603.4 POLICE CITIZEN CONTACT, including clarifying elements of reasonable suspicion and making the reasonable suspicion standard consistent throughout the G.O. | FCPD GO 002 has 3 definitions of reasonable suspicion (to stop, to frisk, and to frisk or search other areas). Definition is applied as appropriate throughout the GO. | Implemented (see G.O. 002 Human Relations, 7/9/2021) |
| Memo | N/A | 5/26/2020 | Policy changes to G.O. 203 REGULATIONS to ensure consistency with the G.O. on ARREST PROCEDURES. | GO 203 Regulations is in the process of revisions. | In progress |
| Memo | N/A | 5/26/2020 | Policy changes to G.O. 601 ARREST PROCEDURES, including to recognize the full extent of and limitations on the lawful search incident to arrest. | FCPD GO 601 has undergone revisions and is in the process of responding to community feedback. Includes recommended language by the OIPA in accordance with current caselaw to revised language. | Implemented (G.O. 601, effective 1/1/2021) |
| Email | N/A | 6/12/2020 | Develop Social Media usage policy unique to members of the FCPD. | <i>Recommendation made to the Board of Supervisors</i> | Recommendation included in the BOS Police Reform Tracker |
| Email | N/A | 6/12/2020 | Give authority for Chief to immediately suspend officers, with pay or without pay, pending an internal investigation. | <i>Recommendation made to the Board of Supervisors</i> | Recommendation included in the BOS Police Reform Tracker |

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| 20-07 | 4/28/2019 | 12/14/2020 | <p>Add consensual encounters, investigative detentions, and arrests to the the mandatory activation of ICV equipment listed in FCPD G.O. 430.8 IV. A.</p> | <p>FCPD GO 509 (combines BWC and ICV policies since on same system-Axon) revisions require mandatory BWC activation for the following actions:</p> <ul style="list-style-type: none"> a. Contacts with community members associated with the performance of official law enforcement duties, to include responding to calls for service, self-initiated encounters, arrests, traffic stops, field contacts, and all events that involve the rendering of public services or law-enforcement activity. b. Actions conducted in the official performance of duty, to include emergency response driving as defined in FCPD General Order 503, Response Driving of Police Vehicles, vehicle pursuits, vehicle stops, searches of buildings and vehicles, searches and/or frisks of individuals, searches for fleeing suspects, collection of physical evidence of a crime, and/or transportation of any individual in custody. | In progress |
| 20-07 | 4/28/2019 | 12/14/2020 | <p>Mandate that custodial interrogations conducted in an FCPD-controlled interrogation room be recorded. Potential exceptions to mandatory recording of custodial interrogations should be identified.</p> | <p>Current revisions to FCPD GO 203.4 (Prisoner Care and Custody) include the following language: <i>Interviewing officers shall only use interview rooms that have fully functional video and audio recording equipment. These rooms should have cameras in the interior of the room, a monitor on the exterior of the room, and a recording and monitoring system located at a satellite location. All custodial interviews or interrogations shall be recorded in their entirety. Officers shall activate the recording equipment when the individual in custody is seated in the room and shall not de-activate the recording equipment until the individual is escorted out of the room at the conclusion of the interview or interrogation. In the event that no interview room has fully functional video and audio equipment (ex: power failure), officers shall utilize their body-worn cameras to capture the duration of the interview and/or interrogation, including any breaks in questioning.</i></p> <p>This revised GO is undergoing FCPD vetting and legal review and will be in effect in the near future.</p> | In progress |
| 20-06 | 5/27/2020 | 2/25/2021 | <p>Reiterated recommendation from 20-07</p> | <p>See prior response.</p> | In progress |

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| 19-06 | 7/20/2019 | 3/5/2021 | Revise the language in FCPD Regulation 201.22 to reflect that bias-based policing is prohibited even during consensual law enforcement activity and that the department's IAB will investigate all allegations of bias-based policing in an effort to prove or disprove them. | Section XV of current FCPD GO 002 (Bias-Based Policing Prohibited) states officers may not consider physical characteristics in initiating voluntary contacts and also states violations of GO 002 will be investigated by IAB. | Implemented (see G.O. 002, effective 7/9/2021) |
| 20-01 | 10/20/2019 | 3/25/2021 | FCPD G.O 502 on "normal vehicle operations" should be revised to fix grammatical errors and reduce redundant language. | FCPD GO 502 has been revised and is in the Department vetting process. | In progress |
| 20-03 | 10/25/2019 | 5/7/2021 | Add the "preponderance of the evidence" burden of proof standard to both the "Unfounded" and the "In Compliance" findings listed in FCPD G.O. 301 VI. | FCPD GO 301 has been revised and is in the Department vetting process. Includes a "preponderance of the evidence" definition and revised allegation classification standards. | In progress |
| 20-03 | 10/25/2019 | 5/7/2021 | Whenever possible, any vehicle used to transport an arrestee shall be equipped with forward-facing and rear-facing in-car video capability and shall be equipped with safety partitions between the front and rear seats. | Current revised version of FCPD GO 203.3 (Transportation and Restraint of Prisoners) includes the following language: <i>Officers transporting prisoners shall do so in accordance with all Department policies and procedures and ensure that individuals placed under criminal arrest are transported to the nearest Magistrate without undue delay. Whenever possible, vehicles used to transport prisoners shall be equipped with forward and rear-facing in-car video capability and equipped with safety partitions between the front and rear seats. Transporting vehicles shall be searched for potential weapons and contraband at the beginning and end of each shift, as well as prior and subsequent to all prisoner transports.</i> Revisions are currently undergoing FCPD vetting process. | In progress |
| Memo | N/A | 6/9/2021 | Revision to FCPD G.O. 601 ARREST PROCEDURES to reflect 4th Circuit ruling in U.S. v. Davis. | FCPD GO 601 Arrest Procedures is undergoing revisions and response to community feedback. Includes OIPA recommended language regarding US v. Davis. | In progress |