

**The Fairfax County Police Civilian Review Panel**

**Public Forum on December 12, 2017**

**Reston Community Center**

**Meeting Summary**

Panel Members present:

Hansel Aguilar

Steve Descano

Hollye Doane

Doug Kay

Randy Sayles

Adrian Steel, Panel Chairman

Rhonda Van Lowe, Vice Chair

Others present:

Catherine Hudgins, Hunter Mill District, Board of Supervisors

Richard Schott, Independent Police Auditor

Panel Member absent:

Kathleen Davis-Siudut

Jean Senseman

The forum began at 7:07 p.m.

Panel Chairman Adrian Steel, Panel Member Randy Sayles, and Supervisor Hudgins welcomed attendees to the Panel's second Public Forum. Supervisor Hudgins provided some framing remarks on the establishment of the Fairfax County Police Civilian Review Panel and the Office of the Independent Police Auditor, and noted that the process put in place is an important opportunity for County residents to have greater oversight of the Fairfax County Police Department (FCPD).

Mr. Sayles reviewed the agenda.

Each Panel member introduced him or herself, and shared information on related expertise and experiences and what brought them to the Panel. Richard Schott, the Independent Police Auditor, also introduced himself and provided background on his career.

Mr. Sayles provided an overview of the Civilian Review Panel including: how they were formed, how Panel members were selected, terms of service, the Panel's purpose, and work conducted to date. The Panel has reviewed best practices in police oversight and developed Bylaws and a Code of Ethics (available at <https://www.fairfaxcounty.gov/policecivilianreviewpanel/>). The Panel's purpose is to provide an independent process for commencing an initial complaint against the Fairfax County Police Department (FCPD). The Panel will review completed investigations of public complaints of abuse of authority or serious misconduct by a FCPD officer when requested. Definitions of "abuse of authority" and "serious misconduct" were provided. It was noted that the Panel does not investigate, but reviews investigations completed by the FCPD to ensure they are accurate, complete, thorough, objective, and impartial.

Next, Independent Police Auditor Richard Schott provided an overview of the purpose and scope of the Office of the Independent Police Auditor. The Auditor is responsible for monitoring and reviewing

Internal Affairs investigations of: police officer involved shootings; in-custody deaths, while under FCPD custody; and use of force cases that result in death or serious injury. The Auditor also reviews any other use of force cases in which a public complaint is received.

Panel members Steve Descano and Hansel Aguilar reviewed the complaint filing process. Written complaints or requests for review can be submitted to the Panel via the Auditor's office in person, by mail, or online (email). Complaints are forwarded to the FCPD, which conducts the investigation and sends findings to the complainant and the Panel/Auditor. The Panel will conduct public meetings to review investigations, during which it may hear from the complainant and an FCPD representative. The Panel will inform the Complainant and FCPD of its findings, issue a public report, and may also recommend policy changes to the FCPD based on the complaints received.

Some limitations of the Panel's authority were noted, including that neither the Auditor nor the Panel has investigative authority but may only review completed investigations by the FCPD. They do not have jurisdiction over the Fairfax County Sheriff's Office or federal law enforcement (i.e., ICE). Also, they cannot review complaints related to incidents that occurred before December 6, 2016 and, absent a finding of good cause, must abide by established time limits for the submission of an initial complaint or a request for review.

The meeting was then opened up for audience questions about the Panel and Auditor processes and comments on related issues. A summary of questions and responses is provided below.

The forum adjourned at 9:02 p.m.

### **Questions and Answers**

1. Why doesn't the Auditor, nor the Panel, have the authority to investigate complaints against the FCPD?

There is no clear enabling legislation to permit the Panel to investigate. Therefore, both entities review investigations that are conducted by the FCPD. The Auditor has authority to review and monitor ongoing investigations. The Auditor and the Panel have the right to request further investigation by the FCPD if it finds the investigation deficient.

2. Why are there two oversight bodies – the Auditor and the Panel – rather than one?

The Ad Hoc Police Practices Review Commission noted a strong public interest in having citizen input and so it recommended that two entities be created: the Auditor to provide oversight in cases of police use of force that lead to serious injury or death, including officer involved shootings; and the Civilian Review Panel to respond to community concerns or complaints about alleged incidents of FCPD abuse of authority and serious misconduct.

3. Do you have to be involved in the incident to submit a complaint?

No. Any individual, whether or not they were involved or witness to an incident, can submit a complaint.

4. How is the FCPD involved in the Auditor and Panel's review processes? How can citizens be assured that the FCPD is forthcoming with all evidence received and findings?

Initial complaints submitted to the Auditor or Panel (i.e. those not previously submitted to the FCPD) are forwarded to the FCPD for investigation.

- If the case falls under the Auditor's authority, the Auditor will monitor the ongoing investigation and provide input to the FCPD as the investigation is unfolding. (Note: The Auditor automatically monitors and reviews all officer involved shootings, uses of force resulting in death or serious injury, and deaths of individuals while in the custody of the FCPD, regardless of whether a complaint is received.) Concerns about the investigation being deficient or the need for further investigation will be brought forward to the Chief of Police. If the Auditor and the Chief of Police cannot resolve a disagreement, the issue will be reported to the Board of Supervisors and the Chief's resolution will be shared in a public statement. The Auditor will also issue a public report on each incident monitored.
- If the case falls under the Panel's authority, the Panel will receive notice of the FCPD's findings (along with the Complainant) when the FCPD completes its investigation. The Complainant will be advised in that notice of their right to request a review by the Panel.

Citizens may request a review of a completed FCPD investigation.

- If the case falls under the Auditor's authority, the Auditor will review the completed investigation and issue a public report with its findings. (Note: The Auditor automatically monitors and reviews all officer involved shootings, uses of force resulting in death or serious injury, and deaths of individuals while in the custody of the FCPD, regardless of whether a complaint is received.)
- If the case falls under the Panel's authority, the FCPD makes the investigative file available for Panel members to review. An FCPD representative knowledgeable about the investigation will appear at the public meeting to review and answer questions about the investigation, including all findings of fact, evidence collected and received, witness statements, and action taken or not.
- If the Panel or Auditor is made aware that there is additional evidence or witnesses not previously considered in an investigation by the FCPD, they can forward that information to the FCPD as a part of their review and request that the FCPD conduct further investigation. The FCPD is required to conduct the requested investigation and to report back to the Panel.

5. Why can't the Auditor and Panel take complaints about ICE?

Complaints against ICE do not fall within the scope of the Civilian Review Panel or the Independent Police Auditor, which only have authority to respond to complaints against the FCPD.

6. Can you tell me more about Chairman Steel's background? How many attorneys sit on the Panel?

Mr. Steel is a Senior Counsel with the law firm Mayer Brown LLP. Prior to joining Mayer Brown, he was a Special Assistant to Director William H. Webster at the Federal Bureau of Investigation where he handled criminal and counterintelligence matters. Currently, six Panel members are attorneys and three are not. Two Panel members have previous law enforcement experience.

7. How did the Board of Supervisors select individuals to serve on the Panel?

The Board of Supervisors announced the creation of the Panel and requested nominations from community organizations and self-nominations from interested individuals in December 2016. More than 140 resumes or letters of interest were reviewed. The individuals on the Panel were selected based on criteria including expertise and experience relevant to the Panel's responsibilities, previous civic involvement, and diversity of membership.

8. Can the Panel make policy recommendations to the FCPD?

The Panel has the authority to issue a public annual report in which it can identify concerns expressed by residents. If patterns emerge from the complaints received, the Panel can make policy recommendations and include them in their annual report.

9. What are the time limits for the Auditor or Panel to take a complaint, particularly for an ongoing incident?

Absent good cause, initial complaints must be made within one year of the incident, and the incident must not have occurred before December 6, 2016, for the Panel to review. Requests for review must be submitted by the complainant within 60 days of their receiving the FCPD's notice that an investigation is complete, absent good cause. For ongoing incidents, the Panel will consider the nearest date when determining whether a complaint falls within time constraints.

10. What are you doing to advertise the Auditor's and Panel's services to different groups within the community, particularly minorities?

We are in the process of translating our brochure and complaint form to three other languages (Korean, Spanish, and Vietnamese) for distribution across the county. We are seeking recommendations for venues where these brochures should be posted to ensure the greatest reach. (Recommendations from forum participants for posting brochures included: retail and restaurant locations (e.g., the Eden Center), schools, hospitals, community health centers, and churches.) The Panel is currently conducting outreach to various community groups representing different racial and ethnic minorities to hear their concerns and explain the complaint and review process. The Panel encourages community members to invite the Panel to meet with their groups individually to discuss their specific concerns about the FCPD or ask questions about the complaint and review process. Announcements and information on the

Auditor and Panel have been publicized in multiple places on the County's website, through social media, in Supervisors' newsletters, and other news sources, such as WTOP and the Fairfax County Connection (McLean, Reston, and Burke editions).

11. A concern was expressed that police officers (who are usually white and not from the community) routinely harass young people of color, as well as individuals at the homeless shelters, in the Mason District. A forum participant indicated that he has witnessed police officers targeting low income neighborhoods (e.g. apartment buildings in Bailey's Crossroads); conducting searches of individuals without getting proper consent due to the individuals' inability to understand English; driving around in unmarked vehicles and in plain clothes (no badge visible); and switching cars often, making it difficult for citizens to identify the officer and make a complaint.

The Panel encouraged citizens at the forum to file an official complaint (along with any documentation, video footage, etc.) so that the FCPD and the Panel can be made aware of these concerns. If someone does not want to make a complaint directly to the FCPD, they can submit it to the Auditor/Panel, who will facilitate the submission of an initial complaint. It was reiterated that anyone can file a complaint, including witnesses and individuals who want to file a complaint on behalf of someone else.

12. Do you only look at individual cases? My organization would like to see a systematic review of the FCPD's use of force cases.

The Auditor is currently reviewing the data regarding racial disparities in use of force cases from 2015 and 2016. Also, if the Panel were to receive numerous complaints about the inappropriate use of force based on race, they will also be able to identify racial disparity as a concern in their annual report and make public recommendations on FCPD policies and practices.

13. Are all complaints received by the Auditor and Panel available to the public for viewing?

Yes. The Panel's meetings, during which reviews will be conducted, are open to the public. Also, both the Auditor and the Panel will issue public annual reports summarizing complaints received.