

Police Civilian Review Panel

July 11, 2019

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members Present:

Hansel Aguilar

Jimmy Bierman

Bob Cluck

Hollye Doane, Panel Vice-Chair

Doug Kay, Panel Chair

Shirley Norman-Taylor

Anna Northcutt (arrived at 7:07 p.m.)

Rhonda VanLowe

Panel Members Absent:

Colonel Gregory Gadson

Others Present:

Gentry Anderson, OIPA

Julia Judkins, Counsel

Major Owens, FCPD

Rachelle Ramirez, OIPA

The Panel's business meeting was called to order at 7:01 p.m.

Meeting Summary Approval: Ms. Doane moved approval of the Meeting Summary from the Panel's June 20th meeting. Mr. Cluck seconded the motion and it carried by a vote of seven, with Ms. Northcutt having not yet arrived, and Colonel Gadson being absent.

Ms. Doane moved approval of the training summary from the Panel's June 22nd training session. Ms. VanLowe seconded the motion and it carried by a vote of seven, with Ms. Northcutt having not yet arrived, and Colonel Gadson being absent.

Review Report for CRP-18-27: Mr. Kay asked if Panel Members had additional edits or comments to be included in the report. Ms. Doane asked if the "s" could be removed from the heading "Recommendations" and it was accepted. Ms. Doane moved that the Panel approve the Review Report for CRP-18-27. Mr. Bierman seconded the motion and it carried by a vote of five, with Mr. Aguilar and Ms. VanLowe voting "Nay," and Colonel Gadson being absent. Mr. Kay noted that Mr. Aguilar and Ms. VanLowe both submitted separate dissents to be attached to the final Review Report.

Review Report for CRP-19-05: Mr. Kay opened the floor for Panel Members to propose edits or comments to the report. Ms. VanLowe reminded the Panel that Ms. Doane made a compelling statement at the June 20th Review Meeting regarding the subject officer's language and asked that it be included in the Review Report. Panel Members agreed with this addition and Ms. Doane agreed to draft a statement to be added as a comment to the report. Ms. VanLowe expressed concerns regarding the statement regarding the Panel's satisfaction that the FCPD received a legal opinion. Mr. Kay suggested striking the language "...with the thorough legal opinions appended..." and replacing it with "...that the FCPD consulted with and obtained legal opinions included in..." and the edit was accepted.

Mr. Kay announced that the edits will be incorporated, and an updated draft will be circulated to the Panel for approval at the August 1st meeting.

Panel Discussion on CRP-19-07: Mr. Kay informed the Panel that there was a delay in the availability of the FCPD Investigation File because it was unclear whether the Complaint was subject to pending litigation. Because of the delay, the Panel will not meet the deadline as required by the Bylaws. It has since been determined that there is no pending litigation and the FCPD Investigation file is now available for Panel Members to review. *Mr. Kay asked for Panel Members to schedule a time to review the file with Major Owens prior to the August 1st Panel Meeting.*

Panel Discussion on CRP-19-15: Mr. Kay reminded the Panel of their discussion regarding the Complaint at the June 20th meeting. The Panel reached out to the Complainant via email and U.S. Mail to see if the Complainant could provide reasons of good cause for the Panel to consider. Mr. Kay informed the Panel that a response was not received. Ms. Doane moved that Complaint CRP-19-15 be considered untimely filed and that the Panel will not undertake a review on that ground. Mr. Bierman seconded the motion and it carried by a vote of eight, with Colonel Gadson being absent.

Outreach Opportunity: Mr. Kay informed the Panel that he, Police Auditor Schott, and Mr. Adrian Steel have been invited to appear on the local cable show, Reston Impact. Ms. VanLowe shared her previous experience on the show. Panel members agreed that the Chair is best situated to conduct similar interviews in the future without seeking explicit approval from other Panel Members. Ms. VanLowe asked Ms. Anderson to inquire about new opportunities for Panel members to appear on Board of Supervisor's shows, particularly after January 2020. Mr. Kay informed the Panel that *he will work with Major Owens to develop a video targeted to officers that could be viewed at roll calls and the academy. Mr. Bierman offered to reach out to other local shows about featuring the Panel.*

Board of Supervisors Action Item Revision: Mr. Kay informed the Panel that Deputy County Executive Rohrer is working with the County Attorney to prepare the Action Item. It is anticipated that the Action Item will go before the Board of Supervisors in September. Discussion ensued on the proposed revisions to the Action Item and their importance to the Panel in building legitimacy, transparency, and public trust. If approved, the proposed revisions will allow the Panel to provide more details about the investigation and inform Complainants of the rationale for the Panel's findings.

FCPD Response to Panel Recommendations: Mr. Kay informed the Panel that he is working with Major Owens to finalize a matrix that summarizes the Panel's recommendations made to the FCPD to date and the FCPD's response. This document will be finalized after the next quarterly meeting and posted to the Panel's website. Mr. Aguilar noted that he is unsatisfied with the response from the FCPD on the recommendation about statistical analysis. He would like to see the Crime Analysis Unit be consulted during investigations, rather than providing investigators access to a data dashboard. Ms. Doane requested that Mr. Aguilar prepare a memorandum outlining his specific concerns and suggestions so that this can be discussed at the next Panel meeting and at the quarterly meeting. *It was agreed that a column be added to the matrix to identify whether the Panel agrees or disagrees with the FCPD that a recommendation has been implemented.*

Panel Procedure on Public Comment: Mr. Kay summarized the best practices for public comment that were provided by the National Association for Civilian Oversight of Law Enforcement (NACOLE) and

mentioned that the guidance may not be applicable to the Panel due to its authorizing Action Item by the Board of Supervisors.

At 7:40 p.m., Ms. Doane moved that the Civilian Review Panel recess and go into Closed Session for discussion and consideration of matters for the purpose of consultation with legal counsel as enumerated in Virginia Code Section 2.2-3711(a)(8). Mr. Bierman seconded the motion and it carried by a vote of eight, with Colonel Gadson being absent.

At 8:13 p.m., Ms. Doane moved that the Civilian Review Panel certify that, to the best of each member's knowledge, only public business 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 Members during the Closed Session. The motion carried by a vote of eight, with Colonel Gadson being absent. *It was agreed that this topic will be brought up at the next quarterly meeting and discussed at the Panel's September meeting.*

Board of Supervisors Public Safety Committee Meeting Debrief: Ms. VanLowe provided a summary of the meeting and her presentation to the Board on the Panel's 2018 Annual Report. She noted that Supervisor Foust voiced his interest in learning about how the Panel's recommendations are being reviewed and implemented by the FCPD. Discussion ensued on the topic of body worn cameras (BWC) and the conclusions of the study conducted by American University. Ms. VanLowe noted that she was able to share at the meeting that the Panel found the BWC footage to be very helpful in one of its reviews. Panel members agreed that the presentation slides from the meeting should be posted to the Panel's website.

NACOLE Training Debrief: Mr. Kay led a discussion on a list of potential action items derived from the training provided by NACOLE.

The Panel discussed its outreach efforts, specifically having Panel Members attend meetings in the community. *Ms. Ramirez will circulate the list of outreach contacts that was developed by a former Panel Member for the Panel to review.* The Panel will discuss its outreach strategy and identify a Panel Member to take the lead for organizing outreach at the August meeting.

The recommendation to conduct a "know your rights" training for youth was discussed. The Panel considered developing a brochure for youth to outline what an appropriate interaction with the police looks like and how to file a complaint. *Mr. Aguilar and Ms. Norman-Taylor will work together on a draft.*

Discussion ensued on conducting a survey of the community to determine the level of awareness of the Panel and whether the timing is appropriate. A suggestion was made to add a question to other surveys that may already be in progress. *Mr. Aguilar will reach out to George Mason University to see if they are planning a survey of the Fairfax County community to which a question about the Panel could be added.*

The Panel discussed and decided to set up meetings with Board Members after January 2020. It was noted that potential action items such as developing a video for FCPD officers, appearing on BOS shows, reaching out to the media, and considering the adoption of public comment were already discussed.

The Panel will consider NACOLE's training standards at its August meeting. *Ms. Ramirez will circulate training standards to the Panel Members for their review. Mr. Kay encouraged all Panel Members to*

schedule a ride along by contacting Captain Morgan. Mr. Kay will meet with Major Owens to discuss further the topics to be covered by the FCPD in the training in the fall.

The Panel discussed anonymous Complaints and agreed that a procedure did not have to be developed as this is covered in their Bylaws. It was agreed that Complaints can be accepted as long as there is a method to contact the Complainant, such as an email address.

Discussion ensued on appropriate interactions with Complainants, specifically as it relates to staff in the Auditor's office taking in new complaints and clarifying information, such as whether there is good cause for an untimely complaint. Mr. Kay asked that the Panel discuss this issue at a future meeting when Mr. Schott can address his experience taking in and documenting Complaints. Ms. Doane stated it was best for interactions to take place in writing as much as possible.

The Panel discussed inviting the FCPD to address at its public meetings issues or trends that appear in complaints, including racial profiling. Ms. VanLowe noted that having the FCPD address the Panel more regularly on topics would encourage dialogue on the issues of most concern to the community. It was agreed that the FCPD could address the topic of racial bias, and efforts to address it, as part of its training for the Panel.

Discussion ensued on Panel reporting and ways to provide information in a clear and digestible way. Examples of how this is being addressed were discussed, such as: adding the status of Panel recommendations to the website and future Annual Reports, and recommending revisions to the Action Item to allow more details in the Panel's Review Reports.

Mr. Kay asked Panel Members to mark their calendars for NACOLE's regional training to take place in Washington, D.C. on November 15, 2019.

New Business: Ms. Ramirez noted that the topic of confidentiality has been discussed at recent Panel meetings and offered to provide a summary on the Panel's actions and discussions to date. *Ms. VanLowe offered to develop a draft procedure on confidentiality for the Panel's consideration.*

Next Meeting: The Panel's next business meeting is Thursday, August 1, 2019, at 7:00 p.m. in the Government Center, Conference Room 232.

The meeting was adjourned at 9:01 p.m.