

**Police Civilian Review Panel**

March 1, 2018

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members present:

Hansel Aguilar

Adrian Steel, Panel Chair (Outgoing)

Kathleen Davis-Siudut

Rhonda VanLowe, Panel Chair (Incoming)

Steve Descano

Others present:

Hollye Doane

Julia Judkins

Doug Kay, Panel Vice-Chair (Incoming)

Rachelle Ramirez

Randy Sayles

Major Gervais Reed

Jean Senseman

Richard Schott

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

Meeting Summary Approval: Mr. Kay moved to approve the meeting summary from the Panel's February 1 meeting. Ms. Davis-Siudut and Mr. Sayles jointly seconded the motion, and it carried by unanimous vote.

Election of Officers: Ms. VanLowe was nominated as Chair and Mr. Kay was nominated as Vice-Chair. There were no additional nominations from the floor. Mr. Steel moved that Ms. Rhonda VanLowe serve as the Panel Chair in 2018 and it carried by unanimous vote. On motion by Mr. Steel and carried by unanimous vote, Mr. Doug Kay was elected to serve as Panel Vice-Chair in 2018.

Recognition of Service: Ms. VanLowe expressed her gratitude to Mr. Steel for his service as Panel Chair for its first year, and particularly for helping the Panel bring to life the processes outlined in the Board of Supervisors action item and the Panel's Bylaws.

Annual Report: Mr. Steel noted that Panel members received a draft of the Annual Report with all red-line items marked for their review. Panel members had no comments on the report. Mr. Steel made a motion to adopt the draft circulated previously to the Panel Members as the Panel's Annual Report for 2017. The motion was seconded by Ms. Senseman and carried by unanimous vote. *IPA staff will send out the report electronically to Supervisor Cook, with copies to the Board of Supervisors and Panel Members, with hard copies to follow.*

Report on Chegu Complaint: Mr. Kay drafted a written report on the Panel's findings related to the Chegu Complaint. He noted that his intent was to make it streamlined and refer to the record of the case. The report will be distributed to the Board of Supervisors, the Chief of Police, Independent Police Auditor, and the Complainant. Ms. Doane moved to accept the Chegu report as written. Mr. Sayles seconded the motion and it carried by a vote of seven, with Mr. Aguilar voting "NAY", and Mr. Steel abstaining.

Reflection on Review Proceedings and Findings: Panel members debriefed various aspects of its process and review of the Chegu Complaint. Considerations for procedural changes to apply to future reviews included: being more sensitive to the use of the officer's name during Review Meetings, allowing more time for Panel discussion on the case before voting on the Panel's findings (including whether the review met the standards of thoroughness, completeness, accuracy, objectivity, and impartiality), and providing greater detail in the Panel's findings report, to include Panel members' reasoning and rationale.

A key issue discussed at length was whether the Panel would like to allow Panel members to file a dissent from conclusions presented in future reports. Mr. Aguilar expressed concerns in the Chegu case that IAB did not explore more about the officer's reason for the missed court. Multiple Panel members expressed that the public would benefit from hearing dissent arguments as part of a full record of Panel deliberations. Ms. Senseman disagreed and stated that she thought taking a united front was important to building trust. Multiple members stated that the person dissenting should be the person to write the opinion and that their viewpoint must be shared at the time the full Panel votes on its finding. Ms. Doane moved that the Panel allow dissents on future reports of Investigations. Mr. Steel seconded the motion and it carried with eight votes, Ms. Senseman voting "NAY". Ms. VanLowe commented that in order to dissent, a Panel Member must have a vote on the record with respect to the Panel's finding in a review matter. The Panel discussed the issue. Ms. Doane moved that a member of the Panel not be allowed to file a dissent in a finding of the Panel report of Investigation unless he/she is present to vote on the finding. The motion was seconded by Mr. Kay and carried by unanimous vote. *Ms. Judkins will develop a draft policy for the Panel to adopt in its Bylaws that would allow members to participate in Review Meetings by telephone.*

Initial Disposition of Loesch Review Request: Panel members discussed a Review Request submitted by D. Loesch to the Independent Police Auditor on February 5, 2018. Ms. Doane and Mr. Sayles, serving as the Panel's "Review Liaisons" for the Complaint, discussed a memo they developed with their recommendations on whether the Panel should accept or decline the Review Request. They described their approach to determine jurisdiction, which included consideration of the timeliness of the Complaint, whether there was use of force or pending criminal or civil proceedings, and the scope of authority. In determining jurisdiction, the liaisons looked at the allegation itself and did not review the underlying record or facts of the case. They concluded that the allegation of false arrest falls within the scope of the Panel's authority to review.

Another allegation in the Review Request was that the Complainant was "abused." Since this allegation was not included in Mr. Loesch's original Complaint to the FCPD, the Panel cannot consider it as part of its jurisdictional determination. The FCPD would have to investigate an allegation of abuse before the Panel can review it. Panel members discussed whether the abuse allegation should be forwarded to the FCPD. Many Panel members interpreted the statement about "abuse" as descriptive language, rather than a distinct allegation. The Panel decided that the allegation was not specific enough to be forwarded to the FCPD. Ms. Doane moved that the Panel finds it has jurisdiction in the Loesch Review Request. Mr. Descano seconded the motion and it was carried by unanimous vote.

Panel's Discretion to Schedule a Review Meeting: Ms. Doane noted that the Bylaws give the Panel discretion to *not* schedule a meeting for review, even when it has jurisdiction. However, if a Review Meeting is held, the Complainant shall have the opportunity to state his/her reasons for the Review Request. Ms. Doane stated that there may be cases in which (1) the IAB record is sufficient for

immediate review (i.e. the investigative file is complete and thorough, the Panel has no questions for the FCPD or the Complainant) and (2) hearing from the complainant would not change the outcome of the review.

Panel members discussed the two-prong test to determine whether to schedule a Review Meeting. Some Panel members stated that—in circumstances in which the Panel decides not to hold a Review Meeting and agrees that they do not have questions for the FCPD concerning the specific Investigation—they would still like the opportunity to ask the FCPD questions for purposes of making policy recommendations. A multi-step process was proposed: (1) determine jurisdiction, (2) review, (3) deliberate, (4) vote on findings, and (5) discuss policy issues. Two issues were identified as needing further clarification: (1) what mechanisms are available to the Panel to ask questions of the FCPD (e.g., is the Review Meeting the only opportunity?) and (2) how, and how often, will the Panel make policy recommendations to the FCPD (e.g., on an annual basis through its Annual Report or more often).

Mr. Kay made a motion for the Panel to consider whether it will allow a “summary judgement” like procedure, such as that outlined in the memo at VIII. for cases in which the two-prong test is met. Ms. VanLowe seconded the motion. After additional deliberation, the motion was withdrawn. Some members noted that the use of a “summary judgement” process (in which the Panel does not conduct a Review Meeting and does not hear from the Complainant) could undermine Panel efforts to build trust with the community, while others indicated it could be a useful process if the Panel determines that a Complaint is without merit. Panel members agreed to discuss at the next meeting whether to adopt the two-prong test as the standard for not having a Review Meeting. *Panel members should provide input or suggestions on the standards to Ms. Doane in advance of the next meeting.*

Decision to Conduct Review Meeting on Loesch Request: Panel members then discussed the Loesch case specifically and whether they believed there was a need to have a Review Meeting. Some members found the investigative file to be complete and had no questions. Mr. Aguilar noted that he would like more information on FCPD policies regarding drunk in public so that the Panel could further explore any related policy implications.

Ms. Doane moved that in the matter of the Investigation of the Complaint by D. Loesch, that the Panel not schedule a Review Meeting. Mr. Sayles seconded the motion. A question was raised, and Ms. VanLowe clarified, that the Panel does not yet know whether it can ask questions of the FCPD without hearing from the Complainant. The question was called on the motion and it carried with a vote of five in favor of the motion, with Mr. Descano and Mr. Steel voting “NAY” and Mr. Aguilar and Ms. VanLowe abstaining. Ms. VanLowe stated that the Panel will deliberate on the Loesch Review Request at the Panel’s April meeting. *Panel members should send Ms. VanLowe any questions they have for the FCPD on the Loesch review. She will then contact the FCPD about getting their questions answered outside of a Review Meeting.*

Use of Subcommittees in Conducting Reviews: A discussion ensued on the pros and cons of using subcommittees (as opposed to a committee of the whole) to determine (1) jurisdiction and (2) whether to have a Review Meeting. Some members expressed that they preferred the liaison approach where the full Panel still makes the jurisdiction and Review Meeting decisions. Others expressed that it was important for all Panel members to view the investigative file before voting. Panel members would like to explore with the FCPD whether there are easier ways for Panel members to review the file while lessening the burden on IAB. A suggested process is to have Panel members review the file and forward

questions to the Panel's Review Liaison, who will consolidate and forward questions to the FCPD. Ms. VanLowe suggested that the Panel continue to work as a committee of the whole, but leave open the option to appoint subcommittees if needed in the future.

Community Outreach: Mr. Descano provided an update on the Panel's outreach efforts. Panel members have conducted five small group presentations to date, with two additional presentations scheduled. Mr. Descano described the set-up process as time-consuming and encouraged Panel members to engage any personal contacts they may have to set up meetings. *Mr. Descano will provide IPA staff with access to the community outreach Google Doc so that they may track Panel outreach efforts.* Mr. Aguilar updated the Panel on the meeting held at the Centreville Labor Resource Center. Concerns expressed included language barriers (particularly among the Guatemalan community), increased fears of immigration law enforcement and reduced community member contact with police.

Mr. Steel noted that the Panel has contact information for four of the five police associations in the County and that the Panel may invite association representatives to meet with them to discuss any questions and concerns. *Mr. Steel will follow up with Supervisor Herrity to see if he can assist the Panel in setting up meetings with police associations.*

Ms. Ramirez described the plan for printing (approximately 3,400 copies) and distributing the Panel's brochures in four languages. They will be distributed with a cover letter to all Board of Supervisor offices, police district stations, community centers and Community Service Boards in the County for a total of 33 distinct locations. A set of brochures will also be printed for use at outreach events and to keep in stock at the Auditor's office.

Panel Membership: Ms. Senseman announced that she informed Chairman Bulova that she will be leaving the Panel as of April 2, 2018. Panel members gave Ms. Senseman a round of applause for her service on the Panel.

Next Meeting: The Panel's next meeting is scheduled for Thursday, April 5, 2018 at 7:00 p.m. in the Government Center.

The meeting adjourned at 9:11 p.m.