
Police Civilian Review Panel

Meeting Agenda

Location:	Fairfax County Government Center – Room 4/5 12000 Government Center Parkway Fairfax, VA 22035
Date:	May 2, 2024
Time:	7:00 pm
Website:	www.fairfaxcounty.gov/policecivilianreviewpanel/

Agenda details:

I. Call to Order

II. Agenda Items

- a. Approval of Agenda
- b. Approval of April 4, 2024 Draft Meeting Summary
- c. Law Enforcement Ethics Training by Panel Liaison
- d. CRP-23-25 - Recommendations Review
- e. Review of proposed edits to Panel Bylaws + Procedures
- f. Panel Vice Chair Election

III. New Business

IV. Adjournment

Panel Meeting Schedule:

- June 6, 2024 at 7:00 p.m.

Panel's Purpose:

The nine-member Police Civilian Review Panel's mission is to enhance police legitimacy and to build and maintain trust between the citizens of Fairfax County, the Board of Supervisors and the Fairfax County Police Department (FCPD) by reviewing certain FCPD investigations to ensure the accuracy, completeness, thoroughness, objectivity and impartiality of the investigation. It is appointed by, and reports directly to, the Board of Supervisors. The Panel is governed both by the bylaws approved by the Board of Supervisors and a code of ethics adopted by the Panel.

Police Civilian Review Panel

April 4, 2024

Fairfax County Government Center

12000 Government Center Pkwy Fairfax, VA 22035

Meeting Summary

Panel Members Present:

Cheri Belkowitz, Chair
Todd Cranford
Fazia Deen
Bryon Garner
Dirck Hargraves
Michael Lau
Celeste Peterson
Janell Wolfe

Others Present:

Sanjida Lisa, PCRP Analyst
Craig Miles, PCRP Liaison
Kenneth Bynum, Counsel (virtual)
Madison Gibbs, Counsel
Lt. Brian Geschke, Internal Affairs Bureau
Lt. Chris Cosgriff, Internal Affairs Bureau
Maj. Ryan Lazisky, Fairfax County Police
Department

Chair Belkowitz called the Police Civilian Review Panel's (PCR) business meeting to order at 7:03 p.m., and after taking attendance, noted the presence of a quorum. She welcomed everyone to the Panel's April 4, 2024, meeting.

Approval of Agenda: Chair Belkowitz amended the meeting agenda to add Item C: Introduction of New Liaison. Mr. Hargraves moved approval of the amended meeting agenda. Mr. Cranford seconded the motion and it carried unanimously.

Approval of March 7, 2024 Draft Meeting Summary: Mr. Hargraves moved approval of the March 7, 2024 draft meeting summary. Ms. Wolfe seconded the motion and it carried unanimously.

Introduction of New Panel Liaison: Chair Belkowitz formally introduced Craig Miles as the new Panel Liaison and invited Mr. Miles to share some words. Mr. Miles briefly provided his background and his excitement to start working with the Panel and on Panel matters.

Chair Belkowitz also presented Mr. Todd Cranford, the immediate past chair of the Panel, with a certificate of appreciation and a small gift to thank him for his leadership and role as Panel Chair.

Closed Session: Ms. Wolfe motioned to go into a closed session. Mr. Hargraves seconded the motion and it carried unanimously. The Panel went into a closed session at approximately 7:20 p.m.

Discussion of Subcommittee CRP-23-25: At approximately 7:36 p.m., the Panel came out of closed session and began discussing CRP-23-25. Ms. Wolfe acknowledged that the Complainant was present

virtually and the person she was advocating for was present at the meeting. Ms. Wolfe provided an overview of the complaint and summarized the findings of the subcommittee. Ms. Wolfe stated that the over-arching issues in her eyes were the lack of communication with the Complainant and the lack of transparency around seeking aid from the Magistrates' office, which she felt had been an ongoing issue since the last full review the Panel had undertaken in 2022. She also referenced the report that was generated from the previous full review, which was approximately 24 pages long, and had been circulated with Chief of Police for the Fairfax County Police Department (FCPD), the Independent Police Auditor, and the Board of Supervisors.

Chair Belkowitz briefly stated the order of the Review meeting and provided reminders on what the Panel would be deliberating on, which was whether the FCPD Internal Affairs Bureau (IAB) investigation of the complaint was complete, accurate, thorough, objective and impartial. After the summary of the complaint, Chair Belkowitz asked the victim if he wanted to make a statement, and the victim deferred to his advocate. The Complainant, or advocate, stated that she and the victim went to the Magistrates' office several times and had significant issues with the entire process. She continued to provide further background into the incident and why they ultimately decided to file a complaint.

Ms. Wolfe asked if the complainant and the victim had received the name of the alleged perpetrator and if they had that information with them when they went to the Magistrates' office. The complainant explained that the officer had informed them that personal identifiable information (PII) does not get shared with the complainants or victims. Mr. Hargraves asked whether second witness sitting in the car had been questioned by the officer or if anyone had followed up with him afterwards and he had not.

Chair Belkowitz invited the IAB representative, Lieutenant Geschke, to provide a statement about the complaint and the investigation process. He briefly went over the incident and the officer response, identified that only one witness was made aware to the officer, and stated that the officer did say he would include statements from the home depot witness but ultimately forgot to include it in his final report. Mr. Garner had a question regarding systemic racism and how it was defined by FCPD to be able to determine whether it was present in a situation or not. Lt. Geschke provided that there is no specific regulation defining that term. Mr. Hargraves questioned whether the officer's citation and arrest records were checked and how they were presenting themselves on social media. Lt. Geschke responded that the officer did not exhibit any derogatory use of race on their social media accounts.

Mr. Lau questioned the officer's failure to communicate with the complainant in a timely fashion, why they were unhelpful with the Magistrates' office, and why they did not do their due diligence and follow up with the store about their camera feed. Mr. Cranford provided that while the officer did not follow up with his job duties properly, he was still professional at the scene and did not think any of his actions or inactions were racially motivated. Ms. Wolfe provided that the complainant and the victim both acknowledged that their complaint did not really allege implicit bias.

Chair Belkowitz had a question about the body worn camera footage and whether the footage was cut off at a certain point or if that was all the footage available. Lt. Geschke provided that the was the entire footage. She also provided that the complainant had submitted a FOIA request with FCPD and received a notification that they could not obtain the information they had requested but still had to pay \$10 for the service, which was something she did not care for. Chair Belkowitz lastly asked whether there was a policy in which the victim needed to identify potential witnesses at the scene of an incident to the officer, as the disposition letter sent to the complainant stated something in opposition to that.

Panel Deliberation and Vote: Chair Belkowitz moved into deliberations and outlined the three different Panel findings from the full Panel review, as stated in the Panel Bylaws Article G.2.a:

- i. Concur with the findings and determination detailed in the Investigation Report;
- ii. Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the FCPD and recommend further review and consideration by the Chief; or
- iii. Advise the Board of Supervisors that, in the Panel's judgment, the Investigation is incomplete and recommend additional investigation.

She reminded the Panel that a majority vote was needed for determination.

Mr. Hargraves moved that the Panel concur with the findings of the investigation report and Mr. Cranford seconded the motion.

Ms. Deen voted yes to concur, with recommendations for the Board of Supervisors.

Mr. Cranford voted yes to concur.

Mr. Hargraves voted yes to concur.

Chair Belkowitz voted yes to concur.

Ms. Wolfe voted yes to concur, with recommendations for the Board of Supervisors.

Mr. Garner voted yes to concur.

Mr. Lau voted no.

Ms. Peterson abstained from deliberations and voting.

The motion carries, with a majority vote of 6 to 1, with one abstention.

Panel members were advised to forward their recommendations to the Panel Liaison for compilation and discussion by the next Panel meeting on May 2, 2024.

New Business: Mr. Miles reminded the Panel of the Use of Force Community Workshop day at the Police Academy on April 25, 2024 from 8:00 a.m. to 4:00 p.m.

Adjournment: Mr. Hargraves motioned to adjourn the meeting. Mr. Cranford seconded the motion and it carried unanimously. The meeting adjourned at approximately 9:13 p.m.



County of Fairfax, Virginia

MEMORANDUM

DATE: May ?, 2024

TO: Fairfax County Board of Supervisors
Chief Kevin Davis, Fairfax County Police Department
Mr. Richard G. Schott, Independent Police Auditor

FROM: Fairfax County Police Civilian Review Panel

SUBJECT: Report of Panel Findings in Case of Complaint No. CRP-23-25

I. Introduction

The Panel held a Review Meeting on April 4, 2024, to review the Fairfax County Police Department (FCPD) Internal Affairs Bureau (IAB) investigation resulting from a complaint alleging that a Fairfax County Police Officer failed to assist the alleged victim of an assault that occurred on August 2, 2022. The complainant also alleged the assault victim's treatment may have been the result of systemic racism. The request for review was submitted to the Panel on December 3, 2023, by the complainant, who was acting as an advocate for the victim. The FCPD IAB investigated the complaint, sent to them on April 12, 2023, and issued a disposition letter, dated October 19, 2023. The letter stated that the FCPD determined the facts did support the complainant's allegation regarding the officer failing to properly document witness information in a police incident report, which was deemed by the FCPD as a violation of department regulations. The letter stated, "As it pertains to the remaining allegations, it was determined that the facts do not support these allegations." The letter stated the officer's actions were lawful and in compliance with FCPD Regulations.

After reviewing the FCPD IAB investigation file and hearing from the complainant and the FCPD at the Panel Review Meeting on April 4, 2024, the Panel voted 6-1, concurring with the findings of the FCPD IAB investigation. The Panel determined the investigation conducted by the FCPD IAB was thorough, complete, accurate, objective, and impartial. However, in this

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Report, the Panel is making recommendations to the FCPD to reduce the likelihood of complaints arising from similar calls in the future.

II. Background Facts

On August 2, 2022, an FCPD police officer responded to a disturbance call at a Home Depot store in Falls Church, Virginia. The call for service was based on a dispute over a handicapped parking space in the Home Depot parking lot. After the officer arrived, he spoke to the victim of the alleged assault. The officer did not speak to the victim's associate, who may have witnessed the assault and was standing next to the victim in the parking lot while the officer was speaking with the victim. The victim said the alleged assailant accosted the victim in the parking lot where the victim's vehicle was parked in a space for handicapped drivers. The assailant challenged the victim, asking to see the victim's handicapped parking placard. The victim said the assailant cursed at the victim and touched the victim's face with a pen during the altercation. The officer asked the victim clarifying questions to determine if the assailant touched the victim with the pen, constituting assault. The victim again said the assailant touched his face with a pen. The officer asked the victim if the assailant used a racial slur, and the victim said the assailant did not. The victim said a Home Depot employee, who was in the parking lot during the altercation, witnessed the entire event.

The police officer spoke to the alleged assailant, who denied touching the victim with a pen. After speaking to the assailant, the officer told the victim the officer could not make an arrest for the misdemeanor assault that did not occur in the officer's presence. The officer advised the victim he could go to the Magistrate's Office and try to obtain a warrant for assault for the assailant. The officer provided the victim with the incident report number and the officer's name. He then told the victim and the assailant they were free to leave the scene.

The officer then went to speak to the Home Depot employee who was present during the altercation. The employee said he witnessed the argument, but he did not see an assault. The officer told the employee that the officer would list the employee as a witness, but the officer would not include personal identifiable information (PII) like the employee's home address and date of birth in the incident report. If the employee was needed for court the officer said he would send a subpoena for him to the Home Depot address. After speaking with the Home Depot employee witness the officer left the scene of the call for service. The officer did not talk to the victim's associate, who was standing next to the victim while the officer was talking to the victim. The officer made no apparent effort to determine if there was video footage of the incident captured by Home Depot's security cameras.

After the victim left the scene of the incident, the victim went to a Magistrate's Office in Fairfax County to attempt to obtain a warrant for assault for the assailant. The Magistrate would not issue a warrant and told the victim he needed to contact the police officer who handled the call for service. The victim went to the Mason District police station and spoke to a Fairfax County Police Civilian Aide (PCA). The PCA said the police officer who responded to the call for

service was not currently available, but the officer would call the victim. The officer never called the victim.

The victim sought the assistance of the Fairfax County National Association for the Advancement of Colored People (NAACP), and the complainant was assigned to assist the victim. On February 10, 2023, the victim and the complainant went to Fairfax County Police Central Records to obtain a copy of the police incident report. The copy of the report received by the complainant and victim did not contain all the information in the report and appeared to be redacted. On February 14, 2023, the complainant went to the Home Depot and spoke to the manager, who said the employee witness no longer worked at Home Depot. On February 15, 2023, the complainant went to the Magistrate's Office and was told by the Magistrate she needed the assailant's name and date of birth to obtain a warrant for the assailant. The Magistrate did not provide her with instructions on how to obtain the complainant's address and date of birth.

On April 12, 2023, the complainant sent a letter to members of the Fairfax County Board of Supervisors, requesting assistance in this matter. Shortly afterward the complainant was informed the FCPD IAB was opening an investigation into the matter. On April 18, 2023, the complainant spoke with Lieutenant Geschke, the FCPD IAB investigator assigned to investigate the matter. The investigator said in similar cases, with a misdemeanor not witnessed by the officer, FCPD policy is to give the victim the officer's name and direct the victim to go to the Magistrate's Office. The Magistrate should then contact the officer. In a subsequent telephone call, the investigator gave the victim the assailant's name, date of birth, and other information necessary for the victim to obtain a warrant for the assailant.

On April 28, 2023, the complainant and the victim went to the Magistrate's Office and completed a criminal complaint. According to the complainant, the Magistrate accessed the police report and said the report did not provide enough information for the Magistrate to issue a warrant against the assailant. Specifically, the Magistrate said the police report contained no information about the victim being assaulted with a pen, and the report did not contain any witness information. According to the complainant, the Magistrate called the Mason District police station to speak to the officer who handled the call for service and completed the report, but the officer was unavailable. The complainant said the Magistrate told the complainant and victim to follow up with the officer or the Commonwealth's Attorney's Office.

On May 5, 2023, Lt. Geschke told the complainant the video footage from the Home Depot was no longer available because it was past the retention date for the video.

III. Procedural Background and Investigative Findings

In a letter dated October 19, 2023, the FCPD informed the complainant and victim the FCPD had completed the investigation of the complaint, dated April 12, 2023. The complaint alleged the officer:

- failed to interview two witnesses
- failed to document the witness's statements in the incident report

- did not accurately document the assault
- gave the victim inaccurate information regarding obtaining a warrant from the Magistrate's Office
- never followed up with the victim after the victim attempted to contact the officer

The complaint also alleged the possibility of systemic racism by the Police Department based on the way the alleged assault was investigated. The FCPD investigation determined the officer did obtain a statement from the Home Depot employee witness, but the officer allegedly forgot to include that statement in the incident report. The FCPD said that even though that statement was not included in the incident report, the statement of the witness conflicted with the victim's account of the incident and would not have assisted the victim in obtaining a warrant. The FCPD investigation found sufficient evidence to support the allegation that the officer did not properly document the interview with the Home Depot employee witness.

The disposition letter from FCPD also said the officer was not contacted by the Magistrate's Office, and the officer did not receive a request to contact the victim. The letter stated that although the officer could have provided a clearer explanation to the victim [about obtaining a warrant from the Magistrate], the officer's actions in not providing the alleged assailant's PII was reasonable and not a violation of policy.

In response to the allegation of systemic racism by the FCPD influencing the assault investigation, the FCPD said the investigation revealed no derogatory statements by the officer during the assault investigation, and they proclaimed that race did not impact the officer's decisions. The FCPD said they also conducted an analysis regarding racial bias as it pertained to the officer, using statistics from February 1, 2021, to August 2, 2022. The FCPD said, "The statistical analysis did not support the claim of systemic racism." They added the officer's "actions were lawful and in compliance with FCPD Regulations."

The complainant was advised that she and the victim could seek a review of the FCPD IAB investigation by the Police Civilian Review Panel. The complainant made a formal request for review by the Panel on a Complaint Form dated December 3, 2023.

A subcommittee of the Panel met on March 4, 2024, to discuss the request for a review of the FCPD IAB investigation, assigned case number by the Panel. On the date of the meeting, each Panel subcommittee member had previously reviewed the FCPD IAB investigation file. After discussion by the subcommittee, they agreed to recommend during the March 7, 2024, meeting of the Panel that the full Panel review the allegation. The eight-member Panel [there was one vacant seat at the time of the meeting] met on March 7, 2024, and agreed to conduct a full panel review of the investigation during the April 4, 2024, Panel meeting.

IV. Panel Meeting and Finding

The victim was present in-person, and the complainant was present via Microsoft Teams for the full Panel Review on April 4, 2024.¹ Also, the investigator and two additional members of the FCPD IAB were present. Lieutenant Geschke was the primary spokesperson for the FCPD IAB. Panel Vice-Chair Wolfe summarized the findings of the subcommittee and what was observed on the body-worn camera footage of the call for service. Wolfe also described what happened after the call for service and prior issues the Panel has attempted to address with the Magistrate's Office and members of the community attempting to obtain warrants.

The victim, who was physically present, was given the opportunity to share with the Panel his version of the events and why he filed the complaint. The victim deferred to the complainant, who was acting as the victim's advocate, and had spoken at the March 7, 2024, meeting. The advocate said that the Magistrate's office is the main issue in this case, and she had gone with the victim to the Magistrate's Office several times after the initial call for service. The complainant said she realized the police officer is not allowed to give the alleged assailant's PII to the victim. A Panel member asked if the complainant and the victim went to the Magistrate's Office after being provided with the alleged assailant's PII. A Panel member asked if the victim's associate, who may have witnessed the incident, had ever been interviewed and if the victim had been poked in the face with a pen by the alleged assailant. A Panel member asked about the Magistrate calling the police officer and the officer allegedly not being available when that call was placed.

Lieutenant Geschke spoke about the investigation conducted by FCPD IAB. Geschke provided a brief overview of the call for service at the Home Depot. Geschke said the officer only identified one witness [the Home Depot employee]. Geschke said the officer spoke to the Home Depot witness but forgot to include the statement by the employee in the incident report. A Panel member asked Geschke how the FCPD determined there was no systemic racism as outlined in their disposition letter to the complainant and victim. Specifically, the Panel member asked if FCPD policy or regulations defined systemic racism. Geschke was not aware of any policy or regulation that defined systemic racism.

After public deliberation, the Panel voted with a 6-1 majority that the investigation was accurate, complete, thorough, objective, and impartial. Based on the review of the investigation file, specifically the body-worn camera footage and statements made by the victim concerning the officer, the Panel found no evidence of racism on the part of the officer. The scope of one incident is not sufficient to support or reject systemic racism by the FCPD.

Members of the Panel and the complainant do, however, have recommendations to improve the process of citizens obtaining warrants from the Magistrate's Office after a call for service. The Panel recognizes the Magistrate's Office is independent of the FCPD and part of Virginia's

¹ There was one vacant seat on the Panel at the time of the review. In addition, one Panel member had not reviewed the FCPD IAB investigation file and was prohibited from engaging in discussion of the case or voting during the April 4, 2024, meeting.

judicial system, but changes in police practice would make the process of obtaining a warrant easier for victims and possibly reduce complaints to the FCPD.

Recommendations include amending Section 204.16 of FCPD Regulation 204 to state,

1. “Officers shall personally accompany a complainant to the Magistrate’s Office,” to assist the complainant with attempting to obtain a warrant. Exceptions would be authorized by a police supervisor, in the interest of public safety, because of more pressing issues like serious pending calls or emergencies.
2. If the officer does not accompany the complainant to the Magistrate’s Office, the supervisor shall follow up with the complainant at least one time to schedule a convenient time during a future scheduled duty shift where both the officer and complainant can go to the Magistrate’s Office.
3. Officers need to tell complainants that the Magistrate’s Office requires PII of the alleged offender to issue an arrest warrant. Officers should explain the Magistrate’s Office is separate from the FCPD and explain the issuance of a warrant is a decision of the Magistrate, based solely on the Magistrate’s determination probable cause exists that a crime was committed.
4. The FCPD should develop a card or other handout to give to complainants with the information listed above so that victims of crime, who may be in shock or confused, can reference the information later.
5. Lastly, roll call, in-service, or other training should be conducted reminding officers of the importance of following up with complainants who wish to obtain a warrant from the Magistrate’s Office.

An audio recording of the April 4, 2024, Panel Review Meeting may be reviewed here:

[Stream Police Civilian Review Panel Meeting with Closed Session \(April 4, 2024\) by fairfaxcounty | Listen online for free on SoundCloud](#)

On May 2, 2024, the Panel discussed this Finding Summary; an audio recording of that meeting may be reviewed here:

CC: Complainant

BYLAWS OF THE FAIRFAX COUNTY POLICE CIVILIAN REVIEW PANEL

Approved by the Board of Supervisors on July 11, 2017

Accepted by the Police Civilian Review Panel on August 3, 2017

Amendments Approved by the Board of Supervisors on October 16, 2018, November 19, 2019, December 1, 2020, February 23, 2021, July 27, 2021, ~~and~~ July 19, 2022, and June 7, 2024

ARTICLE I. NAME¹

The name of this organization is the **Fairfax County Police Civilian Review Panel** (also known as the "PCRP" or the "Panel").

ARTICLE II. PURPOSE

The Board of Supervisors, pursuant to Virginia law, established the Panel on December 6, 2016, to enhance police legitimacy and to build and maintain public trust between the Fairfax County Police Department ("FCPD"), the Board of Supervisors and the public. The Panel will:

- A. Review certain Investigations to ensure the thoroughness, completeness, accuracy, objectivity, and impartiality of the ~~Investigations~~ Investigations;
- B. Provide an independent process for commencing an Initial Complaint against the FCPD or its officers; and
- C. Make recommendations on law enforcement policies, practices, and procedures to assist the FCPD Chief of Police ("Chief") and Board of Supervisors in policy review.

The Panel shall report directly to the Board of Supervisors.

ARTICLE III. COMPOSITION OF THE PANEL AND TERM OF OFFICE FOR PANEL MEMBERS

A. Composition and Qualifications.

1. The Board of Supervisors shall appoint each Panel Member.

¹ Certain terms used in these Bylaws are defined in the attached Exhibit A incorporated herein by this reference.

2. The Panel shall be comprised of nine Fairfax County residents with expertise and experience relevant to the Panel's responsibilities. At least one Panel Member shall have prior law enforcement experience other than as a member of the FCPD or the [Fairfax County Sheriff's Office \(FCSO\)](#).
3. The Board of Supervisors shall endeavor to create an independent and fair body giving due consideration to the following factors, among others: ~~it may choose:~~ community and civic involvement; diversity; law enforcement and/or criminal investigative experience; reputation in the community; geographical representation; and other factors designated to ensure a balanced Panel representative of Fairfax County.
4. No Panel Member may be a current employee of Fairfax County, a current or former member of the FCPD or the FCSO, have a relative (i.e., an immediate or extended family member) who is a member of the FCPD or FCSO, hold public office, or be a candidate for public office.

B. Terms of Service.

1. Panel Members shall be appointed for three-year terms, except for the inaugural Panel (which shall have terms as described below) and may be appointed to no more than two consecutive terms.
2. Panel Member terms shall be staggered.
3. With respect to the inaugural Panel, three Panel Members shall be appointed for three-year terms, three Panel Members shall be appointed for two-year terms and three Panel Members shall be appointed to a one-year term.
4. The Panel Members of the inaugural Panel are eligible to be appointed to a second three-year term upon expiration of the Panel Member's initial term.

C. Resignations, Removals and Vacancies.

1. Panel Members serve at the pleasure of the Board of Supervisors.
2. The Chair [or Panel Liaison](#) shall notify the Board of Supervisors if a Panel Member is absent from three consecutive Panel meetings or is absent from five Panel meetings in any calendar year (unless the absence is for good reason as determined by the Chair).
3. Any Panel Member may resign from the Panel at any time by delivering written notice of termination to the Board of Supervisors with a copy to the Chair. The resignation will be

effective upon receipt, unless an effective date of the resignation is specified in the notice.

4. The Board of Supervisors may appoint a new Panel Member for the unexpired Panel Member term resulting from a vacancy that occurs for any reason.

ARTICLE IV. CHAIR, VICE CHAIR, OTHER OFFICERS AND COMMITTEES

A. The Initial Chair and Vice-Chair.

The Board of Supervisors may choose to designate one of the Panel Members as the initial Chair. At a time agreed by the Panel Members, the Panel shall elect the initial Vice-Chair.

B. Succession; Annual Election of Officers; Vacancies.

1. Unless the Panel Members agree otherwise by majority vote, the Vice-Chair shall succeed to the Chair position upon expiration of the Chair's term.
2. Panel Members shall elect the Vice-Chair and other officers (as determined by the Panel Members) who shall be responsible for those functions as assigned by the Panel and the Chair.
3. All Panel officers shall be elected at the first meeting of each calendar year. Unless the Panel Members agree otherwise by majority vote, terms of office for Panel Officers shall be for one year, effective March 1st of each calendar year.
4. No Panel Member may serve successive terms as Chair.

5. If there is an officer vacancy, to include the Vice-Chair, the Panel may elect a replacement officer at any time after the vacancy occurs to serve the balance of the unexpired term.

~~5-6.~~ If the Chair position becomes vacant prior to the end of the Chair's term, the Vice-Chair shall become the Chair for the remainder of the previous Chair's term and then one for one year after that.

~~6-7.~~ Before the election of any replacement officer, the Chair or Vice-Chair shall provide the Panel Members with at least two weeks written notice (electronic or otherwise) of the proposed election before the meeting at which the replacement is to be elected.

~~7.8.~~ Election of Panel officers must take place in a meeting duly called as provided for in Article V.

C. Duties of the Chair and Vice-Chair.

1. The Chair shall:

(a) Preside over all Panel meetings at which the Chair is present;

~~(b) Act as a liaison between the Panel and (i) the Board of Supervisors, (ii) the FCPD, and (iii) the Auditor, as needed;~~

~~(c)~~ (b) Serve as the Panel's official spokesperson;

~~(d)~~ (c) Oversee the preparation of the Panel's Annual Report described in Article IX.B;

~~(e)~~ (d) Perform any other duties as the Panel may delegate; and

~~(f)~~ (e) Delegate any of these duties to other Panel Members.

2. The Vice-Chair shall:

(a) Preside over Panel meetings in the absence of the Chair; and

(b) Perform any other responsibilities delegated by the Chair or requested by the Panel.

3. Panel Committees:-

(a) The Panel may establish as many committees as the Panel deems necessary to perform the Panel's duties. All Panel committee meetings shall comply with the notice and other requirements of the Virginia Freedom of Information Act ("VFOIA").

ARTICLE V. QUORUM, VOTING, AND MEETINGS

A. Quorum.

At any Panel meeting, the presence of five Panel Members shall constitute a quorum. Any Panel meeting may be adjourned from time to time by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

B. Voting.

The vote of a majority of Panel Members present at a meeting with a quorum is necessary for the Panel to take ~~an~~ action. Notwithstanding the previous sentence, the affirmative vote of a majority of all Panel Members is required to approve Panel Findings ~~and~~ the Annual

Report. All votes of Panel Members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy. All Panel Members who are present at a meeting, including the Chair, may vote at any meeting.

Commented [BPC1]: Did we want to clarify whether the vote will be a roll call vote? Ken stated that the vote on the last case be recorded by member vote.

C. Meetings.

1. The Panel shall meet as often as necessary to conduct Panel business.
2. All Panel Meetings shall be conducted in accordance with VFOIA, and, except for closed sessions, all Panel Meetings shall be open to the public.
3. All Panel Meetings shall be preceded by a Panel Meeting Notice, and, except for emergency Panel Meetings, a Panel Meeting Notice shall be published at least three working days before the Panel Meeting. Notice, reasonable under the circumstances for emergency Panel Meetings, shall be given contemporaneously with the notice provided to Panel Members.

4.

~~5-4~~ Panel Meeting Notices shall be:

- (a) provided to the Office of Public Affairs for posting at the Government Center and on the County Internet site, and
- (b) placed at a prominent public location where notices of other public notices are posted and by the Clerk of the Board of Supervisors/Office of the Police Civilian Review Panel.

~~6-5~~ All Panel Meetings shall be conducted in:

- (a) places that are accessible to persons with disabilities;
- (b) public buildings whenever practical; and
- (c) accordance with Robert's Rules of Order, Newly Revised (except as otherwise provided by Virginia law or these Bylaws).

~~7-6~~ Except as specifically authorized by VFOIA, no Panel Meeting shall be conducted through telephonic, video, electronic, or other communication means where the Panel Members are not all physically assembled to discuss or transact public business.

Commented [BPC2]: Do we want to say that other accommodations and/or language translation services will be provided with 5 days advanced notice to the Panel?

Commented [CM3R2]: We should make every effort to accommodate people, but I think that might be problematic if we are not able to make the accommodation with a 5 day notice.

~~8-7~~ At any Panel Meeting, at least one copy of the agenda and, unless exempt from disclosure under VFOIA, all materials furnished to Panel Members shall be made available for public inspection at the same time the documents are furnished to the Panel Members.

9.8. Any person may photograph, film, record, or otherwise reproduce any portion of a Panel Meeting required to be open, but no person broadcasting, photographing, filming, or recording any open Panel Meeting may interfere with any of the proceedings.

10.9. The Panel shall keep minutes of its Panel Meetings, and those minutes shall include:

- (a) the date, time, and location of each meeting;
- (b) the Panel Members present and absent;
- (c) a summary of the discussion on matters proposed, deliberated, or decided; and
- (d) a record of any votes taken.

11.10. The Panel meeting minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media.

12.11. The Panel may ~~hold meetings specifically to~~ solicit and receive public comment and answer questions about any matter relating to law enforcement policies, practices, and procedures up to six times annually. As long as all applicable VFOIA requirements are followed, the Panel may ~~receive and respond to comments from members of the public at monthly meetings not to exceed three (3) minutes, except at the discretion of the Chair, which may be sponsored by the Panel or others, annually, sponsored by the Panel or by others, where the public is invited to comment.~~

ARTICLE VI. PANEL AUTHORITY TO REVIEW INVESTIGATIONS AND REVIEW PROCEDURES

A. Scope of Panel Review Authority.

1. The Panel shall review Investigations to ensure their thoroughness, completeness, accuracy, objectivity, and impartiality where (1) the subject matter of an Investigation is an allegation of “abuse of authority” or “serious misconduct” by an FCPD officer, and (2) a Review Request is filed. The Panel shall not review:
 - (a) alleged misconduct that is subject to the exclusive review by the Auditor;
 - (b) any Complaint related to an incident that occurred before December 6, 2016;
 - (c) an Initial Complaint that is filed more than one (1) year after the date of the incident that is the subject of the Investigation (unless the Panel determines that there is good cause to extend the filing deadline);

Commented [BPC4]: Do we want to identify that the OPCRP is responsible for taking minutes at every meeting?

Commented [CM5R4]: I think something that specific can be placed in the procedures.

Commented [RR6]: A timeline to consider - does the Panel want to extend this?

(d) a Review Request filed more than sixty (960) days after the date of the FCPD notice sent to the complainant that informs the complainant of the completion of the FCPD's investigation of the complainant's Initial Complaint (unless the Panel determines that there is good cause to extend the filing deadline); or

Commented [RR7]: Does the Panel want this to be a longer timeframe - like 90 days or more?

Commented [MC8R7]: I agree. 60 days is not that long and seems restrictive for the complainants.

(e) a Complaint concerning matters that are subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding; or any complaints from Fairfax County employees that are subject to any process, proceeding or appeal as set forth in the County's Personnel Regulations or that are subject to the Police Department's General Orders 310.1, 310.2, or 310.3.

Commented [MC9]: Are these General Orders still applicable? It appears that GO 310, effective May 4, 2022, replaced 310.2.

Commented [RR10R9]: No these are outdated. I think 310 and 311 together cover this.

2. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.

3. Where a Complaint alleges misconduct within both the Panel's scope of authority and the Auditor's scope of authority, the Panel and the Auditor shall each conduct a review of the Investigation within their requisite scope of authority. The Auditor and Panel Liaison shall coordinate the work of the Panel and Auditor to ensure efficient use of resources and avoid duplication of effort. If the matter cannot be divided between the Auditor and the Panel in an efficient manner, then the Auditor shall conduct the review of all portions of the investigation.

4. If there is a conflict in the scope of authority between the Auditor and the Panel, then the matter shall be resolved by the Auditor and the Panel Liaison.

B. Definition of "Abuse of Authority" or "Serious Misconduct".

For purposes of determining the Panel's authority to review an Investigation, "Abuse of Authority" or "Serious Misconduct" by an FCPD police officer includes, but is not limited to:

Commented [BPC11]: These are defined terms, so I think they should be capitalized.

Commented [MC12]: From previous suggested edits sent to me by Rachelle

1. the use of abusive racial, ethnic or sexual language or gestures;
2. harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability;
3. acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self defenseself-defense;
4. reckless endangerment of detainee or person in custody;

- 5. violation of laws or ordinances; or
- 6. other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, which may occur that occur both on- or off-duty.

C. The Complaint.

1. Content and Filing of a Complaint.

- (a) An Initial Complaint and a Review Request shall be in writing and shall be deemed filed when delivered or emailed to the Office of the Police Civilian Review Panel ("OPCRP") or the Office of the Independent Police Auditor ("OIPA") or the Panel Liaison.
- (b) A Complaint shall contain:
 - (i) identifying information for the person filing the Complaint and a statement of whether the complainant wishes to remain anonymous;
 - (ii) a statement describing the reasons for the Review Request, unless the Complaint is an Initial Complaint;
 - (iii) the specific concerning police behavior of concern;
 - (iv) a description of the incident in which the behavior occurred; and
 - (v) a list of the names, addresses and phone numbers of all witnesses to, or persons with knowledge of, the incident known by the complainant.
- (c) The Panel shall immediately forward an Initial Complaint to the FCPD for investigation. The FCPD shall complete its investigation and provide an Investigation Report to the Panel. The FCPD shall complete its investigation and provide the OPCR and Panel access to the FCPD Investigative File within sixty (60) days of the issuance of the disposition letter. The Panel shall extend the 60-day period upon request of the Chief to protect an ongoing criminal or internal administrative investigation, or for other good cause, with notice to the complainant and the Board of Supervisors.

D. Initial Review and Disposition.

1. Initial Review

- (a) The Panel will determine if it has authority to review the subject Investigation, taking into account whether the underlying Complaint:
 - (i) is timely filed; or
 - (ii) is a Review Request of alleged misconduct that is subject to exclusive review of the Auditor.

Commented [RR13]: There has been some discussion in the past about receiving anonymous complaints and whether identifying information should be required?

Commented [MC14R13]: Should we add "or the victim" to cover cases where anonymous complainants file on behalf of a victim?

Commented [RR15]: This is not defined.

Commented [RR16]: It was originally conceived that an Investigation Report would be prepared by the FCPD and provided to the Panel. There is no such report. There is only the FCPD disposition letter to the complainant and the FCPD making the Investigative file available to the Panel to review.

There are timelines associated with Receipt of the Investigation Report - see my comments and definitions section.

Suggest considering new language - maybe "The FCPD shall complete its investigation and provide the OPCR and Panel access to the FCPD Investigative File..." within a certain timeframe from completing the investigation.

Commented [MC17R16]: I added your language.

Commented [RR18]: Current process is that the Panel must check on investigations every 60 days and then grant an extension - which is then communicated to the Complainant and the BOS.

Should this time frame be extended - what is reasonable for most FCPD investigations to conclude?

When should the Panel check back on the status of investigation?

Commented [RR19]: When should the Panel let the complainant know that the investigation is still ongoing?

Can the requirement to report to the BOS be changed? Maybe report after 120 days if an invest is still ongoing?

Or could the Panel provide one report to the BOS per quarter with an update on the length of FCPD investigations?

Or only report to the BOS if the Panel is concerned about the length of time the FCPD is taking to investigate or not providing status updates to the Panel?

- (b) The Panel shall conduct an ~~initial R~~review of each Review Request which may be conducted by the Panel as a whole or by subcommittee. and may conduct the initial R review as a committee of the whole or by subcommittee.
2. Initial Review Subcommittee Authority and Composition
- (a) The Panel Chair may designate subcommittees (“Initial Review Subcommittee”) comprised of Panel Members to conduct ~~initial R~~reviews of Review Requests filed by community members with the Panel.
- (b) An Initial Review Subcommittee shall be comprised of at least three Panel Members (with rotating membership).
- (c) The ~~Subcommittee Panel Chair~~ shall ~~select~~designate one ~~Subcommittee Panel Member~~ to serve as chair of the Initial Review Subcommittee.
- (d) The Subcommittee shall conduct, in accordance with written duties established by the Panel, an initial review of the subject Complaint to determine whether the Complaint meets the minimum criteria for review and consideration by the full Panel.
3. Initial Review Subcommittee Process and Report to the Panel
- (a) The Subcommittee shall review a Complaint to determine whether:
- (i) The Complaint alleges Serious Misconduct or Abuse of Authority as defined in these Bylaws; and
- (ii) The evidence contained in, ~~or absent from,~~ the investigative file could lead a reasonable Panel ~~Member~~ to conclude that there is sufficient ~~evidence to support the allegations~~basis for a Full Panel Review.
- (b) A unanimous Subcommittee vote shall be required to determine that a Complaint does not meet the criteria set forth in these Bylaws, and thus recommends that the Complaint not be considered by the full Panel.
- (c) A member of the Subcommittee, designated by the Subcommittee chair, shall provide a summary of the Subcommittee’s deliberations and recommendation at such time as the Panel considers the subject Complaint.
- ~~(d)~~ The full Panel will consider the recommendation from the Subcommittee and vote to determine whether it accepts ~~the~~a Review Request and will ~~conduct~~s a Full Panel Review Meeting.
- ~~(e)~~ At the request of the Panel, or if the Complainant attends and requests an opportunity to be heard during the Initial Review process, the Complainant may speak to the Panel, or a subcommittee thereof, during any meeting where their Complaint is on the agenda. The Complainant, or their representative, shall have the opportunity to state the reasons for filing the Review Request, and the Panel,

or a subcommittee thereof, may ask questions of the Complainant regarding those reasons.

- (f) The Panel may not accept new evidence or testimony from the Complainant.
- (g) The Complainant's statement may not exceed fifteen (15) minutes, except with permission of the Subcommittee Chair.
- (h) Panel members who are not members of the Subcommittee may also have an opportunity to review the investigative file.

(1)

4. Initial Disposition Notice

- (a) Within 30 days of the Panel's vote on whether the Complaint qualifies for review by the full Panel, the Panel shall send an Initial Disposition Notice to the complainant with the Panel's determination of its authority to undertake a review of the subject Investigation.
- (b) If the Panel determines that the Panel does not have authority to review the subject Investigation, the Initial Disposition Notice shall state the reasons for the Panel's decision.
- (c) Where the Panel finds that a review of the subject Investigation is warranted, the Initial Disposition Notice shall include a description of the review process, a deadline for completion of the review, and a date for the Panel Review Meeting.
- (d) If the underlying Complaint alleges police misconduct that requires the Auditor's review, the ~~Panel~~ OPCRP shall (i) promptly forward the matter to the Auditor and (ii) send an Initial Disposition Notice to the complainant explaining the reasons for the referral.

Commented [RR20]: I think this timeline makes sense assuming this no longer is associated with Receipt of Investigation Report.

Commented [RR21]: Should this be OPCRP or Liaison?

E. Pending Proceedings.

- 1. If at any point in the review process the Panel learns that the matters of a Review Request are the subject of pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding, the Panel shall:
 - (a) Immediately suspend its review;
 - (b) defer the review pending resolution of the criminal, civil, or administrative proceeding by the trial court;
 - (c) notify the complainant and the Board of Supervisors, in writing, of any deferrals; and
 - (d) track any deferred matter and notify the complainant and the Board of Supervisors once the proceedings are closed and the request for review may proceed.

Commented [MC22]: Administrative hearing may not occur in a trial court.

2. The panel may request assistance of Counsel, the Panel Liaison, the Chief, or the County Attorney in making its determination that matters of a Review Request are the subject of pending proceedings.
3. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until ~~any~~all administrative appeals are resolved.

F. Panel Review Meetings to Review Investigations.

1. Additional Requirements for Panel Review Meetings.

In addition to the requirements for Panel Meetings generally set forth in Article V.C., Panel Review Meetings shall be conducted as follows:

- (a) If the Panel determines it has authority to review an Investigation under ~~Article~~ VI.A.1, the Panel shall convene a Panel Review Meeting to review an Investigation as to which a Review Request has been submitted within sixty (~~60~~ 90) days of ~~Receipt of the Investigation Report, the Panel's vote to review.~~
- (b) The Panel Review Meeting Notice shall not only comply with Article V.C.4., but shall also include a statement inviting any person with information about the Investigation or the incident that is the subject of the Panel Review Meeting to submit the information in writing to the Chief or the ~~Liaison~~OPCRP.
- (c) Notwithstanding Article V.C.4, Panel Review Meeting Notices shall be published and sent to Panel Members, ~~the Auditor,~~ the FCPD Internal Affairs Office, the County Attorney's Office, ~~the Panel's Counsel,~~ and the complainant at least fourteen (14) days before the Review Meeting.
- (d) The Panel may conduct as many Panel Review Meetings as the Panel deems necessary to complete the requested review.
- (e) The Panel shall not take testimony or receive evidence.
- (f) At the request of the Panel or if the Complainant attends and requests an opportunity to be heard at the Panel Review Meeting, the ~~C~~ecomplainant or their representative shall have the opportunity to state the reasons for filing the Review Request, and the Panel may ask questions of the ~~C~~ecomplainant or their representative regarding those reasons. ~~The Panel shall submit to the FCPD contact information for those persons who were not interviewed with a request for further investigation of the matters under review.~~
- (g) At the request of the Panel Chair, an FCPD representative knowledgeable of the Investigation under review shall appear before the Panel at a Panel Review Meeting (as determined by the Panel) to review and answer questions from the

Commented [RR23]: See definition on last page. I think this change means that the timeline starts when the Panel votes to conduct a full Review, and is no longer tied to when the Panel members first reviewed the FCPD investigative file.

Also, with increase from 60 to 90 days, the Panel will have the next two business meetings to conduct the Review Meeting (when the timeline is 60 days they have to conduct at the next month meeting or schedule an additional meeting that does not fall on 1st Thursday of the month).

Commented [MC24R23]: That makes sense to me.

Commented [RR25]: Since the Auditor is no longer the one sending this notice, can we receive the notice?

Commented [MC26R25]: Yes.

Commented [MC27]: The procedure lists the Panel's Counsel

Commented [MC28]: Should we do this if the person wishes to remain anonymous? Maybe we change "shall" to "should"

Commented [BPC29]: Or "who participated in the Investigation"??

Panel about the Investigation, including all findings of fact, evidence collected and received, witness statements and action taken or not.

- (h) At the Panel's discretion, it may request further investigation by the FCPD, and the FCPD shall, within a reasonable time, conduct further investigation and provide to the Panel a supplemental report that details the findings of the additional investigation.
- (i) Translation services will be provided for a complainant or other person ~~that who~~ needs translation assistance to present to the Panel or respond to questions from Panel Members.

Commented [MC30]: Do we wish to make this 90 days and allow for an extension, with language similar to that used earlier?

2. Closed Sessions, and Confidential Matters During Panel Review Meetings.

- (a) The Panel may conduct portions of any Panel Meeting (including Panel Review Meetings) in closed session, so long as the purpose for and conduct of the closed session is consistent with VFOIA.
- (b) Any statement made by a FCPD police officer to the FCPD that the FCPD required under the provisions of *Garrity v. New Jersey*, 385 U.S. 493 (1967), shall not be disclosed in public. The Panel shall have confidential access to the entire statement for its review. Unless the FCPD officer consents to the public release of the entire statement given during an Investigation, the FCPD representative(s) presenting information to the Panel on a Complaint may publicly state only that the officer admitted or denied the allegation.
- (c) Panel Members shall not reveal the identity of (i) any juvenile, or (ii) victim of sexual assault (unless authorized to do so by the victim in writing).
- (d) Each Panel Member who reviews a FCPD officer's personnel record or a FCPD internal administrative investigative case file shall sign a Notice of Confidentiality affirming that an officer's personnel record and those portions of the investigative case file reflecting officer discipline, other officers, confidential informants, victims, or witnesses, personal information including names, social security numbers, dates of birth, driver's license numbers, agency-issued identification numbers, student identification numbers, criminal or employment records, shall not be disclosed or disseminated unless the information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia Law.
- (e) Portions of records of law-enforcement agencies, including the FCPD, that contain specific tactical plans or investigative procedures, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public, shall also not be disclosed or disseminated unless such information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the

Commented [BPC31]: Dare I add: "whether in-person or remotely"??

Commented [CM32R31]: You can. I don't know if it is necessary. The current language isn't restrictive.

Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia law.

- (f) If information subject to the Panel's review concerns an identifiable juvenile, the requested information shall first be forwarded to the County Attorney's Office for redaction in conformance with Code of Virginia §16.1-301, as amended.

G. Disposition of Review Requests.

1. Timely Completion.

- (a) The Panel shall complete the review of an Investigation and issue a public written report detailing the Panel Findings (defined below) within ninety (90) days of Receipt of the Investigation Report completing the review.
- (b) The Panel may extend the deadline for completion for good cause. The Chair shall report all deadline extensions (and the reason for the extension) to the Board of Supervisors. The Panel shall send written notice to the complainant, if the deadline for completion is extended. The notice shall include an approximate date for completion.

Commented [RR33]: Again - see my comment on the last page re: definition of Receipt of Investigation Report.

This gives the Panel at least 2 regular business meetings to discuss/review/approve the Panel's Review Report and for the Report to be published.

Commented [MC34R33]: I agree.

2. Panel Findings.

- (a) Upon completing a requested Investigation review, the Panel may reach one of the following Panel Findings:
 - (i) Concur with the findings and determination detailed in the Investigation Report FCPD Investigative file;
 - (ii) Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the FCPD and recommend further review and consideration by the Chief; or
 - (iii) Advise the Board of Supervisors that, in the Panel's judgment, the Investigation is incomplete and recommend additional investigation.
- (b) If the Panel Finding is either (ii) or (iii) above, the Board of Supervisors may direct the Chief to take further action as the Board of Supervisors deems appropriate.
- (c) A majority of the appointed Panel Members must concur in the Panel Findings for the Panel Findings to be the authorized conclusion of the Panel.
- (d) The Chair may assign to one or more Panel Members concurring in the conclusions of the Panel Findings or the Panel Liaison the responsibility for drafting the Panel's

Commented [RR35]: Consider changing language to FCPD Investigative file?

final review report that shall be sent to the complainant, the Board of Supervisors, the Chief and the Auditor.

ARTICLE VII. RECOMMENDATIONS FOR REVISIONS TO FCPD POLICIES, TRAINING AND PRACTICES

A. Review of Law Enforcement Policies and Practices.

1. The Panel may recommend to the Chief and the Board of Supervisors revisions to FCPD policies, practices, and procedures that the Panel concludes are needed.
2. The Panel may conduct up to six **Public Comment Meetings** annually, where it solicits and receives public comment **and or** answers questions **about any matter** relating to law enforcement policies, practices, and procedures. Such public meetings may be sponsored by the Panel or by others, and they must meet applicable VFOIA requirements.

B. Meetings with the Auditor.

The Panel may meet periodically with the Auditor concerning the findings and recommendations of the Auditor as to use of force cases so that the Panel can provide the Panel's view to the Board of Supervisors and the Chief as to changes in policies and practices that may be warranted.

ARTICLE VIII. OTHER DUTIES OF PANEL MEMBERS

A. Training.

All Panel Members shall complete all training mandated by the Board of Supervisors, which may include police ride alongs. The Panel shall determine the calendar for the presentation and completion of the required training. The Panel shall conduct other training as it determines would be helpful.

B. Confidentiality.

Each Panel Member shall maintain the confidentiality of all confidential or privileged information that Panel Members receive during service on the Panel.

C. Conflicts of Interest.

Panel Members shall avoid conflicts of interest with the provisions of Chapter 31 – State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100, *et seq.* A Panel Member shall consult with counsel to the Panel if the Panel Member believes that the Panel Member has or may have a conflict of interest with respect to a matter that the Panel will consider. A Panel Member with a conflict of interest shall not participate in or vote on the matter.

D. Communications.

1. Only the Chair or the Chair’s designee shall make public statements on behalf of the Panel. The primary means for the Panel to communicate to the public shall be the Panel’s written reports that are approved by a majority of the Panel Members.
2. Except as expressly authorized by the Chair in furtherance of a Panel Member’s duties, Panel Members shall make diligent efforts to avoid individual discussion of a matter before the Panel with any person with an interest in the matter, including but not limited to a complainant, a witness to events giving rise to a complaint, or an FCPD officer that is the subject of a Complaint. The Panel Member shall inform the Chair if any interested party communication occurs and provide the Chair with any information about the communication that the Chair requests.

2-3. Each panel member shall receive a Fairfax County email address by which to conduct Panel business and communications. All Panel-related communications must be maintained according to VFOIA.

E. Review of FCPD Investigative File

1. All Panel Members shall review FCPD Investigative case files prior to panel meetings to review investigations associated with those case files.
2. Panel members who have not reviewed case files shall not participate in Panel discussions or vote on matters involving cases they have not reviewed.

ARTICLE IX. RECORDKEEPING; ANNUAL REPORT

A. Recordkeeping.

1. All Panel meetings, including Panel Review Meetings and Public Comment Meetings, but excluding closed sessions within a Panel Meeting, shall be recorded and records maintained in accordance with the Library of Virginia Records Retention and Disposition Schedule.
2. The ~~OPCRPAuditor~~ shall maintain a copy of all Complaints together with the reports detailing the disposition of each Complaint.

Commented [RR36]: Can "the Auditor" be removed from here as we are not going to be responsible to maintain copies of Panel complaints and the disposition. Suggest Office of the Police Civilian Review Panel (OPCRP) be the responsible entity.

B. The Annual Report.

1. The Panel Liaison shall prepare the Annual Report describing the Panel's activities for the reporting year, including any recommendations to the Board of Supervisors, Auditor, and the Chief for revisions to FCPD policies, training, and practices that the Panel concludes are needed.
2. The Annual Report must be approved by a majority of the appointed Panel Members before the Annual Report is released publicly.
3. The Panel shall deliver the Annual Report to the Board of Supervisors through the Auditor-Panel Liaison and the Chair of the Board's Public Safety and Security Committee. The Annual Report shall then be released to the public.
4. The initial Annual Report of the Panel shall be due on March 31, 2018. Subsequent Annual Reports shall be published in accordance with this section no later than March 1st of each year.

Commented [RR37]: Should the Panel Liaison's role in preparing the Annual Report be described here?

Commented [RR38]: If this was changed to March 31 of each year, the Panel will have one additional business meeting (1st Thursday of the month) to approve the Annual Report.

Commented [MC39]: Is this the current due date?

Commented [RR40R39]: Yes, the Panel has had a deadline for the Annual report each year on March 1 (that's when the next Panel Chair term starts). The Annual Report had been tied to the Chair term (Mar 1 - Feb 28) that described activities of the Panel as led by that Chair.

ARTICLE X. COMPLIANCE WITH LAW AND COUNTY POLICY; CONFLICTS OF LAW AND POLICY; PANEL IMMUNITY

A. Compliance with Law and County Policy.

The Panel, and each Panel Member, and the Panel Liaison shall comply with all Virginia laws, including, but not limited to, VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 through 2.2-3131, as amended, all County ordinances, the Panel Code of Ethics and with all County policies concerning the activities of its boards, authorities, and commissions.

B. Conflicts of Law and Policy.

These Bylaws are not intended to conflict with Laws or policies of the Board of Supervisors. To the extent there is a conflict between any Law or any other resolution or matter passed by the Board, and these Bylaws, the Law or Board action shall govern.

C. Panel Immunity.

Panel Members and Liaison shall enjoy the protection of sovereign immunity to the extent allowed and provided under Virginia law whether common law or statutory, including, but

not limited to, the Virginia State Government Volunteers Act, Virginia Code §§ 2.2-3600, *et seq.*, and the provisions of Virginia Code § 15.2-1405.

ARTICLE XI. DUTIES OF THE COUNTY EXECUTIVE AND BOARD OF SUPERVISORS

A. The County Executive.

1. The County Executive shall cause the attendance of any County employee, other than the involved officer(s), at any Panel meeting whose appearance is requested by the Panel, unless the required attendance violates a statutory or constitutional right of the employee.
2. The County Executive shall cause the submission (from any County agency including the FCPD) of any relevant documents or other relevant materials requested by the Panel, including the full FCPD internal administrative investigative case file, unless legal privilege to withhold exists and is not waived.

B. The Board of Supervisors.

1. The Board of Supervisors may conduct a review of the Panel at any time, except that the initial review shall be conducted within six months of receipt of the Panel's first annual report.
2. The Board of Supervisors shall ensure the Panel and Panel Members, as necessary, have the benefit of legal counsel.

3. The Board of Supervisors shall appoint ~~an Executive Director~~ a Panel Liaison for the Panel. Among other duties as assigned, the Panel Liaison will:

- a. Act as a liaison between the Panel and (i) the Board of Supervisors, (ii) the FCPD, and (iii) the Auditor, as needed;
- b. Plan and organize the work of the Police Civilian Review Panel, advise the chair and its members, and carry out its directives;
- c. Serve as the Panel's spokesperson when necessary, with the approval of the Chair;
- d. Assist with the preparation of the Panel's annual report described in Article IX.B;
- e. Train new Panel members in the by-laws and provide clarification to the Panel as required on matters related to these items;
- f. Review FCPD investigative files pertaining to complaints and summarize the investigations and findings for the Panel
- g. Recommend training opportunities for Panel members;

h. Ensure Panel member participation meets the expected conduct as defined in by-laws.

i. Assess Panel member activities to maintain compliance with by-laws, code of ethics, and general expectations.

~~Among other duties as assigned, the Executive Director will review and summarize all Police Department investigations before the Panel undertakes its review. The Executive Director also will provide administrative support to the Panel.~~

~~3.~~

ARTICLE XII. EFFECTIVE DATE OF THE BYLAWS; AMENDMENT OF THE BYLAWS

A. Effective Date of the Bylaws.

The Bylaws shall become effective upon approval by the Board of Supervisors.

B. Amendment of the Bylaws.

These Bylaws may be amended by the Panel by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to the Bylaws shall become effective upon approval of the Board of Supervisors.

Exhibit A

DEFINED TERMS

The following terms used in these Bylaws of the Fairfax County Police Civilian Review Panel mean the following:

Abuse of Authority has the meaning assigned to the term in Article VI.B.

Annual Report means the written annual report the Panel shall deliver to the Board of Supervisors as described in Article IX.B.1.

Auditor means the Fairfax County Independent Police Auditor.

Board of Supervisors means the Board of Supervisors of Fairfax County.

Bylaws means the Bylaws of the Fairfax County Police Civilian Review Panel

Chief means the FCPD Chief of Police.

Complaint means collectively, unless the context otherwise indicates, an Initial Complaint and a Review Request.

Counsel means the legal counsel that the Board of Supervisors designates to support the Panel.

FCPD means the Fairfax County Police Department.

FCSO means the Fairfax County Sheriff's Office.

Initial Complaint means a complaint from any person about the FCPD or its officers that has been first submitted to the Panel and not the FCPD.

Initial Disposition Notice means the notice that the Panel sends to a complainant detailing the Panel's disposition of the Review Request after the ~~Initial #R~~review described in Article VI. ~~D.C.2.~~

Initial Review means the process when the Panel considers whether the full Panel should review the subject investigation based on the allegations made and whether there is substantiation in the file to support the allegations.

Investigation(s) means a FCPD internal administrative investigation.

Investigative File means the investigation report, together with all correspondence, interviews, memoranda, audio and video recordings and any other materials compiled by FCPD and part of its investigation of a Complaint

Investigation Report means the completed written FCPD report setting forth the findings of the investigation.

Laws means collectively any Virginia or Fairfax County law, ordinance, regulation, resolution, or other Fairfax County policy duly authorized by the Board of Supervisors.

Meeting(s) has the meaning assigned to the term in VFOIA and includes work sessions, when sitting physically, or through telephonic or video equipment, as defined in VFOIA, as a body or entity, or as an informal assemblage of (i) as many as three Panel Members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Panel means the Fairfax County Police Civilian Review Panel.

Panel Findings means those conclusions that the Panel can adopt in response to a Review Request that are delineated in Article VI.F.2(a).

Commented [RR41]: This fixes a reference error when the Bylaws were changed in July 2022

Commented [MC42R41]: Thank you.

Commented [RR43]: Consider adding a definition on Initial Review

Commented [RR44]: This Definition was included in the Panel's Procedures manual. You may want it included in the Bylaws in addition to or instead of the Investigation Report definition.

Commented [RR45]: I don't believe this Report exists but is the FCPD Investigative file made available for the Panel and OPCRP to review.

Panel Meeting means a meeting of the Panel.

Panel Meeting Notice means the written notice stating the date, time, and location of a Panel Meeting.

Panel Member(s) means each of the persons that the Board of Supervisors appoints to the Panel.

Panel Review Meeting means a Panel Meeting where a Review Request is reviewed by the full Panel, including a Panel Meeting where a complainant or FCPD representative is present to discuss an Investigation.

Panel Review Meeting Notice means the Panel Meeting Notice for a Panel Review Meeting.

Public Comment Meeting(s) means a Panel Meeting open to the public conducted on issues within the Panel's jurisdiction and on law enforcement policies and practices where the public is invited to comment on such issues and policies and practices.

Receipt of the Investigation Report is deemed to occur at the first Panel meeting subsequent to FCPD making an Investigation Report available to the Panel in response to a Review Request.

Review Request means a person's request for the Panel to review an Investigation.

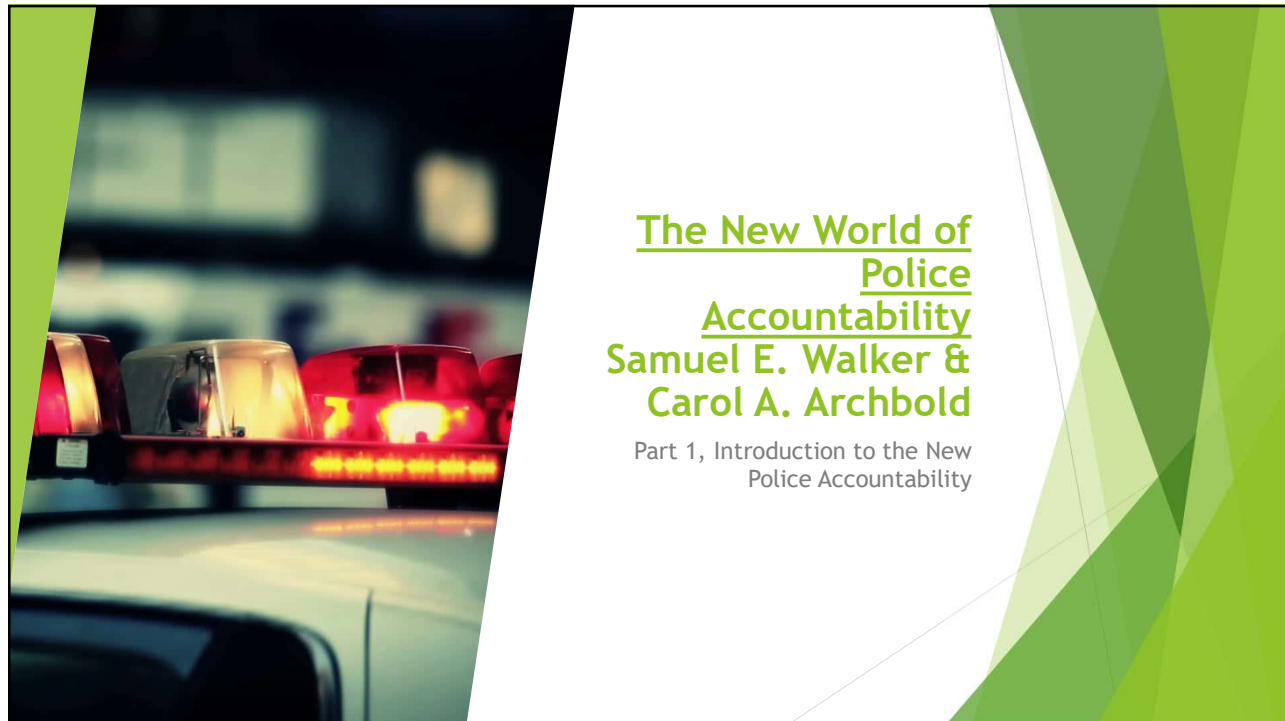
Serious Misconduct has the meaning assigned to the term in Article VI.B.

VFOIA means the Virginia Freedom of Information Act, as amended from time to time.

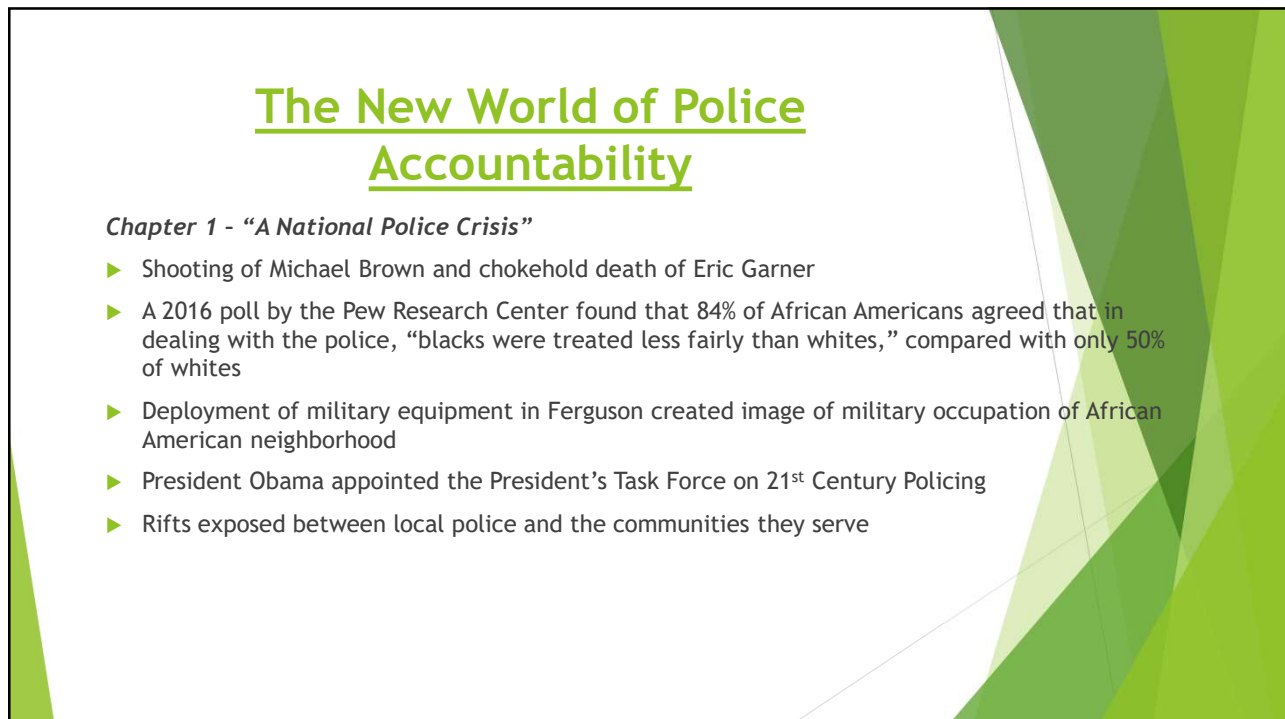
Commented [RR46]: This fixes an error as this was meant to be a Public Comment Meeting (not a Public Meeting which is every meeting of 3 or more Panel members)

Commented [MC47R46]: Thank you.

Commented [RR48]: Receipt of the Investigation Report has been interpreted to mean first FULL Panel meeting after the subcommittee members or any Panel member goes to review the FCPD investigative file. This starts other timelines:
60 days to conduct full Panel Review Meeting
90 days to publish a Review Report



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The New World of Police Accountability

- ▶ Questions about “hot spot policing”
- ▶ Skeptics warn police abuses seem inevitable in programs targeting high crime places which are always communities of color
- ▶ Police unions have been brought into question because often act as obstacles to police accountability
- ▶ Some contracts give officers 48 hours to as much as 10 days of a waiting period before officers can be interviewed by a police supervisor
- ▶ Other contracts allow purging of disciplinary files after three years or in some cases after one year

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The New World of Police Accountability

- ▶ Cell phone videos show misconduct now, like in the case of Walter Scott in North Charleston, South Carolina
- ▶ Feeling under attack, some police officers and union leaders backing away from aggressive crime fighting police tactics, known as “depolicing”
- ▶ Justice Department (DOJ) has investigated numerous police departments and reached consent decrees with some
- ▶ Consent decrees, which are judicially enforced, require police departments to adopt accountability related reforms
- ▶ Attorney General Sessions canceled the existing Collaborative Reform Initiative at DOJ
- ▶ [Office of Public Affairs | Justice Department Announces Expansion of Technical Assistance Services Offered to Law Enforcement Agencies Through the Collaborative Reform Initiative | United States Department of Justice](#)

Office of Public Affairs | Justice Department Announces Expansion of Technical Assistance Services Offered to Law Enforcement Agencies Through the Collaborative Reform Initiative | United States Department of Justice link is not part of the text, but is provided as an update

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The New World of Police Accountability

- ▶ Series of reports by the Police Executive Research Forum (PERF) caused development of policies to control officers' use of force
- ▶ Policies including using de-escalation; tactical decision making, which includes assessing and reassessing situations as they develop; move to scenario-based training
- ▶ Consent decree related reforms include filing of use of force reports and a use of force review board
- ▶ Rodney King
- ▶ Police accountability has two dimensions - holding agencies accountable; holding individual officers accountable

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The New World of Police Accountability

- ▶ Authors say courts are the principal mechanism for holding the police accountable to the law
- ▶ Majority of white and middle-class Americans willing to tolerate abusive police conduct toward powerless groups, because they believe will reduce crime
- ▶ New concept is police legitimacy - people more likely to obey the law when they believe those enforcing it have legitimate authority to do so
- ▶ **PTSR - Policy, Training, Supervision, Review**
- ▶ Agencies should have clear and detailed policies around critical incidents
- ▶ Policies should structure discretion
- ▶ Policies have opening statements on basic principles, like the Seattle Police Department use of force policy

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The New World of Police Accountability

- ▶ Policies on foot pursuits are newer
- ▶ Police departments also now place their policies on the internet [Prince William and Fairfax Counties]
- ▶ Reporting of critical incidents is crucial element of accountability
- ▶ Inadequate reporting of the use of force invalidate Early Intervention Systems
- ▶ Much more time spent in defensive tactics and firearms training than in communication skills and de-escalation; the same is true of ethics training
- ▶ De-escalation: Process whereby an officer uses verbal and nonverbal tactics to guide an encounter with a member of the public away from aggressiveness and confrontation and toward a peaceful resolution of the situation

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The New World of Police Accountability

- ▶ Change from the traditional warrior culture, that encourages officers never to back down, to a guardian mindset emphasizing respectful treatment and active communication with people the police encounter
- ▶ A commander with the Los Angeles Police Department explained that in the past we, “told recruits to sit down shut up and listen for six months.” Today we want “self motivated independent community motivated critical thinkers and problem solvers.”
- ▶ Sergeants are responsible for directly observing their officers, supporting and backing them up, monitoring their actions, and directly intervening when necessary or appropriate
- ▶ Additionally, sergeants are responsible for critically reviewing officers’ reports make sure they are complete and truthful
- ▶ Review procedures are designed to ensure the other components of the PTSR framework continue to function effectively

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The New World of Police Accountability

- ▶ Review takes several forms, both internal and external, to include a use of force review board and an early intervention system
- ▶ One of the most important themes in the new accountability is the focus on organizations rather than individual officers changing the organization
- ▶ Also involves changing the organizational culture of the police department and the police officer subculture
- ▶ Organizational culture involves police practices that are a result of the official policies of department
- ▶ The police officer subculture, on the other hand, refers it to practices that are the result of the attitudes and informal understanding among the police officer rank and file
- ▶ Professional organizations are data driven
- ▶ No evidence that punishment is a deterrent

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The New World of Police Accountability

- ▶ 1970s Knapp Commission which is associated with Frank Serpico
- ▶ 1994 the Mollen Commission addressed police corruption in NYC again

Chapter 2, "The Accomplishments and Limits of Traditional Police Reforms"

- ▶ The Four Eras of Police Reform
 1. The Professionalism Era, 1900-present
 2. The Supreme Court and Civil Rights Era, 1950-present
 3. The Community Policing and Problem-Oriented Policing Era, late 1970s-present
 4. The Era of Accountability, 1991-present
- ▶ Prior to professionalism era, policing was political

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The New World of Police Accountability

- ▶ Officers used force freely and without consequences
- ▶ Force primarily directed against powerless: the poor, drunks, African-Americans, radical political agitators
- ▶ Move to professionalization never addressed basic issue of effectively controlling police officer conduct in their contacts with members of the public or serious effort to curb discrimination by police officers
- ▶ 1960s Supreme Court decisions and Civil Rights movement exposed shortcomings of professionalism movement
- ▶ In Southeastern states, where segregation prevailed until the mid-1960s, the police and entire criminal justice system served to maintain racial caste system
- ▶ 1968 Kerner Commission found that some police chiefs rejected all complaints
- ▶ Community policing advocates rejected professionalization because police organizations were closed bureaucracies isolated from and unresponsive to public

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The New World of Police Accountability

- ▶ Mapp v. Ohio - exclusionary rule
- ▶ Miranda v. Arizona
- ▶ For years civil rights advocates thought that lawsuits would cause change
- ▶ Criminal prosecution has been an extremely weak instrument of accountability historically
- ▶ Blue ribbon commissions study problems in depth, have the best experts, and make clearly focused recommendations for change, but have no power to implement changes
- ▶ President's Crime Commission and Kerner Commission found that some police departments did not accept complaints

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The New World of Police Accountability

Advocates of civilian review of complaints say they contribute to accountability

1. Investigations more independent, objective, and thorough than Internal Affairs
2. Sustain more complaints
3. Will result in more discipline of officers
4. More discipline will deter further misconduct
5. More disciplinary actions result in better policing and more citizen satisfaction
6. Better policing and more satisfactory complaint process produce higher citizen satisfaction