

Annual Report of
the Fairfax County
Independent Police Auditor

2020



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Independent Police Auditor

2020 Annual Report of the Fairfax County Independent Police Auditor

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SECTION I: OVERVIEW

The Office of the Independent Police Auditor (“OIPA”) was established by the Fairfax County Board of Supervisors (“BOS”) on September 20, 2016,¹ in response to recommendations from the Ad Hoc Police Practices Review Commission² and became operational on April 17, 2017. OIPA’s mission is to bolster trust between the citizens of Fairfax County and the Fairfax County Police Department (“FCPD”) by providing accountability, fairness, transparency, and trust in the complaint system and investigative process.

The Independent Police Auditor (“Auditor”) is mandated by the BOS to review:

1. All investigations of death or serious injury cases conducted by the Internal Affairs Bureau (“IAB”) of the FCPD; and
2. Use of Force (“UOF”) investigations which are subject of a public complaint made to the FCPD or the Auditor and which meet the definition of police use of force as incorporated in Police Department General Orders (“G.O.”) as of the date of the UOF or alleged misconduct.

The Auditor reviews FCPD internal administrative investigations of all relevant use of force cases and in custody-deaths for thoroughness, completeness, accuracy, objectivity, and impartiality, and issues a public report following the review. The OIPA also produces an annual report,³ as well as additional reports on FCPD policy recommendations or data reviews. Through its reports, the OIPA makes public recommendations for revisions to FCPD policies, training, and practices.

The OIPA provides administrative support to the BOS-mandated Fairfax County Police Civilian Review Panel (“Panel”). The Panel, which is made up of nine volunteer County residents,

¹ <https://www.fairfaxcounty.gov/boardofsupervisors/sept-20-2016-meeting>

² <https://www.fairfaxcounty.gov/policecommission/>

³ Independent Police Auditor Richard G. Schott [presented the 2019 Annual Report](#) to the BOS during the July 21, 2020 Public Safety Committee meeting. This 2020 Annual Report will be presented to the BOS during a 2021 Public Safety Committee meeting.

receives complaints and reviews police investigations involving serious police misconduct or abuse of authority allegations.

Another core function of the OIPA is to serve as an accessible, safe, impartial, and responsive intake venue for complaints against the FCPD. The OIPA processes citizen complaints concerning various issues including use of force, and those under the purview of the Panel. Citizens may submit complaints to the OIPA in lieu of submitting them directly to the FCPD. Citizens may request that the Auditor or the Panel review an already completed FCPD investigation if they remain dissatisfied with the results.

The global pandemic caused by the Covid-19 pandemic had a major impact on the functions of the OIPA in 2020. Beginning in March 2020, all office personnel began teleworking. When staff was able to return to government offices, access to the FCPD IAB office, where all investigation reviews are required to occur, was limited due to staffing and Covid-19 restrictions. These limitations are reflected in the number of investigation reviews that were completed in 2020. During this period of limited access to investigations, OIPA staff was able to assist in data compilation for the study by a research team representing the University of Texas at San Antonio (UTSA) and the University of Cincinnati to examine the racial disparities in use of force incidents in Fairfax County. The delivery of data to that team was also delayed because of access issues created by the Covid-19 pandemic, causing an approximate five-month delay in the issuance of their report and findings.

This Annual Report provides a description of key OIPA activities that occurred during 2020 with an emphasis on individual case reviews conducted, recommendations made by the Auditor, data review and analysis, complaint intake, and support provided to the Panel.

SECTION II: INDIVIDUAL CASE REVIEWS

The OIPA monitored or reviewed a total of nineteen FCPD investigations during 2020. Six investigations were monitored by the OIPA automatically due to the nature of the incident (4 officer-involved shootings and 2 death or serious injury cases). The Auditor monitored five

investigations at the request of FCPD Chief Edwin C. Roessler Jr., which included the use of OC spray in one incident and the use of an electronic control weapon in one incident. The other three incidents did not involve the use of a weapon or instrument.⁴

The Auditor reviewed eight investigations that were the subject of a public complaint of excessive force made to either the OIPA (2) or the FCPD (6). The types of force used by FCPD officers in these allegations included brandished firearms (2), assaults (2), OC spray (1), choking (1), punching (1), and pushing (1).

In 2020, the OIPA released six reports⁵ on incidents that occurred during 2018 or 2019⁶:

| OIPA Case # | Incident Date | Incident or Allegation Description | Initiated By | Review Start Date | Report Date |
|-------------|---------------|------------------------------------|-------------------|-------------------|-------------|
| IPA-19-01 | 3/5/2019 | UOF (OC spray) | Request by Chief | 3/6/2019 | 3/17/2020 |
| IPA-19-03 | 11/6/2018 | Excessive UOF (Assault) | Complaint to FCPD | 3/26/2019 | 6/5/2020 |
| IPA-19-09 | 6/24/2019 | UOF (Brandished Firearms) | Complaint to FCPD | 11/25/2019 | 2/28/2020 |
| IPA-19-10 | 7/8/2019 | UOF (OC spray) | Complaint to FCPD | 11/25/2019 | 7/29/2020 |
| IPA-20-07 | 4/28/2019 | UOF (Assault) | Complaint to FCPD | 10/9/2020 | 12/14/2020 |
| IPA-20-08 | 6/11/2019 | UOF (Brandished Firearms) | Complaint to FCPD | 10/9/2020 | 12/30/2020 |

KEY: OIS – Officer-Involved Shooting
ICD – In-Custody Death
UOF – Use of Force

⁴ Additional details on the investigations monitored or reviewed during 2020 are provided in Appendix A.

⁵ A seventh report, IPA-20-03, on an incident that occurred on 10/25/2019, was completed in 2020; however, publication was delayed due to “good cause” pending a review by the Fairfax County Police Civilian Review Panel of the investigation into non-use of force allegations stemming from the same incident.

⁶ Links to all reports published in 2020, and their publication dates, are provided in Appendix B.

During 2020 the OIPA began monitoring FCPD investigations into seven incidents. These OIPA reviews will continue into 2021 and public reports will be issued as they are completed:

| OIPA Case # | Incident Date | Incident or Allegation Description | Initiated By | Review Start Date |
|-------------|---------------|------------------------------------|-------------------|-------------------|
| IPA-20-01 | 10/20/2019 | Death/Serious Injury | Automatic | 1/27/2020 |
| IPA-20-02 | 1/28/2020 | OIS | Automatic | 1/29/2020 |
| IPA-20-04 | 5/26/2020 | UOF (Knee) | Request by Chief | 5/29/2020 |
| IPA-20-05 | 6/5/2020 | UOF (ECW) | Request by Chief | 6/6/2020 |
| IPA-20-06 | 5/27/2020 | UOF (Punch; Drag) | Complaint to OIPA | 6/23/2020 |
| IPA-20-09 | 11/10/2020 | UOF (Push) | Complaint to OIPA | 11/16/2020 |
| IPA-20-10 | 12/17/2020 | OIS | Automatic | 12/18/2020 |

Five reviews underway at the start of 2020 have not been completed and will continue during 2021. Public reports will be issued as they are completed:

| OIPA Case # | Incident Date | Incident or Allegation Description | Initiated By | Review Start Date |
|-------------|---------------|---|------------------|-------------------|
| IPA-19-04 | 4/25/2019 | Excessive UOF (Takedown, Force to Cuff) | Request by Chief | 4/30/2019 |
| IPA-19-05 | 6/25/2019 | OIS (Domesticated Animal) | Automatic | 6/25/2019 |
| IPA-19-06 | 7/20/2019 | UOF (Force to Cuff, Choke) | Request by Chief | 7/22/2019 |
| IPA-19-07 | 10/21/2019 | OIS | Automatic | 10/22/2019 |
| IPA-19-08 | 12/4/2019 | Death/Serious Injury IAB Investigation | Automatic | 12/19/2019 |

SECTION III: POLICY REVIEW & RECOMMENDATIONS

In addition to conducting individual incident reviews, the BOS authorized the Auditor to make public recommendations to the Chief of Police concerning the revision of FCPD policies, training, and practices. The BOS is notified when the Auditor issues recommendations. In 2020, the Auditor examined FCPD policies, practices, and training, both in the context of individual incident reviews and independent of these reviews.

In its report titled "[A Review of the Disparity in FCPD Use of Force Incidents by Race in 2016](#)," published on March 11, 2020, OIPA recommended that the FCPD take steps to collect and publish data by subject race on police activities beyond what was already being collected and published. For example, OIPA recommended collecting and publishing data on traffic stops, requests for consent to search, and citations.

In three separate memoranda published on May 28, 2020,⁷ the Auditor made several recommendations for revisions to: G.O. 203 REGULATIONS to ensure consistency with FCPD G.O. 601 ARREST PROCEDURES; G.O. 601 ARREST PROCEDURES to document the full extent of and limitations on the lawful search incident to arrest; and G.O. 603.4 POLICE CITIZEN CONTACT to clarify elements of reasonable suspicion and to make the reasonable suspicion standard consistent throughout G.O. 603.

The tragic death of George Floyd in Minneapolis, Minnesota in May 2020, prompted protests and demands for police reform across the country. On June 5, 2020, in the midst of those calls for reform, a high-profile incident in Fairfax County was captured on an officer's body-worn camera in which an FCPD officer used his ECW on an individual who appeared to be in crisis. FCPD Chief Roessler immediately relieved the officer from duty and requested that the Auditor monitor and review the department's internal investigation of the incident. Without passing judgment on the propriety of the officer's actions in that case,⁸ on June 12, 2020, the Auditor

⁷ [OIPA Policy Change Recommendations G.O. 203](#)
[OIPA Policy Change Recommendations G.O. 601](#)
[OIPA Policy Change Recommendations G.O. 603.4](#)

⁸ The incident (IPA-20-05) remained under investigation at the end of 2020.

communicated directly with the BOS to suggest exploring the possibility of authorizing the Chief of Police to immediately suspend officers, with or without pay, pending an internal investigation. In the same direct communication with the BOS, the Auditor recommended that the FCPD craft and adopt a social media usage policy unique to the FCPD rather than following the social media usage policy applicable to all county employees. The social media policy should include the ability for the FCPD to randomly audit social media accounts. The random audits should begin during the application process and continue throughout an employee's tenure with the FCPD.

In an incident report ([IPA-20-07](#)) published on December 14, 2020, OIPA provided recommendations for the FCPD to consider related to policies which impacted the conduct of the FCPD's investigation of the April 28, 2019 incident. First, OIPA recommended that FCPD add all consensual encounters, investigative detentions, and arrests (whenever it is foreseeable that the consensual encounter, investigative detention, or arrest will be initiated or occur within the range of In-car video ("ICV") equipment) to its list of situations where activation of ICV equipment is mandatory. FCPD G.O. 430.8 IV. A. already mandates the use of ICV in the following situations: 1) traffic stops, and the equipment can only be turned off after the traffic stop has ended and the violator and/or officer have left the scene; 2) pursuits, and the equipment can only be stopped when a suspect is taken into custody, a supervisor directs the deactivation, or the pursuit is terminated; 3) emergency response driving situations; and 4) transports of people. An officer involved in the incident under review explained that he deliberately did not activate the ICV equipment in his police cruiser when he first approached the subject of the incident because he feared that activating the camera would affect his ability to testify that the encounter was consensual at the outset. The mandatory recording recommended by OIPA will not transform a consensual encounter into an investigative detention, and footage of a consensual encounter may even help establish the voluntary nature of such an encounter. Furthermore, if implemented by the FCPD, this policy change will make the ICV policy consistent with the requirements of the body-worn camera ("BWC") policy currently in place during the ongoing implementation of the FCPD's BWC program. Specifically, FCPD Standard Operating Procedure ("SOP") 18-056 requires the activation of an officer's BWC,

unless there is an immediate threat to the officer or others that would prevent activation, prior to the following situations: 1) the arrival at any call for service; 2) traffic or subject stops; 3) self-initiated events involving the rendering of public services or law-enforcement related activity; 4) the transportation of any person in-custody.

A second and similar recommendation made in the December 14, 2020 report ([IPA-20-07](#)) addressed the recording of custodial interrogations. Specifically, OIPA recommended that the FCPD should mandate the recording of custodial interrogations, subject to certain exceptions to be delineated in policy. Recognizing that custodial interrogations may take place in a variety of settings (e.g., the backseat of a patrol cruiser, a holding cell at the ADC), which may or may not allow for recording, the recommendation is for the FCPD to mandate that custodial interrogations conducted in an FCPD-controlled interrogation room be recorded. This mandate should apply to uniformed patrol officers, as well as to nonuniformed detectives and other investigators. Potential exceptions to mandatory recording of custodial interrogations should be identified – such as when the individual who is in custody and being interrogated is likely to cooperate in future investigations and does not want to be recorded. Of course, all interrogations should be documented by the notetaking of someone involved in conducting the interrogation, whether or not it is electronically recorded. Finally, the policy should allow for, but not mandate, the recording of non-custodial interrogations or other interviews. Adoption of this policy recommendation will not only prevent a situation such as the one that occurred during the incident under review, but will also provide factfinders (e.g., judges, juries, internal investigators) with reliable evidence of what transpired during an interrogation.

FCPD Responses to Recommendations

During 2020, the OIPA maintained a Recommendations Matrix that outlines all recommendations made by the Auditor to date, the associated incidents, and the status of implementation by the FCPD. The matrix in 2020 also incorporated two recommendations the Auditor made directly to the Board of Supervisors regarding FCPD policies and practices. The Auditor will publish the latest Recommendations Matrix, with the FCPD's official responses and actions taken, on the Independent Police Auditor's website in 2021 so that the Board of

Supervisors and the public can track the FCPD response to and progress of recommendations made by OIPA.

Below is an excerpt of the Recommendations Matrix with the Auditor’s recommendations made to or implemented by the FCPD and the Board of Supervisors during 2020:

| Case # Incident Date | Report Date | Recommendation | Status |
|--|----------------|---|--|
| IPA-18-03 6/2/2018 | 4/24/2019 | Review department training on the use of the Ripp Hobble and language in SOP 07-029 | Implemented New SOP 07-029 (effective 7/20/20) |
| IPA-18-02 6/26/2018 | 4/30/2019 | | |
| Report: Review of Use of Force in 2016 | 3/11/2020 | The FCPD should take steps to collect and publish data on other kinds of police activities by subject race, such as traffic stops, consents to search, arrests, and citations. | In process: data dashboards on arrests and citations published in June/July 2020 |
| Memo | 5/26/2020 | Policy changes to G.O. 603.4 POLICE CITIZEN CONTACT, including clarifying elements of reasonable suspicion and making the reasonable suspicion standard consistent throughout the G.O. | Implemented – new G.O. 603.4 effective date 1/1/2021 |
| Memo | 5/26/2020 | Policy changes to G.O. 601 ARREST PROCEDURES, including to recognize the full extent of and limitations on the lawful search incident to arrest. | Implemented – new G.O. 601 effective date 1/1/2021 |
| Memo | 5/26/2020 | Policy changes to G.O. 203 REGULATIONS to ensure consistency with the G.O. on ARREST PROCEDURES. | In process |
| Email | 6/12/2020 | Social Media usage policy unique to members of the FCPD | Under BOS Consideration |
| Email | 6/12/2020 | Authority for Chief to immediately suspend officers, with pay or without pay, pending an internal investigation | Under BOS Consideration |
| IPA-20-07 4/28/2019 | 12/14/2020 | All consensual encounters, investigative detentions, and arrests (whenever it is foreseeable that the consensual encounter, investigative detention, or arrest will be initiated or occur within the range of In-car video (“ICV”) equipment) be added to the situations enumerated in G.O. 430.8 where activation of ICV equipment is mandatory. | Under FCPD consideration |

| | | | |
|------------------------|------------|--|--------------------------|
| IPA-20-07 4/28/2019 | 12/14/2020 | Record all custodial interrogations, subject to certain exceptions to be delineated in policy. Recognizing that custodial interrogations may take place in a variety of settings (e.g., the backseat of a patrol cruiser, a holding cell at the ADC), which may or may not allow for recording, the recommendation is for the FCPD to mandate that custodial interrogations conducted in an FCPD-controlled interrogation room be recorded. Potential exceptions to mandatory recording of custodial interrogations should be identified. The policy should allow for, but not mandate, the recording of non-custodial interrogations or other interviews. | Under FCPD consideration |
|------------------------|------------|--|--------------------------|

SECTION IV: DATA REVIEW & ANALYSIS

Review of 2016 Force Incidents: Data published by the FCPD on the 507 individuals involved in force incidents in 2016⁹ and the 495 individuals involved in force incidents in 2017¹⁰ reveal the same pattern – use of force against Blacks remains around 40% of incidents, while Blacks continue to make up about 9% of the County’s population. In 2020, OIPA continued its review of the FCPD’s use of force statistics to identify trends in FCPD’s use of force over time.

Following a review of 2015 incidents¹¹ that highlighted differences in situational factors involving Blacks and Whites,¹² OIPA conducted a more comprehensive examination of UOF incidents that occurred in 2016 to provide descriptive statistics on use of force incidents and how they differ by subject race.

OIPA combined electronic data provided by the FCPD with data pulled from a manual review of incident and arrest reports to build a dataset on force incidents that occurred in 2016. Key data

⁹ [FCPD Internal Affairs Bureau 2016 Annual Statistical Report](#)

¹⁰ [FCPD Internal Affairs Bureau 2017 Annual Statistical Report](#)

¹¹At the request of the Board of Supervisors, OIPA prepared *A Review of the Disparity in FCPD Use of Force Incidents by Race in 2015* available at <https://www.fairfaxcounty.gov/policeauditor/sites/policeauditor/files/assets/reports/oipa%20disparity%20uof%202015.pdf>

¹² While OIPA found no discernable difference in the level of force deployed against Blacks versus that deployed against Whites when engaged in similar conduct in 2015, there was some variation in the type of conduct engaged in by Blacks and Whites, as well as in the force techniques employed by FCPD officers between these two groups.

elements included in the review were: race, gender, and resident status of the subject; district station; time of day; reasons for police contact; citizen actions and presence of weapons; whether the subject was under the influence of drugs or alcohol; whether the subject was characterized as an Emotionally Disturbed Person; force type used; and charges brought against the subject, if any. Using Power BI software, OIPA analyzed the data to build visualizations of the force incidents for consumption by the Board of Supervisors and the public.

OIPA's report ["A Review of the Disparity in FCPD Use of Force Incidents by Race in 2016"](#) was published on March 11, 2020. It provides descriptive statistics on the 2016 incidents and highlights the common situational factors present in force incidents across both years, 2015-2016. OIPA noted that common situational factors spanning incidents from 2015 and 2016 included that: A greater number of Blacks than Whites actively resisted; Blacks more often than Whites fled or attempted to flee; more Whites spit at, bit or attempted to bite officers than Blacks; more Blacks were subjects of "takedowns" or had firearms pointed at them; more Whites than Blacks had restraint devices used on them; and officers infrequently encountered suspects with a weapon in their possession. Other findings include that, in 2016, when comparing Blacks and Whites exhibiting similar behavior: a greater proportion of Blacks had an instrument used on them when they actively resisted or when they did not flee; and a greater proportion of Whites had restraint devices used on them regardless of their behavior (fleeing or not, active or passive resistance).

Research Study on Use of Force: In May 2019, the Board of Supervisors charged the OIPA with identifying an academic or research entity to conduct a study on the racial disparities in use of force incidents within the County. OIPA published a Request for Proposals in July 2019 and led a review committee to evaluate the five competitive proposals received. Based on the committee's recommendation, on January 27, 2020 the County awarded a contract to a research team from the University of Texas at San Antonio (UTSA) in partnership with researchers from the University of Cincinnati. The UTSA study is intended to identify patterns and trends in uses of force by the FCPD with emphasis on racial, ethnic, gender, or similar disparities across subpopulations.

The study will build upon the previous OIPA reviews of FCPD use of force incidents described herein. The study will address the following questions specific to incidents that occurred between 2016-2018:

1. What factors or combination of factors contribute to the use of force by FCPD officers? Specifically, what role does civilian race, ethnicity, gender, or similar personal characteristics play in the decision to use force?
2. Does the rate of force experienced by persons of different races and/or ethnicities align with those groups' representation among persons at risk for having force used against them by the police? Do disparities exist in rates of force experienced by different racial and/or ethnic groups relative to risk?
3. Is civilian race, ethnicity, or gender related to the level of force used by the police while accounting for resistance and other relevant individual, situational, and environmental factors?
4. How can the FCPD improve its use of force data collection processes to help facilitate future analyses?
5. What steps can the FCPD take to help reduce bias in use of force incidents?

In February 2020, OIPA convened an in-person kickoff meeting with the UTSA researchers, OIPA staff, FCPD command staff, and FCPD and other County data analysts. The purpose of the meeting was to provide the UTSA researchers with an understanding of the types of data maintained by the FCPD and the County in general (and the formats in which they are stored), as well as to develop a process and timeframe for transferring the necessary data to UTSA for analysis.

Throughout 2020, OIPA staff served in a liaison role to ensure a smooth process for transferring data from the FCPD and other County offices to UTSA. Over a dozen datasets were developed, cleaned and transferred to UTSA, including FCPD data on uses of force, officer demographics, crime suspects/offenders, arrests, and calls for service. OIPA provided the researchers with data from its review of the FCPD's 2016 use of force incidents. OIPA also conducted a manual review of use of force narratives and compiled data elements on citizen resistance/actions,

alcohol/drug use, and mental health that were not already available from FCPD's records management system. The County's GIS department provided data to UTSA on County population demographics, neighborhood race and ethnicity composition, socioeconomic factors, and GIS shape files on police districts and patrol areas. During 2020, OIPA regularly communicated with the various project stakeholders to answer UTSA's data inquiries, clarify definitions, and seek FCPD approval for sharing additional data elements.

While the sharing of data was still possible despite Pandemic restrictions placed in the Spring of 2020, the data transfer to UTSA was delayed. UTSA did not receive the bulk of the data it needed to start its analysis until mid-September, five months later than originally anticipated. There was a delay in the provision of data due to the unanticipated need for the FCPD to focus on its response to the Covid-19 pandemic. Additionally, there were some challenges with pulling certain automated data from the FCPD's records management system. The FCPD also had to organize a team to manually review and redact hundreds of incident reports so that use of force narratives could be provided to the researchers. Due to the delays in the data transfer, the completion date of the contract was extended by six months to July 31, 2021. It is anticipated that UTSA will complete their analysis and report in the Summer of 2021. At that time, the UTSA team will issue a public report detailing the study's methods, findings, conclusions, and recommendations and present it to the Board of Supervisors.

In December 2020, UTSA completed its review of use of force policies and data collection protocols and provided a draft report on their data collection recommendations for consideration by OIPA and FCPD. The reason for providing these recommendations earlier than the full report was to ensure that the FCPD had them while they worked on selecting a vendor and transitioning to a new records management system.

SECTION V: ADMINISTRATIVE SUPPORT, COMMUNITY OUTREACH, AND PROFESSIONAL DEVELOPMENT

Support to the Police Civilian Review Panel

The OIPA serves as an independent intake venue for complaints against the FCPD, including allegations of serious police misconduct or abuse of authority, which fall under the review authority of the Panel. In 2020, OIPA staff received 21 initial complaints and 14 requests for review on behalf of the Panel. OIPA staff supported the Panel by processing the complaints and requests for review, corresponding with complainants on the Panel's behalf, disseminating complaints to the FCPD for investigation, and tracking the status of all complaints through the complaint process.

The OIPA provides ongoing administrative support to the Panel and delivers its annual reports to the BOS. The administrative support provided to the Panel includes receiving and processing all complaints and requests for review made to the Panel; providing logistical support for Panel business meetings, outreach, and training events (all of which changed dramatically due to the Covid-19 pandemic and the inability to hold in-person meetings and outreach events); producing meeting summaries and audio recordings of all Panel public meetings; serving as liaison between the Panel and FCPD's Internal Affairs Bureau; preserving all Panel public records; and, maintaining the Panel's county webpage. During 2020, OIPA staff attended and provided administrative support at each of the Panel's 12 business meetings (3 in-person and 9 virtual) and 8 subcommittee meetings (all virtual).

The IPA addressed the Panel during its June meeting to provide a briefing on FCPD UOF policies in light of the national conversation on such tactics as neck restraints/chokeholds and the duty to intervene if an officer sees another officer engaging in misconduct or using excessive force. During its November meeting, the IPA addressed the Panel and provided a comprehensive update on the activities of the OIPA since 2017, and briefed Panel members on UOF incident reviews during that time.

Additionally, OIPA staff assisted in the development of the Panel’s recommendations matrix, drafted Initial Review Reports, and conducted research as assigned by Panel Members, including the development of a One Fairfax statement for the Panel.

In 2020, only one quarterly meeting was held in September 2020, due to the cancellation of the March meeting due to Covid-19. The purpose of the meeting was to promote dialogue among the various stakeholders to address pressing concerns, raise new issues, and discuss recommendations made by the Panel to the FCPD. Attendees included the Chief and other representatives from the FCPD, OIPA staff, representatives from the County Attorney’s Office, independent counsel representing the Panel and the OIPA, the Panel Chair and Vice Chair, the Deputy County Executive for Public Safety, and the Chiefs of Staff for the Chairman of the Board of Supervisors and the Chairman of the Public Safety Committee. OIPA staff provided logistical support for the meeting to occur virtually and prepared a written summary following the meeting.

The training of Panel members continued to be a priority to ensure that Panel members are equipped with the specialized skills and knowledge required to carry out the responsibilities of a civilian oversight body. Despite limited training opportunities as a result of the Covid-19 pandemic in 2020, OIPA staff facilitated the virtual participation of Panel members in the annual conference of the National Association for Civilian Oversight of Law Enforcement (NACOLE). Five Panel members participated in numerous sessions during the NACOLE Annual conference, and all Panel members were provided the opportunity to participate in the session offered on analyzing police stops.

Community Outreach

During 2020, OIPA staff made televised appearances and participated in several community meetings and FCPD functions to inform the community about the Auditor, the Panel, and their respective responsibilities. Among those outreach appearances and events were the following:

- June 2020 – Presented to Faith Communities in Action (via TEAMS video conferencing) with Hollye Done (Chair-PCRP) and Chief Edwin Roessler (FCPD).

- June 2020 – Appeared with Hansel Aguilar (PCRCP) on WUSA-Channel 9 news story about civilian oversight of law enforcement.
- June 2020 – Together with CRP Chair Hollye Doane, met virtually with NAACP President Sean Perryman.
- July 2020 – Presented to the Northern Virginia Black Attorneys Association (via ZOOM video conferencing) with Shirley Norman-Taylor and Rhonda VanLowe (PCRCP).
- July 2020 – Presented to the South Alexandria and Mount Vernon Rotary Clubs (via ZOOM video conferencing) with Hollye Doane (Chair-PCRCP).
- July 2020 – Participated in a Listening Session/Forum arranged by Public Safety Committee Chair Rodney Lusk along with representatives of the Panel.
- August 2020 – Participated in a virtual (via ZOOM video conferencing) roundtable meeting arranged by the Dar Al-Hijrah Islamic Center along with Supervisor Penny Gross, CASA-Virginia, and the NAACP.
- August 2020 – Participated in a virtual (via ZOOM video conferencing) outreach meeting with Hollye Doane, Rhonda VanLowe, and three members of the National Alliance on Mental Illness, Northern Virginia chapter.
- September 2020 – Engaged as a panelist during a Public Safety Community Input Session arranged by Public Safety Committee Chair Rodney Lusk.
- October 2020 – Presented (via ZOOM video conferencing) to the FCPD McLean District Station Chief’s Advisory Committee.
- October 2020 – Participated in a virtual (via ZOOM video conferencing) outreach meeting with Panel member Sris Sriskandarajah to American Legion Post 270 (McLean, Virginia).
- October 2020 – Presented to the Fairfax County Police Department’s Community Police Academy Class.
- October 2020 – Presented (virtually) with Fairfax County Police Department Chief Edwin C. Roessler Jr. to the International Association of Chiefs of Police (“IACP”) on the topic: *The Evolving Trend Toward Civilian Oversight of Law Enforcement - Building Trust and Legitimacy.*

- November 2020 – Guest lectured for George Mason University’s CRIM 490 Police Use of Force Class.

The nationwide calls for police reform during and after the Summer of 2020 often advocated for the implementation of civilian oversight of law enforcement. As a result, OIPA staff fielded many questions from and facilitated conversations with the IPA and Panel members for jurisdictions exploring the implementation of civilian oversight. These included:

- The city of Alexandria, Virginia
- The city of Falls Church, Virginia
- The city of Norfolk, Virginia
- The town of Wytheville, Virginia

Professional Development

Staff in the OIPA participated in professional development opportunities throughout the year to continue to learn and keep abreast of national trends and research.

- In January 2020, the Auditor attended the National Police Foundation’s conference entitled *Police Body Cameras: What Have We Learned Over Ten Years of Deployment?* so that he could add greater insight when reviewing the implementation of the FCPD’s body-worn camera program.
- In March 2020, the Auditor attended NACOLE’s symposium entitled *New Frontiers in Independent Oversight of Jails, Prisons, and Police*, and took part in NACOLE’s Executive Leadership Series Forum.
- The Auditor and staff attended NACOLE’s 2020 annual conference, which was held virtually from July – September. In 2020, the OIPA Management Analyst II achieved status as a NACOLE Certified Practitioner of Oversight (“CPO”) and the Auditor maintained his status as a CPO.
- The Auditor and staff attended several training sessions during the IACP’s annual conference, which was conducted virtually in October. The Auditor presented during the conference with Fairfax County Police Department Chief Edwin C. Roessler Jr. on the

topic: *The Evolving Trend Toward Civilian Oversight of Law Enforcement - Building Trust and Legitimacy.*

- OIPA staff participated in various webinars throughout the year offered by NACOLE, Lexipol, and the National Police Foundation. The webinar topics included: the impact of COVID-19 on oversight bodies; making factual determinations, applying legal standards, and reaching outcomes in incident reviews; officer use of force statements in investigations; first responders' stress management during Coronavirus; and tricks and tips for working with complex data.
- The Auditor and OIPA staff participated in an online conference in November 2020, *Accountability and Transparency in Law Enforcement: Shaping New Beginnings*, offered by Toby Groves, Ph.D.

Other Activities

The Auditor participated in several other activities throughout the year, including sharing his knowledge both nationally and locally as a subject matter expert on use of force and legal issues in law enforcement.

- In January 2020, the Auditor participated in the IACP/University of Cincinnati Center for Police Research and Policy Focus Group to help develop a video series and a promising practice guide focusing on pre-arrest diversion programs as an alternative to arrest.
- Throughout the year, the Auditor continued to serve as the Legal Officers Section representative on the IACP's Working Group on "Bias-Free Policing," and on the IACP Working Group on "Pre-Arrest Diversion" (also called "Alternatives to Arrest"), with the release of a Model Policy and accompanying Consideration Paper anticipated for each topic in 2021.
- In December 2020, the Auditor participated (virtually) in the Department of Homeland Security's ("DHS") Initial Planning Conference for its Use of Force Simulation Experiment ("SIMEX"). DHS is the largest law enforcement agency in the United States. The SIMEX will be designed to explore and analyze current and evolving security procedures and technology to improve the appropriate use of force by state, local, and federal law

enforcement officers. Results from the SIMEX will help generate data with which DHS leadership, as well as state and local law enforcement agencies, can use to develop best practices for the use of force tailored to their respective jurisdictions. DHS brought together representatives from DHS components, police chiefs and sheriffs, law enforcement research organizations, and members of state and local law enforcement agencies to participate in SIMEX. DHS also solicited individuals involved in civilian oversight of law enforcement to participate. The Auditor will continue to participate in SIMEX during 2021, and it is anticipated that the results will help him make research-based recommendations to improve FCPD UOF policy and training.

- Starting in 2020, the Auditor joined a newly created Ad Hoc Committee on Police Data Transparency comprised of FCPD representatives and individuals representing various community groups, such as ACLU People Power Fairfax, the Anti-Defamation League, Justice Forward Virginia, and the NAACP. Its mission is to “enable stakeholders and decisionmakers to assess the extent to which the FCPD is making progress toward the One Fairfax goal of equity and fairness in law enforcement.” The committee will advise the FCPD on which data fields to include in its new records management system, the type of reports to post on the FCPD website, and the parameters for what to include on the FCPD’s dashboard.
- Finally, during the special session of the Virginia General Assembly held in the Fall of 2020, the Auditor provided feedback to the Government Relations Office (under the County Executive) on various bills being considered by the Virginia General Assembly. The bills considered by the Auditor involved UOF issues, provisions affecting the ability of local jurisdictions to establish civilian oversight of law enforcement agencies, the creation of a repository of information relating to officer misconduct, and the decertification of law enforcement officers.

SECTION VI: CITIZEN COMPLAINTS TO THE FCPD

As mandated by the BOS,¹³ the FCPD provides a public report to the Auditor on the disposition of all citizen complaints made against the FCPD so that the Auditor can ensure the FCPD is “properly responding to” and investigating these complaints in a “timely manner.”

The following chart depicts the status of all citizen complaints lodged against the FCPD during 2020:

Quarterly Case Status by Received Date
Fairfax County Police Department
Internal Affairs Bureau

| Citizen Complaint Status | 2020 Quarter 1 Jan/March | 2020 Quarter 2 April/June | 2020 Quarter 3 July/Sept | 2020 Quarter 4 Oct/Dec | Total |
|--------------------------|-----------------------------|------------------------------|-----------------------------|---------------------------|------------|
| Active | 14 | 34 | 49 | 34 | 131 |
| In Compliance | 44 | 30 | 30 | 10 | 114 |
| Not Sustained | 1 | 1 | 0 | 0 | 2 |
| Sustained | 5 | 0 | 2 | 0 | 7 |
| Unfounded | 9 | 1 | 0 | 0 | 10 |
| Total | 73 | 66 | 81 | 44 | 264 |

Last Updated: February 2, 2021
Source: IAPRO RMS System

Overall, slightly more than half (50.4%) of all investigations opened pursuant to a complaint made in 2020 were resolved by the end of the year. This is slightly less than the percentage (53%) of 2019 complaints that had been resolved by the end of 2019. Of course, some investigations had to be delayed and others conducted differently as a result of restrictions caused by the Covid-19 pandemic. Additionally, over 30% of 2020 complaints were received by the FCPD between July—September, 2020, likely due, at least in part, to increased attention

¹³ See [September 20, 2016, BOS Action Item](#) establishing the OIPA.

being paid to law enforcement activities throughout the nation during the Summer of 2020.

Of the 131 investigations which remained ongoing at the end of 2020, 83 of them (63%) had been initiated during the second half (July—December) of 2020. When the number of unfinished investigations of complaints made between April—June, 2020, the time when Covid-19 restrictions began to impact investigations, is added to the aforementioned 83, a full 89% of ongoing investigations involve complaints made during the last three quarters of 2020, while almost 90% of investigations into complaints received during the first quarter were resolved by the end of the year.

It is anticipated that the issue of resolving complaints in a “timely manner” will continue to be monitored in 2021. As Covid-19 restrictions are lessened and virtual interviews, when appropriate, are done more expeditiously as individuals have become more accustomed to using the technology, it is hoped the length of time to complete investigations will be shortened.

In addition to the timeliness of investigations, the substance of FCPD disposition letters sent to complainants continued to be monitored by the Auditor in 2020. The improvement of disposition letters was a topic during several of the 2019 quarterly meetings attended by representatives of the FCPD, OIPA staff, the County Attorney’s Office, the independent counsel representing the Panel and the OIPA, the Panel Chair and Vice Chair, the Deputy County Executive for Public Safety, and the Chiefs of Staff for the Chairman of the Board of Supervisors and the Chairman of the Public Safety Committee. A working group was convened by the FCPD to produce a template for disposition letters to insure that adequate information was being shared by the FCPD to complainants at the conclusion of investigations into their complaints. The Auditor continued to review disposition letters provided to complainants throughout 2020, and found that they do convey greater detail to complainants than in the past. Specifically, the FCPD is setting forth the results and explaining the reasons for those results in the improved disposition letters being sent to complainants. In spite of the improved letters, the Auditor noted that at least one individual,¹⁴ who later requested that the investigation into his

¹⁴ The Complainant in CRP-20-19 and CPR-20-27.

allegations be reviewed by the Panel, learned much greater detail of the investigation when he attended the Panel Review Meeting wherein the investigation was more fully explained by FCPD personnel. During that Review Meeting, the Complainant stated that had the disposition letter contained more of the additional detail he learned during the Review Meeting, he would not have requested a Panel review in the first place. The Auditor will continue to review FCPD disposition letters throughout 2021 to ensure that the FCPD is “properly responding to” complainants at the conclusion of its investigations, and hopefully avoiding unnecessary Panel reviews such as the one described.

SECTION VII: ANTICIPATED 2021 ACTIVITIES

During 2021, the OIPA will continue to monitor and review FCPD internal investigations; recommend changes in FCPD policies, training, and practices; process incoming complaints and requests for review; provide administrative support to the Panel; and engage in community outreach and professional development. It is anticipated that OIPA activities in 2021 will include the following:

Individual Case Reviews

During 2021, the Auditor will continue to monitor and review the twelve investigations of incidents already underway at the end of 2020. New incident reviews in 2021 will include those that are monitored at the inception of the FCPD investigation because of the nature of the incident, those that are initiated by a citizen complaint to the FCPD or to the OIPA during or after the FCPD investigation has concluded, or those undertaken at the request of the FCPD Chief.

Policy Review

Body-Worn Camera Pilot: OIPA will continue to monitor and provide policy input during the full implementation of FCPD’s body-worn camera program.

Research Study on Use of Force: During 2021, OIPA will facilitate the presentation of the UTSA research team’s findings and recommendations to the BOS and FCPD. It is anticipated that

discussion will be coordinated between FCPD and the researchers to build on improving data collection efforts and implementing other policy recommendations.

Racial Disparity in Use of Force: The OIPA is committed to improving the community's collective understanding of FCPD force incidents and their disparate impacts across racial and ethnic groups. One of the highly anticipated outcomes from the study conducted by the UTSA research team will be a set of recommendations for the FCPD and the OIPA to improve data collection and analysis. OIPA anticipates that its methods of review and data analysis, employed when reviewing 2015-2016 use of force incidents, will need to change as a result of the commissioned study. However, OIPA will continue to work with the FCPD and any future research partners to ensure that data on force incidents is shared with the public. OIPA is hopeful that these efforts can extend beyond UOF incidents and include data on arrests, traffic and other stops, and requests for consent to search.

Police Civilian Review Panel

OIPA staff will continue to support the work of the Panel by continuing in its role as an independent intake venue for complaints against the FCPD, coordinating Panel outreach efforts, and facilitating all Panel business meetings and training sessions that take place in 2021. The OIPA will provide ongoing administrative support required by the Panel in 2021, to include the preparation of meeting summaries, the handling of meeting logistics, the receipt and dissemination of all complaints and requests for review, and management of Panel correspondence. As three Panel members' terms expire on March 1, 2021, OIPA staff will also plan for and coordinate the orientation of three new Panel members during 2021 and will provide ongoing assistance to the Panel with its training efforts.

Other Anticipated Activities

Finally, in 2021, OIPA expects to continue its:

- Participation in community outreach events.
- Discussions with other jurisdictions hoping to implement civilian oversight.
- Involvement in DHS's SIMEX project and study.

- Serving on FCPD's Ad Hoc Committee on Police Data Transparency.
- Review of Virginia General Assembly bills addressing criminal justice and reform measures to provide input to the county's Government Relations Office.

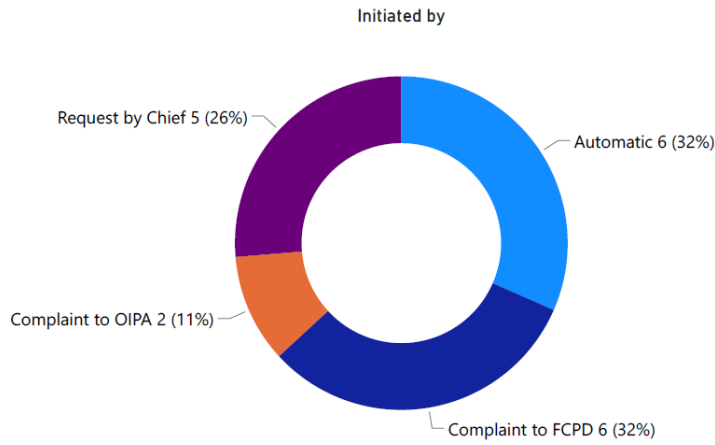
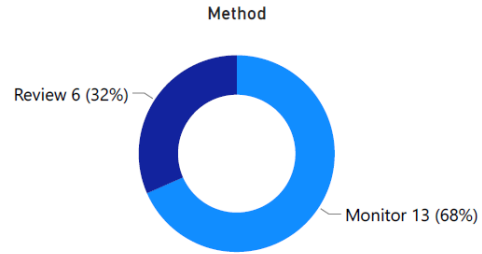
APPENDIX A

Incidents Reviewed or Monitored in 2020

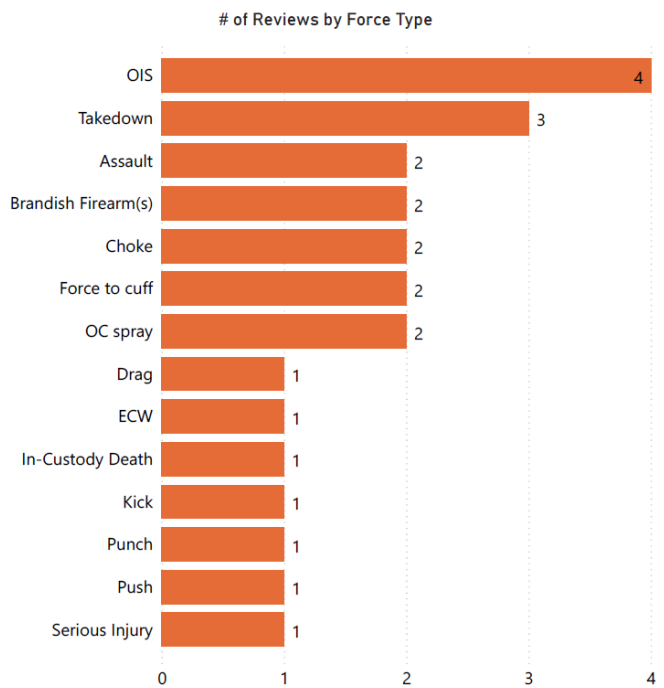
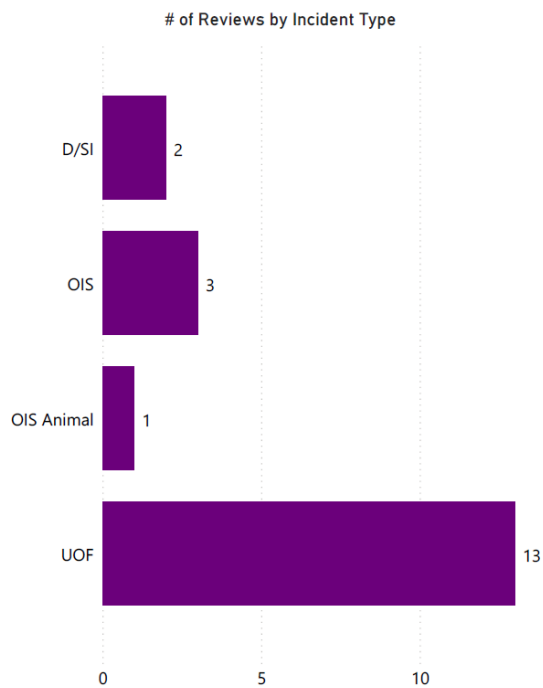
19

Incident Reviews to Date

| Incident Year | # Reviews Open in 2020 |
|---------------|------------------------|
| 2020 | 6 |
| 2019 | 12 |
| 2018 | 1 |

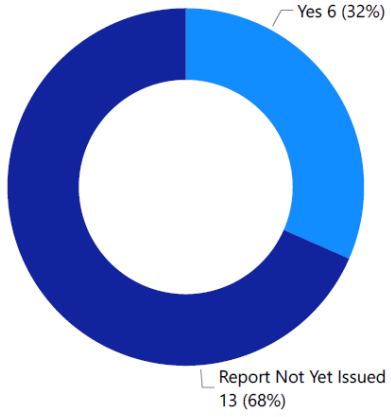


Incident Type and Force Type of Reviews in 2020

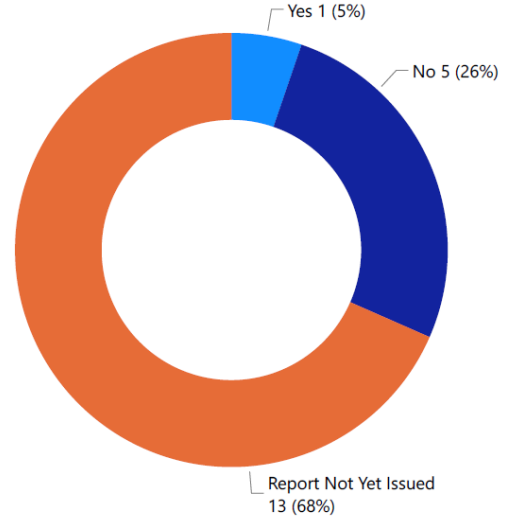


Police Auditor Findings for Reports Published in 2020

Standards Met?



Recommendations Made?



APPENDIX B

Links to 2020 OIPA Public Reports

[2019 Annual Report](#) (Published 2-3-2020)

[June 24, 2019: Use of Force Complaint](#) (Published 2-28-2020)

[A Review of the Disparity in FCPD Use of Force Incidents by Race in 2016](#) (Published 3-11-2020)

[March 5, 2019: Request by Chief to Review](#) (Published 3-17-2020)

[OIPA Policy Change Recommendations G.O. 203](#) (Published 5-28-2020)

[OIPA Policy Change Recommendations G.O. 601](#) (Published 5-28-2020)

[OIPA Policy Change Recommendations G.O. 603.4](#) (Published 5-28-2020)

[November 6, 2018: Use of Force Complaint](#) (Published 6-5-2020)

[July 8, 2019: Use of Force Complaint](#) (Published 7-29-2020)

[April 28, 2019: Use of Force Complaint](#) (Published 12-14-2020)

[June 11, 2019: Use of Force Complaint](#) (Published 12-30-2020)

