

Police Civilian Review Panel

November 19, 2019

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members Present:

Jimmy Bierman

Bob Cluck

Hollye Doane, Panel Vice-Chair

Frank Gallagher

Doug Kay, Panel Chair

Sris Sriskandarajah

Shirley Norman-Taylor

Rhonda VanLowe

Panel Members Absent:

Hansel Aguilar

Others Present:

Gentry Anderson, OIPA

Gerarda Culipher, Chief Deputy Clerk of the Fairfax County Circuit Court

Julia Judkins, Counsel

Natalie Nguyen-Woodruff, Staff to Supervisor Jeff McKay

Major Owens, FCPD

Richard Schott, Independent Police Auditor

The Panel's business meeting was called to order at 7:00 p.m.

Welcoming of New Panel Member: Mr. Kay welcomed, on behalf of all Panel Members, Mr. Gallagher, who was recently appointed by the Board of Supervisors to fill a vacant seat, to his first meeting. Mr. Kay thanked Mr. Gallagher for his willingness to serve on the Panel.

Administration of the Oath: Ms. Gerarda Culipher, Chief Deputy Clerk of the Fairfax County Circuit Court, administered the Oath of Office to Mr. Gallagher.

Meeting Summary Approval: Ms. VanLowe moved approval of the Meeting Summary from the Panel's October 7th meeting. Mr. Bierman seconded the motion and it carried by a vote of eight, with Mr. Aguilar being absent.

Initial Review Report for CRP-19-11: Mr. Bierman summarized the allegations made in the complaint and announced that the subcommittee voted to recommend that the Panel undertake a review of the complaint because the allegations meet the Panel's threshold for abuse of authority and serious misconduct. Mr. Kay added that one of the allegations made in the complaint was that the officer assaulted the complainant when the officer closed a car door on the complainant's leg. Mr. Schott informed the Panel that this allegation does not satisfy the definition of use of force set forth by FCPD General Order 540 and it was agreed that the Panel, not the Auditor, would review the allegation. Ms.

VanLowe noted that the Review Request was submitted on May 21, 2019 and asked if there was a reason for the delay. Ms. Anderson reminded the Panel that the investigation was reopened by the Internal Affairs bureau to investigate the allegation of racial bias since the initial investigation was conducted at the station level. Ms. VanLowe moved approval of the subcommittee's recommendation that the Panel undertake a review of complaint CRP-19-11. Ms. Bierman seconded the motion and it carried by a vote of eight, with Mr. Aguilar being absent.

Mr. Kay announced that the review meeting will take place at the Panel's December meeting and asked for all Panel Members review the FCPD investigation file related to this complaint to be prepared for the review.

Mr. Sriskandarajah announced that he will not be present at the December 17th Panel Meeting and asked whether he should still review the file. Mr. Kay replied that he should still review the file to provide input on the review report.

Initial Review Report for CRP-19-24: Ms. Norman-Taylor provided a summary of the allegation made in the complaint and announced that the subcommittee voted to recommend that the Panel not undertake a review of this complaint because the allegation of unprofessional conduct did not rise to the Panel's threshold of abuse of authority or serious misconduct. Mr. Gallagher asked how much of the Panel's time and resources were spent on this complaint. Mr. Kay replied between reviewing the file and participating in the subcommittee meeting, it took roughly an hour. He added that because the Panel forms subcommittees to conduct the Initial Review of Review Requests, the full Panel did not have to review the file.

Ms. Norman-Taylor moved approval of the subcommittee's recommendation that the Panel should not undertake a review of complaint CRP-19-24 because the allegations do not meet the Panel's threshold of abuse of authority or serious misconduct. Ms. VanLowe seconded the motion and it carried by a vote of eight, with Mr. Aguilar being absent.

Update on Publishing Panel Recommendations Matrix: Mr. Kay walked the Panel through the recommendation matrix and thanked Ms. Doane for her work on editing the document. Ms. Doane explained that the two audiences for this document are the public and the Board of Supervisors and the purpose is to promote transparency and progress made as a result of the Panel's work. She explained that the "Panel Recommendation" column often includes exact language from Panel review reports so that the Panel's voice can come through. The FCPD will maintain the content in the "FCPD Response" column. She added that the "Status" column will be maintained by the Panel and suggested that the Panel vote to approve, or at least discuss, the language in this column so that there is consensus.

Panel discussion ensued related to agreeing on language in the Status column and tracking the Panel's progress and the FCPD's responses. The Panel discussed the FCPD's response to the Panel's recommendations from CRP-18-26. Ms. VanLowe noted that the Panel may receive public input on the document when it is published to the Panel's website and suggested that the Panel add a comment box on the website for people to submit their feedback to the Panel. *Mr. Kay asked for Panel Members to send him any edits to the matrix prior to further discussion at the Panel's December meeting.*

Update on FCPD Extension Requests: Mr. Kay reported that the Panel has seen an uptick in FCPD requests for investigation extensions this year and referenced Article VI.C.(c) of the Panel's Bylaws.

Currently, the FCPD sends the Chair a notification that the 60-day investigation period has concluded and requests an extension with an explanation of good cause. The Panel then notifies the Complainant and the Board of Supervisors of the extension request. Panel discussion ensued related to the notifications the Panel sends to the Board of Supervisors and the Complainant, and to the FCPD's investigation and review processes.

Ms. Doane noted that the 60-day investigation period was set by the Board of Supervisors in the Panel's authorizing Action item and that it should be discussed at the next quarterly meeting. *Ms. Anderson will circulate to Panel Members letters sent to the Complainant and the Board of Supervisors notifying them of extension requests.* Major Owens added that the FCPD investigator also maintains communication with the Complainant regarding the progress of the investigation into the complaint.

Publication of Panel Meeting Materials: Mr. Kay informed the Panel that when meeting materials are distributed to Panel Members one week prior to the Panel Meeting, the materials are made available for public inspection in the Office of the Independent Police Auditor to comply with the Freedom of Information Act (FOIA). He asked Panel Members their thoughts on posting meeting materials on the Panel's website so that the documents can be accessed electronically. Ms. VanLowe urged for the Panel to be thoughtful with the content in meeting materials, such as draft review reports, if they will be posted on the website. Ms. Judkins added that the FOIA statute outlines exemptions for certain sensitive documents, although it was acknowledged that this may rarely apply to the Panel's materials. Mr. Sriskandarajah added that posting meeting materials to the Panel's website would make information more accessible to the public and promote the Panel's mission of transparency. Further discussion ensued related to posting meeting materials to the website.

Mr. Sriskandarajah moved that the package of Panel meeting materials be posted to the Panel's website.

Mr. Bierman seconded the motion and it carried by a vote of seven, Mr. Gallagher voting "Nay," and Mr. Aguilar being absent.

October 11th Quarterly Meeting Debrief: Mr. Kay reported that at the last quarterly meeting, the recommendations matrix and the updated disposition letters were discussed.

NACOLE Regional Training Debrief: Mr. Kay, Mr. Sriskandarajah, Mr. Cluck, and OIPA staff attended the National Association for Civilian Oversight of Law Enforcement's (NACOLE) regional training in D.C. on Friday, November 15. Mr. Cluck provided a brief summary of the training sessions offered.

FCPD Training Debrief: The Panel thanked Major Owens and Lieutenant Krause for the FCPD training that was held on Saturday, November 16th. Mr. Kay said that the dialogue between Panel Members and the FCPD was very helpful and hoped that future trainings included additional time for discussion.

New Business: Mr. Bierman announced that Mr. Kay will represent the Panel on "Inside Scoop", a local access television show, to inform the community about the Panel and its work.

Mr. Kay informed the Panel that Mr. Schott drafted a joint letter to the Chief of the FCPD thanking him and his staff for the training provided on Saturday, November 16th. He asked for the Panel's permission to sign the letter and the Panel agreed.

Ms. Doane announced that the Board of Supervisors swearing in ceremony will take place on Monday, December 16th at 6:00 p.m. in the forum of the Government Center. She encouraged Panel Members to attend and to meet the new Chair of the Board of Supervisors and their respective district Supervisors.

The Panel thanked Ms. Nguyen-Woodruff for attending the Panel's meeting.

Mr. Schott announced that the Board of Supervisors approved the Panel's amended Bylaws at their meeting earlier that morning.

Next Meeting: The Panel's next business meeting is Tuesday, December 17th, 2019, at 7:00 p.m. in the Government Center, Conference Room 232.

The meeting was adjourned at 8:52 p.m.