

Police Civilian Review Panel

October 5, 2021

Conducted Electronically due to COVID-19 Pandemic

Initial Disposition Subcommittee – CRP-21-11

Members Present:

Dirck Hargraves, Subcommittee Chair

Todd Cranford, Review Liaison

Frank Gallagher, Review Liaison

Others Present:

Anita McFadden, Counsel

Rachelle Ramirez, OIPA

Dre-Ana Whitfield, 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 5:32 p.m.

Motions to Conduct Electronic Meeting: Mr.Hargraves 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. Hargraves was present and participated from Kingstowne, Virginia.

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

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

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

Mr. Hargraves 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 1-844-621-3956 and

entering access code 2331 055 3202 as noted in the Public Meeting Notice. Mr. Gallagher seconded the motion and it carried by unanimous vote.

Mr. Hargraves 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. Gallagher seconded the motion and it carried by unanimous vote.

Completion of Initial Review Report for CRP-21-11:

Mr. Hargraves provided a summary of the complaint, which occurred on December 30, 2020. The complainant was riding on a motorcycle, heading towards the intersection of Beulah and Fairfax County Parkway. While parked at a church, the officer observed the complainant traveling at a high speed in a 35-mph zone. The complainant stated that the police officer pulled beside his motorcycle without the use of emergency signal lights. The complainant alleged that the police officer became racially biased after the police officer noticed the complainant's complexion. The complainant further complained that the police officer did not have a face mask on while conducting the traffic stop and spit on him when he spoke.

Mr. Gallagher outlined the three main allegations made by the complainant: that no emergency lights were used while conducting the traffic stop, that the police officer was not wearing a face mask, and that the police officer was racially biased.

Mr. Hargraves stated that the FCPD recognized that the police officer did not wear a face mask during this incident and that there was a policy that officers should wear a mask when addressing the public within less than 6 feet. Mr. Hargraves noted that the FCPD took corrective action regarding this violation. Discussion continued regarding the complaint and the allegation that the police officer acted in a racially biased manner. Mr. Hargraves explained that the subcommittee was able to review in the investigative file data on the police officer's traffic stops by subject race and ethnicity and how they compared to all stops conducted by officers in the Franconia station. Mr. Gallagher said the officer's stops of minorities were below the norm of other officers in the same station. Mr. Hargraves noted that the police officer did not cite the complainant for reckless driving. He said that the police officer could have done so based on the speed; however, due to the complainant's good record, the police officer opted to only issue a speeding ticket.

Discussion ensued on whether the allegations met the threshold for abuse of authority or serious misconduct. Mr. Cranford and Mr. Gallagher expressed that after reviewing all the evidence, the FCPD's investigation of the complaint was full and unbiased. Mr. Cranford stated that there was some evidence to substantiate some of the complainant's claims but that there was no evidence that substantiated abuse of power or serious misconduct. Mr. Gallagher expressed his agreement and stated that the investigative file confirms that the officer did not initially use his emergency lights, but it is not required that an officer use them.

Mr. Hargraves expressed that he reviewed the evidence to determine whether the racial bias allegation had any credibility. He noted that the motorcyclist was fully clothed with gear that made it impossible to determine what the complainant's background was. He also stated that the complainant had two ear buds in his ears and did not have his registration on him; both are infractions to which the officer only gave him a warning. He said the officer explained that he had to raise his voice because the complainant had two ear pods in his ears. Mr. Hargraves voiced that after reviewing the evidence, he does not think the complaint should be considered by the full Panel.

The subcommittee reviewed each of the criteria in the Initial Review Report checklist and considered the allegations made in the complaint and whether there was substantiation in the investigative file to support the allegations. Discussion ensued on the complainant allegations that there was discrimination based on race, that the officer was rude or careless, and that there was a violation of law or ordinances. Subcommittee members expressed that there was no scintilla of evidence to support these allegations, and therefore, the criteria for full Panel review was not met.

Mr. Cranford moved that the subcommittee not refer CRP-21-11 to the full Panel for review. Mr. Hargraves seconded the motion and it carried by unanimous vote.

Mr. Gallagher stated that the subcommittee will be giving the full Panel a briefing of the complaint at its next meeting so that the full Panel can decide as to whether the complaint should be considered.

Mr. Hargraves moved to adjourn the meeting. Mr. Cranford seconded the motion and it carried by unanimous vote.

The meeting adjourned at 6:13 p.m.