

Police Civilian Review Panel

October 8, 2020

Conducted Electronically due to COVID-19 Pandemic

Meeting Summary

Panel Members Present:

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

Others Present:

Complainant
Gentry Anderson, OIPA
Second Lieutenant Bowman, FCPD
Captain Hanson, FCPD
Anita McFadden, Interim Counsel
Rachelle Ramirez, OIPA
Chief Roessler, FCPD

NOTE: The Panel's October 8th meeting was conducted electronically due to the COVID-19 Pandemic. The electronic meeting was hosted on WebEx and allowed for members of the public to virtually attend via WebEx or conference call.

The Panel's business meeting was called to order at 7:00 p.m. and all Panel Members were present.

Ms. Doane welcomed everyone to the Panel's October 8th meeting and noted a few housekeeping rules.

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

Mr. Aguilar was present and participated from the Braddock District.

Mr. Bierman was present and participated from McLean, Virginia.

Mr. Cluck was present and participated from Reston, Virginia.

Ms. Doane was present and participated from Oakton, Virginia.

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

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

Ms. Norman-Taylor was present and participated from Lorton, Virginia.

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

Ms. VanLowe was present and participated from Reston, Virginia.

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

Ms. Doane moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the Panel to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of this Panel and the physical presence of the public, cannot be implemented safely or practically. She further moved that the Panel may conduct this meeting electronically through a dedicated WebEx platform and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 1-844-621-3956 and entering access code 173 419 6615 as noted in the Public Meeting Notice. Mr. Bierman seconded the motion and it carried by unanimous vote.

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

Panel Review of CRP-19-19: Ms. Doane acknowledged that the complainant, Chief Roessler, Captain Hanson, and Second Lieutenant Bowman were present for the Review Meeting. She explained that the complaint included several allegations, all but two the Panel could not review due to the limitation on the Panel's scope of authority related to the timely submission of complaints as established in the Panel's enabling Action Item and Bylaws. The Panel's Review of CRP-19-19 considered allegations that officers falsely charged the complainant for malicious wounding and contributing to the delinquency of a minor, and harassment. On July 12, 2018, a fight broke out in front of the house of the complainant's daughter. A video of the incident was captured, and the complainant was observed at the scene holding a slim pole. Officers were dispatched to the scene and interviewed witnesses. Based on the witness interviews and video evidence, the complainant was served warrants for malicious wounding and contributing to the delinquency of a minor. The complainant alleged that she was falsely charged and harassed by officers and suffered financial pain due to the incident. Ms. Doane noted that the incident subject of the complaint was litigated in federal court but that the litigation had concluded.

Complainant Statement: The complainant thanked the Panel for the opportunity to speak and for undertaking a review of her complaint. The complainant informed the Panel that she has been a Fairfax County resident for a long time and that she has felt targeted by the FCPD as she is a Black mother. She acknowledged that the Panel could not review all allegations listed in her complaint due to time limitations. She provided a summary of the incident that resulted in her being charged with malicious wounding and contributing to the delinquency of a minor and noted that she provided a video recording of the incident to the FCPD. She expressed that she has felt hurt and devastated by how she was treated by law enforcement.

Complainant Questioning:

Mr. Aguilar thanked the complainant for attending and acknowledged that the Review Meeting was rescheduled. He asked the complainant whether the FCPD officers reviewed the recording she referenced, and the complainant replied affirmatively. Mr. Aguilar asked if the complainant believed that all relevant witnesses were interviewed, and the complainant replied affirmatively. Mr. Aguilar asked why the complainant believed that the FCPD investigation was not complete and why she disagreed with the findings of the investigation. The complainant replied that no one involved in the incident was hurt, individuals involved in the incident lied, and that the officers took the side of the other individuals involved.

Ms. Norman-Taylor asked whether the video the complainant referenced was provided to the FCPD. The complainant replied that she provided the video of the incident to an FCPD officer via text message. The complainant added that other individuals may have provided other videos of the incident to FCPD.

Ms. Doane thanked the complainant for addressing and taking questions from the Panel. She also thanked the complainant for her flexibility as the Review Meeting had been rescheduled.

FCPD Statement:

Captain Hanson introduced Second Lieutenant Bowman to present the summary of the investigation and the FCPD's findings. Second Lieutenant Bowman provided a summary of the facts of the case and the investigative steps taken. He reported that the results of the investigation did not find evidence to support the allegations made by the complainant and that the interactions between the FCPD and the complainant reflected evidence-based policing. He added that the incident was initiated by members of the community rather than FCPD officers. The FCPD's investigation found the officer to be in compliance with performance of duty.

FCPD Questioning:

Mr. Bierman asked why the cellphone video that captured the incident was not included in the FCPD investigation file. Captain Hanson replied that the video should have been included in the investigation file and that it was not brought to his attention that it was missing. He invited Panel Members to review the video.

Panel Deliberations:

Ms. Doane invited the Panel to discuss whether the FCPD investigation was accurate, complete, thorough, objective, and impartial. The Panel openly deliberated.

In addition to deliberations, Panel Members discussed the role of the Panel and its review process when complaints have previously been litigated. The limitation on the Panel's scope of review authority related to the timely submission of complaints as outlined in the Action Item and Bylaws was also discussed. Panel Members noted the difficulty of evaluating a pattern of harassment in alleged by the complainant as the Panel was unable to review several allegations because they were deemed untimely based on the Panel's Action Item and Bylaws. Mr. Aguilar suggested the Panel develop a tool or checklist to help Panel Members consistently review FCPD investigation files for completeness. Panel Members agreed that the issues related to the Panel's role in reviewing previously litigated complaints and the Panel's scope of authority need to be discussed further at a future meeting.

Captain Hanson asked Panel Members to let an Internal Affairs Bureau (IAB) representative know immediately if something appears to be missing from the investigation file so that the information can be supplied. He apologized that the video appeared to be missing from the investigation file. Ms. Doane thanked Captain Hanson.

Panel Findings:

Mr. Kay moved that the Panel concur with the findings and determinations detailed in the FCPD Investigation Report. Mr. Sriskandarajah seconded the motion. Mr. Aguilar asked for clarification on the motion and Ms. Doane replied that the motion was to concur with the FCPD findings. A roll call vote was called, and the motion carried by a vote of seven with Mr. Aguilar voting "Nay," and Ms. VanLowe abstaining.

Approval of Review Report for CRP-20-15:

Ms. Doane referenced the draft Review Report for complaint CRP-20-15 which was included in the meeting materials packet. She acknowledged that Mr. Aguilar introduced a dissent at the time of the Panel's meeting, and that the dissent was uploaded into WebEx for Panel Members and the public to review. She added that the Review Report does not include any recommendations at this time and opened the floor for Panel discussion on the draft Review Report. Panel Members did not have comments on the draft Review Report. Mr. Sriskandarajah moved that the Panel adopt the Review Report for CRP-20-15. Mr. Bierman seconded the motion and it carried by unanimous vote.

Ms. Doane asked Ms. Anderson to include the hyperlink to the audio recording for the October 8, 2020 Panel Meeting and attach Mr. Aguilar's dissent to the report.

Approval of September 24 Meeting Summary:

Mr. Sriskandarajah moved approval of the Panel's September 24 meeting summary.
Mr. Bierman seconded the motion and it carried by unanimous vote.

New Business:

Ms. Doane reported that the FCPD will be providing responses to Panel recommendations so that the Panel's Recommendations Matrix can be updated and published to the Panel's website.

Mr. Aguilar asked that the Panel further discuss its role and how it assesses whether an FCPD investigation is accurate, complete, thorough, objective, and impartial. Ms. Doane reminded the Panel that Ms. VanLowe and Mr. Sriskandarajah are in the process of reviewing the Panel's procedures and recommended that when their review is complete, the Panel convene a meeting to discuss procedures and further flesh out this issue and the subcommittee process. Ms. VanLowe agreed and explained that the Panel must be objective as possible while acknowledging there is some subjectivity in the way Panel Members make decisions as to whether investigations are accurate, complete, thorough, objective, and impartial. She added her belief that it is problematic that the Panel is confined to three choices for Panel findings as outlined in the Panel's Action Item and Bylaws and wondered if it would be appropriate for the Panel to have more flexibility in this area. Ms. Doane explained that she believes there are other ways to make points to stakeholders that produce good results. She cited a previous Panel Review Meeting where Panel Members were concerned about the omission of a witness interview and noted that after the Review Meeting, the FCPD informed her that they would conduct an interview of that witness. She added that the Panel can raise issues with the investigation during a Review Meeting and still concur with the investigation. She explained that the issues are then raised within the Panel's Review Report, which is sent to the Chief, the Board of Supervisors, and the Independent Police Auditor. Ms. Doane also said that the quarterly meetings are another avenue to communicate directly with the FCPD about the completeness and thoroughness of investigation files. Mr. Bierman suggested the Panel consider whether complete means "finalized" or "total" to further standardize the Panel's review processes.

Ms. Doane asked for Panel Members to submit their thoughts related to these issues to Ms. VanLowe and Mr. Sriskandarajah for them to consider during their review of Panel Procedures. She also encouraged Panel Members to make their own checklists to use when reviewing FCPD investigation files and that the Panel should consider adopting a standard checklist for Panel Members to use in the future.

Mr. Aguilar asked what Panel Members should do if they believe something is missing from the FCPD investigation file. Captain Hanson asked for Panel Members to address this issue with IAB staff immediately to ensure that Panel Members are able to review all information relevant to the investigation.

Ms. Doane informed the Panel that she would like to have a training session in early 2021 and asked for Panel Members to think about the topics and issues on which they would like to receive training. She noted that Ms. Ramirez provided Panel Members access to a particular session from the National Association for Civilian Oversight of Law Enforcement (NACOLE) and encouraged Panel Members to take the time to view it. She suggested that an individual from another oversight board address the Panel during the training on issues such as reviewing investigation files and reviewing allegations of racial bias. *Ms. Doane asked for Panel Members to provide her with training topics that they would find helpful.*

Adjournment:

Mr. Bierman moved to adjourn the meeting. Mr. Gallagher seconded the motion and it carried unanimously.

The meeting adjourned at 8:16 p.m.

Next Meeting: The Panel's next meeting will be held on Thursday, October 22 at 7:00 p.m. The meeting will be conducted electronically and information for public access will be included in the public meeting notice.