

**Ad Hoc Police Practices Review Commission  
Independent Oversight and Investigations Subcommittee  
August 24, 2015, 7:30PM  
Room 232, Fairfax County Government Center**

Meeting began at 7:30PM

Members Present:

George Becerra  
Mary Kimm  
Adrian Steel  
John Wallace  
Jeff Stewart  
Jack Johnson  
David Stover  
Sally Determan  
Michael Kwon  
John Lovaas  
Sean Corcoran

Members Absent:

Robert Sarvis  
Ben Getto  
James Stewart  
Amy Dillard  
Nick Beltrante  
Sal Culosi  
Bob Callahan  
Bob Horan

Others Present:

Mike Kline  
Gordon Dean  
Michelle Evans  
Katie Boyle

Minutes moved and seconded. Mr. Steel asked that a sentence on page 2, paragraph 3 that begins with "Mr. Johnson said it is his understanding..." be removed due to lack of clarity. Mr. Johnson proposed the addition as "at his discretion." Mr. Steel offered to replace "if a perceived conflict" with "at his discretion." No objection.

Ms. Evans gave a presentation, discussed her work at the Virginia Citizens Coalition for Police Accountability and her experience with FCPD. Mr. Johnson said the subcommittee does not

review current cases and Ms. Evans agreed, and said her presentation was an example of a problem with FOIA and was not asking the subcommittee to review her case. Subcommittee members discussed the role of civilian oversight in FOIA and relative recommendations of the Communications Subcommittee.

Mr. Johnson reviewed the process for the final meeting of the subcommittee on Sept. 21.

Mr. Lovaas asked about whether the report would have an introduction. Mr. Johnson said yes and that assignment would be made following tonight's meeting.

Subcommittee discussed whether the subcommittee should recommend citizen oversight. Mr. Corcoran said he could not support it at this time and stated lack of need, the cost/resources to do it right. He said that a review like the Ad Hoc Commission every 3-5 years is a good exercise. Mr. Thompson said the Commission should not worry about budget – that is up to the Board of Supervisors which recommendations to fund.

Mr. Lovaas agreed with Mr. Thompson. He believes civilian oversight should come before auditor to restore public trust that has been lost.

Mr. Steel said the subcommittee has coalesced around the auditor-board structure for dealing with serious cases like OIS and in-custody deaths. He described the challenge of balancing the work between the civilian board and auditor, and the importance of getting public input in the process somewhere.

Mr. Lovaas said the auditor will not be seen as independent without civilian oversight in some way.

Mr. Stewart said if the subcommittee recommends one over the other, the civilian board should be recommended, not the auditor, in order to improve community perceptions.

Ms. Determan stressed the importance of involving citizens in review process in order to restore trust and support the police.

Mr. Kwon said the concept of an auditor is flawed because it is a county employee – almost duplicative of internal affairs. On the budget, the cost of not having a board could be great – people are killed, time needed to investigate, civil lawsuits.

Mr. Becerra stressed that the auditor not come internally from county staff as in the current recommendations.

Mr. Corcoran said the civilian review board will be criticized – who is on the board, how were they selected, etc. He said there are other avenues for civilian involvement at the station level, such as bolstering Citizens Advisory Councils (CACs), would help public perception. He suggested bolstering the Human Rights Commission and then re-evaluating that process in 3-5 years, and bolstering the CACs.

Mr. Steel agreed that perception is important and that civilian oversight is becoming much more prevalent. Best practice will be to have a separate civilian function.

Mr. Thompson said the Communications Subcommittee recommended a review every 6 months for the first 18 months and then annually.

Mr. Kwon described the function of the Human Rights Commission – investigating human rights violation allegations against non-County employees.

Mr. Johnson said if the subcommittee looked at all the potential recommendations, the subcommittee has come a long way. He said the subcommittee should consider a “like review.” He gave the example of Ms. Evans as a nurse being reviewed by medical professionals, Mr. Steel’s actions being reviewed by attorneys. He said given the criminal investigation, administrative investigation, auditor and civilian board review, no other profession is subject to such extensive review. Mr. Johnson said he is worried about the message of creating civilian review of FCPD given its history and reputation. Many other cities – Baltimore, Philadelphia, Chicago – have acute problems. He said recommendations could be incremental, but couldn’t be rolled back if found to be too much.

Mr. Kwon clarified there is citizen oversight of hospitals.

Mr. Stewart agreed there are few professions with this kind of oversight. Ms. Evans is not in a position carrying a gun.

Mr. Johnson said when he was a federal agent, federal agents are investigated by federal agents and not by civilian oversight.

Mr. Thompson said national climate has changed over the past several months.

Ms. Kimm said citizen review should not be considered a punishment. He should be looked at as an opportunity for police to understand citizen views and increase engagement.

Mr. Wallace said he has had many positive interactions with citizens recently and feels most citizens are helpful and like the police.

Mr. Stewart agreed with Mr. Wallace but this is not about attacking police.

Mr. Steel said even if most trust and support the police, civilian oversight provides an avenue for the small number that do not.

Mr. Stewart said it was citizen involvement that brought a resolution to the Geer case.

Mr. Wallace said the resolution was brought in part due to the civil lawsuit.

Mr. Lovaas said his dealings with the police have been universally positive. But the great body of work done nationally by civilian oversight finds no wrongdoing by police.

Mr. Stover said the City Attorney [sic] is to blame here. He discussed the history of complaints at the U.S. Park Police where he was an officer. He said he does not see evidence of a lot of misconduct at FCPD or that misconduct is not being handled properly.

#### **VOTE**

**Mr. Johnson asked for a vote on recommending civilian complaint review board.**

**AYE: Becerra, Kwon, Steel, Determan, Lovaas, Kimm, Stewart**

**NAY: Johnson, Stover, Wallace, Corcoran**

#### **VOTE**

**To retain Recommendation 22:**

**AYE: Lovaas, Kimm, Stewart, Determan, Steel, Stover, Becerra, Kwon**

(No formal NAYs were called for given majority of AYES)

The subcommittee then proceeded to make edits to the remainder of the draft recommendations, including changes related to: whether all current and former Fairfax County employees should not be considered for membership, use of “civilian,” removal of references to budget requirement, defining of “abuse of authority” and “serious misconduct,” how FCPD is

involved in civilian review and whether an officer should be on the panel, whether public hearings should be required or subject to the panel's discretion, whether civilian board should review auditor reports on criminal investigations; removing Recommendation 22, and numerous edits for clarity.

Mr. Johnson said the subcommittee should consider recommending an attorney for the Police Department. Multiple members said the Use of Force Subcommittee will make that recommendation. Subcommittee will likely include this in its cover letter.

Mr. Johnson asked for volunteers to draft the cover letter. Ms. Kimm volunteered.

**VOTE**

**Adopt recommendation from Use of Force Subcommittee related to direct oversight of police chief. Failed unanimously.**

Mr. Stewart moved to adjourn, Ms. Kimm seconded. Approved unanimously.

Meeting concluded at 10:02pm.