

Fairfax County Independent Police Auditor Recommendations

Updated March 10, 2023

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 (See G.O. 540, effective 8/12/2022)
17-01	1/16/2017	1/26/2018	Make available more "less lethal" options to each patrol shift	<p>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.</p> <p>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.</p>	<p>Implemented with modifications (2018)</p> <p>Fully implemented March, 2022.</p> <p>The FCPD further enhanced the number of "less lethal" options available to its officers by announcing a pilot rollout of the BolaWrap device in November, 2022.</p>
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	<p>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.</p> <p>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.</p>	Implemented with modifications

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17-04	6/22/2017	3/2/2018	Revise "Vehicle Stopping Techniques" policy: provide prior notification, when feasible, that officer intends to use the PIT	<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 GO 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

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17-07	6/23/2017	6/19/2018	Officers should request a CIT officer/Mobile Crisis Unit to engage person in crisis; obtain voluntary commitment	<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)
17-07	6/23/2017	6/19/2018	Officers should seek additional information from family members and other witnesses about past behavior when dealing with a person in crisis	<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>	Implemented (see G.O. 609, effective 3/26/22)
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. 	Addressed in revision of GO 610.3 Search Warrant Procedures.	Implemented (see G.O. 611, effective 7/1/2021)

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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"> 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. 	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"> 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. 	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"> 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)

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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"> 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 § 19.2-54”. 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 the warrant was executed 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.	<p>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.</p> <p>1/2023 Update: FCPD continues to provide data required of the Community Policing Act to VSP. FCPod also breaks data down by magisterial district as well as for citations, arrests, and warnings. Further plans to update FCPod with data are currently being discussed.</p>	Partially implemented in 2020; continues In Progress
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.	Implemented (see G.O. 203, effective 7/22/2022)

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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) G.O. 601 was again revised, effective 6/24/2022, and includes the previously recommended language recognizing the lawful scope of a search incident to arrest.
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
20-07	4/28/2019	12/14/2020	Add consensual encounters, investigative detentions, and arrests to the mandatory activation of ICV equipment listed in FCPD G.O. 430.8 IV. A.	FCPD GO 509 (combines BWC and ICV policies since on same system-Axon) revisions require mandatory BWC activation for the following actions: 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. GO 509 requires mandatory ICV activation for the following actions: a. Traffic stops, disabled motorists, pedestrian encounters on a highway, emergency response driving, vehicle pursuits, or use of a vehicle stopping technique. b. Transportation in a police vehicle of any individual either in police custody or as a police service.	Implemented with modifications Spirit of recommendation has been implemented by virtue of full implementation of the BWC program (see G.O. 509, effective 4/11/2022)

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20-07	4/28/2019	12/14/2020	Mandate that custodial interrogations conducted in an FCPD-controlled interrogation room be recorded. Potential exceptions to mandatory recording of custodial interrogations should be identified.	Update to FCPD Regulation 203.4 (Interview Rooms) requires officers to only use interview rooms with fully functional video and audio recording equipment. Requires cameras in the interior of the room, exterior monitor, and a recording and monitoring system in a satellite location. Further requires all custodial interviews/interrogations to be recorded in entirety once person in custody is seated in the room and not concluded until the person is escorted out of the room. Only exception is for when a room has no functional equipment due to unforeseen circumstances (ex: power failure) in which officers are required to utilize BWC to capture duration of the interview/interrogation, to include breaks in questioning. Incorporates CALEA/VLEPSC Accreditation standards.	Implemented (see G.O. 203, effective 7/22/2022)
20-06	5/27/2020	2/25/2021	Reiterated recommendation from 20-07	See prior response.	Implemented (see G.O. 203, effective 7/22/2022)
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 (Normal Vehicle Operations) has been revised and became effective on Jan 9, 2023. New version removed redundancy, grammatical errors, and reduced length of policy from 7 to 3 pages.	Implemented (see G.O. 502, effective 1/9/23)
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.	Revised FCPD G.O. 301 (Internal Investigations) became effective on May 4, 2022. Includes "preponderance of the evidence" definition (Definition Q, pg. 3). Section XIII (Classification of Allegations) requires that at the completion of all administrative investigations, each allegation be classified with a finding (ex: unfounded, unfounded by technology, exonerated, sustained, etc.) supported by the preponderance of the evidence.	Implemented (see G.O. 301, effective 5/4/2022)

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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.	FCPD has fully implemented the recommended change in Regulation 203.3 (Transportation and Restraint of Prisoners) as of July 22, 2022.	Implemented (see Regulation 203, effective 7/22/2022)
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 has fully implemented the recommended change in GO 601 (Arrest Procedures) as of June 24, 2022. <i>U.S. v. Davis</i> is included and case decision is hyperlinked in Legal References Section of General Order.	Implemented (see G.O. 601, effective 6/24/2022)
G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 should be revised to replace the term "less-lethal" with "non-deadly" force (G.O. 540 III. L. and throughout).	All similar language changes throughout G.O. 540 were not adopted. The June 19, 2015, PERF Report on FCPD practices and use of force policy recommended the following, (pg. 8 of PERF Report), "References to 'nondeadly' devices should be changed to 'less lethal' in order to make sure that officers understand that while some weapons, such as Electronic Control Weapons (Tasers), are designed to be less lethal than firearms, they sometimes do result in death." FCPD at the time committed to this particular culture/policy change under Chief Roessler with BOS concurrence. Term now constitutes common FCPD training and policy vernacular.	Not implemented
G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 III. B. should be revised to remove the language that deadly force is "intended" to cause death or serious injury.	This recommendation was not adopted. The language being used is designed to mirror Chapter 7.1 of the Code of Virginia (Law-Enforcement Officer Conduct During an Arrest or Detention, § 19.2-83.3. Definitions, which defines deadly force as follows: "Any force that is likely or intended to cause serious bodily injury or death.")	Not implemented

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G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 should be revised to replace the word "immediate" with "imminent" in regards to a threat to the safety of the officers or others (G.O. 540 III. F. and throughout).	All similar language changes throughout G.O. 540 were not adopted. FCPD seeks to mirror the <u>Graham v. Connor</u> standard ("Because [t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application, however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an <i>immediate</i> threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.")	Not implemented
G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 III. should be revised to add definitions for Impact Weapons, Oleoresin Capsicum Spray (OC), and Kinetic Energy Impact Systems in the list of definitions.	Revised version of FCPD G.O. 540 (Use of Force) includes definitions for "Oleoresin Capsicum Spray" (Definition 19) and "Kinetic Energy Impact Systems" (Definition 12). Term "impact weapon" was removed from the General Order (and thus, not defined) as in the previous version, it was used only once in reference to use of the police baton.	Implemented (see G.O. 540, effective 8/12/2022)
G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 III. M. should be revised to reflect that low level control is not "likely" to cause injury, rather than not "intended" to cause injury.	Definition of "low level control" (Definition 14) in FCPD General Order 540 (Use of Force) now defines as follows: " <i>Low-Level Control: A level of control that is not likely to cause injury and is typically used on individuals displaying passive and/or active resistance. Includes, but is not limited to (1) Officer Presence, (2) Verbal Communication, and (3) Handcuffs or other Department-issued restraint devices.</i> "	Implemented (see G.O. 540, effective 8/12/2022)

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G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 III. Q. should be revised to reflect that more than one type or level of force may be objectively reasonable.	<p>Revised version of FCPD G.O. 540 (Use of Force) implemented on 8/12/22 now makes multiple references of force transition depending upon the level of resistance encountered. Specifically, Section IV(A) (Force Options) states <i>"The use of all force options must be objectively reasonable based upon the totality of the circumstances known by the deploying officer at the time force is applied. If force is required, officers should use only the amount of force reasonably necessary to overcome an individual's level(s) of resistance and to gain control. Force options allow for reasonable escalation and/or de-escalation of force in proportion to an individual's level of resistance."</i></p> <p>Additionally, Section IV(E) (De-Escalation) states <i>"...When force is required, officers shall utilize only a proportional amount of force which is objectively reasonable to overcome varying levels of resistance and to gain control."</i></p>	Implemented (see G.O. 540, effective 8/12/2022)
G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 IV. E. should be revised to reflect that officers shall use a proportional amount of force which is "objectively reasonable", rather than "necessary".	Revised version of FCPD G.O. 540 (Use of Force) Section IV(E) (De-Escalation) states as follows: <i>"When force is required, officers shall utilize only a proportional amount of force which is objectively reasonable to overcome varying levels of resistance and to gain control."</i>	Implemented (see G.O. 540, effective 8/12/2022)
G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 should be revised to include a definition of what is meant by "officers must have an elevated level of justification prior to deploying an ECW" on certain individuals as stated in Section VI. D. 3.	This recommendation was not adopted. The language being used requires officers to clearly articulate why an ECW had to be used against pregnant females, juveniles, elderly/frail persons, and any persons with known serious medical issues. The use should be objectively reasonable, but requires officers to be mindful that whenever possible this should be avoided.	Not implemented

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G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 VII. Use of Deadly Force should be revised to reflect that no other force options to gain control of the individual(s) can be deployed safely or effectively. Specifically, recommended language was "no other force option to gain control of the individual(s) can be deployed safely or effectively, or has already proven to be ineffective. If feasible, officers shall provide a verbal warning that deadly force is about to be deployed."	This recommendation was adopted, but with further modified language. The language in this section is meant to mirror § 19.2-83.5 in the Code of Virginia, and will read: "The use of deadly force is only permissible where an officer reasonably believes, based upon the totality of the circumstances known at the time, that deadly force is immediately necessary to protect the officer or another person (other than the subject of the use of deadly force), from the threat of serious bodily injury or death, and that all other options have been exhausted, do not reasonably lend themselves to the circumstances, are not feasible, or have already proven to be ineffective. If feasible, officers shall provide a verbal warning to the subject of deadly force that they will use deadly force."	Implemented (See G.O. 540, effective 8/12/2022)
G.O. 540 Review Feedback	N/A	4/6/2022	G.O. 540 VII. C. 2. should be revised to include verbatim the factors enumerated in <u>Graham v. Connor</u> as part of the totality of the circumstances related to a use of deadly force.	This recommendation was not adopted. The language in this section is meant to mirror that in § 19.2-83.5 in the Code of Virginia.	Not implemented
19-08	12/4/2019	4/14/2022	G.O. 530.1 should be revised to require a warning before releasing a patrol service dog anytime the dog is being released for the purpose of apprehending an individual. The requirement should include the caveat that a warning is required only when it is feasible, and that no warning is required if there is a reasonable belief that officer safety may be compromised by providing a warning.	Revised FCPD G.O. 531 (Canine Operations), implemented on August 11, 2022, now requires the following in Section V (Operational Procedures), Subsection (E) (Off-Lead Searches and Apprehensions) states the following: <i>"At the direction of the Canine Handler, and for criminal offenses that meet deployment criteria or may result in apprehension, a patrol dog may be released to search and/or apprehend a fleeing or secreted individual in a building, structure, or large open area. Prior to releasing a patrol dog off-lead, the deploying Handler shall, if possible (1), ensure the search team and any assisting officers are briefed of their expectations, (2) audibly make announcement and provide instructions, and (3) audibly warn of the potential that the individual may be bitten by a patrol dog. The warning shall be required whenever feasible, unless the deploying Handler reasonably believes officer safety may be compromised by providing such a warning."</i>	Implemented (see G.O. 531, effective 8/11/2022)

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Memo	IPA Response to UTSA and CAC Report	5/13/2022	FCPD's revised General Order 540 on USE OF FORCE[1] should state: "If force is required, officers should attempt to use only a minimal amount of force reasonably needed to overcome an individual's resistance and to gain control, and officers will receive training on various techniques which constitute less-lethal force or lethal force." (pg. 2)	Revised FCPD G.O. 540 (Use of Force) states in Section IV (General Use of Force Guidelines) Subsection (A) (Force Options) the following: <i>"If force is required, officers should use only the amount of force reasonably necessary to overcome an individual's level(s) of resistance and to gain control."</i> Section XI (Training) Subsection (A) states as follows: <i>"All sworn officers shall receive training on various techniques and instruments that constitute less-lethal or deadly force in accordance with the provisions of SOP 13-050 (hyperlinked), Mandatory and Specialized Training."</i>	Implemented (see G.O. 540, effective 8/12/2022)
Memo	IPA Response to UTSA and CAC Report	5/13/2022	Capturing Data on Potential Deadly Force Incidents: I recommend documenting ALL instances when force (lethal or less-lethal) would have been authorized by law and policy but was not used. (pg. 3 and 4)	FCPD will not adopt this recommendation. FCPD IAB BlueTeam is not designed to track this data point as it is highly subjective, non-quantifiable, and cannot be recorded with any verifiable degree of accuracy.	Not implemented
Memo	IPA Response to UTSA and CAC Report	5/13/2022	Clarifying in Policy When Force May be Used: I disagree that the "objective reasonableness" standard should be replaced with "necessary and proportional" to judge the actual use of force. Police departments should strive for and train officers to utilize a minimal (or proportional) amount of objectively reasonable force when justified, but I do not agree that the written policy should be overly restrictive. (pg. 4)	<i>Recommendation made to the Board of Supervisors</i>	OIPA agrees with the FCPD in not implementing the CAC recommendation

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Memo	IPA Response to UTSA and CAC Report	5/13/2022	Clarifying in Policy Permissible Force Where No Probable Cause to Arrest: Recommend leaving intact the requirement for officers to use reasonable care, to include the use of appropriate de-escalation techniques, and prohibiting them from using force during an investigative detention when the person being detained is compliant. (p. 6)	<p>FCPD addresses this recommendation in multiple Department General Orders. Specifically FCPD General Order 540 (Use of Force) requires officers to de-escalate whenever possible, and specifically defines de-escalation (Definition #4).</p> <p>Additionally, FCPD General Order 002 (Human Relations) outlines Department-approved procedures for the reasonable use of force in investigative stops in accordance with judicial precedent and the Code of Virginia and requires all officers to articulate their reasons for utilizing force whenever it occurs.</p> <p>As specifically defined in FCPD General Order 540, where force is unreasonable given the totality of the circumstances, it is by definition excessive.</p>	OIPA agrees with the FCPD in not implementing the CAC recommendation
IPA-21-03	7/19/2021	8/2/2022	<p>Reiterated recommendation from 17-02: adding non-criminal factors to consider when determining whether force was objectively reasonable during a non-criminal situation, or when the individual is experiencing a medical or mental health crisis while engaged in criminal activity.</p> <p>An alternative recommendation to adding these non-criminal factors to the existing list of factors already in G.O. 540.5 is to simply eliminate all delineated factors and emphasize that the reasonableness of any particular use of force is determined by examining any and all, or the totality of, the circumstances.</p>	<p>FCPD has fully adopted this recommendation in the most recently implemented General Order 540 (Use of Force). As stated in Section IV (General Use of Force Guidelines), Subsection (A) (Force Options), " <i>The use of all force options must be objectively reasonable based upon the totality of the circumstances known by the deploying officer at the time force is applied. If force is required, officers should use only the amount of force reasonably necessary to overcome an individual's level(s) of resistance and to gain control. Force options allow for reasonable escalation and/or de-escalation of force in proportion to an individual's level of resistance.</i></p>	OIPA's alternative recommendation implemented (see G.O. 540, effective 8/12/2022)

Fairfax County Independent Police Auditor Recommendations

Updated March 10, 2023

IPA Case #	Incident Date	Report Date	Auditor Recommendation	FCPD Action/Response	Status (as determined by the IPA)
IPA-21-02	11/23/2020	9/14/2022	FCPD should place an increased emphasis on the importance of and training on the proper conduct of such searches incident to a lawful arrest.	FCPD Regulation 203 (Transportation and Restraint of Prisoners) states the following: <i>"All prisoners shall be searched for weapons, evidence, or hidden items of contraband, as set forth in FCPD General Order 601, Arrest Procedures, prior to being transported in any police vehicle or medical transport. Under extenuating circumstances only, prisoners may be removed from the immediate scene of arrest prior to being searched. Whenever possible, officers of the same gender as the arrested individual should conduct the search of the individual. Where an officer other than the arresting officer transports the prisoner, that officer shall also search the prisoner for weapons and items of contraband."</i> Proper search techniques are routinely taught to recruits and during in-service practicals to current sworn officers in accordance with DCJS standards and requirements at the Fairfax County Criminal Justice Academy.	Implemented prior to OIPA recommendation in IPA-21-02, in part because of earlier OIPA recommendation to incorporate 4th Circuit Court of Appeals ruling in <i>United States v. Davis</i> (see Regulation 203, effective 7/22/2022, and G.O. 601, effective 6/24/2022).