

**Police Civilian Review Panel**

April 5, 2018

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members present:

Hansel Aguilar

Kathleen Davis-Siudut

Steve Descano

Hollye Doane

Doug Kay, Panel Vice-Chair

Jean Senseman

Adrian Steel

Rhonda VanLowe, Panel Chair

Panel Members absent:

Randy Sayles

Others present:

Julia Judkins

Rachelle Ramirez

Richard Schott

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

Meeting Summary Approval: Mr. Kay moved to approve the meeting summary from the Panel's March 1 meeting. Mr. Steel seconded the motion, and it carried by a vote of eight, with Mr. Sayles being absent.

Recognition of Service: Ms. VanLowe announced that this is Ms. Senseman's last meeting and expressed her gratitude to Ms. Senseman for her service on the Panel.

Agenda Procedures: Ms. VanLowe reviewed a handout outlining agenda procedures for going forward. She noted that members should review the proposed agenda when it is circulated each month and provide feedback on whether they would like to add or remove item(s) from the agenda. She proposed some timelines (which may be adopted later as procedure) including: sending the agenda out to Panel Members for review ten days in advance of a meeting; accepting changes to the proposed agenda no later than seven days before the meeting; and publishing the meeting agenda on the Panel's website at least three days before the meeting. She requested that members send any documents that support an agenda item to the Chair seven days in advance of the meeting, especially those that might require a vote, so that the Panel Members, and Panel Counsel may review it.

Remote Participation Policy: Panel Counsel reviewed a draft policy that outlines the circumstances necessary for members of the Panel to participate in a meeting from a remote location. The policy was developed using language from the Virginia Freedom of Information Act. Mr. Descano moved to approve the remote participation policy. Ms. Senseman seconded the motion, and it carried by a vote of eight, with Mr. Sayles being absent.

Reviewing the Investigation File: The Police Auditor, Richard Schott, reviewed a handout that summarizes his approach to reviewing completed police department investigations. He first considers the police department investigation into the incident to determine whether the internal investigation was complete, thorough, accurate, impartial, and objective. He asks questions such as: were all appropriate interviews conducted, was all evidence reviewed, and was policy followed. From this process, he determines his conclusions on the investigation (i.e., whether he concurs with the FCPD findings or not). Separate from his conclusions about the investigation and whether FCPD policy was followed, he considers the underlying incident and seeks to determine whether he believes additional steps, or different steps, could or should have been taken by the FCPD. Key questions the Auditor asks when determining whether there should be a policy recommendation made includes: how current FCPD policy could be changed or improved, and whether there should be a change in training or practices.

Discussion ensued on the Auditor's remarks including the difficulties in considering the accuracy component of the investigation, how the Panel has previously been criticized for asking questions that were seen as investigatory in nature, and the level of information needed by Panel Members when conducting reviews.

Loesch Review Findings: Panel Members voted to determine the conclusion of the Panel in the matter of the FCPD's investigation into the Complaint submitted by David Loesch. All present Panel Members voted to concur with the findings and determinations detailed in the FCPD Investigation Report in the Loesch matter. Mr. Kay moved to adopt this as the official conclusion of the Panel. Mr. Steel seconded the motion, and it carried by a recorded vote of eight, with Mr. Sayles being absent.

Panel Members agreed that the FCPD investigation met the criteria of complete, thorough, accurate, impartial, and objective. They noted that the recorded interviews and in-car camera footage in the file were extremely helpful to their review. Ms. VanLowe expressed concerns that the interviews included in the investigative file were limited to the police officers and the neighbors who had complained.

The discretion of officers to arrest someone for drunk in public, and the potential for unevenness in the way discretion is applied depending on the person and setting (i.e., just outside their residence) was also discussed. Mr. Aguilar said he was interested in knowing more about the guidance officers receive in making drunk in public arrests, particularly when there is no risk of harm to a suspect or other nearby individuals. Other Panel Members noted the importance of waiting to see if any patterns emerge before the Panel develops any recommendations related to officer discretion.

*Ms. Doane and Mr. Sayles, the Review Liaisons, will draft and circulate a draft report of Panel Findings before the next meeting. Panel Members should make any revisions or add in their policy recommendations into the draft for discussion during the May meeting.* The Panel has until May 30<sup>th</sup> or 90 days from the Panel's March 1 meeting (the first Panel Meeting following the receipt of the Investigation Report) to issue its final review report.

Policies and Procedures: The Panel is working on developing procedures to supplement the bylaws, particularly in regards to the responsibilities of the Review Liaisons. Members discussed two handouts, *Duties of Panel Review Liaisons*, and *Request for Review Preliminary Report*. It was suggested that all Panel documentation utilize the same definitions as they are defined within the Bylaws. Ms. VanLowe provided an overview of the proposed responsibilities of Review Liaisons as they applied to Initial Complaints and Requests for Reviews. *Ms. Davis-Siudut will circulate electronic versions of the*

*documents for Panel Members to review and provide feedback. She will integrate the feedback and share revised drafts for review at the May meeting.*

Panel Members discussed whether it was appropriate for Review Liaisons to be in touch with the FCPD about the 60-day timeline for completing its investigation into an Initial Complaint and providing the Panel with an Investigation Report. It was suggested that the Panel wait to see whether the FCPD met the established timelines before the Panel informed the Board of Supervisors of the issue. Ms. VanLowe informed the Panel that the Investigation Report provided to the Panel in cases of Initial Complaints would include only the disposition letter that the FCPD sends to the Complainant.

Concerns noted regarding the Initial Complaint process included that the FCPD disposition letter provides limited information (i.e., only the conclusion of the investigation and not the rationale is outlined in the letter), and that there has been a lack of response from the FCPD when contacted by Review Liaisons about timelines.

Concerns noted about the Review Request process included that Panel Members, including the Review Liaisons, felt they were not getting their questions answered regarding FCPD policy, procedures, and training, beyond a referral to the FCPD General Orders on the website. Some members said that they had felt hostility or pressure from FCPD staff while they were reviewing the investigative file. It was suggested that the Panel utilize Auditor staff as a resource to get their policy questions answered and that any related Standard Operating Procedures (SOPs) should be included in the FCPD investigative file for their review. Other procedures in need of development included: defining a working relationship with an "FCPD Liaison" to the Panel (including expectations about FCPD participation at Panel meetings), how the Panel should approach the FCPD with questions and gain access to relevant SOPs and training curricula, and methods for Panel Members to review the investigative file, while not burdening FCPD staff and resources, and maintaining confidentiality. *As Panel Chair, Ms. VanLowe will seek out a time to discuss these issues with Chief Roessler.*

Information/Data Sharing and Tracking: Discussion ensued on the issue of maintaining the Panel's independence from the Auditor's office, while also relying on it for administrative support. Ms. Davis-Siudut expressed concerns about the public perception (particularly within immigrant communities) of the Panel not being independent of the Auditor and perhaps an extension of law enforcement or the government. Others acknowledged that: the Panel plays a dual role in serving the citizens of the County and also serving at the pleasure of the Board of Supervisors; the Panel must operate within the established structural constraints (i.e., administrative support by the Auditor's office); and there was benefit to collaborating with the Auditor's office when building relationships with community members. Mr. Schott stated that he supports the Panel's independent outreach efforts and that the Auditor's office has interest in the Panel's outreach schedule solely for purposes of archiving the Panel's activities. Panel Members were asked to remain sensitive to this issue as they conduct future outreach to the community. Mr. Descano moved that the Panel share outreach data with the Auditor's office. Ms. Senseman seconded the motion and it carried with a vote of seven, with Ms. Davis-Siudut voting "NAY", and Mr. Sayles being absent.

Ms. Ramirez reviewed a handout containing templates to illustrate the types of data and information that the Auditor's office is currently tracking on public Complaints and the Panel's processes. Two questions for the Panel were raised: Does the Panel want the Auditor's office to collect different or additional data than what is outlined? How should the Auditor's office share information or provide

status updates to Panel Members over time? Regularly scheduled email updates to Panel Members and the creation of a shared drive were explored as methods for sharing information. Ms. VanLowe stressed the importance of ensuring that the Panel's latest files and documents (including procedures and templates) were saved in one repository within the Auditor's office. *Panel Members were asked to review the data templates and send any comments to Mr. Descano for further review and discussion at the next meeting.*

Outreach: The Panel's brochures were mailed to Board of Supervisor offices, police district stations, community centers and Community Service Boards in the County. Brochures were also sent to Cornerstones, Inc. for distribution at their nine locations across the County. Mr. Descano reported that he is in contact with three organizations about potential outreach events. The next outreach will be to the Fair Oaks Citizens Advisory Committee (CAC) on April 24. Mr. Aguilar reported that he held a meeting with the Interim Director at the George Mason University, Office of Diversity Inclusion and Multicultural Education, about potential outreach opportunities to the university community.

Administrative Items: The appointment of a new Panel Member to fill the open seat is in process and is expected to occur before the Panel's May or June meetings. The Panel was asked to consider rescheduling their June 7 meeting due to anticipated parking shortages during the annual event, "Celebrate Fairfax".

Recess/Closed Session: At 8:56 p.m., Mr. Kay moved that the Panel recess and go into closed session for discussion and consideration of personnel matters enumerated in Virginia Code Section 2.2-3711(a)(1). Those matters involve the Panel seeking consult with legal counsel provided by Fairfax County government. Ms. Senseman seconded the motion and it carried by a recorded vote of eight, with Mr. Sayles being absent.

Certification Regarding Items Discussed in Closed Session: The Panel came out of closed session at 9:40 p.m. Mr. Kay moved that the Panel certify that, to the best of each member's knowledge, only public 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 recorded vote of eight, with Mr. Sayles being absent.

Next Meeting: The Panel's next meeting is scheduled for Thursday, May 3, 2018 at 7:00 p.m. in the Government Center.

The meeting adjourned at 9:41 p.m.