

Police Civilian Review Panel

December 3, 2020

Conducted Electronically due to COVID-19 Pandemic

Panel Member Complaint Subcommittee

Members Present:

Frank Gallagher, Panel Subcommittee
Member

Doug Kay, Panel Subcommittee Member

Others Present:

Rachelle Ramirez, Office of the Independent
Police Auditor (OIPA)

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

The Subcommittee was called to order at 5:30 p.m.

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

Mr. Gallagher was present and participated from Burke, Virginia.

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

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

Mr. Kay moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the subcommittee to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of this Panel and the physical presence of the public, cannot be implemented safely or practically. He further moved that the subcommittee may conduct this meeting electronically through a dedicated WebEx platform and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 1-844-621-3956 and entering access code 179 166 2511 as noted in the Public Meeting Notice. The motion was seconded by Mr. Gallagher and it carried by unanimous vote.

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

Discussion of Panel Member Complaint Made by Mr. William Wiehe:

Mr. Kay provided a summary of Mr. Wiehe's original complaint against the Fairfax County Police Department (FCPD) and his ethics complaint against the Panel. Mr. Kay described the process by which the Panel developed procedures for reviewing and responding to complaints against Panel members.

Mr. Kay summarized the substance of the complaint made against Panel Members Robert Cluck and Shirley Norman-Taylor in regard to comments made prior to the start of a July 20, 2020 Panel subcommittee meeting concerning his FCPD complaint. He claimed that Ms. Norman-Taylor said to Mr. Cluck, "I think this will be quick, Bob." To which he replied, "I think so."

Mr. Kay reviewed the process by which the Subcommittee conducting its review of the complaint, which included listening to the audio recording from the July 20, 2020 meeting and interviewing Panel members and OIPA staff that were present at the meeting.

Mr. Gallagher summarized what he learned from listening to the audio and the witness interviews he conducted. Witnesses who recalled the comment being made understood that Ms. Norman-Taylor meant that the subcommittee meetings were generally brief as there was not a lot of discussion on the specifics of the complaint, as occurs at the full Panel meetings. They did not think it showed any type of bias on the part of Ms. Norman-Taylor.

Mr. Kay stated that, based on the interviews he conducted, it can be concluded that this conversation did occur. He interviewed Ms. Norman-Taylor who stated her reasons for making the comment were that subcommittee meetings were short because they only consider the allegations made against the standards in the Panel Bylaws, and that while investigative files vary in size, in this case the investigative file was thin.

Additional discussion ensued on the complaint and the two standards within the Panel's Code of Ethics identified by the complainant as being violated: *I. Dignity and Respect*, and *V. Impartial Oversight*. Both subcommittee members noted that, if there was bias against the complainant it was not acted upon, as the subcommittee recommended that the full Panel review his complaint, and the Panel did so.

Mr. Gallagher moved that based on the interviews conducted with all those in attendance at the subcommittee meeting, and discussion on their views of what happened then, that this be presented to the Panel as being unfounded. Mr. Kay stated that Panel members take their jobs very seriously and agreed the complaint was unfounded. Mr. Kay seconded the motion and it carried by unanimous vote.

Mr. Kay said that in accordance with the established procedures, the subcommittee will develop a report for presentation to the full Panel at its meeting next week.

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

The meeting adjourned at 5:54 p.m.