

Police Civilian Review Panel

September 24, 2020

Conducted Electronically due to COVID-19 Pandemic

Meeting Summary

Panel Members Present:

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

Others Present:

Complainants
Gentry Anderson, OIPA
Second Lieutenant Dehler, FCPD
Captain Hanson, FCPD
Lieutenant Colonel Lee, FCPD
Anita McFadden, Interim Counsel
Rachelle Ramirez, OIPA
Richard Schott, Independent Police Auditor

NOTE: The Panel's September 24th 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 September 24th 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 the Braddock District.

Mr. Bierman was present and participated from the Dranesville District in 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 the Braddock District, 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 seconded by Mr. Sriskandarajah 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 129 059 0676 as noted in the Public Meeting Notice. Mr. Bierman seconded the motion and it carried by unanimous vote.

Ms. Doane moved 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.

Panel Review of CRP-20-20 and CRP-20-21: Ms. Doane provided a summary of the incident subject of the complaints. A community member called 911 indicating that there were loud fighting noises coming from a neighbor's home. Officers were dispatched to the complainants' address around 4:00 a.m. and knocked several times at the door and did not receive a response. The two complainants were awakened by the knocking and were frightened. The complainants called 911 to report the knocking at the door and the operator informed the complainants that police officers were knocking at the door responding to a call reporting domestic violence. The police officers left after receiving no response but then returned as a result of the complainants call to 911 and due to a second call from the community member to 911 reporting further domestic violence. The officers returned to the complainants' door and began to knock. The complainants were unable to clearly identify the officers and asked the officers for identification upon opening the door.

Complainant Statement:

Complainant 1 thanked the Panel for undertaking a review of the complaint and for allowing her to address the Panel. She indicated that statements in the FCPD's disposition letter did not correspond to the events that took place during the incident. Complainant 1 said that the

officers did not introduce themselves to the complainants and she would like to know what protocol should be followed when officers arrive at someone's residence early in the morning. She further explained that her sister, Complainant 2, had to ask the officers repeatedly to introduce themselves. She asked the Panel for their review to help restore trust in law enforcement as they are an integral part of society and that no one should fear the authority that is there to protect the community.

Complainant 2 thanked the Panel for the opportunity to appear and referenced the tragic incident involving Breonna Taylor in Louisville, Kentucky. She provided a summary of the incident subject of the complaints. She explained that after the incident, she and her sister called FCPD to understand what practices and protocols should have been followed and did not receive a satisfactory response. Complainant 2 explained that the incident put the complainants in a dangerous situation and that she hopes their complaints serve as reference for others in the community when seeking accountability.

Complainant Questioning:

Mr. Aguilar asked the complainants what concerned them during the incident subject of the complaint. Complainant 2 replied that the unannounced banging at their door early in the morning was frightening and wanted to know what FCPD protocol is for these types of events. Complainant 1 agreed and wanted to know what protocol should have been followed. Mr. Aguilar summarized that overall the complainants were concerned about the protocol during these events, accurate reporting by the officers, and the demeanor of the officers.

Mr. Aguilar asked if the complainants were provided a response as to what FCPD protocols are in place and where they can be found. Complainant 2 replied that she was not provided with a satisfactory response and was not told where they can be found. She informed the Panel that it was during a Panel subcommittee meeting where she learned that the protocols can be found online. Mr. Aguilar asked the complainants if they had a chance to review the FCPD's General Orders and whether they believed the officers acted in accordance with the General Orders. Complainant 2 replied that she reviewed the relevant General Order but did not believe that the officers acted in accordance with the policy as the officers did not announce themselves and they did not check in with the complainants whether an emergency situation took place. Mr. Aguilar informed the greater community that FCPD is one of the few departments in the country that publicizes their General Orders online.

Mr. Aguilar asked Complainant 1 if she received any medical attention the night of the incident. Complainant 1 replied that she did not accept medical attention as she was able to regain composure and her sister took care of her. Mr. Aguilar asked if she has sought medical attention as a result of the incident. Complainant 1 replied that she did not feel comfortable answering the question.

Ms. Doane asked if the complainants thought the officers were rude during their conversation. The complainants replied that the officers were not rude as they did not say anything when the

complainants opened the door. Ms. Doane asked if the officers' silence made the complainants feel intimidated. Complainant 2 replied the officers' silence made them feel more frightened as the 911 operator indicated that the individuals were officers, but they did not announce themselves.

Ms. Doane asked the complainants if there were any lights on in the condominium complex and whether there was any commotion outside. Complainant 2 replied that only the streetlights were on and that she did not have the time or capacity to turn on the porch light. Complainant 2 indicated that it was very quiet in the neighborhood when the officers were at the door.

Ms. Doane asked if the complainants could see the street from their window and whether they saw a vehicle on the street outside of the unit. Complainant 2 replied that a service road can be seen from the window and that there was a vehicle on the street but that it did not appear to be occupied.

Ms. Doane asked the complainants if they are aware of a history of domestic violence incidents in the complex. Both complainants replied they were not aware of any incidents of this nature occurring in their community.

Ms. Doane asked the complainants if they have reason to believe that they were targets of harassment by a neighbor or individual due to the initial 911 call and whether they have been subject to other incidents of this kind. The complainants replied that they do not have problems with neighbors or other individuals and that they have never experienced an incident of this kind.

Complainant 1 asked if there was a difference in the disposition letter received by the complainants and the Panel. Ms. Doane replied that all Panel Members reviewed the same disposition letter and the entire FCPD investigation file related to the complaint.

Ms. Doane thanked the complainants for attending the meeting and for addressing the Panel.

Complainant 2 commented that she is unsure why the FCPD did not inform her that the General Orders are publicly available on the FCPD's website for inspection. She also added that the officers did not introduce themselves or explain why they were there.

FCPD Statement:

Captain Hanson introduced Second Lieutenant Dehler to present the summary of the investigation and the FCPD's findings. Lieutenant Dehler provided a summary of the facts of the case and the investigation. He reported that the results of the investigation found that the officers made a reasonable attempt to make contact with the individuals in the residence, that they were identified by dispatchers of the Department of Public Safety Communications (DPSC) and by the officers themselves, and that both officers were in uniform with badges of authority. The complaint was documented as a dissatisfaction of service.

FCPD Questioning:

Mr. Bierman asked whether the officers identified themselves upon first approaching the residence. Lieutenant Dehler replied that the officers reported during the investigation that they identified themselves at some point during the knocking. Mr. Bierman asked if the officers immediately identified themselves. Lieutenant Dehler replied that they did not. He said it is a common practice for officers responding to a domestic violence call to not announce themselves when getting an individual to open the door so as to avoid causing further anger and violence to the victim. Mr. Bierman noted that the relevant FCPD General Order is unclear on exactly when an officer needs to announce their presence.

Mr. Bierman asked why interviews of neighbors were not included in the investigation. Lieutenant Dehler replied that statements from officers and relevant audio recording of the incident seemed to be enough. Mr. Bierman noted it would have been helpful to have interviewed neighbors and the potential witness listed in the complaint.

Mr. Kay asked if information could be provided on the training officers receive regarding General Order 601.4 and when officers should identify themselves. Captain Hanson replied that officers receive practical training in this area on how to respond to domestic violence calls.

Mr. Kay asked if General Order 601.4 has some import to the investigation of the complaint and noted that he did not see any reference or analysis of it in the investigation file. Captain Hanson replied affirmatively and that the case focused on standard protocol when a call for service is generated from a third-party complaint. He explained that officers knock louder when the door is not answered immediately and assess the situation for any additional investigative steps. Mr. Kay reviewed the facts of complaints. Lieutenant Dehler said that from the investigation, it was unclear exactly when officers announced themselves but that an announcement was made. Mr. Kay asked whether it is important to know whether or not the officers announced who they were the first opportunity they had especially due to the early hour of the morning. Lieutenant Dehler replied in the negative.

Mr. Aguilar asked how the FCPD classifies complaints. Captain Hanson replied that a complaint that does not allege a clear violation of the General Orders is classified as an initial inquiry. He explained that the facts are then reviewed and, if the facts support that the General Orders were followed, it is classified as a dissatisfaction of service.

Mr. Aguilar asked what allegations the FCPD investigated related to this complaint. Captain Hanson replied that the investigation considered the allegations listed in the complaint of the loud knocking and whether the officers identified themselves. Mr. Aguilar suggested that misreporting events is another potential allegation that could be investigated.

Mr. Aguilar asked whether the FCPD believed the officers properly investigated the initial report of domestic violence. Captain Hanson replied that when contact was made with the complainants, the complainants were adamant that an incident did not occur, and officers asked if medical attention was needed to which the complainants declined.

Mr. Aguilar asked if the officers sought information on whether there was a history of domestic violence at the address. Lieutenant Dehler replied that nothing in the investigation revealed a history of domestic violence at the address and that the officers' computer aided dispatch (CAD) would have indicated this. Mr. Aguilar noted that General Order 601.4 requires officers to obtain information from dispatch upon arriving to the scene but that the investigation did not appear to reveal that this occurred.

Mr. Aguilar inquired about FCPD training provided to officers who transfer to the department. Captain Hanson replied that there are minimum training standards required by the state and that a transfer officer would receive training specific to FCPD General Orders.

Mr. Aguilar asked whether the term "nasty" is considered offensive by the department. Captain Hanson replied that it is dependent on the context in which the word was used.

Mr. Cluck recalled a time when officers canvassed his neighborhood and he was alarmed due to the knocking at his door. Mr. Cluck asked if 2,000 to 3,000 is a correct estimate of the number of domestic violence calls to which the FCPD responds. Captain Hanson replied that he did not have the exact statistic, but that the FCPD responds to a lot of domestic violence calls. Mr. Cluck commented that the loudness of the knocking and failure to immediately identify as an officer seems to be a procedural deviation from what should have occurred or was expected.

Ms. VanLowe noted her concern regarding the officers' failure to directly and clearly identify themselves and acknowledged the safety concerns of the complainants.

Mr. Aguilar asked what the relationship is between FCPD and the DPSC, specifically related to communications issues and how they get resolved. Lieutenant Colonel Lee replied that FCPD and DPSC have a great working relationship and that in this incident, there was no reason to believe a miscommunication occurred. He provided a summary of the incident and noted that the call for service was for a domestic violence situation. Mr. Aguilar noted his concerns with the communications between the DPSC dispatcher and community member who made the 911 call reporting a domestic violence event.

Ms. Doane asked if officers undergo training to consider the totality of the circumstances when on scene for a domestic violence call specifically related to whether or not they should immediately identify themselves as police officers. Lieutenant Colonel Lee replied that every scenario is different, therefore officers need to collect information to make the best decision possible when responding to calls. Ms. Doane referred to FCPD General Order 601.4, which states "responding officers shall identify themselves as officers and explain the reason for their presence."

Ms. Doane thanked the FCPD representatives for their participation.

Panel Deliberations:

Ms. Doane invited the Panel to discuss whether the FCPD investigation was accurate, complete, thorough, objective, and impartial. The Panel openly deliberated.

Panel Findings:

Mr. Bierman moved that the FCPD investigate and analyze the gulf between the plain language of the General Order and the actions taken and to interview the relevant witness named in the complaint and to analyze the scene. Ms. Doane offered a friendly amendment to the motion for the FCPD to conduct other such investigation as warranted. Mr. Bierman accepted the friendly amendment. Mr. Kay seconded the motion. Ms. VanLowe asked which finding the Panel was operating under. Ms. Doane confirmed the Panel was requesting additional investigation by the FCPD per Article IV.E.1.h of the Bylaws. The question was called on the motion as amended, and it carried by a vote of six with Mr. Cluck, Mr. Gallagher, and Mr. Sriskandarajah voting “Nay.”

Approval of Subcommittee Initial Review Report for CRP-20-24:

Ms. Doane recognized Mr. Sriskandarajah to present the subcommittee’s findings. Mr. Sriskandarajah summarized the incident subject of the complaint and informed the Panel that the complainant alleged racial bias and excessive use of force. The Independent Police Auditor will review the allegation related to excessive use of force. He announced that the subcommittee recommended that the Panel undertake a review of the complaint on the allegation of racial bias. Mr. Sriskandarajah moved that the Panel undertake a review of complaint CRP-20-24. Mr. Kay seconded the motion and it carried by unanimous vote.

Ms. Doane asked Ms. Anderson to notify the Panel when the FCPD’s investigation file is ready for review.

Approval of September 10 Meeting Summary:

Mr. Kay moved approval of the Panel’s September 10 meeting summary. Mr. Gallagher seconded the motion and it carried by unanimous vote.

Panel Discussion on Board of Supervisors Action Item and Red-Lined Bylaws:

Ms. Doane informed the Panel that she and Mr. Bierman met with Supervisor Lusk and the Chairman’s chief of staff regarding Panel Members’ concerns with the draft action item, specifically the limitation on the number of public meetings the Panel could host. She noted that there was a concern with the definition of “meetings.” She informed the Panel that the concerns would be taken under consideration and that she would provide language to clarify the definition of “meetings.”

Panel Discussion on September 25 Quarterly Meeting:

Ms. Doane reminded the Panel that she is attending the quarterly meeting scheduled for September 25. She informed the Panel that the following topics will be discussed: FCPD updates to the Panel's recommendations matrix; a recommendation that the Panel hire an executive director; the desire to allow the FCPD representative to present first at review meetings; guidance on handling correspondence where there is no complaint but mental health issues are evident; and an update on hiring permanent legal counsel. She informed the Panel she would get updates on these items and report back.

Ms. VanLowe noted that at past review meetings, the FCPD representative would present the findings of the investigation first. Ms. Doane replied that she would like to inform the quarterly meeting group of the potential change.

Adjournment:

Mr. Kay moved to adjourn the meeting. Mr. Bierman seconded the motion and it carried unanimously.

The meeting adjourned at 9:15 p.m.

Next Meeting: The Panel's next meeting will be held on Thursday, October 8 at 7:00 p.m. The meeting will be conducted electronically and information for public access will be included in the public meeting notice.