

Public Report

Dec. 7, 2022:

Officer-Involved Shooting

Domesticated Animal

IPA-22-13



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NOTE TO THE READER: The Fairfax County Police Department revised its policy addressing the use of force on April 29, 2024. The actions of the officers involved in this incident will be analyzed using the policy provisions that were in effect on December 7, 2022 (i.e., General Order 540, effective August 12, 2022).

INCIDENT

On December 7, 2022, officers assigned to the Fairfax County Police Department's (hereinafter "FCPD") Special Weapons and Tactics (hereinafter "SWAT") team fatally shot a dog during the execution of a search warrant in a home on Powell's Tavern Place in the Herndon area of Fairfax County. The search was to locate police equipment which had been stolen from a neighboring police department in July 2022, and there was probable cause to believe firearms were present in the house. The FCPD SWAT team was also aware that there may be two aggressive pit bull dogs at the location; therefore, the team brought equipment designed to humanely counter the risks posed by the dogs.

After making entry into the search location, Police Officer First Class #1 (hereinafter "PFC#1"), Master Police Officer #1 (hereinafter "MPO#1"), and Master Police Officer #2 (hereinafter "MPO#2") went down to the basement. PFC#1 had a dog pole and MPO#1 brought a "kinetic energy impact" weapon¹ loaded with bean bags, a "less-lethal" force option. Police Officer First Class #2 (hereinafter "PFC#2"), meanwhile, remained outside of the residence but could see into the basement from a window. He was armed with a rifle.²

Shortly after the officers got to the basement, one of the two pit bulls (hereinafter "Ace") approached PFC#1 aggressively; while the other pit bull retreated to a bedroom and showed no aggression. Based on Ace's aggressive behavior, the dog pole was ruled out as a feasible option and MPO#1 fired one bean bag from the kinetic energy impact weapon at him. When Ace hesitated but did not retreat, MPO#1 fired a second bean bag at him. Ace then went into a bedroom but quickly came back out and approached the officers. MPO#1 fired two more bean bags at Ace. He reacted by lunging at MPO#2. When he did, MPO#2 fired two rounds from his

¹ See FCPD General Order (hereinafter "G.O.") 540 VI. G., effective August 12, 2022, which defines kinetic energy impact systems.

² PFC#2 was previously an FCPD canine handler and continued to be a dog trainer separate from his duties with the FCPD.

service weapon at Ace, while PFC#2 fired one round from his rifle—through the window—at Ace. Ace was struck and killed by two of the three shots.³

The search of the residence did result in the recovery of the stolen police equipment as well as “an AK-style rifle.”⁴

CRIMINAL INVESTIGATION/ PROSECUTIVE DECISION

In response to the use of deadly force on a domesticated animal, FCPD detectives assigned to both its Major Crimes Bureau (hereinafter “MCB”) and the Internal Affairs Bureau (hereinafter “IAB”) responded to the scene of the shooting. Based on body-worn camera (hereinafter “BWC”) footage of the incident, the MCB determined it would not be necessary to conduct a criminal investigation.

INTERNAL ADMINISTRATIVE INVESTIGATION

The FCPD’s IAB conducted an internal administrative investigation to determine whether any violations of departmental policy occurred during the incident.⁵ The IAB investigation concluded that the uses of less-lethal force and the use of deadly force on Ace did not violate departmental policy. In my opinion, the internal investigation into this incident was complete, thorough, objective, impartial, and accurate. All appropriate interviews were conducted, and all potential evidence was pursued and examined. Apart from the uses of force, the investigation did identify a separate policy violation committed by an officer (not one who deployed force) related to his BWC.

CONCLUSIONS

In spite of the advanced planning to deal with aggressive dogs at the scene of the search and PFC#2’s extensive experience with dogs,⁶ officers ultimately resorted to using deadly force

³ The Virginia Department of Agriculture and Consumer Services conducted a necropsy on Ace at the Warrenton Regional Animal Health Laboratory on December 7, 2022. He weighed 63 pounds.

⁴ [Police fatally shoot dog during search of Virginia home - The Washington Post](#)

⁵ FCPD G.O. 540 IX. D. 1., effective August 12, 2022, states that “[t]he use of deadly force against any domesticated animal that results in the animal’s death or injury shall be investigated by IAB.”

⁶ *Supra*, note 2.

against Ace. The internal investigation examined the use of less-lethal force separate from the use of deadly force, as is appropriate in such situations.

Less-Lethal Force

The FCPD concluded that the four bean bags fired by MPO#1 from the less-lethal kinetic energy impact weapon complied with its policies. FCPD G.O. 540 II. states, in relevant part, force “shall only be used to the extent it is objectively reasonable to defend oneself or another,” while G.O. 540 III. 18. describes objectively reasonable force as being “[a] level of force that is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same set of circumstances.” FCPD G.O. 540 III. 13. lists kinetic energy impact systems among the authorized “less-lethal” force options that G.O. 540 V. A. states “may be used . . . to defend oneself or another individual from injury or assault” Finally, and perhaps most important, G.O. 540 V. B. explicitly instructs that “[l]ess-[l]ethal force options may also be used against animals that are attacking or threatening to attack a person or another animal.” I agree with IAB’s conclusion that MPO#1’s use of less-lethal force in this incident complied with the policy.

Deadly Force

Unfortunately, MPO#1’s deployment of the less-lethal bean bags did not deter Ace from being aggressive. When he lunged at MPO#2, MPO#2 and PFC#2 reacted by using deadly force against Ace. The FCPD’s investigation into their use of deadly force concluded that they also complied with departmental policy. Specifically, FCPD G.O. 540 VII. A. dictates that 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 in order to protect the officer or another person (other than the subject 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.” While this policy provision is not specific to using deadly force on animals, it does not prohibit the use of deadly force when the threat of serious bodily injury or death is posed by an animal. Because the dog pole was not a practical option and the less-lethal bean bags were ineffective, I agree with IAB’s conclusion that the use of deadly force in this incident also complied with the policy.

FCPD policy in effect at the time of this incident specifically addressed the use of deadly force against animals in G.O. 540 VII E.⁷ However, the language in that provision only mentioned non-domesticated animals. An older version of FCPD G.O. 540 also contained a provision⁸ specific to the use of deadly force on animals, but that earlier provision contained the statement that “[d]eadly force may be used against *any* animal that is attacking or threatening to attack any individual or another domestic animal.” [*emphasis added*]. Because this explicit statement authorizing deadly force to be used against *any* attacking animal was omitted from the G.O. 540 in effect at the time of this incident,⁹ it was not applicable to the incident under review. I will address this omission in a recommendation in the final section of this report.

RECOMMENDATIONS

FCPD policy addresses the possibility of its officers using force (including deadly force) on animals. This includes field euthanasia being performed on either domesticated or non-domesticated injured animals. However, FCPD G.O. 540 VII. E. currently in effect,¹⁰ specifically reads that “[o]fficers may use deadly force to incapacitate a *non-domesticated* animal that is attacking or threatening to attack any human or domesticated animal, or that appears to be rabid.” [*emphasis added*]. But, while the use of deadly force on a *domesticated* animal is clearly contemplated in other parts of G.O. 540,¹¹ and even though domesticated animals (e.g., dogs) can pose a “threat of serious bodily injury or death”¹² if they attack or bite,¹³ G.O. 540 VII. E. is limited to non-domesticated animals. Therefore, although it requires only a minor change in language, I recommend that current FCPD G.O. 540 VII. E. include both domesticated and non-domesticated animals and read as follows:

⁷ G.O. 540 VII. E., effective August 12, 2022.

⁸ G.O. 540.10 I.A., effective March 1, 2021.

⁹ G.O. 540, effective August. 12, 2022.

¹⁰ The current G.O. 540, which became effective on April 29, 2024, left G.O. 540 VII. E. unchanged from the prior version which was in effect at the time of the incident and investigation under review.

¹¹ See, e.g., G.O. 540 IX. D., effective August 12, 2022, which state’s that the “use of deadly force against a domesticated animal that results in the animal’s death or injury shall be investigated by IAB.”

¹² FCPD G.O. 540 VII. A. allows for officers to use deadly force when “an officer reasonably believes . . . that deadly force is immediately necessary in order 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”

¹³ In 2023, 96 people were killed by fatal dog bites in the United States – see, [Macro-Level Forces Report: Covid Impacts of 2023 U.S. Dog Bite Fatality Capture Rate of Nonprofit - DogsBite Blog](#), accessed on July 28, 2025.

Use of Deadly Force Against Animals: Officers may use deadly force to incapacitate domesticated or non-domesticated animals that are attacking or threatening to attack any human or another animal, or that appear to be rabid.

This change in language would align current policy with language in a prior iteration of G.O. 540,¹⁴ effective March 1, 2021, and provide clearer guidance to officers when they encounter threatening animals—whether domesticated or non-domesticated—while performing their law enforcement duties.

¹⁴ *Supra*, note 8.

APPENDIX: GLOSSARY OF TERMS

FCPD – Fairfax County Police Department

FCSO – Fairfax County Sheriff's Office

G.O. – General Order

SOP – Standard Operating Procedure

UOF – Use of Force

BWC – Body-worn Camera

ICV – In-Car Video

ADC – Adult Detention Center

CWA – Commonwealth's Attorney

Fourth Amendment to the United States Constitution – The right of the people to be free in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Force – Defined in Fairfax County Police Department General Order 540.III.10. as any 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.

Less-Lethal Force – Defined in Fairfax County Police Department General Order 540.III.13. as any level of force not designed to cause death or serious injury.

Deadly Force – Defined in Fairfax County Police Department General Order 540.III.2. as any level of force that is likely or intended to cause death or serious injury.

Serious Injury – Defined in Fairfax County Police Department General Order 540.III.26. as any injury which creates a substantial risk of death, prolonged hospitalization, impairment of the functions of any bodily organ or limb, or any injury that medical personnel deem to be potentially life-threatening.

ECW – Electronic Control Weapon; Defined in Fairfax County Police Department General Order 540.III.5. as a device which disrupts the sensory and motor nervous system of an individual by deploying battery-powered electrical energy sufficient to cause sensory and neuromuscular incapacitation. Considered less-lethal force. Often referred to as a Taser.

Empty-Hand Tactics – Described in Fairfax County Police Department General Order 540.VI.A. as including strikes, kicks, pressure points, and takedowns in an objectively reasonable manner to overcome resistance. Considered less-lethal force.

OC Spray – Oleoresin Capsicum; Defined in Fairfax County Police Department General Order 540.III.19. as a less-lethal force instrument that contains a projectile lachrymatory agent spray designed to irritate an individual's eyes and temporarily take away their vision in order to effectuate lawful control. Often referred to as "pepper spray."

PepperBall System – Defined in Fairfax County Police Department General Order 540.III.21. as a high-pressure air launcher that delivers projectiles from a distance. Typically, the projectile contains PAVA powder which has similar characteristics to Oleoresin Capsicum. Considered less-lethal force.

Passive Resistance – Defined in Fairfax County Police Department General Order 540.III.25. as where an individual poses no immediate threat to an officer and exhibits no resistive movements but is not complying with lawful orders and is taking minimal physical action to prevent an officer from taking lawful action.

Active Resistance – Defined in Fairfax County Police Department General Order 540.III.25. as where an individual's verbal and/or physical actions are intended to prevent an officer from taking lawful action but not intended to harm the officer.

Aggressive Resistance – Defined in Fairfax County Police Department General Order 540.III.25. as where an individual displays the intent to cause injury, serious injury, or death to an officer, themselves, or another person and to prevent the officer from taking lawful action.