

Police Civilian Review Panel

January 23, 2024

Fairfax County Government Center, Conference Room 232

Subcommittee Meeting Summary (CRP-23-13)

Subcommittee Members Present:

Cheri Belkowitz, Chair of Subcommittee

Dirck Hargraves, Panel Member

Janell Wolfe, Panel Member

Others Present:

Michael Lau, Panel Member

Rachelle Ramirez, OIPA

Richard Schott, Independent Police Auditor

The Panel's meeting was called to order at 6:00 p.m. Ms. Belkowitz welcomed everyone to the Panel's January 23, 2024, Subcommittee meeting on CRP-23-13.

Ms. Belkowitz, Mr. Hargraves, and Ms. Wolfe introduced themselves and were all present in the room.

Ms. Belkowitz described the authority of the Panel and the purpose of the subcommittee and its procedures to conduct an initial review of a complaint.

Initial Review of CRP-23-13:

Ms. Belkowitz noted that the complainant was present for the meeting and would be given an opportunity to address the subcommittee later on.

She stated that the subcommittee members reviewed the Fairfax County Police Department's (FCPD) investigative file prior to this meeting and will complete the Initial Review Report, which is included in the meeting materials. The subcommittee will make its recommendation to the full Panel at its Feb. 1, 2024, meeting.

Ms. Belkowitz identified the allegations made by the complainant:

1. The crossing guard failed to direct traffic properly.
2. The crossing guard failed to identify herself to complainant.
3. The crossing guard's behavior was unprofessional.
4. The School Resource Officer (SRO) failed to activate his body-worn camera (BWC) before his response.
5. Two officers failed to identify the Crossing Guard.
6. Two officers unlawfully detained the complainant.
7. The SRO cursed at the complainant.
8. Two officers acted unprofessionally.
9. The over-response of six officers was a form of intimidation.
10. After knowing that she had no license, one of the officers told the complainant's companion to drive the vehicle.

11. The SRO lied on the DMV Medical 3 form.
12. The Supervisor on the scene retaliated against the complainant by obtaining a warrant.
13. An officer failed to follow-up with the complainant.
14. Another officer/supervisor refused to separate the complainant's complaints into two separate cases.

Ms. Belkowitz provided a summary of the facts of the incident that occurred on Aug. 24, 2022, that led to the complaint (CRP-23-13) and took comments from Mr. Hargraves and Ms. Wolfe. The complainant lodged a complaint against a crossing guard at Oakton High School for improperly controlling traffic and for not providing her identity to the complainant when he requested it. The SRO, school administrators, and two additional officers responded to the scene. A supervising officer also responded upon request by the complainant.

The complainant, according to PCR Bylaws, was provided fifteen minutes to provide a statement to the subcommittee to provide his perspective on what occurred. The complainant refused to yield the floor to the subcommittee and continued speaking for approximately an additional five minutes. The complainant told the subcommittee that there were many factual errors in the summary of the incident read by Ms. Belkowitz and accused the subcommittee and the FCPD of lying in their reports. For instance, the complainant accused Ms. Belkowitz of lying when she referred to his companion in the car as his "wife." He also accused Ms. Belkowitz of lying when she described his statements to the crossing guard. He stated that he only called her a "bitch" who was "whoring herself out," which were statements that were appropriate in that context. When asked, he said that the reason he was not satisfied with the FCPD's investigation into his complaint was they only found performance of duty transgressions for miniscule issues, including the crossing guard not identifying herself and the SRO not turning on his BWC. The complainant stated he should not have been detained because he was not on school property but in the public right of way. The complainant also said that the officer who completed the DMV form never saw his driving behaviors. The complainant also said that the Internal Affairs Bureau refused to take over his complaint investigation from the district station commander. The complainant said he had other complaints such as civil right violations and he provided a packet of documents to the subcommittee for their consideration.

Ms. Belkowitz then led the subcommittee members to consider whether they believed each allegation was considered a Serious Misconduct or Abuse of Authority, which is required for the subcommittee to recommend that there be a full Panel review.

Subcommittee members discussed the first allegation and agreed that the crossing guard directing traffic improperly was not Serious Misconduct or Abuse of Authority. Ms. Belkowitz said that the crossing guard received training and was told by the school administration to prioritize getting the traffic out of the school.

Subcommittee members discussed the second allegation and agreed that the crossing guard not identifying herself may have been a violation of General Orders but it did not rise to the level of Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the third allegation and agreed that the crossing guard clapping her hands may have been impolite but did not rise to the level of Serious Misconduct or Abuse of Authority.

The complainant continually interrupted the proceedings. He expressed disagreement with the subcommittee's statements and claimed that the crossing guard's behavior was disrespectful.

Subcommittee members discussed the fourth allegation that the SRO failed to activate his BWC. Mr. Hargraves stated that SROs do not turn BWCs on while in the school. The SRO admitted once he left the school he forgot to turn it on right away. The complainant interrupted the proceedings and said that he thought the subcommittee was making misstatements and lies. Panel members agreed that this was unintentional and was not a Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the fifth allegation that two officers failed to identify the crossing guard. Ms. Belkowitz noted that the officer told the complainant he would get him the crossing guard's information. The complainant interrupted the proceedings. Panel members agreed that this did not rise to the level of Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the sixth allegation that two officers unlawfully detained the complainant. Mr. Hargraves thought that this allegation could be considered D, E, or F, in the checklist. Panel members said they thought the police had the right to detain him for trespassing. The complainant interrupted the proceedings and indicated he thought there were misstatements. Panel members agreed that this did not rise to the level of Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the seventh allegation that the officer cursed at the complainant. Mr. Hargraves thought that this allegation could be considered A, C, or F, in the checklist. He noted that there was no BWC footage that captured the cursing. The complainant interrupted the proceedings and stated his disagreement. Ms. Wolfe stated that there was a lack of evidence of cursing and so she did not find it to be Serious Misconduct or Abuse of Authority. Ms. Belkowitz agreed there was no substantiation in the file. Mr. Hargraves noted that the officer was reprimanded for not immediately turning on his BWC.

Subcommittee members discussed the eighth allegation that two officers acted unprofessionally. The complainant interrupted the proceedings. Ms. Wolfe found they were professional, and Mr. Hargraves noted that the officers did not react unprofessionally when the complainant was cursing at them. Panel members agreed that this did not rise to the level of Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the ninth allegation that there was an overresponse of six officers. Mr. Hargraves said he did not think this was an overresponse given the complainant's behavior at a school. Ms. Wolfe stated the complainant requested the supervisor to come to the scene. The complainant interrupted the proceedings. Panel members agreed that this did not rise to the level of Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the tenth allegation that an officer told the companion to drive. The complainant interrupted the proceedings. Panel members agreed that this did not rise to the level of Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the eleventh allegation that an officer lied on a DMV Medical 3 Form. Mr. Hargraves thought that this allegation could be considered E, or F, in the checklist. He said the officer does not need to see the behavior and can file a form based on evidence. Ms. Wolfe thought the form was accurate based on information the officer collected on the scene. The complainant interrupted the proceedings and stated his disagreement. Panel members agreed that there was not substantiation

of this allegation in the file and so this did not rise to the level of Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the twelfth allegation that the supervisor on the scene retaliated against the complainant by issuing a warrant. Ms. Belkowitz noted that the complainant thanked the supervisor for his good work on the scene and that she did not think there was retaliation. The complainant interrupted the proceedings. Ms. Wolfe said the supervisor researched the charge and sought counsel from Assistant Commonwealth Attorney. She said the magistrate issued the summons. Panel members agreed that this allegation did not rise to the level of Serious Misconduct or Abuse of Authority.

Subcommittee members discussed the thirteenth allegation that there was no follow up with the complainant. Ms. Wolfe and Ms. Belkowitz stated there was follow-up and correspondence regarding his complaint. They agreed this was not Serious Misconduct or Abuse of Authority.

Ms. Belkowitz read the last allegation and the complainant said he did not know the allegation. The subcommittee will remove that allegation from consideration and will not include it in the report.

Mr. Hargraves noted that the complainant alleged he was on public property but there was a GIS study that showed otherwise. He said utility easements give the utility right of way, not the public. He said that the First Amendment is not absolute. The complainant interrupted the proceedings and stated his disagreement. Ms. Belkowitz stated her agreement and said there was enhanced security around school properties.

Mr. Hargraves moved that while the complainant made allegations within purview of the Panel's authority, the evidentiary file does not substantiate the complaints, and therefore he recommends that the subcommittee not recommend this complaint be reviewed by the full Panel. Ms. Wolfe seconded the motion and it passed unanimously.

The meeting adjourned at 7:11 p.m.