

Police Civilian Review Panel

February 3, 2022

Conducted Electronically due to COVID-19 Pandemic

Meeting Summary

Panel Members Present:

Jimmy Bierman, Chair

Cheri Belkowitz (joined at 8:47 p.m.)

Todd Cranford

Frank Gallagher

Bryon Garner

Dirck Hargraves, Vice-Chair

Shirley Norman-Taylor

William Ware

Janell Wolfe

Others Present:

Rachelle Ramirez, OIPA

Richard Schott, Independent Police Auditor

Dre-Ana Whitfield, OIPA

2ND Lt. Tim Forrest, Internal Affairs Bureau

Lt. Derek Gray, Internal Affairs Bureau

NOTE: The Panel's February 3 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.

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

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

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

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

Mr. Hargraves was present and participated from Kingstowne, Virginia.

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

Mr. Ware was present and participated from Alexandria, Virginia.

Ms. Wolfe was present and participated from Fairfax, Virginia.

Mr. Garner was present and participated from Alexandria, Virginia.

Ms. Belkowitz joined the meeting at 8:47 p.m. and participated from Fairfax Station, Virginia.

Mr. Bierman moved that each member's voice may be adequately heard by each other member of this Panel. Mr. Gallagher seconded the motion, and it carried with a vote of eight, without the vote of Ms. Belkowitz who was absent.

Mr. Bierman 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 2335 103 8481 as noted in the Public Meeting Notice. Mr. Cranford seconded the motion, and it carried with a vote of eight, without the vote of Ms. Belkowitz.

Mr. Bierman 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. Hargraves seconded the motion, and it carried with a vote of eight, without the vote of Ms. Belkowitz.

Approval of Agenda: Mr. Bierman suggested that the Panel start with the approval of agenda before introducing the new panel members. Mr. Cranford moved approval of the meeting agenda as amended. Mr. Gallagher seconded the motion, and it carried with a vote of eight, without the vote of Ms. Belkowitz.

Introductions of New Panel Members: Mr. Bierman announced that two new members have joined the Panel. Mr. Bryon Garner provided a summary of his background. He stated that he has worked for the federal government for over 20 years. He said that before living in Alexandria, Virginia, he lived in San Diego, California where he served on their police review board. He expressed that he is looking forward to working with everyone on the Panel.

Ms. Janelle Wolfe expressed that she is looking forward to working on the Panel. She stated that she currently does mental health hearings for Arlington County and volunteers for the Fairfax County animal shelter. She worked as a criminal defense attorney and was certified to do capital murder cases. She worked as a magistrate for Fairfax County for five years.

Approval of January 6 Meeting Summary: Mr. Hargraves moved approval of the Panel's January 6 meeting summary. Mr. Gallagher seconded the motion and it carried with a vote of eight, with Ms. Belkowitz being absent.

Approval of Subcommittee Initial Review Report for CRP-21-24: Mr. Bierman stated that he sat on the CRP-21-24 subcommittee with Mr. Gallagher and Mr. Hargraves. He provided a summary of the complaint. He stated that the complaint involved three interactions with the FCPD. The first incident was on September 1, 2020. The police were called out to the complainant's house due to a domestic dispute. The records reflected that the complainant did not report imminent danger or abuse. The complainant

alleged that she was abused by her former husband that should have been recognized by the FCPD. On September 24, 2020, the complainant alleged that she had been a victim of abuse. The FCPD investigated and interviewed the complainant's former husband. The Commonwealth's Attorney declined to prosecute.

On December 2, 2020, the FCPD was called out and the complainant was found unconscious. Having overdosed on narcotics, the police took pictures, and the complainant was taken to the hospital where she suffered serious injuries. Mr. Bierman noted that there were pictures of the scene. The complainant again alleged that the FCPD ignored and improperly responded to the incident. Mr. Bierman explained that the investigation went through multiple layers of review and the allegations and found no issues with how the police department handled the case. Mr. Bierman further explained that the subcommittee discussed each allegation. He stated that the allegation that the police failed to prosecute did not rise to the level of abuse of authority or serious misconduct that the subcommittee typically handles. Mr. Bierman noted that the Panel does not intervene with prosecuting decisions unless there is an argument of major misrepresentation.

Mr. Bierman explained that the subcommittee reviewed the September 2, 2020 incident and found no evidence that the complainant reported she was a victim of abuse at the time the police were called. He expressed that this does not mean that if you have not claimed to be a victim of abuse that you are not a victim of abuse. He explained that the subcommittee considered that the FCPD conducted a wellness check the next day, in which the complainant stated that she was fine. Mr. Bierman stated that on the December 2nd incident, the complainant did not have any memory of the incident due to her having overdosed on narcotics.

Mr. Bierman expressed that the subcommittee simply could not find evidence that the FCPD was ignoring or improperly responding to the incidents. He explained that the subcommittee reviewed the Panel's Abuse of Authority and Serious Misconduct Checklist and considered the applicability of the last two criteria: whether it was a violation of laws or ordinances or a serious violation of Fairfax County or FCPD policies or procedures. He stated that the subcommittee could not find any serious violations.

Discussion ensued on the three incidents and the interactions between the complainant and her family members.

Mr. Gallagher moved that the Panel accept the recommendation of the subcommittee that the full Panel not hear CRP-21-24. Mr. Hargraves seconded the motion. Discussion ensued on whether the subcommittee thought there was evidence of injury to the complainant. Mr. Bierman called the question and it carried with a vote of six, with Mr. Garner and Ms. Wolfe abstaining, and with Ms. Belkowitz being absent.

Consideration of Good Cause in CRP-21-29: Mr. Bierman stated that the complainant in CRP-21-29 alleged misconduct by the FCPD that occurred in 2018. Mr. Bierman explained that the Initial Complaint was filed with the Panel. He noted that there was also a complaint made directly to the FCPD. The FCPD investigated the incident and sent a disposition letter to the complainant. The complainant subsequently requested a review. Mr. Bierman explained that the case must be filed within one year of the incident, otherwise the Panel must find good cause for the delay in order to review it.

Mr. Bierman further explained that Mr. Ware developed new language on what “good cause” means for complainants to better understand. Mr. Bierman said that he reviewed the “good cause” filing for CRP-21-29 and did not understand the rationale provided.

Mr. Cranford motioned that there is insufficient cause to review CRP-21-29. Mr. Hargraves seconded the motion.

Discussion ensued on the information provided by the complainant. Mr. Bierman explained that the complainant submitted poems, review articles, and other allegations not presented in the original complaint. He stated that the complainant did not present any “good cause.”

Mr. Bierman called the question and the motion carried with a vote of seven, with an abstention from Ms. Wolfe and without the vote of Ms. Belkowitz.

Discussion: Panel 2021 Annual Reports & Panel Recommendations Matrix: Mr. Bierman explained that the Panel submits an annual report every year and provides recommendations in the report. Mr. Bierman stated that he will start drafting the report and that Panel members should send him any thoughts on what should be included. Mr. Bierman referenced the Panel’s Recommendations Matrix included in the meeting materials. He stated that the Panel will review the FCPD actions in response to the Panel’s recommendations. He explained that the Panel should try to determine what responses are sufficient and should be accepted by the Panel or if they need more information.

Mr. Gallagher suggested that the annual report include information on the Panel’s recommendation on the FCPD investigating calls as potential false police reports. He stated that the Panel has reviewed two of those occurrences in the last year. Mr. Bierman agreed to make it a point of emphasis in the report. Further discussion ensued concerning swatting incidents and specifically the case heard by the Panel in 2021.

Mr. Bierman led discussion on the draft Recommendations Matrix included in the meeting materials:

Report: Page 1 of the Police Civilian Review Panel Recommendations Matrix

CRP-20-20 and CRP-20-21

Mr. Bierman referenced the FCPD’s statement of action. He stated that from the FCPD’s action statement, it appears as though the FCPD is taking the recommendation under consideration. Discussion ensued on the cases and whether the Panel agreed to the FCPD’s action statement. The Panel agreed with the response of the FCPD. Mr. Bierman said that he will draft the language and that the status is responsive.

Mr. Bierman moved to the second recommendation on page one. Discussion ensued on the FCPD’s action statement regarding General Order 601.4. Mr. Bierman suggested that the second sentence be included in the next version of the General Order. The Panel concurred with Mr. Bierman regarding the suggestion.

Page 2 of the Police Civilian Review Panel Recommendations Matrix

CRP-20-20 and CRP-20-21

Mr. Bierman suggested that the FCPD should consider going further with improving communication with complainants. He noted the FCPD should consider whether there are times when a disposition letter should be followed up with a phone call. Mr. Bierman suggested that the Panel reiterate their recommendation to the FCPD. Discussion ensued on if the FCPD's answer to the Panel's recommendation was wholly responsive. The Panel agreed that they would like to see the issue considered further.

Page 3 of the Police Civilian Review Panel Recommendations Matrix

CRP-20-19 and CRP-20-27

Regarding General Order 501.2, Mr. Bierman stated that the FCPD implemented the policy recommended by the Panel.

Mr. Bierman moved to the next recommendation on page three. He stated that the recommendation has been implemented.

Page 4 of the Police Civilian Review Panel Recommendations Matrix

CRP-20-19 and CRP-20-27

Mr. Bierman expressed that he would like further information regarding the FCPD recording and preserving video taken from inside the Fairfax County Adult Detention Center. Discussion ensued on the recommendation. Mr. Bierman said the Panel can consider at a latter time whether it wants to send a letter to the Sheriff concerning its recommendation.

Page 13 of the Police Civilian Review Panel Recommendations Matrix

CRP-18-27

Mr. Bierman provided a summary of CRP-18-27. He stated that the complaint was made by a third-party individual. Mr. Bierman noted that it was a viral video of the takedown of a suspect. Discussion ensued on the case and the FCPD's stated action. Mr. Bierman said that it seems as though the FCPD has accepted the recommendation even though the language provided by the FCPD says "Respectfully disagree." He suggested that it should be acknowledged in the Panel's response. Ms. Norman-Taylor concurred with Mr. Bierman. Mr. Bierman stated that the Panel should revise the section that says not fully implemented, to implemented. Mr. Ware expressed concerns that the Panel needs further clarity by the FCPD. Lt. Derek Gray from the FCPD stated that the FCPD does not disclose social media information presently and he does not know why it was done in this case. Mr. Bierman stated that he will reach out to the FCPD to follow up regarding this recommendation.

Page 10 of the Police Civilian Review Panel Recommendations Matrix

2019 Annual Report

Mr. Bierman described the incident subject of the complaint and read the actions by the FCPD. He said that the disconnect is that the Panel did not think there was any explanation for the stop, not even a race-neutral one. Further discussion ensued on the incident and the Panel's review. Mr. Bierman said he thinks the revised FCPD Action is sufficient for the Panel's purposes.

Page 8 of the Police Civilian Review Panel Recommendations Matrix

CRP-19-29

Mr. Bierman read the actions by the FCPD and said the response by the FCPD is sufficient.

Page 7 of the Police Civilian Review Panel Recommendations Matrix

Mr. Bierman read the actions by the FCPD and said it was a good response that the FCPD is working towards a system to track and utilize data in respect to stops and community contacts.

Page 4/5 of the Police Civilian Review Panel Recommendations Matrix

Mr. Bierman read the actions stated by the FCPD regarding part 4 on page 5. Mr. Bierman said he reads this as the FCPD is considering sustained allegations against the employee. He said the Panel recommended they consider all allegations made against the officer, not just sustained allegations.

Mr. Bierman informed the Panel that he will draft the responses from the meeting into the status column. He noted that the status is determined by the Panel. Mr. Bierman said that the first draft of the annual report will be circulated to the Panel members before the next meeting on February 28. He informed the Panel that biographies are included in the annual report and to send an updated version to Ms. Ramirez.

Adjournment: Mr. Hargraves moved to adjourn the meeting. Mr. Cranford seconded the motion, and it carried unanimously.

The meeting adjourned at 9:15 p.m.

Next Meeting: The Panel's next business meeting will be held on February 28, 2022, at 7:00 p.m.