

Public Report

Sept. 16, 2024:
Officer-Involved Shooting
IPA-24-17



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**A Public Report by the Fairfax County
Independent Police Auditor**

Publication Date: January 29, 2026



A Fairfax County, Va., Publication

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INCIDENT

On September 16, 2024, the Prince William County (Virginia) Police Department sent a request to the Fairfax County Police Department (hereinafter “FCPD”) to conduct a welfare check on a person (hereinafter identified by her initials, “S.W.”) living in an apartment in Reston. At approximately 10:07 a.m., Police Officer First Class #1 (hereinafter “PFC#1”) responded to the apartment. PFC#1 was certified in Crisis Intervention Team (hereinafter “CIT”) training. Although another officer indicated he would be responding to the call as well, PFC#1 approached S.W.’s apartment alone. When PFC#1 initially knocked on her door, S.W. partially opened it, and PFC#1 introduced himself. She quickly closed the door and stated, “I can’t talk right now.” PFC#1 knocked three more times without receiving any response. After a fourth knock, PFC#1 called out to S.W. by name and asked to speak with her. After knocking again, PFC#1 informed S.W. that he “just want[ed] to check on [her] . . . and make sure [she’s] OK.” At that point, S.W. started playing music from inside her apartment but still did not respond to PFC#1.

PFC#1 knocked again and asked S.W. to speak with him. Getting no response, PFC#1 knocked one final time. S.W. opened her door, asked, “How are you?” and immediately slashed at PFC#1’s face with a knife. PFC#1 backed up quickly into the hallway, but S.W.—with the knife in her hand now raised above her head—walked toward him. While continuing to retreat into the hallway, PFC#1 drew his handgun from the holster and told S.W. to “Back up!”. After stopping for one second, S.W. said “oh yeah,” but then continued to approach PFC#1, with the knife in her hand still raised. PFC#1 backed away until he could retreat no further because he was at the end of the hallway, while continuing to plead with S.W. to “back up.”

S.W. got to within arms’ length of PFC#1 and slashed at him with the knife several (at least three) times and struck his face with the knife blade. PFC#1 fired two shots at S.W. and maneuvered around her to create distance. He fired three additional shots at S.W. She initially tried to pursue him again but collapsed from being struck by some of PFC#1’s shots.

PFC#1 immediately radioed for medical personnel to respond for S.W. and for himself. Other FCPD officers arrived and attempted life-saving techniques on S.W. and tended to the injuries PFC#1 suffered from S.W. attacking him with the knife. S.W. was pronounced deceased

after being transported to Reston Hospital, while PFC#1’s injuries, though serious, were not life-threatening.

RELEASE OF INVOLVED OFFICER’S IDENTITY

FCPD Chief Kevin Davis complied with departmental policy directive—to release the name(s) of officers involved in an officer involved shooting within 10 days of the incident—by releasing a statement and PFC#1’s identity on September 26, 2024.¹ He also released the body-worn camera (hereinafter “BWC”) footage within thirty days of the incident on October 14, 2024.²

CRIMINAL INVESTIGATION/ PROSECUTIVE DECISION

The FCPD conducted both a criminal and an administrative investigation into the actions of PFC#1 during this incident. The results of the criminal investigation were provided to the Office of the Commonwealth’s Attorney for Fairfax County. Commonwealth Attorney Steve T. Descano issued a report on April 8, 2025, in which he concluded that PFC#1 did not violate any criminal laws when he used deadly force against S.W.³

INTERNAL ADMINISTRATIVE INVESTIGATION

The FCPD’s Major Crimes Bureau (hereinafter “MCB”) conducted the criminal investigation into this incident and provided the results of that investigation to the Internal Affairs Bureau (hereinafter “IAB”), which conducted the internal administrative investigation. The administrative investigation (which incorporated the results of MCB’s criminal investigation) included: a Freedom of Information Act (hereinafter “FOIA”) request to the Prince William County (Virginia) Police Department to obtain information regarding the initial welfare check request; a FOIA request to Lee County (Florida) Port Authority involving a prior incident involving S.W.; a review of Fairfax County Department of Public Safety Communications

¹ [Officer-Involved Shooting in Reston | Fairfax County Police Department News \(wordpress.com\)](#)

² [Press Conference - Reston OIS BWC Release 10.14.24 \(youtube.com\)](#)

³ [Report on September 16, 2024, Officer-Involved Shooting](#)

records generated from the incident and a separate call for service involving S.W. the day prior to the incident; a review of prior calls to the location which included S.W.’s apartment; a full crime scene examination of the scene where the shooting occurred, to include a search of S.W.’s apartment authorized by a search warrant; interviews of PFC#1 and other officers who had information relevant to the response to the welfare check call for service; a review of BWC footage captured by PFC#1 during the incident; a review of records relating to training completed by PFC#1; and an examination of geolocation data relating to the response of officers to the welfare check request. The comprehensive internal investigation into this incident was, in my opinion, complete, thorough, objective, impartial, and accurate.

The FCPD concluded that PFC#1 complied with the legal requirements as well as departmental policy when he used deadly force against S.W. The FCPD determined, however, that another officer (hereinafter “PFC#2”) violated its policy when he failed to proceed to the welfare check call for service despite indicating that he was in route after being dispatched to the call. I agree with the FCPD’s conclusions and will articulate my reasons in the following section of this report.

CONCLUSIONS

PFC#1’s Use of Deadly Force

I. Legal Compliance

A. Federal Law

In its landmark Graham v. Connor opinion,⁴ the United States Supreme Court analyzed the use of force—including deadly 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.”⁵ Also in that opinion, Chief Justice William Rehnquist and the Court recognized that the Fourth Amendment to the United States Constitution⁶ is the

⁴ 490 U.S. 386 (1989).

⁵ *Id.* at 397.

⁶ Amendment IV to the U.S. 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

standard by which an officer's actions in these situations must be judged. Based on the Fourth Amendment standard, an officer's use of force must be objectively reasonable to be lawful, and the Court has ruled that the use of deadly force⁷ is objectively reasonable only when an "officer has probable cause to believe that the suspect poses a significant threat of death or serious injury to the officer or others."⁸ Finally, probable cause is based on the "totality of the circumstances,"⁹ known to the officer at the time, and the probable cause [to believe] standard is met when there is a "fair probability"¹⁰ that the belief is accurate.

The situation under review began as a routine welfare check but quickly became tense, uncertain, and rapidly evolving. PFC#1 thought S.W. merely closed the door—after initially opening it—because she was wearing only a robe and wanted to put clothes on before coming back to the door.¹¹ Instead, she assaulted PFC#1 with a knife immediately after opening her door the second time. PFC#1 retreated, trying to create distance between himself and S.W., but he quickly ran out of room to retreat in the hallway. Despite his pleas to "back up," S.W. continued approaching and slashed at PFC#1 with her knife. By the time he used deadly force, PFC#1 clearly had probable cause to believe that S.W. posed a significant threat of death or serious injury to him,¹² making his initial use of deadly force—two shots—objectively reasonable. Even after PFC#1 maneuvered away from S.W., she continued to approach him while maintaining the knife in her hand. PFC#1 fired three additional shots—also objectively reasonable—based on the continuing threat. He did not fire after S.W. fell to the ground and no longer posed a danger of death or serious injury to him. All five of PFC#1's shots were objectively reasonable and, therefore, lawful in light of the significant threat of death or serious injury S.W. posed when he made the decision to fire them.

probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

⁷ See GLOSSARY.

⁸ Tennessee v. Garner, 471 U.S. 1, at p. 4 (1985).

⁹ Illinois v. Gates, 462 U.S. 213 (1983).

¹⁰ *Id.*

¹¹ IAB interview of PFC#1 conducted on April 11, 2025.

¹² *Supra*, note 8.

B. State Law

Virginia state law provides provisions that are similar to the federal law to determine whether a law enforcement officer's use of deadly force complies with state law but also provides additional factors to consider. First, Virginia Code § 19.2-83.3 defines "excessive force" as "any force that is objectively unreasonable given the totality of the circumstances, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight."¹³ Specific to the use of deadly force, Virginia law provides specific guidance by expressly prohibiting the use of "deadly force against a person unless:

1. The law-enforcement officer reasonably believes that deadly force is immediately necessary to protect the law-enforcement officer or another person, other than the subject of the use of deadly force, from the threat of serious bodily injury or death;
2. If feasible, the law-enforcement officer has provided a warning to the subject of the deadly force that he will use deadly force;
3. The law-enforcement officer's actions are reasonable, given the totality of the circumstances; and
4. All other options have been exhausted or do not reasonably lend themselves to the circumstances."¹⁴

And, state law provides additional guidance to evaluate a law enforcement officer's use of deadly force by dictating that "[i]n determining if a law-enforcement officer's use of deadly force is proper, the following factors shall be considered:

1. The reasonableness of the law-enforcement officer's belief and actions from the perspective of a reasonable law-enforcement officer on the scene at the time of the incident; and
2. The totality of the circumstances, including (i) the amount of time available to the law enforcement officer to make a decision; (ii) whether the subject of the use of deadly force (a) possessed or appeared to possess a deadly weapon and (b) refused to comply with the law-enforcement officer's lawful order to surrender an object believed to be a deadly weapon prior to the law-enforcement officer using deadly force; (iii) whether the law enforcement officer engaged in de-escalation measures prior to the use of deadly force, including taking cover, waiting for backup, trying to calm the subject prior to the use of force, or using non-deadly force prior to the use of deadly force; (iv) whether any conduct by the law-enforcement officer prior to the use of deadly force intentionally increased the

¹³ These three factors were articulated in Graham v. Connor, *supra*, note 4, and are often referred to as the Graham factors.

¹⁴ Va. Code § 19.2-83.5 A.

risk of a confrontation resulting in deadly force being used; and (v) the seriousness of the suspected crime.”¹⁵

Based on the law in the Commonwealth—and the specific guidance provided therein—PFC#1’s use of deadly force was legal under state law just as it was under federal law. While he knocked on the door and asked S.W. to speak to him, PFC#1 calmly explained that she was not in trouble and he merely wanted to check on her well-being. When S.W. did open the door, it was certainly reasonable for PFC#1 to believe that deadly force was immediately necessary to protect himself after S.W. slashed at him with a knife. He could have chosen to use deadly force then, but instead retreated away from the door and S.W. When S.W. pursued him down the hall, PFC#1 repeatedly instructed her to “Back up!”. Although he did not provide a specific warning that he would use deadly force, he pointed his weapon at S.W. for several seconds while ordering her to back up. Also, non-deadly¹⁶ force options were not viable after S.W. attacked PFC#1 with a knife; and, he did nothing prior to his use of deadly force that intentionally increased the risk of the confrontation resulting in deadly force. PFC#1 chose to not wait for a backup officer because he was a CIT trained officer and because he did not perceive anything threatening about the information provided in the initial welfare check request.¹⁷

II. Policy Compliance

For many of the same reasons PFC#1’s use of deadly force was objectively reasonable and legal under federal and state law, his use of deadly force also comported with FCPD policy. The FCPD policy regarding the use of force—up to and including deadly force—mirrors the aforementioned pronouncements provided by the Supreme Court in its Graham and Garner opinions.¹⁸ First, FCPD General Order (hereinafter “G.O.”) 540 on USE OF FORCE states, in part: “The use or display of force options by officers shall never be performed in a reckless manner and shall only be used to the extent it is objectively reasonable to defend oneself or

¹⁵ Va. Code § 19.2-83.5 B.

¹⁶ Va. Code § 19.2-83.3 defines “deadly force” as any force that is likely or intended to cause serious bodily injury or death, but provides no definition for “non-deadly force.” Based on the Code’s definition for “deadly force,” a logical definition for “non-deadly force” would be that it is “any force that is *not* likely or intended to cause serious bodily injury or death.” FCPD policy uses the term “less-lethal force” as opposed to “non-deadly force,” and defines it—in General Order 540 III. 13.—as “[a]ny level of force not designed to cause death or serious injury.

¹⁷ *Supra*, note 11. The initial caller to the Prince William County Police Department told them that S.W. indicated she was not armed and had no plan to harm herself.

¹⁸ *Supra*, notes 4 & 8.

another, maintain control over an individual during an investigative or mental health detention, or overcome resistance to a lawful detention or arrest. All officers shall refrain from the unwarranted infliction of pain and/or suffering to another and shall never engage in cruel, degrading, or inhumane treatment of any individual.”¹⁹ Next, FCPD G.O. 540 goes on to define “Objectively Reasonable” as follows: 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. Objective reasonableness is not analyzed with the benefit of hindsight, but rather accounts for the fact that officers must make rapid and necessary decisions regarding the amount of force to use in tense, uncertain, and rapidly evolving situations.”²⁰ Finally, FCPD policy provides that “[t]he 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 the use 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. If feasible, officers shall provide a verbal warning to the subject of deadly force that they will use deadly force.”²¹

As previously noted, PFC#1 did not specifically warn S.W. that he would use deadly force, but he did command her to “back up” and he drew and pointed his firearm at her for several seconds before firing it. And, because there were no feasible less-lethal²² force options to counter S.W.’s knife attack, PFC#1 reasonably believed that deadly force was immediately necessary to protect himself from serious bodily injury or death. Therefore, PFC#1’s use of deadly force met the departmental policy standards required by the FCPD.

PFC#2’s Delayed Response

Separate from the analysis of PFC#1’s use of force is the examination into other aspects of the response to this call. Specifically, the FCPD investigation determined that PFC#2 did not meet the department’s expectations when responding to this call for service. After the call to

¹⁹ FCPD G.O. 540 II., effective April 29, 2024.

²⁰ FCPD G.O. 540 III.18.

²¹ FCPD G.O. 540 VII. A.

²² See note 16, *supra*.

conduct a welfare check was broadcast over the police radio, both PFC#1 and PFC#2 indicated that they were in route to the call. At that time, PFC#1 was slightly less than one mile from the address, while PFC#2 was approximately three-and-a-half miles from the location. Despite indicating that he was responding, PFC#2 remained where he was for fourteen minutes, which is the reason he arrived on scene after the shooting of S.W.

There were extenuating circumstances involved in PFC#2's delay, most notably that, unbeknownst to him, PFC#1's cruiser's GPS was not functioning, causing PFC#2 to believe that PFC#1 was also stationary after indicating he was responding to the scene. During an interview with IAB investigators, PFC#2 explained that he was merely trying to time his arrival so that he and PFC#1 would arrive at the same time.²³ Unfortunately, PFC#2 was driving to S.W.'s apartment building when he heard the report of the shooting being broadcasted over his police radio.

Although PFC#2 had no ulterior motive for delaying his response to this call, the administrative investigation into his actions did conclude that he committed nonfeasance, thereby violating FCPD Regulation 201.1 relating to officer performance of duty.²⁴ The FCPD defines nonfeasance as "the substantial failure of a public employee to perform a distinct duty; the neglect or refusal, without sufficient excuse, to do that which is the employee's legal duty to do."²⁵ I agree with the FCPD's analysis and conclusion regarding PFC#2's performance during this incident. Even though the unfortunate result of the encounter with S.W. may have been the same had both PFC#1 and PFC#2 responded together, his failure to respond immediately constituted nonfeasance.

²³ IAB interview of PFC#2 conducted on September 18, 2024.

²⁴ Regulation 201.1 KNOWLEDGE AND OBEDIENCE TO LAWS, REGULATIONS, AND TRAINING AND PERFORMANCE OF DUTY specifically states that the "[v]iolation of any law, Department policy, or County rule may serve as grounds for disciplinary action, and malfeasance, misfeasance, and nonfeasance shall constitute violations of this Regulation.

²⁵ [Definitions of Terms Used in GOs](#)

RECOMMENDATIONS

What began as PFC#1’s routine welfare check on S.W. became anything but routine in a matter of minutes. Given the tragic outcome of this encounter, one might argue that the response to this call for service should have been handled differently by the police. However, as Graham v. Connor²⁶ instructs, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, *rather than with the 20/20 vision of hindsight.*”²⁷ The FCPD appropriately applied the standards of law and policy to determine that PFC#1 acted reasonably in this case. As it does after all of its critical incidents, the FCPD also internally examined its response to this welfare check to determine whether changes to police policy, equipment, and/or training were warranted.

While the FCPD is often the primary responder to welfare check calls in the County’s current system, they are not the sole stakeholder in the County’s response to behavioral-health calls. The Board of Supervisors may wish to take this opportunity to examine its overall response to behavioral health calls from a County-wide perspective incorporating all involved departments. This section provides some pertinent literature and information that the Board may wish to consider in reflecting on this tragic incident in which a woman in crisis lost her life.

Current Status of Behavioral Health Response in Fairfax County

Fairfax County has a multitude of programs, resources, and initiatives in place to address mental and behavioral health crisis calls. The Fairfax-Falls Church Community Services Board (hereinafter “CSB”) partners with seven law enforcement agencies, including the Fairfax County Police Department and the Fairfax County Department of Public Safety Communications, to provide appropriate response options. Crisis care resources in the County include a 9-8-8 crisis call center, mobile crisis units (staffed with only mental health professionals), Co-Responder teams (that pair mental health professionals with police officers), crisis-intervention trained police officers, and various services at the Sharon Bulova Center for Community Health, including 24/7 walk-in emergency psychiatric services at the Merrifield Crisis Response Center (hereinafter “MCRC”).²⁸

²⁶ 490 U.S. 386 (1989).

²⁷ *Id.* at 396 (*emphasis added*).

²⁸ See [Fairfax County Crisis Care Resources](#) and [Fairfax County Mental Health Crisis Services](#).

The County was well positioned to implement the recent statewide Marcus-Alert legislation, which requires law enforcement and behavioral health agencies in Virginia to work together to improve responses to individuals in crisis.²⁹ The County implements a “Triage Framework,” which identifies behavioral health calls as Level 1 (Routine), 2 (Moderate), 3 (Urgent), or 4 (Emergent) to guide appropriate responses based on the “level of urgency.”³⁰ A recent report on Virginia’s progress in implementing its statewide behavioral health response system highlighted the progress made in 17 sites across the Commonwealth—including Fairfax County—in implementing its “Comprehensive Crisis System.”³¹ As a result, these sites report positive outcomes such as reduced unnecessary law enforcement involvement and increased behavioral health responses.

The FCPD plays an integral role in the County’s response to individuals in crisis, sometimes responding alone and sometimes responding with others. FCPD officers are dispatched to calls made to 9-1-1 (that do not transfer over to 9-8-8), respond to calls for service as part of Co-Responder Teams,³² conduct welfare checks, and staff the MCRC.³³ The FCPD has trained its officers on crisis intervention, mental health first aid, and de-escalation tactics³⁴ for the past several years. The department revised its general order on its response to emotionally distressed persons in 2023, emphasizing de-escalation and co-responding with mental health clinicians.³⁵

FCPD officers are sometimes dispatched to behavioral health calls without a criminal component or that do not pose an immediate threat,³⁶ and other times they respond to such

²⁹ Starting in June 2023, the County implemented changes to its behavioral health crisis response as required by the Marcus Alert legislation. See [Marcus Alert | Community Services Board](#) and [State Plan for the Implementation of the Marcus-Davis Peters Act](#).

³⁰ The Triage Framework used in the County (see [Marcus Alert | Community Services Board](#)) appears to follow the Marcus Alert System Triage Framework as described on page 63 of [The State Plan for the Implementation of the Marcus-David Peters Act](#).

³¹ See [Report on Marcus Alert and the Comprehensive Crisis System, FY 2024 – January 14, 2025](#).

³² From the inception of the FCPD’s pilot Co-Responder program in 2021 until October 2024, a Co-Responder team was dispatched to approximately 5,000 calls for service, with over 2,200 of those in 2024 alone. See [Press Conference - Reston OIS BWC Release 10.14.24 \(youtube.com\)](#).

³³ The FCPD has 8 “in house” officers who may assist with walk-ins at the Center for Community Health, provide guard duty at hospitals, issue Emergency Custody Orders and Temporary Detention Orders, transport individuals to beds throughout the state, and fill in for Co-Responder unit officers.

³⁴ Such as the Police Executive Research Forum’s “Integrating Communication, Assessment, and Tactics” or “ICAT” training.

³⁵ G.O. 609 Emotionally Distressed Persons, effective Sept. 22, 2023 (current G.O. in place).

³⁶ Officers may be dispatched based on the best information available or when callers to 9-1-1 refuse transfer to 9-8-8, despite being eligible.

incidents because civilian responders request police backup.³⁷ As demonstrated in the incident under review, FCPD officers often conduct welfare checks without a clinician present.³⁸ During their encounters with individuals in crisis, policy requires officers “to assess the scene, triage the level of mental health issues encountered, and obtain mental health assistance as needed.”³⁹ Specifically, officers assess “low-level” from “high-level” behavioral health situations taking into account “safety risks.”⁴⁰ In “high-level” crisis situations officers are to “promptly request Crisis Intervention Trained officer(s) and Co-Responder Unit assistance” and in “low-level” crisis situations they are to “divert [individuals] to the Regional Crisis Call Center (“RCCC”) whenever feasible.”⁴¹

Reconsidering Police Involvement in Behavioral Health Calls

Obviously, FCPD officers are on the scene of many behavioral health calls. However, following recent investigations into the practices of police departments in Minneapolis, Louisville, and Memphis, the United States Department of Justice (hereinafter “DOJ”) identified civil rights violations—based on the Americans with Disabilities Act (hereinafter “ADA”)⁴²—because of an improper *police* response in those cities to people in crisis.⁴³ And after identifying the violations in Louisville, the DOJ mandated that the Louisville Metro Government implement *non-law enforcement* response to these situations when police involvement is not necessary.⁴⁴

³⁷ In a subset of Department of Public Safety Communications computer-aided dispatch events, Mobile Crisis Units requested police backup in 68 of 111 events in 2024 and 48 of 79 events in 2025, approximately 60% of the time.

³⁸ Between September 2023 and September 2024, the FCPD received 3,252 welfare check calls for service, or almost nine per day. See [Press Conference - Reston OIS BWC Release 10.14.24 \(youtube.com\)](#).

³⁹ FCPD G.O. 609 V. A., effective September 22, 2023.

⁴⁰ FCPD G.O. 609. V. A.

⁴¹ FCPD G.O. 609 V. B. 2. a.

⁴² United States Code Title 42 § 12101.

⁴³ [Office of Public Affairs | Justice Department Finds Civil Rights Violations by the Minneapolis Police Department and the City of Minneapolis | United States Department of Justice](#); [Office of Public Affairs | Justice Department Finds Civil Rights Violations by the Louisville Metro Police Department and Louisville/Jefferson County Metro Government | United States Department of Justice](#); and [Office of Public Affairs | Justice Department Finds Civil Rights Violations by Memphis Police Department and City of Memphis | United States Department of Justice](#)

⁴⁴ See, [Office of Public Affairs | Justice Department Secures Agreement with Louisville Metro Government to Reform Louisville Metro’s and Louisville Metro Police Department’s Unconstitutional and Unlawful Practices | United States Department of Justice](#). While the reform efforts continue in Louisville, the federal consent decree has been dismissed – see, [Federal judge dismisses DOJ consent decree targeting Louisville police reforms | whas11.com](#).

The ADA, which allows for monetary damages when violations are identified, prohibits discrimination against disabled individuals⁴⁵ and requires “reasonable accommodations” for them. The logic behind the ADA violations identified by the DOJ is straightforward. When a person calls 9-1-1 to report that someone is having an apparent heart attack, medical personnel are dispatched to respond to the *physical* medical situation. But, when a person calls 9-1-1 to report that someone is in mental or behavioral distress, police are often dispatched to respond to the *mental or behavioral* medical situation. Although criminal activity was reported in neither call, law enforcement was dispatched to one (*mental or behavioral* medical situation), but not the other (*physical* medical situation). The presence of law enforcement officers on these calls sometimes results in the arrest of and/or a use of force against an individual with a mental impairment, opening the distinct possibility of discrimination in violation of the ADA.⁴⁶

While the ADA seems clear, a huge concern with removing officers from these calls is that there may be unintended consequences or increased risks to the individuals in crisis and to civilian first responders when officers are not there. This has prompted a hearty debate, with one side expressing an interest in reducing police involvement in responding to mental health calls to allow them to focus on crime and violence,⁴⁷ and the other side expressing concerns that removing officers from these calls will put civilian responders at risk of getting hurt.⁴⁸ In spite of the risks involved, and because individuals in crisis are often hurt (or killed) during their interactions with the police,⁴⁹ jurisdictions across the country must decide when law enforcement officers are needed on such calls and when the presence of police on them may actually be detrimental (if not illegal).⁵⁰

⁴⁵ The statute defines a “disability” as “a physical or *mental* impairment that substantially limits one or more major life activities” (*emphasis added*). United States Code §12102.

⁴⁶ *Supra*, note 43.

⁴⁷ A 2024 Ipsos poll revealed that most Americans say that someone in a mental health crisis should receive a mental health response, not a police response. Further, individuals from certain racial and ethnic groups indicated that they were fearful that the police might hurt them or a loved one if they were in crisis. See [Poll of Public Perspectives on 988 & Crisis Response \(2024\) | National Alliance on Mental Illness \(NAMI\)](#).

⁴⁸ See e.g., see [Zohran Mamdani: NYC's new mayor and his NYPD agenda explained; 'Someone will get hurt': Police1 readers react to Mamdani's proposed NYPD reforms; Albuquerque's vision for non-police first responders comes down to earth - New Mexico In Depth](#).

⁴⁹ National data on police shootings occurring since 2015 suggest that up to one-fifth of fatal police shootings were of individuals experiencing a behavioral health crisis. See, Washington Post Police Shootings Database, updated Dec. 31, 2024, from [Police shootings database 2015-2024: Search by race, age, department - Washington Post](#). See also [Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters - Treatment Advocacy Center](#).

⁵⁰ *Supra*, note 43.

For decades jurisdictions nationwide have deployed CIT police officers and implemented co-responder programs⁵¹ to address behavioral health calls.⁵² And while co-response models may provide some benefits over police-only responses to behavioral health crises,⁵³ there still remains a risk of harm to community members (and possible ADA violations) when police are involved in responding to such incidents. An increased use of civilian-only or non-police responses may mitigate the potential harm to community members in crisis, and also to the first responders who respond to these calls.⁵⁴ While empirical research on the outcomes of these models is still needed,⁵⁵ there is a growing number of non-police response programs with positive outcomes⁵⁶ that support the efficacy of expanding the use of purely civilian response.⁵⁷ Therefore, local governments must continue to explore ways to increase the use of civilian first responders and reduce the role of police.⁵⁸

Identifying calls that can be safely addressed with a non-police response requires consideration of the type of call for service and the potential threat posed by the individuals in crisis—to both themselves and to others. One long-serving civilian response program and a more recently established one offer examples of decision-making criteria in determining whether to dispatch police or alternative first responders. In Eugene, Oregon, the CAHOOTS program

⁵¹ Co-responder programs vary across the country but typically provide joint responses by law enforcement with other professionals such as mental or behavioral health clinicians, physicians, emergency medical services, or non-clinical social workers.

⁵² See [Civilian Crisis Response Rather than Co-Responder and CIT Programs](#), PERF's [Rethinking the Police Response to Mental Health-Related Calls](#), and [Since 2020, Civilians Respond to 911 Calls in 10 Times as Many Cities](#).

⁵³ While more research on co-responder programs is needed to determine their effectiveness, available evidence suggests positive outcomes (i.e., de-escalation, connection to services, reducing use of criminal justice systems, and cost-effectiveness). See [Police and Mental Health: Exploring Co-Response Models and Best Practices. Eloi, et al. \(2025\)](#); [Assessing the Impact of Co-Responder Team Programs: A Review of Research. IACP/UC Center for Police Research and Policy, 2020](#); and, [Re-examining mental health crisis intervention: A rapid review comparing outcomes across police, co-responder, and non-police models. Marcus & Stergiopoulos \(2022\)](#).

⁵⁴ Some available data on community response programs indicate that civilian responders are usually able to address non-violent situations safely, with no casualties reported and only rarely having to call for police backup. See *Governing*, September 19, 2025 article: [Since 2020, Civilians Respond to 911 Calls in 10 Times as Many Cities](#).

⁵⁵ See [Marcus & Stergiopoulos \(2022\)](#).

⁵⁶ Examples include [CAHOOTS](#) in Eugene, Oregon; [STAR](#) in Denver, Colorado; [Mobile Crisis Intervention Unit](#) in New Orleans, Louisiana; and [HEART](#) in Durham, NC.

⁵⁷ Between 2013-2025, 89 programs employing civilian-only responses to non-violent calls were implemented in the U.S. across 31 states. See *Governing*, September 19, 2025 article: [Since 2020, Civilians Respond to 911 Calls in 10 Times as Many Cities](#).

⁵⁸ See, e.g. Cleveland City Council's efforts to establish "Tanisha's Law" in *Governing*, December 9, 2025, article: [How Cities Have Implemented 'Care Response' Teams on 911 Calls](#); and [Growing number of California sheriffs no longer respond to mental health calls | California | The Guardian](#).

was widely regarded as a model for civilian crisis response for thirty-five years,⁵⁹ sending civilian-only mobile response to non-criminal calls, which included calls for intoxicated persons, persons in need of treatment for mental illness, and persons in need of shelter.⁶⁰ Similar to the CAHOOTS program, Denver's STAR program, operating since 2020, does not involve police unless there is a crime associated with a call for service, or the person is potentially hostile or a danger to themselves or others.⁶¹ CAHOOTS program staff conducted most welfare checks without the police department unless "hazardous conditions exist[ed] or the caller suspect[ed] a crime may have been committed," or the welfare check require[d] forcefully entering the premises.⁶² Another consideration for responding to calls with or without officers is the urgency of the situation. For example, the STAR program specifies that for certain calls—such as suicidal persons and family disturbance calls—the police may be dispatched if there is an anticipated delay in dispatching STAR, even if a non-police response would otherwise be more appropriate.⁶³

Appropriate risk assessment and triage of behavioral health calls remains a challenge in most jurisdictions, even when those communities want responses to behavioral health crises with less or no police involvement. Researcher Loren Atherley estimates that between 60-80% of the time, police are dispatched to non-criminal situations "out of an abundance of caution," and points out that it may be "simultaneously true that most calls for service do not require the police, and it is unsafe to send anyone else."⁶⁴ While there remains heavy reliance on police as the first responders because of fears of a worst-case scenario, Atherley's research indicates that the occurrence of death and/or injury are statistical outliers. However, it must be acknowledged that "adverse outcomes are inevitable"⁶⁵ and there will always be risk in these situations. Based on his research, Atherley promotes the adoption of risk management systems for public safety—similar to those used in commercial aviation—that ensure, at minimum, any injury or death is not the result of negligence and that systems can be adjusted to avoid repeating the same mistakes.

⁵⁹ The CAHOOTS program ended service—due to budget cuts—in Eugene, Oregon in April, 2025, after having served that community since 1989.

⁶⁰ See pg. 235 of the [CAHOOTS Call Taking Manual](#).

⁶¹ See pg. 235 of the [CAHOOTS Call Taking Manual](#) and pg. 3 of the [STAR Reference Guide](#).

⁶² *Id.*, pg. 249 of the [CAHOOTS Call Taking Manual](#).

⁶³ See pg. 2 of the [STAR Reference Guide](#).

⁶⁴ [Risk Managed Demand: Operational Risk Management in Police Response to Calls for Service](#), Pg. 4.

⁶⁵ *Id.*, pg. 23.

Recommendations

After reviewing the FCPD investigation into a previous fatal officer-involved shooting of an individual suffering from a mental health crisis in July, 2022, I recommended “an expedited full implementation” of the Fairfax County Co-Responder Program.⁶⁶ Full implementation of the County Co-Responder Program was achieved when a fourth team was added in October 2023; and, based on current call data, there is no apparent need to provide teams around the clock.⁶⁷

Based on my review of the available literature, and on my reviews of the FCPD’s shootings of S.W. in September 2024, and the man in crisis in his home in July 2022,⁶⁸ I now recommend that the BOS consider whether it is satisfied with its current level of civilian response and police response to behavioral health calls, specifically considering the use of FCPD officers in responding to welfare checks.⁶⁹ I also recommend that the BOS considers the extent to which the County’s response aligns with the ADA or could possibly expose the County to liability for potentially violating the ADA. While the County and the FCPD should be lauded for the significant progress they have made in responding to behavioral health crisis calls over the past several years, continuous improvement in responding to these calls in an appropriate and legally compliant way is of paramount importance to the Board of Supervisors, individuals in crisis, the FCPD, and the community at large.

⁶⁶ See [July 7, 2022: Officer-Involved Shooting; Deployments of Electronic Control Weapons](#). The individual in crisis was shot (and killed) by officers when he threw an object at the officers and ran towards them with a wine bottle. While the three officers who responded were CIT trained, a Co-Responder unit was unavailable at the time.

⁶⁷ Based on current requests for co-responder teams to respond to calls, they are available from 10:00 a.m. to 12:00 midnight, seven days a week.

⁶⁸ *Supra*, note 66.

⁶⁹ For an example of a jurisdiction considering ways to expand its non-police response to additional call categories, including welfare checks, see: [Minneapolis-Community-Safety-Ecosystem-Asset-and-Gap-Analysis Findings-and-Action-Plan.pdf](#).

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.