

# Public Report

April 23, 2024: Use of  
Force Complaint  
IPA-24-08



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A Public Report by the Fairfax County  
Independent Police Auditor

Publication Date: Feb. 25, 2025



A Fairfax County, Va., Publication

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**NOTE TO THE READER: The Fairfax County Police Department last revised its comprehensive 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 April 23, 2024 (i.e., General Order 540, effective August 12, 2022).**

## **INCIDENT**

On April 23, 2024, a juvenile elementary student (hereinafter identified only as “Student”) at Laurel Ridge Elementary School was allowed to leave the room after advising the Crisis Resource Teacher that he need to use the bathroom. Shortly thereafter, the teacher found Student locked inside of a nearby empty classroom. The teacher was able to see through the window of the door that Student had placed an HDMI cable around his neck. Initially, Student was not choking himself with the cord, but the teacher requested help from other school personnel. When Student tightened the cord around his neck and began choking himself, school staff requested help from both the Fairfax County Fire and Rescue Department (hereinafter “FCFRD”) and the Fairfax County Police Department (hereinafter “FCPD”).

Two FCPD officers—Sergeant #1 (hereinafter “SGT#1”) and Police Officer First Class #1 (hereinafter “PFC#1”)—from the West Springfield District Station arrived and were told that Student was “a sixth-grade student;” “[h]e’s got a wire pulled around his neck;” “[h]e’s kind of barricaded himself in a room.” They were also advised that Student’s mother was on her way to the school. When the officers saw Student’s face through the window in the door, they noticed that his face was red, and he appeared to be tightening the cord around his neck. SGT#1 decided they needed to go in to protect Student from harming himself.

After a teacher unlocked the door to the room Student was in, she informed him that the officers were now in charge of the situation. Before going in, the officers communicated with Student by asking him, “Can you give us the wire, Buddy?” and “Can we get the wire?” When Student did not respond, SGT#1 and PFC #1 entered the classroom. PFC#1 continued to communicate with Student by saying “Hey [Student’s first name], we’re just gonna take the wire off, okay?” and “You’re gonna take the wire off, relax.” SGT#1 then grabbed the cable around Student’s neck and PFC#1 tried to control Student’s hands. However, Student hit PFC#1 in the face with his right hand. SGT#1 and PFC#1 took Student to the ground, where he was placed face-first on the classroom floor.

SGT#1 got control of one of Student's hands, while PFC#1 got control of the other. A third FCPD officer—Police Officer First Class #2 (hereinafter "PFC#2")—who had entered the classroom just as Student struck PFC#1, controlled Student's legs. The officers handcuffed Student, who proceeded to scream, "You're not helping me, you're choking me dumbass!" PFC#1 removed the HDMI cable from around Student's neck, which had been wrapped around his neck four times. He told Student that "... you can't hit us . . ." while SGT#1 told him, "[Student first name], you're not in trouble, this is for our safety."

Student continued to yell and threatened to kick the officers. They rolled him onto his side, still handcuffed. An FCFRD medic came into the room and Student was placed in a seated position.<sup>1</sup> When he screamed for the handcuffs to be loosened, PFC#2 responded, "When you calm down, there's a possibility."

Student complained that he had hit an officer during a previous encounter with police, and that he had not been handcuffed during that incident. He also threatened to take something from one of the officers' equipment belts and use it against the officers; and he stated that he "wanted to die," which is why he had wrapped the cord around his neck. Based on these comments, the officers chose to leave the handcuffs on Student. As an alternative to them being removed, Student asked for the handcuffs to at least be loosened; however, the officers chose not to loosen them at that point.

Student's mother arrived at the scene shortly after Student had been taken down to the ground and handcuffed. She immediately demanded that the handcuffs be removed. SGT#1 explained that Student had struck an officer and had made threatening comments, and, therefore, the cuffs would only be removed when it was safe to do so. After the mother made continued demands (and eventually requests) for the handcuffs to be removed or loosened, the officers did loosen the handcuffs but only removed them when Student was placed in the care of the FCFRD for transport to a hospital. In total, Student remained handcuffed for 35 minutes and twenty seconds.<sup>2</sup>

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<sup>1</sup> A total of 21 seconds had elapsed from when Student was taken to the floor to when he was placed in the seated "recovery" position.

<sup>2</sup> The handcuffs were loosened 21 minutes into that timeframe. When the handcuffs were first applied, PFC#1 checked them for proper (not too tight) fit and he double-locked them after applying them, which prevents handcuffs from tightening after being applied.

Student's mother lodged a complaint about the officers' overall handling of the incident involving her son, and specifically about the force used on him, the positioning of him when he was initially handcuffed, and the length of time he remained in handcuffs.<sup>3</sup> Based on the complaint regarding the force used, the FCPD alerted the Office of the Independent Police Auditor, which initiated this review of the incident.

## **INTERNAL ADMINISTRATIVE INVESTIGATION**

The FCPD's Internal Affairs Bureau conducted an internal administrative investigation into this incident. The investigation included the review of all body-worn camera (hereinafter "BWC") footage from the incident and Department of Public Safety Communications records (to include the initial 9-1-1 call placed by school personnel); interviews of Student's mother and involved staff members from Laurel Ridge Elementary School; and a consultation with an FCPD officer who has been certified as a paramedic since 2005.<sup>4</sup>

Following the investigation, the FCPD concluded that the responding officers acted appropriately after evaluating the circumstances they confronted, and that the force used by SGT#1, PFC#1, and PFC#2<sup>5</sup> was objectively reasonable and complied with departmental policy. The department also concluded that the period of time during which Student was detained and remained handcuffed was not excessive.

I agree with these findings and that they resulted from an investigation that was complete, thorough, objective, impartial, and accurate.

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<sup>3</sup> During a telephone interview with FCPD's investigator from the Internal Affairs Bureau on April 26, 2024, Student's mother stated, "I think my child was brutally mishandled." She also stated that "Your officers could have killed my child," and that she, her son, and staff from the school were "significantly traumatized" from the incident.

<sup>4</sup> Although this officer was not involved in the incident, she provided her opinion as to the level of danger to Student posed by his actions as perceived by SGT#1 and PFC#1.

<sup>5</sup> The FCPD considered PFC#2's holding of Student's feet while he was being handcuffed a "force to hold" and a separate use of force from the takedown of Student.

## **CONCLUSIONS**

In its landmark Graham v. Connor<sup>6</sup> opinion, 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.”<sup>7</sup> Even before any force was used during the incident under review, it was already tense and uncertain. The officers responded to a call to help a young, apparently suicidal, elementary school student who had locked himself in a room with a wire cord wrapped around his neck. When they noted that Student’s face was red and that he appeared to be tightening the cord around his neck, SGT#1 and PFC#1 chose to enter the room.

Before entering the room, SGT#1 and PFC#1—both of whom are certified in Crisis Intervention Team<sup>8</sup> training—tried to communicate with Student and explain to him that they merely wanted to remove the cord from around his neck. When the officers entered the room, Student actively resisted by hitting PFC#1 in the face. The officers responded to the rapidly evolving situation by taking Student to the ground to handcuff him.

In the Graham opinion,<sup>9</sup> the Supreme Court recognized that “the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.” While SGT#1 and PFC#1 did not intend to arrest or conduct an investigatory stop of Student, the same principle applies to their actions by virtue of FCPD General Order (hereinafter “G.O.”) 609<sup>10</sup>, which provides guidelines and procedures for officers “investigat[ing] cases involving emotionally distressed individuals.” Specifically, G.O. 609VII. A. 2. provides that “[a]ny officer who observes a juvenile displaying symptoms of mental illness may take that individual into emergency custody for an emergency mental health evaluation if the officer has probable cause, based upon either the officer’s own personal observations or those of a reliable reporter that the individual, because of mental illness: a. [p]resents a serious danger to themselves . . . .”

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<sup>6</sup> 490 U.S. 386 (1989).

<sup>7</sup> *Id.* at 397.

<sup>8</sup> See, [Crisis Intervention Training | Police](#)

<sup>9</sup> Note 6, *supra*.

<sup>10</sup> FCPD G.O. 609 EMOTIONALLY DISTRESSED PERSONS, effective Sept. 22, 2023.

Finally, the Graham opinion dictates that to be lawful under the Fourth Amendment an officer's use of force must be objectively reasonable. Likewise, FCPD G.O. 540—the department's internal policy which governs the use of force by FCPD officers—provides that force “shall only be used to the extent it is *objectively reasonable* to . . . *maintain control* over an individual during an investigative or *mental health detention*, or overcome resistance to a lawful detention or arrest.”<sup>11</sup>

The force used by SGT#1 and PFC#1 to take Student to the ground to handcuff him was “less-lethal force”—defined as “[a]ny level of force not designed to cause death or serious injury”—which includes empty-hand tactics such as takedowns.<sup>12</sup> FCPD G.O. 540 VI. A. provides further guidance when it allows for officers to “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.”

In the incident under review, the officers used force to take Student down to the ground to maintain control over him so he could be handcuffed, and to reduce the likelihood of injury to them as well as to Student. The force used was objectively reasonable and done according to FCPD training. It satisfied both the legal standard set out in Graham, and the departmental pronouncements set forth in FCPD G.O. 540.

After being handcuffed, Student remained handcuffed for thirty-five minutes and twenty seconds despite pleas for the cuffs to be removed (or at least loosened, which they were after twenty-one minutes). I agree with the FCPD's conclusion that the length of time Student remained handcuffed was justified.

First, FCPD Regulation 203<sup>13</sup> addresses the use of handcuffs. Specifically, Regulation 203.3 provides that the “use of handcuffs and other Department-approved restraint devices are a matter of officer discretion unless the totality of the known circumstances indicate failure to properly restrain a prisoner may lead to the escape of the prisoner or jeopardize the safety of the officer, the prisoner, or any other individual.” SGT#1 used his discretion and decided to keep the handcuffs on Student until he was ready to be transported to the hospital by the FCFRD. On

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<sup>11</sup> FCPD G.O. 540 II (*emphasis added*).

<sup>12</sup> FCPD G.O. 540 III. 13.

<sup>13</sup> FCPD Regulation 203 PRISONER CARE AND CUSTODY, effective Aug. 30, 2023.

BWC footage, he explains to Student's mother that Student struck an officer and had made other threats after doing so. He calmly explained that he would remove the handcuffs when he felt it was safe for the officers and for her son.

At the same time, Regulation 203.3 states that “[o]fficers should also factor in known injuries, disabilities, and age in determining whether or not to handcuff or use other restraint devices on a prisoner.” SGT#1 clearly knew Student's young age and about his disabilities, but chose to exercise the discretion to leave the handcuffs in place in spite of those factors.

Finally, Regulation 203.3 mandates that “[w]henver handcuffs are utilized, they shall be checked for fitness and double-locked.” The BWC footage from the incident confirms that the handcuffs were double-locked and checked for proper fit.<sup>14</sup>

The United States Supreme Court has also recognized the importance of an officer's discretion when deciding whether to handcuff individuals when it is legally allowed. In Muehler v. Mena,<sup>15</sup> the Court found the uninterrupted handcuffing of a 5'2" female for the entire duration of a court-authorized search warrant of the residence in which Mena was an occupant, to be reasonable. Long before Muehler v. Mena, the Supreme Court—in Michigan v. Summers,<sup>16</sup>—recognized the legal authority of law enforcement officers to detain occupants at a search warrant location for the duration of the search. In Mena, the Court extended that authority by allowing an occupant to remain handcuffed for the entire two to three-hour search because “the 2- to 3-hour detention in handcuffs in this case d[id] not outweigh the government's continuing safety interests.”<sup>17</sup>

Similarly, in Unus v. Kane,<sup>18</sup> the Fourth Circuit Court of Appeals found the nearly four-hour long detention—while in handcuffs—of a mother and her daughter while a search warrant of their residence was executed to be reasonable.<sup>19</sup> Again, the court considered the safety interests involved and found it “clear that the federal agent defendants reasonably assessed the

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<sup>14</sup> Note 2, *supra*.

<sup>15</sup> 544 U.S. 93 (2005).

<sup>16</sup> 452 U.S. 692 (1981).

<sup>17</sup> Note 15, *supra*, at 100.

<sup>18</sup> 565 F.3d 103 (4<sup>th</sup> Cir. 2009).

<sup>19</sup> The search warrant was executed by eleven federal agents along with three uniformed FCPD officers. The FCPD officers were not named as defendants in the ensuing lawsuit which generated the opinion.



circumstances presented, balancing the law enforcement interest of safety—both of the agents and the plaintiffs—with the ‘marginal intrusion’ imposed on the plaintiffs.”<sup>20</sup>

In the incident under review, it was clear from comments SGT#1 made to Student’s mother that he considered the safety of both officers and of Student when he decided to keep the handcuffs on Student for the entire 35 minute and twenty second detention of Student.

## **RECOMMENDATIONS**

A police officer’s use of force is never pleasant to witness or to review on BWC footage, especially when the force is used on an elementary school student. However, the unpleasantness of the force does not necessarily make the force wrong or illegal. In the incident under review, the FCPD officers were asked to assist with a suicidal student who had locked himself in a room and who had wrapped a cord around his neck. They went into the room to help Student, and the situation deteriorated rapidly. Force was used to gain control of the situation and to prevent anyone from being hurt further.<sup>21</sup>

The law allowed for the amount of force that was used, as did FCPD policy. At the same time, FCPD policies stress the sanctity of life,<sup>22</sup> the importance of de-escalation,<sup>23</sup> and the proper deployment of only the amount of force necessary when it is required.<sup>24</sup> The department’s policies are sound, and the officers involved in this incident complied with them. Consequently, I have no recommendations based on my review of the investigation into this incident.

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<sup>20</sup> Note 15, *supra*, at 121 (quoting *Mena*, at 99).

<sup>21</sup> Student had already started to choke himself with the electrical cord and had punched PFC#1.

<sup>22</sup> FCPD G.O. 540.0 II. states that “[i]t is the policy of the Department that all members hold the highest regard for the sanctity of human life and respect the dignity and liberties of all individuals.”

<sup>23</sup> FCPD G.O. 540 IV. E. provides that “[w]henver possible, officers shall attempt to utilize de-escalation strategies and verbal communication skills to gain compliance and, ideally, prevent situations from potentially deteriorating to the point where force may be necessary.” SGT#1 and PFC#1 tried to de-escalate the situation by calmly talking to Student before entering the room, and by referring to him by name when they did enter the room.

<sup>24</sup> FCPD G.O. 540 IV. A.

## **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.