

Police Civilian Review Panel

January 9, 2020

Fairfax County Government Center, Conference Room 232

Meeting Summary

Panel Members Present:

Hansel Aguilar

Jimmy Bierman

Bob Cluck

Hollye Doane, Panel Vice-Chair

Frank Gallagher

Doug Kay, Panel Chair

Sris Sriskandarajah

Shirley Norman-Taylor

Rhonda VanLowe

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: Mr. Kay proposed that the following sentence be added to the end of the paragraph under the section titled 'Panel Deliberations': "The Panel then openly deliberated." Panel Members agreed to the amendment. Ms. Doane moved approval of the amended summary from the Panel's December 17th meeting. Mr. Cluck and Ms. Norman-Taylor jointly seconded the motion and it carried unanimously.

Mr. Bierman announced that the subcommittee for complaint CRP-19-29 met earlier in the evening. He disclosed that Sean Perryman, the president of the Fairfax County Chapter of the National Association for the Advancement of Colored People (NAACP) forwarded an email he received from the complainant to Mr. Bierman's work email account which stated that the complainant planned to request a review by the Panel. Mr. Bierman told the Panel he replied to the email asking Mr. Perryman not to send any inappropriate messages of this nature in the future and deleted the message. Mr. Aguilar asked whether the email should have been kept for Freedom of Information Act (FOIA) purposes. Ms. Judkins replied that if possible, the email should be retrieved and forwarded to Mr. Bierman's county email account for retention.

Approval of Initial Review Report for CRP-19-20: Mr. Kay reminded the Panel that the purpose of the Subcommittee meeting is to conduct the initial review of the review request and make a recommendation to the full Panel on whether to undertake or reject the review request. Ms. Doane, a

member of the subcommittee, noted that the allegation of the complaint was that the officer did not issue a ticket for a traffic violation nor a summons for court to the complainant. The subcommittee found that the allegation is not an abuse of authority or serious misconduct, but an inadvertent administrative error made by the officer. Ms. VanLowe moved that the Panel approve the Subcommittee's recommendation that the Panel not undertake a review of CRP-19-20. Ms. Norman-Taylor seconded the motion and it carried by unanimous vote.

Approval of Review Report for CRP-19-11: Mr. Kay referenced page four of the report which explained that the complainant who requested a review submitted as supplements to his review request the complaints of two female companions involved in the same incident. The FCPD's investigation that was reviewed by the Panel addressed the allegations contained in each complaint. Mr. Kay suggested replacing the paragraph on page four that read "On May 21, 2019, the Complainant... all three complaints." with "On May 21, 2019, the Complainant requested a review by the Panel and provided his complaint to the police as well as those of his wife and family friend. He requested the Panel review all three police complaints. The Panel assigned them all the same intake number and the Investigation addressed all three complaints." Mr. Bierman added that the complainant and his companions filed their complaint initially at an FCPD district station and that the complainant was the only individual to request a review but attached their complaints, which all largely overlapped, to his review request. It was Mr. Kay's understanding that one disposition letter was issued to all three complainants. The Panel agreed with this edit.

Mr. Sriskandarajah, who was absent for the review meeting, noted that he listened to the meeting audio and asked why the complainant's friend was unable to speak during the meeting. Mr. Kay referenced a previous review meeting where a complainant, who was not involved in an incident, made a complaint on behalf of someone else and noted the Panel's Bylaws make clear that the Panel can hear from an FCPD spokesperson and the person who submitted the complaint. Discussion ensued related to the Panel's Bylaws and the fact that the complainant who submitted the review request attached the complaints of his female companions. Ms. Doane added that the Panel is unable to take testimony, hear from witnesses, or conduct its own investigation. Mr. Gallagher raised that this could be a problem in the future and noted that the Panel recently received a complaint filed on behalf of another individual. Ms. Doane suggested that in the future when the Panel receives a review request for an incident which involved multiple individuals who submitted an initial complaint, the Panel should notify the primary complainant that the Panel's Bylaws only allow for the individual who submits the review request to speak during the Review Meeting and ask if the other complainants would like to submit their own review requests. *Mr. Kay asked for Ms. Doane and Mr. Sriskandarajah to draft a procedure to be reviewed by the Panel at the February meeting.*

Mr. Aguilar asked if each of the three individuals who submitted complaints regarding the incident received a disposition letter from the FCPD. Ms. Anderson replied that the complainant and his two female companions submitted their initial complaint directly to the FCPD and not the Panel. Upon the completion of the investigation, one of the individuals submitted a review request and attached the disposition letter, which was addressed to the complainant, along with the complaints of the two female companions. Therefore, because the complaints were not processed initially by the Panel, the only disposition letter that was received was the one that was submitted by the complainant with his review request. *Mr. Aguilar asked that this be brought up at the next quarterly meeting to ensure that all*

complainants receive disposition letters and Mr. Kay replied that he would follow up on this prior to the February meeting.

The Panel then reviewed the draft review report and the following edits were submitted:

- Panel Members requested that page numbers be included on all Review Reports.
- Mr. Cluck suggested that the words “impartial, and objective” be added to the first sentence of paragraph two in the Introduction section of the report so that it reads, “After reviewing the Investigation file, the Panel Members present voted 6-1 that the Investigation was complete, thorough, accurate, impartial, and objective, and to concur with the ultimate findings of the FCPD documented in the Investigation report.” This edit was accepted.
- Mr. Cluck suggested that words “Black” and “White” referring to race should be in lowercase throughout the report. Panel discussion ensued regarding the suggested edit. It was determined that the words will remain in uppercase and the suggested edit was rejected.
- Mr. Kay suggested that an uppercase “T” should be replaced with a lowercase “t” in paragraph three of the Background section of the report. He also suggested that the word “who” be replaced with “which” in paragraph four of the same section. These edits were accepted.
- Mr. Gallagher suggested that the word “handicapped” should be rewritten as “handicap” on pages one and two of the report. This edit was accepted.
- Mr. Kay suggested striking “Department of Public Safety Communications” from paragraph five of the Background section of the report. This edit was accepted.
- Mr. Bierman suggested the word “stop” be replaced with “spot” in the Panel Meeting section of the report and that a return be included in between paragraphs ten and eleven of the same section. These edits were accepted.
- Mr. Kay suggested rearranging words in paragraph seventeen of the Panel Meeting section of the report so that the sentence would read “The Investigation determined that the officer described in complainant witness statements as a “female officer,” a “rookie cop in training,” and an “officer in training” was, in fact a civilian employee of the Department of Public Safety Communications.” This edit was accepted.

Mr. Bierman moved that the Panel approve the Review Report for CRP-19-11 as amended.

Mr. Sriskandarajah seconded the motion and it carried by a vote of eight, with Ms. VanLowe abstaining.

Ms. Doane thanked Mr. Bierman for drafting the report. Mr. Kay added that the Panel previously struggled with including this amount of information in previous Review Reports due to the constraints of the previous Action Item and that this would be a great template for Review Reports moving forward.

Next, Mr. Kay asked that each recommendation found in the Recommendations section be reviewed and voted on separately.

- Ms. Doane moved that the Panel approve Recommendation A as written. Mr. Gallagher seconded the motion and it carried by a vote of eight, with Ms. VanLowe abstaining.
- The Panel discussed Recommendation B related to FCPD civilian ride-alongs and record retention period for documentation as mentioned in FCPD General Order (G.O.) 230.3. Discussion ensued and Mr. Kay suggested that the Panel table discussion on this recommendation for the moment and review the rest of the recommendations.
- Ms. Doane moved that the Panel approve Recommendation C as written. Mr. Sriskandarajah seconded the motion and it carried by a vote of eight, with Ms. VanLowe abstaining.
- The Panel returned to the discussion on Recommendation B. Ms. Judkins said that the retention period for ride-along applications is only one year, which is maintained by the district stations. Ms. Doane moved that the Panel approve Recommendation B as written. Mr. Bierman seconded the motion and it carried by a vote of eight, with Ms. VanLowe abstaining.
- The Panel discussed Recommendation D which is related to cross gender searches. Mr. Gallagher suggested that the words “via roll-call trainings and or department wide reminders to ensure that officers are taking the necessary steps, when practical, to avoid cross sexual searches and pat downs.” be removed from the recommendation. Ms. Doane noted that G.O. 203 already outlines that cross-gender searches should not happen whenever practicable and that nothing in the Investigation suggested that procedure was violated. The Panel further discussed the recommendation related to the subject incident and FCPD G.O. 203. Mr. Aguilar moved that the Panel approve Recommendation D as amended. Mr. Gallagher seconded the motion and it failed with Mr. Aguilar, Mr. Gallagher, and Ms. Norman-Taylor voting “Aye,” Mr. Bierman, Mr. Kay, Mr. Sriskandarajah, Ms. Doane, and Mr. Cluck voting “Nay,” and Ms. VanLowe abstaining. Therefore, the recommendation was removed from the final Review Report.

2019 Panel Annual Report: Mr. Kay announced that the Panel’s 2019 Annual Report is due on March 1, 2020. He asked the Panel for their input on what to include in the report. Ms. VanLowe suggested including a section highlighting the outcomes of the recommendations made during the Panel’s 2018 Annual Report. Mr. Aguilar suggested including a section recognizing former Panel Members for their contributions to the Panel’s work. *Panel Members can submit information they would like included in the 2019 Annual Report to Mr. Kay. Mr. Kay will present the draft 2019 Annual Report at the February Panel Meeting.*

2020 Panel Leadership Elections: Mr. Kay reminded the Panel that his term as Panel Chair concludes on February 29th and on March 1st, Ms. Doane will assume the role of Panel Chair. The Panel must elect a Vice-Chair who will then assume the role of Panel Chair in 2021. Ms. Doane nominated Mr. Sriskandarajah as the Panel’s Vice-Chair for 2020. There were no other nominations from the floor. Ms. Doane moved that the Panel elect Mr. Sriskandarajah as Vice-Chair of the Panel. Ms. Norman-Taylor seconded the motion and it carried by unanimous vote.

New Business:

Panel Subcommittee meetings typically take place an hour prior to the start of the regular business meeting. The subcommittee writes an initial review report outlining the subcommittee's recommendation and presents it to the Panel at the following month's meeting for consideration. To save a month of time for the Panel, the complainant, and involved stakeholders, Ms. Doane suggested that the subcommittee members complete the initial review report during the subcommittee meeting and present it to the full Panel during the regular business meeting that immediately follows. Panel Members agreed to this process and it was established that the Panel will operate by this practice moving forward.

Ms. VanLowe told the Panel that she has scheduling conflicts for the Panel Meetings in February, March, and April due to a Thursday evening commitment. Mr. Kay replied that meetings for those months will be rescheduled. Panel Members noted that Tuesday and Wednesday evenings were not preferable. *Ms. Anderson is to reach out to Panel Members with potential meeting dates to reschedule the three meetings. Updated meeting dates will be advertised on the Panel's website and the County's Public Meetings Calendar.*

The meeting was adjourned at 8:51 p.m.

*The Panel's next business meeting is Monday, February 10th, 2020, at 7:30 p.m. in the Government Center, Conference Room 8.