

Police Civilian Review Panel

May 27, 2021

Conducted Electronically due to COVID-19 Pandemic

Initial Disposition Subcommittee – CRP-21-05

Members Present:

Frank Gallagher, Review Liaison

Doug Kay, Subcommittee Chair

William Ware, Review Liaison

Others Present:

Rachelle Ramirez, OIPA

NOTE: The Panel’s subcommittee 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 Initial Disposition Subcommittee was called to order at 5:31 p.m.

Motions to Conduct Electronic Meeting: Mr. Kay took roll call to verify a quorum of the Panel’s subcommittee was present and to ensure each subcommittee member’s voice could be heard clearly. He asked each subcommittee member to state their name and the location from which they were participating.

Mr. Gallagher was present and participated from Bethany Beach, Delaware.

Mr. Ware was present and participated from Alexandria, Virginia.

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

Mr. Kay moved that each member’s voice may be adequately heard by each other member of this Panel. The motion was seconded by Mr. Gallagher and it carried by unanimous vote.

Mr. Kay moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the subcommittee 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. He further moved that the subcommittee 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 1-844-621-3956 and entering access code 173 957 7491 as noted in the Public Meeting Notice. Mr. Gallagher seconded the motion and it carried by unanimous vote.

Mr. Kay moved that 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. Gallagher seconded the motion and it carried by unanimous vote.

Completion of Initial Review Report for CRP-21-05:

Mr. Kay described the role of the subcommittee in the review process. He said the subcommittee will examine the allegations in the complaint and compare it to the authority given to the Panel to review serious misconduct and abuse of authority.

Mr. Gallagher said that Complainant (hereinafter "Complainant to the Panel") is in Texas but is complaining about something that happened to an individual who was filing a complaint with the FCPD (hereinafter "complainant to the FCPD") on behalf of another individual. The complainant to the FCPD went to the district station to lodge the complaint and brought the alleged victim, who did not make any comments or statements to the FCPD.

Mr. Kay summarized the allegations made in the complaint. He said the first allegation is that the officers present (a Lieutenant and a PFC) were asked, but failed to provide, a complaint form and the name or Employee Identification Number (EIN) of a third officer to the complainant to the FCPD. Mr. Ware said he understood that the Complainant to the Panel alleged that the officer terminated the complaint when she perceived that the complainant to the FCPD smelled of alcohol. Mr. Kay referenced the complaint email received by the Panel and said that he considered this the second allegation, where there was unprofessional termination of citizen police contact. Mr. Ware noted that there were numerous complaints in the investigative file. Mr. Ware quoted from Panel correspondence to the Complainant that he alleged the officers violated FCPD policies when taking the complaint.

Discussion ensued whether the allegations met the threshold for abuse of authority or serious misconduct. The subcommittee reviewed each of the criteria in the Initial Review Report checklist in regard to the allegation that the lieutenant failed to provide a complaint form. Mr. Gallagher referenced the G.O. 301 and said that she fulfilled her obligation to take the complaint. Mr. Ware said that the Lieutenant was a supervisor and, therefore, was not required to provide a complaint form, according to G.O. 301. The subcommittee found that the Complainant's first allegations did not meet the criteria for abuse of authority or serious misconduct.

The subcommittee reviewed the criteria in regard to the allegation that the Lieutenant was unprofessional in the way she took the complaint, specifically that she alleged the complainant to the FCPD smelled of alcohol. Discussion ensued on the interaction and whether the Lieutenant's actions were rude or unprofessional. Subcommittee members all agreed that the Lieutenants behavior was professional and that there was no serious misconduct of abuse of authority.

The subcommittee discussed the allegation that the Lieutenant and the other officer refused to identify a third officer by name or EIN. Mr. Ware said that the investigative file referenced policy that officers must identify themselves when requested, but this case included a third-party officer who was not present at the location. He said the requirement does not exist and that there could have been misidentification. Subcommittee members agreed that the officers not providing this information was not a violation of FCPD policy, nor did it meet the other criteria in the abuse of authority or serious misconduct checklist.

Mr. Kay moved this subcommittee recommend to the Panel that it not undertake review of CRP-21-05 because the Complaint does not meet the scope of review criteria set forth in Bylaws. Mr. Ware seconded the motion and it carried by unanimous vote.

Mr. Ware stated that while the General Order does not require a FCPD supervisor to provide a complaint form, it may be a good practice to allow the Complainant to write down the complaint in their own words. He said it is in the best interest of all that a form be provided.

Mr. Ware stated that he read in the General Order a list of criteria that should be referred for investigation by the Internal Affairs Bureau, instead of at the station level. He said that FCPD supervisors should be aware of these criteria so they can explain them to members of the public or complainants, when asked.

Mr. Ware said he will make the subcommittee's report to the Panel and may share these comments with the Panel.

Mr. Kay moved to adjourn the meeting. Mr. Gallagher seconded the motion and it carried by unanimous vote.

The meeting adjourned at 6:18 p.m.