

Police Civilian Review Panel

September 16, 2019

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members Present:

Hansel Aguilar (arrived at 7:02)

Jimmy Bierman

Bob Cluck

Hollye Doane, Panel Vice-Chair

Doug Kay, Panel Chair

Shirley Norman-Taylor

Anna Northcutt

Rhonda VanLowe

Panel Members Absent:

Colonel Gregory Gadson

Others Present:

Gentry Anderson, OIPA

Julia Judkins, Counsel

Major Owens, FCPD

Rachelle Ramirez, OIPA

Richard Schott, Independent Police Auditor

The Panel's business meeting was called to order at 7:00 p.m.

Meeting Summary Approval: Ms. Doane moved approval of the Meeting Summary from the Panel's August 1st meeting. Ms. VanLowe seconded the motion and it carried by a vote of seven, with Mr. Aguilar having not yet arrived and Colonel Gadson being absent.

Review Report for CRP-19-07: Mr. Kay referenced the redlined version of the draft Review Report for CRP-19-07. He asked if Panel Members had any edits, comments, or points for discussion related to the report and there were none. Ms. Doane moved approval of the Review Report for complaint CRP-19-07 to include the redlined edits. Mr. Bierman seconded the motion and it carried by a vote of eight, with Colonel Gadson being absent.

Quarterly Meeting Debrief: Mr. Kay informed the Panel that quarterly meetings including Panel leadership, chiefs of staff of the Chairman of the Board of Supervisors and Public Safety Committee chairman, and other key stakeholders are continuing to discuss issues and concerns. Mr. Kay provided the group with the statistical memo authored by Mr. Aguilar and the Fairfax County Police Department (FCPD) agreed to use an Internal Affairs analyst to provide investigators with statistics to be used in the Investigation File. The Panel's complaint was that FCPD investigators untrained in the use of statistics were including stats in the Investigation File that were not helpful or useful. The FCPD is to create a policy and provide a draft for the Panel to review prior to its implementation. Mr. Kay reported that another issue discussed was the use of in-car or body worn camera footage during Panel Meeting. The Chief agreed to accept the Panel's request on an ad hoc basis. Mr. Kay is working with Major Owens on how to publish the FCPD's response to Panel recommendations on the Panel's website. Ms. Doane asked the Panel how often they would like to update the recommendations published on the website and it was determined that the recommendations would be updated quarterly. Ms. Doane informed the

Panel that the quarterly meeting group discussed the Panel's recommendation related to the FCPD's use of a complainant's personal and social media information in a supplemental public report, which the FCPD did not implement. She stressed to the quarterly meeting group that the Panel felt that the inclusion of the information was irrelevant and unnecessary, but the Chief replied that he thought it was necessary. Panel discussion ensued regarding the Panel's recommendation and how to address it with the FCPD moving forward. Mr. Kay suggested that the Panel has exhausted this subject with the FCPD and the quarterly meeting group and that he hopes the FCPD will think twice about including similar information in their reports in the future. Ms. Doane suggested that Panel recommendations should be included in the Panel's Annual Reports to inform the Board of Supervisors on which recommendations were implemented and not implemented. Panel discussion ensued related to the recommendation and Mr. Kay assured the Panel that he would inform the quarterly meeting group about the Panel's reaction at the next meeting on Friday, October 11th.

Panel Action Item: Mr. Kay explained that the Panel's proposed revised action item would allow for the Panel to include more information from the FCPD's investigation file in Panel review reports to encourage transparency and encourage accountability. The Panel would not be able to include personnel information and other information prohibited by law. Mr. Cluck referenced the revised action item and asked who would determine what information related to tactical plans or investigative procedures is too sensitive to be included in Panel Review Reports because they could jeopardize the safety of law enforcement personnel or the general public. Mr. Kay suggested that the Panel use good judgement and ask legal counsel if there is a concern. Ms. Doane added that the Panel can easily establish an open line of communication with the FCPD if there is a concern. Mr. Aguilar suggested that Review Liaisons could flag information in the Investigation File that may be considered sensitive and the Chair could make the final decision. There was general Panel consensus to this idea and Mr. Kay suggested it be added to the Panel's Review Liaison procedure.

Review Requests with Pending Litigation: Mr. Kay referenced the Panel's Bylaws and reminded the Panel that Review Requests with pending litigation must be deferred until the litigation is concluded. He referenced complaint CRP-19-19, which is a Review Request with pending litigation, and notified the Panel that he asked the subcommittee to meet to ensure the litigation was aligned with the allegations made within the complaint. He asked the Panel how it should move forward in addressing Review Requests with pending litigation. Ms. VanLowe noted that forming a subcommittee to address the deferral for a Review Request with pending litigation is not only time consuming for the subcommittee members, but it is also time consuming and inconvenient for the complainant. Panel discussion ensued about the process moving forward and it was decided that instead of holding a subcommittee meeting, the Chair will compare the pending litigation to the allegations made within the complaint and make a recommendation to the Panel for final decision.

New Business: Mr. Kay announced to the Panel the Bylaws will need to be updated if the Board of Supervisors approves the updated action item. The Bylaws would be updated to reflect the changes to the action item related to information that can be included in Panel Review Reports and the Panel's inability to process Fairfax County employee complaints. Ms. VanLowe proposed that the Panel accept the updated Bylaws at the October Panel Meeting if the Board of Supervisors approve the updated action item.

Ms. Doane asked if a time limit exists for a complainant to notify the Panel that the litigation associated with their Review Request has concluded. Ms. Judkins replied that the Panel should coordinate with the Office of the County Attorney to determine if the litigation has concluded rather than rely on the complainant to notify the Panel. Ms. VanLowe referenced the Panel's Bylaws related to deferring a Review Request due to pending litigation and pointed out that the Panel is obligated to track the deferred matter.

The Panel decided it would receive a training session from the Fairfax County Police Department (FCPD) on Saturday, November 16th from 8:00 am till 12:00 pm in Conference Room 232 of the Government Center. *Major Owens is to create a training agenda to circulate to the Panel.*

Mr. Kay announced that Ms. Northcutt is resigning from the Panel due to her retirement and move out of Fairfax County boundaries. On behalf of the Panel, Mr. Kay thanked Ms. Northcutt for her dedication and service to the Panel. Ms. Northcutt expressed her pleasure to be a part of the Panel and hoped to take the idea of civilian oversight to her new city.

Ms. Norman-Taylor asked for an update on the status of the scheduling of ride longs. Ms. Anderson replied that Major White will be sending further information to Panel Members interested in scheduling a ride along in the near future.

Ms. Anderson announced that staff of the Office of the Independent Police Auditor and Ms. Doane will be attending the National Association for Civilian Oversight of Law Enforcement in Detroit, Michigan from September 22nd through September 26th. The theme of the conference is courage, collaboration and community. *Mr. Kay asked that staff and Ms. Doane brief the Panel about the conference at the October meeting.*

Next Meeting: The Panel's next business meeting is Monday, October 7, 2019, at 7:00 p.m. in the Government Center, Conference Room 232.

The meeting was adjourned at 7:57 p.m.