

Police Civilian Review Panel

August 1, 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

Rhonda VanLowe

Panel Members Absent:

Colonel Gregory Gadson

Others Present:

Gentry Anderson, OIPA

Julia Judkins, Counsel

Major Owens, FCPD

Rachelle Ramirez, OIPA

Richard Schott, Independent Police Auditor

The Panel's business meeting was called to order at 6:59 p.m.

Meeting Summary Approval: Ms. VanLowe moved approval of the Meeting Summary from the Panel's July 11th meeting. Ms. Doane seconded the motion and it carried by a vote of eight, with Colonel Gadson being absent.

Review Meeting for CRP-19-07: Mr. Kay described the procedures for the Review Meeting and asked if the complainant was present. The complainant indicated that he was present.

Complainant Statement: The complainant described the events leading up to the incident which was the subject of his complaint. He alleged that an officer prematurely closed an investigation related to a missing affidavit in his file at the Office of the Clerk to the Circuit Court. He noted that the document was ultimately found by the officer but that it was the complainant's belief that it was not the original copy.

Complainant Questioning: Mr. Kay opened the floor for Panel Members to ask the complainant questions regarding his concerns with the FCPD's investigation.

Mr. Aguilar: The Panel is mandated to review completed FCPD investigations to ensure that they are accurate, complete, thorough, objective, and impartial. What made you believe that the investigation did not meet these standards? The complainant replied that he did not believe that the investigation was thorough because he believed that the subject officer lied about the affidavit being in the file and did not comment on the document being missing from the electronic file. The complainant stated that he believed the original document was destroyed.

Mr. Aguilar: What made you believe that the affidavit in the file was not an original? The complainant replied that there were differences in the color of the stamp and other markings on the document.

Mr. Kay: Was the document in the file when you went to look after the FCPD officer located it? The complainant replied that he located the document in the file but that he did not believe it to be the original.

Mr. Kay: Do you have any reason to believe that the affidavit was altered or different from the original? The complainant did not believe the document was altered because he was able to get a certified copy of the document prior to the original version in the file going missing.

FCPD Statement: Major Owens summarized the allegations made by the complainant and the FCPD's investigation. The investigation revealed no evidence to support reasonable suspicion or probable cause that a crime occurred.

FCPD Questioning: Mr. Kay opened the floor for Panel Members to ask Major Owens questions regarding the investigation.

Mr. Aguilar: Did the FCPD inform the complainant of the steps that were taken to investigate his complaint? Major Owens replied that he was unable to answer the question.

Mr. Aguilar: Is it a regular practice of the FCPD to notify the complainant of the steps of the investigation? Major Owens replied that notifying the complainant is something that the FCPD is working on and that the FCPD is working to improve the disposition letters by including more details regarding the investigation.

Mr. Aguilar: Would the FCPD consider calling the complainant to debrief them regarding the investigation and its findings? Major Owens replied that the disposition letter includes contact information for complainants to reach out if they have questions regarding the investigation into their complaint.

Complainant Questioning: Panel Members had additional questions for the complainant.

Ms. VanLowe: Did you talk to the investigator regarding the outcome of the investigation? The complainant replied that all communication he had with the FCPD was over email since that is his preferred method of communication.

Ms. VanLowe: Did you receive any communications from the FCPD in addition to the disposition letter? The complainant replied that the officer explained that he spoke with the Deputy Clerk of the Circuit Court regarding the findings, but the complainant still disagreed with the findings.

Ms. VanLowe: Do you continue to have issues with the investigation? The complainant replied in the affirmative because he believed that the document found in the file was not the original.

Ms. VanLowe: Is your goal to secure the original document? The complainant replied that his goal is to show that a criminal act occurred in the Office of the Clerk to the Circuit Court because the document was destroyed to disrupt his criminal proceedings.

Mr. Bierman: Do you believe that the document was not an original due to the color of the stamp? The complainant replied that the stamp is usually blue in color and the version he found in the file was black and white.

Mr. Bierman: Was the copy of the document not helpful in your criminal proceedings? The complainant replied that it was helpful because he was able to get the document certified but he still believed that it was not an original.

Ms. Doane: Can you explain why you believe this incident was racially motivated? The complainant replied that he had experienced multiple instances of wrongdoing by the Office of the Clerk to the Circuit Court and he believed it was due to his race.

Ms. Doane: How would the Office of the Clerk to the Circuit Court know you were black from the affidavit? The complainant replied that he has had multiple issues with the office and that they know him by name.

Panel Deliberations: Mr. Kay directed Panel Members to the three types of findings from which Panel Members can choose to vote when reviewing a FCPD Investigation, which are found in the Panel's Bylaws. He invited the Panel to discuss whether the FCPD Investigation was accurate, complete, thorough, objective, and impartial. Mr. Aguilar thanked the complainant for using the Panel's process and stated he hoped that the relationship between the complainant and the FCPD could improve moving forward.

Panel Findings: Mr. Bierman moved to concur with the findings and determinations detailed in the FCPD Investigation Report. Ms. Northcutt seconded the motion and it carried by a vote of eight, with Colonel Gadson being absent.

Review Report for CRP-19-05: Mr. Kay reviewed the additions that the Panel made to the draft report at the July 11th meeting. Mr. Cluck referenced the Panel's Procedure titled "Intake and Processing of Review Requests" and noted a provision which limits the amount of information that can be included in Panel Review Reports. He expressed concern with information disclosed in the report, specifically related to the complainant's status as a confidential informant, the inclusion of salacious background information related to the complaint, and the derogatory word used by the officer towards the complainant. Panel discussion ensued related to the amount of detail in the report and it was determined that the language would remain as is. Mr. Kay and Ms. VanLowe noted their appreciation that Mr. Cluck raised his concerns with the Panel regarding the details found in the report. They explained that the language found in the Panel's procedures will be revisited after an updated Action Item is submitted to the Board of Supervisors for their consideration.

Ms. Doane moved approval of Review Report CRP-19-05. The motion was multiply seconded, and it carried by a vote of eight, with Colonel Gadson being absent.

Panel Discussion on CRP-19-12: Mr. Kay summarized complaint CRP-19-12 which alleges that the Chief of the FCPD is engaging in sonic warfare practices and is abusing his authority. Mr. Kay received a letter from Major Owens which stated that the complaint will not be investigated and that the complainant was offered the appropriate services. He asked Panel Members their thoughts on informing the Board of Supervisors.

Mr. Aguilar asked whether the complaint is not being investigated due to the nature of the allegation or because the Chief would be the subject of the investigation. *Mr. Kay is to confirm this with Major Owens and inform the Board of Supervisors of the circumstances.*

Panel Discussion on CRP-19-15: Mr. Kay reminded the Panel that complaint CRP-19-15 was untimely filed and at the June 20th Panel Meeting, the Panel decided to reach out to the complainant to see if there was reason for good cause in the delay of the submission of the complaint. After sending the complainant a letter asking for good cause and not receiving a response by the established deadline, the Panel sent the complainant a second letter indicating that the Panel could not undertake a review. The complainant then submitted four reasons of good cause. The Panel discussed the complainant's reasons for good cause and determined that good cause would not be granted and that the Panel's decision to not undertake a review would remain the same.

August 9th Quarterly Meeting: Mr. Kay announced that the next quarterly meeting is scheduled for Friday, August 9th. The items he intends to discuss include the FCPD's response to Panel comments and recommendations, the issue of the use of statistics including Mr. Aguilar's memo, public comment, and the revisions to the Panel's authorizing Action Item. He asked Panel Members to provide input if they have additional items that should be discussed. *Mr. Kay asked staff to invite Mr. Rohrer, Deputy County Executive, to the quarterly meeting.* Panel discussion ensued related to the use of a summary judgement process. Mr. Kay asked that further discussion on the summary judgement process be deferred for a period of six months.

Ms. Doane announced that she participated a working group formed by Major Owens with Mr. Kay, Mr. Phil Niedzielski-Eichner, Ms. Shirley Ginwright, and Lieutenant Krause to develop a template for FCPD Disposition letters. She noted that it has been productive. Major Owens said that this an example of co-production of policing promoted by the Chief.

FCPD Response to Panel Recommendations: Mr. Kay referred to a memo prepared by Mr. Aguilar related to the FCPD's use of statistics in the context of racial bias allegations. He informed the Panel that the memo will be circulated and discussed at the August 9th quarterly meeting.

Panel Outreach: Mr. Kay referenced a meeting material titled "Panel Outreach Summary" which summarized the Panel's contact efforts and outreach opportunities with various community organizations. Mr. Kay asked if the Panel would be interested in reaching back out to the organizations and the Panel agreed. *Ms. Anderson is to reach out to the organizations to gauge their interest in scheduling an outreach event.* Ms. Doane noted that outreach events seem to be more successful when initiated by Panel Members who have a prior relationship with the group or organization. She also said that it was very helpful to conduct outreach with Mr. Schott so that both the Panel and Auditor functions can be described. Ms. VanLowe asked if the Faith Communities in Action (FCIA) group has had any additional events. Ms. Anderson replied that while the FCIA is actively hosting events, she has not been made aware of an event focused on public safety or policing. *Ms. VanLowe asked that a letter from the Panel be drafted and sent to community developers from the Department of Neighborhood and Community Services so that the letters can be forwarded to various organizations within the County.* Mr. Bierman announced that he has reached out to the producer of the "Inside Scoop" to schedule an outreach opportunity for the Panel. The Panel discussed the latest outreach event where Mr. Kay, Mr. Schott, and a former Panel Member filmed a show with the "Reston Impact".

Training Standards: Ms. Ramirez reminded the Panel that during the National Association for Civilian Oversight of Law Enforcement (NACOLE) training on June 22nd, the Panel discussed setting training standards. She referenced a meeting material titled “Recommended Training for Board and Commission Members” developed by NACOLE and the proposed training curriculum developed by Mr. Schott. Mr. Kay said that he would work with Major Owens to develop a FCPD specific training program for Panel Members and opened a discussion on whether the Panel should develop training standards. Panel discussion ensued regarding the proposed training curriculum. Panel Members specifically requested training on FCPD topics such as: FCPD recruiting and criminal justice academy, implicit bias and racial profile training, and Diversion First.

New Business: The Panel discussed moving their regular business meetings from Thursday evenings to Monday or Tuesday evenings during the fall. It was decided that the Panel would meet on Monday, September 16; Monday October 7; Tuesday, November 19; and Tuesday, December 17.

Ms. Doane asked if staff had any updates on the appointment of new Panel Member. Mr. Schott replied that he was informed that Chairman Bulova was in the process of interviewing a potential replacement and that the Panel would be notified of the Board’s decision.

Mr. Aguilar informed the Panel that he spoke with Dr. Cynthia Lum of George Mason University regarding whether they were planning another community survey of the FCPD. She stated that the University did not have plans to conduct another study but recommended that the County consider conducting similar community surveys to monitor the change in perceptions of the police over time.

Mr. Aguilar notified the Panel that he and Ms. Norman-Taylor are working on a proposal to conduct outreach to target the county’s youth population. They are interested in creating a video that can be shared with Fairfax County Public Schools and will keep the Panel informed of any progress.

Next Meeting: The Panel’s next business meeting is Monday, September 16, 2019, at 7:00 p.m. in the Government Center, Conference Room 232.

The meeting was adjourned at 8:58 p.m.