

Police Civilian Review Panel

December 6, 2018

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members Present:

Hansel Aguilar

Bob Cluck

Hollye Doane

Gregory Gadson

Doug Kay, Panel Vice-Chair

Anna Northcutt

Rhonda VanLowe, Panel Chair

Adrian Steel

Others Present:

Gentry Anderson

Julia Judkins

Rachelle Ramirez

Major Gervais Reed

Richard Schott, Independent Police Auditor

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

Welcoming of New Panel Member: Ms. VanLowe welcomed, on behalf of all Panel Members, Col. Gregory Gadson, who was recently appointed by the Board of Supervisors to fill a vacant seat, to his first meeting. Ms. VanLowe thanked Col. Gadson for his willingness to serve on the Panel. Ms. Gerarda Culipher, Deputy Clerk of the Fairfax County Circuit Court, administered the Oath of Office to Col. Gadson.

Meeting Summary Approval: Ms. Doane moved approval of the Meeting Summary from the Panel's November 1st meeting. Mr. Kay seconded the motion, and it carried by unanimous vote.

Virginia Freedom of Information Act (VFOIA) Request: Mr. Schott informed the Panel that a VFOIA request was received by the Countywide VFOIA Office, requesting records produced by Mr. Descano, a former Panel Member. Discussion ensued regarding the scope of the request and the role of the Office of the Independent Police Auditor in processing the request.

Ms. Doane asked if Panel Members need to provide records for the VFOIA request. Ms. Ramirez replied in the negative, and asked Panel Members to review the record retention guidance and procedure.

Public Forum Update: Mr. Steel reminded Panel Members that the 2018 Public Forum is to be held on Monday, December 10th at the Mount Vernon Governmental Center. Mr. Steel discussed the proposed agenda and event organization. Mr. Steel, along with Ms. Doane, Ms. Northcutt, Ms. VanLowe, and Colonel Gadson noted that they planned to be in attendance.

Allen Review Meeting Report: Ms. VanLowe opened the floor for comments on the draft Review Report in the Allen matter. Mr. Cluck noted that in Section II of the draft Review Report, it is stated that the vehicle “stopped suddenly,” but that the Panel does not know for a fact that this is correct. Mr. Aguilar suggested to insert “The complainant stated that” at the beginning of the sentence to signify that the information was brought forth by the complainant. The edit was accepted. Mr. Cluck brought attention to the words “urged” and “refused”, which are found in the last paragraph of Section II of the draft Review Report and asked that the Panel consider the use of more neutral terms such as “requested” and “declined”. The edits were accepted. Mr. Steel raised a question regarding the amount of information that is allowed in Section III of the draft Review Report.

Recess into Closed Session: A 7:24 p.m., Mr. Kay moved that the Panel recess and go into closed session for discussion and consideration of matters enumerated in Virginia Code Section 2.2-3711, specifically for legal advice. Mr. Steel seconded the motion and it carried unanimously.

Certification Regarding Items Discussed in Closed Session: The Panel returned to open session at 7:54 p.m. Mr. Kay moved that the Panel verify that, to the best of each member’s knowledge, only Panel matters lawfully exempted from the open meeting requirement, and only such public business matters as were identified in the motion by which the Closed Session was convened, were heard, discussed, or considered by the Panel during Closed Session. Ms. Doane seconded the motion and it carried by unanimous vote.

Allen Review Meeting Report (continued): After the Panel received legal advice during closed session, Mr. Kay noted, for the record, the Panel determined that the information provided in Section III of the draft Review Report was appropriate. *Mr. Kay asked Ms. Anderson to insert the hyperlink to the Review Meeting Audio in Section IV.*

Next, the Panel discussed the proposed comments and policy recommendations found in Section V of the draft review report.

- Mr. Aguilar asked if the Review Report could include a sixth section titled Panel Recommendations that would separate policy recommendations from general comments. This was accepted.
- Ms. VanLowe asked to strike the first sentence of Section V and the edit was accepted.
- The Panel decided that Subsections B and D were to remain as written in Section V since they are not policy recommendations.
- Mr. Steel moved that Subsection A become Subsection A of Section VI because it is a policy recommendation rather than a comment. Ms. Doane and Mr. Kay jointly seconded the motion and it carried by unanimous vote.
- Ms. Doane asked to strike the words “in a Complaint” and replace with “in future Complaints,” found in the last sentence of Subsection C, for clarification purposes. Ms. Doane asked to replace the word “wholistic” with “holistic.” These changes were accepted. Mr. Cluck disagreed with the use of the words “uncaring and unprofessional,” found in the second sentence, and explained why he recommended deleting Subsection C in its entirety. Mr. Kay moved that the first four sentences

of Subsection C remain in Section V and the last sentence of Subsection C be moved to Subsection B of Section VI. Mr. Steel seconded the motion and it carried by a vote of seven, Mr. Cluck voting Nay.

Panel Member Dissent: Ms. VanLowe announced that this was the first time a dissent has been offered. Mr. Aguilar explained that he wrote a dissent to the Review Report to explain the reasons why he voted against concurring with the findings of the Fairfax County Police Department (FCPD) Investigation. Discussion ensued whether the dissent adhered to procedures discussed in closed session.

Mr. Kay commented that he disagreed with the dissent because the review request submitted by Mr. Allen did not raise an issue related to officer demeanor and the FCPD representative explained the complaint was investigated holistically. Mr. Kay suggested that Mr. Aguilar withdraw the sentence that reads "Acting otherwise was a dereliction of duty." Ms. VanLowe noted the dissent quotes the initial draft of the Review Report and that the quotes need to be updated to account for the final draft of the Review Report.

The final version of the dissent will be attached to and published with the final Panel Review Report. Ms. Anderson will send a redlined version of the report to Mr. Kay, the author of the report, for his review. Mr. Kay will circulate the redlined version among Panel Members for their review. The vote on the final Panel Review Report was deferred until the January Panel Meeting.

Panel Procedures: Ms. VanLowe thanked Ms. Anderson for her work on the Panel's Procedures and Foundational document. She explained that the procedures reflect internal Panel administrative and operational processes. In addition to procedures, a revised complaint form and a set of template letters to complainants were included. Ms. VanLowe told the Panel that the procedures document should be intended to be amended over time to reflect current practice.

Mr. Aguilar brought the Panel's attention to the *Intake and Processing of Initial Complaints* Procedure and inquired about expected time for completion of tasks related to the intake and processing of complaints. Ms. VanLowe assured the Panel that complaints are processed as quick as possible and that some complaints are more complex than others. Mr. Aguilar suggested that if necessary, the Panel should press for more funding and resources.

Mr. Steel raised potential additions to the Complaint Form and the Review Liaison Procedure for the Panel to consider in the future and noted the need for a procedure to address complaints where there is joint jurisdiction with the Auditor. Ms. VanLowe explained the next task she will undertake as Chair is to enhance the Panel's website to include more language regarding Panel procedures.

Mr. Kay moved to accept the Panel's Procedures and Foundational Documents. The motion was jointly seconded by Mr. Steel and Ms. Doane and carried by unanimous vote.

New Business: Mr. Aguilar suggested that the Panel inquire whether the FCPD could make the investigation files available electronically at district stations and/or over weekends to accommodate busy schedules.

Spanish Outreach Opportunity: Ms. Anderson reported that Mr. Aguilar is scheduled to represent the Panel as a guest on the radio show "La Voz Del Condado del Fairfax" in February and that the Panel has the opportunity to appear on a Spanish television show produced by Channel 16.

Panel Governance: Ms. Doane asked Panel Members to consider leading the Panel's outreach coordination efforts. Ms. VanLowe reminded the Panel that a Vice-Chair will need to be selected. Mr. Steel asked for confirmation on how to provide notice to the Board of Supervisors regarding Panel Member reappointment in February.

Next Meeting: The Panel's next business meeting is Thursday, January 3rd, 2018, at 7:00 p.m. in the Government Center, Conference Room 232.

The meeting was adjourned at 9:00 p.m.