

Police Civilian Review Panel

November 30, 2021

Initial Disposition Subcommittee – CRP-21-14

Members Present:

Jimmy Bierman, Subcommittee Chair

Todd Cranford, Review Liaison

Shirley Norman-Taylor, Review Liaison

Others Present:

Rachelle Ramirez, OIPA

Dre-Ana Whitfield, OIPA

NOTE: Mr. Bierman welcomed everyone to the Panel’s November 30, 2021, subcommittee meeting. The Panel members present in Conference Room 9/10 stated their name.

The Initial Disposition Subcommittee was called to order at 5:42 p.m.

Completion of Initial Review Report for CRP-21-14:

Mr. Bierman provided a summary of the complaint. The complaint alleged a police officer acted improperly in citing the complainant for standing in the middle of a median on a large highway under code §82-9-5. Mr. Bierman explained to the public the purpose of the Panel’s subcommittee meetings. He stated that the subcommittee members review the aspects of the complaint and decide whether the allegations meet or not meet the threshold requirement for abuse of authority or serious misconduct.

Mr. Bierman stated that due to Panel time limits, the subcommittee will only review allegations concerning the latest incident involving the complainant, which was on March 5, 2019. He said that the complainant alleged that a Fairfax County Police Department (FCPD) officer falsely arrested him, profiled him as an African-American male, and violated the law.

Mr. Bierman reviewed the Panel Bylaws Abuse of Authority and Serious Misconduct Checklist listed in the meeting materials for the public. The subcommittee reviewed each of the criteria in the Initial Review Report checklist and considered the allegations made in the complaint and whether there was substantiation in the FCPD’s investigative file to support the allegations. The subcommittee found that the complainant’s allegations concerned three of the criteria for abuse of authority or serious misconduct. Discussion ensued on whether there was evidence that substantiated the allegations of abuse of power or serious misconduct and whether there were any deficiencies in the investigative file.

Mr. Bierman said that the complainant also alleged the violation of his constitutional rights in claiming that his soliciting money in the median was a protected political speech. Mr. Bierman said that there was evidence that the officer treated many people the same way asking them to move from the median to the sidewalk. He said that both the officer and the complainant said that the officer asked the complainant to move to the sidewalk and she did not say that he could not ask for donations. Mr. Bierman said the statute 82-9-5 could be enforced in an unconstitutional manner if the officer did not give the person the option to move to the sidewalk. He said that there was no police ordinance, case law, or court ruling suggesting that the officer acted unconstitutionally. He said it would be a welcome change for the FCPD to better define when this statute can be used in similar situations. Mr. Bierman voiced that no evidence suggested the police officer was acting in a way that abused her authority or constituted serious misconduct. Ms. Norman-Taylor and Mr. Cranford expressed their agreement. Subcommittee members expressed that there was no substantiated evidence to support the allegations, and therefore, the criteria for full Panel review were not met.

Mr. Cranford moved that the subcommittee not refer CRP-21-14 to the full Panel for review. Ms. Norman-Taylor seconded and it carried unanimously.

Mr. Bierman explained that following the Panel's new procedures, the complainant will have the opportunity to address the full Panel at the next meeting. He noted that the Panel does not take testimony.

Ms. Norman-Taylor moved to adjourn the meeting. Mr. Cranford seconded the motion and it carried by unanimous vote.

The meeting adjourned at 6:02 p.m.

# Fairfax County Police Civilian Review Panel

## Subcommittee Initial Review Report

Request for Review – Basic Information
<b>CRP Complaint Number:</b> CRP-21-14
<b>Subcommittee Meeting Date:</b> November 30, 2021
<b>Subcommittee Members:</b> <ul style="list-style-type: none"><li>• James Bierman, Subcommittee Chair (Panel Chair)</li><li>• Todd Cranford, Subcommittee Member</li><li>• Shirley Norman-Taylor, Subcommittee Member</li></ul>
<b>Complaint Submission Date:</b> Review Request received on 8/3/2021. Other Key Dates: FCPD Disposition letter: 1/29/2021; Incident Date: 3/5/2019

This report is subject to Federal and Virginia Freedom of Information Acts. Panel members will maintain to the greatest extent possible under the law and in accordance with the Bylaws all sensitive and confidential information not intended for a public release.

Purpose
The Subcommittee Initial Review Report sets forth the Subcommittee’s recommendation on whether the Complainant’s allegation(s) meet the standard for review provided in the Panel’s Bylaws. The Panel may accept or not accept the Subcommittee’s recommendation on whether to review a complaint.

Findings
<p>The Panel’s review authority states in Article VI (A)(1) of its Bylaws: “The Panel shall review Investigations to ensure their thoroughness, completeness, accuracy, objectivity and impartiality where (1) the subject matter of an Investigation is an allegation of ‘abuse of authority’ or ‘serious misconduct’ by a FCPD officer, and (2) a Review Request is filed.”</p> <p>The subject matter of this investigation concerns allegations by the complainant that an officer of the Fairfax County Police Department (FCPD) falsely arrested and profiled him as an African American male, and violated the law, during a March 2019 incident. (The complainant alleged harassment by FCPD officers during multiple incidents dating back to May 2017, but the Panel will only review allegations concerning the latest incident on March 5, 2019, which is addressed in the FCPD disposition letter dated January 29, 2021.)</p> <p>The Subcommittee finds that the subject matter of the investigation <b>does not meet</b> the threshold requirement for “abuse of authority” and “serious misconduct.”</p>

## Recommendation

The Subcommittee recommends that the Panel **not undertake** a review of CRP-21-14 because the complaint **does not meet** the scope of review criteria set forth in its Bylaws.

## Panel Bylaws Abuse of Authority and Serious Misconduct Checklist

Criteria Met?	Abuse of Authority and/or Serious Misconduct	Complainant Details*
<b>No</b>	Use of abusive racial, ethnic or sexual language or gestures.	
<b>No</b>	Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability.	While alleged, no substantiation in the investigative file.
<b>No</b>	Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense.	While alleged, no substantiation in the investigative file.
<b>No</b>	Reckless endangerment of detainee or person in custody.	
<b>No</b>	Violation of laws or ordinances.	
<b>No</b>	Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.	While alleged, no substantiation in the investigative file.

**\*Confidential and sensitive information shall not be disclosed in this document. Contact the Chair or Panel Legal Counsel for questions and/or additional information.**