
Police Civilian Review Panel

Meeting Agenda

Location: Fairfax County Government Center – Room 9
12000 Government Center Parkway
Fairfax, VA 22035

Date: December 7, 2023

Time: 7:00 pm

Website: www.fairfaxcounty.gov/policecivilianreviewpanel/

Agenda details:

I. Call to Order

II. Agenda Items

- a. Approval of Agenda
- b. Approval of November 2, 2023 Draft Meeting Summary
- c. Presentation on Monitoring Authority and Reviewing Investigations by Richard Schott, the Independent Police Auditor
- d. Discussion of Draft Documents Presented by the Procedures Subcommittee
- e. Report out on 2023 NACOLE Conference

III. New Business

IV. Adjournment

Panel Meeting Schedule:

- January 4, 2024 at 7:00 p.m.
- February 1, 2024 at 7:00 p.m.
- March 7, 2024 at 7:00 p.m.

Police Civilian Review Panel

November 2, 2023

Fairfax County Government Center

12000 Government Center Pkwy Fairfax, VA 22035

Meeting Summary

Panel Members Present:

Cheri Belkowitz, Vice Chair

Todd Cranford, Chair

Fazia Deen

Dirck Hargraves

Michael Lau

William Ware

Janell Wolfe

Celeste Peterson (joined virtually)

Others Present:

Kenneth Bynum, Counsel

Sanjida Lisa, PCRP

Rachelle Ramirez, OIPA

Richard Schott, OIPA

Lt. Matt Lane, Internal Affairs Bureau

Lt. Chris Cosgriff, Internal Affairs Bureau

Chair Cranford called the Police Civilian Review Panel's (PCR) business meeting to order at 7:08 p.m., and after taking attendance, noted the presence of a quorum. He welcomed everyone to the Panel's November 2, 2023 meeting.

Approval of Agenda: Mr. Hargraves moved approval of the meeting agenda. Ms. Wolfe seconded the motion and it carried unanimously.

Approval of September 7, 2023 Draft Meeting Summary : Mr. Hargraves moved approval of the September 7, 2023 draft meeting agenda. Mr. Ware seconded the motion and it carried, with Mr. Lau abstaining.

Subcommittee Report on CRP-22-15: Mr. Cranford presented the purpose of the subcommittee and the considerations made by Panel members when reviewing the complaint. He provided a brief overview of the complaint, the allegations made by the complainant, and the incident itself.

Ms. Deen joined the Panel meeting at 7:13 p.m. and Ms. Peterson joined the Panel meeting virtually at 7:14 p.m.

Mr. Cranford asked if Mr. Ware had any additional information to add to his overview, Mr. Ware replied he did not. Mr. Ware shared his perspective after watching the body camera footage of a Magistrate judge describing the actions of a Fairfax County Police (FCPD) officer as "vindictive" and provided that the comments made by the judge gave Mr. Ware cause for consideration of the allegations made. Ultimately, however, Mr. Ware agreed with Mr. Cranford and Mr. Garner from the subcommittee

meeting that after reviewing the investigative file, they could not identify any evidence of serious misconduct or abuse of authority. Ms. Belkowitz wanted clarification on whether the purpose of the subcommittee was not to determine whether the investigative file was Accurate, Complete, Thorough, Impartial and Objective. Mr. Cranford confirmed that this was not a factor when determining whether the subcommittee would recommend the initial review for a full review by the Panel.

Ms. Wolfe, Ms. Belkowitz and Mr. Lau all had questions regarding the Complainant's second 911 call, the Magistrate judge's response, and the Complainant's history with FCPD, which were answered by the subcommittee members present.

The Complainant was given up to 15 minutes to address the Panel. The Complainant provided their own overview of the events, the reason for their 911 calls, the response from FCPD and the reason they decided to file a complaint. The Panel thanked the Complainant for their attendance and their presentation of the incident.

Mr. Cranford provided that the subcommittee's recommendation was to not forward the complaint for a full review by the Panel. Mr. Hargraves wanted to determine the circumstances behind responding FCPD officers in announcing the Complainant's personal identifiable information (PII) in the hallway of the apartment building.

Mr. Ware moved approval of the recommendation and Mr. Lau seconded the motion. The motion carried with a majority vote, with Ms. Belkowitz opposing.

Procedures Subcommittee Presentation: Mr. Cranford had appointed Ms. Belkowitz and Ms. Wolfe to be on the Procedures Subcommittee to review the Panel's current initial review process and propose a new procedure for public comment. Ms. Ramirez presented a powerpoint presentation that outlined the Procedures Subcommittee's task and the different documents they considered and reviewed during their meetings. Ms. Ramirez also presented the proposed changes the subcommittee had agreed upon to the existing Panel Bylaws, the existing procedure on the initial review process and report template, and a new draft of a procedure on public comment. Mr. Cranford proposed that the Panel take time to review the proposed changes and the draft documents that were prepared by Ms. Ramirez and Ms. Lisa and send their edits or comments to Ms. Lisa for discussion at the December Panel meeting.

OIPA Update: Mr. Schott provided a reminder that the Panel is able to comment on his use of force incident reviews and make recommendations. Mr. Schott also provided that since his August Panel meeting update, he published one report and completed one summary memo. Mr. Schott then provided that he had reviewed the officer involved shooting (OIS) that took place on June 30, 2022 at Springfield Town Center. He gave a brief summary of the facts and the incident leading up to the shooting of the person with an arrest warrant. Mr. Schott reviewed the completed criminal and administrative investigations and concluded that the use of deadly force was objectively reasonable and he agreed with the findings of the investigation. Mr. Schott further provided that he made no recommendations based on the incident.

Mr. Schott stated that he had also completed a summary memo of a review initiated by a complaint. The complaint alleged the use of excessive force during an arrest on August 19, 2022. The body-worn camera footage showed that no force was used during the arrest and FCPD found the officer named in the complaint to be 'exonerated by technology' based on the body-worn camera footage.

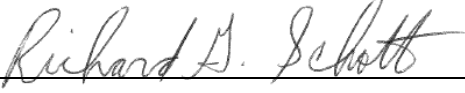
Mr. Schott stated that an automatic review had been initiated after a man in FCPD custody died on September 13, 2023. Mr. Schott provided that an intruder had forcibly entered a home and was acting erratically. When FCPD responded to a call to the home, the intruder was lying in the living room and became unresponsive. He was transported to the hospital where he was pronounced deceased. Mr. Schott provided that because the individual had technically died while in FCPD's custody, he would review the case.

There was a request by the Panel to the Internal Affairs Bureau for an overview and clarification of the IAB's case processing procedure and how they classify cases as inquiries, dissatisfaction of service, or investigations.

New Business: There was no new business.

Adjournment: Ms. Belkowitz motioned to adjourn the meeting. Mr. Hargraves seconded the motion and it carried unanimously. The meeting adjourned at 9:15 p.m.

DRAFT

Office of the Independent Police Auditor Procedural Memorandum	
No: 05	Subject: Monitoring and Reviewing Investigations
Approval Date: November 30, 2023	Review Date: November 30, 2026
Signed by Richard Schott, Independent Police Auditor	

Purpose: This procedure describes when the OIPA monitors or reviews FCPD Administrative Investigations, and provides parameters for IPA monitoring and reviewing activities.

Monitoring Versus Reviewing Investigations

The IPA monitors FCPD investigations when alerted to an incident shortly after it occurs and when the investigation is ongoing/active. The cases that are monitored include:

- Cases that are opened Automatically¹ by the OIPA (i.e., use of force resulting in serious injury or death, officer-involved shootings, and in-custody deaths).
- Complaints submitted by the public to the FCPD or to the OIPA that have not yet been investigated or have not had an investigation completed.

The IPA reviews FCPD investigations when the FCPD has already completed its investigation into the incident or complaint. FCPD investigations are completed when the file contains the Investigations Findings and the Supervisor Review and Conclusions, and the Chief of Police (or his/her designee) has reviewed and signed off on the investigation.

How Monitoring Cases are Received

As described in *OIPA Procedure 04 Case Intake and Public Reports*, the OIPA receives monthly updates from IAB on any complaints made regarding use of force incidents.

After certain critical incidents such as an officer-involved shooting (OIS), the IPA is notified (typically within 24 hours) by IAB or the Chief of Police.

The OIPA also receives regular updates from the FCPD Public Affairs Bureau, and monitors the media and FCPD news for use of force incidents that may fall under OIPA authority.

IPA Monitoring Activities

For OISs the IPA is verbally apprised by IAB of the status of the investigation (typically within 2 days of the OIS), to include the name of the investigator assigned.

The IPA maintains an open line of communication with the investigator assigned. This may include attending Performance Review Board meetings and/or discussing developments in the investigation with the investigator and/or with the IAB Commander.

¹ See *Procedure 04: IPA Case Intake and Pubic Reports*.

The IPA does not participate in interviews while they are being conducted but views recordings of interviews after they are conducted.²

The IPA may review investigative documents as they are prepared. IAB makes the DRAFT Findings Memo prepared by the investigator available to the IPA after it has been peer-reviewed.

The IPA may provide input to the investigator and/or to the IAB Commander with suggestions for improving the investigation as part of the monitoring process. IPA input during an ongoing investigation may include, for example, a suggestion to seek physical/digital evidence, to interview or re-interview certain individuals, or to review a reported court opinion. If the IPA's input is not incorporated into the completed investigation, the IPA documents the potential deficiency in the IPA's final published report.

IPA Reviewing Activities

When an administrative investigation is completed, the IPA reviews all components of the investigation. The following are typically included in a completed administrative investigation:

- FCPD incident reports
- BWC and ICV footage
- Photographs, diagrams, and/or maps
- Department of Public Safety Communications data
- Computer-aided dispatch data
- Data from other departments involved in the response (e.g., Fairfax County Fire and Rescue Department (FCFRD))
- Interviews of FCPD officers and staff (e.g., subject matter experts)
- Interviews of complainants/involved FCPD officers
- Interviews of witnesses, to include FCPD officers and personnel from other departments (e.g., FCFRD)
- Officer training records

The IPA reviews the Investigations Findings Memo and the Supervisor Review and Conclusions Memo.

² Sitting in on or actively participating in interviews may be considered an investigative activity, and the IPA does not have investigative authority.

If conducted (e.g., for an OIS), the IPA also reviews the results of any FCPD criminal investigation and the findings/reports generated by the Office of the Commonwealth's Attorney.

IPA Conclusions

Whether a case is monitored and reviewed, or only reviewed following a completed investigation, the IPA's mandate is to issue a public report³ with a determination of whether the FCPD administrative investigation was complete, thorough, accurate, objective and impartial. The OIPA also provide recommendations for improved policies, training, and practices in published incident reports.

³ See *Procedure 04*.

Options for Initial Review Discussed by the Procedures Subcommittee

INITIAL REVIEW is the way the Panel determines “if it has authority to review the subject investigation” into a complaint (Article VI.D.1.(a)) or that the “complaint meets the minimum criteria for review and considerations by the full Panel” (Article VI.D.2.(d))

FULL PANEL MAKES DECISION:

1. CURRENT PROCESS – **Subcommittee of 3 Panel Members** review the file and *make a recommendation* to Panel; Full Panel makes the decision to conduct a Full Panel Review.
2. In any of the below scenarios, the **person(s) reviewing the file** can *make a recommendation* to the Full Panel and the Full Panel makes the decision to have a Full Panel Review.

PANEL AUTHORIZES SOMEONE(S) OTHER THAN THE PANEL TO MAKE DECISION:

3. **Panel’s Executive Director** reviews the IAB file and determines whether a complaint should have a Full Panel Review.
4. The **Executive Director plus one Panel Member** (assigned on a rotating basis) reviews the IAB file to determine if a complaint should have Full Panel Review.
5. A **Subcommittee of 3 Panel Members** reviews the IAB file and the Subcommittee makes the decision of whether a complaint should have Full Panel Review.
6. **Only Panel members who review the file** (can be greater than a 3-person subcommittee and up to the entire Panel) can make the decision of whether to have a Full Panel Review.

BYLAWS OF THE FAIRFAX COUNTY POLICE CIVILIAN REVIEW PANEL

Approved by the Board of Supervisors on July 11, 2017

Accepted by the Police Civilian Review Panel on August 3, 2017

Amendments Approved by the Board of Supervisors on October 16, 2018, November 19, 2019, December 1, 2020, February 23, 2021, July 27, 2021, ~~and July 19, 2022,~~ and

New Date, 2024

ARTICLE I. NAME¹

The name of this organization is the **Fairfax County Police Civilian Review Panel**.

ARTICLE II. PURPOSE

The Board of Supervisors, pursuant to Virginia law, established the Panel on December 6, 2016, to enhance police legitimacy and to build and maintain public trust between the FCPD, the Board of Supervisors and the public. The Panel will:

- A. Review certain Investigations to ensure the thoroughness, completeness, accuracy, objectivity, and impartiality of the Investigations;
- B. Provide an independent process for commencing an Initial Complaint against the FCPD or its officers; and
- C. Make recommendations on law enforcement policies, practices, and procedures to assist the FCPD Chief of Police ("Chief") and Board of Supervisors in policy review.

The Panel shall report directly to the Board of Supervisors.

ARTICLE III. COMPOSITION OF THE PANEL AND TERM OF OFFICE FOR PANEL MEMBERS

A. Composition and Qualifications.

1. The Board of Supervisors shall appoint each Panel Member.
2. The Panel shall be comprised of nine Fairfax County residents with expertise and experience relevant to the Panel's responsibilities. At least one Panel Member shall have prior law enforcement experience other than as a member of the FCPD or the FCSO.
3. The Board of Supervisors shall endeavor to create an independent and fair body giving

¹ Certain terms used in these Bylaws are defined in the attached Exhibit A incorporated herein by this reference.

due consideration to the following factors, among others it may choose: community and civic involvement; diversity; law enforcement and/or criminal investigative experience; reputation in the community; geographical representation; and other factors designated to ensure a balanced Panel representative of Fairfax County.

4. No Panel Member may be a current employee of Fairfax County, a current or former member of the FCPD or the FCSO, have a relative (i.e., an immediate or extended family member) who is a member of the FCPD or FCSO, hold public office, or be a candidate for public office.

B. Terms of Service.

1. Panel Members shall be appointed for three-year terms, except for the inaugural Panel (which shall have terms as described below) and may be appointed to no more than two consecutive terms.
2. Panel Member terms shall be staggered.
3. With respect to the inaugural Panel, three Panel Members shall be appointed for three-year terms, three Panel Members shall be appointed for two-year terms and three Panel Members shall be appointed to a one-year term.
4. The Panel Members of the inaugural Panel are eligible to be appointed to a second three-year term upon expiration of the Panel Member's initial term.

C. Resignations, Removals and Vacancies.

1. Panel Members serve at the pleasure of the Board of Supervisors.
2. The Chair shall notify the Board of Supervisors if a Panel Member is absent from three consecutive Panel meetings or is absent from five Panel meetings in any calendar year (unless the absence is for good reason as determined by the Chair).
3. Any Panel Member may resign from the Panel at any time by delivering written notice of termination to the Board of Supervisors with a copy to the Chair. The resignation will be effective upon receipt, unless an effective date of the resignation is specified in the notice.
4. The Board of Supervisors may appoint a new Panel Member for the unexpired Panel Member term resulting from a vacancy that occurs for any reason.

ARTICLE IV. CHAIR, VICE CHAIR, OTHER OFFICERS AND COMMITTEES

A. The Initial Chair and Vice-Chair.

The Board of Supervisors may choose to designate one of the Panel Members as the initial Chair. At a time agreed by the Panel Members, the Panel shall elect the initial Vice-Chair.

B. Succession; Annual Election of Officers; Vacancies.

1. Unless the Panel Members agree otherwise, the Vice-Chair shall succeed to the Chair position upon expiration of the Chair's term.
2. Panel Members shall elect the Vice-Chair and other officers (as determined by the Panel Members) who shall be responsible for those functions as assigned by the Panel and the Chair.
3. All Panel officers shall be elected at the first meeting of each calendar year. Unless the Panel Members agree otherwise, terms of office for Panel Officers shall be for one year, effective March 1st of each calendar year.
4. No Panel Member may serve successive terms as Chair.
5. If there is an officer vacancy, the Panel may elect a replacement officer at any time after the vacancy occurs to serve the balance of the unexpired term.
6. Before the election of any replacement officer, the Chair or Vice-Chair shall provide the Panel Members with at least two weeks written notice of the proposed election before the meeting at which the replacement is to be elected.
7. Election of Panel officers must take place in a meeting duly called as provided for in Article V.

C. Duties of the Chair and Vice-Chair.

1. The Chair shall:
 - (a) Preside over all Panel meetings at which the Chair is present;
 - (b) Act as a liaison between the Panel and (i) the Board of Supervisors, (ii) the FCPD, and (iii) the Auditor, as needed;
 - (c) Serve as the Panel's official spokesperson;
 - (d) Oversee the preparation of the Panel's annual report described in Article IX.B;
 - (e) Perform any other duties as the Panel may delegate; and

- (f) Delegate any of these duties to other Panel Members.
- 2. The Vice-Chair shall:
 - (a) Preside over Panel meetings in the absence of the Chair; and
 - (b) Perform any other responsibilities delegated by the Chair or requested by the Panel.
- 3. Panel Committees.
 - (a) The Panel may establish as many committees as the Panel deems necessary to perform the Panel's duties. All Panel committee meetings shall comply with the notice and other requirements of the Virginia Freedom of Information Act.

ARTICLE V. QUORUM, VOTING AND MEETINGS

A. Quorum.

At any Panel meeting, the presence of five Panel Members shall constitute a quorum. Any Panel meeting may be adjourned from time to time by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

B. Voting.

The vote of a majority of Panel Members present at a meeting with a quorum is necessary for the Panel to take an action. Notwithstanding the previous sentence, the affirmative vote of a majority of all Panel Members is required to approve Panel Findings or the Annual Report. All votes of Panel Members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy. All Panel Members who are present at a meeting, including the Chair, may vote at any meeting.

C. Meetings.

- 1. The Panel shall meet as often as necessary to conduct Panel business.
- 2. All Panel Meetings shall be conducted in accordance with VFOIA, and, except for closed sessions, all Panel Meetings shall be open to the public.
- 3. All Panel Meetings shall be preceded by a Panel Meeting Notice, and, except for emergency Panel Meetings, a Panel Meeting Notice shall be published at least three working days before the Panel Meeting. Notice, reasonable under the circumstances for emergency Panel Meetings, shall be given contemporaneously with the notice provided to Panel Members.

4. Panel Meeting Notices shall be:
 - (a) provided to the Office of Public Affairs for posting at the Government Center and on the County Internet site, and
 - (b) placed at a prominent public location by the Clerk of the Board of Supervisors.
5. All Panel Meetings shall be conducted in:
 - (a) places that are accessible to persons with disabilities,
 - (b) public buildings whenever practical; and
 - (c) accordance with Robert's Rules of Order, Newly Revised (except as otherwise provided by Virginia law or these Bylaws).
6. Except as specifically authorized by VFOIA, no Panel Meeting shall be conducted through telephonic, video, electronic, or other communication means where the Panel Members are not all physically assembled to discuss or transact public business.
7. At any Panel Meeting, at least one copy of the agenda and, unless exempt from disclosure under VFOIA, all materials furnished to Panel Members shall be made available for public inspection at the same time the documents are furnished to the Panel Members.
8. Any person may photograph, film, record, or otherwise reproduce any portion of a Panel Meeting required to be open, but no person broadcasting, photographing, filming, or recording any open Panel Meeting may interfere with any of the proceedings.
9. The Panel shall keep minutes of its Panel Meetings, and those minutes shall include:
 - (a) the date, time, and location of each meeting;
 - (b) the Panel Members present and absent;
 - (c) a summary of the discussion on matters proposed, deliberated, or decided; and
 - (d) a record of any votes taken.
10. The Panel meeting minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media.
11. The Panel may conduct up to six Public Comment Meetings annually, sponsored by the Panel or by others, where the public is invited to comment. solicit and receive public comment and answer questions about any matter relating to law enforcement policies, practices, and procedures up to six times annually. As long as all applicable VFOIA

Commented [RR1]: Suggested new Language here related to Public Comment Meetings. Suggest deleting language that is duplicative with Article VII.A.2.

See also Article VII.A.2. (page 13).

Also see definition for Public Comment Meeting (page 18).

~~requirements are followed, the Panel may solicit, receive, and respond to such public comment in up to six public meetings annually, sponsored by the Panel or by others, where the public is invited to comment.~~

ARTICLE VI. PANEL AUTHORITY TO REVIEW INVESTIGATIONS AND REVIEW PROCEDURES

A. Scope of Panel Review Authority.

1. The Panel shall review Investigations to ensure their thoroughness, completeness, accuracy, objectivity, and impartiality where (1) the subject matter of an Investigation is an allegation of "abuse of authority" or "serious misconduct" by a FCPD officer, and (2) a Review Request is filed. The Panel shall not review:
 - (a) alleged misconduct that is subject to the exclusive review by the Auditor;
 - (b) any Complaint related to an incident that occurred before December 6, 2016;
 - (c) an Initial Complaint that is filed more than one (1) year after the date of the incident that is the subject of the Investigation (unless the Panel determines that there is good cause to extend the filing deadline);
 - (d) a Review Request filed more than sixty (60) days after the date of the FCPD notice sent to the complainant that informs the complainant of the completion of the FCPD's investigation of the complainant's Initial Complaint (unless the Panel determines that there is good cause to extend the filing deadline); or
 - (e) a Complaint concerning matters that are subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding; or any complaints from Fairfax County employees that are subject to any process, proceeding or appeal as set forth in the County's Personnel Regulations or that are subject to the Police Department's General Orders 310.1, 310.2, or 310.3.
2. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.
3. Where a Complaint alleges misconduct within both the Panel's scope of authority and the Auditor's scope of authority, the Panel and the Auditor shall each conduct a review of the Investigation within their requisite scope of authority. The Auditor and Chair shall coordinate the work of the Panel and Auditor to ensure efficient use of resources and avoid duplication of effort. If the matter cannot be divided between the Auditor and the Panel in an efficient manner, then the Auditor shall conduct the review of all portions of the investigation.

4. If there is a conflict in the scope of authority between the Auditor and the Panel, then the matter shall be resolved by the Auditor.

B. Definition of "Abuse of Authority" or "Serious Misconduct".

For purposes of determining the Panel's authority to review an Investigation, "abuse of authority" or "serious misconduct" by an FCPD police officer includes, ~~but is not limited to:~~

1. the use of abusive racial, ethnic or sexual language or gestures;
2. harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability;
3. acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense;
4. reckless endangerment of detainee or person in custody;
5. violation of laws or ordinances; or
6. other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.

Commented [RR2]: Suggest deleting the language "but is not limited to..." as category 6 is broad.

If the Panel keeps this language, may need to incorporate an "Other" category into the Initial Review Report.

C. The Complaint.

1. Content and Filing of a Complaint.

- (a) An Initial Complaint and a Review Request shall be in writing and shall be deemed filed when delivered or emailed to the Office of the Independent Police Auditor.
- (b) A Complaint shall contain:
 - (i) identifying information for the person filing the Complaint;
 - (ii) a statement describing the reasons for the Review Request, unless the Complaint is an Initial Complaint;
 - (iii) the specific police behavior of concern;
 - (iv) a description of the incident in which the behavior occurred; and
 - (v) a list of the names, addresses and phone numbers of all witnesses to or persons with knowledge of the incident known by the complainant.
- (c) The Panel shall immediately forward an Initial Complaint to the FCPD for investigation. The FCPD shall complete its investigation and provide an Investigation Report to the Panel within sixty (60) days. The Panel shall extend the 60-day period upon request of the Chief to protect an ongoing criminal or internal administrative investigation, or for other good cause, with notice to the complainant and the Board of Supervisors.

D. Initial Review and Disposition.

1. Initial Review

- (a) The Panel will determine if it has authority to review the subject Investigation taking into account whether the underlying Complaint:
 - (i) is timely filed; or
 - (ii) is a Review Request of alleged misconduct that is subject to exclusive review of the Auditor.
- (b) The Panel shall conduct an ~~initial~~ ~~Review~~ of each Review Request and may conduct the ~~initial~~ ~~Review~~ as a committee of the whole or by subcommittee.

2. Initial Review Subcommittee Authority and Composition

- (a) The Panel Chair may designate subcommittees ("Initial Review Subcommittee") comprised of Panel Members to conduct ~~initial~~ ~~Reviews~~ of Review Requests filed by community members with the Panel.
- (b) An Initial Review Subcommittee shall be comprised of at least three Panel Members (with rotating membership).
- (c) The Panel Chair shall designate one Panel Member as chair of the Initial Review Subcommittee.
- (d) The Subcommittee shall conduct, in accordance with written duties established by the Panel, an initial review of the subject Complaint to determine whether the Complaint meets the minimum criteria for review and consideration by the full Panel.

3. Initial Review Subcommittee Process and Report to the Panel

- (a) The Subcommittee shall review a Complaint to determine whether:
 - (i) The Complaint alleges Serious Misconduct or Abuse of Authority as defined in these Bylaws; and
 - (ii) ~~The evidence contained in, or absent from, the investigative file could lead a reasonable Panel Member to conclude that there is sufficient basis for full Panel review~~~~evidence to support the allegations.~~
- (b) A unanimous Subcommittee vote shall be required to determine that a Complaint does not meet the criteria set forth in these Bylaws, and thus recommends that the Complaint not be considered by the full Panel.
- (c) A member of the Subcommittee, designated by the Subcommittee chair, shall provide a summary of the Subcommittee's deliberations and recommendation at such time as the Panel considers the subject Complaint.

(d) The full Panel will consider the recommendation from the Subcommittee and vote

Commented [RR3]: Edits suggested by Panel Member Ware

to determine whether it accepts a Review Request and conducts a full Panel Review Meeting.

~~(d)~~(e) At the request of the Panel, or if the Complainant attends and requests an opportunity to be heard during the Initial Review process, the Complainant may speak to the Panel, or a subcommittee thereof, during any meeting where their Complaint is on the agenda. The Complainant, or their representative, shall have the opportunity to state the reasons for filing the Review Request, and the Panel, or a subcommittee thereof, may ask questions of the Complainant regarding those reasons.

Commented [RR4]: Panel Member Ware flagged VI.D.3.(e) for discussion.

He says Complainant's opportunity to speak to the full Panel seems moot, at best, if remarks cannot inform Panel discussion.

Commented [RR5]: This language was added to be consistent with language in Article VI.F.1.(f) where it talks about the complainant participating in the Review Meeting (full Panel review). (page 10)

Also see new definition for Initial Review in the definitions section. (page 17)

4. Initial Disposition Notice

- (a) Within 30 days of the Panel's vote on whether the Complaint qualifies for review by the full Panel, the Panel shall send an Initial Disposition Notice to the complainant with the Panel's determination of its authority to undertake a review of the subject Investigation.
- (b) If the Panel determines that the Panel does not have authority to review the subject Investigation, the Initial Disposition Notice shall state the reasons for the Panel's decision.
- (c) Where the Panel finds that a review of the subject Investigation is warranted, the Initial Disposition Notice shall include a description of the review process, a deadline for completion of the review, and a date for the Panel Review Meeting.
- (d) If the underlying Complaint alleges police misconduct that requires the Auditor's review, the Panel shall (i) promptly forward the matter to the Auditor and (ii) send an Initial Disposition Notice to the complainant explaining the reasons for the referral.

E. Pending Proceedings.

1. If at any point in the review process the Panel learns that the matters of a Review Request are the subject of pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding, the Panel shall:
 - (a) suspend its review;
 - (b) defer the review pending resolution of the criminal, civil or administrative proceeding by the trial court;
 - (c) notify the complainant and the Board of Supervisors, in writing, of any deferrals; and
 - (d) track any deferred matter and notify the complainant and the Board of Supervisors once the proceedings are closed and the request for review may proceed.

2. The ~~P~~panel may request assistance of Counsel, the Auditor, the Chief, or the County Attorney in making its determination that matters of a Review Request are the subject of pending proceedings.
3. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.

F. Panel Review Meetings to Review Investigations.

1. Additional Requirements for Panel Review Meetings.
In addition to the requirements for Panel Meetings generally set forth in Article V.C., Panel Review Meetings shall be conducted as follows:
 - (a) If the Panel determines it has authority to review an Investigation under Article VI.A.1, the Panel shall convene a Panel Review Meeting to review an Investigation as to which a Review Request has been submitted within sixty (60) days of Receipt of the Investigation Report.
 - (b) The Panel Review Meeting Notice shall not only comply with Article V.C.4., but shall also include a statement inviting any person with information about the Investigation or the incident that is the subject of the Panel Review Meeting to submit the information in writing to the Chief or the AuditorPanel.
 - (c) Notwithstanding Article V.C.4, Panel Review Meeting Notices shall be published and sent to Panel Members, the FCPD Internal Affairs Office, the County Attorney's Office, and the complainant at least fourteen (14) days before the Review Meeting.
 - (d) The Panel may conduct as many Panel Review Meetings as the Panel deems necessary to complete the requested review.
 - (e) The Panel shall not take testimony or receive evidence.
 - (f) At the request of the Panel, or if the Complainant attends and requests an opportunity to be heard at the Panel Review Meeting, the Complainant, or their representative, shall have the opportunity to state the reasons for filing the Review Request, and the Panel may ask questions of the Complainant regarding those reasons. The Panel shall submit to the FCPD contact information for those persons who were not interviewed with a request for further investigation of the matters under review.
 - (g) At the request of the Panel, an FCPD representative knowledgeable of the Investigation under review shall appear before the Panel at a Panel Review Meeting (as determined by the Panel) to review and answer questions from the Panel about the Investigation, including all findings of fact, evidence collected and received, witness statements and action taken or not.

- (h) At the Panel's discretion, it may request further investigation by the FCPD, and the FCPD shall, within a reasonable time, conduct further investigation and provide to the Panel a supplemental report that details the findings of the additional investigation.
 - (i) Translation services will be provided for a complainant or other person that needs translation assistance to present to the Panel or respond to questions from Panel Members.
2. Closed Sessions, and Confidential Matters During Panel Review Meetings.
- (a) The Panel may conduct portions of any Panel Meeting (including Panel Review Meetings) in closed session, so long as the purpose for and conduct of the closed session is consistent with VFOIA.
 - (b) Any statement made by a FCPD police officer to the FCPD that the FCPD required under the provisions of *Garrity v. New Jersey*, 385 U.S. 493 (1967), shall not be disclosed in public. The Panel shall have confidential access to the entire statement for its review. Unless the FCPD officer consents to the public release of the entire statement given during an Investigation, the FCPD representative(s) presenting information to the Panel on a Complaint may publicly state only that the officer admitted or denied the allegation.
 - (c) Panel Members shall not reveal the identity of (i) any juvenile, or (ii) victim of sexual assault (unless authorized to do so by the victim in writing).
 - (d) Each Panel Member who reviews a FCPD officer's personnel record or a FCPD internal administrative investigative case file shall sign a Notice of Confidentiality affirming that an officer's personnel record and those portions of the investigative case file reflecting officer discipline, other officers, confidential informants, victims, or witnesses, personal information including names, social security number, date of birth, driver's license number, agency-issued identification number, student identification number, criminal or employment record, shall not be disclosed or disseminated unless the information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia Law.
 - (e) Portions of records of law-enforcement agencies, including the FCPD, that contain specific tactical plans or investigative procedures, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public, shall also not be disclosed or disseminated unless such information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia law.
 - (f) If information subject to the Panel's review concerns an identifiable juvenile, the requested information shall first be forwarded to the County Attorney's Office for

redaction in conformance with Code of Virginia §16.1-301, as amended.

G. Disposition of Review Requests.

1. Timely Completion.

- (a) The Panel shall complete the review of an Investigation and issue a public written report detailing the Panel Findings (defined below) within ninety (90) days of Receipt of the Investigation Report.
- (b) The Panel may extend the deadline for completion for good cause. The Chair shall report all deadline extensions (and the reason for the extension) to the Board of Supervisors. The Panel shall send written notice to the complainant, if the deadline for completion is extended. The notice shall include an approximate date for completion.

2. Panel Findings.

- (a) Upon completing a requested Investigation review, the Panel may reach one of the following Panel Findings:
 - (i) Concur with the findings and determination detailed in the Investigation Report;
 - (ii) Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the FCPD and recommend further review and consideration by the Chief; or
 - (iii) Advise the Board of Supervisors that, in the Panel's judgment, the Investigation is incomplete and recommend additional investigation.
- (b) If the Panel Finding is either (ii) or (iii) above, the Board of Supervisors may direct the Chief to take further action as the Board of Supervisors deems appropriate.
- (c) A majority of the appointed Panel Members must concur in the Panel Findings for the Panel Findings to be the authorized conclusion of the Panel.
- (d) The Chair may assign to one or more Panel Members concurring in the conclusions of the Panel Findings the responsibility for drafting the Panel's final review report that shall be sent to the complainant, the Board of Supervisors, the Chief and the Auditor.

ARTICLE VII. RECOMMENDATIONS FOR REVISIONS TO FCPD POLICIES, TRAINING AND PRACTICES

A. Review of Law Enforcement Policies and Practices.

1. The Panel may recommend to the Chief and the Board of Supervisors revisions to FCPD policies, practices, and procedures that the Panel concludes are needed.
2. The Panel may conduct up to six Public Comment Meetings annually, where it solicits and receives public comment ~~and or~~ answers questions about any matter relating to law enforcement policies, practices, and procedures. Such public meetings may be sponsored by the Panel or by others, and they must meet applicable VFOIA requirements.

Commented [RR6]: This Public Comment language was added to the Bylaws in 2020.

See also Article V.C.11. on page 5.

Also see new definition for Public Comment Meeting (page 18).

B. Meetings with the Auditor.

The Panel may meet periodically with the Auditor concerning the findings and recommendations of the Auditor as to use of force cases so that the Panel can provide the Panel's view to the Board of Supervisors and the Chief as to changes in policies and practices that may be warranted.

ARTICLE VIII. OTHER DUTIES OF PANEL MEMBERS

A. Training.

All Panel Members shall complete all training mandated by the Board of Supervisors, which may include police ride alongs. The Panel shall determine the calendar for the presentation and completion of the required training. The Panel shall conduct other training as it determines would be helpful.

B. Confidentiality.

Each Panel Member shall maintain the confidentiality of all confidential or privileged information that Panel Members receive during service on the Panel.

C. Conflicts of Interest.

Panel Members shall avoid conflicts of interest with the provisions of Chapter 31 – State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100, *et seq.* A Panel Member shall consult with counsel to the Panel if the Panel Member believes that the Panel Member has or may have a conflict of interest with respect to a matter that the Panel will consider. A Panel Member with a conflict of interest shall not participate in or vote on the matter.

D. Communications.

1. Only the Chair or the Chair's designee shall make public statements on behalf of the Panel. The primary means for the Panel to communicate to the public shall be the Panel's written reports that are approved by a majority of the Panel Members.
2. Except as expressly authorized by the Chair in furtherance of a Panel Member's duties, Panel Members shall make diligent efforts to avoid individual discussion of a matter before the Panel with any person with an interest in the matter, including but not limited to a complainant, a witness to events giving rise to a complaint, or an FCPD officer that is the subject of a Complaint. The Panel Member shall inform the Chair if any interested party communication occurs and provide the Chair with any information about the communication that the Chair requests.

ARTICLE IX. RECORDKEEPING; ANNUAL REPORT

A. Recordkeeping.

1. All Panel meetings, including Panel Review Meetings and Public Comment Meetings, but excluding closed sessions within a Panel Meeting, shall be recorded and records maintained in accordance with the Library of Virginia Records Retention and Disposition Schedule.
2. The [Auditor-Panel](#) shall maintain a copy of all Complaints together with the reports detailing the disposition of each Complaint.

B. The Annual Report.

1. The Panel shall prepare the Annual Report describing its activities for the reporting year, including any recommendations to the Board of Supervisors, Auditor, and the Chief for revisions to FCPD policies, training, and practices that the Panel concludes are needed.
2. The Annual Report must be approved by a majority of the appointed Panel Members before the Annual Report is released publicly.
3. The Panel shall deliver the Annual Report to the Board of Supervisors through the [Auditor and the Chair of the Board's Public-Safety and Security Committee](#). The Annual Report shall then be released to the public.
4. The initial Annual Report of the Panel shall be due on March 31, 2018. Subsequent Annual Reports shall be published in accordance with this section no later than March 1st of each year.

**ARTICLE X. COMPLIANCE WITH LAW AND COUNTY POLICY; CONFLICTS OF LAW AND POLICY;
PANEL IMMUNITY**

A. Compliance with Law and County Policy.

The Panel and each Panel Member shall comply with all Virginia laws, including, but not limited to, VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 through -3131, as amended, all County ordinances, the Panel Code of Ethics and with all County policies concerning the activities of its boards, authorities, and commissions.

B. Conflicts of Law and Policy.

These Bylaws are not intended to conflict with Laws or policies of the Board of Supervisors. To the extent there is a conflict between any Law or any other resolution or matter passed by the Board, and these Bylaws, the Law or Board action shall govern.

C. Panel Immunity.

Panel Members shall enjoy the protection of sovereign immunity to the extent allowed and provided under Virginia law whether common law or statutory, including, but not limited to, the Virginia State Government Volunteers Act, Virginia Code §§ 2.2-3600, *et seq.*, and the provisions of Virginia Code § 15.2-1405.

ARTICLE XI. DUTIES OF THE COUNTY EXECUTIVE AND BOARD OF SUPERVISORS

A. The County Executive.

1. The County Executive shall cause the attendance of any County employee, other than the involved officer(s), at any Panel meeting whose appearance is requested by the Panel, unless the required attendance violates a statutory or constitutional right of the employee.
2. The County Executive shall cause the submission (from any County agency including the FCPD) of any relevant documents or other relevant materials requested by the Panel, including the full FCPD internal administrative investigative case file, unless legal privilege to withhold exists and is not waived.

B. The Board of Supervisors.

1. The Board of Supervisors may conduct a review of the Panel at any time, except that the initial review shall be conducted within six months of receipt of the Panel's first annual report.
2. The Board of Supervisors shall ensure the Panel and Panel Members, as necessary, have the benefit of legal counsel.
3. The Board of Supervisors shall appoint an Executive Director for the Panel. Among other duties as assigned, the Executive Director will review and summarize all Police Department investigations before the Panel undertakes its review. The Executive Director also will provide administrative support to the Panel.

ARTICLE XII. EFFECTIVE DATE OF THE BYLAWS; AMENDMENT OF THE BYLAWS

A. Effective Date of the Bylaws.

The Bylaws shall become effective upon approval by the Board of Supervisors.

B. Amendment of the Bylaws.

These Bylaws may be amended by the Panel by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to the Bylaws shall become effective upon approval of the Board of Supervisors.

Exhibit A

DEFINED TERMS

The following terms used in these Bylaws of the Fairfax County Police Civilian Review Panel mean the following:

Abuse of Authority has the meaning assigned to the term in Article VI.B.

Annual Report means the written annual report the Panel shall deliver to the Board of Supervisors as described in Article IX.B.1.

Auditor means the Fairfax County Independent Police Auditor.

Board of Supervisors means the Board of Supervisors of Fairfax County.

Bylaws means the Bylaws of the Fairfax County Police Civilian Review Panel

Chief means the FCPD Chief of Police.

Complaint means collectively, unless the context otherwise indicates, an Initial Complaint and a Review Request.

Counsel means the legal counsel that the Board of Supervisors designates to support the Panel.

FCPD means the Fairfax County Police Department.

FCSO means the Fairfax County Sheriff's Office.

Initial Complaint means a complaint from any person about the FCPD or its officers that has been first submitted to the Panel and not the FCPD.

Initial Disposition Notice means the notice that the Panel sends to a complainant detailing the Panel's disposition of the Review Request after the [Initial Review](#) described in Article VI.C.2D.

[Initial Review](#) means the process by which the full Panel determines if it has authority to review the subject Investigation. The Initial Review process may include a subcommittee of the Panel reviewing a Review Request and making its recommendation to the full Panel.

Investigation(s) means an FCPD internal administrative investigation.

Investigation Report means the completed written FCPD report setting forth the findings of the Investigation.

Laws means collectively any Virginia or Fairfax County law, ordinance, regulation, resolution, or other Fairfax County policy duly authorized by the Board of Supervisors.

Meeting(s) has the meaning assigned to the term in VFOIA and includes work sessions, when sitting physically, or through telephonic or video equipment, as defined in VFOIA, as a body or entity, or as an informal assemblage of (i) as many as three Panel Members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Panel means the Fairfax County Police Civilian Review Panel.

Panel Findings means those conclusions that the Panel can adopt in response to a Review Request that are delineated in Article VI.F.2(a).

Panel Meeting means a meeting of the Panel.

Panel Meeting Notice means the written notice stating the date, time, and location of a Panel Meeting.

Panel Member(s) means each of the persons that the Board of Supervisors appoints to the Panel.

Panel Review Meeting means a Panel Meeting where a Review Request is reviewed by the [full](#) Panel, including a Panel Meeting where a complainant or FCPD representative is present to discuss an Investigation.

Panel Review Meeting Notice means the Panel Meeting Notice for a Panel Review Meeting.

Public [Comment Meeting\(s\)](#) means a Panel Meeting open to the public conducted on issues within the Panel's jurisdiction and on law enforcement policies and practices where the public is invited to comment on such issues and policies and practices.

Receipt of the Investigation Report is deemed to occur at the first Panel meeting subsequent to FCPD making an Investigation Report available to the Panel in response to a Review Request.

Review Request means a person's request for the Panel to review an Investigation.

Serious Misconduct has the meaning assigned to the term in Article VI.B.

VFOIA means the Virginia Freedom of Information Act, as amended from time to time.

Fairfax County Police Civilian Review Panel Procedural Memorandum	
No: O-2	Subject: Intake and Processing of Review Requests
Approval Date: XXX	Review Date: XXX
Signed by Todd Cranford, Chair	

Purpose: To provide procedures for filing and processing Review Requests submitted to the Fairfax County Police Civilian Review Panel (the “Panel”) in a timely, responsive, and consistent manner.

Filing a Review Request

- A Complainant can file a Review Request with the Panel the same way they can file an Initial Complaint (see page one of Panel Procedure: Intake and Processing of Initial Complaints).
- A Complainant must include in the Review Request a statement describing the reason(s) for the Review Request.
- Upon receipt of a Review Request:
 - Staff, in consultation with the Chair, will determine whether the Review Request is timely filed (within 60 days of the date of the FCPD Disposition Letter), unless the Panel determines that there is good cause to extend the filing deadline.
 - Staff, in consultation with the Chair, will determine whether the matter described in the Review Request is the subject of pending civil, criminal, or administrative litigation. Staff may request assistance from legal Counsel, the Auditor, the Chief, or the County Attorney to determine whether pending litigation exists.
 - If pending litigation is associated with the allegations made within the Complaint, staff will inform the Chair, and the Panel will defer action on the Review Request until the litigation is concluded in conformance with the Bylaws. If pending litigation is not associated with the allegations made within the Complaint, the review process will continue as detailed below.
 - Staff will forward the Review Request to the FCPD and request a copy of the FCPD Disposition Letter if not attached to the Review Request.
 - Staff, in consultation with the Chair, will draft and send a letter to the Complainant acknowledging receipt of the Review Request and explaining the Panel’s process for review.

Initial Review Process

- Staff, in consultation with the Chair, will designate membership of the Initial Review Subcommittee, unless it is determined that the Initial Review should be completed by a committee of the whole.
 - The Initial Review Subcommittees shall be comprised of at least three Panel members, with rotating membership, and one subcommittee member will be appointed as the Chair of the subcommittee.
- Staff will coordinate with the FCPD the dates and times for the Initial Review Subcommittee to review the Investigation File. Subcommittee members should be scheduled to review the file no sooner than the month preceding the full Panel meeting during which the subcommittee will make its recommendation.
- Staff will schedule the meeting date for the Initial Review Subcommittee Meeting and develop the agenda. Staff will post public meeting notice and meeting materials in accordance with VFOIA.
- Staff will notify the Complainant of the date of the Initial Review Subcommittee meeting and the date of the full Panel meeting at which the subcommittee intends to make its recommendation. Correspondence to the Complainant will include instructions on how they can address the Panel regarding their Review Request at upcoming meetings. The Subcommittee meeting may be rescheduled upon request by the Complainant, at the discretion of the Panel Chair.
- After the review of the Investigation File, the Subcommittee will meet at an Initial Review Meeting to (i) determine whether the Complaint meets the minimum criteria for review and consideration by the full Panel, and (ii) complete the Initial Review Report Template (Attachment 1), which will note the Subcommittee’s findings and recommendation.
- The Subcommittee reviews Complaints to determine whether: (Article VI.D.3.(a))
 - The Complaint alleges Serious Misconduct or Abuse of Authority as defined in its Bylaws; and
 - The evidence contained in the investigative file could lead a reasonable Panel to conclude that there is sufficient evidence to support the allegations.
- The Subcommittee does not determine whether the Investigation is thorough, complete, accurate, objective and impartial. This is determined at the time of full Panel Review Meeting.

Commented [RR1]: Panel Member Ware would like the instructions reviewed.

Commented [RR2]: Will need to update language if changed in the Bylaws.

Proposed NEW Procedures on Review Requests for Dec. 7, 2023 Panel Meeting

- At the Initial Review Subcommittee Meeting, the Subcommittee will vote on whether to recommend or not recommend the full Panel conduct a Review of the Complaint. A unanimous vote is required for the Subcommittee to recommend a Complaint not be considered by the full Panel.
- At the Initial Review Subcommittee Meeting, the Complainant, or their Representative, is given their first opportunity to speak to the Panel. The Complainant will have up to 15 minutes to explain why they requested a review. Additional time to address the Subcommittee will be allowed at the discretion of the Subcommittee Chair. Subcommittee members may ask questions of the Complainant to complete their Initial Review and develop a recommendation.
 - With advanced request, translation services will be provided for Complainants that need assistance to present to the Panel or respond to questions from Panel members.
- If there is indication there is information missing from the Investigative file:
 - The Subcommittee should describe the type of missing information in the Initial Review Report.
 - The Subcommittee should submit to the FCPD contact information for any persons who were not interviewed with a request for further investigation of the matters under review.
- Staff will complete the Initial Review Report and prepare a summary of the Initial Review Subcommittee meeting. Both documents will be provided to the Panel in the meeting materials for the full Panel meeting during which the subcommittee will make its recommendation.
- After the Initial Review Subcommittee meeting, Staff will send correspondence to the Complainant informing them of the Subcommittee's recommendation, the date of the meeting when the Subcommittee will make its recommendation to the full Panel, and when the Complainant has the opportunity to speak to the Panel.

Commented [RR3]: Will ensure directions are included in correspondence.

Initial Review Disposition

- The Initial Review Subcommittee will make its recommendation to the full Panel at the next meeting of the Panel following the Subcommittee meeting.
- As part of its report to the full Panel, the Subcommittee will summarize the Complaint, the FCPD investigation, and any information presented by the Complainant. The Subcommittee will present its recommendation whether the full Panel takes up Review of the Complaint.
- The Complainant, or their Representative, will have the opportunity to speak at this meeting before the Panel votes. This is the second opportunity the Complainant, or their representative, has to speak to the Panel. The Complainant will have up to 15 minutes to explain why they requested a review.
 - With advanced request, translation services will be provided for Complainants that need assistance to present to the Panel or respond to questions from Panel members.
- Additional time for the Complainant to address the Panel will be allowed at the discretion of the Panel Chair.
- Panel members will have the opportunity to ask questions of the Complainant and/or the Subcommittee members who reviewed the investigative file.
- ~~• Panel members who did not serve on the Initial Review Subcommittee shall address any questions to the Subcommittee members who have reviewed the investigative file.~~
- ~~• Panel members who did not serve on the Initial Review Subcommittee shall not direct questions to the Complainant(s). Any follow-up questions directed to the Complainant shall be made only by the Initial Review Subcommittee members who have reviewed the investigative file.~~
- The full Panel will consider the recommendation from the Subcommittee and any statements made by the Complainant, and vote to determine whether it accepts a Review Request and conducts a full Panel Review of the Complaint.
 - If the Subcommittee recommends that the full Panel not review a complaint, and two (2) or more Panel members vote against the recommendation, the full Panel will conduct a review of the complaint.

Proposed NEW Procedures on Review Requests for Dec. 7, 2023 Panel Meeting

- Staff will draft and send the Initial Disposition Notice to the Complainant notifying the Complainant of the Panel's vote to undertake a full Panel Review of the subject Investigation.
 - Staff will send the Initial Disposition Notice to the Complainant within 30 days of receipt of the Investigation Report.
 - If the Panel concludes that it will conduct a Review, the letter will notify the Complainant of the date and time of the Panel Review Meeting and invite the Complainant(s) to attend the Panel Review Meeting.
- If the Panel will conduct a Review Meeting, Staff, in consultation with the Chair, will set the date for the Panel Review Meeting and notify the Complainant at least fourteen (14) days before the Review Meeting in accordance with Article VI.F.1.(c).
 - A Review Meeting may be rescheduled upon request by the Complainant, at the discretion of the Panel Chair.
- Staff will coordinate with the FCPD the dates and times for the Panel members to review the Investigation File.
- Staff, in consultation with the Chair, will determine whether the FCPD should be asked to appear at the Panel Review Meeting. If so determined, Staff will send official correspondence to the Chief requesting a representative of the FCPD knowledgeable about the subject Investigation to appear at the Panel Review Meeting.

Panel Review Meetings

- The Staff, in consultation with the Chair, will prepare and post the Panel Review Meeting Notice in accordance with Article VI.F.1 of the Bylaws.
- Staff will send an official email notification of the date of the Review Meeting to the Panel, the Panel's Counsel, the County Attorney, the FCPD Chief, and the Major in command at the FCPD Internal Affairs Bureau at least fourteen days in advance of the Review Meeting, as required by Article VI.F.1.c of the Panel's Bylaws.
- The Chair will preside over Panel Review Meetings in accordance with Article VI.E.1 of the Bylaws.
- When opening a Panel Review Meeting, the Chair will ask Panel Members, the FCPD representative, and the Complainant to introduce themselves for the record and the Chair will outline the process for conducting the Panel Review Meeting, reminding those in attendance that:

Proposed NEW Procedures on Review Requests for Dec. 7, 2023 Panel Meeting

- The purpose of the Panel's review of the Investigation is to determine whether the Investigation is thorough, complete, accurate, objective and impartial.
- The Complainant, or their Representative, will have up to 15 minutes to speak to the Panel to state their reasons for filing the Review Request and that Panel Members may ask questions regarding those reasons. On motion from a Panel Member, the Panel may consider an extension of the 15-minute time period.
- Panel Members may ask the FCPD representative questions regarding the process of the Investigation and the conclusions reached in the Investigation.
- Questions regarding officer discipline are personnel matters that must be discussed in closed session.
- Panel Members may also request consultation with legal counsel during the Panel Review Meeting, which must also be discussed in closed session.
- If the Complainant does not attend the Panel Review Meeting, or attends but chooses not to address the Panel, the Panel may complete the Investigation review process.
- If other witnesses attend the Panel Review Meeting, their contact information will be obtained and given to the FCPD for follow-up.

Panel Findings

- At the discretion of the Chair, Panel Members may continue the Panel Review Meeting with a discussion of their findings from the review. If not, discussion of Panel review findings can be deferred to the next Panel Meeting.
- Opening the deliberations, the Chair will restate the Panel Findings options for Panel Members, as outlined in Article VI.G.2.a of the Panel's Bylaws. The Panel may:
 - Concur with the findings detailed in the Investigation Report.
 - Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the FCPD and recommend further review and consideration by the Chief of the FCPD.
 - Advise the Board of Supervisors that, in the Panel's judgment, the Investigation is incomplete and recommend additional investigation.
- A majority of the appointed Panel Members must vote to concur with the Panel Findings for the Panel Findings to be the authorized conclusion of the Panel.

Proposed NEW Procedures on Review Requests for Dec. 7, 2023 Panel Meeting

- Panel Members who do not agree with the majority may offer a written dissent that explains his or her rationale for dissenting. The dissent will be included in the Panel's review report.
- Panel Members may offer policy recommendations or other comments that the Panel will consider for inclusion in the Panel's Review Report.
- After the Panel votes on the Panel Findings, Staff, in consultation with the Chair, will draft and send correspondence informing the Complainant of the Panel's Findings and the next steps in the process.

The Panel Review Report

- Staff will draft the Panel Review Report. A Panel member, to be determined, will review the draft report prior to its presentation to the full Panel.
- The Review Report will not contain an officer's personnel record or specific officer discipline, other than what is specifically disclosed by the FCPD in a disposition letter or at a Panel meeting.
- The Review Report will not reveal information that jeopardizes the safety of an individual.
- In writing the Review Report, respect will be given to the language that the Complainant or others involved use to identify or describe themselves. In other words, Review Reports will refer to Complainants and others as they refer to themselves (Black, African American, White, Caucasian, Hispanic, Latinx, Native American and so on). Where the race or ethnicity of the Complainant or others is used in the Review Report, the identifying term will be designated as a proper noun and capitalized. References to a Complainant's (or other's) race or ethnicity will be written in a consistent manner throughout the Review Report. (The source for this policy is the Publication Manual of American Psychological Association, 7th Edition).
- If the Complainant does not indicate their race, ethnicity, and gender, or sexual orientation on their Complaint form, the Panel will contact the Complainant to determine their preference, if relevant.
- If the FCPD notifies the Panel that certain information in the investigative file may reveal specific sensitive investigative techniques or contain information that is likely to jeopardize ongoing or future investigations, and such information is not contained in the Complaint itself, the Panel will address FCPD concerns with the Panel's counsel in a closed meeting to resolve the issues.

Commented [RR4]: Panel Member Ware asked about including sexual orientation.

Proposed NEW Procedures on Review Requests for Dec. 7, 2023 Panel Meeting

- Staff will circulate the draft report for comment with the agenda prior to the meeting during which the Panel Review Report will be discussed.
- The report author(s) will present the draft Panel Review Report at the Panel Meeting.
- The Panel will discuss the draft Panel Review Report. A separate vote will be taken on each proposed recommendation or comment to determine its inclusion in the final Panel Review Report.
- Based on the discussion and vote, the author(s) will finalize the Panel Review Report if necessary.
- Staff, in consultation with the Chair, will send the final Panel Review Report to the Board of Supervisors, the Chief of the FCPD, and the Independent Police Auditor, and will post the Panel Review Report on the Panel's website.
- Staff, in consultation with the Chair, will draft and send correspondence, along with the final Panel Review Report, to the Complainant.

Handling of Confidential Information During Review Process

- Panel members should not disclose confidential or sensitive information during its meetings.
 - Panel members should refrain from stating the names of Complainant(s), officer(s), and other involved individuals during its meetings and should refer to cases by their assigned CRP case number.
 - [Complainants should not be introduced by name.](#)
 - [Complainants who attend a meeting to speak to the Panel should be informed that the meeting is open to the public and they can choose whether to state their names.](#)
 - [The Complainant should be reminded that the meeting is being recorded and the public will have access to that recording in the future.](#)
- Panel members should not disclose confidential or sensitive information in its reports.
 - Panel reports will not contain identifying information for either the police officer(s), the Complainant(s), or witnesses, confidential informants, victims, personal information including names, social security numbers, dates of birth, driver's license numbers, agency issued identification numbers, student identification numbers, criminal or employment records, or residential addresses unless the information has been disclosed by the FCPD in a disposition letter or

at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia Law.

- Staff should not include Complainants' names or officers' names in meeting summaries and should refer to cases by their assigned CRP case number.
- Staff will release information as required by law when in receipt of a Virginia Freedom of Information (VFOIA) request.

Definitions

- **Initial Review Subcommittee Meeting:** A meeting when a subcommittee of the Panel considers whether the full Panel should review the subject Investigation based on the allegations made and whether there is substantiation in the file to support the allegations. The Subcommittee completes an Initial Review Report to submit its recommendation to the full Panel.
- **Initial Review Disposition Meeting:** A meeting of the full Panel when it considers the recommendation from the Initial Review Subcommittee and votes to determine whether it accepts a Review Request. If it accepts a Review Request, a Panel Review Meeting is scheduled.
- **Panel Review Meeting:** A Panel Meeting where a Review Request is reviewed by the full Panel, including a Panel Meeting where a complainant or FCPD representative is present to discuss an Investigation.
- **Complainant's Representative:** A person who can speak on behalf of the Complainant at Panel meetings and answer questions on their behalf.

Initial Review Report – Subcommittee Recommendation to the Fairfax County Police Civilian Review Panel

Request for Review – Basic Information		
CRP Complaint Number: CRP-#-#		
Subcommittee Members: <ul style="list-style-type: none">• Panel Member Name, Panel Member• Panel Member Name, Panel Member• Panel Member Name, Chair of Subcommittee		
Key Dates: Date of Review Request, Date of Incident, Date of Initial Complaint (to Panel or FCPD), Date of FCPD Disposition Letter		
Subcommittee Meeting Date:	<input type="checkbox"/> Complainant present	<input type="checkbox"/> Complainant spoke

Subcommittee Authority and Purpose
<p>The Subcommittee conducts an Initial Review of the subject Complaint to determine whether the Complaint meets the minimum criteria for review and consideration by the full Panel. (See Panel Bylaws Article VI.D.2.(d))</p> <p>The Subcommittee reviews complaints to determine whether: (Panel Bylaws Article VI.D.3.(a))</p> <ol style="list-style-type: none">(1) The Complaint alleges Serious Misconduct or Abuse of Authority as defined in its Bylaws; and(2) The evidence contained in the investigative file could lead a reasonable Panel to conclude that there is sufficient evidence to support the allegations.

Subcommittee’s Role in Initial Review Process
<p>The Subcommittee Initial Review Report sets forth the Subcommittee’s recommendation. A unanimous Subcommittee vote is required to determine that a Complaint does not meet the criteria set forth in the Bylaws. The full Panel may or may not accept the Subcommittee’s recommendation on whether to review a complaint.</p> <p>The full Panel will consider the recommendation from the Subcommittee and vote to determine whether it accepts a Review Request. If the full Panel accepts the recommendation, it will conduct a full Panel Review Meeting. (Panel Bylaws Article VI.F.)</p>

Categories of Abuse of Authority or Serious Misconduct
<p>The Panel determines whether allegations can be categorized as one or more of the following: (Panel Bylaws Article VI(B))</p> <ol style="list-style-type: none">A. Use of abusive racial, ethnic or sexual language or gestures.B. Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability.C. Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense.D. Reckless endangerment of detainee or person in custody.E. Violation of laws or ordinances.F. Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.

Complainant Allegations		
The Panel subcommittee considered the following allegation(s) by the Complainant to determine (1) whether each constitutes Serious Misconduct or an Abuse of Authority as defined above, and, if yes, (2) whether the Investigation Report reveals any observable substantiation.		
Allegation(s)	(1) Abuse of Authority or Serious Misconduct Identify Category (A-F)	(2) Substantiated in Investigative File Indicate Yes/No
<i>List each allegation below as stated by the Complainant. Indicate in the next two columns whether the two criteria are met for each allegation.</i>		

Missing Information

If there is any indication there may be missing information from the investigative file, describe it here.

Subcommittee Findings and Recommendation	
<i>Check the Subcommittee's recommendation to the full Panel and keep one statement below that applies based on criteria met.</i>	
<input type="checkbox"/> Subcommittee Does Not Recommend full Panel Review	<p>Criterion 1 is not met: The Subcommittee unanimously finds that the allegation(s) made by the Complainant <u>do not</u> meet the threshold of Serious Misconduct or Abuse of Authority and therefore the Panel <u>does not</u> have authority to review the complaint. The Subcommittee <u>does not</u> recommend that the full Panel take up review of this Complaint.</p> <p>Criterion 1 is met, but Criterion 2 is not met: The Subcommittee unanimously finds that the complaint alleges Serious Misconduct or Abuse of Authority, however, the evidence contained in the investigative file <u>could not</u> lead a reasonable Panel to conclude there is sufficient evidence to support allegations. Further, the Subcommittee has no reason to believe there is missing information from the Investigation Report. Therefore, the Subcommittee <u>does not</u> recommend that the full Panel take up review of this Complaint.</p>
<input type="checkbox"/> Subcommittee Recommends full Panel Review	<p>Criteria 1 and 2 are both met: The Subcommittee finds that the allegation(s) made by the Complainant meet the threshold of Serious Misconduct or Abuse of Authority as defined above AND that the evidence contained in the investigative file could lead a reasonable Panel to conclude that there is sufficient evidence to support the allegations. Therefore, the Panel subcommittee recommends that the full Panel take up review of this Complaint.</p>

Fairfax County Police Civilian Review Panel Procedural Memorandum	
No: O-5	Subject: Public Comment
Approval Date: XXX	Review Date: XXX
Signed by Todd Cranford, Chair	

- **Purpose:** To provide procedures for the Fairfax County Police Civilian Review Panel (the "Panel") to receive comments or hear from the public about any matter relating to law enforcement policies, practices, and procedures.

Defining Public Comment Meetings

- "The Panel may conduct up to six Public Comment Meetings annually, where it solicits and receives public comment or answers questions about any matter relating to law enforcement policies, practices, and procedures." (Panel Bylaws Article VII.A.2.)
- Public Comment Meetings "may be sponsored by the Panel or by others, and they must meet applicable VFOIA requirements." (Panel Bylaws Article VII.A.2)

Public Comment Meetings Sponsored by the Panel

- Public Comments Meetings are distinct from other Panel meetings, where Complainants can speak to the Panel regarding their Complaint.
- Public Comment may be taken at regular Panel Business Meetings when the Panel opens up the meeting for members of the audience to speak and other Panel meetings organized specifically to hear from the public (i.e., a public forum on topics of interest). Both types of meetings will count as part of the 6 Public Comment Meetings allowed annually.
 - The Panel will put Public Comment on the agenda at four (4) Panel Business Meetings per year, as its workload allows. Best efforts will be made to hold these meetings in [government building](#) community centers throughout the County.
 - Two (2) Public Comment Meetings may will occur outside of Panel Business Meetings, sponsored by the Panel or others.
- Meet and greet or social events sponsored by the Panel in which members of the public are not provided an opportunity to speak will not count as a Public Comment meeting.

Commented [RR1]: Key issue here is whether the Panel wants to specify the minimum number of times it hears from the public annually - either during its business meetings or outside of its business meetings?

Commented [RR2]: Panel Member Ware suggests changing language to "may".

Commented [RR3]: Panel Member Ware suggests changing language to "may".

Public Comment Meetings Sponsored by Others

- When three (3) or more Panel members attend an event sponsored by another entity, where the public is invited to comment on issues within the Panel’s jurisdiction, it will be counted as part of the six (6) Public Comment Meetings allowed annually.

Conducting Public Comment Meetings

- Staff will ensure that all VFOIA requirements are followed when the Panel holds Public Comment Meetings.
- Staff, in consultation with the Chair, will follow consistent procedures for publicizing the opportunity for the Public to make comments to the Panel and managing the speakers (i.e., providing a sign up for speakers and determining the length of time for each speaker).
- [If held during a Panel Business Meeting, Public Comment will be taken at the beginning of the meeting.](#)
- During Public Comment Meetings, Panel members should limit their oral responses to questions from the public to general information when appropriate. In the event an additional response is necessary, Staff in consultation with the Panel Chair, will draft a written response.
- Staff will audio record all Public Comment Meetings sponsored by the Panel.
- Staff will develop a written summary of all Public Comment Meetings.

Commented [RR4]: The Panel might consider whether it will allow community members to make anonymous comments.