
Police Civilian Review Panel

Meeting Agenda

Location: Conducted electronically due to COVID-19 Pandemic

Date: June 25, 2020

Time: 7:00 pm

Agenda details:

I. Call to Order

II. Agenda Items

- a. Motions to Conduct Electronic Meeting
- b. Remarks by Chairman Jeff McKay, Chairman of the Fairfax County Board of Supervisors
- c. One Fairfax Statement for Panel Website
- d. Four Year Review
- e. Update from Independent Police Auditor
- f. Update on Complaint CRP-19-29
- g. Update on Panel Outreach
- h. Update on Panel Presentation of 2019 Annual Report to the Board of Supervisors' Public Safety Committee
- i. Approval of March 9 Meeting Summary
- j. July Panel Meeting

III. New Business

- a. Closed Session for discussion, consideration, or interview of prospective candidate for employment; assignment, appointment, salaries, of specific public appointee, independent counsel, for this Panel pursuant to Virginia Code section 2.2-3711 A. 1.

IV. Adjournment

Police Civilian Review Panel Meeting
Electronic Meeting Housekeeping Rules

- Attendees have entered the meeting in listen only mode.
- Panelists must remain in “Mute” when not speaking. Please unmute yourself when you have been recognized to speak by the Chair, when you are making a motion, seconding a motion, or casting your vote.
- For Panelists to be recognized to speak, please use the raise hand function by clicking on the hand icon which is found in the bottom right corner of the “Participant Pane.” When you are finished speaking, please mute yourself and lower your hand by clicking the on the hand icon again.
 - To access the “Participant Pane,” please click on the icon depicting a person which is found on the icon menu at the bottom of your screen.
- The Meeting Materials Packet will be uploaded to WebEx at the conclusion of Chairman McKay’s remarks. To scroll through the packet, please use the sidebar menu to page up or down. Meeting materials are also available on the Panel’s website at www.fairfaxcounty.gov/policecivilianreviewpanel
- If the Panel recesses into closed session, Panel Members must mute themselves and disable their webcams on WebEx. Panel Members and Legal Counsel will use a dedicated conference line and security code for closed session. When closed session concludes, please enable your webcam on WebEx to return to open session.
- This meeting is being recorded and the audio recording will be posted to the Panel’s website.



County of Fairfax, Virginia

MEMORANDUM

DATE: June 25, 2020

TO: Members of the Police Civilian Review Panel

FROM: Gentry Anderson
Management Analyst I, Office of the Independent Police Auditor

SUBJECT: The One Fairfax Policy and How the Police Civilian Review Panel Promotes It

The purpose of this memo is to inform the Police Civilian Review Panel (Panel) of the One Fairfax policy and how the Panel promotes the policy through its work. Additionally, there are three recommendations for the Panel's consideration to further promote One Fairfax.

One Fairfax:

One Fairfax is a social and racial equity policy jointly implemented by the Fairfax County Board of Supervisors and the Fairfax County School Board in 2017. The policy provides a framework based on equity for all decision-making in the county, ranging from transportation and land use to recreation and education. The goal of the policy is to ensure equitable access to opportunities and success regardless of an individual's race, gender, ability, or income.¹ The implementation of the policy has helped identify gaps and opportunities to enhance social and racial equity within the county.

The History

Efforts that eventually lead to the implementation of the One Fairfax policy started in the 1990's and focused on identifying inequities that could be addressed at the agency level. As time progressed, the issue was reviewed in broad scope with an institutional and structural focus to effectively target and confront racial and social inequalities.²

A report detailing an institutional analysis of the Fairfax County Juvenile Justice System was published in 2012 to address growing concerns of disproportionate minority contact in the juvenile justice system.³ The analysis showed that the issue of disproportionate minority

¹ Fairfax County Government, [Fairfax County Government]. (2017, November 21). *One Fairfax: Social and Racial Equity Policy* [Video] YouTube. https://www.youtube.com/watch?v=7TaqbUgpvcU&feature=emb_title

² One Fairfax. (N.D.) *Mileposts In the Fairfax Journey to Achieve Equity*. <https://www.fairfaxcounty.gov/topics/sites/topics/files/Assets/images/one%20fairfax/mileposts-to-one-fairfax-graphic.jpg>

³ Center for the Study of Social Policy. (2012). *Disproportionate Minority Contact for African American and Hispanic Youth: The Story Behind the Numbers and the Path to Action*. <https://www.fairfaxcounty.gov/topics/sites/topics/files/assets/documents/pdf/institutional-analysis-disporportionality-criminal-justice.pdf>

contact was a systemic issue that needed to be addressed and corrected by multiple agencies. At this time, there was also a shift in focus from the issue of disproportionality to the solutions of equity and opportunity.

The One Fairfax resolution was approved by the Board of Supervisors in July 2016, and it affirmed the county's commitment to racial and social equity and directed the implementation of a policy. In November 2017, the One Fairfax policy was approved by the Board of Supervisors. It requires that equity be considered in the planning and decision-making process at all levels of county government for the delivery of county services and programs. This includes equity in operations, delivery of services, implementation of programs, and engagement opportunities.

The Policy

The policy outlines 17 focus areas where equity can be promoted. These focus areas encompass all services delivered by the county such as economic and work force development, transportation, education, health, public safety, and criminal justice.

The policy highlights five strategies to achieve equity within the focus areas:

- Community Engagement: foster an open dialogue, promote inclusive participation, and break down barriers that limit participation
- Training: build skills to promote social and racial equity with a focus on implicit bias and institutional and structural racism
- Applying Equity Tools: authorizing equity impact analyses and disparity studies to ensure the measure the county's progress in furthering social and racial equity
- Racial and Social Equity Action Plan: set goals and make plans and take action to promote one Fairfax
- Accountability Framework: publish data and performance measure to evaluate goal achievement

Fairfax County Government and Fairfax County Public Schools will work together to lead and coordinate the county's effort in equitable planning and decision-making. The policy specifically calls for county volunteer Boards, Authorities, and Commissions, such as the Panel, to "promote stakeholder engagement and input in support of equity informed planning and decision-making."⁴

The Policy in Practice

Upon the implementation of the One Fairfax Policy, the Board of Supervisors appointed Karla Bruce as Chief Equity Officer to lead the county's effort towards achieving the goals of One Fairfax. To ensure that the One Fairfax policy is being operationalized, multiple studies have

⁴ One Fairfax Policy.(2017, November 21)
<https://wcmtrain.fairfaxcounty.gov/topics/sites/topics/files/assets/documents/pdf/one-fairfax-policy.pdf>

been conducted to address inequities in opportunity, wellness, and health. A study facilitated by the Office of the Independent Police Auditor and conducted by the University of Texas at San Antonio is currently underway to examine the racial disparity in use of force incidents that occur within the county. The One Fairfax theme was integrated into the proposed countywide strategic plan which sets unified goals and vision for the future of Fairfax County.

How the Panel Promotes One Fairfax:

The Panel's mission as stated in its Bylaws is to enhance police legitimacy and to build and maintain trust between the community, 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. The Panel's mission and work promotes the One Fairfax policy specifically related to focus area 6 and embodies the themes of access, accountability, and engagement.

Focus Area 6: A focus area documented in the One Fairfax policy that is directly related to the Panel's work is documented in Focus Area 6, which is defined in the policy as follows:

*“Community and **public safety** that includes services such as fire, emergency medical services, **police**, health, emergency management and code enforcement **that are responsive to all residents so everyone feels safe to live, work, learn, and play in any neighborhood of Fairfax County.**”*

The Panel builds trust between the community and the FCPD through its review process. When the Panel conducts a review of a completed FCPD investigation, the Panel provides an independent assessment of the investigation to determine whether the investigation was accurate, complete, thorough, objective, and impartial. Through this process, the Panel can assure the complainant and the public that the FCPD's investigation into the complaint was conducted properly, or the Panel can request the FCPD conduct additional investigation. As an oversight body for the FCPD, the Panel helps to build the community's trust and confidence in the FCPD. The Panel's work specifically promotes the One Fairfax policy as encompassed by focus area 6.

Access: The Panel's work is conducted in public meetings, which assures access by all members of the community to the complaint process and transparency of the review process. The Panel is an intake venue for complaints independent of the FCPD and Panel members follow the complaint's progress through the investigation process to ensure timely completion of the investigation. In order to provide further access, the Panel distributes brochures to the community, which provide information about the Panel, the complaint process, and include a complaint form. Brochures are available in English, Spanish, Korean, and Vietnamese allowing all members of the community, regardless of their native language, can understand the Panel's role in oversight of the FCPD. Through the Panel's public meetings and public reports, the community can observe the Panel's work and see the results of reviews of investigations and inquiries to the FCPD.

Accountability: The Panel holds the FCPD accountable by assessing whether investigations into complaints are accurate, complete, thorough, objective, and impartial. If the Panel finds

that an FCPD investigation does not meet these standards, the Panel can recommend additional investigation into the matter. Upon completing a review of an FCPD investigation, the Panel can make public recommendations for the FCPD's consideration. The Panel tracks the FCPD's response to the recommendations and status of their implementation to hold the FCPD accountable and keep the community informed of the Panel's progress on a matrix publicly available on the Panel's website. In addition, the Panel tracks the timeliness of completion of FCPD investigations into complaints and notifies the Board of Supervisors and complainant if there is a delay.

Engagement: The Panel regularly interacts with complainants and the community. The Panel engages with complainants throughout complaint process so that they understand each step and informs them of the status of their complaint. The Panel also engages with the Fairfax community to inform them of the Panel's mission and service. The Panel conducts outreach events to community groups, faith-based organizations, civic associations, and other stakeholder groups.

Recommendations on How the Panel Can Further Promote One Fairfax:

Enhanced Community Outreach: The Panel should consider bolstering community outreach efforts to provide information about the Panel's oversight responsibilities and work to enhance transparency and accountability within the FCPD. When conducting outreach, the Panel should consider partnering with entities with similar missions, such as the Communities of Trust and the Independent Police Auditor, to promote unity. The Panel should utilize well established networks and partnerships to reach different organizations and communities within the county, such as the Neighborhood and Community Service's Interfaith community. This could allow the Panel to tap into different communities where outreach has not yet been conducted.

Outreach amid the COVID-19 pandemic may look different than typical in-person outreach events. The Panel could host conference calls or WebEx meetings with different groups to hold outreach events. This could be a more effective and efficient way to conduct outreach. Virtual outreach events could reach a broader audience, as attendees would not need to travel, find transportation, make childcare plans, or make other arrangements to attend outreach events. Conducting virtual outreach events could also be beneficial to Panel Members in the same ways. This recommendation coincides with the One Fairfax policy specific to eliminating barriers to participation and promoting access.

Panel Membership and Representation: Panel Members should advocate for the Board of Supervisors to appoint diverse members of the community to the Panel. Encouraging the appointment of individuals who reflect the great diversity in the county, would allow for more enriched and informed Panel discussions and better representation of the community. In addition, Panel Members could advocate for the Board of Supervisors to appoint individuals to the Panel who represent different regions of the county to promote equal geographical representation. Currently, the Panel does not have any members who reside in the Lee, Mason, Mount Vernon, or Sully magisterial districts.

Training: The Panel should continue to participate in training opportunities to learn best practices in the field of oversight and network with other oversight practitioners. In the past, Panel Members have attended trainings, webinars, and national conferences hosted by the National Association for Civilian Oversight of Law Enforcement (NACOLE). In addition, Panel Members should continue to receive training from the FCPD to understand current policies and procedures and regularly participate in “ride-alongs” with FCPD officers. In the past, the Panel has received presentations from FCPD representatives on topics such as implicit bias, recruiting and retention, and an overview of the investigation process. Panel Members have also participated in ride-alongs with FCPD officers to get a better understanding of the duties of front-line officers. Maintaining knowledge of current best practices within the field of civilian oversight and staying apprised of FCPD operations, policies, and training curriculum will benefit Panel Members when crafting recommendations to the FCPD.

Enclosure.

I. PURPOSE

Fairfax County embraces its growing diverse population and recognizes it as a tremendous asset but also knows that racial and social inequities still exist. This policy defines expectations for consideration of racial and social equity, and in particular, meaningful community involvement when planning, developing, and implementing policies, practices, and initiatives. It provides a framework to advance equity in alignment with our stated visions and priorities. This policy informs all other policies and applies to all publicly delivered services in Fairfax County Government and Fairfax County Public Schools.

II. SUMMARY OF CHANGES SINCE LAST PUBLICATION

This is a new policy.

III. DEFINITIONS

Equity: The commitment to promote fairness and justice in the formation of public policy that results in all residents – regardless of age, race, color, sex, sexual orientation, gender identity, religion, national origin, marital status, disability, socio-economic status or neighborhood of residence or other characteristics – having opportunity to fully participate in the region’s economic vitality, contribute to its readiness for the future, and connect to its assets and resources.

Equity Tools: Information and processes used to identify who is affected by a decision, policy, or practice; how they are affected; and to guide recommendations to encourage positive impacts and/or mitigate negative impacts.

Publicly delivered: The services provided by government or public schools either directly (through the public sector) or through financing the provision of services.

Race: A socially constructed category of identification based on physical characteristics, ancestry, historical affiliation, or shared culture.

Racial Equity: The absence of institutional and structural barriers experienced by people, based on race or color that impede opportunities and results.

Social Equity: The absence of institutional and structural barriers experienced by people, based on other societal factors such as age, sex, sexual orientation, gender identity, religion, national origin, marital status, disability, socio-economic status, neighborhood of residence, that impede opportunities and results.

IV. AREAS OF FOCUS TO PROMOTE EQUITY

Helping people reach their highest level of personal achievement is vital to our county's successful ability to compete in the global economy. Linking our residents and families to opportunities including education, workforce development, employment, and affordable housing helps ensure lifelong learning, better health, resilience, and economic success. The systems, structures, and settings in which our residents and families live, work, play, and learn, create an equitable community and are, in part, a product of policy and resourcing decisions.

Fairfax County Government and Fairfax County Public Schools, working in conjunction with higher education, business, nonprofit, faith, philanthropy, civic and other sectors, will give particular consideration to these initial areas recognizing that additional areas of focus may emerge based on changing factors and that assessment and prioritization are necessary to guide and inform collective actions to support a thriving community and promote equity with a goal of achieving the following:

1. Community and economic development policies and programs that promote wealth creation and ensure fair access for all people.
2. Housing policies that encourage all who want to live in Fairfax to be able to do so, and the provision of a full spectrum of housing opportunities across the county, most notably those in mixed-use areas that are accessible to multiple modes of transport.
3. Workforce development pathways that provide all residents with opportunity to develop knowledge and skills to participate in a diverse economy and earn sufficient income to support themselves and their families.
4. An early childhood education system that ensures all children enter kindergarten at their optimal developmental level with equitable opportunity for success.
5. Education that promotes a responsive, caring, and inclusive culture where all feel valued, supported, and hopeful, and that every child is reached, challenged, and prepared for success in school and life.
6. Community and public safety that includes services such as fire, emergency medical services, police, health, emergency management and code enforcement that are responsive to all residents so that everyone feels safe to live, work, learn, and play in any neighborhood of Fairfax County.
7. A criminal justice system that provides equitable access and fair treatment for all people.
8. Neighborhoods that support all communities and individuals through strong social networks, trust among neighbors, and the ability to work together to achieve common goals that improve the quality of life for everyone in the neighborhood.
9. A vibrant food system where healthy, accessible, and affordable food is valued as a basic human necessity.
10. A health and human services system where opportunities exist for all individuals and families to be safe, be healthy and realize their potential through the provision of accessible, high quality, affordable and culturally appropriate services.
11. A quality built and natural environment that accommodates anticipated growth and change in an economically, socially, and environmentally sustainable and equitable manner that includes mixes of land use that protects existing stable neighborhoods and green spaces, supports sustainability, supports a high quality of life, and promotes employment opportunities, housing, amenities and services for all people.

12. A healthy and quality environment to live and work in that acknowledges the need to breathe clean air, to drink clean water now and for future generations.
13. A parks and recreation system that is equitable and inclusive by providing quality facilities, programs, and services to all communities; balancing the distribution of parks, programs and facilities; and providing accessible and affordable facilities and programs.
14. A multi-modal transportation system that supports the economic growth, health, congestion mitigation, and prosperity goals of Fairfax County and provides accessible mobility solutions that are based on the principles associated with sustainability, diversity, and community health.
15. Digital access and literacy for all residents.
16. Intentional, focused recruitment efforts that bolster a diverse applicant pool; hiring and evaluation practices, and processes for employee feedback, to achieve and preserve a culture of equity and fairness for all employees.
17. Policies that prohibit all forms of discrimination under Federal and State law in county and school system activities, and ensure that all practices provide fair treatment for all employees, contractors, clients, community partners, residents, and other sectors who interact with Fairfax County including higher education, business, nonprofit, faith, philanthropy, and civic.

V. PROCESS

To achieve equity and advance opportunity for all, Fairfax County Government and Fairfax County Public Schools will work in partnership with others and utilize the influence of each respective institution to leverage and expand opportunity. Organizational capacity in the following areas will enable the development, implementation, and evaluation of policies, programs, and practices that advance equity:

a. Community Engagement

To foster civil discourse and dialogue, community engagement shall ensure that the breadth of interests, ideas, and values of all people are heard and considered. Outreach and public participation processes will be inclusive of diverse races, cultures, ages, and other social statuses. Effective listening, transparency, flexibility, and adaptability will be utilized to overcome barriers (geography, language, time, design, etc.) that prevent or limit participation in public processes. Fairfax County Government and Fairfax County Public Schools will engage with sectors such as higher education, business, nonprofit, faith, philanthropy, civic and others to collectively address barriers to opportunity.

b. Training and Capacity Building

Training will be designed for individual and collective learning with an emphasis on building competencies and skills to implement strategies that promote racial and social equity in employees' daily work. Foundational training will include, but will not be limited to: an understanding of implicit bias; institutional and structural racism; and the use of equity tools. Additional training for role and business area specific training will also be provided.

c. Applying Equity Tools

Consideration will be given to whole community benefits and burdens, identifying strategies to mitigate negative impacts, and promoting success for all people in planning and decision making.

Equity tools such as structured questions, equity impact analyses, disparity studies, etc. will be used to ensure that equity is considered intentionally in decision-making and the One Fairfax policy is operationalized.

d. Racial and Social Equity Action Planning

All organizations and departments within Fairfax County Government and Fairfax County Public Schools will conduct analysis, devise plans, set goals, and take actions through specific practices, policies, and initiatives within their purview.

e. Accountability Framework

Fairfax County Government and Fairfax County Public Schools will incorporate data and publish performance measures that can be analyzed, quantified, and disaggregated to evaluate the extent to which our systems are achieving goals identified through the racial and social equity action planning.

VI. ROLES

Fairfax County Government and Fairfax County Public Schools will designate and support staff members to lead the implementation of the One Fairfax policy. These staff members will work in conjunction with:

- The Board of Supervisors, School Board, and One Fairfax Executive Leadership Team to provide strategic, collective leadership in support of the equity-informed planning and decision-making processes prescribed by this policy and the development and pursuit of identified equity goals; and
- A multi-department, cross-systems equity staff team to facilitate coordination of racial and social equity action planning, collective action, and shared accountability across and within county and schools organizations.
- Boards, Commissions, Authorities and Advisory Committees to promote stakeholder engagement and input in support of equity informed planning and decision making.

Related policies and regulations:

Fairfax County Public Schools Policy 1450 – Nondiscrimination

Fairfax County Government Procedural Memorandum 39-06 – Harassment

Fairfax County Government Procedural Memorandum 39-04 – Reasonable Accommodation in Employment

Fairfax County Government Procedural Memorandum 39-05 – Reasonable Accommodation of Services and Devices

Fairfax County Government Procedural Memorandum 02-08 – Language Access Policy

The Code of Fairfax County, Virginia – Chapter 11 – Human Rights Ordinance

Use of Force Policy Statement, General Order 540

- It is the Policy of the Fairfax County Police Department that officers hold the highest regard for the sanctity of human life, dignity and liberty of all individuals. Force is to be used only to the extent it is objectively reasonable to defend oneself or another, to control an individual during an investigative or mental detention, or to lawfully effect an arrest. Force should be based upon the totality of the circumstances known by the officer at the time force is applied, without regard to the officer's underlying intent or motivation, and weights the actions of the officer against their responsibility to protect public safety as well as the individual's civil liberties. Force shall not be used unless it is reasonably necessary in view of the circumstances confronting the officer. The application of deadly force should only be used in the most extreme circumstances where all lesser means of force have failed or could not reasonably be utilized.
- Access to medical treatment shall be provided to any individual who complains of injury, has obvious injuries, or who requests medical attention.
- In all situations, officers are expected to act within their training and exercise sound judgment. Any force used shall be reviewed on a case by case basis. The involved officer must be able to clearly articulate the reasons for using force.

Duty to Intervene

- Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, safely intercede to end and prevent the further use of such excessive force. Additionally, officers have the duty to intervene in all other situations where an officer is acting in violation of laws, orders, policies, or ethical conduct and immediately notify an on-duty supervisor or commander.

Other Current Policies Already Adopted

- Carotid artery restraints and chokeholds are not sanctioned force options
- Requiring de-escalation, when possible
- Use of force continuum/training
- Requiring verbal warning before using deadly force, when possible
- Prohibiting shooting at moving vehicles, unless threat of death or serious injury to officer or other person and no other option exists
- Requiring officers to exhaust other reasonable alternatives, when possible
- Requiring comprehensive reporting
- Diversion First/Crisis Intervention Training

De-escalation – G.O. 540.2

- De-escalation is the result of a combination of communication, tact, empathy, instinct, and sound officer safety tactics. The ultimate goal is to help achieve a positive outcome by reducing the need for force.
- When possible, officers should seek to utilize de-escalation strategies to prevent situations from deteriorating to the point where they would need to use force. Officers should attempt to gain voluntary compliance and reduce the level of force required in a situation through verbal communication efforts. When force is applied, officers will adjust the amount of force used to overcome an individual's resistance and to gain control.

Definitions of Resistance and Force

- **Resistance**
 - Passive Resistance: Individual poses no immediate threat to an officer but is not complying with lawful orders and is taking minimal physical action to prevent an officer from taking lawful action
 - Active Resistance: An individual's verbal and/or physical actions are intended to prevent an officer from taking lawful action, but are not intended to harm the officer
 - Aggressive Resistance: An individual displays the intent to cause injury, serious injury, or death to others, an officer, or themselves and prevents the officer from taking lawful action

- **Types of Force**
 - Less Lethal Force: Any level of force not designed to cause death or serious injury
 - Deadly Force: Any level of force that is likely to cause death or serious injury
 - Excessive Force: Any force which is determined not to be objectively reasonable

Definition of Force

- Force – any physical strike or instrumental contact with an individual, or any significant physical contact that restricts an individual’s movement. Does not include escorting or handcuffing an individual who is exhibiting minimal or no resistance. Merely placing an individual in handcuffs as a restraint in arrest or transport activities, simple presence of officers or patrol dogs, or police issuance of tactical commands does not constitute a reportable action.
- Pointing a firearm at a person in response to their actions in order to gain control and compliance shall be investigated and documented.

Final Thought

“No policy can alleviate human error completely, but I think she was doing everything she could to mitigate it.” Adam Wilson – author of Tactical Reload: Strategy Shifts for Emerging Leaders in Law Enforcement, describing Atlanta Police Chief Erica Shields, who resigned hours after one of her officers shot and killed Rayshard Brooks on June 12, 2020.



County of Fairfax, Virginia

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

**Colonel
Edwin C. Roessler Jr.**
Chief of Police

June 10, 2020

Chairman Hollye Doane
Fairfax County Police Civilian Review Panel
12000 Government Center Parkway, Suite 233A
Fairfax, Virginia 22035

**Lt. Colonel
Thomas Ryan**
*Deputy Chief of Police
for Investigations/
Operations Support*

Dear Chairman Doane:

At the Fairfax County Police Civilian Review Panel's (CRP) Meeting, on March 9, 2020, the CRP reviewed the Fairfax County Police Department's (FCPD) investigation into a complaint submitted by Mr. Jemell Sanders (CRP-19-29). After the hearing held on that date, the CRP voted to send the case back to the FCPD for further investigative actions. I subsequently received the attached letter outlining four investigative actions to be taken:

1. Conduct a search of the officer's publicly available social media profiles to ensure an absence of racial bias.
2. Interview the officer's coworkers for evidence of racial bias.
3. Review data related to the officer's community contacts and stops in the same manner the FCPD reviewed arrest statistics.
4. Compare the circumstances and claims of the current complaint to any prior complaints against this officer.

**Lt. Colonel
Ted Arnn**
*Deputy Chief of Police
for Patrol*

**Lt. Colonel
Gun M. Lee**
*Deputy Chief of Police
for Administration*

The FCPD Internal Affairs Bureau (IAB) conducted the additional investigation requested pertaining to the officer's publicly available social media profiles by completing an open source review of any publicly available information, to include social media, related to the officer. The IAB also completed the review of community contacts involving this officer. Those investigative steps are currently in the review process of the administrative investigation.

With regards to interviewing the officer's coworkers for evidence of racial bias, this was not completed. The mere curiosity seeking, through interviews of random employees, absent any reasonable suspicion and/or probable cause, would violate the procedural rights of employees as established by prevailing laws and personnel regulations. Furthermore, if it were permissible to conduct such interviews, the FCPD is a large Department and completing this action for all administrative investigations would significantly hinder the operations of the Department (in 2018, there were 563 total administrative investigations completed by the FCPD).

Fairfax County Police Department
12099 Government Center Parkway
Fairfax, Virginia 22035
703-246-2195, TTY 711
Facsimile 703-246-3876
www.fairfaxcounty.gov



Any officer who is aware of racial bias exhibited by a coworker not only has a duty to report such bias, but is required by policy to report it. The FCPD does not tolerate bias, as clearly stated in Regulation 201.13, Human Relations, Section A, Community Contacts:

Employees shall conduct themselves professionally at all times when representing the Department. They shall use respectful, courteous forms of address to all persons. Displays of bias towards any person on account of race, sex, ethnicity, religious preferences or sexual orientation shall be considered unbecoming conduct.

Regulation 201.5, Obligation to Report, states:

Any employee who has knowledge of other employees, individually or collectively, who are knowingly or unintentionally violating any laws or statutes, ordinances, or rules and Regulations of the Department, or who disobey Orders, shall immediately bring any and all facts pertaining to the matter to the attention of a supervisory officer, Staff Duty Officer, DPSC supervisor, the Internal Affairs Bureau (IAB) or station/division commander. Supervisory or command personnel contacted shall then take appropriate action, in accordance with existing laws and Regulations. An employee may bypass official chain of command and directly advise the IAB or the Chief of Police of the violation(s).

If the officer had demonstrated any evidence of racial bias, it would be a violation of Regulation 201.13, and any officer who was aware of that racial bias would be required by Regulation 201.5 to report such bias. Absent evidence of an employee having knowledge of some wrongdoing on the part of the officer, the FCPD will not randomly interview the officer's coworkers.

With regards to comparing the circumstances and claims of the current complaint to any prior complaints against the officer, it was not clear at the conclusion of the meeting that this was a request that was approved by an appropriate vote at the meeting. Nevertheless, the FCPD is committed to transparency and producing thorough, complete, accurate, objective, and impartial investigations and welcomes any feedback and recommendations from any community members, including the CRP.

The circumstances and claims of current complaints are considered as part of an administrative investigation. The reviewing commander considers prior complaints and allegations when determining appropriate discipline. The reviewing commander then issues or recommends discipline, up to and including termination. Disciplinary matters are part of an employee's personnel record and cannot be publicly shared.

Chairman Doane
June 10, 2020
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With regards to the actions of the officer in the matter before the CRP, the reviewing commanders, including the Chief of Police, found no nexus to apply any progressive discipline.

The investigation did not reveal any evidence to support the allegation of bias-based policing; however, it did reveal that the officer's actions were improper and in violation of departmental regulations. The officer incorrectly applied training that he had received during his career which led to a series of cascading events that became apparent during the investigation. At the conclusion of the investigation, appropriate actions were taken to address the policy violations.

Should you have any further questions concerning this matter, please contact Major C. Matt Owens, Jr., Commander of the Internal Affairs Bureau, at 703-246-4279.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Roessler Jr.', with a long horizontal flourish extending to the right.

Edwin C. Roessler Jr., Colonel
Chief of Police

ECR/cmo

cc: Chairman Jeff McKay, Fairfax County Board of Supervisors
Chairman Rodney Lusk, Board of Supervisors Public Safety Committee
Administrative Investigation File

Attachment



County of Fairfax, Virginia

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

March 11, 2020

Chief Edwin Roessler
Fairfax County Police Department
12099 Government Center Parkway
Fairfax, Virginia 22035

Re: Request for further investigation - CRP-19-29

Dear Chief Roessler:

Thank you for attending the Police Civilian Review Panel's Review Meeting on March 9, 2020. The Panel reviewed the FCPD's investigation into a complaint submitted by Mr. Jemell Sanders (CRP-19-29). During the meeting, Panel Members expressed concern about the thoroughness, completeness, accuracy, objectivity, and impartiality of the investigation regarding the allegation of racial profiling. Most Panel Members were not satisfied with the Investigation's analysis specific to the racial profiling allegation.

Consequently, with this letter, the Panel respectfully requests that the FCPD conduct further investigation into the allegation of racial profiling by:

1. conducting a search of the officer's publicly available social media profiles to ensure an absence of racial bias,
2. interviewing the officer's coworkers for evidence of racial bias,
3. reviewing data related to the officer's community contacts and stops in the same manner the FCPD reviewed arrest statistics, and
4. comparing the circumstances and claims of current complaint to any prior complaints against this officer.

The Panel's suggested investigative steps should in no way limit the FCPD from conducting further investigation into the racial profiling allegation.

The Panel's Bylaws and the Action Item dated December 6, 2016, provide the authority for the Panel's action: "At the Panel's discretion, further investigation by the Police Department may be requested and the Police Department shall conduct such further investigation and provide a supplemental public report to the Panel with respect to the further investigation." At your earliest convenience, please confirm when the Panel can expect the supplemental public report.

Fairfax County Police Civilian Review Panel
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www.fairfaxcounty.gov

Sincerely,

A handwritten signature in cursive script that reads "Hollye C. Doane". The signature is written in black ink and is positioned below the word "Sincerely,".

Hollye Doane
Chair, Fairfax County Police Civilian Review Panel

cc: Jeff McKay, Chairman of the Fairfax County Board of Supervisors
Rodney Lusk, Chairman, Board of Supervisors Public Safety Committee

Outreach Since March 2020

Organization	Date	Individual(s)
Fairfax County Faith Communities in Action	June 9	Hollye and Richard
WUSA 9 - Media	June 10	Hollye, Hansel, Richard
Floris United Methodist Church	June 14	Rhonda
President of NAACP	June 18	Hollye, Rhonda, Richard
Rotary Club of South Alexandria and Rotary Club of Mt. Vernon	July 17	Hollye and Richard

Pending Outreach:

- Event with Dar Al-Hijrah Islamic Center
- Article featuring the Panel in *The Blue View*

Police Civilian Review Panel

March 9, 2020

Fairfax County Government Center, Conference Room 8

Meeting Summary

Panel Members Present:

Hansel Aguilar
Jimmy Bierman
Bob Cluck
Hollye Doane, Panel Chair
Doug Kay
Frank Gallagher
Shirley Norman-Taylor
Sris Sriskandarajah, Panel Vice-Chair
Rhonda VanLowe

Others Present:

Gentry Anderson, OIPA
Julia Judkins, Counsel
Major Owens, FCPD
Chief Roessler, FCPD
Richard Schott, Independent Police Auditor
Complainant

The Panel's business meeting was called to order at 7:30 p.m.

Meeting Summary Approval: Ms. VanLowe moved approval of the summary from the Panel's February 10th meeting. Mr. Kay seconded the motion and it carried by unanimous vote.

Review Meeting for CRP-19-29: Ms. Doane asked if the complainant was present. The complainant was present, invited to the table to participate in the Review Meeting, and thanked for his attendance. Ms. Doane provided a summary of the incident and described the allegations and timeline subject of the Review Request. She then invited the complainant to address the Panel.

Complainant Statement:

The complainant thanked the Panel for the opportunity to be heard. He noted his dissatisfaction with the Fairfax County Police Department's (FCPD) disposition letter, as it did not state why he was followed by the officer and does not come to a conclusion regarding the allegation of racial profiling. Additionally, the complainant was concerned with the accuracy of the investigation as his allegation was that he was racially profiled, not the target of bias based policing. The complainant distinguished the term bias-based policing from racial profiling as bias based policing involves a detention. He added that the investigation was not impartial or objective because the investigator is an FCPD officer.

Complainant Questioning:

Mr. Aguilar: What is your understanding of what the Panel is and what it is structured to do? How did you find out about the Panel? The complainant replied that someone recommended that he submit his complaint to the Panel. His understanding of the Panel is to ensure investigations are complete and conducted properly.

Mr. Aguilar: Do you understand what the Panel is authorized to do as a body? The complainant replied affirmatively and that he knows the Panel is able to offer recommendations to the FCPD.

Mr. Aguilar: Prior to this interaction, did you have positive interactions with law enforcement? The complainant replied that he previously had very good interactions with law enforcement officers.

Mr. Aguilar: Did you have positive interactions specific to the FCPD? The complainant replied that he did not have positive interactions with FCPD officers but did have positive interactions with officers in the Virginia Beach area. He mentioned that he has had two negative encounters with FCPD officers, and his friends have also had negative encounters with FCPD officers.

Mr. Aguilar: In your Review Request, you outlined concerns with the investigator. Is your concern that the investigator is a FCPD officer? The complainant replied affirmatively.

Ms. VanLowe: Can you expand more on the encounters you have had with law enforcement officers that were positive and the encounters you have had with law enforcement officers that were negative? What about this situation made you feel uncomfortable or that racial bias was involved? The complainant replied that in the subject incident, he was minding his own business and he made eye contact with an officer in a police cruiser across the street. The officer made a U-turn and followed him into the apartment complex. When the officer approached, he did not introduce himself and began questioning the complainant. The complainant recalled a previous time when he had a broken taillight and an officer stopped him, introduced himself, told him why he was being stopped. The officer had asked the complainant to fix the taillight and gave him a warning instead of a ticket.

Ms. Norman-Taylor: You indicated you have had two encounters with FCPD officers, and both were not positive. Can you elaborate on the other encounter? The complainant replied that he was at a bar in Reston and was approached by an FCPD officer because the officer smelled marijuana in the area and asked for the complainant's identification. The complainant said he felt harassed.

Mr. Kay: Did the investigator offer any explanation about the disposition letter? The complainant replied in the negative.

Mr. Kay: How did you receive the disposition letter? Did you get a phone call? The complainant replied that he received the disposition letter via email and that he did not receive a phone call explaining the letter. The complainant said he followed up with the investigator via email to ask questions; however, the investigator said he could not answer them. The complainant also explained that he submitted a Virginia Freedom of Information Act (VFOIA) request for the in-car video footage, but the FCPD did not release it.

Mr. Kay: Were you offered to review any video footage related to this incident? The complainant replied that the FCPD did offer to let him review the video footage, but he declined because he would have preferred to receive the footage via his VFOIA request so that he could show others as well.

Mr. Kay: About how much time passed from the time you made eye contact with the officer to when you parked your car? The complainant replied it was about two to three minutes.

Mr. Bierman: At one point during the interaction, did you ask the officer if you were free to go? The complainant replied that he did ask the officer this question but did not feel free to go because the officer was standing at the car door blocking him from exiting the vehicle and the officer told him to answer his questions.

Mr. Bierman: What remedy are you seeking from the Panel? The complainant replied he would like for the Panel to recommend that the officer receive additional education on implicit bias and further training.

Mr. Sriskandarajah: During the encounter, the officer asked if you lived at the apartment complex and you say you have a parking sticker for the complex on your vehicle. Did you think to ask the officer to look at the parking sticker? The complainant replied he did not think of that at the time. He added that as a detective with the FCPD, the officer should have known to check for it.

Mr. Sriskandarajah: Did you ask the officer why he was bothering you? The complainant replied that he asked the officer why he was harassing him, and the officer replied that he was not harassing him. The complainant said this made him feel afraid and unsure of what the officer was going to do next.

Mr. Sriskandarajah: You had a backpack in the vehicle. Where was the backpack during the encounter? The complainant replied that he believed it was on the passenger seat.

Mr. Sriskandarajah: Did the officer have his lights activated when he stopped you? The complainant replied that the lights on the vehicle were not activated when he was stopped.

Mr. Sriskandarajah: Did you think the interaction was consensual? The complainant replied that he did not feel that the interaction was consensual as the officer said that he had to answer the questions.

Mr. Sriskandarajah: You handled yourself very well in this situation. Do you have previous training on your rights? The complainant replied that during his first encounter with the FCPD, he did not know his rights, so he educated himself. He added that if he had not known his rights, the situation could have ended badly.

Mr. Gallagher: Were any of the questions the officer asked inappropriate, and if so, in what way? The complainant replied that the questions were not inappropriate, but he was within his rights to not provide answers.

Mr. Gallagher: If the officer was in uniform asking simple questions, why did you refuse to answer them? The complainant replied that he did answer the officer when the officer asked whether or not he lived in the apartment complex. The complainant did not want to tell the officer exactly which unit he lived in because he was afraid. He referenced an incident in Dallas, Texas, where an officer went into a wrong apartment and shot an individual who later succumbed to the injuries.

Ms. Norman-Taylor: Was the officer in uniform? The complainant replied that the officer was in uniform. The complainant asked the officer why he was being stopped and the officer did not provide an answer.

Ms. Doane: In your Review Request, you stated there was a difference between racial bias and racial profiling. Can you please elaborate on the distinction? The complainant replied that the FCPD makes

the distinction within its general orders. He added that for bias based policing to occur, he would have had to be detained or engaged in an investigative detention. The complainant added that the FCPD concluded that he was not subject to bias based policing because the complainant was not detained or engaged in an investigative detention during the incident.

Ms. Doane: Why do you believe the officer stayed on the scene after the incident? The complainant replied that he was unsure. He figured the officer remained on scene to make sure the complainant actually lived in the apartment complex.

Ms. Doane: How did it make you feel that the officer remained at the scene? The complainant replied he was nervous. He did not want to go into his apartment because he did not want the officer to know exactly which apartment he lived in and again mentioned the incident that occurred in Dallas, Texas.

Ms. Doane: You were allegedly shaking and nervous during the incident. Why did you feel that way in that moment? The complainant replied that he was nervous because he was followed by the officer into his apartment complex. He also referenced incidents and the poor relationship between African Americans and law enforcement officers.

Mr. Sriskandarajah: Did you have any doubts that he was a police officer? The complainant replied that he knew he was a police officer.

Mr. Sriskandarajah: Were there any witnesses to the incident? The complainant replied that there were people outside when the incident occurred.

Mr. Sriskandarajah: Did you ever tell the officer to leave you alone? The complainant replied that he did not but tried to give the perception that he did not want to speak with the officer.

Ms. Doane: Would this incident turn out differently if the officer explained why he stopped you? The complainant replied it would have been different because he would have understood why the officer was asking questions and would not think that he was racially profiled.

Ms. Doane: Would you have answered the officer's questions if you knew why you were being stopped? The complainant replied that he would not have answered the questions if he knew why he was being stopped because he did not commit a crime.

Mr. Cluck: If you were a white individual, do you think the incident would have not occurred? The complainant replied affirmatively and noted that he has friends who are minorities who have had similar issues with the FCPD.

Mr. Aguilar: If the officer who approached you was black, would you have responded with the same hesitancy? The complainant replied affirmatively.

Ms. Doane: In the FCPD disposition letter you received, it stated that the investigation found that some of the officer's actions were not professional and did not meet the expectation of how FCPD officers should engage with community members. Appropriate measures were imposed to prevent it from occurring again. Is this determination enough for you? The complainant replied that it was not because the letter did not explain what happened, why he was followed, or what policies were violated. He noted he knew that officer discipline could not be disclosed but he would like to know which policies were violated.

Ms. Doane: Do you feel that the investigation failed to properly address the issue of racial profiling? The complainant replied affirmatively.

Mr. Bierman: If the FCPD disposition letter included a statement that the officer articulated race neutral reasons for his actions but was found to be unprofessional, would you still have requested a review? The complainant replied affirmatively because he did not agree with the outcome of the investigation.

Mr. Sriskandarajah: What could have the officer said that would have made you not request a review? The complainant replied the officer could have introduced himself and explained why he was conducting the stop and answered his basic questions.

Mr. Aguilar: Is it your understanding that the police have to tell you why they are taking a certain action? The complainant replied that if he was being detained, the officer would have had to tell him why but if it was a consensual encounter, the officer would not have to tell him why.

Ms. Doane: Did you think this encounter was consensual or a detention? The complainant replied that at the time, he thought he was being detained but looking back, it was consensual because the officer did not say that he had to stay until later in the encounter.

Mr. Bierman: Did you feel like you were free to leave during the encounter? The complainant replied he did not feel that he was free to leave because the officer was standing at his car door blocking him from exiting the vehicle.

Mr. Cluck: Is the crux of the issue that the officer followed you after you made eye contact with the officer? The complainant replied affirmatively and said he wants to know why he was followed.

Mr. Bierman: If the officer introduced himself at the start of the encounter and explained his actions, would you have thought the encounter was biased? The complainant replied affirmatively because he and the officer only made eye contact. He said he was not acting suspicious and did nothing wrong.

Ms. Doane: Did you make eye contact with the officer or did you lean your body out of the car to look around? The complainant replied he was looking out the window of his vehicle when he locked eyes with the officer.

Ms. Doane: Did you do anything unusual to spark the officer's suspicion? The complainant replied that he did not.

Mr. Sriskandarajah: If the officer approached you when you were outside of your vehicle, would you have felt that would be biased? The complainant replied that he was unsure.

Ms. Doane thanked the complainant for attending and participating.

FCPD Statement:

The Chief addressed the complainant and acknowledged that the complainant has every right to be afraid of the police. The Chief summarized the investigation related to the complaint. He explained the steps that he as Chief took when reviewing process of the internal investigation and that he requested additional investigation multiple times because he disagreed with the analysis of his commanders. He explained how policing issues that occur across the country can impact policing in Fairfax County. He is mandating the formation of a human relations committee to help address and train away racial-bias

issues. The Chief added that the officer subject of the complaint made a series of poor cascading judgements and was unable to disengage.

FCPD Questioning:

Ms. VanLowe: The officer was found to be in violation of FCPD General Order 201, Human Relations. Can you explain why he was not found to be in violation of the FCPD's bias based policing policy? The Chief replied that the questions asked during the investigation were to dig deeper into the issue of bias based policing. The officer articulated a series of cascading events that were factual. Based on the investigation, there is no preponderance of the evidence that race was a factor in this incident. Based on this, the Chief said he did not have evidence to reach that threshold.

Ms. VanLowe: From my perspective, there was scant attention to the allegation of bias based policing within the investigation file. She explained that she did not get a sense the issue was analyzed thoroughly. The Chief replied that when he prepared to interview the officer, he reviewed the officer's training history. During the interview, the officer did not indicate that any actions were based on race. The officer articulated a series of poor cascading steps and there was no reason to believe he was not telling the truth.

Mr. Sriskandarajah: Based on this encounter, what would have made you think it was biased? The Chief replied that he would not use hindsight and would answer questions based on factual evidence. He added that he ordered Major Owens to establish a human relations committee. The Chief expects officers to know their patrol areas better.

Mr. Kay: During the investigation, was there an effort made to review the officer's social media accounts to see if he had anything questionable in his profiles? The Chief replied that this was not done during the investigation, but he is aware it is being discussed by the Panel. Upon order by the Chief, Major Owens developed a policy on this issue, and it was recently implemented.

Mr. Kay: During the investigation, was there an effort made to question the officer's peers in the detective unit? The Chief replied that this was not done during the investigation and that the investigation focused on the encounter itself and other traffic stops the officer has conducted. If an officer's peers are questioned during every investigation, it would stall officers from being on the streets serving the community.

Mr. Kay: Were the officer's stop statistics reviewed? The Chief replied that the investigation reviewed the officer's arrest statistics.

Mr. Aguilar: Was there anything within the officer's training record that the officer could have improved upon? The Chief replied that he ordered Major Owens to implement a menu of training classes that first line supervisors will send their officers to and will mandate additional human relations training. He referenced the study the Independent Police Auditor commissioned to review the racial disparity in use of force data.

Mr. Aguilar pointed out that the subject officer had a total of six training hours related to culture and diversity. He suggested the human relations committee instill a racial lens so that all proactive policing is conducted with a component of community diversity and culture. The Chief replied that he is being more transparent with the department and that the officer has received great training but could not use

that as a crutch. He added that Major Owens is looking into best practices related to cultural awareness training to train away the issue. The Chief said he is holding the officer accountable, working with advocates to put new policies in place, and is mandating additional human relations training.

Mr. Bierman thanked the Chief for acknowledging that there is an issue with simple “glances” across the country and appreciated all the work the Chief did throughout the course of the investigation. Mr. Bierman asked if implicit bias was explored during the investigation. The Chief replied that everyone has implicit biases and that based on the facts of this case, there is no reason to believe the officer acted based on race. In this specific case, the officer did not know the area and did not complete thorough police work.

Mr. Bierman: Do you believe this cascade of events would have occurred if the individual was a 55 year-old white male? The Chief replied this incident would still be a problem regardless of the person’s race, age, or gender and it is the reason he implemented the human relations committee. He added that this incident shows unacceptable and incomplete police work, and that the complainant was treated wrongly.

Ms. VanLowe explained that she wanted to see a robust analysis related to bias based policing in the investigation file and saw two problems. First, she did not see where a standard was set on whether bias is present. She expressed her understanding that bias is difficult to uncover but when making a decision on whether bias is present, there needs to be standard. Second, she felt that additional investigation into social media, statistical analysis, and interviewing coworkers would be helpful. She appreciated the work that the Chief put into the investigation. The Chief replied that he spent a tremendous amount of time on this case on top of running a police department. He added that the FCPD is undergoing a change in culture and that the department’s reliance on best practices is not good enough for the community. Therefore, he is looking into ways to better define the issue and set the bar for investigating racial profiling and bias incidents. He added that this is an issue that all in the profession are working on and that this specific case will instill a lot of change within the department.

Mr. Kay: Does the FCPD compare prior complaints against an officer to current complaints? Major Owens replied that the FCPD has an early warning system in place that factors in all complaints against an officer and generates an indicator to supervisors if an issue arises. An investigation commences and all complaints are considered.

Mr. Kay: Was the early warning system a factor in this investigation? Major Owens replied that the officer’s disciplinary history was reviewed by command staff as a part of the investigation review process.

Ms. Norman-Taylor thanked the Chief for his work on the investigation. She provided a personal story of when her son was pulled over. She noted that in this case, the investigator did a great job, but she felt that the issue of bias was not addressed thoroughly. The Chief replied that the investigation found that the officer relied on training and made a mistake. He added that the department has work to do in changing its overall culture. Major Owens added that the human relations committee will discuss the importance of procedural justice regardless of an individual’s race or ethnicity.

Mr. Aguilar noted how body worn camera footage can be used to compare how officers interact with individuals based on their race and ethnicity. He suggested the FCPD look into auditing body worn

camera footage once they are implemented in May. The Chief replied that the FCPD currently audits in-car video footage and should implement an audit of body worn camera footage.

Mr. Gallagher noted that what the FCPD did in this instance is only one half of the encounter. The other half is the person who is involved in the incident. He reminded the Panel that they only have the authority to hold the FCPD accountable and the Panel or FCPD cannot control the actions of those who are stopped. Ms. Norman-Taylor replied that there are situations when people can exercise their rights when interacting with the police. The Chief replied that he wants his officers to understand the importance of de-escalation and emphasized that the complainant should know that he did nothing wrong.

Ms. Doane thanked the Chief and Major Owens for attending and participating.

Panel Deliberations:

Ms. Doane directed Panel Members to the three findings outlined in the Panel's Bylaws from which Panel Members can vote on after reviewing an FCPD Investigation. She invited the Panel to discuss whether the FCPD investigation was accurate, complete, thorough, objective, and impartial. Mr. Kay reminded the Panel that Article VI.E.1.h of the Bylaws is another option the Panel has to request that the FCPD conduct further investigation and referenced that the Panel used this mechanism to request further investigation for CRP-18-26. The Panel openly deliberated.

Panel Findings:

Mr. Kay moved that the Panel request further investigation by the FCPD and recommend that the issue of bias be more completely addressed by: 1) running a google search of the officer to review social media accounts to ensure there is no evidence of bias; 2) interviewing the officer's coworkers or subset of witnesses to be sure there is no evidence that the officer is biased; 3) analyzing the officer's statistics related to stops to ensure there is no evidence of bias. The motion was seconded by Mr. Bierman.

Ms. VanLowe asked that the motion be amended to address whether other complaints were filed against the officer. Mr. Kay accepted the friendly amendment.

Mr. Sriskandarajah asked whether interviewing the officer's coworkers would be appropriate. He provided a hypothetical example of a coworker who may have an axe to grind with the subject officer and provides false information during the investigation. Mr. Kay replied that if an officer falsifies statements during a witness interview, they would be subject to punishment.

Mr. Cluck reminded the Panel that the complainant suggested remedying the incident with further training and that further investigation would be unnecessary.

Ms. VanLowe asked that it be clear that the Panel's recommended steps for further investigation should not be prescriptive or limiting and allow flexibility for the FCPD to conduct additional investigation into bias as they see fit.

The question was called on the amended motion and it carried by a vote of six, with Mr. Cluck, Mr. Gallagher, and Mr. Sriskandarajah voting "Nay." *Ms. Doane asked Ms. Anderson to draft a letter to the Chief requesting further Investigation into CRP-19-29.*

Initial Review Report for CRP-20-03: Mr. Bierman presented the Initial Review Report for CRP-20-03 to the Panel and announced the review request was submitted by another individual involved in the incident subject of CRP-19-11. The review request was untimely filed, as the complainant had 60-days from May 13, 2019, to request a review and the Review Request was not submitted to the Panel until January 25, 2020.

Therefore, Mr. Bierman moved that the Panel approve the subcommittee's recommendation to not undertake a review of CRP-20-03. Mr. Kay seconded the motion and it carried by unanimous vote.

2019 Annual Report: Ms. Doane announced that the Panel's 2019 Annual Report was published on February 28th and provided to the Board of Supervisors. Mr. Kay informed the Panel that he and Ms. Doane will present the report to the Board of Supervisors Public Safety Committee on Tuesday, March 17th. *Mr. Kay will send the draft PowerPoint presentation to be used at the meeting to Panel Members for their review.*

New Business: Ms. Doane announced the next quarterly meeting is scheduled for Friday, March 20th. The group will discuss the four new Panel recommendations made in the Review Report for CRP-19-11 and the 2019 Annual Report. She asked if Panel Members had items they would like to submit for discussion. Mr. Kay asked that Panel representatives ask for further information on FCPD racial bias training and the FCPD human relations council.

Mr. Aguilar announced the importance of participating in the 2020 census and indicated that data collection begins on March 12th.

Next Meeting: The Panel's next business meeting is Monday, April 6th, 2020, at 7:30 p.m. in the Government Center, Conference Room 8.

The meeting adjourned at 9:44 p.m.

CRP Case #	Name	Date Received	Type	Description of Complaint	Date FWD to FCPD	Date Findings Due	Date Findings Received	Close Date	Review Liaisons	Disposition	
CRP-20-01	Ms. B	1/8/2020	Initial	Alleges officer rudeness and improper documentation of vehicle speed.	1/8/2020	3/9/2020	2/28/2020	3/2/2020	Frank & Hansel	FCPD disposition letter received on 3/2/20. Letter sent to complainant notifying them of ability to request a review.	
CRP-20-02	Mr. Z	1/13/2020	Initial	Alleges a detective was threatening, racist, and was pushing the complainant to give a false confession	1/13/2020	3/13/2020	2/28/2020	3/2/2020	Shirley & Sris	FCPD disposition letter received on 3/2/20. Letter sent to complainant notifying them of ability to request a review.	
CRP-20-03	Ms. H	1/27/2020	Review	Alleges she was cuffed and patted down by a male officer, when a female officer was on site, she was inappropriately patted down by a male officer, and that her vehicle was searched without her permission (See CRP-19-11, the Panel's review of this incident brought forth by another complainant)	1/27/2020	N/A	N/A	3/9/2020	Doug & Jimmy	Subcommittee met on 3/9/2020 and recommended that the Panel not undertake a review. Panel approved recommendation on 3/9/2020.	
CRP-20-04	Mr. S	2/20/2020	Initial	Complaint lists multiple incidents with the FCPD and alleges harassment. Alleges he was grabbed out of vehicle and handcuffed.	2/20/2020	*4/20/2020				Rhonda & Bob	Complaint forwarded to FCPD and is in process. FCPD extension on 3/31 due to rescheduled court date. Update by 7/27.

CRP-20-05	Ms. A-S	3/9/2020	Initial	Alleges harassment by specific FCPD officer and SWAT team.	3/9/2020	*5/8/2020	6/8/2020	6/8/2020	Hansel & Shirley	FCPD disposition letter received on 6/8/2020. Complainant notified of ability to request a review.
CRP-20-06	Mr. H	3/10/2020	Initial	Alleges officer provided false testimony to magistrate and conspired with a SEC attorney. Alleges officer failed to properly document investigation and fully investigate incidents. Alleges officer failed to recover evidence of alleged crimes. Alleges officer failed to document and provide defendant with exculpatory evidence. Alleges officer caused defendant to lose constitutional rights to bear arms; alleges false arrest	3/10/2020	*5/11/2020			Frank & Jimmy	Complaint forwarded to FCPD and is in process. Update by 8/1.
CRP-20-07	Ms. E. Y	3/16/2020	Initial	Alleges officers did not identify themselves, were negligent, rude, and caused fear.	3/16/2020	*5/17/2020	6/2/2020	6/10/2020	Rhonda & Doug	FCPD disposition letter received on 6/2/2020. Complainant notified of ability to request a review.
CRP-20-08	Ms. T. Y	3/16/2020	Initial	Alleges officers did not identify themselves, were negligent, rude, and caused fear.	3/16/2020	*5/17/2020	6/2/2020	6/10/2020	Rhonda & Doug	FCPD disposition letter received on 6/2/2020. Complainant notified of ability to request a review.
CRP-20-09	Mr. I	5/8/2020	Initial	Alleges UOF/Choke and Bias.	5/8/2020	7/7/2020			Doug & Sris	Complaint forwarded to FCPD and is in process.
CRP-20-10	Mr. B	5/15/2020	Initial	Alleges FCPD is not enforcing the law related to signs in the roadway.	5/18/2020	7/17/2020			Hansel & Shirley	Complaint forwarded to FCPD and is in process.

CRP-20-11	Mr. M	5/22/2020	Initial	Alleges FCPD has not issued a disposition letter for a complaint submitted in July 2019	5/26/2020	7/27/2020			Rhonda & Sris	Complaint forwarded to FCPD and is in process. FCPD confirmed that investigation is complete and in the review process.
CRP-20-12	Mr. L	6/8/2020	Initial	Alleges false arrest. Incident occurred in 2017.	6/8/2020	8/7/2020			Jimmy & Bob	Complaint forwarded to FCPD and is in process
CRP-20-13	Mr. S2	6/9/2020	Initial	Alleges FCPD officers harassed him. Incident occurred in 2015.	6/9/2020	8/8/2020			Frank & Doug	Complaint forwarded to FCPD and is in process
CRP-20-14	Mr.Z	6/10/2020	Review	Alleges FCPD IAB investigators did not conduct a thorough investigation into complaint CRP-20-02 and is dissatisfied with outcome of investigation	6/10/2020	N/A	N/A	6/15/2020	N/A	FCPD determined they will not conduct additional investigation into the matter and incident subject of complaint occurred in 2013.
CRP-20-15	Mr.W	6/12/2020	Review	Alleges officer of FCPD issued an unlawful order.	6/12/2020	N/A	N/A		Shirley & Hansel	Subcommittee Meeting to be scheduled.
CRP-20-16	Ms. C	6/15/2020	Initial	Alleges false arrest and UOF by agents of a bail enforcement agency and PWCPD	6/15/2020	N/A	N/A	6/15/2020	N/A	Complaint does not involve FCPD. Forwarded to FCPD who referred it to PWCPD IAB
CRP-20-17	Ms. R	6/22/2020	Initial	Alleges hostile behavior, cruel and inhumane treatment, violation of constitutional and civil rights, false arrest, and multiple uses of force	6/23/2020	8/22/2020			Jimmy & Rhonda	Complaint forwarded to FCPD and is in process

Anderson, Gentry

Subject: Bullet points

From: Teare, Elizabeth <Elizabeth.Teare@fairfaxcounty.gov>

Sent: Wednesday, June 24, 2020 3:57 PM

To: Doane, PCRP Hollye

Subject: RE: Bullet points

Good afternoon, Hollye – Thank you again for speaking with me on Monday regarding the selection of outside counsel as Julia Judkins nears retirement. Our conversation touched on the following major points:

1. As we discussed, by statute and Board resolution, all of the County's legal services flow through my office. However, from time to time, we conclude that the retention of outside counsel is necessary, and we will enter into a retainer agreement with the selected outside attorney. My office made the decision, at the inception of the Panel's and Auditor's formation and commencement of operations, to engage outside counsel to represent the Board of Supervisors, the Panel, and the Auditor. We believed then, and still believe today, that it is important for the Board, Panel, and Auditor to have independent counsel with regard to the work performed by the Panel and the Auditor.
2. After selecting outside counsel, I remain involved to exercise quality control over the work performed, consistent with the responsibility I ultimately have for the quality of *all* legal work performed for the County. I also review all of the billing to ensure that it is reasonable and thereafter arrange for payment of all reasonable invoices. It is also anticipated that outside counsel will coordinate with my office for information gathering purposes.
3. However, outside counsel is expected to form his or her own independent legal judgments and represent his or her clients (here, the Board of Supervisors, the Panel, and the Auditor) zealously within the bounds of the law.
4. Outside counsel for the Panel and the Auditor reports to the Fairfax County Board of Supervisors. As noted above, my role is to provide institutional knowledge and support, as well as quality control and financial oversight.
5. As I have stated, I am happy to coordinate with the Panel and the Auditor as part of the selection process for the next outside attorney as Julia Judkins nears retirement. As I determine who will be retained as the next outside counsel, the opinion of the Panel and the Auditor will be given great weight. If the Panel and the Auditor wish to engage in an RFI process and solicit applications from outside attorneys for the position, I am happy to invoke that process and include the Panel and the Auditor in the interviewing process. As noted during our conversation, the County is not legally obligated to undertake this process, but I have used it in the past to select outside counsel and am willing to do so here.
6. I also offered to work directly with you, going forward, to identify any issues or concerns with outside counsel so that we can work together to resolve them. I would set up the contract with outside counsel to be reviewable annually, so that another selection could be made in the event of insurmountable problems.

Please do not hesitate to let me know if you have questions about what I have written above. Again, many thanks for the productive conversation on Monday. Best regards, Beth

Elizabeth D. Teare
County Attorney
(703) 324-2421

VIRGINIA RULES OF PROFESSIONAL CONDUCT

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Former Client

[18] The duty of confidentiality continues after the client-lawyer relationship has terminated.

VIRGINIA CODE COMPARISON

Rule 1.6 retains the two-part definition of information subject to the lawyer’s ethical duty of confidentiality. EC 4-4 added that the duty differed from the evidentiary privilege in that it existed “without regard to the nature or source of information or the fact that others share the knowledge.” However, the definition of “client information” as set forth in the *ABA Model Rules*, which includes all information “relating to” the representation, was rejected as too broad.

Paragraph (a) permits a lawyer to disclose information where impliedly authorized to do so in order to carry out the representation. Under DR 4-101(B) and (C), a lawyer was not permitted to reveal “confidences” unless the client first consented after disclosure.

Paragraph (b)(1) is substantially the same as DR 4-101(C)(2).

Paragraph (b)(2) is substantially similar to DR 4-101(C)(4) which authorized disclosure by a lawyer of “[c]onfidences or secrets necessary to establish the reasonableness of his fee or to defend himself or his employees or associates against an accusation of wrongful conduct.”

Paragraph (b)(3) is substantially the same as DR 4-101(C)(3).

Paragraph (b)(4) had no counterpart in the *Virginia Code*.

Paragraphs (c)(1) and (c)(2) are substantially the same as DR 4-101(D).

Paragraph (c)(3) had no counterpart in the *Virginia Code*.

COMMITTEE COMMENTARY

The Committee added language to this Rule from DR 4-101 to make the disclosure provisions more consistent with current Virginia policy. The Committee specifically concluded that the provisions of DR 4-101(D) of the *Virginia Code*, which required broader disclosure than the *ABA Model Rule* even permitted, should be added as paragraph (c). Additionally, to promote the integrity of the legal profession, the Committee adopted new language as paragraph (c)(3) setting forth the circumstances under which a lawyer must report the misconduct of another lawyer when such a report may require disclosure of privileged information.

The amendments effective January 1, 2004, added present paragraph (b)(4) and redesignated former paragraphs (b)(4) and (5) as present (b)(5) and (6); in paragraph (c)(3), at end of first sentence, deleted “but only if the client consents after consultation,” added the present second sentence, and deleted the former last sentence which read, “Under this paragraph, an attorney is required to request the consent of a client to disclose information necessary to report the misconduct of another attorney.”; added Comment [5b] and [6a]; rewrote Comment [13].

RULE 1.7 Conflict of Interest: General Rule.

- (a) **Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:**
 - (1) **the representation of one client will be directly adverse to another client; or**
 - (2) **there is significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.**
- (b) **Notwithstanding the existence of a concurrent conflict of interest under paragraph(a), a lawyer may represent a client if each affected client consents after consultation, and:**
 - (1) **the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;**
 - (2) **the representation is not prohibited by law;**
 - (3) **the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and**

- (4) **the consent from the client is memorialized in writing.**

COMMENT

Loyalty to a Client

- [1] Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. An impermissible conflict of interest may exist before representation is undertaken, in which event the representation should be declined.
- [2] *ABA Model Rule* Comment not adopted.
- [3] The lawyer should adopt reasonable procedures, appropriate for the size and type of firm and practice, to determine in both litigation and non-litigation matters the parties and issues involved and to determine whether there are actual or potential conflicts of interest.
- [4] If such a conflict arises after representation has been undertaken, the lawyer should withdraw from the representation. *See* Rule 1.16. Where more than one client is involved and the lawyer withdraws because a conflict arises after representation, whether the lawyer may continue to represent any of the clients is determined by Rule 1.9. As to whether a client-lawyer relationship exists or, having once been established, is continuing, see Comment to Rule 1.3 and Scope.
- [5] *ABA Model Rule* Comment not adopted.
- [6] As a general proposition, loyalty to a client prohibits undertaking representation directly adverse to that client without that client's consent. Paragraph (a) expresses that general rule. Thus, a lawyer ordinarily may not act as advocate against a person the lawyer represents in some other matter, even if it is wholly unrelated. On the other hand, simultaneous representation in unrelated matters of clients whose interests are only generally adverse, such as competing economic enterprises, does not require consent of the respective clients.
- [7] *ABA Model Rule* Comment not adopted.
- [8] Loyalty to a client is also impaired when a lawyer cannot consider, recommend or carry out an appropriate course of action for the client because of the lawyer's other responsibilities or interests. The conflict in effect forecloses alternatives that would otherwise be available to the client. A possible conflict does not itself preclude the representation. The critical questions are the likelihood that a conflict will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client. Nevertheless, a lawyer can never adequately provide joint representation in certain matters relating to divorce, annulment or separation — specifically, child custody, child support, visitation, spousal support and maintenance or division of property.

Conflict Charged by an Opposing Party

- [9] Resolving questions of conflict of interest is primarily the responsibility of the lawyer undertaking the representation. In litigation, a court may raise the question when there is reason to infer that the lawyer has neglected the responsibility. In a criminal case, inquiry by the court is generally required when a lawyer represents multiple defendants. Where the conflict is such as clearly to call in question the fair or efficient administration of justice, opposing counsel may properly raise the question. Such an objection should be viewed with caution, however, for it can be misused as a technique of harassment.

Lawyer's Interests

- [10] A lawyer may not allow business or personal interests to affect representation of a client. For example, a lawyer's need for income should not lead the lawyer to undertake matters that cannot be handled competently and at a reasonable fee. *See* Rules 1.1 and 1.5. Similarly, a lawyer may not refer clients to an enterprise in which the lawyer has an undisclosed interest. A lawyer's romantic or other intimate personal relationship can also adversely affect representation of a client.

Interest of Person Paying for a Lawyer's Service

- [11-12] *ABA Model Rule* Comment not adopted.

would be unduly burdensome. The government deals with all private citizens and organizations and, thus, has a much wider circle of adverse legal interests than does any private law firm. In these circumstances, the government's recruitment of lawyers would be seriously impaired if Rule 1.10 were applied to the government. On balance, therefore, the government is better served in the long run by the protections stated in Rule 1.11.

Principles of Imputed Disqualification

- [2] The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of loyalty to the client as it applies to lawyers who practice in a law firm. Such situations can be considered from the premise that a firm of lawyers is essentially one lawyer for purposes of the rules governing loyalty to the client, or from the premise that each lawyer is vicariously bound by the obligation of loyalty owed by each lawyer with whom the lawyer is associated. Paragraph (a) operates only among the lawyers currently associated in a firm. When a lawyer moves from one firm to another, the situation is governed by Rules 1.9(b) and 1.10(b).
- [3–4] *ABA Model Rule* Comments not adopted.
- [5] Rule 1.10(b) operates to permit a law firm, under certain circumstances, to represent a person with interests directly adverse to those of a client represented by a lawyer who formerly was associated with the firm. The Rule applies regardless of when the formerly associated lawyer represented the client. However, the law firm may not represent a person with interests adverse to those of a present client of the firm, which would violate Rule 1.7. Moreover, the firm may not represent the person where the matter is the same or substantially related to that in which the formerly associated lawyer represented the client and any other lawyer currently in the firm has material information protected by Rules 1.6 and 1.9(c).

VIRGINIA CODE COMPARISON

There was no direct counterpart to this Rule in the *Virginia Code*. DR 5-105(E) provided that “[i]f a lawyer is required to decline employment or to withdraw from employment under DR 5-105, no partner of his or his firm may accept or continue such employment.”

COMMITTEE COMMENTARY

The *ABA Model Code* contained a broadly inclusive imputation rule, prohibiting representation by a partner, associate, or any affiliated lawyer when a lawyer would be required to decline employment under any Disciplinary Rule. See *ABA Model Code* DR 5-105(D). The *Virginia Code* limited imputation to disqualification under DR 5-105. See *Virginia Code* DR 5-105(E). The Committee concluded that the provisions of the *ABA Model Rule* struck the appropriate balance between the confidentiality needs of clients and the professional needs of lawyers.

The amendments effective January 1, 2004, in paragraph (a), added the references to Rules 1.6 and 2.10(e), deleted the references to Rules 1.8(c) and 2.2; added paragraphs (d) and (e).

RULE 1.11 Special Conflicts Of Interest For Former And Current Government Officers And Employees

- (a) **A lawyer who holds public office shall not:**
 - (1) **use the public position to obtain, or attempt to obtain, a special advantage in legislative matters for the lawyer or for a client under circumstances where the lawyer knows or it is obvious that such action is not in the public interest;**
 - (2) **use the public position to influence, or attempt to influence, a tribunal to act in favor of the lawyer or of a client; or**
 - (3) **accept anything of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing the lawyer's action as a public official.**
- (b) **Except as law may otherwise expressly permit, a lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the private client and the appropriate government agency consent after consultation. No lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:**

- (1) the disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom; and
 - (2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this Rule.
- (c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom.
- (d) Except as law may otherwise expressly permit, a lawyer serving as a public officer or employee shall not:
- (1) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the lawyer's stead in the matter; or
 - (2) negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially, except that a lawyer serving as a law clerk to a judge, other adjudicative officer, mediator or arbitrator may negotiate for private employment as permitted by Rule 1.12(b) and subject to the conditions stated in Rule 1.12(b).
- (e) Paragraph (d) does not disqualify other lawyers in the disqualified lawyer's agency.
- (f) As used in this Rule, the term "matter" includes:
- (1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties; and
 - (2) any other matter covered by the conflict of interest rules of the appropriate government agency.
- (g) As used in this Rule, the term "confidential government information" means information which has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.

COMMENT

- [1] This Rule prevents a lawyer from exploiting public office for the advantage of the lawyer or a private client. A lawyer who is a public officer should not engage in activities in which his personal or professional interests are or foreseeably may be in conflict with official duties or obligations to the public.
- [2] A lawyer representing a government agency, whether employed or specially retained by the government, is subject to the Rules of Professional Conduct, including the prohibition against representing adverse interests stated in Rule 1.7 and the protections afforded former clients in Rule 1.9. In addition, such a lawyer is subject to Rule 1.11 and to statutes and government regulations regarding conflict of interest. Such statutes and regulations may circumscribe the extent to which the government agency may give consent under this Rule.
- [3] *ABA Model Rule* Comments not adopted.
- [4] Where the successive clients are a public agency and a private client, the risk exists that power or discretion vested in public authority might be used for the special benefit of a private client. A lawyer should not be in a position where benefit to a private client might affect performance of the lawyer's professional functions on behalf of public authority. Also, unfair advantage could accrue to the private client by reason of access to confidential government information about the client's adversary obtainable only through the lawyer's government service. However, the rules governing lawyers presently or formerly employed by a government agency should not be so restrictive as to inhibit transfer of employment to and from the government. The government has a legitimate need to attract qualified lawyers as well as to maintain high ethical standards. The provisions for screening and waiver are necessary to prevent the disqualification rule from imposing too severe a deterrent against entering public service. The private client should be informed of the lawyer's prior relationship with a public agency at the time of engagement of the lawyer's services.

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2006 Code of Virginia § 15.2-1542 - Creation of office of county, city or town attorney authorized; appointment, salary and dutie...

15.2-1542. Creation of office of county, city or town attorney authorized; appointment, salary and duties.

A. Every county, city or town, not otherwise authorized to create the office, may create the office of county, city or town attorney. Such attorney shall be appointed by the governing body to serve at the pleasure of the governing body. He shall serve at a salary or at an hourly rate to be fixed by the governing body and shall be allowed to recover his reasonable costs expended. Any such attorney serving at an hourly rate shall provide the locality with an itemized list of fees and expenses. In the event of the appointment of such attorney, the attorney for the Commonwealth for such locality shall be relieved of any duty imposed upon him by law in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of the locality, of drafting or preparing ordinances, of defending or bringing actions in which the local government or any of its boards, departments or agencies, or officials or employees, thereof, shall be a party, and in any other manner advising or representing the local government, its boards, departments, agencies, officials and employees, and all such duties shall be performed by the local government attorney. Nothing herein, however, shall relieve such attorney for the Commonwealth from any of the other duties imposed on him by law including those imposed by 2.2-3126.

B. The county attorney may prosecute violations of the Uniform Statewide Building Code, the Statewide Fire Prevention Code and all other ordinances as may be agreed upon with the attorney for the Commonwealth. Such attorney shall be accountable to the governing body in the performance of his duties.

C. The county attorney of Montgomery, Fairfax or Prince William Counties may prosecute violations of county ordinances, except those ordinances which regulate, in a manner similar to State statute, the operation of motor vehicles on the highway.

D. City and town attorneys, if so authorized by their local governing bodies, and with the concurrence of the attorney for the Commonwealth for the locality, may prosecute criminal cases charging either the violation of city or town ordinances, or the commission of misdemeanors within the city or town, notwithstanding the provisions of 15.2-1627.

(1968, c. 695, 15.1-9.1:1; 1974, c. 305; 1977, c. 584; 1979, c. 328, 15.1-9.1:01; 1981, c. 122; 1982, c. 30; 1994, c. 357; 1995, c. 740, 15.1-9.1:3; 1997, c. 587; 2002, c. 802.)

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FAIRFAX COUNTY, VIRGINIA

MEMORANDUM

TO: Board of Trustees of DATE: March 15, 1992
the Fairfax County
Uniformed Retirement System

FROM: Richard A. King
Acting County Executive

SUBJECT: Board of Supervisors' Policy Concerning the Use
of Outside Legal Counsel

At its meeting of March 9, 1992, the Board of Supervisors reaffirmed its policy concerning the use of outside legal counsel by County agencies, boards, and commissions. Outside legal counsel may not be retained for any purpose without the review and approval of the County Attorney. The County Attorney may approve the use of outside legal counsel in situations in which he deems it appropriate, such as where the County Attorney determines that his office is precluded from providing representation because of a conflict of interest or where his office is unable to provide counsel or representation because the matter requires specialized expertise not available within the County Attorney's Office.

If you have any questions concerning the application of the Board's policy, please contact the Acting County Attorney.

cc: Members, Board of Supervisors
James P. McDonald, Deputy County Executive for
Management and Budget
Jeanne Carr, Executive Director, Retirement
Administration Agency