Public Report

May 4, 2025: Use of Force Complaint IPA-25-29

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Independent Police Auditor

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INCIDENT

On May 4, 2025, Fairfax County Police Department (hereinafter "FCPD") officers responded to a call for service based on destruction of property at a Sunoco gas station on McNair Farms Drive in Fairfax County. Upon arrival, the officers identified two people who apparently were involved in the destruction complaint. One of them (hereinafter identified by her initials "K.W.") was approached by Police Officer First Class #1 (hereinafter "PFC#1"), who observed signs of intoxication, to include slurred speech, K.W. being unsteady on her feet, and smelling of alcohol. Based on these signs of intoxication and her apparent involvement in the initial complaint, PFC#1 handcuffed K.W. and detained her.[1] K.W. was able to free one hand from the cuffs before being re-handcuffed by Police Officer First Class #2 (hereinafter "PFC#2"). After investigating the destruction of property complaint, officers arrested K.W. for being drunk in public, but not for destruction of property.

On June 23, 2025, and again on June 24, 2025, an FCPD supervisor (hereinafter "SGT#1") interviewed K.W. after learning that she wanted to make a complaint regarding her arrest on May 4, 2025. During the second interview, K.W. disclosed that she had no recollection of interacting with FCPD officers on May 4, 2025. She explained that she had one alcoholic drink[2] at the Breakers Sky Lounge and did not remember anything else until she woke up in the Fairfax County Adult Detention Center (hereinafter "ADC") the next morning. When she awoke, her right thumb was in severe pain, she had bruises on her upper right arm, and a scratch on her nose. She surmised that her injuries were caused by officers using force on her during her arrest. She also noted that her eyeglasses case had been damaged, presumably during her interaction with FCPD officers.

On October 3, 2025, K.W. contacted the Office of the Independent Police Auditor (hereinafter "OIPA") and complained that she had been injured during the May 4, 2025, incident. When asked to provide specificity to her complaint, K.W. indicated that she "had a cut on the bridge of [her] nose, suffered severe nerve damage in [her] right thumb; and had a bruise on [her]

[1] The Supreme Court first authorized a legal temporary detention—based on reasonable suspicion rather than probable cause—in Terry v. Ohio, 392 U.S. 1 (1968).

[2] K.W. speculated that someone slipped a "mickey" into her one drink, causing her to not remember anything after drinking it.

right arm of a thumb print."[3] She further alleged that her "eyeglasses case was damaged" during the incident.[4]

CRIMINAL INVESTIGATION/ PROSECUTIVE DECISION

The FCPD conducted a station-level administrative investigation into the alleged use of force by the officer(s) who arrested K.W.

K.W. was charged with being drunk in public[5] and did, in fact, spend the night in the ADC. K.W.'s male acquaintance was charged with the destruction of property[6] which prompted the FCPD to respond to the location in the first place.

INTERNAL ADMINISTRATIVE INVESTIGATION

The internal investigation into KW.'s complaint of injury included interviews of K.W. and the three officers who responded to the initial call, including the two who interacted with K.W.; a review of the incident reports prepared contemporaneous to the incident; and a review of body-worn camera (hereinafter "BWC") and in-car video (hereinafter "ICV") footage of K.W.'s detention/arrest and transport to the ADC.

The internal administrative investigation determined that no force was used, but that "low-level control"[7] was utilized by the two officers involved in K.W.'s detention/arrest and subsequent transport to the ADC. The low-level control consisted of officers supporting K.W. by her arms as she was unstable on her feet and had difficulty getting into the police cruiser following her arrest. Accordingly, the officers were found to be in compliance with FCPD General Order (hereinafter "G.O.") 540, which addresses the "use of force" by officers.

[3] K.W. email to OIPA dated October 7, 2025.
[4] *Id*.
[5] Fairfax County Code § 5-1-1.
[6] Va. Code §18.2-137 (B)(i)
[7] Defined in FCPD General Order 540 III. 14., effective April 29, 2024, as "[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."

The comprehensive investigation also scrutinized the officers' actions during the incident using FCPD G.O. 203, which addresses "prisoner care and custody,"[8] G.O. 509 on "Body Worn Camera and In-Car Video Systems,"[9] and G.O. 612 on "Property and Evidence."[10]

The investigation identified deficiencies throughout the incident, including: PFC#1 failing to properly handcuff K.W. (specifically to double-lock the handcuffs when she was first detained) which allowed her to slip one hand out of the cuffs before being re-handcuffed; one officer failing to activate both his BWC and the ICV system in his patrol car when he first should have; and, a third officer improperly handling property (not the eyeglasses case).

Infractions of G.O. 509 and G.O. 612 were identified, but none of the infractions related to K.W.'s allegations of force being used on her or damage to her eyeglasses case by officers. In my opinion, the internal investigation conducted by the FCPD into K.W.'s allegations was complete, thorough, objective, impartial, and accurate.

CONCLUSIONS

PFC#1 arrived at the scene of the call for service and was the first officer to speak to K.W. He activated his BWC and the entire interaction with K.W. was recorded. A review of the BWC footage confirms that only low-level control was used to handcuff and stabilize K.W., who was very unsteady on her feet. She was held upright by officers supporting and holding her upper arms, which may have inadvertently caused the bruising that K.W. reported. She was compliant when PFC#1 handcuffed her, but PFC#1 failed to double-lock the handcuffs and K.W. was able to free one hand from the cuffs before being re-handcuffed (and double-locked) by PFC#2.[11]

FCPD G.O. 540 III. 10. defines "force" as "[a]ny physical strike or instrumental contact with an individual, or any significant physical contact that restricts a person's movement," and goes on to point out that "[r]eportable uses of force do not include escorting or handcuffing an individual who is exhibiting minimal or no resistance," and that "[m]erely placing an individual

[8] G.O. 203, effective August 30, 2023.
[9] G.O. 509, effective June 17, 2024.
[10] G.O. 612, effective May 13, 2022.
[11] PFC#2 arrived after PFC#1 first detained and handcuffed K.W. He initially failed to activate his BWC, and that failure was addressed by the FCPD in the administrative investigation. However, PFC#1's BWC footage included PFC#2's handcuffing of K.W.

in handcuffs as a restraint in arrest or transport activities . . . does not constitute reportable uses of force." By definition, no force was used during this incident.

While other policy violations were identified during the internal investigation and addressed with the officers who committed them, none related to force being used on K.W. or to damage to her eyeglasses case. In fact, nothing on BWC footage shows the eyeglasses case being handled or damaged by officers, leading to the logical conclusion that any damage occurred before officers arrived.

RECOMMENDATIONS

In her initial interview with SGT#1 on June 23, 2025, K.W. requested to view the BWC footage of this incident. G.O. 509 VIII. C. 1. states that "[e]mployees shall not permit any member of the public, to include complainants or witnesses, to view BWC or ICV video without prior commander approval and only after the video has been redacted by the Public Affairs Bureau (PAB) FOIA Compliance Section. Requests by citizens to view or obtain a copy of BWC or ICV video shall be promptly forwarded to FCPDFOIA@fairfaxcounty.gov."[12] SGT#1 indicated that K.W. would need to submit a Freedom of Information Act request pursuant to Virginia law in order to view the footage. Although that reply is supported by a strict interpretation of the general order language, the language in the policy clearly allows for a police commander to authorize viewing—by complainants or witnesses to an event—of BWC footage after any necessary redactions are made. In this situation, where K.W. admitted to having no recollection of the incident about which she complained, allowing her to view the BWC footage may have quickly alleviated her concerns and eliminated the need for a full administrative investigation. Had that investigation not occurred, the other policy violations should have still been uncovered by a supervisor who would have had to view the BWC footage before sharing it with K.W.

Aside from pointing out the possible benefit of utilizing the policy provision which would have allowed K.W. to view the BWC footage, I have no recommendations to make based on my review of the investigation into this incident.

[12] G.O. 509, effective June 17, 2024, was in effect on the date of K.W.'s request to view the BWC footage. G.O. 509 was last revised on August 1, 2025, and G.O. 509 VIII. C. 1. did not change.

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 secure 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 reasonably appears to pose no immediate threat to an officer and displays no resistive movements but is not complying with lawful orders and appears to be 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 reasonably appear intended to prevent an officer from taking lawful action but are not intended to harm the officer.

Aggressive Resistance – Defined in Fairfax County Police Department General Order 540.III.25. as where an individual reasonably appears intended to prevent an officer from taking lawful action and pose an immediate threat of harm to themselves, another person or an officer.