

Police Civilian Review Panel

November 10, 2021

Conducted Electronically due to COVID-19 Pandemic

Initial Disposition Subcommittee – CRP-21-21

Members Present:

Dirck Hargraves, Subcommittee Chair

Cheri Belkowitz, Review Liaison

William Ware, Review Liaison

Others Present:

Rachelle Ramirez, OIPA

Dre-Ana Whitfield, OIPA

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

The Initial Disposition Subcommittee was called to order at 5:32 p.m.

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

Mr. Hargraves was present and participated from Kingstowne, Virginia.

Ms. Belkowitz was present and participated from Fairfax, Virginia.

Mr. Ware was present and participated from Alexandria, Virginia.

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

Mr. Hargraves moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the subcommittee to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA’s usual procedures, which require the physical assembly of this Panel and the physical presence of the public, cannot be implemented safely or practically. He further moved that the subcommittee may conduct this meeting electronically through a dedicated WebEx platform and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 1-844-621-3956 and

entering access code 2336 898 2183 as noted in the Public Meeting Notice. Mr. Ware seconded the motion and it carried by unanimous vote.

Mr. Hargraves 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. Ms. Belkowitz seconded the motion and it carried by unanimous vote.

Completion of Initial Review Report for CRP-21-21:

Mr. Hargraves reviewed the purpose stated in the Subcommittee Initial Review Report. He explained to the public that the subcommittee's purpose is to make a recommendation based on the facts as alleged and to ensure that what is in the record supports the complainant's allegation or allegations. He noted that the full Panel has the right to accept or reject the subcommittee's recommendations.

Mr. Hargraves reviewed the findings section of the Subcommittee Initial Review Report. The complainant alleged that an FCPD auxiliary police officer (APO) did not have probable cause to remove signs from his yard. The complainant further alleged that the FCPD APO tampered with his trash can and struck him with his vehicle and left the scene. Ms. Belkowitz stated that the incident did not occur during official police business and asked whether the Panel could review it. Mr. Hargraves explained that an APO or a full-time FCPD officer is still subject to the rules and regulations in the general orders of the FCPD whether on or off duty.

Mr. Ware stated that the complaint appears to be the culmination of an ongoing feud between two neighbors. He said that the incidents raised by the complainant are aspects of that continuing feud. Mr. Ware expressed concerns about the allegation involving the complainant being struck by a vehicle and the auxiliary police officer leaving. Ms. Belkowitz stated that she observed many inconsistencies in the report and that the facts were unclear. Mr. Hargraves concurred with the observations of the subcommittee members. Ms. Belkowitz stated that there is no investigative report or interview that discussed that allegation. Discussion ensued on the allegation of the vehicle hitting the complainant. Mr. Hargraves said it was mentioned in the complaint but he did not see a report filed by a police officer based on that allegation. Mr. Ware noted that regardless of whether it was included in the investigative file, a hit and run would be beyond the scope of the Panel's authority.

The subcommittee reviewed each of the criteria in the Initial Review Report checklist and considered the allegations made in the complaint and whether there was substantiation in the investigative file to support the allegations. Subcommittee members noted that the only comment about race was made by the complainant directed at the APO.

Discussion ensued on if the APO was acting in a rude, careless, angry, retaliatory, or threatening manner. Ms. Belkowitz stated that both parties were acting in a rude manner toward each other. Mr. Ware said he thought the APO tried to deescalate the situation. Ms. Belkowitz said she was unclear what the proper protocol was for an officer to follow if they think an item is

stolen. Mr. Hargraves clarified that there were two instances in which the sign was not where the complainant placed it, but that the allegation is not supported by the facts in the investigative file. Discussion ensued on whether the APO used his status as an APO to intimidate the complainant. Subcommittee members expressed that there was no scintilla of evidence to support these allegations, and therefore, the criteria for full Panel review were not met.

Mr. Hargraves moved that the subcommittee not recommend that the Panel take up a review of CRP-21-21 because the complaint does not meet the scope of review criteria set forth in its Bylaws. Mr. Ware seconded the motion and it carried by unanimous vote.

Mr. Ware stated that he did not believe the Panel was established to resolve disputes between neighbors and he did not think it was appropriate that this complaint was brought to the Panel and to the FCPD Internal Affairs Bureau. Ms. Belkowitz expressed agreement and stated that it would have been better handled by an alternative dispute resolution process. Mr. Hargraves stated that the allegations have to be supported by the facts and that he did not think FCPD officers should be targeted with allegations such as these.

Mr. Hargraves moved to adjourn the meeting. Mr. Ware seconded the motion and it carried by unanimous vote.

The meeting adjourned at 6:26 p.m.

Fairfax County Police Civilian Review Panel

Subcommittee Initial Review Report

Request for Review – Basic Information
CRP Complaint Number: CRP-21-21
Subcommittee Meeting Date: November 10, 2021
Subcommittee Members: <ul style="list-style-type: none">• Dirck Hargraves, Subcommittee Chair (Panel Vice Chair)• Cheri Belkowitz, Subcommittee Member• William Ware, Subcommittee Member
Complaint Submission Date: Review Request received on 10/4/2021. Other Key Dates: FCPD Disposition letter: 9/22/2021; Incident Dates: 10/18/2020; 3/2021

This report is subject to Federal and Virginia Freedom of Information Acts. Panel members will maintain to the greatest extent possible under the law and in accordance with the Bylaws all sensitive and confidential information not intended for a public release.

Purpose
The Subcommittee Initial Review Report sets forth the Subcommittee’s recommendation on whether the Complainant’s allegation(s) meet the standard for review provided in the Panel’s Bylaws. The Panel may accept or not accept the Subcommittee’s recommendation on whether to review a complaint.

Findings
<p>The Panel’s review authority states in Article VI (A)(1) of its Bylaws: “The Panel shall review Investigations to ensure their thoroughness, completeness, accuracy, objectivity and impartiality where (1) the subject matter of an Investigation is an allegation of ‘abuse of authority’ or ‘serious misconduct’ by a FCPD officer, and (2) a Review Request is filed.”</p> <p>The subject matter of this investigation concerns allegations by the complainant that an FCPD auxiliary police officer (APO) did not have probable cause to remove signs from the complainant's yard, tampered with his trash can, struck him with his car and left the scene, and intimidated him.</p> <p>The Subcommittee finds that the subject matter of the investigation does not meet the threshold requirement for “abuse of authority” and “serious misconduct.”</p>

Recommendation

The Subcommittee recommends that the Panel **not undertake** a review of CRP-21-21 because the complaint **does not meet** the scope of review criteria set forth in its Bylaws.

Panel Bylaws Abuse of Authority and Serious Misconduct Checklist

Criteria Met?	Abuse of Authority and/or Serious Misconduct	Complainant Details*
No	Use of abusive racial, ethnic or sexual language or gestures.	
No	Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability.	
No	Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense.	Alleged but no substantiation in the file
No	Reckless endangerment of detainee or person in custody.	
No	Violation of laws or ordinances.	Alleged but no substantiation in the file
No	Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Cannon of Ethics, that occur both on or off duty.	Alleged but no substantiation in the file

***Confidential and sensitive information shall not be disclosed in this document. Contact the Chair or Panel Legal Counsel for questions and/or additional information.**