



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** 12/13/2024

**TO:** Fairfax County Board of Supervisors

Chief Kevin Davis  
Chief of Police

Deputy Chief John Lieb  
Commander - Internal Affairs Bureau

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

**SUBJECT:** Non-Use of Force Incident Review (IPA-24-14)

An individual was arrested and handcuffed by two Fairfax County Police Department (“FCPD”) officers based on an outstanding City of Falls Church, Virginia, arrest warrant. Body-worn camera (“BWC”) and in-car video footage reveals that no force was used to accomplish the arrest as the arrestee was compliant. The FCPD investigated all aspects of the incident and determined that no force had been used, but that there was a policy violation because the arrestee was not properly seat-belted when he was transported to the jurisdictional line for a transfer to Falls Church officers.

A complaint was emailed on August 4, 2024, to the Fairfax County Police Civilian Review Panel and the Office of the Independent Police Auditor (“OIPA”), alleging excessive use of force and abuse by FCPD officers during his arrest. I conducted a review of the investigation and confirmed that no FCPD officer used force during the incident, and except for the seat-belt violation, officers did not engage in any misconduct. In fact, both officers exhibited extreme patience and tolerance in the face of protracted non-cooperation when they tried to get the individual to get into a police cruiser.

I am submitting this Memorandum to document my review of the internal investigation.

## INCIDENT

On September 26, 2023, FCPD Police Officer First Class #1 (hereinafter “PFC#1”) and Master Police Officer (hereinafter “MPO#1”) arrested an individual (hereinafter identified by his initials, “R.B.”) after R.B. had entered his apartment building. The officers initially went to R.B.’s specific apartment, but they encountered him when he entered the building after returning from shopping. R.B.’s arrest was pursuant to an outstanding arrest warrant that had been obtained by a City of Falls Church police officer. R.B. complied with the FCPD officers and no force was used to handcuff him; he also allowed one of the officers to enter his apartment to place his groceries inside. PFC#1 and MPO#1 then escorted R.B. to a police cruiser to transport him to a McDonald’s at the Fairfax County-Falls Church jurisdictional line to transfer custody of him to the Falls Church Police Department.

While walking to the police cruiser, R.B. can be heard (on BWC footage) making statements that “this is harassment,” and “harassment for filing a complaint.”<sup>1</sup> R.B. then demanded that the handcuffs be put in the front of his body, and he refused to get into the police vehicle. The officers explained that they could not switch the handcuffs to the front, and that the drive to the jurisdictional boundary was very short. Despite his loudly yelling additional complaints and continuing refusal to get in the car, PFC#1 and MPO#1 remained very patient and stoic. They were finally able to assist him into the back seat without using any force. When R.B. lied prone on the seat, PFC#1 sat him up, but R.B. again lied down. At this point, PFC#1 decided to drive to the McDonald’s location and failed to place a seatbelt on R.B. They arrived approximately nine minutes and twenty seconds later.

Three Falls Church officers arrived at the McDonald’s approximately nineteen minutes after PFC#1, MPO#1, and R.B. arrived. PFC#1 assisted R.B. in getting out of the car and removed the handcuffs from him; a Falls Church officer immediately handcuffed him again. He was searched and then brought to a Falls Church police cruiser. After making the same protests he had made to the FCPD officers about getting into their vehicle, he was helped into the Falls Church vehicle, again with no force being used by any of the officers on the scene. PFC#1 and

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<sup>1</sup> Unbeknownst to PFC#1 and MPO#1 at the time, R.B. had lodged a complaint with the Falls Church Police Department based on their handling of the incident which gave rise to the warrant for his arrest.

MPO#1 provided their information to the Falls Church officers.<sup>2</sup> PFC#1 and MPO#1 then left the McDonald's parking lot in their respective cars.

## **INTERNAL ADMINISTRATIVE INVESTIGATION**

The FCPD conducted an administrative investigation of this incident by reviewing the BWC and in-car video footage from the arrest, transport, and hand-off of R.B. to Falls Church officers. R.B., PFC#1, and MPO#1 were interviewed as part of the investigation. Based on the administrative investigation, the FCPD determined that its officers were “exonerated by technology”<sup>3</sup> on the allegations made by R.B. when he made his complaint. Although R.B. did not complain about a seat-belt policy violation, the department discovered it and took appropriate action. I agree with the department's conclusions.

The finding of “exonerated by technology” was appropriate because the BWC and in-car video footage makes clear that the two FCPD officers used no force<sup>4</sup> during this incident and engaged in no other misconduct<sup>5</sup> (except for the previously mentioned seat-belt policy violation).

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<sup>2</sup> MPO#1 had previously offered to text a picture of his business card to R.B.'s cell phone number.

<sup>3</sup> FCPD General order 301 XII. B. 3. provides that a finding of “exonerated by technology” is appropriate when “an initial review reveals that an allegation can be quickly dispelled by available technology, to include Body-Worn Camera (BWC), In-Car Video (ICV), or other available audio/visual recording(s).”

<sup>4</sup> FCPD General Order 540 III. 10., in effect on September 26, 2023, defines “force” as “[a]ny physical strike or instrumental contact with an individual, or any significant physical contact that restricts a person's movement. Reportable uses of force do not include escorting or handcuffing an individual who is exhibiting minimal or no resistance. Merely placing an individual in handcuffs as a restraint in arrest or transport activities, simple presence of officers or patrol dogs, or police issuance of tactical commands does not constitute reportable uses of force.”

<sup>5</sup> R.B. also alleged misconduct on the part of Falls Church officers. While there were no apparent violations based on viewing the FCPD BWC and in-car video footage, the Falls Church Police Department is responsible for investigating the allegations against its officers, and the supervisor of PFC#1 and MPO#1 confirmed that they were investigating those allegations.