

Summary – Public Safety Committee Meeting

July 9, 2019

Committee Members Present:

Sharon Bulova, Chairman At-Large
Penelope Gross, Mason District (Vice Chairman)
John Cook, Braddock District (Committee Chair)
John Foust, Dranesville District
Pat Herrity, Springfield District
Catherine Hudgins, Hunter Mill District
Jeff C. McKay, Lee District
Kathy Smith, Sully District
Linda Smyth, Providence District
Daniel Storck, Mount Vernon District

The meeting agenda and materials are available at the following link:

<https://www.fairfaxcounty.gov/boardofsupervisors/board-supervisors-public-safety-committee-meeting-july-9-2019>

Link to the July 9, 2019, Public Safety Committee Meeting video:

http://video.fairfaxcounty.gov/player/clip/1440?view_id=9

The meeting was called to order at 3:00 p.m.

The meeting summary for the March 12, 2019, Public Safety Committee meeting was approved.

The first topic on the agenda was an presentation from the Police Civilian Review Panel of their 2018 Annual Report.

- Rhonda VanLowe, Past Chair for the Police Civilian Review Panel (Panel), and Douglas Kay, current Panel Chair, conducted the presentation.
- Ms. VanLowe stated that the Panel received 31 complaints in 2018 - 25 were initial complaints and six were review requests, with two of the review requests still in process. Overall, in 2018, five of the complaints processed by the Panel resulted in corrective action.
 - Of the 2018 items, 41% of the complaints contained an allegation of a violation of law or Fairfax County Police Department (FCPD) policy, 22% contained allegations of unprofessional conduct, and 16% an allegation of racial profiling or harassment. Several complaints contained more than one allegation.

- YTD 2019, the Panel has received 15 complaints, 11 of which are initial complaints and four of which are review requests.
- Ms. VanLowe stated that, of the Panel's accomplishments in 2018, the most notable were the efforts to inform the community about the Panel's work. The Panel attended multiple community/civic events throughout the County over the course of the year.
- Ms. VanLowe further elaborated the public remains concerned about FCPD accountability and transparency. Many of the incidents reviewed by the Panel showed examples of outstanding policing, which the public should be made aware of to gain a better understanding of the policies and practices of the FCPD. She said there were a few incidents where a better approach or improvements could have made for a better outcome. The public should also be aware of efforts to hold officers accountable or areas where policies or practices could be improved.
 - The Panel has offered eight comments and recommendations in its issued reports. Concerns about accountability and transparency led to the key recommendation in the Panel's Annual Report – to establish quarterly meetings with the Chiefs of Staff of the Chairman of the Board of Supervisors and the Chairman of the Public Safety Committee, FCPD representatives, and the Chair and Vice-Chair of the Panel to discuss issues related to Panel operations. Two of these such meetings have taken place and the discussions have reportedly been productive.
 - The FCPD has undertaken efforts to improve transparency and consistency in investigative disposition letters which is key in helping the public to understand the outcomes of their investigations.
- Ms. VanLowe stated the Panel has now completed two successful years and has established itself as a legitimate voice in determining the kind of policing that they want and expect in their community. She also expressed her thanks to the past and present Panel members for their time, service, and dedication.
- Supervisor Cook thanked the Panel for their work, and for making recommendations in its final reports. He also expressed a desire for future years to have the Panel not only show the recommendations and actions by the FCPD for the current year, but also to have a process to report recommendations made in previous years and what action the FCPD has taken on those, or to report on why if no action has been taken by the FCPD on any specific recommendation.
- Chairman Bulova thanked Ms. VanLowe and Mr. Kay for their leadership and expressed that the Panel is still evolving and not an easy pioneer process, but an important independent portal for the public to bring forward issues of concern. She also stated that the quarterly meeting recommendation is an important step going forward.
 - Additionally, Chairman Bulova agreed with the Panel's decision not to take action on one specific complaint which was an internal complaint about the processes of

the FCPD, and instead recommended a different course of action for the complainant.

- Also expressed appreciation for the Panel going out to the community to introduce themselves and the Panel's role.
- Supervisor Cook explained to the Board that the quarterly meetings have included his Chief of Staff, Chairman Bulova's Chief of Staff, the Panel's leadership, and Chief Roessler as a working group to work through issues – and that when he and Chairman Bulova leave the Board next year others will have to step into those roles. He also highlighted Ms. VanLowe's comments that not all Panel reviews result in recommendations or negative findings; the Panel also determines in some of its reviews that the officer(s) acted right and performed very well.
- Supervisor Foust asked for clarification on the recommendation to establish a process for Panel comments and recommendations to be reviewed and considered as to who was going to follow-up to develop the process and how it was going to be approved.
 - Supervisor Cook stated that now the Panel speaks to the Board through their Annual Report and the Auditor speaks to the Board the same way. He stated he thinks that it would be beneficial for the Panel to work more directly with the FCPD and then inform the Board on those discussions, recommendations, and any action taken by the FCPD.
 - Mr. Kay stated that the quarterly meetings with the FCPD have resulted in the development of a process and a shared matrix to both show and track the Panel's recommendations and FCPD actions, and that can be published and shared with the Board and the public. The dialogue between the Panel and FCPD is critical in vetting the recommendations and appropriate actions.
 - Supervisor Cook suggested that information, including the FCPD's actions or responses, could then also be compiled as an attachment to the Panel's future annual reports.

The Committee then moved forward with the next agenda item which was the Independent Police Auditor's presentation of his 2018 Annual Report.

- Independent Police Auditor Richard Schott presented his 2018 Annual Report, which also includes two recommendations from 2017. This is his second annual report.
 - There were 18 incidents reviewed which occurred in either 2017 or 2018. Five were initiated automatically because of the type of incident, including three officer-involved shooting cases, one in-custody death, and one vehicle PIT maneuver which resulted in serious injury. The other 13 reviews were complaints of improper or excessive use of force.
 - He published six public incident reports, and in each of those reviews he found the FCPD investigation was complete, thorough, objective, impartial, and accurate. Recommendations (one or more) were made in half of the cases.

- One of the recommendations made was to discontinue the use of the term “less-lethal” to describe force other than deadly force; the recommendation was examined by the FCPD but was not implemented as the terminology is not consistent with current national recommendations and practices. All other recommendations have either been implemented, will be implemented, or implemented with modification.
- Mr. Schott stated that in his report, *A Review of the Disparity in FCPD Use of Force Incidents by Race (published 7-25-18)*, he recommended that additional study be conducted to identify factors contributing to racial disparity in incidents. Currently he is working to find an academic partner to engage in this research study.
- Mr. Schott stated that during 2018 he also engaged with the FCPD during the body-worn camera pilot, providing input for the draft policy; he reviewed whether the Internal Affairs Bureau acted and responded in a timely manner to complaints of misconduct; and acted as an independent intake for complaints against the FCPD – of which 27 were under Panel authority and 5 were under Independent Police Auditor authority. His office is also the administrative support to the Panel.
- Supervisor Cook thanked Mr. Schott for his work and stated that he appreciated his efforts to create a bridge between the FCPD and the Panel.
- Supervisor McKay asked a clarifying question on the one recommendation not implemented by the FCPD regarding the term “less-lethal.” He just wanted to better understand the issue.
 - Chief Roessler reminded the Board the FCPD had changed the term as one of the recommendations from the Police Executive Research Forum (PERF) study that was also adopted by the Ad Hoc Police Practices Review Commission. It was based on a national philosophical shift in policing to better describe the potential outcome of a use of force tactic or tool versus its designed or intended outcome.
 - Mr. Schott acknowledged that the terms used by the FCPD are the current professional standard.
- Supervisor Gross stated that she appreciates the published reports, but recommended a glossary page be included to describes some of the terms used that might not be readily understood by the public and not just rely on footnotes. Mr. Schott stated he will consider the use of a glossary in the future. Supervisor Cook suggested a glossary that develops over time would perhaps be helpful.
- Chairman Bulova stated that the reports are very readable and understandable and that she appreciates the coordination with the FCPD, and the understanding provided in the reports.

The Committee then moved forward to the third topic of body-worn cameras. Introduced were Deputy County Executive (DCEX) David Rohrer, Chief Edwin C. Roessler Jr., Major Christian Quinn, Major Chantel Cochrane, and Dr. Richard Bennett, American University.

- DCEX Rohrer stated that this effort was not just the work of the police department, but by multiple stakeholders. This was to be an update on the results of the body-worn camera pilot project, the American University study, and to present a plan if the Board wished to move forward with implementation.
- Chief Roessler pointed out that there was a long list of community stakeholders who co-produced the pilot project policy. The pilot project, as approved by the Board in November 2017, ran from March 3 – September 1, 2018.
 - 191 cameras were deployed at three district stations. This resulted in more than 59,000 videos containing over 12,000 hours of video and taking up approximately 23,500 Terabytes of storage space. Approximately 34,404 videos (8,033 hours) related to traffic charges and/or criminal cases were provided to the Commonwealth’s Attorney Office.
 - IT infrastructure enhancements were required to be installed at each of the pilot stations as well.
 - The pilot program found a high level of compliance with the policy by officers, and no required or recommended policy revisions were identified.
- Dr. Bennett introduced himself and provided a brief description on his academic and research background, the study background, and stated that no Fairfax County funding was used to conduct the project. As part of the comprehensive study, multiple data collection activities were performed, to include before, during, and after the pilot.
- Dr. Bennett stated that phone interviewers, with multiple language skills, spoke with 306 community members who had recent interaction with FCPD police officers, whether they were wearing a camera or not.
 - 83% were satisfied with how they were treated by the officer.
 - 74% were satisfied with how the situation was resolved.
 - 84% said the FCPD does the job well.
 - 81% said the department shared the values of the community.
 - He elaborated that these data points and many more show that community members feel the relationships with police are going well.
 - 92% said they think body-worn cameras should be implemented department wide.
 - When determining whether or not the body-worn cameras were salient to the interaction the answer is no. There were no significant differences between the way the community members reacted and answered the survey whether they engaged with an officer wearing a camera or not.
 - Only 21% of those surveyed who engaged with officers who were wearing a camera stated that they noticed the officer had a camera on.
 - 11% of those surveyed who interacted with an officer who was not wearing a camera believed the officer did have a camera on. The focus

group believed that this may be because the officers' vests have so many attachments it could be difficult to discern a camera.

- Midway through the pilot, 23 stakeholder groups were surveyed. Expectations for body-worn cameras were reportedly modest, but while a majority believed the FCPD reflected the values of the community and performs well many also believed body-worn cameras would reduce the number of complaints against police officers and enhance police legitimacy and accountability.
- Police officers at the three district stations for the pilot were interviewed both before cameras were assigned to any individual officers and after the pilot.
 - Before the cameras were received, a large group believed the cameras would help in gathering evidence, and in resolving complaints, with a small minority disagreeing that cameras would increase their safety and improve their legitimacy.
 - Before the cameras were distributed, officers were asked if the department should adopt the cameras department-wide, and the response was about equal on both sides with many reportedly unsure.
 - After the pilot, the officers who wore the cameras were slightly more positive about department-wide adoption, whereas those who did not wear the cameras showed an increase in opposition.
 - Officers surveyed stated that cameras would not change how they carry out their duties or how the public would interact with them.
 - Four performance measures were looked at in the study- traffic stops, calls for service, complaints against officers, and use of force reports. The trends for the traffic stops, calls for service, and use of force showed no difference between the officers who wore cameras and the officers who did not. For complaints against officers, after the cameras were taken off, those who wore the cameras had slightly fewer complaints against them than those officers who had not been equipped.
 - To generalize the study, Dr. Bennett said that community members strongly support the implementation of body-worn cameras department-wide while officers, whose opinions varied widely, are resistant.
- DCEX Rohrer then spoke on the perspectives, anticipated workloads, concerns/questions, and requirements of other stakeholder agencies, starting with the Commonwealth's Attorney's Office (CWA). He first spoke on the requirements of the Virginia State Bar, explaining that the attorneys in the CWA are required ethically to personally review the video for each case for evidentiary value, any potential exculpatory evidence, etc., and cannot rely on other staff, i.e., paralegals or administrative support. This has and will increase the workload for each attorney.
- He reported that the judges, clerks, and the Office of the Public Defender all are generally supportive of the concept of a body-worn camera program, though judges reported little to no experience to date in courtrooms with body-worn camera evidence and expressed

concerns regarding the potential adverse impact on dockets, to include potentially longer trials or more delays, the need for courtroom technology, and the need to establish a fair process for pro se defendants to also be able to view and present any body-worn camera video. The courts have also identified the need for enhanced training for the defense bar.

- Chief Roessler presented information on a recommended implementation plan of 1,210 cameras for all operational officers over a three-year phase-in period with a five-year vendor agreement. The use of cameras by SROs in public schools would be a decision for joint discussion with the Board of Supervisors and the Fairfax County School Board.
- Chief Roessler explained that there are 34 total staffing positions identified as required to fully implement the body-worn camera program across the key stakeholder agencies, including the Police Department, the CWA and the Department of Information Technology (DIT). The FCPD would require five additional staff positions.
- Based on the pilot and their projected workload increase and a study by the Compensation Board for the General Assembly, the CWA has identified the need for 23 additional positions, including 16 attorneys and eight support staff. This increase would be consistent with those in other jurisdictions in the state who have implemented body-worn cameras. It was noted that the study undertaken by a work group under the Compensation Board is expected to continue and broaden their scope so it is not known if any projected funding requirements for CWA might change in coming years. It was also noted that expansion of the CWA staffing will require additional office space to be identified and built out in the future as they are nearing capacity.
- DIT has requested six positions to support the program and the courts.
- Supervisor Cook thanked Dr. Bennett for conducting the study and his presentation of its results. He then asked if Dr. Bennett could explain why there was reportedly a large reduction in support by officers for the program after the pilot program concluded. Dr. Bennett stated that he could only hypothesize as to the “why,” stating that he believed officers were concluding that the funding required to implement a body-worn camera program would compete with funds for increased compensation.
- Supervisor Cook stated that the concerns presented on the CWA, the courts, the defense bar, and the Public Defender’s Office were real concerns based on his background and experience. He also stated that from what he read or inferred from the report was that there were some modest expected benefits from the program, with a high cost. He compared that with the positive results achieved through the Diversion First initiative with lower costs.
- Supervisor Herrity asked a question whether public defenders would have the same requirement for viewing all body-worn camera footage as the CWA. There was no one present to provide an exact answer related to the ruling imposed on CWAs, but it was expected public defenders would have similar ethical duties in representing their clients, and subsequently have workload increases as well.

- Supervisor Herrity appreciated the report's findings that the FCPD performs well, as even reported by many after an encounter with officers. He felt it helped refute comments by some community members that there is a problem with the policing done by the FCPD.
- Supervisor Herrity stated that even though the study was fairly inconclusive, he would prefer the FCPD to have cameras eventually, as the equipment, similar to in-car video, has benefits. However, he believes it is currently fairly cost prohibitive, and he spoke of some other localities who have opted to not implement body-worn camera programs. He stated he would prefer putting the funding toward recruiting, retaining, and training the best officers and continuing and enhancing community-policing efforts.
- Supervisor Foust stated that he did not believe that the impact on public defenders would be the same as on the CWA based on the duty of the latter to determine evidentiary value and identify exculpatory evidence. He stated he was not surprised that the presentation and comments seemed to focus on trying to demonstrate that a body-worn camera program is not needed. He also stated that the AU study, although a good study, was not presented well. He stated too much data was presented in generalities.
 - He stated that if looking at the data and perceptions of police by race and ethnicity there are differences in the perceptions of police. He stated it may not be a police-caused problem, but he believes it is a police problem. He also stated that if 92% of the community members surveyed felt body-worn cameras should be implemented then how could anyone conclude the program should not be implemented.
 - Supervisor Foust emphasized that the perceptions of police in some parts of the community are a concern, as evidenced by the study, and that body-worn cameras would be beneficial in addressing those perceptions. He stated the County should be a leader and implement body-worn cameras.
- Supervisor McKay asked Dr. Bennett if there was anything about his study that surprised him. Dr. Bennett replied that he was surprised with how supportive the community was of the FCPD.
- Supervisor McKay then stated there was nothing in the report that surprised him, including that the community supported the FCPD. He stated that he thought the Board will and should approve implementation of a body-worn camera program. He stated the study does not seem to touch on the national optics taking place on law enforcement, and spoke about perceptions in different communities, and that some may fear or mistrust police. He stated it is hard to put a price tag on confidence and trust in police and that this would be an important investment in the Police Department.
- Supervisor Hudgins thanked Dr. Bennett for the report and the presentation. She stated that she thought the report's findings in general as to the community opinions as the relationship and trust in regards to the police/public safety are true, but that not all in our community have the same experiences with, or perceptions of, police and that it is important to act in a way that is best for all. She said that whether an incident occurs here

in the County or in another community it can still color how some view or trust police. She stated she felt body-worn cameras and the investment would benefit the community and the police, and improve trust. She believed that the public would support the implementation of body-worn cameras as a good investment in enhancing relationships and trust.

- Supervisor Hudgins asked for clarification on whether or not officers showed greater support for the cameras after wearing them or not. Dr. Bennett stated that, as compared to when they were surveyed before getting the cameras issued to them, the officers who wore the cameras were slightly more supportive, but the officers who did not have cameras issued to them were significantly less favorable toward them.
- Supervisor Hudgins concluded stating that she felt this was an opportunity to move the County forward and that she was in support of it.
- Supervisor Smyth stated that as technology improves and changes, costs generally decrease. She also asked whether there was any comparison made in this study between the cameras and any complaints against officers, including through the Civilian Review Panel. Ms. VanLowe, Past Chair of the CRP, responded that the cameras did support the work of the Panel, specifically in one case where camera footage existed for a complaint of bias and the camera clearly demonstrated the very professional actions of the involved officer. But there is no existing body-worn camera for another current complaint of racial profiling they are currently reviewing, making the review more difficult. Supervisor Smyth appreciated that input, stating it helped demonstrate the value of an investment in the technology.
- Chairman Bulova stated that she was proud and impressed by the 80+% of positive feedback and feelings towards the FCPD. She also stated she thinks the Board should move forward and approve implementation of a program to ensure a fuller and more accurate video record of an incident. She stated that she thought it was good the County took a methodical and careful approach to looking at this issue, but that the Board should now move forward with approval. She did proffer that perhaps the implementation plan could be refined and scaled differently to perhaps reduce some of the costs, focusing on where they would have the most expected benefit.
- Supervisor Smith stated that she was trying to keep an open mind during this process, but that she now concurs that moving forward with implementation is the right step. She also stated that she believed body-worn cameras had, as an example, also been shown elsewhere to be beneficial in the prosecution of domestic violence cases.
- Supervisor Storck stated that he felt the thorough and comprehensive approach made to evaluating cameras was beneficial. He stated that there is not clear evidence that cameras have a significant impact on the quality of policing and overall results, but the perceptions that some have in our community of police are the core reason for this ongoing discussion. He felt the timing and methodology of the implementation could be

discussed further going forward as well as the timeline for any roll-out process, i.e., a slower roll-out plan.

- Supervisor Storck also asked about de-policing, and what it meant in terms of the national studies and the AU study for the FCPD. Dr. Bennett stated that de-policing referred to the “Ferguson effect” where police are not as proactive or will not engage with community members out of fear of complaints, scrutiny, or discipline or sanctions. The most proactive activity for officers are traffic stops; the study with the FCPD found no difference in the number of traffic stops and no evidence in the FCPD of de-policing during the pilot.
- Supervisor Storck asked about the demographics of the people who were stopped and if there was a difference. Dr. Bennett answered that his team did not have that data.
- Supervisor Storck asked if there was de-policing nationally. Dr Bennett stated that the national results are mixed, and that he felt that in departments where corrective action was perhaps needed there had been de-policing and in good, professional departments similar to FCPD there had not.
- Supervisor Storck also reiterated his commitment to officer recruitment, retention, and compensation that would enable the capacity to not only have the best officers, but to attract diversity to better reflect the demographics of the community to enhance relationships and trust.
- Supervisor Gross stated that the results provided a mixed bag, with a significant cost and that she was not yet decided. She asked what the proposal was for the next steps, if any.
- Supervisor Cook stated that he believed the Board was prepared to have this issue come forward for consideration and a vote. He directed staff to prepare an Action Item for the September 24th Board of Supervisors meeting, and that a draft be disseminated in advance for discussion and questions at the September 17th Public Safety Committee meeting.
- Chairman Bulova stated she looked forward to coming back in September to move ahead on the issue of body-worn cameras.

Meeting adjourned at 4:45 p.m.