
Police Civilian Review Panel

Meeting Agenda

Location: Conducted electronically due to COVID-19 Pandemic

Date: August 27, 2020

Time: 7:00 pm

Agenda details:

I. Call to Order

II. Agenda Items

- a. Motions to Conduct Electronic Meeting
- b. Review Meeting for CRP-20-15
- c. Approval of Subcommittee Initial Review Report for CRP-19-19
- d. Approval of Subcommittee Initial Review Report for CRP-20-20 and CRP-20-21
- e. Approval of July 23 Meeting Summary
- f. Supervisor Lusk's Listening Session Debrief
- g. Panel Discussion on Review of Panel Procedures
- h. Panel Discussion on Receiving Regular Briefings from the Independent Police Auditor on Use of Force
- i. Update on complaint CRP-19-29
- j. Update on Panel Outreach
- k. Update on Next Quarterly Meeting
- l. Meeting Dates for Remainder of 2020

III. New Business

IV. Adjournment

Police Civilian Review Panel Meeting

Electronic Meeting Housekeeping Rules

- Attendees have entered the meeting in listen only mode.
- Panelists must remain in “Mute” when not speaking. Please unmute yourself when you have been recognized to speak by the Chair, when you are making a motion, seconding a motion, or casting your vote.
- For Panelists to be recognized to speak, please use the raise hand function by clicking on the hand icon which is found in the bottom right corner of the “Participant Pane.” When you are finished speaking, please mute yourself and lower your hand by clicking the on the hand icon again.
 - To access the “Participant Pane,” please click on the icon depicting a person which is found on the icon menu at the bottom of your screen.
- The Meeting Materials Packet will be uploaded to WebEx. To scroll through the packet, please use the sidebar menu to page up or down. Meeting materials are also available on the Panel’s website at www.fairfaxcounty.gov/policecivilianreviewpanel
- If the Panel recesses into closed session, Panel Members must mute themselves and disable their webcams on WebEx. Panel Members will use a dedicated conference line and security code for closed session. When closed session concludes, please enable your webcam on WebEx to return to open session.
- This meeting is being recorded and the audio recording will be posted to the Panel’s website.

Fairfax County Police Civilian Review Panel Subcommittee Initial Review Report

Request for Review – Basic Information

CRP Complaint Number: CRP-19-19

Subcommittee Meeting Date: August 20, 2020

Subcommittee Members:

- Hollye Doane (Panel Chair)
- Hansel Aguilar, Subcommittee Member
- Rhonda VanLowe, Subcommittee Member

Complaint Submission Date: Review Request Submitted on August 7, 2019

*Note: The Panel deferred action on this Review Request on October 7, 2019 due to pending litigation. The Panel was recently notified that the litigation concluded.

This report is subject to Federal and Virginia Freedom of Information Acts. Panel members will maintain to the greatest extent possible under the law and in accordance with the Bylaws all sensitive and confidential information not intended for a public release.

Purpose

The Subcommittee Initial Review Report sets forth the Subcommittee's recommendation on whether the Complainant's allegation(s) meet the standard for review provided in the Panel's Bylaws. The Panel may accept or not accept the Subcommittee's recommendation on whether to review a complaint.

Findings

The Panel's review authority states in Article VI (A)(1) of its Bylaws: "The Panel shall review Investigations to ensure their thoroughness, completeness, accuracy, objectivity and impartiality where (1) the subject matter of an Investigation is an allegation of 'abuse of authority' or 'serious misconduct' by a FCPD officer, and (2) a Review Request is filed."

The subject matter of this investigation concerns allegations by the Complainant that include that the officer acted in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense; violated laws or ordinances; and engaged in serious violations of Fairfax County or FCPD policies or procedures. The Subcommittee finds that the subject matter of the investigation, as stated in the allegations, meets the threshold requirement for "abuse of authority" and "serious misconduct."

Recommendation

The Subcommittee recommends that the Panel undertake a review of CRP-19-19 because the complaint meets the scope of review criteria set forth in its Bylaws.

The vote called on the Subcommittee's recommendation was not unanimous.

Panel Bylaws Abuse of Authority and Serious Misconduct Checklist

Criteria Met?	Abuse of Authority and/or Serious Misconduct	Complainant Details*
No	Use of abusive racial, ethnic or sexual language or gestures.	N/A
No	Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability.	N/A
Yes	Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense.	<ul style="list-style-type: none">• Alleges officer instilled fear in complainant and family (allegation filed more than one year after date of incident; need to determine if good cause exists)• Alleges officer lied to housing authority and under oath in trial (allegation filed more than one year after date of incident; need to determine if good cause exists)• Alleges officer threatened complainant's daughter (allegation filed more than one year after date of incident; need to determine if good cause exists)
No	Reckless endangerment of detainee or person in custody.	N/A
Yes	Violation of laws or ordinances.	<ul style="list-style-type: none">• Complainant alleges she was extorted by officer (allegation filed more than one year after date of incident; need to determine if good cause exists)• Complainant alleges that she was falsely charged and falsely arrested.
Yes	Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Cannon of Ethics, that occur both on or off duty.	<ul style="list-style-type: none">• Complainant alleges harassment due to excessive charges

***Confidential and sensitive information shall not be disclosed in this document. Contact the Chair or Panel Legal Counsel for questions and/or additional information.**

DRAFT



County of Fairfax, Virginia

MEMORANDUM

DATE: August 27, 2020

TO: Members of the Police Civilian Review Panel

FROM: Gentry Anderson
Management Analyst I, Office of the Independent Police Auditor

SUBJECT: Analysis of Allegations Included in CRP-19-19

The purpose of this memo is to provide analysis of allegations made by the complainant in CRP-19-19 to Members of the Police Civilian Review Panel (Panel) related to the scope of Panel review authority as outlined in the Panel's Bylaws. The Chair of the Panel instructed staff to conduct this analysis to assist the Panel in determining which allegations could potentially be reviewed by the Panel.

Scope of Panel Review Authority as Defined by Panel Bylaws:

The Panel's Bylaws in Article VI.A.1 define the scope of the Panel's review authority. It states that "the Panel shall review Investigations to ensure their thoroughness, completeness, accuracy, objectivity, and impartiality where (1) the subject matter of an investigation is an allegation of "abuse of authority" or "serious misconduct" by a FCPD officer, and (2) a Review Request is filed." It also includes provisions defining what the Panel shall not review. These include:

- "(a) alleged misconduct that is subject to the exclusive review by the Auditor;
- (b) any Complaint related to an incident that occurred before December 6, 2016;
- (c) an Initial Complaint that is filed more than one (1) year after the date of the incident that is the subject of the Investigation (unless the Panel determines that there is good cause to extend the filing deadline);
- (d) a Review Request filed more than sixty (60) days after the date of the FCPD notice sent to the complainant that informs the complainant of the completion of the FCPD's investigation of the complainant's Initial Complaint (unless the Panel determines that there is good cause to extend the filing deadline); or
- (e) a complaint concerning matters that are subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding; or any administrative proceeding; or any complaints from Fairfax County employees that are

subject to any process, proceeding or appeal as set forth in the County's Personnel Regulations or that are subject to the Police Department's General Orders 310.1, 310.2, or 310.3."

Article VI.A.2 of the Panel's Bylaws state:

"The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved."

Timing and Background:

The complainant submitted an Initial Complaint to the Panel on April 18, 2019 and it was forwarded to the FCPD for investigation. The FCPD issued a disposition letter to the complainant and Panel dated June 20, 2019. Upon receiving the FCPD's disposition letter, the complainant submitted a review request on August 7, 2019. The complainant requested a review of the complaint within sixty (60) days of receiving the FCPD's disposition letter. Therefore, the complaint itself is considered timely filed. However, the allegations listed in the complaint stem from multiple incidents that range in date from 2015 through 2018. An analysis of the individual allegations listed in the complaint is found below.

Analysis of Allegations:

The complainant requested a review of the below allegations that were listed in the Initial Complaint. Some of the listed allegations stemmed from incidents that occurred prior to December 6, 2016. Other allegations listed in the complaint were filed more than one (1) year after the date of the incident. For these instances, the Panel must determine if good cause exists to extend the filing deadline to consider their review. The complaint also included allegations that are considered timely filed.

Allegations Related to Incidents that occurred before December 6, 2016:

- Falsely accused of crime on October 28, 2015
- K-9 Unit search of vehicle in May 2016
- Defective search warrant of home, falsely accused of crime, violation of fourth amendment right on November 9, 2016

Allegations Where Complaint was Filed More Than One Year After Date of Incident:

- Complainant felt fearful for self and family due to officer action on February 9, 2017
- Complainant felt extorted by officer in February 2017
- Alleged officer lied to housing authority on May 16, 2017
- Alleged officers threatened complainant's daughter in July 2017
- Alleged officers lied under oath in trial in October 2017

- Falsely incarcerated and harassed in jail (not in custody of FCPD)

To review these allegations, the Panel must determine that good cause exists to extend the filing deadline. The Panel sent correspondence to the complainant welcoming the provision of reasons that would support a determination that good cause exists for the delay in filing these allegations. The complainant did not provide a response related to good cause for the delay in filing the allegations.

Allegations Considered Timely Filed:

- Falsely accused and arrested on July 12, 2018
- Harassed and charged with serious crimes

Police Civilian Review Panel

August 20, 2020

Conducted Electronically due to COVID-19 Pandemic

Initial Disposition Subcommittee – CRP-19-19

Members Present:

Hansel Aguilar, Review Liaison
Hollye Doane, Subcommittee Chair
Rhonda VanLowe, Review Liaison

Others Present:

Gentry Anderson, OIPA
Rachelle Ramirez, OIPA

NOTE: The Panel’s subcommittee meeting was conducted electronically due to the COVID-19 Pandemic. The electronic meeting was hosted on WebEx and allowed for members of the public to virtually attend via WebEx or conference call.

The Initial Disposition Subcommittee was called to order at 5:11 p.m.

Motions to Conduct Electronic Meeting: Ms. Doane took roll call to verify a quorum of the Panel’s subcommittee was present and to ensure each subcommittee member’s voice could be heard clearly. She asked each subcommittee member to state their name and the location from which they were participating.

Mr. Aguilar was present and participated from the Braddock District.

Ms. Doane was present and participated from Oakton, Virginia.

Ms. VanLowe was present and participated from Reston, Virginia.

Ms. Doane moved that each member’s voice may be adequately heard by each other member of this Panel. The motion was seconded by Ms. VanLowe and it carried by unanimous vote.

Ms. Doane moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the subcommittee to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA’s usual procedures, which require the physical assembly of this Panel and the physical presence of the public, cannot be implemented safely or practically. She further moved that the subcommittee may conduct this meeting electronically through a dedicated WebEx plat form and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 408-418-9388 and entering access code 129 838 3332 as noted in the Public Meeting Notice. Ms. VanLowe seconded the motion and it carried by unanimous vote.

Ms. Doane moved that that all matters addressed on the agenda are necessary to continue operations and the discharge of the Panel's lawful purposes, duties, and responsibilities. Ms. VanLowe seconded the motion and it carried by unanimous vote.

Completion of Initial Review Report for CRP-19-19:

Ms. Doane asked the subcommittee to review each allegation listed in the complaint to see which allegations fall within the Panel's jurisdiction. Ms. VanLowe replied that it is her view that the Panel could potentially review one allegation made in the complaint because some allegations occurred prior to the establishment of the Panel.

Ms. Doane referenced an allegation that occurred in 2015 and stated that because it occurred prior to the Panel's establishment, the Panel would be unable to review that allegation. Mr. Aguilar asked if Panel Members recalled seeing information related to this allegation within the FCPD investigation file. Ms. Doane replied that the Panel is unable to review an allegation that occurred prior to the establishment of the Panel. Mr. Aguilar asked if the allegation in question was provided to the FCPD for investigation. Ms. Anderson replied that the complainant submitted her complaint to the Panel on April 18, 2019 and that the complaint in its entirety was forwarded to the FCPD Internal Affairs Bureau (IAB) for investigation. Ms. VanLowe replied that all allegations were addressed within the FCPD's investigation file as it was holistically investigated by IAB. She added that the complainant was unhappy with the outcome of the investigation and that the Panel is time barred from reviewing certain allegations made in the complaint. The subcommittee discussed how to best review each allegation to determine whether the Panel has authority to undertake a review of the complaint as the allegations stemmed from multiple incidents from different years.

Ms. VanLowe reminded the subcommittee that the complaint was subject to pending litigation that was recently resolved. She cautioned that the Panel should not act as an extrajudicial body. Ms. Doane replied that this concern should be raised before the full Panel when the subcommittee's initial review report is considered. Ms. Doane added that it is the subcommittee's purpose to look at the complaint and determine whether the allegations rise to the Panel's threshold of abuse of authority or serious misconduct and do not conflict with the limitations as established in the Panel's Bylaws and Action Item.

Ms. Doane reviewed each allegation as listed in the complaint:

- Complainant alleged she was falsely charged on October 28, 2015. The subcommittee determined that the incident occurred prior to December 6, 2016 and that it cannot be reviewed.
- Complainant alleged that she was pulled over in May 2016 which caused fear. The subcommittee determined that the incident occurred prior to December 6, 2016 and that it cannot be reviewed.

- Complainant alleged that on November 9, 2016 defective search warrant was issued and she was falsely charged. The subcommittee determined that the incident occurred prior to December 6, 2016 and that it cannot be reviewed.
- Complainant alleged on February 9, 2017 she felt intimidated. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged that she was extorted in February 2017. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged that an officer lied to housing authority on May 16, 2017. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged that an unlawful search of her car was conducted on July 11, 2017. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged officers lied under oath during trial on October 3, 2017. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged she was falsely incarcerated and harassed while in jail from October 2017 through April 2018. The subcommittee determined that the Panel does not have jurisdiction to review this allegation as the complainant was in custody of the Fairfax County Sherriff's Office.

The subcommittee further discussed the timing related to the incidents and allegations included in the complaint.

Ms. Doane suggested that the subcommittee recommend that the Panel does not have authority to review the allegations listed in the complaint that are considered untimely filed but see if the Panel determines good cause for the delay in submission of her complaint regarding the specific allegations that were filed more than one year after the date of the incident. Ms. VanLowe expressed her belief that the Panel does not have the authority to undertake a review of the complaint.

Ms. Doane highlighted two additional allegations that the complainant was falsely charged and harassed with excessive charges. The incident related to these allegations occurred in July 2018, which would be considered timely filed. Ms. VanLowe expressed concern that this incident was adjudicated and considered by a judge and magistrate. She added that it is not the Panel's job to second guess the court's decision.

Ms. Doane referred to a previous review conducted by the Panel where the incident subject of the complaint was litigated. She added that if the complaint includes an allegation of serious

misconduct and if the file includes evidence to support the allegations, the full Panel should be able to discuss the complaint.

Ms. VanLowe said that she did not see anything within the investigation file that substantiated the allegations. Ms. Doane agreed but replied that the subcommittee must base its decision on whether the complaint includes allegations of serious misconduct or abuse of authority and that it is the duty of the Panel to determine whether the investigation was complete, thorough, objective, impartial, and accurate. Ms. VanLowe expressed her belief that the subcommittee's role is unclear. It was Ms. VanLowe's understanding that the subcommittee process was in place to create efficiency for the Panel and to eliminate the review of complaints where the Panel's review process could not add value. The subcommittee further discussed the role of Panel subcommittees in the Panel's review process.

Mr. Aguilar added that the Panel's review authority is different than the judicial process. He explained that the Panel is in a position to review FCPD investigations holistically.

The subcommittee discussed the litigation that was related to the incidents subject of the complaint.

The subcommittee members completed the "Abuse of Authority and Serious Misconduct Checklist" on the Initial Review Report. The subcommittee found that the allegations in the complaint met the following criteria: Acting in a rude, careless, angry, retaliatory, or threatening manner not necessary for self-defense; Violation of laws or ordinances; Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Cannon of Ethics, that occur both on or off duty.

Ms. Doane moved that complaint CRP-19-19 be referred to the full Panel for consideration to be reviewed except for the incidents that occurred prior to December 6, 2016. Mr. Aguilar seconded the motion. The motion carried by a vote of two, with Ms. VanLowe voting "Nay."

Ms. Anderson informed the subcommittee that she would draft the initial review report and subcommittee summary.

The subcommittee discussed presenting their recommendation to the Panel at the Panel's August 27 meeting.

Ms. Doane moved to adjourn the meeting. Mr. Aguilar seconded the motion and it carried by unanimous vote.

The meeting adjourned at 6:26 p.m.

Fairfax County Police Civilian Review Panel

Subcommittee Initial Review Report

Request for Review – Basic Information

CRP Complaint Number: CRP-20-20 and CRP-20-21

Subcommittee Meeting Date: August 25, 2020

Subcommittee Members:

- Doug Kay, Subcommittee Member
- Sris Sriskandarajah, Subcommittee Member
- Rhonda VanLowe, Subcommittee Member

Complaint Submission Date: Review Requests Submitted on July 28, 2020 (Initial Complaints submitted on March 16, 2020)

This report is subject to Federal and Virginia Freedom of Information Acts. Panel members will maintain to the greatest extent possible under the law and in accordance with the Bylaws all sensitive and confidential information not intended for a public release.

Purpose

The Subcommittee Initial Review Report sets forth the Subcommittee's recommendation on whether the Complainant's allegation(s) meet the standard for review provided in the Panel's Bylaws. The Panel may accept or not accept the Subcommittee's recommendation on whether to review a complaint.

Findings

The Panel's review authority states in Article VI (A)(1) of its Bylaws: "The Panel shall review Investigations to ensure their thoroughness, completeness, accuracy, objectivity and impartiality where (1) the subject matter of an Investigation is an allegation of 'abuse of authority' or 'serious misconduct' by a FCPD officer, and (2) a Review Request is filed."

The subject matter of this investigation concerns allegations by the Complainants that include that the officer acted in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense, and other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty. The Subcommittee finds that the subject matter of the investigation, as stated in the allegations, meets the threshold requirement for "abuse of authority" and "serious misconduct."

Recommendation

The Subcommittee recommends that the Panel undertake a review of CRP-20-20 and CRP-20-21 because the complaints meets the scope of review criteria set forth in its Bylaws.

Panel Bylaws Abuse of Authority and Serious Misconduct Checklist

Criteria Met?	Abuse of Authority and/or Serious Misconduct	Complainant Details*
No	Use of abusive racial, ethnic or sexual language or gestures.	N/A
No	Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability.	N/A
Yes	Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense.	The subcommittee found that the allegation made in the complaints related to the officer action of loudly knocking on the complainant's door without announcing one's presence to be rude and threatening.
No	Reckless endangerment of detainee or person in custody.	N/A
No	Violation of laws or ordinances.	N/A
Yes	Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.	The subcommittee found that the allegation of the officers' failure to announce or identify themselves could be in violation of G.O.601.4 Part IV "Initial Response and Investigative Procedure"

***Confidential and sensitive information shall not be disclosed in this document. Contact the Chair or Panel Legal Counsel for questions and/or additional information.**

Police Civilian Review Panel

August 25, 2020

Conducted Electronically due to COVID-19 Pandemic

Initial Disposition Subcommittee – CRP-20-20 and CRP-20-21

Members Present:

Doug Kay, Review Liaison

Sris Sriskandarajah, Subcommittee Chair

Rhonda VanLowe, Review Liaison

Others Present:

Gentry Anderson, OIPA

Rachelle Ramirez, OIPA

Richard Schott, Independent Police Auditor

NOTE: The Panel’s subcommittee meeting was conducted electronically due to the COVID-19 Pandemic. The electronic meeting was hosted on WebEx and allowed for members of the public to virtually attend via WebEx or conference call.

The Initial Disposition Subcommittee was called to order at 5:34 p.m.

Motions to Conduct Electronic Meeting: Mr. Sriskandarajah took roll call to verify a quorum of the Panel’s subcommittee was present and to ensure each subcommittee member’s voice could be heard clearly. He asked each subcommittee member to state their name and the location from which they were participating.

Mr. Kay was present and participated from Fairfax, Virginia.

Mr. Sriskandarajah was present and participated from Fairfax, Virginia.

Ms. VanLowe was present and participated from Reston, Virginia.

Mr. Sriskandarajah moved that each member’s voice may be adequately heard by each other member of this Panel. The motion was seconded by Mr. Kay and it carried by unanimous vote.

Mr. Sriskandarajah moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the subcommittee to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA’s usual procedures, which require the physical assembly of this Panel and the physical presence of the public, cannot be implemented safely or practically. He further moved that the subcommittee may conduct this meeting electronically through a dedicated WebEx platform and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 408-418-9388 and entering access code 129 440 9175 as noted in the Public Meeting Notice.

Ms. VanLowe seconded the motion and it carried by unanimous vote.

Mr. Sriskandarajah moved that that all matters addressed on the agenda are necessary to continue operations and the discharge of the Panel's lawful purposes, duties, and responsibilities. Mr. Kay and Ms. VanLowe jointly seconded the motion and it carried by unanimous vote.

Completion of Initial Review Report for CRP-20-20 and CRP-20-21:

Mr. Sriskandarajah confirmed that all members of the subcommittee reviewed the Fairfax County Police Department's (FCPD) investigation file related to complaints CRP-20-20 and CRP-20-21. Mr. Sriskandarajah asked that the subcommittee review the abuse of authority and serious misconduct checklist on the Initial Review Report.

The subcommittee found that the allegations made in the complaints meet the criteria for "Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense." Mr. Kay explained he believed that an officer loudly knocking on someone's door without announcing themselves can be considered rude and threatening. The subcommittee members agreed with this assessment. Mr. Sriskandarajah noted that after reviewing the file, there seemed to be confusion as to whether the officer announced himself upon the first request or second request of the complainants. Ms. VanLowe replied that the subcommittee cannot make that as a statement of fact, but it is where the complaint emanates from. She added that the question is about how and when the officers made themselves known to the individuals in the house as there was much confusion as to what the officers were responding to as the call for service was for domestic violence however there was not an event at the residence according to the complaint.

Mr. Kay explained that the Panel concluded that so long as a claim is made by a complainant in a complaint, the Panel would not try to resolve the discrepancy. Ms. VanLowe agreed with Mr. Kay and explained that the subcommittee should make its decision based on the four corners of the complaint and use their review of the file to ensure that there is something within the file that supports the allegations made in the complaint.

Mr. Kay reminded the subcommittee that the discussion of the statement of the police under Garrity cannot be disclosed in public and that the subcommittee needs to raise this to the Panel's attention when the subcommittee's recommendation is presented. The subcommittee members agreed.

The subcommittee discussed the criterion titled "violation of laws or ordinances." Mr. Kay explained this criterion could be met. The subcommittee further discussed this criterion.

The subcommittee also found that the allegations made in the complaint meet the criteria for "other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty." Mr. Kay pointed the subcommittee's attention to the FCPD's General Order 601.14 titled "Domestic Incidents and Protective Orders." He explained that this General Order requires officers to announce themselves as

police officers and explain the reason for their presence. Because the complaint alleged the officers did not announce themselves, the subcommittee found that the allegation met this criterion.

Mr. Sriskandarajah asked for clarification on the subcommittee's determination related to the criterion of "violation of laws or ordinances." The subcommittee determined that the allegations made in the complaints do not allege a violation of law or ordinance.

Mr. Kay moved that the subcommittee recommend that the Panel undertake a review of CRP-20-20 and CRP-20-21 because the complaints meet the scope of review criteria as set forth in the Panel's Bylaws as discussed by the subcommittee. Ms. VanLowe seconded the motion and it carried by unanimous vote.

The subcommittee discussed presenting the subcommittee's initial review at the Panel's business meeting on August 27. Mr. Sriskandarajah agreed to present the initial review report to the Panel.

Mr. Kay moved to adjourn the meeting. Ms. VanLowe seconded the motion and it carried by unanimous vote.

The meeting adjourned at 5:53 p.m.

Police Civilian Review Panel

July 23, 2020

Conducted Electronically due to COVID-19 Pandemic

Meeting Summary

Panel Members Present:

Hansel Aguilar
Jimmy Bierman
Bob Cluck
Hollye Doane, Panel Chair
Doug Kay
Frank Gallagher
Shirley Norman-Taylor
Sris Sriskandarajah, Panel Vice-Chair
Rhonda VanLowe

Others Present:

Gentry Anderson, OIPA
Major Kim, FCPD
Anita McFadden, Interim Counsel
Major Owens, FCPD
Rachelle Ramirez, OIPA
Richard Schott, Independent Police Auditor

NOTE: The Panel's July business meeting was conducted electronically due to the COVID-19 Pandemic. The electronic meeting was hosted on WebEx and allowed for members of the public to virtually attend via WebEx or conference call.

The Panel's business meeting was called to order at 7:00 p.m. and all Panel Members were present.

Ms. Doane welcomed everyone to the Panel's July meeting and noted a few housekeeping rules.

Motions to Conduct Electronic Meeting: Ms. Doane took roll call to verify a quorum of the Panel was present and to ensure each Panel Member's voice could be heard clearly. She asked each Panel Member to state their name and the location from which they were participating.

Mr. Aguilar was present and participated from Fairfax, Virginia in the Braddock District.

Mr. Bierman was present and participated from McLean, Virginia.

Mr. Cluck was present and participated from Reston, Virginia.

Ms. Doane was present and participated from Oakton, Virginia.

Mr. Gallagher was present and participated from Burke, Virginia.

Mr. Kay was present and participated from Fairfax, Virginia.

Ms. Norman-Taylor was present and participated from Lorton, Virginia.

Mr. Sriskandarajah was present and participated from Fairfax, Virginia.

Ms. VanLowe was present and participated from Reston, Virginia.

Ms. Doane moved that each member's voice may be adequately heard by each other member of this Panel. The motion was jointly seconded by Ms. VanLowe and Mr. Bierman and it carried by unanimous vote.

Ms. Doane moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the Panel to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of this Panel and the physical presence of the public, cannot be implemented safely or practically. She further moved that the Panel may conduct this meeting electronically through a dedicated WebEx platform and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 408-418-9388 and entering access code 129 852 5828 as noted in the Public Meeting Notice. Mr. Bierman seconded the motion and it carried by unanimous vote.

Ms. Doane moved that that all matters addressed on the agenda are necessary to continue operations and the discharge of the Panel's lawful purposes, duties, and responsibilities. Mr. Sriskandarajah seconded the motion and it carried by unanimous vote.

Introduction of Interim Independent Legal Counsel: Ms. Doane announced that Anita McFadden was appointed as the Panel's interim legal counsel. Ms. McFadden introduced herself to the Panel. She has practiced law in the Fairfax area since 2000 primarily in civil litigation, family law, and some criminal defense cases. She expressed that she is looking forward to working with the Panel.

Transition of IAB Command and Introduction of Major Kim: Ms. Doane informed the Panel that Major Tonny Kim is the new commander of the Fairfax County Police Department's (FCPD) Internal Affairs Bureau (IAB). She thanked Major Owens for working with the Panel and wished him well as he transitions into his new position. Major Owens thanked the Panel and noted that he is now working in the FCPD's Administrative Support Bureau. Major Kim introduced himself and stated that he is looking forward to working with the Panel. He previously held positions as the police liaison commander at the public safety communications center, commander for the Fair Oaks District Station, and commander of the Planning and Research Bureau. Major Owens added that he appreciates the work of the Panel and the Panel Members' dedication and time to the Panel's mission.

Approval of June 23 Meeting Summary: Mr. Kay moved approval of the summary of the Panel's June 23 meeting. Mr. Bierman seconded the motion and it carried by unanimous vote.

Approval of Subcommittee Initial Review Report for CRP-20-15: Ms. Doane recognized Mr. Sriskandarajah to introduce the Panel to the subcommittee's initial review report for CRP-20-15. Mr. Sriskandarajah reminded the Panel that a subcommittee met on July 20 to review the allegations in complaint CRP-20-15. The subcommittee determined that the complaint included an allegation of serious misconduct and abuse of authority related to officer rudeness and the subcommittee voted to recommend that the Panel undertake a review of the complaint.

Mr. Kay moved that the Panel approve the subcommittee's initial review report and undertake a review of CRP-20-15. Ms. VanLowe seconded the motion and it carried unanimously.

Ms. Anderson will notify IAB that Panel Members will be scheduling their review of the investigation file and notify the complainant of the review meeting.

Ms. Doane informed the Panel that the complainant alleged that the subcommittee violated the Panel's code of ethics. She added that it is the first time the Panel received a complaint of this kind and that there is currently not a process in place to consider such a complaint. Ms. Doane suggested that consideration of this specific matter be deferred so that the Panel can work with independent legal counsel to develop a process. The Panel agreed. Ms. Doane assured the complainant that because the Panel approved the subcommittee's initial review report, all nine members of the Panel will review the FCPD investigation file to determine whether the investigation was complete, thorough, accurate, objective and impartial. She added that the complainant will have the opportunity to appear before the Panel and the Panel will fully address his concerns about the subcommittee process.

Approval of Amended Panel Procedure: Intake and Processing of Review Requests: Ms. Doane reminded the Panel that Mr. Cluck previously raised concern with how the Panel refers to and reports on race in Panel documents. She informed the Panel that Ms. VanLowe and Ms. Anderson worked together to research the issue and drafted an amendment to the procedure. Ms. Anderson reported that the research she and Ms. VanLowe reviewed stressed the importance of consistently reporting race throughout documents. She added that in past Panel Review Reports, references to race were designated as a proper noun. Ms. VanLowe said that while research showed that there is not a definite answer related to this issue, there is a current movement to capitalize the race of an individual as it is a part of someone's identity and recognizes the importance of an individual's race and ethnicity .

Mr. Cluck submitted alternative language to the Panel during the meeting which read:

"When writing Review Reports or other Panel documents, and it is necessary or appropriate to note a person by color, culture, ancestry or similar factor, the Panel shall use the demographic identities preferred by the complainant or other parties to the case. Wherever possible, those parties will be asked, if they have not already used their preferred identity in materials they

submitted, whether they would like to have a race or ethnicity or other description included for them and whether the words used will be capitalized or lower case. Their choice will be respected, and used throughout documents, notwithstanding various style guide preferences.”

Panel discussion ensued regarding Mr. Cluck’s proposed language. Mr. Cluck stated that all Panel Members agree that self-identification is extremely important but that the Panel should allow the complainant the choice regarding capitalization of the term. He also added that the language he submitted covers gender identity in addition to race. Mr. Kay thanked Mr. Cluck for submitting alternative language but believes that the Panel should maintain control over how it writes its reports.

Mr. Bierman moved that the Panel adopt the amended language as written in the updated Panel procedure for Intake and Processing of Review Requests dated July 23, 2020. Mr. Sriskandarajah seconded the motion and it carried unanimously.

Ms. Anderson will circulate the updated procedure to Panel Members in final form. Ms. Doane informed the Panel that the Panel’s procedures are up for review in December 2020 and she has asked Ms. Anderson to conduct an initial review of the procedures. She asked if a Panel Member would be interested in volunteering to assist with this process. Ms. Doane added that this process would dovetail nicely with the four-year review process.

Approval of One Fairfax Statement for Panel Website: Ms. Doane reminded the Panel that at the last meeting, the Panel approved a staff memo regarding the Panel’s role in promoting One Fairfax. Ms. Anderson worked with Mr. Sriskandarajah to draft language to be published on the Panel’s website related to this topic. Ms. Anderson informed the Panel that most of the draft language was pulled from the memo that was previously approved by the Panel in June and described the layout of the draft webpage. Mr. Bierman proposed an edit to remove an extra comma under the “Access” section and the edit was accepted.

Ms. VanLowe moved approval of the draft One Fairfax language to be published to the Panel’s website. Mr. Kay and Mr. Sriskandarajah jointly seconded the motion and it carried unanimously.

Ms. Anderson will publish the finalized language to the Panel’s website.

July 21 Board of Supervisors Public Safety Committee Debrief: Mr. Kay updated the Panel on his presentation of the Panel’s 2019 Annual to the Board of Supervisors’ Public Safety Committee meeting on July 21, 2020. Mr. Kay noted that the meeting was in person and that he wore a mask while presenting. The agenda included his presentation of the Panel’s 2019 Annual Report, Mr. Schott’s presentation of the Independent Police Auditor’s 2019 Annual Report, and a progress update by the research team from University of Texas San Antonio who were selected to conduct a study into the racial disparity in use of force incidents in the county. Ms. Doane was available via conference call during the meeting to answer questions about current Panel operations. He said that he conveyed to the Board that the Panel is ready and

able to fulfill the important role the Board of Supervisors entrusted the Panel with to enhance transparency and promote accountability.

Panel Discussion on Recommendations and Comments Submitted to Supervisor Lusk: Ms. Doane reminded the Panel that Supervisor Lusk asked the Panel to submit comments and recommendations on police reform efforts as he is requesting input from a wide variety of stakeholders and creating a matrix and website. Panel Members individually submitted their comments and recommendations to Ms. Doane who then compiled them for submission to Supervisor Lusk. Ms. Doane made clear that the recommendations are not an official document of the Panel as it has not been formally approved. Ms. Doane opened the floor for discussion on the items and whether the Panel would like to adopt the recommendations or formally consider them during the Panel's Four-Year Review.

Mr. Kay noted his preference to roll the recommendations in with the Four-Year Review. Mr. Gallagher agreed with Mr. Kay and proposed that a Panel discussion be held prior to the Panel formally making the recommendations. Mr. Bierman also agreed and noted that the Virginia General Assembly will be meeting in special session in August and that some of the topics subject of the recommendations could be discussed and the landscape could change. Ms. Doane asked that Mr. Bierman and Mr. Aguilar take into consideration the listed recommendations and comments and consider them during the Four-Year Review process.

Panel Discussion on Memorandum Submitted by Mr. Cluck: Mr. Cluck pointed the Panel's attention to the memo he submitted to the Panel for their review which was included in the meeting materials packet. Mr. Bierman noted his appreciation that the FCPD releases certain statistics such as use of force and arrest data and said that the Panel supports the sharing of additional information and data. Mr. Aguilar summarized Mr. Cluck's memo in stating that Mr. Cluck finds it problematic how the FCPD portrays individuals who commit criminal violations and that it seems that through the release of photos, it provides for a perception that minorities are committing the majority of crimes. Mr. Aguilar expressed his appreciation to Mr. Cluck for submitting his memo to the Panel and believed that the Panel should discuss how the FCPD communicates with and polices the community. Mr. Bierman agreed that circulating pictures of individuals who commit criminal violations is troubling.

Ms. Doane thanked Mr. Cluck for submitting his memo and for his participation on the Panel.

Panel Discussion on Complaint CRP-20-10: Ms. Doane informed the Panel that IAB does not regard the subject complaint as a new complaint since the complainant submitted an identical complaint to the FCPD prior to December 6, 2016. IAB informed the Panel that it does not intend to re-investigate the complaint. Therefore, the Panel would be unable to review CRP-20-10 if a review request is submitted. Ms. Doane suggested that the Panel inform the Board of Supervisors of this matter as the Panel has proceeded in this way in the past.

Mr. Kay reminded the Panel of a complaint that was received in 2019 which involved an FCPD animal control warden lodging a complaint against his supervisor. In that instance, the FCPD

informed the Panel that it would not investigate the complaint as it follows the internal employee grievance procedure. Therefore, the Panel informed the Board of Supervisors and followed up on this issue during a quarterly meeting. He expressed his agreement with Ms. Doane's plan of action.

Mr. Kay moved that the Panel inform the Board of Supervisors that the Panel is at an impasse and does not have anything to review related to CRP-20-10. Mr. Bierman seconded the motion and it carried unanimously.

Ms. Doane asked Ms. Anderson to draft a letter to the Chairman of the Board of Supervisors on this matter.

Supervisor Lusk and Panel Listening Session: The Panel was invited to participate in a virtual listening session hosted by Supervisor Lusk, who is chair of the Board of Supervisors' Public Safety Committee. Ms. Doane informed the Panel that the event will be held virtually on the Crowd Cast platform and is scheduled for Wednesday, July 29 at 6:30 p.m. Ms. Anderson provided the Panel with logistical information about the event and the opportunity for Panel Members to schedule test runs prior to the event to gain familiarity with the platform. Ms. Doane added that she hopes the Panel can participate in at least one more event like this. Mr. Bierman asked if the event has been noticed to the public. Ms. Anderson replied that the event has been posted on the county's public meetings calendar, on the Panel's and Independent Police Auditor's websites, and in hard copy outside of the Office of the Independent Police Auditor. She added that the event will be advertised on Supervisor Lusk's social media platforms, and to individuals and community organizations. Ms. Norman-Taylor asked about the Crowd Cast Platform. Ms. Anderson replied that Supervisor Lusk's office likes to use the platform as it is very interactive and great for hosting town hall meetings. She added that to join the meeting, there is a meeting link.

Ms. Doane asked that during the event, Panel Members keep in mind that the Panel is gathering information for its four year review and the Panel should be actively listening to the public so that the Panel can make recommendations based on the community's input. *Ms. Doane asked that Panel Members submit contact information for groups or individuals that they would like to notify about the event.*

Mr. Aguilar requested that the Panel respond compassionately to the public. He added that there may be comments that entice Panel Members to defend and justify the Panel's work but that it is most important during this time to actively listen. Ms. Doane agreed and asked the Panel to guard against being defensive.

New Business:

Mr. Bierman asked if Major Kim could clarify the FCPD's current procedure to allow for Panel Members to review FCPD investigation files during the COVID-19 pandemic. Major Kim replied that the FCPD is operating on modified staffing within the headquarters building and that they

are being very cautious and sensitive to the needs of the populations most vulnerable to the virus. He added that he is continuing to work through logistics and that safety is his number one priority as Panel Members review investigation files. Ms. Doane added that she and other Panel Members would identify as vulnerable and said that any accommodations to make Panel Members feel more secure would be great. Major Kim replied that prior to his position in IAB, he worked on the FCPD's COVID response plan and safety officer program to enhance department wide safety measures and safety during encounters with the public. Major Owens added that FCPD safety officers conducted a walkthrough of the IAB suite to implement safety measures such as a plastic shield barrier to physically separate the assigned investigator from Panel Members and sanitizing heavy traffic areas in between uses.

Mr. Aguilar asked if the FCPD would reconsider giving Panel Members electronic access to the investigation files so that they would not need to leave their homes. Ms. Norman-Taylor added that she has reviewed an FCPD investigation file during the COVID-19 pandemic and confirmed the safety precautions described by Major Owens and she felt comfortable while reviewing the file, but it would be great if the FCPD could further explore providing electronic access to Panel Members. Ms. Doane added her concern is checking in and using the elevator.

Ms. VanLowe recognized the passing of Mr. Aguilar's father from COVID-19 a few weeks prior to the Panel's meeting. On behalf of the Panel, Ms. VanLowe extended condolences to Mr. Aguilar for his loss. Mr. Aguilar thanked the Panel for their support during this time and that he is choosing to be integrated in certain activities to honor his legacy.

Mr. Aguilar reminded the Panel and the public about responding to the census and explained it is the basis for accurate data, reporting, and statistics which directly impact the work of the Panel. The response period was extended until October 31.

Mr. Sriskandarajah moved to adjourn the meeting. Mr. Gallagher seconded the motion and it carried unanimously. The meeting adjourned at 8:23 p.m.

Next Meeting: The Panel's next meeting will be held on Thursday, August 27 at 7:00 p.m. The meeting will be conducted electronically and information for public access will be included in the public meeting notice.

Outreach Since March 2020

Organization	Date	Individual(s)
Fairfax County Faith Communities in Action	June 9	Hollye and Richard
WUSA 9 - Media	June 10	Hollye, Hansel, Richard
Floris United Methodist Church	June 14	Rhonda
President of NAACP	June 18	Hollye, Rhonda, Richard
Rotary Club of South Alexandria and Rotary Club of Mt. Vernon	July 17	Hollye and Richard
VOICE/CURE Clergy Leadership Team	July 22	Hollye and Rhonda
Listening Session with Supervisor Lusk	July 29	Hollye, Jimmy, Richard
Georgetown Law Student	August	Rhonda
VP of Henrico NAACP	August	Hansel
NAMI Northern Virginia	August 19	Hollye, Rhonda, Richard
McLean District Station Citizens Advisory Council	October 8	Hollye and Richard