

Police Civilian Review Panel

July 20, 2020

Conducted Electronically due to COVID-19 Pandemic

Initial Disposition Subcommittee – CRP-20-15

Members Present:

Bob Cluck, Review Liaison

Shirley Norman-Taylor, Review Liaison

Sris Sriskandarajah, Subcommittee Chair

Others Present:

Gentry Anderson, OIPA

Rachelle Ramirez, OIPA

Richard Schott, 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 6:08 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. Cluck was present and participated from Reston, Virginia.

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

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

Mr. Sriskandarajah moved that each member’s voice may be adequately heard by each other member of this Panel. The motion was jointly seconded by Ms. Norman-Taylor and Mr. Cluck 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 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 129 136 6587 as noted in the Public Meeting Notice.

Ms. Norman-Taylor 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. Cluck seconded the motion and it carried by unanimous vote.

Completion of Initial Review Report for CRP-20-15:

All members of the subcommittee confirmed that they reviewed the Fairfax County Police Department's (FCPD) investigation file. Mr. Sriskandarajah asked Ms. Anderson for the next step in the process for the subcommittee's initial review of the complaint. Ms. Anderson said that subcommittee members typically review the Panel's Bylaws to see if there are any limitations that would prohibit the Panel from reviewing the complaint and then review the abuse of authority and serious misconduct check list prior to voting on recommendation to submit to the full Panel.

Ms. Norman-Taylor provided a summary of the incident subject of the complaint. The complainant wanted to dump his trash for free at the solid waste transfer station during the state of emergency. The complainant was told he could not dump his trash for free, but he could pay a reduced price. The complainant declined paying the reduced price. After being asked to leave the premises multiple times and the complainant did not leave, a staff person at the complex called 911 and FCPD officers responded. The complainant claimed the officer acted in a rude and threatening manner during the interaction.

The subcommittee went through the check list on the Initial Review Report template to determine whether the allegation in the complaint meets the Panel's criteria for an abuse of authority or serious misconduct. The subcommittee members discussed the third category on the checklist which is "acting in a rude, careless, angry, retaliatory, or threatening manner not necessary for self-defense." Ms. Norman-Taylor noted that while the complainant alleged the officer acted in an inappropriate manner, she did not find the officer to act in a rude or unprofessional manner after reviewing the file. Mr. Sriskandarajah added that the complainant did say that the officer acted in an angry or threatening manner that made him feel intimidated. Ms. Norman-Taylor replied that the subcommittee should consider the complainant's allegation and what the subcommittee members learned about the incident through their review of the file. Mr. Sriskandarajah agreed and reminded the subcommittee that is the Panel's mission to ensure that the investigations are complete, thorough, accurate, objective, and impartial. The subcommittee members further discussed the complainant's allegation and the criteria in question.

After discussion amongst the subcommittee members, it was determined that the complainant's allegation that the officer acted in a rude and threatening manner during their interaction met the criteria for "acting in a rude, careless, angry, retaliatory, or threatening manner not necessary for self-defense." Mr. Sriskandarajah then asked if the subcommittee members thought if the investigation into the complaint was complete, accurate, thorough, objective, and impartial. Mr. Cluck replied that the full Panel must determine this if the

subcommittee recommends the Panel undertake a review of the complaint. He further stated that the subcommittee's role is to determine whether the allegations in the complaint meet the Panel's criteria for an abuse of authority or serious misconduct. Mr. Sriskandarajah asked Ms. Anderson for clarification. Ms. Anderson replied that in the past, subcommittee members would review the allegations made in the complaint against the criteria listed in the checklist. She further stated that once the subcommittee completed the checklist, the subcommittee must form a recommendation to submit to the Panel whether to undertake a review of the complaint. The subcommittee did not find any other allegations that met the criteria for an abuse of authority or serious misconduct as listed on the Initial Review Report checklist.

Mr. Sriskandarajah asked Ms. Anderson how the subcommittee should proceed after completing the checklist. Ms. Anderson replied that the subcommittee must complete the findings and recommendation section of the report.

Ms. Norman-Taylor expressed her belief that she does not believe the allegation meets the Panel's threshold for serious misconduct or abuse of authority. Ms. Norman-Taylor moved that the subcommittee make a recommendation to the Panel to not undertake a review of this complaint because it does not meet the Panel's criteria for an abuse of authority or serious misconduct. The motion failed to receive a second.

Mr. Cluck said that the subcommittee can make the assessment that the allegation is not serious misconduct, however, the complainant viewed the incident as a serious issue to be considered by the Panel. Mr. Norman-Taylor replied that only the three subcommittee members have reviewed the file and that the rest of the Panel relies on the subcommittee to decide whether the allegation rises to serious misconduct. Mr. Sriskandarajah cited the Panel's Bylaws which state "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 an 'abuse of authority' or a serious misconduct by a FCPD officer, and (2) a Review Request is filed." Mr. Cluck replied that the subcommittee is tasked with reviewing the allegations in the complaint to determine whether they meet the Panel's standard of an abuse of authority or serious misconduct and it is the role of the full Panel to determine whether the investigation was complete, accurate, thorough, objective and impartial if the allegation is deemed to be serious misconduct or abuse of authority. Ms. Norman-Taylor reviewed the purpose statement as written on the Initial Review Report document.

Mr. Sriskandarajah moved that criteria has been met for the allegation in the complaint to be considered an abuse of authority or serious misconduct. Ms. Norman Taylor seconded the motion and the vote carried by a vote of two with Mr. Cluck abstaining. The subcommittee discussed the next steps and whether the subcommittee had authority to determine whether the investigation was complete, thorough, accurate, impartial, and objective.

The subcommittee agreed that a review request was received by the Panel. Mr. Sriskandarajah asked if the subcommittee believed whether the FCPD's investigation was complete. Mr. Cluck

replied that it is not the role of the subcommittee to decide this and that the full Panel would decide whether the FCPD's investigation into this complaint is complete, accurate, thorough, and impartial if the subcommittee recommends to the Panel to undertake a review of the complaint.

Mr. Sriskandarajah asked Ms. Anderson for clarification. Ms. Anderson replied that the subcommittee's role is to review the allegations made in the complaint to determine whether the allegations meet the Panel's threshold of an abuse of authority or serious misconduct. The subcommittee also must make a recommendation on whether the Panel should undertake a review of the complaint. If the subcommittee submits a recommendation in favor of undertaking a review of the complaint and the Panel approves the subcommittee's recommendation, all nine Panel Members will review the file and a review meeting will be convened to determine whether the investigation was complete, accurate, thorough, impartial, and objective. She added that the Panel will consider the subcommittee's initial review report at the Panel Meeting on July 23.

Mr. Cluck moved that the subcommittee recommend that the Panel undertake a review of CRP-20-15 because the complaint includes an allegation of serious misconduct. Ms. Norman-Taylor seconded the motion and it carried unanimously.

Ms. Anderson explained the process of submitting the initial review report to the Panel for consideration. Mr. Sriskandarajah when does the Panel write the Review Report. Ms. Anderson replied that if the Panel approves the subcommittee's initial review report and the Panel undertakes a review of the complaint, a review meeting will be convened. At the conclusion of the review meeting, a subcommittee member would be tasked with completing the Panel review report.

Mr. Sriskandarajah thanked the subcommittee members and staff for their time.

The meeting adjourned at 6:52 p.m.