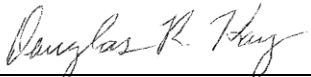


Fairfax County Police Civilian Review Panel Procedural Memorandum	
No: O-2	Subject: Intake and Processing of Review Requests
Approval Date: October 7, 2019	Review Date: December 2020
Signed by Douglas Kay, Chair	

Purpose: To provide procedures for filing and processing Review Requests submitted to the Fairfax County Police Civilian Review Panel (the “Panel”) in a timely, responsive, and consistent manner.

Filing a Review Request

- A complainant can file a Review Request with the Panel the same way they can file an Initial Complaint (see page one of Panel Procedure: Intake and Processing of Initial Complaints).
- A complainant must include in the Review Request a statement describing the reason(s) for the Review Request.
- Upon receipt of a Review Request:
 - Staff, in consultation with the Chair, will determine whether the Review Request is timely filed (within 60 days of the date of the FCPD Disposition Letter), unless the Panel determines that there is good cause to extend the filing deadline.
 - Staff, in consultation with the Chair, will determine whether the matter described in the Review Request is the subject of pending civil, criminal, or administrative litigation.
 - The Chair will forward the Review Request to the FCPD (for informational purposes only) and request a copy of the FCPD Disposition Letter if not attached to the Review Request.
 - Staff, in consultation with the Chair, will draft and send a letter to the complainant acknowledging receipt of the Review Request and delineating next steps, using the attached template:
 - Confirmation of Receipt – Request for Review (No Pending Litigation) (Attachment 1)

- Confirmation of Receipt – Request for Review (Pending Litigation) (Attachment 2)

Initial Review

- The Initial Review Committee will conduct the Initial Review.
- The Review Liaisons for the Complaint, together with the Chair or Vice Chair (as determined by the Chair), will form the subcommittee to conduct the Initial Review (the “Initial Review Subcommittee”).
- The Chair will coordinate with the FCPD Liaison dates and times for the Initial Review Subcommittee to review the Investigation File.
- The Chair will schedule the meeting date for the Initial Review Meeting and set the agenda.
- If pending litigation associated with the complaint exists, the Chair will compare the pending litigation to the allegations made within the complaint. If the Chair finds that pending litigation is associated with the allegations made within the complaint, the Chair will so inform the Panel so that it can defer action on the Review Request until the litigation is concluded in conformance with the Bylaws. If the Chair finds that the pending litigation is not associated with the allegations made within the complaint, the review process will continue as detailed below.
- After the review of the Investigation File, the Subcommittee will meet to (i) determine whether the Panel has the authority to review the Investigation, and (ii) complete the Initial Review Report Template (Attachment 3). If the Initial Review Subcommittee determines that the Panel does not have authority to review the Investigation, the Initial Review Report will note the Subcommittee’s reasoning.
- After the Initial Review meeting, Staff, in consultation with the Chair, will draft and send the Initial Disposition Notice to the complainant notifying the complainant of the Panel’s determination of authority to undertake a review of the subject Investigation. If the Initial Review Subcommittee concludes that the Panel has authority to review, the letter will also notify the complainant of the date and time of the Panel Review Meeting, a description of the review process, the deadline for completing the review, and the complainant’s right to attend the Panel Review Meeting and options to address the Panel, using the attached templates:

- Determination of Panel Authority and Review Meeting Notification (Attachment 4)
- Determination of Panel Authority – Review Meeting Notification – Optional Attendance (Attachment 5)
- Determination of Panel Authority – No Authority to Review (Attachment 6)
- Staff, in consultation with the Chair, will draft and send the Initial Disposition Notice to the complainant within 30 days of receipt of the Investigation Report.
- If the Initial Review Subcommittee concludes that the Panel has review authority the Initial Review Subcommittee will also (i) set the date for the Panel Review Meeting and (ii) determine whether the FCPD should be asked to appear at the Panel Review Meeting.
- The Chair will (i) notify Panel Members of the results of the Initial Review Meeting and request that all Panel Members review the Investigation file, (ii) coordinate with the FCPD Liaisons to (a) determine times when the Investigation file will be made available to the remaining Panel Members for review and (b) request the FCPD, through the FCPD Liaisons, to appear at the Panel Review Meeting, if necessary.

Panel Review Meetings

- The Staff, in consultation with the Chair, will prepare and post the Panel Review Meeting Notice in accordance with Article VI.E.1 of the Bylaws.
- Staff will send an official email notification of the date of the Review Meeting to the Panel, the Panel's Counsel, the County Attorney, the FCPD Liaisons, and the major in command at the FCPD Internal Affairs Bureau at least fourteen days in advance of the Review Meeting, as required by Article IV.E.1.c of the Panel's Bylaws.
- The Chair will preside over Panel Review Meetings in accordance with Article VI.E.1 of the Bylaws.
- When opening a Panel Review Meeting, the Chair will ask Panel Members, the FCPD representative, and the complainant to introduce themselves for the record and the Chair will outline the process for conducting the Panel Review Meeting, reminding those in attendance that:

- the purpose of the Panel’s review of the Investigation is to determine whether the Investigation is thorough, complete, accurate, objective and impartial.
 - the complainant will have 15 minutes to address the Panel to state his or her reasons for filing the Review Request and that Panel Members may ask questions regarding those reasons. On motion from a Panel Member, the Panel may consider an extension of the 15-minute time period.
 - Panel Members may ask the FCPD representative questions regarding the process of the Investigation and the conclusions reached in the Investigation.
 - questions regarding officer discipline are personnel matters that must be discussed in closed session.
 - Panel Members may also request consultation with legal counsel during the Panel Review Meeting, which must also be discussed in closed session.
- If the complainant does not attend the Panel Review Meeting, or attends but chooses not to address the Panel, the Panel may complete the Investigation review process.
 - If other witnesses attend the Panel Review Meeting, their contact information will be obtained and given to the FCPD for follow-up.

Panel Findings

- At the discretion of the Chair, Panel Members may continue the Panel Review Meeting with a discussion of their findings from the review. If not, discussion of Panel review findings can be deferred to the next Panel Meeting.
- Opening the deliberations, the Chair will restate the Panel Findings options for Panel Members, as outlined in Article VI.F.2.a of the Panel’s Bylaws. The Panel may:
 - Concur with the findings detailed in the Investigation Report.
 - Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the FCPD and recommend further review and consideration by the Chief of the FCPD.

- Advise the Board of Supervisors that, in the Panel's judgment, the Investigation is incomplete and recommend additional investigation.
- A majority of the appointed Panel Members must vote to concur with the Panel Findings for the Panel Findings to be the authorized conclusion of the Panel.
- Panel Members who do not agree with the majority may offer a written dissent that explains his or her rationale for dissenting. The dissent will be included in the Panel's review report.
- Panel Members may offer policy recommendations or other comments that the Panel will consider for inclusion in the Panel's Review Report.
- After the Panel votes on the Panel Findings, Staff, in consultation with the Chair, will draft and send correspondence informing the complainant of the Panel's Findings and the next steps in the process, using the attached template:
 - Notification of Panel Vote (Attachment 7).

The Panel Review Report

- The assigned Review Liaisons for a Review Request will draft the Panel Review Report using the Panel Review Report Template (Attachment 8).
- The Panel Review Report will not contain identifying information for either the police officer(s), the complainant, or witnesses, confidential informants, victims, personal information including names, social security numbers, date of birth, driver's license numbers, agency issued identification numbers, student identification numbers, criminal or employment records, or residential addresses unless the information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia Law.
- The Review Report will not contain an officer's personnel record or specific officer discipline, other than what is specifically disclosed by the FCPD in a disposition letter or at a Panel meeting.

- The Review Report will not reveal information that jeopardizes the safety of an individual.
- If the FCPD notifies the Panel that certain information in the investigative file may reveal specific sensitive investigative techniques or contain information that is likely to jeopardize ongoing or future investigations, and such information is not contained in the complaint itself, the Panel will address FCPD concerns with the Panel's counsel in a closed meeting to resolve the issues.
- The Chair will circulate the draft report for comment with the Agenda for the meeting during which the Panel Review Report will be discussed.
- The Review Liaisons will present the draft Panel Review Report at the Panel Meeting.
- The Panel will discuss the draft Panel Review Report. A separate vote will be taken on each proposed recommendation or comment to determine its inclusion in the final Panel Review Report.
- Based on the discussion and vote, the Review Liaisons will finalize the Panel Review Report.
- Staff, in consultation with the Chair, will send the final Panel Review Report to the Board of Supervisors, the Chief of the FCPD, and the Auditor, and will post the Panel Review Report on the Panel's website.
- Staff, in consultation with the Chair, will draft and send correspondence, along with the final Panel Review Report, to the complainant, using the attached template:
 - Notification of Panel Report (Attachment 9).