
Police Civilian Review Panel

Meeting Agenda

Location: Conducted electronically due to COVID-19 Pandemic

Date: October 8, 2020

Time: 7:00 pm

Agenda details:

I. Call to Order

II. Agenda Items

- a. Motions to Conduct Electronic Meeting
- b. Review Meeting for CRP-19-19
- c. Approval of Review Report for CRP-20-15
- d. Approval of September 24 Meeting Summary

III. New Business

IV. Adjournment

Police Civilian Review Panel Meeting

Electronic Meeting Housekeeping Rules

- Attendees have entered the meeting in listen only mode.
- Panelists must remain in “Mute” when not speaking. Please unmute yourself when you have been recognized to speak by the Chair, when you are making a motion, seconding a motion, or casting your vote.
- For Panelists to be recognized to speak, please use the raise hand function by clicking on the hand icon which is found in the bottom right corner of the “Participant Pane.” When you are finished speaking, please mute yourself and lower your hand by clicking the on the hand icon again.
 - To access the “Participant Pane,” please click on the icon depicting a person which is found on the icon menu at the bottom of your screen.
- The Meeting Materials Packet will be uploaded to WebEx. To scroll through the packet, please use the sidebar menu to page up or down. Meeting materials are also available on the Panel’s website at www.fairfaxcounty.gov/policecivilianreviewpanel
- If the Panel recesses into closed session, Panel Members must mute themselves and disable their webcams on WebEx. Panel Members will use a dedicated conference line and security code for closed session. When closed session concludes, please enable your webcam on WebEx to return to open session.
- This meeting is being recorded and the audio recording will be posted to the Panel’s website.



County of Fairfax, Virginia

MEMORANDUM

DATE: October 8, 2020

TO: Fairfax County Board of Supervisors
Col. Edwin C. Roessler, Jr., Chief of Police
Mr. Richard G. Schott, Independent Police Auditor

FROM: Fairfax County Police Civilian Review Panel

SUBJECT: Report of Panel Findings for Complaint CRP-20-15

I. Introduction

The Fairfax County Police Civilian Review Panel (Panel) held a public meeting on August 27, 2020, to review the investigation resulting from a citizen complaint submitted to the Fairfax County Police Department (FCPD) at the Fair Oaks District Station on March 27, 2020. After the investigation was completed, the FCPD sent a disposition letter to the Complainant on April 4, 2020. The letter concluded that no police misconduct had occurred. On June 12, 2020, the Complainant requested a review of the investigation by the Panel.

After reviewing the investigation file, the Panel members voted by 8-1 that the investigation was complete, thorough, accurate, objective, and impartial, and they concurred with the findings of the FCPD documented in the Investigation Report.

II. Background Facts

On March 23, 2020, the Complainant drove a truck loaded with trash to Fairfax County's I-66 Transfer Station. At the entrance, he told employees that he wanted to be allowed to dump the trash without paying the standard fee of \$13.00. He requested a waiver of the fee because of the state of emergency declared by Fairfax County and the Commonwealth of Virginia in response to the Covid-19 epidemic.

The Complainant was informed by site employees that free dumping had not been authorized. When he continued to refuse to pay the fee, an assistant manager offered him the options of receiving a bill, using a payment plan, or paying a reduced

fee. The Complainant declined these offers. During the conversation, he was told several times by the assistant manager that if he did not want to pay, he would have to leave the property.

A call was made to the FCPD after the Complainant refused to comply with the requests to leave. Two uniformed officers arrived at the scene. They talked initially with the facility employees, who described the failed negotiations with the Complainant. The officers initiated a discussion with the Complainant, who remained in his truck during the conversation that followed. Both officers told him several times that he would have to pay or leave. He asked the officers for their names, which they provided. According to the officers, on multiple occasions he rolled up his truck window when one of the officers attempted to talk with him.

While the officers continued their effort to persuade him to comply with their request, the Complainant talked by cell phone to an official at the Department of Public Works and Environmental Services. He described the situation to the official and repeated his demand for a waiver of the dumping fee. The official advised him to leave the property and offered to meet with him at a nearby gasoline station. The discussions with the police officers ended when the Complainant drove his truck to the meeting place. He met with the official and agreed to pay a reduced fee.

III. Procedural Background, Allegations and Findings

As noted above, the complaint was communicated directly to the FCPD on March 27, 2020, when the Complainant contacted a supervisor at the Fair Oaks District Station. The Complainant alleged the following: (1) The officers issued an unlawful order by demanding that the Complainant immediately leave the Transfer Station because of a civil dispute; (2) The Complainant's First Amendment right to peacefully assemble and petition the government for a redress of grievances was violated; (3) The number of officers on the scene was excessive because it was not proportionate to the nature of the incident; (4) The names of the officers printed on their badges were not visible to the Complainant and had been covered up; (5) The officers yelled at the Complainant and were "talking over him;" and (6) The police record of the incident was not sufficient, because inaccurate and incomplete comments were recorded on the CAD system by one of the officers, and a written report of the incident should have been submitted.

A supervisor at the Fair Oaks District Station investigated the incident. He interviewed the Complainant and also questioned the officers who were involved in the

incident. The assistant manager of the transfer station, who had attempted to resolve the dispute with the Complainant, was also interviewed. In addition, the investigator reviewed the comments that had been recorded into the CAD system by one of the officers at the scene.

Responding to each of these allegations, the investigator found: (1) The officers' actions were not unlawful; (2) It was appropriate for the FCPD to send two officers to the scene and not just one. The normal practice under the dispatching procedures is to send two officers in response to civil disputes that are "in progress." (3) At the scene, the Complainant was given the names of the two officers. (4) According to the officers and the witnesses who were interviewed, the officers did not yell, were not threatening, and were not rude to the Complainant. (4) One of the officers at the scene provided an adequate and detailed description of the incident that was recorded on the CAD system. Also, as explained to the Complainant, the officer correctly determined that the incident was a civil matter. Since written reports on civil matters are not routinely submitted when the CAD system is used, the officer properly concluded that a written report was not necessary.

Based on these findings, the investigator concluded that the two officers met the standards of conduct that applied to the situation, and they complied with all Department rules and regulations. On April 4, 2020, the FCPD sent a letter to the Complainant informing him that it had completed a comprehensive examination of the facts and circumstances surrounding the Complainant's allegations and that the officer's actions "were lawful and in compliance with Department Regulations regarding community member contacts."

On June 12, 2020, the Complainant requested a review by the Panel. A subcommittee of the Panel was convened on July 20, 2020, to review the complaint and the investigation file and then determine whether the Panel had authority to review the investigation. The subcommittee concluded that the investigation concerned matters within the purview of the Panel. It found that the complaint had been timely submitted and contained allegations that met the Panel's standard of "abuse of authority and serious misconduct."

IV. Panel Meeting

The Panel Review Meeting was held virtually on August 27, 2020. All Panel members had reviewed the Investigation Report prior to the meeting. The Complainant was present at the meeting. In his statement to the Panel, the Complainant said that his

civil rights were violated and that the officers violated FCPD General Order 301, which governs internal investigations. Also, the Complainant stated that he never refused to pay the fee. Rather, he wanted a waiver and was questioning the policy when the police arrived. He also expressed his view that the FCPD cannot demand that he leave public property when he is not breaking the law. He reiterated that he felt intimidated and threatened during the interaction with the FCPD, and that he believed the investigation was inaccurate and incomplete.

Chief Edwin Roessler and Major Tonny Kim represented the FCPD at the Review Meeting. Several Panel members were concerned that one witness at the transfer site was not interviewed during the investigation. They noted that the witness could have provided information on the demeanor of the officers during the encounter with the Complainant. It was also noted that the Panel had made a recommendation to the FCPD, published on January 9, 2019, stating, "The Panel recommends that the FCPD ensure that all concerns outlined in future Complaints be fully investigated and separately addressed in the Investigation Report." Similarly, in a recommendation to the FCPD published on January, 15, 2020, the Panel stated, "With respect to obvious, known witnesses who are not interviewed, Investigation Reports should include an explanation for why such an interview failed to occur."

Two Panel members noted that the disposition letter, which was sent to the Complainant by the FCPD after the investigation was completed, did not provide the reasons for the findings. The two Panel members further noted that the Panel had recommended on March 21, 2019, that FCPD disposition letters to a Complainant upon conclusion of a FCPD investigation, "must contain sufficient, specific detail to provide Complainant with a clear understanding of the scope of the FCPD investigation and the rationale for the FCPD findings."

Some Panel members were also concerned that the investigator did not follow a standardized investigative plan that is based on best practices, policy or practice.¹ One Panel member observed that he has seen a disparity in the quality of investigations, particularly between those conducted at the district level and those at the Internal Affairs Bureau (IAB). Chief Roessler and Major Kim responded that investigators are trained throughout their careers, beginning at the Academy and continuing with advanced training and supervision by field training officers. Investigators are tenured and seasoned professionals, they said. Although each investigation is unique, they

¹ Following the Review Meeting, the FCPD informed the Panel that senior staff are planning to add a bureau commander review requirement for certain district and division cases to be implemented before the conclusion of the investigation. This will add an additional layer of scrutiny to cases that are not investigated by the IAB.

stated, investigators both at the district level and at IAB adhere to the guidelines in an internal administrative manual, and all investigations follow a general structure.

A few Panel members asked the FCPD about how police are trained in potential trespass situations, where a community member is asked to leave or “move along” from a public place. Police receive extensive training on how to handle trespass cases, Major Kim responded. He said police also attempt to de-escalate conflict situations and work to resolve matters without making an arrest. He said that in this incident, the officers asked the Complainant a number of times to move along before demanding that he leave the site. He said the officers used due diligence to resolve the matter and ultimately there was a positive outcome. The parties agreed to settle the matter themselves.

During their deliberation, most Panel members agreed that while the FCPD should have interviewed the witness who observed the encounter, the additional evidence would not likely change the outcome of the investigation.² The weight of the evidence and the substantial completeness of the investigation were important considerations for the Panel in making its finding. Further, the Complainant was asked by Transfer Station managers and FCPD officers to either leave or pay the fee several times before a demand was made for him to leave. To prevent traffic congestion at the site, it was reasonable and lawful for the FCPD to demand the Complainant leave. The Panel voted by 8-1 to concur with the findings in the FCPD investigation.

An audio recording of the August 27, 2020, Panel Review Meeting may be reviewed here: <https://soundcloud.com/fairfaxcounty/police-civilian-review-panel-meeting-august-27-2020>.

On October 8, 2020, the Panel discussed the Review Report and Recommendations. An audio recording of that meeting may be reviewed here:

CC: Complainant

² Following the Review Meeting, Major Kim informed the Panel that Chief Roessler directed his staff to interview the witness who might have observed the incident. On October 3, 2020, the FCPD informed the Panel that investigators had identified the witness and interviewed him. The witness statement was included in the investigative case file, and it supported the FCPD investigation finding.

MEMORANDUM

To: The Fairfax County Police Civilian Review Panel

From: Hansel Aguilar, Panelist

Date: October 8, 2020

Re: CRP-20-15 Complaint Dissent

I. Introduction

After a careful and holistic consideration of the case file, the review meeting deliberation, and the Majority report of CRP-20-15, I find that I am not able to support the conclusion stated in the report that the "...Investigation is complete, thorough, and accurate..." Specifically, I dissent from the Majority report because: (1) at the time of the review and Panel deliberation, the FCPD had not interviewed nor attempted to interview a key witnessⁱ; nor had (2) the FCPD accurately investigated the appropriateness of issuing a "move along order" to the Complainant in the interaction in question.

II. The Investigation concerning the allegation of the officers' demeanors was not completely, thoroughly, and accurately investigated and is inconclusive

Without the use of an objective investigative tool like body-worn camera (BWC) or a comparable video recording of the incident, determining whether the officers exhibited demeanor consistent with FCPD General Order 201.13, which states that,

"Employees shall conduct themselves professionally at all times when representing the Department. They shall use respectful, courteous forms of address to all persons"

was a difficult task for the assigned investigators in this case. Fortuitously, there were several witnesses to the event in question. Perplexingly and without reason or justification, the FCPD failed to interview all the available and present

witnesses that could have corroborated or refuted the claims made in this complaint.

This omission of a key witness is not an event in isolation. In fact, this Panel has already made public comments and recommendations to the FCPD regarding the thoroughness and completeness of their investigatory process. As reiteration of a previously provided Panel recommendationⁱⁱ, I would like to emphasize that the FCPD needs to ensure that “With respect to obvious, known witnesses who are not interviewed, Investigation Reports should include an explanation for why such an interview failed to occur.”

Additionally, as previously recommended by this author, the FCPD should strongly consider implementing and standardizing the use of investigation plans for all misconduct investigations to ensure a systematic approach to reviewing and investigating each allegation in the complaint.

III. Appropriateness of a *move along order* in a public space while engaging in constitutionally protected activity

One of the expressed concerns in the complaint was the appropriateness of the FCPD officers’ instructions to the complainant to leave the premises while he was attempting to resolve a dispute with the solid waste facility operators. Specifically, the complainant alleged that the instruction by the officers to leave the waste facility was “unlawful” and violated his “1st amendment right to peaceably assemble and petition the government for a redress of grievances.”

Based on the statements from the complainant, the FCPD, and the witnesses, I disagree with the assertion that the complainant’s first amendment rights to assemble and petition the government were violated. The complainant’s actions in this matter were guided by his interpretation of local and state emergency declarations. It was his understanding that he should have been offered or allowed a waiver considering the global public health emergency. According to the case file, the complainant acknowledged that there were no specific statements or provisions in the emergency declarations regarding the waiver he was seeking.

Objectively speaking, his hardship waiver request was reasonable. Notwithstanding, I do not believe it was reasonable nor consistent for the complainant to physically present himself at the waste station and demand that

the waiver be provided to him. Yes, the waste station is a County facility thus it is a public space which provides certain constitutional protections, however, there were other mechanisms the complainant could have and should have exhausted prior to showing up at the facility. Specifically, the complainant could have exercised his first amendment rights by contacting the waste facility, his local representative, his state representative, etc. via phone, email, or regular mail prior to attempting to speak to someone in person at the waste facility. Additionally, the police appeared to have provided the complainant considerable time before asking him to leave.

My concern with this element of the investigation concerns the lack of clear guidance and instructions provided to FCPD officers regarding issues of trespassing in public spaces. Currently, the FCPD does not have a general order addressing these interactions and allows for officers to utilize their discretion to determine the appropriateness of issuing a move along order or trespassing order to a community member. As I noted in the deliberation of this case, the DC Office of Police Complaints (OPC)- our neighboring civilian oversight agency, which oversees the Metropolitan Police Department- has made similar observations with the misapplication of move along orders by their jurisdiction's law enforcement officers. I believe it would be beneficial for the FCPD to consider analyzing this issue in the County further and explore how to enact clear guidance for FCPD officers. In this review, the FCPD should consider some of the recommendations in OPC's Policy Report #17-3: Blocking Passageⁱⁱⁱ:

"To help improve and facilitate better relations and increase trust between MPD officers and community members, the PCB recommends that:

- 1. MPD require its officers to document any incident where a move along order and/or a blocking passage citation was issued, and the incident reports must detail how specifically the person was blocking passage.*
- 2. MPD should provide additional training on the correct application of the statute as well as cultural and sensitivity training on the proper way to issue move along orders in a manner that promotes cooperation and decreases animosity."*

IV. Conclusion

Based on the unknown aspects of this case (at the time of review) and the accuracy of the *move along order* allegation, I must dissent from the conclusion that this investigation is complete, thorough, and accurate.

ⁱ On Monday, October 5th, 2020 the Panel received a memorandum from the FCPD (dated October 2nd, 2020) certifying that on the FCPD identified the witness in question and conducted an interview. It was reported by the FCPD that the statements from the witness supported the conclusions of the FCPD investigation.

ⁱⁱ CRP-19-11: Published January 9, 2020

ⁱⁱⁱ The complete report can be accessed via:

https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/Blocking%20Passage%20Report.FINAL_.pdf

Police Civilian Review Panel

September 24, 2020

Conducted Electronically due to COVID-19 Pandemic

Meeting Summary

Panel Members Present:

Hansel Aguilar
Jimmy Bierman
Bob Cluck
Hollye Doane, Panel Chair
Frank Gallagher
Doug Kay
Shirley Norman-Taylor
Sris Sriskandarajah, Panel Vice-Chair
Rhonda VanLowe

Others Present:

Complainants
Gentry Anderson, OIPA
Second Lieutenant Dehler, FCPD
Captain Hanson, FCPD
Lieutenant Colonel Lee, FCPD
Anita McFadden, Interim Counsel
Rachelle Ramirez, OIPA
Richard Schott, Independent Police Auditor

NOTE: The Panel's September 24th meeting was conducted electronically due to the COVID-19 Pandemic. The electronic meeting was hosted on WebEx and allowed for members of the public to virtually attend via WebEx or conference call.

The Panel's business meeting was called to order at 7:00 p.m. and all Panel Members were present.

Ms. Doane welcomed everyone to the Panel's September 24th meeting and noted a few housekeeping rules.

Motions to Conduct Electronic Meeting: Ms. Doane took roll call to verify a quorum of the Panel was present and to ensure each Panel Member's voice could be heard clearly. She asked each Panel Member to state their name and the location from which they were participating.

Mr. Aguilar was present and participated from the Braddock District.

Mr. Bierman was present and participated from the Dranesville District in McLean, Virginia.

Mr. Cluck was present and participated from Reston, Virginia.

Ms. Doane was present and participated from Oakton, Virginia.

Mr. Gallagher was present and participated from the Braddock District, Virginia.

Mr. Kay was present and participated from Fairfax, Virginia.

Ms. Norman-Taylor was present and participated from Lorton, Virginia.

Mr. Sriskandarajah was present and participated from Fairfax, Virginia.

Ms. VanLowe was present and participated from Reston, Virginia.

Ms. Doane moved that each member's voice may be adequately heard by each other member of this Panel. The motion was seconded by Mr. Sriskandarajah and it carried by unanimous vote.

Ms. Doane moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the Panel to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of this Panel and the physical presence of the public, cannot be implemented safely or practically. She further moved that the Panel may conduct this meeting electronically through a dedicated WebEx platform and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 408-418-9388 and entering access code 129 059 0676 as noted in the Public Meeting Notice. Mr. Bierman seconded the motion and it carried by unanimous vote.

Ms. Doane moved that all matters addressed on the agenda are necessary to continue operations and the discharge of the Panel's lawful purposes, duties, and responsibilities. Mr. Cluck seconded the motion and it carried by unanimous vote.

Panel Review of CRP-20-20 and CRP-20-21: Ms. Doane provided a summary of the incident subject of the complaints. A community member called 911 indicating that there were loud fighting noises coming from a neighbor's home. Officers were dispatched to the complainants' address around 4:00 a.m. and knocked several times at the door and did not receive a response. The two complainants were awakened by the knocking and were frightened. The complainants called 911 to report the knocking at the door and the operator informed the complainants that police officers were knocking at the door responding to a call reporting domestic violence. The police officers left after receiving no response but then returned as a result of the complainants call to 911 and due to a second call from the community member to 911 reporting further domestic violence. The officers returned to the complainants' door and began to knock. The complainants were unable to clearly identify the officers and asked the officers for identification upon opening the door.

Complainant Statement:

Complainant 1 thanked the Panel for undertaking a review of the complaint and for allowing her to address the Panel. She indicated that statements in the FCPD's disposition letter did not correspond to the events that took place during the incident. Complainant 1 said that the

officers did not introduce themselves to the complainants and she would like to know what protocol should be followed when officers arrive at someone's residence early in the morning. She further explained that her sister, Complainant 2, had to ask the officers repeatedly to introduce themselves. She asked the Panel for their review to help restore trust in law enforcement as they are an integral part of society and that no one should fear the authority that is there to protect the community.

Complainant 2 thanked the Panel for the opportunity to appear and referenced the tragic incident involving Breonna Taylor in Louisville, Kentucky. She provided a summary of the incident subject of the complaints. She explained that after the incident, she and her sister called FCPD to understand what practices and protocols should have been followed and did not receive a satisfactory response. Complainant 2 explained that the incident put the complainants in a dangerous situation and that she hopes their complaints serve as reference for others in the community when seeking accountability.

Complainant Questioning:

Mr. Aguilar asked the complainants what concerned them during the incident subject of the complaint. Complainant 2 replied that the unannounced banging at their door early in the morning was frightening and wanted to know what FCPD protocol is for these types of events. Complainant 1 agreed and wanted to know what protocol should have been followed. Mr. Aguilar summarized that overall the complainants were concerned about the protocol during these events, accurate reporting by the officers, and the demeanor of the officers.

Mr. Aguilar asked if the complainants were provided a response as to what FCPD protocols are in place and where they can be found. Complainant 2 replied that she was not provided with a satisfactory response and was not told where they can be found. She informed the Panel that it was during a Panel subcommittee meeting where she learned that the protocols can be found online. Mr. Aguilar asked the complainants if they had a chance to review the FCPD's General Orders and whether they believed the officers acted in accordance with the General Orders. Complainant 2 replied that she reviewed the relevant General Order but did not believe that the officers acted in accordance with the policy as the officers did not announce themselves and they did not check in with the complainants whether an emergency situation took place. Mr. Aguilar informed the greater community that FCPD is one of the few departments in the country that publicizes their General Orders online.

Mr. Aguilar asked Complainant 1 if she received any medical attention the night of the incident. Complainant 1 replied that she did not accept medical attention as she was able to regain composure and her sister took care of her. Mr. Aguilar asked if she has sought medical attention as a result of the incident. Complainant 1 replied that she did not feel comfortable answering the question.

Ms. Doane asked if the complainants thought the officers were rude during their conversation. The complainants replied that the officers were not rude as they did not say anything when the

complainants opened the door. Ms. Doane asked if the officers' silence made the complainants feel intimidated. Complainant 2 replied the officers' silence made them feel more frightened as the 911 operator indicated that the individuals were officers, but they did not announce themselves.

Ms. Doane asked the complainants if there were any lights on in the condominium complex and whether there was any commotion outside. Complainant 2 replied that only the streetlights were on and that she did not have the time or capacity to turn on the porch light. Complainant 2 indicated that it was very quiet in the neighborhood when the officers were at the door.

Ms. Doane asked if the complainants could see the street from their window and whether they saw a vehicle on the street outside of the unit. Complainant 2 replied that a service road can be seen from the window and that there was a vehicle on the street but that it did not appear to be occupied.

Ms. Doane asked the complainants if they are aware of a history of domestic violence incidents in the complex. Both complainants replied they were not aware of any incidents of this nature occurring in their community.

Ms. Doane asked the complainants if they have reason to believe that they were targets of harassment by a neighbor or individual due to the initial 911 call and whether they have been subject to other incidents of this kind. The complainants replied that they do not have problems with neighbors or other individuals and that they have never experienced an incident of this kind.

Complainant 1 asked if there was a difference in the disposition letter received by the complainants and the Panel. Ms. Doane replied that all Panel Members reviewed the same disposition letter and the entire FCPD investigation file related to the complaint.

Ms. Doane thanked the complainants for attending the meeting and for addressing the Panel.

Complainant 2 commented that she is unsure why the FCPD did not inform her that the General Orders are publicly available on the FCPD's website for inspection. She also added that the officers did not introduce themselves or explain why they were there.

FCPD Statement:

Captain Hanson introduced Second Lieutenant Dehler to present the summary of the investigation and the FCPD's findings. Lieutenant Dehler provided a summary of the facts of the case and the investigation. He reported that the results of the investigation found that the officers made a reasonable attempt to make contact with the individuals in the residence, that they were identified by dispatchers of the Department of Public Safety Communications (DPSC) and by the officers themselves, and that both officers were in uniform with badges of authority. The complaint was documented as a dissatisfaction of service.

FCPD Questioning:

Mr. Bierman asked whether the officers identified themselves upon first approaching the residence. Lieutenant Dehler replied that the officers reported during the investigation that they identified themselves at some point during the knocking. Mr. Bierman asked if the officers immediately identified themselves. Lieutenant Dehler replied that they did not. He said it is a common practice for officers responding to a domestic violence call to not announce themselves when getting an individual to open the door so as to avoid causing further anger and violence to the victim. Mr. Bierman noted that the relevant FCPD General Order is unclear on exactly when an officer needs to announce their presence.

Mr. Bierman asked why interviews of neighbors were not included in the investigation. Lieutenant Dehler replied that statements from officers and relevant audio recording of the incident seemed to be enough. Mr. Bierman noted it would have been helpful to have interviewed neighbors and the potential witness listed in the complaint.

Mr. Kay asked if information could be provided on the training officers receive regarding General Order 601.4 and when officers should identify themselves. Captain Hanson replied that officers receive practical training in this area on how to respond to domestic violence calls.

Mr. Kay asked if General Order 601.4 has some import to the investigation of the complaint and noted that he did not see any reference or analysis of it in the investigation file. Captain Hanson replied affirmatively and that the case focused on standard protocol when a call for service is generated from a third-party complaint. He explained that officers knock louder when the door is not answered immediately and assess the situation for any additional investigative steps. Mr. Kay reviewed the facts of complaints. Lieutenant Dehler said that from the investigation, it was unclear exactly when officers announced themselves but that an announcement was made. Mr. Kay asked whether it is important to know whether or not the officers announced who they were the first opportunity they had especially due to the early hour of the morning. Lieutenant Dehler replied in the negative.

Mr. Aguilar asked how the FCPD classifies complaints. Captain Hanson replied that a complaint that does not allege a clear violation of the General Orders is classified as an initial inquiry. He explained that the facts are then reviewed and, if the facts support that the General Orders were followed, it is classified as a dissatisfaction of service.

Mr. Aguilar asked what allegations the FCPD investigated related to this complaint. Captain Hanson replied that the investigation considered the allegations listed in the complaint of the loud knocking and whether the officers identified themselves. Mr. Aguilar suggested that misreporting events is another potential allegation that could be investigated.

Mr. Aguilar asked whether the FCPD believed the officers properly investigated the initial report of domestic violence. Captain Hanson replied that when contact was made with the complainants, the complainants were adamant that an incident did not occur, and officers asked if medical attention was needed to which the complainants declined.

Mr. Aguilar asked if the officers sought information on whether there was a history of domestic violence at the address. Lieutenant Dehler replied that nothing in the investigation revealed a history of domestic violence at the address and that the officers' computer aided dispatch (CAD) would have indicated this. Mr. Aguilar noted that General Order 601.4 requires officers to obtain information from dispatch upon arriving to the scene but that the investigation did not appear to reveal that this occurred.

Mr. Aguilar inquired about FCPD training provided to officers who transfer to the department. Captain Hanson replied that there are minimum training standards required by the state and that a transfer officer would receive training specific to FCPD General Orders.

Mr. Aguilar asked whether the term "nasty" is considered offensive by the department. Captain Hanson replied that it is dependent on the context in which the word was used.

Mr. Cluck recalled a time when officers canvassed his neighborhood and he was alarmed due to the knocking at his door. Mr. Cluck asked if 2,000 to 3,000 is a correct estimate of the number of domestic violence calls to which the FCPD responds. Captain Hanson replied that he did not have the exact statistic, but that the FCPD responds to a lot of domestic violence calls. Mr. Cluck commented that the loudness of the knocking and failure to immediately identify as an officer seems to be a procedural deviation from what should have occurred or was expected.

Ms. VanLowe noted her concern regarding the officers' failure to directly and clearly identify themselves and acknowledged the safety concerns of the complainants.

Mr. Aguilar asked what the relationship is between FCPD and the DPSC, specifically related to communications issues and how they get resolved. Lieutenant Colonel Lee replied that FCPD and DPSC have a great working relationship and that in this incident, there was no reason to believe a miscommunication occurred. He provided a summary of the incident and noted that the call for service was for a domestic violence situation. Mr. Aguilar noted his concerns with the communications between the DPSC dispatcher and community member who made the 911 call reporting a domestic violence event.

Ms. Doane asked if officers undergo training to consider the totality of the circumstances when on scene for a domestic violence call specifically related to whether or not they should immediately identify themselves as police officers. Lieutenant Colonel Lee replied that every scenario is different, therefore officers need to collect information to make the best decision possible when responding to calls. Ms. Doane referred to FCPD General Order 601.4, which states "responding officers shall identify themselves as officers and explain the reason for their presence."

Ms. Doane thanked the FCPD representatives for their participation.

Panel Deliberations:

Ms. Doane invited the Panel to discuss whether the FCPD investigation was accurate, complete, thorough, objective, and impartial. The Panel openly deliberated.

Panel Findings:

Mr. Bierman moved that the FCPD investigate and analyze the gulf between the plain language of the General Order and the actions taken and to interview the relevant witness named in the complaint and to analyze the scene. Ms. Doane offered a friendly amendment to the motion for the FCPD to conduct other such investigation as warranted. Mr. Bierman accepted the friendly amendment. Mr. Kay seconded the motion. Ms. VanLowe asked which finding the Panel was operating under. Ms. Doane confirmed the Panel was requesting additional investigation by the FCPD per Article IV.E.1.h of the Bylaws. The question was called on the motion as amended, and it carried by a vote of six with Mr. Cluck, Mr. Gallagher, and Mr. Sriskandarajah voting “Nay.”

Approval of Subcommittee Initial Review Report for CRP-20-24:

Ms. Doane recognized Mr. Sriskandarajah to present the subcommittee’s findings. Mr. Sriskandarajah summarized the incident subject of the complaint and informed the Panel that the complainant alleged racial bias and excessive use of force. The Independent Police Auditor will review the allegation related to excessive use of force. He announced that the subcommittee recommended that the Panel undertake a review of the complaint on the allegation of racial bias. Mr. Sriskandarajah moved that the Panel undertake a review of complaint CRP-20-24. Mr. Kay seconded the motion and it carried by unanimous vote.

Ms. Doane asked Ms. Anderson to notify the Panel when the FCPD’s investigation file is ready for review.

Approval of September 10 Meeting Summary:

Mr. Kay moved approval of the Panel’s September 10 meeting summary. Mr. Gallagher seconded the motion and it carried by unanimous vote.

Panel Discussion on Board of Supervisors Action Item and Red-Lined Bylaws:

Ms. Doane informed the Panel that she and Mr. Bierman met with Supervisor Lusk and the Chairman’s chief of staff regarding Panel Members’ concerns with the draft action item, specifically the limitation on the number of public meetings the Panel could host. She noted that there was a concern with the definition of “meetings.” She informed the Panel that the concerns would be taken under consideration and that she would provide language to clarify the definition of “meetings.”

Panel Discussion on September 25 Quarterly Meeting:

Ms. Doane reminded the Panel that she is attending the quarterly meeting scheduled for September 25. She informed the Panel that the following topics will be discussed: FCPD updates to the Panel's recommendations matrix; a recommendation that the Panel hire an executive director; the desire to allow the FCPD representative to present first at review meetings; guidance on handling correspondence where there is no complaint but mental health issues are evident; and an update on hiring permanent legal counsel. She informed the Panel she would get updates on these items and report back.

Ms. VanLowe noted that at past review meetings, the FCPD representative would present the findings of the investigation first. Ms. Doane replied that she would like to inform the quarterly meeting group of the potential change.

Adjournment:

Mr. Kay moved to adjourn the meeting. Mr. Bierman seconded the motion and it carried unanimously.

The meeting adjourned at 9:15 p.m.

Next Meeting: The Panel's next meeting will be held on Thursday, October 8 at 7:00 p.m. The meeting will be conducted electronically and information for public access will be included in the public meeting notice.