
Police Civilian Review Panel

Meeting Agenda

Location: Fairfax County Government Center, Conference Room 9-10

Date: October 12, 2021

Time: 7:00 pm

Agenda details:

I. Call to Order

II. Agenda Items

- a. Approval of Agenda
- b. Remote Participation Approval
- c. Approval of September 2 Meeting Summary
- d. Approval of Subcommittee Initial Review Report for CRP-21-11
- e. Consideration of Good Cause to Review CRP-21-14
- f. Review of Proposed Remote Participation Procedure

III. New Business

IV. Adjournment

Panel Meeting Schedule:

- November 16, 2021 at 7:00 p.m.
- December 2, 2021 at 7:00 p.m.
- January 6, 2021 at 7:00 p.m.

Police Civilian Review Panel

September 2, 2021

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members Present:¹

Jimmy Bierman, Chair

Dirck Hargraves, Vice-Chair

Todd Cranford

Frank Gallagher

Shirley Norman-Taylor

William Ware

Panel Members Joined Remotely

Cheri Belkowitz

Others Present:

Lt. Derek Gray

Capt. Dana Robinson

Richard Schott, Independent Police Auditor

Dre'Ana Whitfield, OIPA

Others Present Joined Remotely

Anita McFadden, Counsel

The Panel's business meeting was called to order at 7:03 p.m. Mr. Bierman welcomed everyone to the Panel's September 2, 2021, meeting. Mr. Bierman took roll call to verify a quorum of the Panel was present. Everyone that was present in Conference Room 232 stated their name and the position that they hold. Ms. Belkowitz stated that she was participating remotely from Fairfax Station, Virginia.

Approval of Meeting Agenda: Mr. Gallagher moved approval of the meeting agenda. Mr. Hargraves seconded the motion and it carried unanimously.

Remote Participation Approval: Mr. Bierman stated that they are still working on updating the remote participation policy. He expressed that he will be working with Ms. McFadden on updating the remote participation policy. He further explained that the old policy allowed individuals to participate remotely in a certain number of meetings for sickness or personal reasons. Mr. Bierman talked about the changes to the FOIA law governing remote participation of members of public bodies and stated that the Panel will move forward with adopting a new remote participation policy.

Approval of August 12 Meeting Summary: Mr. Hargraves moved the approval of the Panel's August 12 meeting summary. Ms. Norman-Taylor seconded the motion and it carried unanimously.

¹ Two Panel seats were vacant for this meeting.

Consideration of Good Cause to Review CRP-21-14: Mr. Bierman referred to the two review requests on the meeting agenda. He said that each complainants received a disposition letter and are currently requesting reviews.

Mr. Bierman provided a brief summary of the first complaint. He said that the complainant reported multiple instances of false arrest, harassment, and violations of the law. The Fairfax County Police Department (FCPD) informed the Panel that they completed two administrative investigations into the allegations. The FCPD sent the complainant letters on November 8, 2018, and January 29, 2021. The complainant's request for review was received on August 4, 2021, which is outside of the sixty-day period. Mr. Bierman stated that the complainant was asked to explain why he may have "good cause." Mr. Bierman explained that under the Bylaws if the Panel finds "good cause," the complaint can still be reviewed. Mr. Bierman read the complainant's "good cause" to the Panel. He said that the complainant's explanation of "good cause" was said to be due to homelessness. In addition, the complainant had said that he was still compiling evidence and reasons for his complaint.

Mr. Bierman asked the Panel if there was a motion to accept a review of CRP-21-14 for "good cause" or to reject a review and deny "good cause." Mr. Gallagher made the motion to reject the review. The motion was seconded by Mr. Hargraves. Mr. Gallagher voiced that the complainant did not state in his correspondence how long he was in fact homeless. He said that he viewed the complainant as being nonresponsive due to being able to stay communicative. Mr. Cranford asked whether the complainant alleged any reason, such as not receiving the letter due to being sent to an old address. Mr. Bierman stated that the complainant did not make that claim. Mr. Cranford stated that it seemed the complainant was communicating with others and did not claim that he received the disposition letter late because of homelessness.

Mr. Bierman called to question the motion to deny "good cause" and to deny the request to review. The motion was carried six to one, with Mr. Ware voting nay.

Consideration of Good Cause to Review CRP-21-17:

Mr. Bierman provided a summary of the complaint. The complainant alleged that officers acted unfairly and prejudiced in not investigating the theft of his personal property during incidents in 2016, and interactions on December 10, 2020. Mr. Bierman explained that the Panel notified the complainant on June 15, 2021, in a letter that he had until August 7, 2021, to request a review. Mr. Bierman stated that the complainant submitted his request for review on August 10, 2021, three days past the sixty-day deadline.

Mr. Bierman voiced that the complainant did not provide any reason for a "good cause." He expressed concern that arguably individuals may not understand what the Panel wants to know regarding "good cause." Mr. Gallagher recommended that the Panel look at the language in its correspondence to complainants about requesting information to consider "good cause". Mr. Bierman suggested that this can be considered going forward and asked Panel Members to send any suggested revisions to him. However, Mr. Bierman stated that when the Panel asked for "good cause" it was not provided in this case.

Mr. Bierman called to question the motion to deny “good cause” and decline to review the case. Mr. Cranford moved the rejection to deny “good cause.” Mr. Ware seconded the motion and it carried unanimously.

Bylaws Amendments on Subcommittee Process

Mr. Hargraves referenced the proposed new language in the draft Bylaws document in the meeting materials. He said the proposed language is in blue text and the language to be replaced is highlighted gray. He said that he and Mr. Cranford integrated the suggestions made by Panel members during the last meeting and suggestions received from a former Panel Chair.

Mr. Hargraves referenced section D.3.(a)(ii). of the new proposed language. He said that Mr. Gallagher and Mr. Bierman expressed concerns with the evidentiary standard. Mr. Hargraves said that a concern with a higher bar is that it might omit credible complaints. He said that he and Mr. Cranford are fine with the language as is since a unanimous vote to get rid of frivolous complaints is required, the full Panel can override a recommendation, and the same members will not be serving on the subcommittees. Mr. Cranford said that the language as is sets forth the standard because the review will determine whether serious misconduct or abuse of authority is alleged.

Mr. Bierman said his concern was that the Panel made a recommendation in the Four-Year Review that this process be a summary judgement like process. He referenced the recommendation in the Four-Year Review that says the subcommittee should “determine whether the allegations of the complaint constitute allegations of a serious misconduct or abuse of authority,” which is the same as 3.(a)(i). He said that the Four-Year Review report recommendation also says, “if yes, the subcommittee should determine whether the investigation report reveals any observable substantiation of the allegations of serious misconduct or abuse of authority in the complaint... If there is any observable substantiation of the allegations of serious misconduct or an abuse of authority, the Subcommittee should recommend that the full Panel take up review.” He said the recommendation says the bar should be: is this the case that no reasonable Panel could come out and say there was need for additional investigation or there was a violation here. Mr. Bierman said that if 3.(a)(ii) language stays as proposed, “the evidence contained in the investigative file supports the allegations” it becomes a question of what one subcommittee member thinks will be the ultimate outcome, rather than whether he or she believes no reasonable Panel member could come to this outcome.

He said the point of the recommendation in the Four-Year Review is that when the subcommittee recommends the full Panel not take a complaint it should say that no reasonable Panel could find there was evidence of abuse of authority or serious misconduct. He said his concern is that the current proposed language does not include consideration of a reasonable Panel. He recommends that 3.(a)(ii) say instead, “There is any substantiation and there is any evidence contained in the investigative file that supports the allegations”. He said that a subcommittee member to find there is no evidence or that no reasonable Panel member can find evidence supporting the allegation is different from a single Panel member saying the he or she alone thinks there is a problem.

Mr. Gallagher said the way it is currently written is too broad. He said the subcommittee should determine whether there is anything in the file that supports the allegations and then decide whether it should go to the Panel.

Ms. Belkowitz said she was concerned there could be a pattern of the subcommittee not sending complaints to the full Panel or that there may be bias in not pushing them forward to the Panel. She said she is fine with the way it is written but that there needs to be checks and balances. She suggested providing the form that the subcommittee completes prior to the vote of the full Panel. Mr. Gallagher said that subcommittee membership rotates. Mr. Hargraves said that D.2.(b) specifies that there be rotating membership.

Mr. Bierman said another failsafe is that the full Panel will always consider the subcommittee recommendation and vote to accept or reject it. Mr. Bierman proposed to change 3(a)(ii) to say: "any evidence contained in the investigative file supports the allegations." He also proposed creating a new section 3.(b) that says "if the conditions of (a)i and (a)ii are both met, the subcommittee should recommend that the full Panel review." He proposed that the current 3.(b) then become 3.(c) and the language stay the same about the unanimous vote needed to recommend that a complaint not be considered by the full Panel.

Mr. Ware said he had concerns about the use of the term "shall" in the new proposed 3.(c) as he thinks it will limit the discretion of the subcommittee.

Mr. Hargraves moved that the new proposed language in Section 3(a)(ii) be accepted as amended by striking the word "the" and replacing it with "any." Mr. Ware seconded the motion.

Mr. Gallagher said he wanted to propose a change to Section C.1.(a). in the Bylaws but the discussion was tabled.

Mr. Cranford said he finds the word "any" too expansive and would compel the subcommittee members to go forward when there is any evidence. He suggested the following language: "The evidence contained in the investigative file would lead a reasonable Panel to conclude that there is a scintilla of evidence to support the allegations." He said it includes language from the Four-Year Review report but does not say "any" and allows the subcommittee to exercise its judgment and discuss whether they believe a reasonable Panel would feel the same way. Ms. Belkowitz expressed agreement but suggested striking the word "scintilla." Further discussion ensued on the proposed language.

Ms. Belkowitz asked if the Panel rejects the complaint is there any appeal process. Mr. Bierman said that if the Panel rejects a complaint there is no appeal process, but if a subcommittee makes a recommendation to the Panel to reject a complaint, then the new language in D.3.(d) states that the full Panel can overrule the recommendation. Ms. Belkowitz asked if there was ever a time when the Panel rejected a subcommittee's recommendation and Mr. Bierman stated there has not been.

Ms. Belkowitz made a friendly amendment to the motion that a semi-colon be placed after "Bylaws" in 3(a)(i). Mr. Hargraves accepted the amendment.

Mr. Cranford moved to amend the motion on the floor to revise the language in 3.(a)(ii) to read "The evidence contained in the investigative file could lead a reasonable Panel to conclude that there is sufficient evidence to support the allegations." Ms. Norman-Taylor seconded the motion.

Mr. Hargraves suggested keeping the same language in 3.(a)(ii) but replacing the word "the" with "sufficient" rather than "any".

Mr. Bierman called the question that the Panel vote on the amendment proposed by Mr. Cranford. He re-read the proposed language to be included in D.3.(a). The motion carried by unanimous vote.

Mr. Bierman called the question that the Panel accept the new language proposed by Mr. Cranford. The motion carried unanimously.

Mr. Gallagher referred to Article VI.C.1.(a) in the Bylaws draft that says "An Initial Complaint and a Review Request shall be in writing and shall be deemed filed when delivered or emailed to the Panel or the Office of the Independent Police Auditor." He asked if the Panel receives a phone call is it accepted as delivered. Mr. Bierman said that they do consider a phone call to be delivered. Mr. Schott stated that when he speaks on the phone with a complainant, he reduces to writing what is conveyed.

Ms. Belkowitz asked if they should address what happens if the subcommittee does not unanimously vote. She asked if that means that the Panel would automatically take on the complaint. Mr. Bierman said that the subcommittee is making a recommendation to the Panel and that the only way the Panel can accept a recommendation to not review a complaint is if there is a unanimous subcommittee vote. He said it can be implied that if it is not a unanimous subcommittee vote then the subcommittee cannot recommend that the complaint not be heard by the Panel. Ms. Belkowitz asked what happens next and is it automatically heard by the Panel. Mr. Bierman said the full Panel considers the recommendation from the subcommittee. Mr. Bierman said that Ms. Belkowitz raises the question of what happens if the subcommittee is not unanimous and then the Panel decides it does not want to accept the complaint? Mr. Hargraves said that because the meetings are open to the public, the full Panel can discuss why they accept or reject a complaint. He said that the vote of the subcommittee will be considered in the decision of the full Panel. Mr. Bierman said the point of the process is to be sure there is consistency in decisions made by subcommittees and that the failsafe is that the ultimate decision is made by the full Panel.

New Business:

Mr. Bierman updated the Panel. He stated that he and Mr. Ware met with the Communities of Trust. Mr. Ware provided a brief summary about the Communities of Trust. He stated that the Communities of Trust is a committee that was established by the Board of Supervisors in response to Ferguson, Missouri after a police officer involved shooting. The Communities of Trust focuses on building trust between the community and the police through events and forums.

Mr. Bierman said that he reached out to the Chief to schedule his one-hundred-day forum. Mr. Bierman said that no specific date is set. He stated that future meetings will occur between the Panel and the rank and file of the FCPD. He expressed the desire for the new Executive Director to attend these meetings and explain the role of the Panel.

Mr. Bierman reminded the Panel that the Public Safety Committee meeting will be held on September 28, 2021, at 9:30 a.m. He said he will be presenting along with Mr. Schott.

Mr. Bierman said that if the state of emergency in the county is not lifted the Panel can move away from in-person meetings.

Adjournment:

Mr. Gallagher moved to adjourn the meeting. Ms. Norman-Taylor seconded the motion and it carried unanimously.

The meeting adjourned at 8:20 p.m.

Next Meeting:

The Panel's next business meeting will be held on October 12, 2021, at 7:00p.m. A decision will be made whether the meeting will be held remotely.

DRAFT

Fairfax County Police Civilian Review Panel Subcommittee Initial Review Report

Request for Review – Basic Information

CRP Complaint Number: CRP-21-11

Subcommittee Meeting Date: October 5, 2021

Subcommittee Members:

- Dirck Hargraves, Subcommittee Chair (Panel Vice Chair)
- Todd Cranford, Subcommittee Member
- Frank Gallagher, Subcommittee Member

Complaint Submission Date: Review Request received on 7/7/2021. Other Key Dates: Incident Date: 12/30/2020; Complaint to Panel: 4/19/2021; FCPD Disposition letter: 6/24/2021

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

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.”

The subject matter of this investigation concerns allegations by the Complainant that an officer of the Fairfax County Police Department (FCPD) did not activate his lights during a traffic stop, did not wear a mask, and profiled him based on his ethnicity.

The Subcommittee finds that the subject matter of the investigation, as stated in the allegations, **does not meet** the threshold requirement for “abuse of authority” and “serious misconduct.”

Recommendation

The Subcommittee recommends that the Panel **not undertake** a review of CRP-21-11 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.	<i>While bias was alleged, there was no substantiation in the file.</i>
No*	Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense.	<i>While rudeness was alleged, there was no substantiation in the file.</i>
No	Reckless endangerment of detainee or person in custody.	
No*	Violation of laws or ordinances.	<i>While alleged, there was no substantiation in the file.</i>
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.	

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

Police Civilian Review Panel

October 5, 2021

Conducted Electronically due to COVID-19 Pandemic

Initial Disposition Subcommittee – CRP-21-05

Members Present:

Dirck Hargraves, Subcommittee Chair

Todd Cranford, Review Liaison

Frank Gallagher, Review Liaison

Others Present:

Anita McFadden, Counsel

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.

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

Mr. Gallagher was present and participated from Burke, 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 Mr. Gallagher 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 2331 055 3202 as noted in the Public Meeting Notice. Mr. Gallagher seconded the motion and it carried by unanimous vote.

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

Completion of Initial Review Report for CRP-21-11:

Mr. Hargraves provided a summary of the complaint, which occurred on December 30, 2020. The complainant was riding on a motorcycle, heading towards the intersection of Beulah and Fairfax County Parkway. While parked at a church, the officer observed the complainant traveling at a high speed in a 35-mph zone. The complainant stated that the police officer pulled beside his motorcycle without the use of emergency signal lights. The complainant alleged that the police officer became racially biased after the police officer noticed the complainant's complexion. The complainant further complained that the police officer did not have a face mask on while conducting the traffic stop and spit on him when he spoke.

Mr. Gallagher outlined the three main allegations made by the complainant: that no emergency lights were used while conducting the traffic stop, that the police officer was not wearing a face mask, and that the police officer was racially biased.

Mr. Hargraves stated that the FCPD recognized that the police officer did not wear a face mask during this incident and that there was a policy that officers should wear a mask when addressing the public within less than 6 feet. Mr. Hargraves noted that the FCPD took corrective action regarding this violation. Discussion continued regarding the complaint and the allegation that the police officer acted in a racially biased manner. Mr. Hargraves explained that the subcommittee was able to review in the investigative file data on the police officer's traffic stops by subject race and ethnicity and how they compared to all stops conducted by officers in the Franconia station. Mr. Gallagher said the officer's stops of minorities were below the norm of other officers in the same station. Mr. Hargraves noted that the police officer did not cite the complainant for reckless driving. He said that the police officer could have done so based on the speed; however, due to the complainant's good record, the police officer opted to only issue a speeding ticket.

Discussion ensued on whether the allegations met the threshold for abuse of authority or serious misconduct. Mr. Cranford and Mr. Gallagher expressed that after reviewing all the evidence, the FCPD's investigation of the complaint was full and unbiased. Mr. Cranford stated that there was some evidence to substantiate some of the complainant's claims but that there was no evidence that substantiated abuse of power or serious misconduct. Mr. Gallagher expressed his agreement and stated that the investigative file confirms that the officer did not initially use his emergency lights, but it is not required that an officer use them.

Mr. Hargraves expressed that he reviewed the evidence to determine whether the racial bias allegation had any credibility. He noted that the motorcyclist was fully clothed with gear that made it impossible to determine what the complainant's background was. He also stated that the complainant had two ear buds in his ears and did not have his registration on him; both are infractions to which the officer only gave him a warning. He said the officer explained that he had to raise his voice because the complainant had two ear pods in his ears. Mr. Hargraves voiced that after reviewing the evidence, he does not think the complaint should be considered by the full Panel.

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. Discussion ensued on the complainant allegations that there was discrimination based on race, that the officer was rude or careless, and that there was a violation of law or ordinances. Subcommittee members expressed that there was no scintilla of evidence to support these allegations, and therefore, the criteria for full Panel review was not met.

Mr. Cranford moved that the subcommittee not refer CRP-21-11 to the full Panel for review. Mr. Hargraves seconded the motion and it carried by unanimous vote.

Mr. Gallagher stated that the subcommittee will be giving the full Panel a briefing of the complaint at its next meeting so that the full Panel can decide as to whether the complaint should be considered.

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

The meeting adjourned at 6:13 p.m.

POLICY FOR PARTICIPATION IN MEETINGS BY ELECTRONIC COMMUNICATION FOR POLICE CIVILIAN REVIEW PANEL

Pursuant to Virginia Code § 2.2-3708.2 of the Virginia Freedom of Information Act (VFOIA) 2.2-3700-3715 et. seq:

I. Remote Policy - General

A. **Notification:** Any meeting wherein public business is discussed or transacted can occur through electronic communication means if, on or before the day of a meeting, a member of the Police Civilian Review Panel (hereinafter “PCRP”) notifies the chair of the PCRP that:

1. **Disability/Medical Condition:** The member is unable to attend the meeting because of:

a. temporary or permanent disability or other medical condition that prevents physical attendance or

b. a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance; or

2. **Personal Matter:** A member is unable to attend the meeting due to a personal matter and:

a. identifies with specificity the nature of the personal matter

b. fails to attend only two meetings in a calendar year for a personal matter, or

c. fails to attend only 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, for a personal matter.

B. **Authorization Conditions:** Participation by a PCRP member in a meeting through electronic communication means shall be authorized only if the following conditions are met:

1. **Written Policy Adoption:** PCRP adopts a written policy allowing for and governing participation of members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by Virginia Code § 2.2-3708.2.

2. **Strict and Uniform Application:** PCRP strictly and uniformly applies the adopted policy, without exception, to all PCRP members and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

3. Quorum at Meeting Location: A quorum of the PCRCP members is physically assembled at one primary or central meeting location; and

4. Audio Arrangements: PCRCP arranges for the voice of the remote PCRCP member to be heard by all persons at the primary or central meeting location.

5. Disapproval – Recorded in Minutes: Disapproval of a PCRCP member's participation from a remote location because such participation would violate the policy must be recorded in the minutes with specificity.

II. State of Emergency – Remote Appearance Policy

A. The PCRCP, or any joint meetings thereof, may meet by electronic communication means without a quorum physically assembled at one location when the Governor has declared a state of emergency in accordance with § [44-146.17](#) of the Code of Virginia or the locality in which the public body is located has declared a local state of emergency pursuant to § [44-146.21](#) of the Code of Virginia, provided that:

(i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and

(ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. The public body convening a meeting in accordance with this subdivision shall:

a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;

b. Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body;

c. Provide the public with the opportunity to comment at PCRCP meetings when public comment is customarily received; and

d. Otherwise comply with the provisions of Virginia Code § 2.2-3708.2.

B. The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

C. The provisions shall be applicable only for the duration of the emergency declared pursuant to § [44-146.17](#) or [44-146.21](#) of the Code of Virginia.

BYLAWS OF THE FAIRFAX COUNTY POLICE CIVILIAN REVIEW PANEL

Approved by the Board of Supervisors on July 11, 2017

Accepted by the Police Civilian Review Panel on August 3, 2017

Amendments Approved by the Board of Supervisors on October 16, 2018, November 19, 2019, December 1, 2020, February 23, 2021, July 27, 2021, and [DATE]

ARTICLE I. NAME¹

The name of this organization is the **Fairfax County Police Civilian Review Panel**.

ARTICLE II. PURPOSE

The Board of Supervisors, pursuant to Virginia law, established the Panel on December 6, 2016, to enhance police legitimacy and to build and maintain public trust between the FCPD, the Board of Supervisors and the public. The Panel will:

- A. Review certain Investigations to ensure the thoroughness, completeness, accuracy, objectivity, and impartiality of the Investigations;
- B. Provide an independent process for commencing an Initial Complaint against the FCPD or its officers; and
- C. Make recommendations on law enforcement policies, practices, and procedures to assist the FCPD Chief of Police (“Chief”) and Board of Supervisors in policy review.

The Panel shall report directly to the Board of Supervisors.

ARTICLE III. COMPOSITION OF THE PANEL AND TERM OF OFFICE FOR PANEL MEMBERS

- A. Composition and Qualifications.
 1. The Board of Supervisors shall appoint each Panel Member.
 2. The Panel shall be comprised of nine Fairfax County residents with expertise and experience relevant to the Panel’s responsibilities. At least one Panel Member shall have prior law enforcement experience other than as a member of the FCPD or the FCSO.
 3. The Board of Supervisors shall endeavor to create an independent and fair body giving due consideration to the following factors, among others it may choose: community and

¹ Certain terms used in these Bylaws are defined in the attached Exhibit A incorporated herein by this reference.

civic involvement; diversity; law enforcement and/or criminal investigative experience; reputation in the community; geographical representation; and other factors designated to ensure a balanced Panel representative of Fairfax County.

4. No Panel Member may be a current employee of Fairfax County, a current or former member of the FCPD or the FCSO, have a relative (i.e., an immediate or extended family member) who is a member of the FCPD or FCSO, hold public office, or be a candidate for public office.

B. Terms of Service.

1. Panel Members shall be appointed for three-year terms, except for the inaugural Panel (which shall have terms as described below) and may be appointed to no more than two consecutive terms.
2. Panel Member terms shall be staggered.
3. With respect to the inaugural Panel, three Panel Members shall be appointed for three-year terms, three Panel Members shall be appointed for two-year terms and three Panel Members shall be appointed to a one-year term.
4. The Panel Members of the inaugural Panel are eligible to be appointed to a second three- year term upon expiration of the Panel Member’s initial term.

C. Resignations, Removals and Vacancies.

1. Panel Members serve at the pleasure of the Board of Supervisors.
2. The Chair shall notify the Board of Supervisors if a Panel Member is absent from three consecutive Panel meetings or is absent from five Panel meetings in any calendar year (unless the absence is for good reason as determined by the Chair).
3. Any Panel Member may resign from the Panel at any time by delivering written notice of termination to the Board of Supervisors with a copy to the Chair. The resignation will be effective upon receipt, unless an effective date of the resignation is specified in the notice.
4. The Board of Supervisors may appoint a new Panel Member for the unexpired Panel Member term resulting from a vacancy that occurs for any reason.

ARTICLE IV. CHAIR, VICE CHAIR, OTHER OFFICERS AND COMMITTEES

A. The Initial Chair and Vice-Chair.

The Board of Supervisors may choose to designate one of the Panel Members as the initial Chair. At a time agreed by the Panel Members, the Panel shall elect the initial Vice-Chair.

B. Succession; Annual Election of Officers; Vacancies.

1. Unless the Panel Members agree otherwise, the Vice-Chair shall succeed to the Chair position upon expiration of the Chair's term.
2. Panel Members shall elect the Vice-Chair and other officers (as determined by the Panel Members) who shall be responsible for those functions as assigned by the Panel and the Chair.
3. All Panel officers shall be elected at the first meeting of each calendar year. Unless the Panel Members agree otherwise, terms of office for Panel Officers shall be for one year, effective March 1st of each calendar year.
4. No Panel Member may serve successive terms as Chair.
5. If there is an officer vacancy, the Panel may elect a replacement officer at any time after the vacancy occurs to serve the balance of the unexpired term.
6. Before the election of any replacement officer, the Chair or Vice-Chair shall provide the Panel Members with at least two weeks written notice of the proposed election before the meeting at which the replacement is to be elected.
7. Election of Panel officers must take place in a meeting duly called as provided for in Article V.

C. Duties of the Chair and Vice-Chair.

1. The Chair shall:
 - (a) Preside over all Panel meetings at which the Chair is present;
 - (b) Act as a liaison between the Panel and (i) the Board of Supervisors, (ii) the FCPD, and (iii) the Auditor, as needed;
 - (c) Serve as the Panel's official spokesperson;
 - (d) Oversee the preparation of the Panel's annual report described in Article IX.B;
 - (e) Perform any other duties as the Panel may delegate; and

- (f) Delegate any of these duties to other Panel Members.
- 2. The Vice-Chair shall:
 - (a) Preside over Panel meetings in the absence of the Chair; and
 - (b) Perform any other responsibilities delegated by the Chair or requested by the Panel.
- 3. Panel Committees.
 - (a) The Panel may establish as many committees as the Panel deems necessary to perform the Panel’s duties. All Panel committee meetings shall comply with the notice and other requirements of the Virginia Freedom of Information Act.

ARTICLE V. QUORUM, VOTING AND MEETINGS

A. Quorum.

At any Panel meeting, the presence of five Panel Members shall constitute a quorum. Any Panel meeting may be adjourned from time to time by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

B. Voting.

The vote of a majority of Panel Members present at a meeting with a quorum is necessary for the Panel to take an action. Notwithstanding the previous sentence, the affirmative vote of a majority of all Panel Members is required to approve Panel Findings or the Annual Report. All votes of Panel Members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy. All Panel Members who are present at a meeting, including the Chair, may vote at any meeting.

C. Meetings.

- 1. The Panel shall meet as often as necessary to conduct Panel business.
- 2. All Panel Meetings shall be conducted in accordance with VFOIA, and, except for closed sessions, all Panel Meetings shall be open to the public.
- 3. All Panel Meetings shall be preceded by a Panel Meeting Notice, and, except for emergency Panel Meetings, a Panel Meeting Notice shall be published at least three working days before the Panel Meeting. Notice, reasonable under the circumstances for emergency Panel Meetings, shall be given contemporaneously with the notice provided to Panel Members.

4. Panel Meeting Notices shall be:
 - (a) provided to the Office of Public Affairs for posting at the Government Center and on the County Internet site, and
 - (b) placed at a prominent public location by the Clerk of the Board of Supervisors.
5. All Panel Meetings shall be conducted in:
 - (a) places that are accessible to persons with disabilities,
 - (b) public buildings whenever practical; and
 - (c) accordance with Robert's Rules of Order, Newly Revised (except as otherwise provided by Virginia law or these Bylaws).
6. Except as specifically authorized by VFOIA, no Panel Meeting shall be conducted through telephonic, video, electronic, or other communication means where the Panel Members are not all physically assembled to discuss or transact public business.
7. At any Panel Meeting, at least one copy of the agenda and, unless exempt from disclosure under VFOIA, all materials furnished to Panel Members shall be made available for public inspection at the same time the documents are furnished to the Panel Members.
8. Any person may photograph, film, record, or otherwise reproduce any portion of a Panel Meeting required to be open, but no person broadcasting, photographing, filming, or recording any open Panel Meeting may interfere with any of the proceedings.
9. The Panel shall keep minutes of its Panel Meetings, and those minutes shall include:
 - (a) the date, time, and location of each meeting;
 - (b) the Panel Members present and absent;
 - (c) a summary of the discussion on matters proposed, deliberated, or decided; and
 - (d) a record of any votes taken.
10. The Panel meeting minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media.
11. The Panel may solicit and receive public comment and answer questions about any matter relating to law enforcement policies, practices, and procedures up to six times annually. As long as all applicable VFOIA requirements are followed, the Panel may solicit, receive, and respond to such public comment in up to six public meetings annually, sponsored by the Panel or by others, where the public is invited to comment.

ARTICLE VI. PANEL AUTHORITY TO REVIEW INVESTIGATIONS AND REVIEW PROCEDURES

A. Scope of Panel Review Authority.

1. 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. The Panel shall not review:
 - (a) alleged misconduct that is subject to the exclusive review by the Auditor;
 - (b) any Complaint related to an incident that occurred before December 6, 2016;
 - (c) an Initial Complaint that is filed more than one (1) year after the date of the incident that is the subject of the Investigation (unless the Panel determines that there is good cause to extend the filing deadline);
 - (d) a Review Request filed more than sixty (60) days after the date of the FCPD notice sent to the complainant that informs the complainant of the completion of the FCPD’s investigation of the complainant’s Initial Complaint (unless the Panel determines that there is good cause to extend the filing deadline); or
 - (e) a Complaint concerning matters that are subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding; or any complaints from Fairfax County employees that are subject to any process, proceeding or appeal as set forth in the County’s Personnel Regulations or that are subject to the Police Department’s General Orders 310.1, 310.2, or 310.3.
2. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court’s judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.
3. Where a Complaint alleges misconduct within both the Panel’s scope of authority and the Auditor’s scope of authority, the Panel and the Auditor shall each conduct a review of the Investigation within their requisite scope of authority. The Auditor and Chair shall coordinate the work of the Panel and Auditor to ensure efficient use of resources and avoid duplication of effort. If the matter cannot be divided between the Auditor and the Panel in an efficient manner, then the Auditor shall conduct the review of all portions of the investigation.
4. If there is a conflict in the scope of authority between the Auditor and the Panel, then the matter shall be resolved by the Auditor.

B. Definition of “Abuse of Authority” or “Serious Misconduct”.

For purposes of determining the Panel’s authority to review an Investigation, “abuse of authority” or “serious misconduct” by an FCPD police officer includes, but is not limited to:

1. the use of abusive racial, ethnic or sexual language or gestures;
2. harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability;
3. acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense;
4. reckless endangerment of detainee or person in custody;
5. violation of laws or ordinances; or
6. other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.

C. The Complaint.

1. Content and Filing of a Complaint.

- (a) An Initial Complaint and a Review Request shall be in writing and shall be deemed filed when delivered or emailed to the Office of the Independent Police Auditor.
- (b) A Complaint shall contain:
 - (i) identifying information for the person filing the Complaint;
 - (ii) a statement describing the reasons for the Review Request, unless the Complaint is an Initial Complaint;
 - (iii) the specific police behavior of concern;
 - (iv) a description of the incident in which the behavior occurred; and
 - (v) a list of the names, addresses and phone numbers of all witnesses to or persons with knowledge of the incident known by the complainant.
- (c) The Panel shall immediately forward an Initial Complaint to the FCPD for investigation. The FCPD shall complete its investigation and provide an Investigation Report to the Panel within sixty (60) days. The Panel shall extend the 60-day period upon request of the Chief to protect an ongoing criminal or internal administrative investigation, or for other good cause, with notice to the complainant and the Board of Supervisors.

D. Initial Review and Disposition.

1. Initial Review

- (a) The Panel will determine if it has authority to review the subject Investigation taking into account whether the underlying Complaint:
 - (i) is timely filed; or
 - (ii) is a Review Request of alleged misconduct that is subject to exclusive review of the Auditor.
- (b) The Panel shall conduct an initial review of each Review Request and may conduct the initial review as a committee of the whole or by subcommittee.

2. Initial Review Subcommittee Authority and Composition

- (a) The Panel Chair may designate subcommittees (“Initial Review Subcommittee”) comprised of Panel Members to conduct initial reviews of Review Requests filed by community members with the Panel.
- (b) An Initial Review Subcommittee shall be comprised of at least three Panel Members (with rotating membership).
- (c) The Panel Chair shall designate one Panel Member as chair of the Initial Review Subcommittee.
- (d) The Subcommittee shall conduct, in accordance with written duties established by the Panel, an initial review of the subject Complaint to determine whether the Complaint meets the minimum criteria for review and consideration by the full Panel.

3. Initial Review Subcommittee Process and Report to the Panel

- (a) The Subcommittee shall review a Complaint to determine whether:
 - (i) The Complaint alleges Serious Misconduct or Abuse of Authority as defined in these Bylaws; and
 - (ii) The evidence contained in the investigative file could lead a reasonable Panel to conclude that there is sufficient evidence to support the allegations.
- (b) A unanimous Subcommittee vote shall be required to determine that a Complaint does not meet the criteria set forth in these Bylaws, and thus recommends that the Complaint not be considered by the full Panel.
- (c) A member of the Subcommittee, designated by the Subcommittee chair, shall provide a summary of the Subcommittee’s deliberations and recommendation at such time as the Panel considers the subject Complaint.
- (d) The full Panel will consider the recommendation from the Subcommittee and vote to determine whether it accepts a Review Request.

4. Initial Disposition Notice

- (a) Within 30 days of the Panel's vote on whether the Complaint qualifies for review by the full Panel, the Panel shall send an Initial Disposition Notice to the complainant with the Panel's determination of its authority to undertake a review of the subject Investigation.
- (b) If the Panel determines that the Panel does not have authority to review the subject Investigation, the Initial Disposition Notice shall state the reasons for the Panel's decision.
- (c) Where the Panel finds that a review of the subject Investigation is warranted, the Initial Disposition Notice shall include a description of the review process, a deadline for completion of the review, and a date for the Panel Review Meeting.
- (d) If the underlying Complaint alleges police misconduct that requires the Auditor's review, the Panel shall (i) promptly forward the matter to the Auditor and (ii) send an Initial Disposition Notice to the complainant explaining the reasons for the referral.

E. Pending Proceedings.

- 1. If at any point in the review process the Panel learns that the matters of a Review Request are the subject of pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding, the Panel shall:
 - (a) suspend its review;
 - (b) defer the review pending resolution of the criminal, civil or administrative proceeding by the trial court;
 - (c) notify the complainant and the Board of Supervisors, in writing, of any deferrals; and
 - (d) track any deferred matter and notify the complainant and the Board of Supervisors once the proceedings are closed and the request for review may proceed.
- 2. The panel may request assistance of Counsel, the Auditor, the Chief, or the County Attorney in making its determination that matters of a Review Request are the subject of pending proceedings.
- 3. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.

F. Panel Meetings to Review Investigations.

1. Additional Requirements for Panel Review Meetings.

In addition to the requirements for Panel Meetings generally set forth in Article V.C., Panel Review Meetings shall be conducted as follows:

- (a) If the Panel determines it has authority to review an Investigation under article VI.A.1, the Panel shall convene a Panel Review Meeting to review an Investigation as to which a Review Request has been submitted within sixty (60) days of Receipt of the Investigation Report.
- (b) The Panel Review Meeting Notice shall not only comply with Article V.C.4., but shall also include a statement inviting any person with information about the Investigation or the incident that is the subject of the Panel Review Meeting to submit the information in writing to the Chief or the Auditor.
- (c) Notwithstanding Article V.C.4, Panel Review Meeting Notices shall be published and sent to Panel Members, the FCPD Internal Affairs Office, the County Attorney's Office, and the complainant at least fourteen (14) days before the Review Meeting.
- (d) The Panel may conduct as many Panel Review Meetings as the Panel deems necessary to complete the requested review.
- (e) The Panel shall not take testimony or receive evidence.
- (f) At the request of the Panel or if the Complainant attends and requests an opportunity to be heard at the Panel Review Meeting, the complainant shall have the opportunity to state the reasons for filing the Review Request, and the Panel may ask questions of the complainant regarding those reasons. The Panel shall submit to the FCPD contact information for those persons who were not interviewed with a request for further investigation of the matters under review.
- (g) At the request of the Panel, an FCPD representative knowledgeable of the Investigation under review shall appear before the Panel at a Panel Review Meeting (as determined by the Panel) to review and answer questions from the Panel about the Investigation, including all findings of fact, evidence collected and received, witness statements and action taken or not.
- (h) At the Panel's discretion, it may request further investigation by the FCPD, and the FCPD shall, within a reasonable time, conduct further investigation and provide to the Panel a supplemental report that details the findings of the additional investigation.
- (i) Translation services will be provided for a complainant or other person that needs translation assistance to present to the Panel or respond to questions from Panel Members.

2. Closed Sessions, and Confidential Matters During Panel Review Meetings.

- (a) The Panel may conduct portions of any Panel Meeting (including Panel Review Meetings) in closed session, so long as the purpose for and conduct of the closed session is consistent with VFOIA.
- (b) Any statement made by a FCPD police officer to the FCPD that the FCPD required under the provisions of *Garrity v. New Jersey*, 385 U.S. 493 (1967), shall not be disclosed in public. The Panel shall have confidential access to the entire statement for its review. Unless the FCPD officer consents to the public release of the entire statement given during an Investigation, the FCPD representative(s) presenting information to the Panel on a Complaint may publicly state only that the officer admitted or denied the allegation.
- (c) Panel Members shall not reveal the identity of (i) any juvenile, or (ii) victim of sexual assault (unless authorized to do so by the victim in writing).
- (d) Each Panel Member who reviews a FCPD officer's personnel record or a FCPD internal administrative investigative case file shall sign a Notice of Confidentiality affirming that an officer's personnel record and those portions of the investigative case file reflecting officer discipline, other officers, confidential informants, victims, or witnesses, personal information including names, social security number, date of birth, driver's license number, agency-issued identification number, student identification number, criminal or employment record, shall not be disclosed or disseminated 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.
- (e) Portions of records of law-enforcement agencies, including the FCPD, that contain specific tactical plans or investigative procedures, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public, shall also not be disclosed or disseminated unless such 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.
- (f) If information subject to the Panel's review concerns an identifiable juvenile, the requested information shall first be forwarded to the County Attorney's Office for redaction in conformance with Code of Virginia §16.1-301, as amended.

G. Disposition of Review Requests.

1. Timely Completion.

- (a) The Panel shall complete the review of an Investigation and issue a public written report detailing the Panel Findings (defined below) within ninety (90) days of Receipt of the Investigation Report.

(b) The Panel may extend the deadline for completion for good cause. The Chair shall report all deadline extensions (and the reason for the extension) to the Board of Supervisors. The Panel shall send written notice to the complainant, if the deadline for completion is extended. The notice shall include an approximate date for completion.

2. Panel Findings.

(a) Upon completing a requested Investigation review, the Panel may reach one of the following Panel Findings:

(i) Concur with the findings and determination detailed in the Investigation Report;

(ii) 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; or

(iii) Advise the Board of Supervisors that, in the Panel's judgment, the Investigation is incomplete and recommend additional investigation.

(b) If the Panel Finding is either (ii) or (iii) above, the Board of Supervisors may direct the Chief to take further action as the Board of Supervisors deems appropriate.

(c) A majority of the appointed Panel Members must concur in the Panel Findings for the Panel Findings to be the authorized conclusion of the Panel.

(d) The Chair may assign to one or more Panel Members concurring in the conclusions of the Panel Findings the responsibility for drafting the Panel's final review report that shall be sent to the complainant, the Board of Supervisors, the Chief and the Auditor.

ARTICLE VII. RECOMMENDATIONS FOR REVISIONS TO FCPD POLICIES, TRAINING AND PRACTICES

A. Review of Law Enforcement Policies and Practices.

1. The Panel may recommend to the Chief and the Board of Supervisors revisions to FCPD policies, practices, and procedures that the Panel concludes are needed.

2. The Panel may conduct up to six public meetings annually, where it solicits and receives public comment and answers questions relating to law enforcement policies, practices, and procedures. Such public meetings may be sponsored by the Panel or by others, and they must meet applicable VFOIA requirements.

B. Meetings with the Auditor.

The Panel may meet periodically with the Auditor concerning the findings and recommendations of the Auditor as to use of force cases so that the Panel can provide the Panel's view to the Board of Supervisors and the Chief as to changes in policies and practices that may be warranted.

ARTICLE VIII. OTHER DUTIES OF PANEL MEMBERS

A. Training.

All Panel Members shall complete all training mandated by the Board of Supervisors, which may include police ride alongs. The Panel shall determine the calendar for the presentation and completion of the required training. The Panel shall conduct other training as it determines would be helpful.

B. Confidentiality.

Each Panel Member shall maintain the confidentiality of all confidential or privileged information that Panel Members receive during service on the Panel.

C. Conflicts of Interest.

Panel Members shall avoid conflicts of interest with the provisions of Chapter 31 – State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100, et seq. A Panel Member shall consult with counsel to the Panel if the Panel Member believes that the Panel Member has or may have a conflict of interest with respect to a matter that the Panel will consider. A Panel Member with a conflict of interest shall not participate in or vote on the matter.

D. Communications.

1. Only the Chair or the Chair's designee shall make public statements on behalf of the Panel. The primary means for the Panel to communicate to the public shall be the Panel's written reports that are approved by a majority of the Panel Members.
2. Except as expressly authorized by the Chair in furtherance of a Panel Member's duties, Panel Members shall make diligent efforts to avoid individual discussion of a matter before the Panel with any person with an interest in the matter, including but not limited to a complainant, a witness to events giving rise to a complaint, or an FCPD officer that is the subject of a Complaint. The Panel Member shall inform the Chair if any interested party communication occurs and provide the Chair with any information about the communication that the Chair requests.

ARTICLE IX. RECORDKEEPING; ANNUAL REPORT

A. Recordkeeping.

1. All Panel meetings, including Panel Review Meetings and Public Comment Meetings, but excluding closed sessions within a Panel Meeting, shall be recorded and records maintained in accordance with the Library of Virginia Records Retention and Disposition Schedule.
2. The Auditor shall maintain a copy of all Complaints together with the reports detailing the disposition of each Complaint.

B. The Annual Report.

1. The Panel shall prepare the Annual Report describing its activities for the reporting year, including any recommendations to the Board of Supervisors, Auditor, and the Chief for revisions to FCPD policies, training, and practices that the Panel concludes are needed.
2. The Annual Report must be approved by a majority of the appointed Panel Members before the Annual Report is released publicly.
3. The Panel shall deliver the Annual Report to the Board of Supervisors through the Auditor and the Chair of the Board's Public Safety Committee. The Annual Report shall then be released to the public.
4. The initial Annual Report of the Panel shall be due on March 31, 2018. Subsequent Annual Reports shall be published in accordance with this section no later than March 1st of each year.

ARTICLE X. COMPLIANCE WITH LAW AND COUNTY POLICY; CONFLICTS OF LAW AND POLICY; PANEL IMMUNITY

A. Compliance with Law and County Policy.

The Panel and each Panel Member shall comply with all Virginia laws, including, but not limited to, VFOIA, and the Virginia State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100 through -3131, as amended, all County ordinances, the Panel Code of Ethics and with all County policies concerning the activities of its boards, authorities, and commissions.

B. Conflicts of Law and Policy.

These Bylaws are not intended to conflict with Laws or policies of the Board of Supervisors. To the extent there is a conflict between any Law or any other resolution or matter passed by the Board, and these Bylaws, the Law or Board action shall govern.

C. Panel Immunity.

Panel Members shall enjoy the protection of sovereign immunity to the extent allowed and provided under Virginia law whether common law or statutory, including, but not limited to, the Virginia State Government Volunteers Act, Virginia Code §§ 2.2-3600, *et seq.*, and the provisions of Virginia Code § 15.2-1405.

ARTICLE XI. DUTIES OF THE COUNTY EXECUTIVE AND BOARD OF SUPERVISORS

A. The County Executive.

1. The County Executive shall cause the attendance of any County employee, other than the involved officer(s), at any Panel meeting whose appearance is requested by the Panel, unless the required attendance violates a statutory or constitutional right of the employee.
2. The County Executive shall cause the submission (from any County agency including the FCPD) of any relevant documents or other relevant materials requested by the Panel, including the full FCPD internal administrative investigative case file, unless legal privilege to withhold exists and is not waived.

B. The Board of Supervisors.

1. The Board of Supervisors may conduct a review of the Panel at any time, except that the initial review shall be conducted within six months of receipt of the Panel's first annual report.
2. The Board of Supervisors shall ensure the Panel and Panel Members, as necessary, have the benefit of legal counsel.
3. The Board of Supervisors shall appoint an Executive Director for the Panel. Among other duties as assigned, the Executive Director will review and summarize all Police Department investigations before the Panel undertakes its review. The Executive Director also will provide administrative support to the Panel.

ARTICLE XII. EFFECTIVE DATE OF THE BYLAWS; AMENDMENT OF THE BYLAWS

A. Effective Date of the Bylaws.

The Bylaws shall become effective upon approval by the Board of Supervisors.

B. Amendment of the Bylaws.

These Bylaws may be amended by the Panel by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to the Bylaws shall become effective upon approval of the Board of Supervisors.

Exhibit A

DEFINED TERMS

The following terms used in these Bylaws of the Fairfax County Police Civilian Review Panel mean the following:

Abuse of Authority has the meaning assigned to the term in Article VI.B.

Annual Report means the written annual report the Panel shall deliver to the Board of Supervisors as described in Article IX.B.1.

Auditor means the Fairfax County Independent Police Auditor.

Board of Supervisors means the Board of Supervisors of Fairfax County.

Bylaws means the Bylaws of the Fairfax County Police Civilian Review Panel

Chief means the FCPD Chief of Police.

Complaint means collectively, unless the context otherwise indicates, an Initial Complaint and a Review Request.

Counsel means the legal counsel that the Board of Supervisors designates to support the Panel.

FCPD means the Fairfax County Police Department.

FCSO means the Fairfax County Sheriff's Office.

Initial Complaint means a complaint from any person about the FCPD or its officers that has been first submitted to the Panel and not the FCPD.

Initial Disposition Notice means the notice that the Panel sends to a complainant detailing the Panel's disposition of the Review Request after the initial review described in Article VI.C.2.

Investigation(s) means a FCPD internal administrative investigation.

Investigation Report means the completed written FCPD report setting forth the findings of the Investigation.

Laws means collectively any Virginia or Fairfax County law, ordinance, regulation, resolution, or other Fairfax County policy duly authorized by the Board of Supervisors.

Meeting(s) has the meaning assigned to the term in VFOIA and includes work sessions, when sitting physically, or through telephonic or video equipment, as defined in VFOIA, as a body or entity, or as an informal assemblage of (i) as many as three Panel Members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Panel means the Fairfax County Police Civilian Review Panel.

Panel Findings means those conclusions that the Panel can adopt in response to a Review Request that are delineated in Article VI.F.2(a).

Panel Meeting means a meeting of the Panel.

Panel Meeting Notice means the written notice stating the date, time, and location of a Panel Meeting.

Panel Member(s) means each of the persons that the Board of Supervisors appoints to the Panel.

Panel Review Meeting means a Panel Meeting where a Review Request is reviewed by the Panel, including a Panel Meeting where a complainant or FCPD representative is present to discuss an Investigation.

Panel Review Meeting Notice means the Panel Meeting Notice for a Panel Review Meeting.

Public Meeting(s) means a Panel Meeting open to the public conducted on issues within the Panel's jurisdiction and on law enforcement policies and practices where the public is invited to comment on such issues and policies and practices.

Receipt of the Investigation Report is deemed to occur at the first Panel meeting subsequent to FCPD making an Investigation Report available to the Panel in response to a Review Request.

Review Request means a person's request for the Panel to review an Investigation.

Serious Misconduct has the meaning assigned to the term in Article VI.B.

VFOIA means the Virginia Freedom of Information Act, as amended from time to time.