

Police Civilian Review Panel

December 2, 2021

Fairfax County Government Center, Conference Room 11

Meeting Summary

Panel Members Present:

Cheri Belkowitz

Jimmy Bierman, Chair

Todd Cranford

Frank Gallagher

Dirck Hargraves, Vice-Chair

William Ware

Panel Members Absent:

Shirley Norman-Taylor

Others Present:

Rachelle Ramirez, OIPA

Richard Schott, Independent Police Auditor

Dre'Ana Whitfield, OIPA

2ND Lt. Tim Forrest, Internal Affairs Bureau

Lt. Derek Gray, Internal Affairs Bureau

The Panel's business meeting was called to order at 7:00 p.m. Mr. Bierman welcomed everyone to the Panel's December 2, 2021, meeting. Mr. Bierman took roll call to verify a quorum of the Panel was present. Everyone that was present in Conference Room 11 stated their name and their position.

Approval of Meeting Agenda: Mr. Gallagher moved approval of the meeting agenda. Mr. Hargraves seconded the motion, and it carried with a vote of six, with Ms. Norman-Taylor being absent.

Remote Participation Approval: Mr. Bierman stated that the Panel does not have any remote participation approval for the December 2, 2021 meeting. He noted that Ms. Norman-Taylor notified the Panel beforehand that she was unable to attend.

Approval of November 16 Meeting Summary: Mr. Hargraves moved the approval of the Panel's November 16, 2021, meeting summary. Mr. Cranford seconded the motion, and it carried with a vote of six, with Ms. Norman-Taylor being absent.

Mr. Bierman noted that the Procedural Justice and Police Legitimacy presentation slides, which were presented to the Panel at the November 16, 2021, meeting, is included in the meeting materials.

Approval of Subcommittee Initial Review Report for CRP-21-14: Mr. Bierman stated that he sat on the subcommittee panel with Mr. Cranford and Ms. Norman-Taylor regarding CRP-21-14. He provided a summary of the complaint. Mr. Bierman explained that the complainant alleged that an officer of the FCPD falsely arrested and profiled him as an African American male. He further explained that the complainant was cited under code 82-9-5, for blocking the roadway while soliciting donations from the median.

Mr. Cranford further explained the complaint. He noted that the incident occurred in March of 2019 and was not the first incident for the complainant. He stated that the complainant and his companion solicited donations in Fairfax County for several years and the officer at the time of the incident had arrested, detained, and given the complainant citations on several occasions prior. The FCPD Internal Affairs Bureau (IAB) conducted an investigation that included interviewing the complainant and his friend and the FCPD police officer. Mr. Cranford stated that, after reviewing the file of the matter, the subcommittee decided that the allegations were appropriate for the Panel to consider. However, the subcommittee found that there was no substantiated evidence in the record to support any claims of abuse of authority or serious misconduct. Mr. Cranford noted that the subcommittee found that the IAB investigation was thorough, complete, and unbiased. He further stated that the subcommittee recommends that the complaint not be undertaken for review by the full Panel.

Mr. Bierman expressed that this complaint provides a good example of what the Panel does and why this system helps the FCPD and the community. He said the FCPD went to the County Attorney's office to obtain an opinion regarding the officer's actions under the county code 82-9-5, which is a rule against pedestrians blocking the roadway. He said that codes meant to prevent panhandling have at times been found to be applied unconstitutionally due to the constitutional right of free speech. Mr. Bierman noted that from reviewing the complaint, it was clear that the police officer was not utilizing the code in an unconstitutional manner or using it in a discriminatory way. He said the officer told the complainant that he cannot be on the median but gave him the option to move to the sidewalk to solicit donations. He said the County Attorney found it a fair way to interpret the code but warned it could be potentially a problem in the future and they may want to use a similar state code. Mr. Bierman stated that the police department consulted with both the County Attorney and the Commonwealth's Attorney office to clarify how to enforce these rules. He expressed that this process may have led to a situation that protects the rights of individuals who want to panhandle in the future. He stated that the complainant's rights to solicit were protected by a police officer who gave him the alternative to move to the sidewalk to solicit. He noted that the IAB's actions were commendable and led to a better outcome.

Mr. Gallagher asked if the complainant was at the subcommittee meeting and Mr. Bierman answered affirmatively. Mr. Bierman reviewed the Panel's new process and stated that the complainant could have had the opportunity to speak at the meeting tonight but was not present. Mr. Hargraves asked if the pamphlet about panhandling provided by the complainant would be updated since it was from 2017. Mr. Bierman stated that newer pamphlets developed by the County were included in the investigative file. He said that citations usually occur when the person steps off the median into the roadway.

Mr. Gallagher moved that the Panel accept the recommendation of the subcommittee regarding CRP-21-14. The motion was seconded by Mr. Cranford.

Mr. Cranford stated that the vote or recommendation by the subcommittee was unanimous. Mr. Ware stated that he would like to know the racial composition of people arrested under this code. Mr. Bierman stated that the complainant was arrested in this case due to his refusal to sign the summons and was unsure they can get a picture of arrests based on the code. He also said the officer involving in this incident cited people across the racial spectrum using this code.

Mr. Bierman called the question and the motion carried with a vote of six, with Ms. Norman-Taylor being absent.

New Business: Mr. Bierman stated that the next Panel meeting is scheduled for January 6, 2022. He explained that there is another complaint that needs to be reviewed by a subcommittee and he would like for the subcommittee meeting to occur prior to the full Panel meeting. Discussion ensued on dates for the subcommittee meeting and the Panel meeting. It was decided that the subcommittee meeting on CRP-21-24 will be scheduled for January 4 or January 5 and the full Panel meeting will remain scheduled for January 6, 2022.

Mr. Bierman stated that his term as Chair of the Panel ends on March 1, 2022, and under the Bylaws, Mr. Hargraves will become the next Chair of the Panel. He noted that elections for Vice-Chair will occur at the January or February meeting. Mr. Bierman asked Panel members to contact him if anyone is interested in serving as Vice-Chair. Mr. Bierman noted that three Panel members will need to request reappointment to their positions before March.

Ms. Belkowitz stated that on January 18, 2022, at 7:00 p.m. the Fairfax Special Education Parent Teacher Association (SEPTA) will be having an event. She noted that Mr. Bierman will be giving a brief synopsis of what the Panel does. Ms. Belkowitz will send the Panel invitations. She noted that it will be held remotely.

Mr. Bierman stated that the Chief is open to having another public meeting with the Panel in the new year. He said that the police academy graduation will be on December 16, 2021, at the Centerville Baptist Church on Lee Highway if any of the Panel members are available to attend.

Adjournment: Mr. Hargraves moved to adjourn the meeting. Mr. Gallagher seconded the motion and it carried with a vote of six, with Ms. Norman-Taylor being absent.

The meeting adjourned at 7:27 p.m.

Next Meeting: The Panel's next business meeting will be held on January 6, 2022, at 7:00 p.m.