



Fairfax County
Police Civilian Review Panel
Annual Report 2020

Building Community Trust Through Accountability

Fairfax County Police Civilian Review Panel: Annual Report 2020



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INTRODUCTION

The Fairfax Police Civilian Review Panel (Panel) has navigated through two serious challenges during its fourth year of operation. The COVID-19 pandemic forced the Panel in mid-March of 2020 to temporarily stop holding public meetings and reviewing investigation files. While the Panel continued to refer complaints to the Fairfax County Police Department (FCPD) for investigation, it did not resume meeting until June 23, 2020. That meeting and all subsequent meetings to date have been conducted electronically. Although the Panel has adapted successfully to this new mode of operating, the lack of personal contact among Panel members and with community members has presented challenges, especially as they relate to important community outreach.

As COVID-19 loomed over the nation and restricted personal contacts, the horrific murder of George Floyd by police in Minneapolis occurred in late May, raising, once again, issues of racial disparity in the nation. Anger at long-festering racial injustices boiled to the surface in many communities, and Fairfax County was not immune. As county leaders and the FCPD accelerated their efforts to reassure the community, an FCPD officer was arrested for deploying his stun gun multiple times on a Black man in the Mount Vernon district. Although this use-of-force incident fell under the authority of the Independent Police Auditor (IPA) and not the Panel, numerous stakeholder groups in the county demanded to know what the Panel was doing to address issues of racial bias. The Panel held numerous electronic meetings and listening sessions with concerned community members following the Floyd murder and the Mount Vernon incident, listening to their concerns and explaining the role of the Panel and its mission to increase accountability and transparency in the FCPD.

The Panel faced these significant challenges while also attending to its regular business of reviewing police investigations during its electronic public meetings. Front and center for the Panel was reviewing a particular investigation (CRP-19-29), where the Complainant alleged racial profiling by an FCPD officer. It was at the conclusion of this review that the Panel, for the

first time, refused to concur with the police investigation and informed the Board of Supervisors that the investigation was incomplete and required additional investigation.

During the summer and fall of 2020, the Virginia Assembly addressed several criminal justice issues, including the role of civilian review panels. Legislation was passed to allow local jurisdictions to expand the authority of civilian review. It became apparent to the Panel that it needed to review its activities over the last four years to determine what worked, what needed improvement, and what changes, if any, should be recommended for the future. We commenced a Four-Year Review.¹ All of the Panel's recommendations were included in that report, so this Annual Report contains no additional recommendations. This report addresses the important issues that the Panel faced from March of 2020 to February of 2021. Despite this tumultuous year, the Panel is happy to report that it surmounted the challenges it faced, and it has successfully carried out its important work of reviewing investigations and making recommendations to promote accountability and transparency in the FCPD.

RACIAL BIAS AND RACIAL PROFILING ISSUES

In its 2019 Annual Report, the Panel noted that it had reviewed several investigations containing allegations of racial bias and/or racial profiling. Some of these Complaints were demonstrably unfounded, while others were concerning to the Panel. The Panel pointed out in the report that the FCPD had disagreed with certain Panel suggestions that additional investigation into the background of an accused officer may be necessary to rule out racial bias. Therefore, the Panel specifically recommended that “where the evidence gathered during an Investigation into a Complaint of racial bias does not offer a race-neutral explanation for the conduct of the accused officer, the FCPD should continue to investigate seeking some explanation for the officer’s conduct by obtaining reasonable available evidence that will corroborate either a race-neutral or race-biased explanation, such as examining the officer’s social media accounts and/or interviewing witnesses.”

¹ The Four-Year Review report is available from <https://www.fairfaxcounty.gov/policecivilianreviewpanel/reports>.

This recommendation was put to the test in the very first investigation review (CRP-19-29) following the publishing of the 2019 Annual Report. The Four-Year Review report outlines the specific facts in that investigation, and the Panel's [review report on CRP-19-29](#) is a thorough account of the complaint, investigation and Panel finding. In summary, the Panel initially requested that the FCPD conduct additional investigation relating to the racial profiling allegation.² When the FCPD refused to fully comply with the Panel's request, the Panel informed the Board of Supervisors that the investigation was incomplete.³ On January 26, 2021, the Board of Supervisors voted to direct the FCPD to take further action on the Panel's findings in CRP-19-29. In its Review Report, the Panel also made several policy recommendations with regard to improving future FCPD investigations of allegations of racial bias and profiling.⁴ The FCPD's responses to those recommendations are discussed under the Panel Recommendations section of this report.

The Panel is pleased to report that the FCPD has agreed to examine an officer's public social media accounts when the officer is accused of racial bias. However, the FCPD has not agreed to interview co-workers of an officer accused of racial bias. In a letter to the Panel, FCPD Chief Edwin Roessler wrote, "The mere curiosity seeking, through interviews of random employees, absent any reasonable suspicion and/or probable cause, would violate the procedural rights of employees as established by prevailing laws and personnel regulations." The Panel explained in its report on CRP-19-29 that "random interviews" with co-workers is not necessary, but interviews with members of the same squad, consisting of a few officers who know the accused officer well, would help corroborate either a race-neutral or race-biased explanation for the officer's actions.

² The Panel requested that the FCPD (1) conduct a search of the officer's publicly available social media profiles to ensure an absence of racial bias; (2) interview the officer's co-workers for evidence of racial bias; (3) review data related to the officer's community contacts and stops; and (4) compare the circumstances and claims of the current complaint to any prior complaints against the officer.

³ The FCPD refused to interview the officer's co-workers, did not adequately respond to the data request, and provided no evidence that it had compared the circumstances and claims of the current complaint to any prior complaints against the officer, claiming that the information was confidential.

⁴ See the Recommendations Matrix in Appendix A.

The Panel remains concerned that future investigations of racial bias of police officers will not be thorough and complete without the FCPD taking additional steps to adopt objective criteria by which to evaluate whether an officer's actions were racially biased. These would include not only interviews with co-workers, but also better statistical analysis of the accused officer's past community contacts, stops, arrests and searches.

The Panel is encouraged by the FCPD's recent public release of data pertaining to arrests and traffic statistics and its commitment to update its data management systems and analysis to improve transparency. However, the Panel believes that such data analysis will fall short if it does not include data analysis of an officer's community contacts and other stops that are not the result of traffic violations. Furthermore, future data analysis for the purpose of comprehensively evaluating racial and ethnic disparities in policing in the county will be incomplete without a thorough analysis of FCPD community contacts and stops. Inferences from arrest data pertaining to only use-of-force incidents are insufficient to evaluate identified racial and ethnic disparities, where they occur and how pervasive they might be.

As the Panel pointed out in its report on CRP-19-29, the FCPD is in the best position to evaluate and improve its investigative process. The Panel has made several suggestions, but it is up to the FCPD to ensure that it has procedures in place to ensure that allegations of racial bias are thoroughly and properly investigated. By their very nature, allegations of racial bias are difficult to investigate, because it is difficult to determine the intent of the accused officer. However, the Panel continues to believe that the FCPD can improve its investigations of racial bias by adopting clear, objective criteria that involve a thorough analysis of data, witness interviews, an examination of past complaints against the accused officer, and a search of the officer's public social media accounts.

PUBLIC OUTREACH

Community concern over alleged racial disparities in policing has highlighted the need for more community outreach by the Panel. As noted, the Panel stepped up its meetings with community stakeholder groups throughout 2020. Panel members held approximately 20 meetings with community stakeholder groups during the year, and even though those meetings were held virtually, they helped to build community relationships and trust.⁵ Many of the meetings involved not only Panel members, but also the FCPD Chief Edwin Roessler, various Supervisors, county officials and the Independent Police Auditor (IPA). Panel members were involved in two community Listening Sessions chaired by Supervisor Rodney Lusk, a Town Hall meeting held by Supervisor Alcorn, various meetings with the NAACP, People Power Fairfax, interfaith community groups, churches, advocacy organizations, and neighborhood groups. Panel members also were interviewed for a feature story on civilian review of complaints against police by WUSA Channel 9 television.

These meetings could not include all nine members of the Panel because of a Bylaw provision that was interpreted as prohibiting the full Panel from holding public meetings for comment. Therefore, no more than two Panel members could attend each meeting. The Panel requested the Board of Supervisors to change the Action Item and Bylaws to permit the full Panel to hold up to six public comment meetings a year for the purpose of listening to community concerns on public safety issues. The Board moved expeditiously to grant the Panel's request during the fall of 2020 and approved changes to the Panel's Action Item and Bylaws. The Panel appreciates the continued support of the Board in listening to the concerns of the Panel and taking actions to help the Panel fulfill its mission of building and maintaining public trust. Toward that end, the Panel is also appreciative of the FCPD for respecting the Panel as an important contributor to its "co-production" method of policing that emphasizes the need for community engagement and input in addressing public safety issues.

⁵ See Appendix B for a summary of outreach contacts.

PANEL RECOMMENDATIONS

Making recommendations on law enforcement policies, practices and procedures to assist the FCPD Chief and Board of Supervisors in policy review is an important function of the Panel. Since its last Annual Report, the Panel has made ten new recommendations to the FCPD that are associated with reviews of two specific investigations. In addition, the Panel made eleven recommendations in its Four-Year Review concerning the authority of the Panel and its future operation. The Panel's Recommendation Matrix (Appendix A) has been updated to include the ten new recommendations, the FCPD's response to those recommendations, and the present status of the recommendations as determined by the Panel. The Matrix does not include the recommendations included in the Panel's Four-Year Review, as those recommendations are for the Board to consider, and not the FCPD.

As mentioned previously under the heading, Racial Bias and Racial Profiling Issues, the Panel recommended several policy changes in its review of CRP-19-29. These recommendations reflect the Panel's concern that the FCPD does not have sufficient objective criteria and procedures in place to properly evaluate allegations of bias or profiling against police officers. The Panel is also concerned that the FCPD does not have sufficient objective, evidence-based procedural justice practices in place to prevent officers from making decisions based upon implicit bias.

Therefore, the Panel recommended that the FCPD establish specific criteria for conducting bias investigations. The Panel made four suggestions, which are detailed in the Recommendations Matrix. These criteria are not meant to be comprehensive, but they are intended to be a starting point for the FCPD's development of more robust investigative procedures for bias complaints. The Panel also recommended that all community contacts, stops, searches and arrests by the FCPD be entered into its data management system for analysis. Data analyzing the community contacts, stops, searches and arrests of the accused officer should be compared to data from the district where the incident occurred and the data for the county as a whole. The data analysis should take into account the racial and ethnic composition of each district as compared to the county overall, and it should cover a period of

3-5 years. An early warning system should be created to alert commanders as to whether an officer's community contacts, stops, arrests and searches are excessive and disproportionate for a particular race or ethnic group. Finally, the FCPD should conduct annual implicit bias training for officers and retain an independent expert on implicit bias to examine all law enforcement policies, practices and training for the purpose of recommending evidence-based strategies to mitigate the impact of implicit bias on policing.

The FCPD has not fully and adequately responded to all of these recommendations, as noted in the Recommendation Matrix. For example, four of the recommendations concerning data on community contacts and stops were not addressed by the FCPD. As the Panel stated in its report in CRP-19-29, analysis of data based only on arrests is not sufficient to fully evaluate bias complaints. The Panel is hopeful that as the FCPD upgrades its data management system, it will include in its investigations a thorough analysis of an accused officer's community contacts and stops.

The FCPD has also not fully implemented our recommendation that the FCPD develop objective criteria and processes, separate from its normal investigative processes, to evaluate allegations of bias or profiling. As the FCPD conducts additional investigation in CRP-19-29 pursuant to the Board's direction, the Panel is hopeful that the FCPD will revamp its investigative process for bias complaints.

The FCPD also has not committed to conducting a full examination of all its law enforcement policies and practices for the purpose of mitigating the impact of implicit bias on policing. The Panel made this recommendation because it recognizes that accountability at the individual officer level is not sufficient to address systemic implicit bias in the FCPD. Preventing unnecessary and unwarranted community contacts and stops involves adopting procedures that enable officers to consciously control the unconscious biases they may have. This can only be accomplished by implementing evidence-based prevention strategies. It is the Panel's hope that the FCPD will systematically review and examine all of its law enforcement policies, practices and training programs for the purpose of identifying specific strategies to mitigate the impact of implicit bias on policing.

In its review of the investigation of CRP-20-19, the Panel made three more recommendations to the FCPD. The Panel was concerned that district station interviews with suspects are not recorded. Likewise, video taken from inside the Fairfax County Adult Detention Center is also not recorded and preserved. The Panel recommended that the FCPD (1) create a policy requiring that district station interviews be recorded, and (2) encourage the Fairfax County Sheriff to record and preserve video taken from inside the Fairfax County Adult Detention Center. The third recommendation was that the FCPD should ensure that all officers are informed of the recent policy (501.2) concerning the appropriate usage of Apps in policing.

This Annual Report will not address the specific recommendations that the Panel made in its Four-Year Review. However, the Panel hopes that the Board will expeditiously address the recommendations in that report and provide an opportunity for public comment.

PANEL WORKLOAD AND NEED FOR AN EXECUTIVE DIRECTOR

Over the course of the last four years, the workload of the Panel has increased substantially. In 2019⁶ the Panel received 10 requests for review of completed FCPD investigations. In 2020 the Panel received 15 requests for review.⁷ For most of these requests, a subcommittee of three Panel members reviewed the investigative file and met virtually in order to make a recommendation to the full Panel on whether the Panel has jurisdiction to review the complaint.⁸ This required many hours of work – travel time during weekday business hours to review files at police headquarters, hours spent reviewing and taking notes on complex and often lengthy investigation documents and video, and time spent in virtual subcommittee meetings. The full Panel held five review meetings from March of 2020 through

⁶ March 2019 – March 2020

⁷ See Appendix C for a summary of complaints and review requests received.

⁸ Ten separate subcommittees met from March of 2020 to February of 2021. Of these, four subcommittees recommended that the full Panel not review requests because the complaints were time-limited or were not allegations of serious misconduct or abuse of authority. In addition, three requests for Review were not initially reviewed by subcommittees because the incident occurred before December 6, 2016, and the Panel could not consider good cause as a justification for the delay. See Panel Bylaws Article VI (A)(1)(b).

February of 2021.⁹ For each of these reviews, all nine members reviewed the investigation file, and often they returned to police headquarters two or three times to complete their work.¹⁰

The most time-consuming aspect of the Panel is the writing of Review Reports. For each review, one or two Panel members are assigned to write a draft report. Each of these reports takes a large amount of time to complete. For a complicated investigation, writing a review report can take a week or longer. During this past year – one with substantial challenges due to the pandemic – the Panel issued four reports, including a 20-page detailed report on CRP-19-29.¹¹ In addition, the Panel undertook the task of writing a Four-Year Review. Panel members Jimmy Bierman and Hansel Aguilar were assigned to this massive undertaking and spent months preparing the draft report. The report summarizes all the Panel’s activities during its four years of operation and makes several recommendations. The Panel owes a debt of gratitude to these Panel members for their dedication to the Panel and for their hard work.

As previously discussed, many Panel members also spent considerable time meeting with community stakeholder groups. These meetings were often held during business hours, requiring Panel members to interrupt their day jobs. Needless to say, the time commitment required of a Panel member has become substantial for a volunteer.

In addition to the time required to review investigations and conduct outreach, the day-to-day work of the Panel falls mainly on the Chair and the staff. This daily work includes corresponding with Complainants, the FCPD, and the Board of Supervisors and processing all incoming complaints and requests for review. The Chair decides what is included on the

⁹ The Panel conducted a Review Meeting on CRP-19-29 on March 9, 2020, and continued its review at its September 10, 2020 meeting after receiving additional FCPD investigation findings.

¹⁰ In 2020, the Panel received 31 requests from the FCPD to extend the time for completing 15 separate investigations. (See Appendix D). Article VI (C)(1)(c) of the Panel’s Bylaws states that the Panel shall extend the 60-day period for completing an investigation if the Chief requests such extension to protect an ongoing criminal or internal administrative investigation or for other good cause. The average days overdue for these extensions was 85 days. The Panel notes that because of COVID-19 safety restrictions, many of these extensions were unavoidable. However, if lengthy extension requests continue after the pandemic, the Panel may recommend amending the Bylaws to provide for a longer investigation period.

¹¹ The Panel has not yet issued its report on CRP-20-20 and CRP-20-21 because it requested that the FCPD conduct additional investigation on September 24, 2020. The Panel is still awaiting the FCPD findings from the additional investigation.

meeting agendas, assigns members to and participates on subcommittees¹², reviews meeting materials, organizes Quarterly Meetings with the FCPD and county officials, coordinates and often writes the Review Reports, coordinates and participates in outreach meetings, chairs Panel meetings, drafts the Annual Report, helps to arrange training opportunities for Panel members, and addresses (sometimes daily) unforeseen issues. Over time, this work has become a full-time job for an unpaid volunteer. In 2020, the Panel began discussing with the Board of Supervisors the need for a full-time Executive Director and is pleased that the Board recognizes the need. The Panel is hopeful that during 2021 the county will hire a new Executive Director for the Panel who can supervise staff, help with reviews of investigations, write reports as directed by the Panel, and help the Chair carry out other responsibilities of the Panel.

QUARTERLY MEETINGS

Since 2019, the Panel has held Quarterly Meetings that have been attended by the Panel Chair and Vice Chair, staff representatives of the Chair of the Board of Supervisors and the Public Safety Committee, the Deputy County Executive, the Chief of Police, the Commander of the Internal Affairs Bureau (IAB), representatives of the County Attorney's Office, the IPA, and others. Because of the COVID-19 pandemic, only two Quarterly Meetings were held electronically this year. During those meetings, the attendees discussed the Panel's recommendations and how the FCPD was responding to them, the need for a new Action Item and a Bylaw change to allow the Panel to conduct public meetings for comment, the hiring of a new Independent legal counsel for the Panel, the need for the hiring of a new Panel Executive Director, how to handle emails and phone calls received by the Panel when there is no complaint against the police but where mental health issues are indicated, the request of Panel members to review investigation files electronically, and the Panel's work load.

These meetings have been helpful as a way to air concerns, improve coordination, and build relationships with the FCPD and across county departments. Although the number of Quarterly Meetings was cut by half this past year, there was frequent communication between

¹² The Panel Chair or Vice-Chair must be a member of every subcommittee.

Panel members and Board of Supervisors Chair Jeffrey McKay and his staff, and Supervisor Lusk and his staff. Chair McKay attended the Panel’s June meeting and addressed the public safety issues facing the county. Supervisor Lusk included Panel members at two of his listening sessions with the community and asked for Panel input for his matrix of community public safety concerns. The Panel is highly appreciative of the strong working relationship it has with the Board, especially during a year of many challenges. Likewise, cooperation between the Panel and the FCPD is at a high level. The daily processing of complaints is smooth, and when there are questions or issues, the IAB has been responsive, respectful and cooperative. During the COVID-19 pandemic, the IAB has also taken great care to provide a safe environment at police headquarters for Panel members to review investigative files.

TRAINING

Because of the COVID-19 pandemic, in-person training sessions did not take place in 2020. However, Panel members had the opportunity to participate in the virtual annual conference of the National Association for Civilian Oversight of Law Enforcement (NACOLE).¹³ After March 1, 2021, the Panel will welcome five new members who will be replacing three Panel members who will be ending their terms and two who have resigned. The Panel recognizes the need to provide immediate training for these new members, even if the training must be conducted virtually.

WITH APPRECIATION

The Panel offers thanks to Hansel Aguilar, Robert Cluck, Hollye Doane, Sris Sriskandarajah, and Rhonda VanLowe for their service to the Panel that came to an end in 2021. The Panel also said farewell to a valuable staff member, Gentry Anderson.

Mr. Aguilar, Ms. Doane and Ms. VanLowe were inaugural members of the Panel. Ms. VanLowe and Ms. Doane served as Chairs. The Panel thanks them for their four years of

¹³ Five Panel members and staff participated in numerous sessions during the NACOLE Annual conference, and all Panel members tuned in to the session offered on “Strategies for Analyzing Police Stops.”

dedication, perseverance and passion for the work of civilian oversight. Each of these Panel members, in their own way, left an indelible mark on the Panel. The Panel also owes a debt of gratitude to Mr. Cluck and Mr. Sriskandarajah for their important contributions.

The departure of Ms. Anderson was particularly difficult for members of the Panel, who came to love and respect her sunny disposition, can-do attitude and outstanding work. We wish her well and know that she will succeed in her new position.

The Panel also recognizes retiring Chief Roessler for his support for the creation of the Panel and for his many important contributions to the FCPD. The Panel has been fortunate to have a police chief who recognizes the benefits of civilian oversight. His commitment to community engagement, accountability and transparency will be an enduring legacy of his leadership of the FCPD.

The Panel also wishes to thank Major Matt Owens, Major Tonny Kim, Captain Alan Hanson and Major Dean Lay, who all led the IAB at various times during the last year. The Panel thanks them for the time they spent answering questions at Panel meetings and facilitating the Panel's review of investigation files during a pandemic.

Finally, the Panel thanks Rachelle Ramirez, who stepped in to provide needed administrative support to the Panel after Ms. Anderson's departure. Ms. Ramirez also supports the work of the IPA, and the Panel is most appreciative that she has taken on two demanding jobs during a period of transition for the Panel.

APPENDICES

Appendix A: Panel Recommendation Matrix

Appendix B: Panel Outreach in 2020

Appendix C: Complaints and Requests for Review Received by the Panel

Appendix D: Status of FCPD Investigations into Initial Complaints Received in 2020

Appendix E: Police Civilian Review Panel Member Biographies

APPENDIX A: PANEL RECOMMENDATIONS MATRIX

<u>Report</u>	<u>Panel Recommendation</u>	<u>FCPD Action</u>	<u>Status (as determined by the Panel)</u>
<u>CRP-20-19 and CRP-20-27</u> (Published February 9, 2021)	The FCPD should create a policy requiring all district station interviews be recorded.	Pending	Pending
<u>CRP-20-19 and CRP-20-27</u> (Published February 9, 2021)	The FCPD should ensure that all FCPD Officers are informed of its policy 501.2 Investigative Responsibilities.	Pending	Pending
<u>CRP-20-19 and CRP-20-27</u> (Published February 9, 2021)	The FCPD should encourage the Fairfax County Sheriff to record and preserve video taken from inside the Fairfax County Adult Detention Center.	Pending	Pending

<p>CRP-19-29 (Published October 23, 2020)</p>	<p>“The FCPD should develop objective criteria and processes to evaluate allegations of bias or profiling (as pertains to race, ethnicity, sexuality, religion or sexual orientation) in internal investigations of complaints against officers. These criteria may include (1) searching the officer’s public social media profiles; (2) interviewing coworkers in the officer’s unit and other potential witnesses; (3) quantitatively and/or qualitatively analyzing data (by trained analysts) from community contacts, stops, searches and arrests; and (4) comparing the circumstances and claims of the current complaint to any prior complaints.</p> <p>Quantitative analysis of data should not be limited to descriptive analyses, but when appropriate, should include bivariate and multivariate analyses to ensure that appropriate variables are considered. The investigation file should contain a clear evaluation and summary of the officer’s actions under each of the criteria listed above.”</p>	<ol style="list-style-type: none"> 1) All Internal Affairs investigations receive an open-source social media inquiry as of April 1, 2020. 2) General Order 301, Internal Investigations, states that witnesses shall be interviewed if they would assist in an investigation. Regulation 201.3, Obedience to Laws, Regulations, and Training, as it pertains to Regulation 201.5, Reporting Violation, states any employee shall immediately report any violation, including bias-based policing. 3) Arrests and traffic statistics are publicly shared on the FCPD website. IAB is in the process of procuring a Management Analyst to perform quantitative and qualitative analysis of public safety data. 	<ol style="list-style-type: none"> 1) Implemented by FCPD. 2) Not Implemented by FCPD. Presently being reviewed by the FCPD following the January 26, 2021 decision by the Board of Supervisors in CRP-29-19 directing the FCPD to take further action, including conducting interviews with the officer’s co-workers. 3) Pending further analysis by the FCPD. Data analysis conducted for investigations must include quantitative and qualitative analysis of community contacts and stops by officers, as well an analysis of publicly shared data on arrests and traffic statistics.
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		4) To ensure qualitative analysis, consistency and thoroughness, the administrative due process includes several levels of review up to the Chief of Police in each administrative investigation.	4) Explanation by FCPD not accepted. A comparison of the “circumstances and claims of the current complaint to any prior complaints” requires a full reporting and analysis in the investigation file. All personnel information will be regarded as privileged pursuant to Section VI (E) (2) of the Panel’s Bylaws.
CRP-19-29 (Published October 23, 2020)	“All community contacts, stops, searches and arrests by the FCPD should be entered into the data management system. Data analysis of an officer’s community contacts, stops, searches and arrests should be broken down by the race and ethnicity of community members. Data on community contacts should be broken down as follows: (1) community contacts that remain consensual for the duration of the encounter; (2) community contacts that evolve into detentions by virtue of reasonable suspicion; and (3) community contacts that evolve into detentions by virtue of probable cause. Officers should also enter into the data base the reasons for the community contact, stop, search or arrest. Such rationale should	General Order 603.4, Police Community Member Contacts, and General Order 601, Arrest Procedures, requires specific documentation regarding all community member contacts, including voluntary contacts. FCPD is currently in the process of upgrading agency record management systems which will further enhance tracking.	Pending upgrade to FCPD’s data management system.

	<p>be coded (i.e., by a particular violation of law, type of behavior, appearance, time, place, etc.). If a community contact evolves into a detention, the officer should enter into the data base the reasons for such detention.”</p>		
<p>CRP-19-29 (Published October 23, 2020)</p>	<p>“Data analysis of an officer’s community contacts, stops, searches and arrests should be compared and contrasted with comparable data from the district station where the incident occurred and the county as a whole. The data analysis should also take into account the racial and ethnic composition of each district as compared to the county overall.”</p>	<p>For all bias allegations, the Internal Affairs Bureau conducts an 18-month examination of the officer’s arrests and citations. This data is compared to pertinent station demographics. The demographics of each district station and the County are publicly available in the IAB annual report.</p>	<p>Explanation of FCPD is not responsive.</p> <p>The Panel recommended data analysis of an officer’s community contacts, stops, searches and arrests in investigations of racial bias. The FCPD response addresses only arrests and citations and directs the Panel to IAB Annual Report. The Panel’s recommended data analysis should be a part of every IAB investigation where racial bias is alleged and the analysis should be included in the investigation file for Panel members to review.</p>

<p>CRP-19-29 (Published October 23, 2020)</p>	<p>“For the purposes of investigations into allegations of bias or profiling, data analysis of the officer’s community contacts, stops, searches and arrests should cover a period of 3-5 years, or if the officer has less tenure, for the duration of his service in the FCPD. If during the prescribed time period the officer has worked in different districts within the county, the review and analysis of the officer’s community contacts, stops, searches and arrests should not be limited to the district where the officer is assigned at the moment, but rather should include all such encounters in every county district where the officer served during the time period.”</p>	<p>Bias investigations include an 18-month statistical analysis of the officer’s arrests and citations, comparing them with other officers at the same station. Historic database software is only capable of tracking certain data. System replacement and procurement will permit advances to add tracking fields and information categories.</p>	<p>Pending upgrade to FCPD’s data management system.</p>
<p>CRP-19-29 (Published October 23, 2020)</p>	<p>“Like the efforts the FCPD has undertaken to analyze and identify use of force incidents, the FCPD should consider creating an early warning system to alert commanders as to whether an officer’s community contacts, stops, searches or arrests are excessive and disproportionate for a particular race or ethnic group.”</p>	<p>Since November 2012, per policy, the FCPD has utilized an Early Identification System.</p>	<p>FCPD explanation is not responsive. A fuller explanation is necessary regarding the Panel’s specific recommendation.</p>
<p>CRP-19-29 (Published October 23, 2020)</p>	<p>“The FCPD should retain an independent expert on implicit bias to examine all law enforcement policies, practices and training for the purpose of recommending evidence-based strategies to mitigate the impact of implicit bias on policing.”</p>	<p>In addition to mandatory County and/or agency training on bias, the Fairfax County Police Department is currently engaging an outside independent expert to train implicit bias, the understanding of implicit bias; procedural justice; “<i>trust</i></p>	<p>Training implemented. Further explanation is required as to the examination of all law enforcement policies and practices.</p>

		<p><i>building;</i>” and detecting and addressing institutional and structural racism.</p> <p>Independent subject matter experts on bias have lectured to Command Staff.</p> <p>Bias and culture-based training has been offered to employees through academy and other venture partnerships.</p>	
<p>CRP-19-29 (Published October 23, 2020)</p>	<p>“Officers should receive implicit bias training on an annual basis.”</p>	<p>The FCPD Equity Team and its Ambassadors will receive specialized independent bias-based training. This education will provide a unique, cutting-edge platform for organizations to build a foundational capacity to address or discuss equity gaps, race, equality, cultures, and unity. The independent expert will also train-the-trainer for annual refresher courses on implicit bias, procedural justice, and <i>trust building</i>.</p>	<p>Implemented by FCPD.</p>
<p>2019 Annual Report (Published February 28, 2020)</p>	<p>“Where the evidence gathered during an Investigation into a Complaint of racial bias does not offer a race-neutral explanation for the conduct of the accused officer, the FCPD should continue to investigate seeking some explanation for the officer’s conduct by obtaining reasonably available evidence that will corroborate either a race-neutral or race-biased explanation such as</p>	<p>The Fairfax County Police Department Internal Affairs Bureau conducts investigations into all complaints involving any allegation of perceived bias. Bias-based complaints will include obtaining all available evidence; such as, but not limited to, witness statements, videos,</p>	<p>Not fully implemented.</p> <p>The Panel’s recommendation is that the FCPD proactively continue to investigate to find corroborating</p>

	examining the officer’s social media accounts and/or interviewing witnesses.”	publicly available social media, statistics, reports, etc. Consistent with all investigations completed by the police department; any available evidence is thoroughly examined for appropriate response and lawful action.	evidence, if the available evidence does not offer a “race-neutral explanation” for the conduct of the officer. The Panel recommends (see recommendation in CRP-19-29) that the FCPD develop objective criteria and processes to evaluate allegations of bias or profiling separate from its normal investigation processes.
CRP-19-11 (Published January 15, 2020)	“With respect to obvious, known witnesses who are not interviewed, Investigation Reports should include an explanation for why such an interview failed to occur.”	<u>General Order 301</u> , Internal Investigations, states that witnesses shall be interviewed if they would assist in an investigation of a complaint or incident. Commanders were reminded of this policy in a March 2020 Command Staff meeting. Furthermore, Bureau Commanders are responsible for ensuring all investigative tasks have been properly completed as an additional quality control and review oversight protocol.	Implemented by FCPD.

<p>CRP-19-11 (Published January 15, 2020)</p>	<p>“FCPD civilian ride-a-long individuals should be tracked and recorded in all instances. A police ride-a-long individual should never be unknown such that when an incident containing alleged misconduct is investigated, the civilian witness cannot be determined.”</p>	<p><u>General Order 430.3</u> sets policy and procedure for each Ride-Along to include maintenance of the application and required documentation for every Ride-Along. Commanders were reminded of this importance during a Command Staff meeting in March 2020.</p>	<p>Implemented by FCPD.</p>
<p>CRP-19-11 (Published January 15, 2020)</p>	<p>“The FCPD should implement a clear policy for what officers should do in situations where children are left unattended by detained individuals to make sure that such children are safe during such incidents.”</p>	<p>FCPD policy requires officers to “<i>preserve the sanctity of life</i>” and, as community caretakers, officers must attend to the needs of any person who is unable to care for themselves as expeditiously as possible. <u>Regulation 201.6, Preservation of Peace and Protection of Life and Property</u>, states:</p> <p><i>“It shall be the duty of each sworn officer of the Department to:</i></p> <ul style="list-style-type: none"> • <i>Preserve the public peace;</i> • <i>Protect life and property; and</i> • <i>Enforce and uphold the laws of the Commonwealth of Virginia and the</i> 	<p>Implemented by FCPD.</p>

		<p><i>ordinances of the County of Fairfax.”</i></p> <p>This policy requires officers to attend to children, and any other person who is left alone and unable to care for themselves, under their oath as a sworn officer to protect life. Furthermore, officers are provided guidance from the Fairfax County Family Services Child Supervision Guidelines regarding unattended minors and children.</p>	
<p>CRP-18-27 (Published July 12, 2019)</p>	<p>“[T]he Panel recommends that in the future the Department refrain from publicly releasing [investigatory information pertaining to the Complainant’s social media accounts], because it “discourages individuals from filing future complaints, and it undermines community trust in the Panel.” If the FCPD believes such information is relevant to the investigation, “that information should be included only in the Department’s investigative file.”</p>	<p>All of the information was obtained via public websites from a Google search. The information that was released was already publicly available on the internet.</p>	<p>Not Implemented by FCPD</p>

<p>2018 Annual Report (Published March 21, 2019)</p>	<p>FCPD disposition letters to the complainant upon conclusion of FCPD investigations, “must contain sufficient, specific detail to provide complainant with a clear understanding of the scope of the FCPD investigation and the rationale for the FCPD findings.”</p>	<p>The FCPD co-produced a disposition letter with members of the community. Commanders who author these letters were then trained on the new form in September. Since that time, the new form has been in use.</p>	<p>New format for more explanatory disposition letters has been adopted by the FCPD and is being implemented.</p>
<p>2018 Annual Report (Published March 21, 2019)</p>	<p>“Action Item 17, dated December 6, 2016 (p. 278), limits the Panel’s ability to include salient facts in public reports. This restriction inhibits “the Panel’s ability to achieve its purpose ‘to enhance police legitimacy and to build and maintain public trust between the FCPD, the Board of Supervisors and the public.”</p>	<p>During Quarterly Meetings, FCPD representatives coordinated with the CRP in preparation of the proposed Action Item that was adopted by the Board of Supervisors on September 24, 2019, giving the Panel the authority to disclose facts of the investigation in the Panel’s Review Reports, with certain restrictions.</p>	<p>Action Item adopted by the Board of Supervisors on September 24, 2019, gives the Panel authority to disclose facts of the investigation in Review Reports with certain limited restrictions.</p>
<p>2018 Annual Report (Published March 21, 2019)</p>	<p>“The Panel suggests that the Board of Supervisors require a quarterly meeting among the Chiefs of Staff for the Chairman of the Board of Supervisors and the Chairman of the Public Safety Committee, the FCPD Chief, and the Chair and Vice-Chair of the Panel to review Panel comments and recommendations and discuss the implementation of the same.</p>	<p>The FCPD supports the quarterly meetings and the sharing of information regarding Panel comments and recommendations. These meetings began in June 2019 and are continuing to occur with FCPD staff present for each of them.</p>	<p>Implemented by FCPD</p>

<p>CRP-18-26 (Published March 8, 2019)</p>	<p>“During FCPD administrative investigations, where statistical evidence is used, [the Panel] recommends the Crime Analyst Unit (CAU) be consulted in the gathering, preparation and reporting of the statistical data.”</p>	<p>The compilation of statistical evidence is the responsibility of the Analyst assigned to the Internal Affairs Bureau.</p>	<p>Implemented by FCPD</p>
<p>CRP-18-26 (Published March 8, 2019)</p>	<p>“The FCPD should make BWC and In-Car Video (ICV) footage available for viewing at Panel Review Meetings as requested by the Panel.”</p>	<p>Requests for the Panel to view video and audio footage will be approved on a case-by-case basis.</p>	<p>FCPD explanation noted. The Chief has committed to review any Panel request for footage and determine whether to release of requested footage on a case-by-case basis.</p>
<p>CRP-18-26 (Published March 8, 2019)</p>	<p>“The Panel recommends that the FCPD ensures that individuals involved in incidents with FCPD officers which are subject to a complaint be provided with an opportunity to review the video footage of the incidents.”</p>	<p>It has been the policy of the Police Department to allow complainants to view video footage consistent with Body Worn Camera Pilot Program SOP 18-506, Section VII, Paragraph B and General Order 430.8, In Car Video Program Procedures, Section IV, Paragraph C-5.</p>	<p>Implemented by FCPD</p>
<p>CRP-18-12 (Published January 9, 2019)</p>	<p>“The Panel recommends that FCPD periodically summarize and publish all FCPD discipline across the entire FCPD without specifically identifying the disciplined officer by name.”</p>	<p>In keeping with our commitment to transparency, the FCPD annually publishes an Internal Affairs Bureau Statistical Report, which is made available both within and outside of</p>	<p>Under Review by FCPD.</p>

		the Department. IAB is currently researching best practices. Once a template is developed, it will be discussed with the County Attorney for legal review.	
<u>CRP-18-12</u> (Published January 9, 2019)	“The Panel recommends that the FCPD ensure that all concerns outlined in future Complaints be fully investigated and separately addressed in the Investigation Report.” (Officer’s demeanor was not explicitly discussed in the Investigation Report, even though it had been an issue in the Complaint).”	Complaints received by the FCPD are thoroughly investigated. As stated in your report, Major Reed assured the Civilian Review Panel (CRP) members that investigators take a holistic approach to ensure that all aspects of a complaint are addressed. Upon completion, all investigations are subject to a multi-layer review. This investigative review may be conducted by Station Commanders, Bureau Commanders, Deputy Chiefs, and the Chief of Police to ensure accuracy and thoroughness.	FCPD explanation noted.
<u>CRP-18-12</u> (Published January 9, 2019)	“The Panel recommends that the FCPD develop an efficient methodology to reintegrate some level of supervision over the submission of [FR300P accident report] forms [by FCPD officers].” The Panel concluded that the consequences for errors could be problematic, as certain insurance claims were initially denied based on erroneous information in the initial FR300P.”	Under the Traffic Records Electronic Data System (<u>TREDS</u>) system, which is a VA State Program, when an officer submits an FR300P, a layered approval process begins. The first layer is the TREDS system itself, which provides a real-time review to ensure all required fields are populated. After the TREDS system review, the report is submitted for	The Panel accepts explanation of FCPD regarding supervision under TREDS System.

		internal review by the FCPD Central Records Division. The Central Records Division has received specialized training on TREDIS and have the delegated authority to accept or reject accident reports if they are not in compliance. In addition, the Central Records Staff distributes error reports to supervisory staff to ensure quality control and accountability.	
<u>CRP-17-10</u> <u>(Published March 26, 2018)</u>	"[T]he Complainant indicated in her statement to the Panel that, other than the Notification, she had not received any further explanation from the FCPD. The Panel recommends that the FCPD contact the complainant and offer her whatever additional explanation that is legally permissible and appropriate under the circumstances."	Letter signed by Station Commander was sent to the complainant indicating the officer's violation was addressed and how to seek additional recourse. Internal Affairs Bureau (IAB) personnel also had a phone conversation with the complainant to address their concerns.	Implemented by FCPD

APPENDIX B: PANEL OUTREACH IN 2020

Faith and Community Organizations

- ❖ ACLU People Power Fairfax (2 events)
- ❖ NAACP Fairfax County (2 events)
- ❖ National Alliance on Mental Illness (NAMI) NOVA
- ❖ Northern Virginia Association of Black Attorneys
- ❖ Rotary Club of South Alexandria
- ❖ Rotary Club of Mt. Vernon
- ❖ Community Reformation of Wholeness Network
- ❖ Faith Communities in Action
- ❖ Floris United Methodist Church
- ❖ VOICE/CURE Clergy Leadership Team

Public Forums

- ❖ Listening Sessions with Supervisor Lusk (2 events)
- ❖ Supervisor Alcorn's Town Hall

Other Outreach

- ❖ FCPD Data Portal Review
- ❖ City of Falls Church Use of Force Review Committee
- ❖ NAACP Henrico County
- ❖ WUSA 9
- ❖ Georgetown University
- ❖ Virginia Tech

APPENDIX C: Complaints and Requests for Review Received by the Panel

Chair Term Years: March 1 - February 28

	2019-20	2020-21	Total
Number of Complaints filed against the FCPD (Panel Authority)	32	35	67
Number of Initial Complaints brought to the Panel	18	20	38
Number of Initial Complaints filed with the Panel but for which there is no ultimate review request	13	4	17
Number of Initial Complaints that are later requested to be reviewed by the Panel	5	8	13
Number of Review Requests Brought to the Panel	10	15	25
Number of Review Requests Taken by the Panel	5	4 [#]	9
Number of Review Requests Declined by the Panel	5	7	12
Number of Subcommittee Meetings Held	8	10	18
Number of Review Meetings Held	3	5	8
Number of Review Requests in process	0	2	2
Number of FCPD Investigations still pending	0	10 [^]	10

Notes:

[^]In 2020, 8 investigations are ongoing into Initial Complaints; 2 investigations are ongoing into Review Requests

[#] One review request included two complainants. Another Complainant submitted two separate review requests that were reviewed together.

APPENDIX D: Status of FCPD Investigations into Initial Complaints Received in 2020

CRP Case Number	Date Forwarded to FCPD	Date Findings Due	Number of Extensions	Date Findings Received	Number of Days Past Due #
CRP-20-01	1/8/2020	3/8/2020	0	2/28/2020	On time
CRP-20-02	1/13/2020	3/13/2020	0	2/28/2020	On time
CRP-20-04	2/20/2020	4/20/2020	4	12/18/2020	242
CRP-20-05	3/9/2020	5/8/2020	1	6/8/2020	31
CRP-20-06	3/10/2020	5/9/2020	2	9/16/2020	130
CRP-20-07	3/16/2020	5/15/2020	1	6/2/2020	18
CRP-20-08	3/16/2020	5/15/2020	1	6/2/2020	18
CRP-20-09	5/8/2020	7/7/2020	1	8/21/2020	45
CRP-20-10	5/18/2020	7/17/2020	0	7/17/2020	On time
CRP-20-11	5/26/2020	7/25/2020	0	7/17/2020	On time
CRP-20-12	6/8/2020	8/7/2020	3	12/11/2020	126
CRP-20-13	6/9/2020	8/8/2020	3	12/17/2020	131
CRP-20-17	6/23/2020	8/22/2020	3	12/14/2020	114
CRP-20-22	8/11/2020	10/10/2020	4	^	^
CRP-20-23	8/14/2020	10/13/2020	1	11/18/2020	36
CRP-20-25	9/1/2020	10/31/2020	2	12/17/2020	47
CRP-20-26	9/29/2020	11/28/2020	2	^	^
CRP-20-28	10/8/2020	12/7/2020	2	^	^
CRP-20-32	11/12/2020	1/11/2021	1	^	^
CRP-20-35	12/8/2020	2/6/2021	0	^	^
CRP-20-36	12/8/2020	2/6/2021	0	^	^

^ Outstanding as of January 31, 2021

Average days overdue is 85 days.

APPENDIX E: Police Civilian Review Panel Member Biographies

Hansel Aguilar, Fairfax

Mr. Aguilar, originally from Honduras, has resided in the County for 10 years. For the better part of the past decade, he has put his studies in sociology and criminal justice to use by serving some time as a former police officer at the George Mason University Police Department and as a civilian investigator of police misconduct at the D.C. Office of Police Complaints. Additionally, he worked as a case manager and internal investigator for Youth for Tomorrow. In the County, his service also includes managing the volunteer program at Vinson Hall Retirement Community in McLean and serving as a volunteer with the Fairfax County Office for Women & Domestic and Sexual Violence Services. Mr. Aguilar is a native Spanish speaker and believes that oversight is an important tenet of maintaining justice and equality in a democratic society. He is one of the inaugural panelists serving out his last year.

James Bierman, McLean

Mr. Bierman is a resident of McLean, where he grew up, and is a litigator who represents clients in complex litigation such as antitrust, securities, pharmaceutical defense, false advertising, trade secrets, copyright infringement, trademark infringement, commercial paper, and domestic matters in federal and state courts across the country as well as before federal administrative agencies. Mr. Bierman also maintains a large pro bono practice in which he has represented undocumented immigrants in wage disputes against predatory employers, disabled individuals in Social Security benefit matters, and criminal defendants in state court at both the trial and appellate levels. Further, he advises nonprofits and community organizations in disputes with state and local governments. Mr. Bierman previously served as a law clerk to the Honorable Beverly B. Martin of the U.S. Court of Appeals for the Eleventh Circuit. Aside from his practice, Mr. Bierman is a leader in the Washington legal community and beyond where he serves as an Associate Trustee of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, and serves on the Board of the Washington, D.C. Chapter of the American Constitution Society.

Robert Cluck, Reston

Mr. Cluck has resided in Fairfax County for 40 years. He was on the Fairfax County Ad Hoc Polices Practices Commission. He served in the US Army and worked for the federal government for over 30 years in finance and administration. Since retirement, he has been active with the National Alliance on Mental Illness (NAMI), including as a member and officer of the Board of the State level organization and as a volunteer in many capacities for the Northern Virginia affiliate. Over period of six years, he gave family member presentations to Fairfax and

Arlington County police officers as part of their Crisis Intervention Team training. He is strongly committed to helping enhance public trust between the public and the Police Department.

Frank Gallagher, Burke

Mr. Gallagher is a U.S. Army veteran and a retired FBI Agent with over 32 years of service. He first moved to Fairfax County in 1977 and was transferred out of the area several times. During his time in the FBI, Mr. Gallagher served as the Deputy Assistant Director of the Criminal Division, Special Agent in Charge of a Field Office and as the Chief Inspector for the FBI. He has lived continuously in Fairfax County for the past 19 years. After his retirement from the FBI, he worked for a major global management and information technology consulting firm for 11 years. Subsequent to that he served for two years as the Chairman of the DC Chapter of the Society of Former Special Agents of the FBI. He is a graduate of FBI's National Executive Institute (NEI) and was on the Board of Directors of the NEI Associates for five years. For the past four years he has been the Braddock District representative on the Fairfax County Criminal Justice Advisory Board

Shirley Norman-Taylor, Lorton

Ms. Norman-Taylor has resided in Fairfax County for the past 21 years. She is licensed to practice as an attorney in Virginia and Washington D.C. The focus of her practice includes Domestic Relations and Criminal and Traffic Defense, however, her greatest joy comes from representing children who are in the Abuse and Neglect system as their Guardian ad litem (GAL). Ms. Norman-Taylor also serves on the Fairfax County School Board's Minority Student Achievement Oversight Committee (MSAOC). Ms. Norman-Taylor is a former military officer and served as a Commander during Operations Desert Shield/Desert Storm.

Sris Sriskandarajah, Fairfax (Vice-Chair)

Mr. Sriskandarajah is a resident of Fairfax, Virginia. Everybody calls him "Sris". He has lived in Fairfax since 2006 and has his law firm in the City of Fairfax. He assists clients with criminal defense and family law cases. He is licensed to practice before the state and federal court of Virginia & Maryland. He is also licensed to practice in DC. Mr. Sris is the legal advisor to the Valluvan Tamil Academy on a pro bono basis. He is also on the panel of listed attorneys for ASHA – a pro bono organization that helps South Asian women in Virginia who are victims of domestic violence or sexual violence. Aside from his practice, Mr. Sris is the father of two children who attend school in Fairfax County. Mr. Sris is a native Tamil speaker and is an active member of the Indian community in Virginia & Maryland.

Rhonda VanLowe, Reston

Ms. VanLowe was appointed to the Governor's Taskforce for Improving Mental Health Services and Crisis Response and served on the Public Safety workgroup. She has devoted much of her community service work to serving those with unique physical, mental, emotional, intellectual

or cognitive backgrounds. Ms. VanLowe practiced law in law firm and corporate settings, served as Board Chair of The Northern Virginia Therapeutic Riding Program, Inc., and received the National Women of Color Special Recognition Award at the 2008 STEM Conference. Ms. VanLowe is a 36-year resident of Fairfax County and looks forward to working together with members of the Panel to develop procedures that will set the foundational tone and tenor for the work of the Panel.

Douglas Kay, Fairfax

Mr. Kay is a trial lawyer who has handled civil litigation, criminal defense and personal injury cases for over 25 years. He currently focuses his practice on commercial litigation matters. As a criminal defense attorney, he has represented individuals charged with everything from simple traffic matters to the most serious felony offenses in state and federal courts. Mr. Kay previously served as a judge advocate in the U.S. Navy and Assistant Commonwealth's Attorney for Fairfax County. A lifelong Fairfax County resident, Mr. Kay attended Fairfax County Public Schools, coaches his son's youth basketball team, and served on Fairfax County's Ad Hoc Police Practices Review Commission. Mr. Kay was nominated to serve on the Civilian Review Panel by the South Fairfax Chamber of Commerce and the Fairfax Bar Association. Mr. Kay has served on the Panel since its inception.

Hollye Doane, Oakton (Chair)

Ms. Doane is a retired attorney who spent most of her career serving in government, practicing law in the private sector, and representing companies and trade associations. Her career focused on energy regulatory law and federal government affairs issues relating to natural gas policy, telecommunications policy and science funding for high energy physics and Down syndrome research. She has been an advocate for the disability community for more than 30 years. Her experience as a journalist before attending law school and as a government regulator gave her an appreciation for the importance of government transparency and accountability. After her retirement, Ms. Doane trained as a certified mediator and as a lay pastoral care minister. She served as a Stephen Minister in her church and as a hospice volunteer. She also completed, by extension, the four-year Education for Ministry program at the University of the South School of Theology. She has resided in Fairfax County for 34 years and has served on the Panel since its inception.

