

Fairfax County Police Civilian Review Panel

Public Forum on December 10, 2018

Mount Vernon Governmental Center

Meeting Summary

Panel Members Present:

Hansel Aguilar
Hollye Doane
Col. Greg Gadson
Anna Northcutt
Adrian Steel
Rhonda VanLowe, Chair

Others Present:

Dan Storck, Mount Vernon District, Board of Supervisors
Richard Schott, Independent Police Auditor

Panel Members Absent:

Bob Cluck
Doug Kay

The Public Forum began at 7:03 p.m.

Ms. VanLowe and Supervisor Storck welcomed attendees to the Fairfax County Police Civilian Review Panel's (Panel) Public Forum. Supervisor Storck provided framing remarks on the establishment of the Panel and the Office of the Independent Police Auditor and noted that civilian oversight is something the community cares deeply about.

Ms. VanLowe reviewed the agenda. She thanked Supervisor Storck, Chief Roessler, Captain Owens, and Major Reed, and audience members for attending. She explained that the purpose of the public forum is to introduce the Panel and engage with the public. The Panel received twenty-three complaints and three requests for review in 2018 and has participated in many outreach events to meet with different organizations and members of the community.

Each Panel Member present introduced themselves and shared information on their background, experiences, and expertise that led them to join the Panel. Richard Schott, the Independent Police Auditor, also introduced himself and provided background on his career.

Mr. Steel provided information on the history and the establishment of the Panel, and the Panel's scope of authority. He noted that Fairfax County is one of the few places in the country to have a hybrid system of oversight, with a Civilian Review Panel and an Independent Police Auditor. The Panel reviews completed Fairfax County Police Department (FCPD) investigations into allegations of serious misconduct or abuse of authority. While the Panel is unable to gather evidence, the Panel allows complainants to appear before the Panel to state their reasons for requesting a review. The Panel may also ask an FCPD representative to attend the meeting and to review and answer questions about the investigation and may, if it deems it warranted, require the FCPD to conduct additional investigation.

Ms. Doane reviewed the Panel's complaint filing process. Complaints can be submitted to the Panel via email to the Panel, or in person, mail, or phone call to the Auditor's office. Complainants can request the help of staff when filling out a Complaint Form and staff will assist. The Panel reviews completed FCPD investigations to ensure accuracy, completeness, thoroughness, objectivity, and impartiality. Complaints received by the Panel that have not been previously investigated are shared with the FCPD. Once the FCPD has completed its investigation, the complainant may request a review of the investigation by the Panel if they are unsatisfied. The Panel conducts its review of complaints in public meetings and may hear from the complainant and an FCPD representative. The Panel then issues a public report on its findings. In addition, the Panel can make policy recommendations related to complaints they receive. It was noted that all Panel Meetings are open to the public. Audio recordings and summaries of the meetings are available on the Panel's webpage.

Mr. Schott explained the Auditor's role in oversight. The Auditor automatically reviews incidents involving an officer involved shooting, in custody death, and use of force that results in serious injury, even if a complaint is not filed. The Auditor also reviews uses of force that do not result in serious injury if a member of the community submits a complaint. The Auditor, like the Panel, does not have investigative authority. However, the Auditor has the ability to monitor investigations while they are ongoing. A public report of each review conducted is published on the Auditor's webpage and shared with the Board of Supervisors and the Chief of Police. The Panel periodically meets with the auditor to discuss his reports and is able to comment on policy changes to the Board and Chief of Police

Questions were taken from the audience regarding Panel and Auditor processes and comments on related issues. A summary of questions and responses is provided below.

The Public Forum adjourned at 9:07 p.m.

Questions and Answers

1. Could you describe the type and status of complaints received by the Panel?

The complaints received by the Panel vary by type of allegation and cover many different issues. In 2018, the Panel processed twenty-three Initial Complaints and held three reviews. Most complaints received by the Panel were initial complaints where the complainant did not request the Panel's review after the FCPD completed its investigation.

2. What is the difference between an Initial Complaint and a Request for Review? Was the procedure for a Review Request created by the Panel?

An Initial Complaint refers to a complaint that is submitted to the Panel but not previously investigated by the FCPD. In these cases, the Panel must forward the complaint to the FCPD for investigation. After the complainant receives a letter from the FCPD detailing the findings of the investigation, the complainant may choose to submit a Request for Review to the Panel if they are unsatisfied with the FCPD investigation. The Panel is only able to review completed FCPD investigations. The Request for Review process is outlined in the Board of Supervisors Action Item that established the Panel.

3. Is legal status of a complainant protected? If someone has an illegal status and was the victim of discrimination, what is their safety net?

If an individual is uncomfortable filling out the Complaint Form, a friend, relative, or witness can complete the form on their behalf. The FCPD's investigation includes interviewing involved individuals. If an individual does not want to participate in the investigation process with the FCPD, they will not be pressed to participate.

4. Does the FCPD have Spanish speaking investigators?

The FCPD General Orders states that language access is to be provided through an interpreter or the language line when there is a language barrier present.

5. The FCPD received 268 citizen complaints. Do you have the ability to review these complaints?

The Panel does not have the authority to automatically review every complaint received by the FCPD. A complainant must submit a review request to the Panel for the review process to commence. The letter that the FCPD sends to complainants with the findings of the investigation provides information about the Panel and the complainant's ability to request a review of the investigation by the Panel if the complainant is still unsatisfied.

6. Does the Sheriff have a similar oversight commission?

The Sheriff is an elected constitutional officer who is not under the authority of the county Board of Supervisors. The Final Report of the Ad Hoc Police Practices Review Commission Implementation Group included a recommendation for oversight of the Sheriff. These recommendations are to be reviewed by the Board of Supervisors in 2019.

7. I am constantly harassed by the FCPD and I film the police and their interactions with the public. Is there any way for the Panel to protect people like me and prioritize complaints?

The Panel processes complaints in a timely manner and is sensitive to being responsive to complainants. If you have a concern about retaliation, you may submit a complaint.

8. It seems that if a person is unsatisfied with the FCPD investigation but does not want exposure, there is no option for them. Do complainants have the option to submit a complaint to the Panel anonymously?

The Panel is a public body that conducts its business during public meetings. Also, in the event of a Virginia Freedom of Information Act request, the Panel is required to release information as required by law. However, the identities of minors and victims of sexual misconduct will not be released.

9. Can the Panel use aliases for complainants to maintain confidentiality?

The Panel is committed to not disclosing names of complainants when publishing public reports. Confidentiality is a challenging issue that the Panel is working through.

10. How can you identify trends from complaints if you only review the complaints that are processed through the Panel?

The Panel does not have the authority to review all complaints submitted to the FCPD. The Panel can only identify trends within the complaints that are processed by the Panel.

11. Does the Panel have a schedule for publishing reports to the Board of Supervisors?

The Panel prepares and publishes an annual report that is due March 31st of each year. It is delivered to the Board of Supervisors and available for public review on the Panel's webpage. In June 2018, we met with the Board at a Public Safety Committee Meeting to make a presentation on the 2017 Annual Report.

12. How can a complainant provide witness information to the Panel if the witness would like to remain anonymous and not have their information divulged?

Include the information that the witness has regarding the incident within your complaint without providing the witness name or contact information.

13. When someone sends an email to the Panel's email account, who sends back a reply?

Staff or the Panel Chair responds to emails that are sent to the Panel's email box.

14. Are the FCPD investigation files that Panel Members and the Auditor review redacted?

No, the investigation files are not redacted. The Panel and the Auditor review complete FCPD files and are also given the opportunity to review body worn camera and in car video footage if there is footage associated with the file.

15. Since both bodies report to the Board of Supervisors, is the FCPD still ultimately responsible for policing themselves?

Recommendations made by the Panel and the Auditor are sent to the Board of Supervisors and the Chief of Police and are shared in public meetings.

16. Why is the Panel unable to review incidents that involve use of force, in custody death, or officer involved shootings?

The Ad Hoc Police Practices Commission thought that the review of use of force, in custody death, and officer involved shootings should be conducted by an individual trained in investigations. Therefore, it is the responsibility of the Auditor to review these types of complaints. The Panel meets with the Auditor periodically to review his reports and may provide input on these topics to the Board of Supervisors.

17. What is the process to change the way the Panel is authorized to function?

The Board of Supervisors Action Item dictates the way that the Panel can operate. Concerned citizens may wish to provide their thoughts on this matter to the Board of Supervisors and other elected officials.

18. Why is the Auditor unable to conduct his own investigations?

Under Virginia Law, it is not clear that the Board of Supervisors is able to delegate investigative authority to other entities.

19. When can we receive a report on the racial disparity against African Americans in the county?

The Auditor's Report, titled "A Review of the Disparity in FCPD Use of Force Incidents by Race in 2015", was published in July 2018. The report outlines the key findings from the review as well as policy implications and recommendations. It was sent to the Board of Supervisors and is posted on the Auditor's webpage for public review. The Auditor is currently reviewing the use of force data for 2016.

20. Is there a residency requirement for officers of the FCPD?

There is no requirement that recruits or officers of the FCPD live in the county. The FCPD seeks candidates from across the entire state of Virginia to increase the diversity of the force. It is a challenge to reflect the county's diversity within the department.

21. Can an officer of the FCPD be prosecuted because of the submission of a complaint to the Panel?

The Commonwealth Attorney's office would make the decision whether to prosecute an officer for criminal conduct. Discipline decisions are made by the Chief prior to the Panel's review of a completed FCPD investigation.

22. Why are complaints routed through the Auditor's office?

The Auditor's office is responsible for providing administrative support to the Panel, which is comprised of nine civilian volunteers. The Panel's email box is monitored by staff from the Auditor's office and all emails are forwarded to the Panel Chair and Vice-Chair for a response.

Comments from Audience

- The Review Request procedure seems to be a bureaucratic barrier. A complainant must share their personal information twice at a time when they are most likely feeling vulnerable. It takes a lot of courage for a complainant to come forward. This process seems to put people through a lot for very little. The Panel's review of complaint should be automatic after a complainant submits an Initial Complaint.
- There is little information found in the Panel's reports. It would be helpful to know the date the complaint was received, if extensions were requested by the FCPD, and the date the FCPD completed their investigation. More information should be included on the Panel website about complaints being reviewed. The commenter asked the reason for the lengthy delay before Panel reports are published.
- The Panel Meeting agendas are not informative. It would be helpful to include corresponding meeting materials for each agenda item online, like the Board of Supervisor's meeting agenda.
- It would be helpful to include what time, according to the meeting audio, each agenda item begins within the Panel Meeting summaries.
- The issues that the Ad Hoc Commission addressed are still concerns today and remedies need to be implemented. We urge you to take a firm position on policy matters in the 2018 Annual Report.
- It is concerning that an incident must occur more than once for a resolution to be offered. Everyone is aware of the Panel and Auditor's limitations. The word accountability should no longer be used because I am not seeing any accountability or responsibility from the FCPD.
- No one has addressed the great things the FCPD does for our community. They put their lives at risk every day to keep us safe.
- The Complaint Form needs to be simplified into layman's terms. The Panel is doing something wrong if it is receiving a fraction of the complaints that the FCPD receives.
- Consider holding future public forums at locations in the county that are not co-located with a Police Station, such as a library, community center, or school.
- While Public Safety Committee Meetings are public meetings, there is not an opportunity for public comment to engage with the Board.
- It is disturbing that the FCPD has not publicly reported the use of force statistics for 2017 or 2018.