

Police Civilian Review Panel

March 27th, 2017, 7:00 p.m. Rooms 9/10, Fairfax County Government Center

The meeting began at 7:00 pm.

Panel Members present:

Hansel Aguilar

Kathleen Davis-Siudut

Steve Descano

Hollye Doane

Doug Kay

Randy Sayles

Jean Senseman

Adrian Steel, Panel Chairman

Rhonda VanLowe

Panel Chairman Steel opened the meeting and reviewed the agenda with the Panel. He then summarized the history of the establishment of the Panel by the Board of Supervisors (Board). He reminded the Panel that its creation was a recommendation of the Ad Hoc Police Review Practices Review Commission. The Commission was composed of subcommittees that were tasked to develop recommendations on a number of issues. Many of the recommendations have been or are in the process of being implemented, either as the result of Action Items approved by the Board or administrative directives or General Orders of the Fairfax County Police Department (FCPD).

Chairman Steel discussed with Panel members the following potential dates and times for training sessions; April 8, 9:00 a.m. – 1:00 p.m., May 13, 9:00 a.m – 1:00 p.m. and June 5, 6:30 – 9:30 pm.

Chairman Steel began discussing Panel meetings and how they will be conducted in the future. Currently, the meetings are for setting up “business procedures”, to include operating procedures and processes. Once the Panel’s bylaws have been approved by the Board, the Panel will then be ready to hear citizen complaints. He discussed the possibility of having public forums and meeting with community groups to hear their input.

Mr. Kay brought up the process of developing bylaws and that it may be a good idea to begin to develop bylaws and meet two weeks after a draft is in the works. Mrs. Doane thought that working off bylaws of existing police civilian review panels is a good idea and that having a group of two or three Panel members working on the bylaws would be effective. Chairman Steel noted that Panel members have versions of bylaws from existing police civilian review panels from around the country in their materials. Ms. VanLowe and Mr. Kay volunteered to work on a draft of version of bylaws for the Panel. Chairman

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Steel noted that the meeting procedures and processes for the Panel's review of complaints should be clearly articulated in the bylaws.

Chairman Steel reminded the Panel of the separation of duties of the Independent Police Auditor and the Panel, as approved by the Board. If a serious incident takes place, such as a fatality, FCPD and the police auditor will review and investigate the complaint. If the complaint is on the topic of use of force involving serious death or injury, the auditor will review. The Panel could review complaints from citizens for minor incidents with the police such as traffic stops. Ms. Doane asked about jurisdiction of the Panel and Chairman Steel replied that the Panel can review allegations of "abuse of authority" and complaints of "serious misconduct" and these terms are to be defined in the bylaws.

Chairman Steel recognized Ms. Julia Judkins, legal counsel to the Panel, and explained that she did research, per the request of the Board, pertaining to Virginia Law and the function of the Panel in Fairfax County. She told the Panel that the research showed that the authorizing laws are different when comparing cities and counties. She explained that in cities such, as Virginia Beach, similar Panels can take testimony and investigate complaints but that Panels within a county have no legal authorization for these types of actions. She said that a complaining party can appear before the Panel to tell the Panel why he or she is dissatisfied with the police department investigation into their complaint.

Ms. VanLowe questioned the scope of authority of the Panel. Ms. Judkins replied that taking testimony and swearing-in of witnesses is not permitted but having meetings and listening to people with concerns is appropriate.

Mr. Descano asked how this affects the Panel's ability to talk to police department representatives. Chairman Steel replied that the County Executive can require any employee to show up to speak, but not the involved officer or officers. Mr. Kay noted that he read from the meeting materials that the Panel could hear from complainants and the investigating officer but he was unclear on hearing comments from witnesses

Ms. Doane asked the question if the Panel has jurisdiction over personnel issues and disciplinary actions. Chairman Steel replied that the Panel is not designed to be involved with these issues and that they will go to the Police Chief for review, however the Panel will be aware of these issues and the decisions that were made. Major Gun Lee described the FCPD disciplinary process.

Chairman Steel recommended that, when drafting the bylaws, Ms. VanLowe and Mr. Kay listen to the audio of the November Public Safety Committee Meeting and watch the video of the December and February Board Meetings. Ms. VanLowe raised a question about the Denver Panel's Code of Ethics. The Panel overall agreed that it would be important to develop a Code of Ethics as a component of the bylaws. Ms. Davis-Siudut volunteered to develop a code of ethics and Mr. Sayles agreed to help in the process.

Chairman Steel started the discussion on officer positions. He said he thought it would be appropriate for the Chairman to author the annual report of the Panel. He asked the Panel about their thoughts on creating a Vice Chair position, and if that person should become the next Chairman. Mr. Kay said that he will include that the Chairman author the annual report and a Vice Chair position to the bylaws.

Mr. Kay raised the question of a Secretary position of the Panel and he noted that some Panels around the country had such a position and some did not. He also proposed that Panel members could rotate taking turns writing meeting minutes. Chairman Steel said that could be done but to also remember that the Panel will have staff support from the Independent Police Auditor's office. Ms. Senseman said that once the Panel is taking comments from complainants, a Panel member taking minutes could be burdensome to the Panel's overall operation. Ms. VanLowe noted that having a secretary for the Panel could alleviate burdens from the Chairman by creating meeting agendas and gathering materials and that this should be considered.

Chairman Steel reminded Panel members of the discussion of VFOIA that occurred at the March 20th meeting, specifically regarding emails and record retention. He asked Ms. Judkins about closed session and Ms. Judkins replied that VFOIA prescribes when a public body can go into closed session and the procedures to do so.

The discussion on the Panel hearing from witnesses was brought up again and Panel members agreed that the issue would be clarified in the Panel bylaws.

Chairman Steel brought up the internal FCPD Use of Force (UOF) Committee that has been in existence since before the Ad Hoc Commission was established. This committee was to review incidents of UOF, what other law enforcement agencies are doing, and how to enhance practices and policies. He noted that the Ad Hoc Commission recommended that this group reconvene. He noted that Mr. Sayles was a part of the UOF Committee and Mr. Sayles asked if this would be a conflict to serve on both.

Ms. Doane asked about provisions of Panel member's recusal from certain discussions. Ms. VanLowe noted that bylaws from other Police Review Panels addressed conflicts of interests and recusals by members and those issues could be incorporated into the draft bylaws.

Chairman Steel brought up mediation of complaints. Mr. Aguilar said that the D.C. Office of Complaints has a mediation process and the Panel should eventually implement a mediation process. Chairman Steel said this is a process the panel should keep in mind and think about implementing sometime in the next year.

The panel discussed the use of body- worn cameras and the possibility of reviewing future drafts of FCPD policy regarding the subject. Major Lee said that Chief Roessler is a strong proponent of co-production in policing, which means that citizen input and involvement in policies and procedures is highly appreciated and taken into account.

Mr. Schott, Independent Police Auditor, recognized that the body worn camera issue is an important subject of discussion within law enforcement and that it would be important to consider whether an officer involved in a situation is able to view footage from the body worn camera before or after they make a statement.

Ms. Senseman asked what kind of complaints would be reviewed by the Panel as this would impact the development of the Panel's recommendations on body worn cameras. Ms. Davis Siudut said that the panel should prioritize its tasks by completing the bylaws and that a timeline for reviewing FCPD policies and practices would be helpful. Chairman Steel replied that, in his view, the Panel's review of FCPD policies and procedures is of equal importance to the Panel's review of individual cases of complaints.

Mr. Descano said that as long as the timeline is right, the Panel should become involved in looking at the policy of body- worn cameras. He said that this is a good opportunity for the Panel to be effective in increasing transparency in police practices. Ms. VanLowe agreed and stated her view that the Panel's involvement in the FCPD's development of body- worn cameras could help to define how the Panel will do its work in the future. Chairman Steel said that the County has not allocated funds for a pilot program for body- worn cameras but that if the Panel believes that this is something that should be funded, the Panel can advocate for it.

Chairman Steel brought up the Panel training meetings that will be run by Major Lee and his colleagues. He directed Panel members to email him topics of interest and he would compile a topic list and will send it to Major Lee for his review. Major Lee said that a draft of training materials has been developed but that other topics could also be incorporated.

Chairman Steel discussed the Public Safety Committee meeting last Tuesday where a presentation on federal immigration policy and what Fairfax County does in relation to immigration status of persons was presented. Major Lee described the FCPD policy. Chairman Steel also reported that, in addition, an update on the Diversion First program and gang issues was presented.

Ms. Davis Siudut asked how communication and information would be tracked in response to complainants. Chairman Steel said that this would be addressed in the bylaws. Ms. Judkins said that it is important to review the Board Action Item from December 6, 2016, as that item reflects the Board's action on the authority and scope of the Panel.

Ms. Senseman brought up the topic of a county email account to conduct panel business and Ms. Judkins noted that setting up a folder in their email specifically for Panel communications and materials, serves a similar purpose.

Mr. Steel reminded the panel members of the following meeting schedule:

- April 8 – 9am -11am- Training
- April 24 – 7pm – 9:30 pm – Business meeting
- May 13 – 9am -1pm – Training
- June 6 – 6:30 pm – 9:30 pm – Training

The meeting adjourned at 9:42 pm.