

ATTACHMENT 1

Adopted by the Board of Supervisors: XXXX, 2016

Implementation Plan for the Recommendations of the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission

The Board of Supervisors (the “Board”) has reviewed the recommendations of the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission (“the Commission”).

The Board embraces the goal of recommending changes, consistent with Virginia law that will help Fairfax County achieve its goal of maintaining a safe community, enhance a culture of public trust, and ensure that policies provide for the fair and timely resolution of police-involved incidents.

Furthermore, in reviewing those recommendations, as organized by the *Ad Hoc Police Practices Review Commission Report Recommendations Assignment and Tracking Spreadsheet* (the “Spreadsheet”) as IOV&I 1 through 24, the Board directs the County Executive and the Chief of Police (the “Chief”) as follows:

1. IOV&I-1; IOV&I-3; IOV&I-4: The Police Department and Commonwealth Attorney are designated as the Approving Authority for these recommendations. The Chief is directed to contact the Commonwealth Attorney to discuss the legality and practicality of these recommendations and report back to the Board in writing no later than December 1, 2016 with his findings.
2. IOV&I-2 through 2a: As these recommendations have a budgetary component and the committee report does not provide an explanation detailing the necessity of these positions, the Board requests that the Commonwealth Attorney provide information on whether these positions are needed, what they would cost, or whether the task could be completed with current resources.
3. IOV&I-5: The Police Department is designated as the Approving Authority for this recommendation and the Chief is directed to report back to the Board in writing no later than XXXX, 2016 regarding actions taken to implement this recommendation.
4. IOV&I-6; IOV&I-7: The Commonwealth Attorney is designated as the Approving Authority for this recommendation and the CA is requested to report back to the Board regarding actions taken and whether or not these recommendations would be implemented.
5. IOV&I-8: The Board endorses this recommendation and establishes the Office of Independent Police Auditor. This Office would report directly to the Board of Supervisors and would provide oversight in cases of police use of force that lead

to serious injury or death, including officer involved shootings. The Board directs the County Executive to release necessary funds not to exceed \$XXXX from the fund, Unclassified Administrative Expenses (this fund contains \$2.4 million and with the FY17 Budget adoption was designated as the placeholder for Ad-Hoc Commission related priorities) for the creation of this position

6. IOV&I-2b; IOV&I-8a through 8f; IOV&I-9 through 17: These recommendations deal with the roles and responsibilities of the Independent Police Auditor position. The position will report directly to the Board of Supervisors. Incorporating the spirit and text of these recommendations, the Fairfax County Department of Human Resources drafted Attachment A, the advertisement for the position. The Board directs the Director of Human Resources to release the advertisement of the position by November 1, 2016.
(IOV&I – 8f and 9a are not included in the draft ad as they do not relate to the position description – they also need to be vetted by an attorney on legality. The other recommendations related to the Auditor position are incorporated via spirit if not exact language).
7. IOV&I-18: The Board endorses this recommendation and directs the County Executive to establish a Police Civilian Review Panel which will report directly to the Board of Supervisors, through the Chair of the Board's Public Safety Committee. Staff resources will be provided through XXXX. (This would need a designated staff liaison like every other BAC). This panel would respond to community concerns or complaints about alleged incidents of abuse of authority by the Fairfax County Police Department as is outlined in more detail in Attachment B.
8. IOV&I-18a through 23: These recommendations speak to the scope, organization, process and reporting of a Civilian Review Panel (the "Panel") and are addressed in Attachment B. The Board endorses the structure outlined for the Panel in Attachment B, "Scope, Organization and Process of the Police Civilian Review Panel."
9. IOV&I-24: The Board declines to re-establish, every five years, an Ad Hoc Police Practices Review Commission, but endorses the intent of the recommendation to enhance community engagement and provide for an environment where review and improvement is an ongoing and consistent process.

Revisions may be made to this implementation plan, subject to approval by the Board.

**INDEPENDENT POLICE AUDITOR
FAIRFAX COUNTY GOVERNMENT
DRAFT AD**

ABOUT THE COUNTY

Formed before the Revolutionary War, Fairfax County was home to many of America's earliest statesmen, including George Washington of Mount Vernon and George Mason of Gunston Hall. It is one of the premier centers of technology in the United States. Located just west of the nation's capital, Fairfax County is the most populous jurisdiction in the Commonwealth of Virginia. It has a large, diverse and dynamic economy, and is home for eight Fortune 500 companies, more than 400 international owned firms, and the largest concentration of technology jobs of any major U.S. market. Minority-, women-, and veteran-owned businesses make significant contributions to the economy and add diversity to the business community.

The County offers residents an excellent environment in which to raise and educate their children. The Fairfax County Public School System and area private schools offer parents numerous education options. Fairfax County is also a leader in higher education, where five major colleges and universities, including the main campus of George Mason University, are located. Northern Virginia Community College – the largest community college in the Commonwealth of Virginia – has two campuses in Fairfax County. The community has a wealth of cultural and recreational resources that provide abundant opportunities for children to learn and grow.

Governed by a 10-member Board of Supervisors, and managed by the County Executive, Fairfax County government consistently achieve high praise for fiscal stability, quality service and technological sophistication. With over \$3.9 billion in general fund revenues, Fairfax County maintains an exceptional Triple-A bond rating from three leading rating agencies – Moody's Investor Services, Standard and Poor's, and Fitch Investor Service.

FAIRFAX COUNTY'S VISION ELEMENTS

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County by:



Maintaining Safe and Caring Communities

The needs of a diverse and growing community are met through innovative public and private services, community partnerships and volunteer opportunities. As a result, residents feel safe and secure, capable of accessing the range of services and opportunities they need, and are willing and able to give back to their community.



Building Livable Spaces

Together, we encourage distinctive "built environments" that create a sense of place, reflect the character, history and natural environment of the community, and take a variety of forms -- from identifiable neighborhoods, to main streets, to town centers. As a result, people throughout the community feel they have unique and desirable places to live, work, shop, play and connect with others.



Connecting People and Places

Transportation, technology and information effectively and efficiently connect people and ideas. As a result, people feel a part of their community and have the ability to access places and resources in a timely, safe and convenient manner.



Maintaining Healthy Economies

Investments in the workforce, jobs, community infrastructure and institutions support a diverse and thriving economy. As a result, individuals are able to meet their needs and have the opportunity to grow and develop their talent and income according to their potential.



Practicing Environmental Stewardship

Local government, industry and residents seek ways to use all resources wisely and to protect and enhance the County's natural environment and open space. As a result, residents feel good about their quality of life and embrace environmental stewardship as a personal and shared responsibility.



Creating a Culture of Engagement

Individuals enhance community life by participating in and supporting civic groups, discussion groups, public-private partnerships and other activities that seek to understand and address community needs and opportunities. As a result, residents feel that they can make a difference and work in partnership with others to understand and address pressing public issues.



Exercising Corporate Stewardship

Fairfax County government is accessible, responsible and accountable. As a result, actions are responsive, providing superior customer service and reflecting sound management of County resources and assets.

THE POSITION

The purpose of the Independent Police Auditor position is to provide for the independent review of investigations conducted by the Fairfax County Police Department of the use of force by its officer which result in death or serious injury to ensure that the investigations are thorough, complete, accurate, objective and impartial. The Auditor will also provide an accessible, safe, impartial fully independent and responsive intake venue for use of force complaints against the Police Department and its employees. This position is responsible for ensuring accountability, fairness, transparency and trust in the Police Department complaint system by conducting reviews of citizen complaints of misconduct, internal affairs investigations of misconduct and the Police Department's

policies and practices relating to the handling of citizen complaints. The Independent Police Auditor is appointed by, reports directly to and serves at the pleasure of the Board of Supervisors for a term not to exceed 4 years. The Auditor will be provided with adequate budget and staff, and have full access to the information and documents necessary to meet his/her responsibilities.

Specifically, the Independent Police Auditor is responsible for the following:

- Review of police department internal affairs investigations
- Review of Officer Involved Shootings
- Review of Police Department Policies and Procedures
- Independent Investigation of Citizen Complaints

Duties (not all inclusive) aligned with the responsibilities are:

- Plans, organizes, and supervises the work of the Office of the Independent Police Auditor in the review of Police Department investigations of complaints against police officers to determine if the investigation was complete, thorough, objective, and fair;
- Reviews all citizen complaint investigations alleging excessive or unnecessary force by officers and 20% of other complaints;
- Reviews all citizen complaint investigations whose results are unacceptable to the complainant;
- Requests the Chief of Police to further investigate cases, which, upon review, the auditor does not find thorough or objective;
- Produces annual reports to the Board of Supervisors and the County Executive, analyzing trends and patterns and recommending improvements to the process, training needs, and other preventative measures;
- Prepares, as part of the annual report, a statistical breakdown, categorically documenting the number of complaints filed, the number sustained, and any action taken;
- Prepares oral and written presentations to the Board of Supervisors;
- Conducts complex program performance audits;
- Determines the audit scope and adequacy of audit methods;
- Identifies areas of inquiry capable of being developed into audit findings and develops audit procedures;
- Meets with community leaders, public officials, and professional organizations to inform and promote the mission of the Police Department;
- Works with the Office of the County Executive to track, analyze, and recommend action on legislative bills which may have an impact on the citizen complaint process;
- Provides occasional training to police officers and recruits on a time frame determined in consultation with the Police Department;
- Oversees and manages the office's budget.

- Conducts investigations of matters referred to it by the Civilian Review Panel
- Meets with the Civilian Review Panel to review the Auditor's work and issues concerning the Police Department's use of force

THE CANDIDATE:

The successful candidate will be knowledgeable and competent in all the following areas:

- Member in good standing with a state bar;
- Extensive experience and knowledge in legal matters;
- The ability to work with elected officials, and is expertly skilled in political astuteness, and have the ability to be apolitical;
- Extensive and demonstrated experience in working with various boards, citizen advisory/review committees and other civilian oversight committees
- Ability to work directly with individual citizens not necessarily associated with an organization
- The ability to foresee and plan for emerging trends in public safety;
- The ability to build trust, and foster strong collaborative relationships
- Proven ability to assure the integrity of the work products, processes, investigative procedures, and establish neutrality;
- The capacity to work in partnership with a broad spectrum of stakeholders, build and sustain those partnerships;
- Expertise in conducting investigations, analyzing data, and make recommendations based on findings;
- Proven ability to manage an operation within a large and complex organization;
- Possess exceptional oral and written communication skills, compose documents and present data in a clear and concise manner to diverse audiences;
- The ability to work well with a diverse population as well as a diverse workforce;
- The ability to work under pressure and tight deadlines;

KEY COMPETENCIES

In addition to the qualifications and identified characteristics outlined above, the following competencies are critical attributes to the position:

- Knowledge of community policing;
- Exceptional ability to listen and process a multitude of data points and develop plans of action;
- Knowledge of the organization, responsibilities, functions, policies, and procedures of local law enforcement;
- Knowledge of the principles, practices, methods, and techniques of communication and public relations, management, and organizational budgeting;
- Knowledge of sound supervisory and managerial principles and practices, to include planning, delegating, and supervising the work of subordinates;

- Knowledge of the techniques of law enforcement training, instruction, and evaluation of work performance;
- Knowledge of the fundamentals of criminal and administrative investigations including interviewing and interrogating principles and techniques;
- Knowledge of current case law and statutes in the criminal law field and familiarity with penal and evidence codes and other related authorities;
- Knowledge of legal research principles;
- Knowledge of generally accepted accounting and auditing principles and standards.

MINIMUM QUALIFICATIONS:

A law degree from an accredited college or university, plus ten years of knowledge and experience in criminal or labor law. Must be experienced in or knowledgeable of investigations, legal reach, and analyzing criminal, constitutional, labor or civil rights law.

CERTIFICATIONS AND LICENSES REQUIRED:

- Valid license to practice law in the State of Virginia
- Valid driver’s license

NECESSARY SPECIAL REQUIREMENTS:

This position requires the appointee to submit to a criminal background check and a credit history check as a condition of employment and periodically thereafter. Completion of a “Statement of Economic Interest” form is required at the time of hire and annually thereafter.

Has not been a sworn law enforcement officer including but not limited to police officer, reserve officer, probation officer, patrol officer, or DEA agent) for at least ten years prior to appointment as the Independent Police Auditor.

Does not have any immediate family members (defined as spouse, parent, sibling, child, or grandparent) who are currently sworn law enforcement officers with any law enforcement department/agency.

Has never been an employee of Fairfax County.

It is the policy of Fairfax County Government to prohibit discrimination on the basis of race, sex, color, national origin, religion, age, veteran status, political affiliation, genetics, or disability in the recruitment, selection , and hiring of its workforce.

Reasonable accommodations are available to persons with disabilities during application and/or interview processes per the Americans with Disabilities Act. Contact 703-324-4900 for assistance. TTY 711. EEO/AA/TTY.

ATTACHMENT B

Scope, Organization and Process of the Police Civilian Review Panel

- A) **Scope:** (Taken from the Ad Hoc Police Practices Review Commission Report Recommendations Assignment and Tracking Spreadsheet (the “Spreadsheet”) and the Independent Oversight and Investigations Subcommittee Final Report, (“IOISR”). Incorporates from the Spreadsheet: IOV&I-18, IOV&I-19, and IOV&I-19a)

Fairfax County shall establish a Civilian Review Panel (“Panel”) to review civilian complaints concerning alleged Fairfax County Police Department (“FCPD”) misconduct. An individual may file a complaint with the Panel, or request the Panel to conduct a review of a completed internal FCPD investigation concerning alleged “abuse of authority” or serious misconduct by a Fairfax County police officer.

The Panel shall define the terms “abuse of authority” and “serious misconduct,” subject to ratification by the BOS. Such definitions could include excess use of force; use of abusive, racial, ethnic, or inappropriately sexual language during interactions with the public; violations of civil rights including profiling based on personal characteristics protected by federal, state, or local law; reckless endangerment of a detainee or person in custody; or other serious violations of FCPD policies or procedures.

Matters subject to review by the Independent Police Auditor shall be ineligible for review by the Panel.

- B) **Panel Membership:**

Recommendation of the Independent Oversight and Investigations Committee. Incorporates from the Spreadsheet: IOV&I-18a, IOV&I-18b, and IOV&I-18c.

The Panel shall consist of seven citizens and two alternates appointed by the Chairman of the Board of Supervisors and approved by the Board. Members shall reside in Fairfax County with expertise and experience relevant to the Panel’s responsibilities; additional considerations should include community and civic involvement, diversity, law enforcement and/or criminal investigative experience, reputation in the community, and other factors designed to ensure a balanced Panel representative of Fairfax County. No Panel member shall be a current or former employee of Fairfax County, shall hold a public office, or shall have a relative who is a member of the FCPD. One of the Panel members shall have prior law enforcement experience (other than as a member of the FCPD).

Proposal from Supervisor Cook:

The Panel shall consist of nine members. To ensure independence, four shall be appointed by the Board of Supervisors and five (one each) by the following organizations: (1) Northern Virginia

Chamber of Commerce, (2) Fairfax County Federation of Citizen Associations, (3) A civil rights organization (such as the NACCP or ACLU), (4) Fairfax Bar Association, (5) A police membership organization (such as the Fraternal Order of Police). No Panel member shall hold a public office and current law enforcement officers shall be ineligible. Members appointed by the Board and Police Organizations shall not be former employees of Fairfax County. Former FCPD employees shall be ineligible for five years after the end of their FCPD employment.

Board members are encouraged to submit additional proposals, which will be circulated prior to the July 19 Committee meeting.

C) **Term of Panel:** (Recommendation of the Independent Oversight and Investigations Committee. Incorporates from the Spreadsheet: IOV&I-18a)

Panel members shall serve for a term of three years. A Panel member may be appointed to no more than two consecutive terms. Terms shall be staggered, and the Panel members shall elect one of their members to serve as Chair of the Panel.

D) **Bylaws:**

The initial Panel shall draft its own Bylaws, which shall be subject to approval by the Board of Supervisors. All amendments to the Panel's Bylaws must be approved by the Board of Supervisors.

E) **Process:** (Adapted from the recommendations of the Independent Oversight and Investigations Committee. Incorporates from the Spreadsheet: IOV&I-19b, IOV&I-19c, IOV&I-20, IOV&I-20a, and IOV&I-20b)

The Panel shall refer any complaint within its scope to the Fairfax County Police Department (FCPD) for review. Within 60 days of receipt of the complaint, absent good cause, FCPD shall provide to the Panel a public report outlining its findings. The Panel shall provide an extension if requested by the Chief of Police in order to protect an ongoing criminal or internal affairs investigation. Should a review of a completed FCPD investigation and report be desired, the request must be filed within 60 days of the report being provided to the Panel.

Upon receipt of the FCPD report, the Panel may, in its discretion, schedule a public hearing to review the FCPD investigation. If it does, then both the complainant and the FCPD, including involved FCPD personnel, shall have the right to present evidence to and testify before the Panel. All testimony shall be under oath and any party testifying shall have the right to choose be represented by counsel. FCPD and any and all other County government agencies shall produce to the Panel any documents requested, unless legal privilege is claimed. County employees shall appear and testify at any such hearing with written notice, delivered at the employee's place of work, without need for further service of process. (This is under review by counsel). The Panel shall endeavor to complete its review of any matter before it within 90 days - (IOV&I-21 recommends 60 days) -, unless good cause exists for more time, such as a delay due to a pending criminal or internal affairs investigation or the unavailability of a key witness.

F) Reporting: (Adapted from the recommendations of the Independent Oversight and Investigations Committee. Incorporates from the Spreadsheet: IOV&I-21, IOV&I-22, and IOV&I-23)

The Panel shall issue a written report of its findings and recommendations concerning all complaints and reviews of investigations, within 60 days of the filing of a request for review. The Panel shall also issue an Annual Report each calendar year, describing its activities for the reporting year and any recommendations, including revisions to FCPD policies, training, and practices, arising out of its reviews.

Additionally, the Independent Police Auditor shall make quarterly reports on its work during the preceding quarter and meet with the Panel upon request.

These reports shall be delivered to the BoS through the Chair of the Board's Public Safety Committee, and shall simultaneously be released to the public.

DRAFT