

Police Civilian Review Panel

May 30, 2019

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members Present:

Hansel Aguilar

Jimmy Bierman (arrived at 7:05)

Bob Cluck

Hollye Doane, Panel Vice-Chair

Doug Kay, Panel Chair

Anna Northcutt

Rhonda VanLowe

Panel Members Absent:

Shirley Norman-Taylor

Colonel Gregory Gadson

Others Present:

Gentry Anderson, OIPA

Julia Judkins, Counsel

Major Matt Owens, FCPD

Rachelle Ramirez, OIPA

Major Gervais Reed, FCPD

Richard Schott, Independent Police Auditor

The Panel's business meeting was called to order at 7:02 p.m.

Meeting Summary Approval: Ms. VanLowe moved approval of the Meeting Summary from the Panel's April 4<sup>th</sup> meeting. Mr. Cluck seconded the motion and it carried by a vote of six, with Mr. Bierman having not yet arrived, and Colonel Gadson and Ms. Norman-Taylor being absent.

Review of CRP-18-27: Mr. Kay reminded the Panel that a review of this complaint took place on February 7, 2019. During that meeting, the Panel voted and approved that the Fairfax County Police Department (FCPD) conduct further investigation and provide the Panel with a supplemental report detailing the findings of additional investigation into racial bias and racial profiling. The purpose of this Review Meeting is for the Panel to review the additional investigation conducted by the FCPD. Mr. Kay invited the complainant, Ms. Utley, to make a statement.

Complainant Statement: Ms. Utley thanked the Panel for requesting additional investigation of her complaint. She noted her frustration that the FCPD Disposition Letter related to the additional investigation lacked specifics related to the investigation, and disclosed her personal information, such as a screenshot of her LinkedIn profile and a GoFundMe page she created. She was concerned that her social media pages and political affiliations became part of the FCPD's investigation when she filed her complaint as a concerned community organizer who witnessed an incident on social media. Ms. Utley noted that the appearance of the FCPD investigating complainants will deter other complainants from coming forward.

Complainant Questioning: The Panel did not have questions for the complainant.

FCPD Representative Statement: Mr. Kay offered Major Reed an opportunity to make a statement regarding the additional investigation. Major Reed referred the Panel to the letter sent to the Panel by the Chief of the FCPD related to the complaint.

FCPD Representative Questioning: Mr. Kay opened the floor for Panel Members to ask Major Reed questions regarding the additional investigation.

Mr. Aguilar: What was the reason for including the complainant's information in the FCPD Disposition Letter related to the additional investigation? Major Reed replied that the Chief would have to address that question.

Mr. Aguilar: In the Investigation File, Panel Members saw arrest statistics for the subject officer for his patrol zone compared to officers' arrest statistics district wide. Why were his statistics not compared to statistics of other officers assigned to that patrol zone? Mr. Aguilar noted that there was a twenty-point difference between this officer and other officers for stopping or arresting African Americans. Major Reed defined the term disparity and noted that contacts officers make with the community are not always self-initiated due to calls for service.

Mr. Kay: Did IAB consult with any other agencies within the FCPD regarding the statistical analysis contained in the Investigation File? Major Reed replied that IAB did not consult with others in doing the statistical analysis.

Review Deliberations: Mr. Kay directed Panel Members to the three types of findings from which Panel Members can choose to vote when reviewing a FCPD Investigation, which are found in the Panel's Bylaws. He invited the Panel to discuss whether the FCPD Investigation was accurate, complete, thorough, objective, and impartial. Panel Members discussed their concerns with the statistical analysis provided in the Investigation File and the inclusion of the complainant's social media information in the FCPD Disposition Letter. Further discussion ensued regarding the independent source used for legal analysis of the stop and the issue of trespassing.

Review Findings: Ms. Doane moved that the Panel concur with the findings and determinations detailed in the FCPD Investigation Report. Ms. Northcutt seconded the motion and it carried by a vote of six, Mr. Aguilar voting "Nay," and Colonel Gadson and Ms. Norman-Taylor being absent.

The Panel discussed recommendations and comments to be included in the Review Report, including that a witness, owner, or resident make a complaint to the FCPD before trespassing can be considered. The Panel expressed interest in learning more about efforts by the FCPD, and by police departments nationwide, to combat implicit bias in policing. Ms. VanLowe asked that the Review Report express the Panel's disappointment about the inclusion of the complainant's personal information in the FCPD Disposition Letter. *Ms. Doane will draft the Review Report. Ms. Doane asked for Panel Members to send her proposed language for the comments and recommendations section of the Review report.* Mr. Kay told the Panel that the Review Report will be voted on at the June 20<sup>th</sup> Panel Meeting and encouraged the Panel Members to provide edits prior to the meeting.

Initial Review Report for CRP-19-05: Ms. Doane summarized the complaint and reminded the Panel that that the Initial Complaint was not timely filed. However, the Subcommittee determined that there was good cause for the delay in the filing of the Initial Complaint because the complainant was under

criminal investigation and active prosecution. The Subcommittee unanimously agreed to recommend that the Panel accept the Review Request.

Ms. Doane moved that the Panel adopt the Initial Review Report for CRP-19-05 that was developed by the Subcommittee. Ms. VanLowe seconded the motion and it carried by vote of seven, Colonel Gadson and Ms. Norman-Taylor being absent.

Panel Discussion Regarding CRP-19-04: Mr. Kay noted that the complainant was present at the meeting and summarized that a sworn FCPD Animal Protection Police Officer submitted a complaint against another officer alleging misconduct. Major Reed has since informed the Panel that the complaint would be processed through the County's grievance process since it relates to employee relations. Mr. Kay pointed out that the Panel's Bylaws do not address a complaint of this nature and the Panel had no investigation available to review. Mr. Kay suggested that the Panel notify the Board of Supervisors. *Mr. Kay will draft a letter to the Chairman of the Board of Supervisors and circulate it to the Panel.*

Panel Discussion Regarding CRP-19-13: Mr. Kay briefed the Panel on an anonymous complaint received by the Panel. He referenced the Panel's Bylaws, which require a complaint be submitted with identifying information, and noted his concern that the Panel would not be able to review this complaint. Ms. Doane asked the Panel to consider expanding the definition of identifying information in the Bylaws to include any person involved in the incident, a witness, or a person who has knowledge of the incident via social media or other means. Mr. Bierman pointed out that providing an anonymous email address could be considered sufficient identifying information because it allows the Panel to communicate with the complainant. Ms. Northcutt agreed. Panel discussion ensued regarding the definition of identifying information and whether the Panel has enough identifying information for the anonymous complaint to be processed. The Panel concluded that the use of an anonymous email address is sufficient, and the complaint will follow the standard Panel complaint process.

Panel Discussion on Initial Review Subcommittee and Determination of Panel Authority: Mr. Kay summarized the current Panel procedure for the Initial Review of Review Requests and the use of subcommittees. He proposed that the Panel empower the subcommittee to reach a determination of authority, rather than the entire Panel, so that the Review Meeting could be scheduled in a timelier manner. Ms. Judkins pointed out that the Panel must determine authority and that the delegation of this authority to a subcommittee is not found in the establishing Action Item. The Panel continued to discuss whether the Panel could delegate authority to a subcommittee itself or if Board of Supervisor approval would be necessary. At 8:57 p.m., Ms. Doane moved that the Panel recess and go into closed session for discussion and consideration of matters enumerated in Virginia Code Section 2.2-3711, for legal advice. Ms. VanLowe seconded the motion and it carried by unanimous vote of seven, Colonel Gadson and Ms. Norman-Taylor being absent.

The Panel returned from closed session at 9:17 p.m. Ms. Doane moved that the Panel verify that, to the best of each member's knowledge, only Panel matters lawfully exempted from the open meeting requirement, and only such public business matters as were identified in the motion by which the Closed Session was convened, were heard, discussed, or considered by the Panel during Closed Session. Ms. VanLowe seconded the motion and it carried by a vote of seven, Colonel Gadson and Ms. Norman-Taylor being absent. The Panel decided that it would revisit this issue at a future meeting.

Report on 1<sup>st</sup> Quarterly Meeting: Mr. Kay reminded the Panel that notes from the first quarterly meeting were circulated via email. Mr. Aguilar asked if FCPD Investigation Files could be made available at each district station on an assigned computer. Mr. Kay replied that he will inquire about this. The next quarterly meeting is scheduled for Friday, June 7.

NACOLE Training: Ms. Ramirez pointed the Panel's attention to the final training agenda for the NACOLE Training session, which will be held on Saturday, June 22. The training agenda was discussed, and the Panel expressed interest in how police departments nationwide have addressed implicit bias and what training officers receive to combat implicit bias. *Ms. Ramirez will convey this interest to the NACOLE trainers.*

*Mr. Kay will circulate contact information to the Panel for them to schedule ride-alongs and stressed the importance of ongoing training.* Mr. Aguilar asked about participating in a helicopter ride-along.

New Business:

Mr. Kay introduced Major Owens, the newly appointed Major at the FCPD Internal Affairs Bureau, and Major Owens introduced himself to the Panel.

Mr. Kay suggested that the Panel receive training specific to the FCPD in the fall.

Mr. Kay reminded the Panel that on June 4, a reception will be held prior to the Board of Supervisors meeting to recognize former Panel Members, Mr. Randy Sayles and Mr. Adrian Steel, for their contributions and dedication of service to the Panel. All Panel Members are invited to attend the reception and Board Meeting.

Mr. Kay announced that the Panel's 2018 Annual Report will be presented by Ms. VanLowe, former Panel Chair, at the Board of Supervisor's July 9 Public Safety Committee meeting at 3:00 p.m. in Conference Room 11 of the Government Center.

Next Meeting: The Panel's next business meeting is Thursday, June 20, 2019, at 7:00 p.m. in the Government Center, Conference Room 232.

The meeting was adjourned at 9:27 p.m.