Public Report

Oct. 8, 2022: Use of Force Complaint
IPA-23-06

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Independent Police Auditor

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A Public Report by the Fairfax County
Independent Police Auditor

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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 October 8, 2022 (i.e., General Order 540, effective August 12, 2022).

INCIDENT

On October 8, 2022, an individual brought his son (hereinafter identified as "Juvenile") to the Sharon Bulova Center for Mental Health (hereinafter "SBCMH") in Merrifield to discuss Juvenile's destructive and suicidal behavior. When Juvenile refused to discuss anything with clinicians at the center and walked out of the building, staff notified the Fairfax County Police Department (hereinafter "FCPD") crisis intervention trained (hereinafter "CIT") officers assigned to the facility. The two CIT officers, Master Police Officer #1(hereinafter "MPO#1") and Master Police Officer #2 (hereinafter "MPO#2") responded and were told by security staff that Juvenile was last seen walking towards Javier Drive.

MPO#1 remained with Juvenile's father to discuss whether an emergency custody order[1] should be sought for his son, while MPO#2 left the facility intending to get into his police cruiser and look for Juvenile. When MPO#2 got to the parking area, he immediately saw Juvenile and began to talk to him. However, Juvenile made derogatory comments to MPO#2 and began walking away from the parking area and away from the building. MPO#2 tried to calmly talk to Juvenile, but he remained uncooperative, at one point threatening MPO#2 by stating, "I'm going to beat the [expletive deleted] out of you if you don't leave, bro."

A third FCPD officer—Police Officer First Class #1 (hereinafter "PFC#1)—was patrolling the area from the Mason District Police Station and was dispatched to the SBCMH to

[1] Virginia Code § 37.2-808 A. provides:
Any magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion, or a court may issue pursuant to § 19.2-271.6, an emergency custody order when he has probable cause to believe that any person (i) has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.2. This subsection shall not preclude any other disclosures as required or permitted by law.

assist MPO#1 and MPO#2. When he arrived, MPO#1 advised him that they had the requisite amount of information for an ECO to take custody of Juvenile. Based on this determination and Juvenile's behavior up to this point, PFC#1 advised MPO#1 and MPO#2 that he would deploy the BolaWrap[2] device to avoid using force against Juvenile. The BolaWrap utilized by the FCPD is designed to "wrap" eight feet of Kevlar cord around a person's legs or arms and is described by the manufacturer as an "innovative, patented device [that] deploys a multi-sensory, cognitive disruption that leverages sight, sound and sensation to expand the pre-escalation period and gives officers the advantage and critical time to manage non-compliant subjects before resorting to higher-force options."[3] Based on the FCPD's use of force policy, an officer's use of the BolaWrap does not constitute "force," which is defined as "[a]ny physical strike or instrumental contact with an individual, or any significant physical contact that restricts a person's movement."[4]

When the cord from the BolaWrap wrapped around Juvenile's arms, he stopped walking farther away from the officers. MPO#1 and MPO#2 immediately approached Juvenile to gain control of him. However, Juvenile freed his arms from the cord and began throwing punches when the officers approached him. MPO#1 was punched above his left eye, sustaining a cut that required five stitches when he was later taken to the hospital for treatment. Using only "empty-hand tactics,"[5] the officers then took Juvenile to the ground and handcuffed him.

Following the incident, a doctor working at the SBCMH submitted a complaint to the FCPD through the department's Citizen Complaint online portal. In her complaint, the doctor advised that she did not witness the incident but was reporting what was relayed to her by a patient who indicated they saw the incident. In the online complaint, the doctor wrote that excessive force had been used on a "young, unarmed teenage boy of color" when officers used a "taser" (commonly-used term for what the FCPD identifies as an "electronic control weapon")

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[2] See, WRAP Technologies | World Leader in Pre-Escalation and Law Enforcement Solutions, accessed on September 16, 2025.

[3] Wrap's BolaWrap® 150 Adopted by City of Pavia, Italy Police as a Safer Alternative to Taser - My Framer Site, accessed on September 16, 2025. For additional information on the BolaWrap, see BolaWrap and the evolution of less-lethal force, and FCPD Leads Among First Major Law Enforcement Agencies to Fully Deploy BolaWrap | Fairfax County Police Department News.

[4] FCPD General Order 540 III. 10, effective August 12, 2022.

[5] FCPD G.O. 540 VI. A. states that "[o]fficers may use empty-hand tactics, including but not limited to[] strikes, kicks, pressure points, or takedowns in an objectively reasonable manner to overcome resistance in accordance with their training to reduce the likelihood of injury to themselves or other individuals."

on him, and that officers "committ[ing] violence against a child in this manner is egregious." She also complained that members of a nearby construction crew were not interviewed by officers, making the investigation into the incident incomplete.

INTERNAL ADMINISTRATIVE INVESTIGATION

The FCPD conducted a district-station level administrative investigation into this incident. Following that investigation, the FCPD determined that the officers involved in the incident were "exonerated by technology,"[6] meaning "[t]he allegation and/or incident has been captured by technology and a review of the technology has proven the actions of the employee[s] were in compliance with Department rules and regulations."[7] I reviewed the investigation, and I agree with the conclusion and that it was based on an investigation that was complete, thorough, objective, impartial, and accurate.

The investigation included an interview of the complainant; a review of the Incident Report prepared following the incident; a canvas of the area for potential witnesses, which included speaking to members of the construction crew the complainant thought had not been contacted; and, a review of body-worn camera footage from the incident which led to the officers being "exonerated by technology."

CONCLUSIONS

The only force used by the officers during this incident was a "takedown," one of a number of "empty-hand tactics" listed in FCPD policy as a "less-lethal" force option.[8] The policy allows for the use of such tactics "in an objectively reasonable manner to overcome resistance in accordance with their training to reduce the likelihood of injury to themselves or other individuals."[9] And, like other "less-lethal" options, empty-hand tactics "may be used to . . . defend oneself or another individual from injury or assault [or to] establish custody for a temporary detention order, ..."[10] The officers were clearly trying to get custody of Juvenile because they had established the requirements for an ECO, but Juvenile resisted and assaulted

[6] FCPD G.O. 301 XIII. A. 4., effective May 4, 2022.
[7] *Id*.
[8] FCPD G.O. 540 VI. A., effective August 12, 2022.
[9] *Id*.
[10] FCPD G.O. 540 V. A., effective August 12, 2022.

MPO#1 when he punched him. The force, then, complied with FCPD policy so long as it was used in an "objectively reasonable manner."[11]

FCPD policy defines "objectively reasonable" force as "[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."[12] The department's definition is taken from the Supreme Court's Graham v. Connor[13] opinion, in which the United States Supreme Court analyzed the use of force by law enforcement officers in this country and recognized that "police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation."[14]

Despite the complaint that a "taser" had been used during this incident,[15] the only force that was used was the empty-hand takedown of Juvenile to get him handcuffed. The officers only resorted to the takedown after Juvenile actively and aggressively resisted[16] their efforts, and they used the takedown in an objectively reasonable manner, as evidenced on BWC footage.

RECOMMENDATIONS

FCPD policy on the use of force thoroughly addresses the use of both deadly and "less-lethal" force, aligns with constitutional standards and caselaw, and provides FCPD officers extensive guidance on resolving incidents with different techniques. Before force was used in this incident, MPO#2 tried to calmly speak to Juvenile. When that failed, PFC#1 used the BolaWrap device to no avail. Only then did the officers resort to force to gain control of Juvenile for the purpose of getting him help. The FCPD investigation determined that the limited use of force during this incident complied with departmental policy and exonerated the officers. I agree with that conclusion for the reasons stated in the preceding section of this report, and I have no recommendations to make based on this incident review.

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[11] Notes 8 and 9, *supra*.
[12] FCPD G.O. 540 III. 18., effective August 12, 2022.
[13] 490 U.S. 386 (1989).
[14] *Id*. at 397.
[15] The complaint also referred to Juvenile as a "young, unarmed teenage boy of color," when, in fact, he was White. Additionally, contrary to the allegation made in the online complaint, an officer did talk to members of the onsite construction crew about the incident.
[16] See GLOSSARY for FCPD's characterizations of varying levels of resistance.

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.