

Board Agenda Item
December 1, 2020

ACTION - 9

Approval of an Addition to Action Item No. 17, Establishment of a Police Civilian Review Panel, Approved by the Fairfax County Board of Supervisors on December 6, 2016, and Related Bylaws Amendment

ISSUE:

Whether an addition to Action Item No. 17 on the Board of Supervisors' December 6, 2016 agenda, whereby the Board established the Police Civilian Review Panel (Panel), and a related amendment to the Panel's Bylaws should be approved. Such approval would authorize the Panel, up to six times annually, to solicit and receive public comment and respond to questions in public meetings, sponsored by the Panel or others, where the public is invited to comment on law enforcement policies, practices, and procedures.

RECOMMENDATION:

If the Board of Supervisors wishes to grant the Panel the authority to receive public comment about any and all law enforcement related policies, practices, and procedures, then the Board should authorize the Panel to do so by approving this Action Item and the proposed revisions to the Panel's bylaws.

TIMING:

Board action is requested on December 1, 2020, so that the Panel will be authorized to participate in public meetings where public comment is received about law enforcement policies, practices, and procedures.

BACKGROUND:

The Board of Supervisors approved the establishment of the Panel on December 6, 2016, as part of Action Item No. 17 on the Board's agenda that day. The Board established the Panel for the purposes of building and maintaining public trust between the Fairfax County Police Department, the Board, and the public, and to enhance police legitimacy. To help achieve its mission, the Panel wishes to receive public input about law enforcement policies, practices, and procedures so that the Panel may make recommendations to the Board of Supervisors about such matters.

Board Agenda Item
December 1, 2020

If the Board of Supervisors wishes to give the Panel the authority to receive public comment about any law enforcement related policy, practice, or procedure, the following paragraph should be added to Action Item No. 17:

The Panel is authorized to solicit and receive public comment and answer questions about any matter relating to law enforcement policies, practices, and procedures. As long as all Virginia Freedom of Information Act (VFOIA) requirements are followed, Panel members may solicit, receive, and respond to such public comment up to six times annually in public meetings, sponsored by the Panel or by others, where the public is invited to comment on law enforcement policies, practices, and procedures. The Panel may present recommendations to the Board of Supervisors about any law enforcement policy, practice, or procedure based upon knowledge obtained through its work, without regard to whether such recommendations are associated with a review of an investigation of a Complaint.

If the Board of Supervisors wishes to approve this addition to the 2016 Action Item, then the Panel's Bylaws also must be amended. Such amendments are necessary to give the Panel the authority to receive public comment about any law enforcement related policy, practice, or procedure. A redlined version of the necessary amendments to the Bylaws is attached as Attachment 1.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Amendment to the Panel's Bylaws

ASSIGNED COUNSEL:

Anita V. McFadden, Panel Counsel
Elizabeth D. Teare, County Attorney

BYLAWS OF THE FAIRFAX COUNTY POLICE CIVILIAN REVIEW PANEL

Approved by the Board of Supervisors on July 11, 2017

Accepted by the Police Civilian Review Panel on August 3, 2017

Amendments Approved by the Board of Supervisors on October 16, 2018, ~~and~~

November 19, 2019, and _____, 2020

ARTICLE I. NAME¹

The name of this organization is the **Fairfax County Police Civilian Review Panel**.

ARTICLE II. PURPOSE

The Board of Supervisors, pursuant to Virginia law, established the Panel on December 6, 2016, to enhance police legitimacy and to build and maintain public trust between the FCPD, the Board of Supervisors and the public. The Panel will:

- A. Review certain Investigations to ensure the thoroughness, completeness, accuracy, objectivity, and impartiality of the Investigations;
- B. Provide an independent process for commencing an Initial Complaint against the FCPD or its officers; and
- C. Make recommendations on law enforcement policies, ~~and~~ practices, and procedures as they pertain to case reviews to assist the FCPD Chief of Police ("Chief") and Board of Supervisors in policy review.

The Panel shall report directly to the Board of Supervisors.

ARTICLE III. COMPOSITION OF THE PANEL AND TERM OF OFFICE FOR PANEL MEMBERS

A. Composition and Qualifications.

1. The Board of Supervisors shall appoint each Panel Member.
2. The Panel shall be comprised of nine Fairfax County residents with expertise and experience relevant to the Panel's responsibilities. At least one Panel Member shall have prior law enforcement experience other than as a member of the FCPD or the FCSO.
3. The Board of Supervisors shall endeavor to create an independent and fair body giving

¹Certain terms used in these Bylaws are defined in the attached Exhibit A incorporated herein by this reference.

due consideration to the following factors, among others it may choose: community and civic involvement; diversity; law enforcement and/or criminal investigative experience; reputation in the community; geographical representation; and other factors designated to ensure a balanced Panel representative of Fairfax County.

4. No Panel Member may be a current employee of Fairfax County, a current or former member of the FCPD or the FCSO, have a relative (i.e., an immediate or extended family member) who is a member of the FCPD or FCSO, hold public office, or be a candidate for public office.

B. Terms of Service.

1. Panel Members shall be appointed for three-year terms, except for the inaugural Panel (which shall have terms as described below) and may be appointed to no more than two consecutive terms.
2. Panel Member terms shall be staggered.
3. With respect to the inaugural Panel, three Panel Members shall be appointed for three-year terms, three Panel Members shall be appointed for two-year terms and three Panel Members shall be appointed to a one-year term.
4. The Panel Members of the inaugural Panel are eligible to be appointed to a second three- year term upon expiration of the Panel Member's initial term.

C. Resignations, Removals and Vacancies.

1. Panel Members serve at the pleasure of the Board of Supervisors.
2. The Chair shall notify the Board of Supervisors if a Panel Member is absent from three consecutive Panel meetings or is absent from five Panel meetings in any calendar year (unless the absence is for good reason as determined by the Chair).
3. Any Panel Member may resign from the Panel at any time by delivering written notice of termination to the Board of Supervisors with a copy to the Chair. The resignation will be effective upon receipt, unless an effective date of the resignation is specified in the notice.
4. The Board of Supervisors may appoint a new Panel Member for the unexpired Panel Member term resulting from a vacancy that occurs for any reason.

ARTICLE IV. CHAIR, VICE CHAIR, OTHER OFFICERS AND COMMITTEES

A. The Initial Chair and Vice-Chair.

The Board of Supervisors may choose to designate one of the Panel Members as the initial Chair. At a time agreed by the Panel Members, the Panel shall elect the initial Vice-Chair.

B. Succession; Annual Election of Officers; Vacancies.

1. Unless the Panel Members agree otherwise, the Vice-Chair shall succeed to the Chair position upon expiration of the Chair's term.
2. Panel Members shall elect the Vice-Chair and other officers (as determined by the Panel Members) who shall be responsible for those functions as assigned by the Panel and the Chair.
3. All Panel officers shall be elected at the first meeting of each calendar year. Terms of office for Panel Officers shall be for one year, effective March 1st of each calendar year.
4. No Panel Member may serve more than one, one year term as Chair.
5. If there is an officer vacancy, the Panel may elect a replacement officer at any time after the vacancy occurs to serve the balance of the unexpired term.
6. Before the election of any replacement officer, the Chair or Vice-Chair shall provide the Panel Members with at least two weeks written notice of the proposed election before the meeting at which the replacement is to be elected.
7. Election of Panel officers must take place in a meeting duly called as provided for in Article V.

C. Duties of the Chair and Vice-Chair.

1. The Chair shall:
 - (a) Preside over all Panel meetings at which the Chair is present;
 - (b) Act as a liaison between the Panel and (i) the Board of Supervisors, (ii) the FCPD, and (iii) the Auditor, as needed;
 - (c) Serve as the Panel's official spokesperson;
 - (d) Oversee the preparation of the Panel's annual report described in Article IX.B;
 - (e) Perform any other duties as the Panel may delegate; and
 - (f) Delegate any of these duties to other Panel Members.

2. The Vice-Chair shall:

- (a) Preside over Panel meetings in the absence of the Chair; and
- (b) Perform any other responsibilities delegated by the Chair or requested by the Panel.

3. Panel Committees.

- (a) The Panel may establish as many committees as the Panel deems necessary to perform the Panel's duties. All Panel committee meetings shall comply with the notice and other requirements of the Virginia Freedom of Information Act.

ARTICLE V. QUORUM, VOTING AND MEETINGS

A. Quorum.

At any Panel meeting, the presence of five Panel Members shall constitute a quorum. Any Panel meeting may be adjourned from time to time by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

B. Voting.

The vote of a majority of Panel Members present at a meeting with a quorum is necessary for the Panel to take an action. Notwithstanding the previous sentence, the affirmative vote of a majority of all Panel Members is required to approve Panel Findings or the Annual Report. All votes of Panel Members shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy. All Panel Members who are present at a meeting, including the Chair, may vote at any meeting.

C. Meetings.

- 1. The Panel shall meet as often as necessary to conduct Panel business.
- 2. All Panel Meetings shall be conducted in accordance with VFOIA, and, except for closed sessions, all Panel Meetings shall be open to the public.
- 3. All Panel Meetings shall be preceded by a Panel Meeting Notice, and, except for emergency Panel Meetings, a Panel Meeting Notice shall be published at least three working days before the Panel Meeting. Notice, reasonable under the circumstances for emergency Panel Meetings, shall be given contemporaneously with the notice provided to Panel Members.

4. Panel Meeting Notices shall be:
 - (a) provided to the Office of Public Affairs for posting at the Government Center and on the County Internet site, and
 - (b) placed at a prominent public location by the Clerk of the Board of Supervisors.
5. All Panel Meetings shall be conducted in:
 - (a) places that are accessible to persons with disabilities,
 - (b) public buildings whenever practical; and
 - (c) accordance with Robert's Rules of Order, Newly Revised (except as otherwise provided by Virginia law or these Bylaws).
6. Except as specifically authorized by VFOIA, no Panel Meeting shall be conducted through telephonic, video, electronic, or other communication means where the Panel Members are not all physically assembled to discuss or transact public business.
7. At any Panel Meeting, at least one copy of the agenda and, unless exempt from disclosure under VFOIA, all materials furnished to Panel Members shall be made available for public inspection at the same time the documents are furnished to the Panel Members.
8. Any person may photograph, film, record, or otherwise reproduce any portion of a Panel Meeting required to be open, but no person broadcasting, photographing, filming, or recording any open Panel Meeting may interfere with any of the proceedings.
9. The Panel shall keep minutes of its Panel Meetings, and those minutes shall include:
 - (a) the date, time, and location of each meeting;
 - (b) the Panel Members present and absent;
 - (c) a summary of the discussion on matters proposed, deliberated, or decided; and
 - (d) a record of any votes taken.
10. The Panel meeting minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media.
11. The Panel may solicit and receive public comment and answer questions about any matter relating to law enforcement policies, practices, and procedures up to six times annually. As long as all applicable VFOIA requirements are followed, the Panel may solicit, receive, and respond to such public comment in up to six public meetings annually, sponsored by the Panel or by others, where the public is invited to comment.

ARTICLE VI. PANEL AUTHORITY TO REVIEW INVESTIGATIONS AND REVIEW PROCEDURES

A. Scope of Panel Review Authority.

1. 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. The Panel shall not review:
 - (a) alleged misconduct that is subject to the exclusive review by the Auditor;
 - (b) any Complaint related to an incident that occurred before December 6, 2016;
 - (c) an Initial Complaint that is filed more than one (1) year after the date of the incident that is the subject of the Investigation (unless the Panel determines that there is good cause to extend the filing deadline);
 - (d) a Review Request filed more than sixty (60) days after the date of the FCPD notice sent to the complainant that informs the complainant of the completion of the FCPD’s investigation of the complainant’s Initial Complaint (unless the Panel determines that there is good cause to extend the filing deadline); or
 - (e) a Complaint concerning matters that are subject of a pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding; or any complaints from Fairfax County employees that are subject to any process, proceeding or appeal as set forth in the County’s Personnel Regulations or that are subject to the Police Department’s General Orders 310.1, 310.2, or 310.3.
2. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court’s judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.
3. Where a Complaint alleges misconduct within both the Panel’s scope of authority and the Auditor’s scope of authority, the Panel and the Auditor shall each conduct a review of the Investigation within their requisite scope of authority. The Auditor and Chair shall coordinate the work of the Panel and Auditor to ensure efficient use of resources and avoid duplication of effort. If the matter cannot be divided between the Auditor and the Panel in an efficient manner, then the Auditor shall conduct the review of all portions of the investigation.
4. If there is a conflict in the scope of authority between the Auditor and the Panel, then the matter shall be resolved by the Auditor.

B. Definition of “Abuse of Authority” or “Serious Misconduct”.

For purposes of determining the Panel’s authority to review an Investigation, “abuse of authority” or “serious misconduct” by an FCPD police officer includes, but is not limited to:

1. the use of abusive racial, ethnic or sexual language or gestures;
2. harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability;
3. acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense;
4. reckless endangerment of detainee or person in custody;
5. violation of laws or ordinances; or
6. other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.

C. The Complaint.

1. Content and Filing of a Complaint.

- (a) An Initial Complaint and a Review Request shall be in writing and shall be deemed filed when delivered or emailed to the Office of the Independent Police Auditor.
- (b) A Complaint shall contain:
 - (i) identifying information for the person filing the Complaint;
 - (ii) a statement describing the reasons for the Review Request, unless the Complaint is an Initial Complaint;
 - (iii) the specific police behavior of concern;
 - (iv) a description of the incident in which the behavior occurred; and
 - (v) a list of the names, addresses and phone numbers of all witnesses to or persons with knowledge of the incident known by the complainant.
- (c) The Panel shall immediately forward an Initial Complaint to the FCPD for investigation. The FCPD shall complete its investigation and provide an Investigation Report to the Panel within sixty (60) days. The Panel shall extend the 60-day period upon request of the Chief to protect an ongoing criminal or internal administrative investigation, or for other good cause, with notice to the complainant and the Board of Supervisors.

2. Initial Disposition Notice.

- (a) The Panel shall conduct an initial review of each Review Request and may conduct

the initial review as a committee of the whole or establish a subcommittee of at least three Panel Members (with rotating membership) to conduct the initial review. The Chair may appoint, on a rotating basis, one or more Panel Members as Review Liaisons to manage the disposition of a Complaint in accordance with written duties established by the Panel.

- (b) Within 30 days of Receipt of the Investigation Report, the Panel shall send an Initial Disposition Notice to the complainant with the Panel's determination of its authority to undertake a review of the subject Investigation.
- (c) The Panel will determine if the Panel has authority to review the subject Investigation taking into account whether the underlying Complaint:
 - (i) is timely filed; or
 - (ii) is a Review Request of alleged misconduct that is subject to exclusive review of the Auditor.
- (d) If the Panel determines that the Panel does not have authority to review the subject Investigation, the Initial Disposition Notice shall state the reasons for the Panel's decision.
- (e) Where the Panel finds that a review of the subject Investigation is warranted, the Initial Disposition Notice shall include a description of the review process, a deadline for completion of the review, and a date for the Panel Review Meeting.
- (f) If the underlying Complaint alleges police misconduct that requires the Auditor's review, the Panel shall (i) promptly forward the matter to the Auditor and (ii) send an Initial Disposition Notice to the complainant explaining the reasons for the referral.

D. Pending Proceedings.

- 1. If at any point in the review process the Panel learns that the matters of a Review Request are the subject of pending criminal proceeding in any trial court, a pending or anticipated civil proceeding in any trial court (as evidenced by a Notice of Claim or filed complaint), or any administrative proceeding, the Panel shall:
 - (a) suspend its review;
 - (b) defer the review pending resolution of the criminal, civil or administrative proceeding by the trial court;
 - (c) notify the complainant and the Board of Supervisors, in writing, of any deferrals; and
 - (d) track any deferred matter and notify the complainant and the Board of Supervisors once the proceedings are closed and the request for review may proceed.
- 2. The panel may request assistance of Counsel, the Auditor, the Chief, or the County Attorney in making its determination that matters of a Review Request are the subject

of pending proceedings.

3. The Panel may act on a Review Request after the trial court has ruled in any such civil or criminal proceeding, even if the trial court's judgment has been appealed. The Panel shall not act on any Review Request that is the subject of an administrative proceeding until any administrative appeals are resolved.

E. Panel Meetings to Review Investigations.

1. Additional Requirements for Panel Review Meetings.

In addition to the requirements for Panel Meetings generally set forth in Article V.C., Panel Review Meetings shall be conducted as follows:

- (a) If the Panel determines it has authority to review an Investigation under article VI.A.1, the Panel shall convene a Panel Review Meeting to review an Investigation as to which a Review Request has been submitted within sixty (60) days of Receipt of the Investigation Report.
- (b) The Panel Review Meeting Notice shall not only comply with Article V.C.4., but shall also include a statement inviting any person with information about the Investigation or the incident that is the subject of the Panel Review Meeting to submit the information in writing to the Chief or the Auditor.
- (c) Notwithstanding Article V.C.4, Panel Review Meeting Notices shall be published and sent to Panel Members, the FCPD Internal Affairs Office, the County Attorney's Office, and the complainant at least fourteen (14) days before the Review Meeting.
- (d) The Panel may conduct as many Panel Review Meetings as the Panel deems necessary to complete the requested review.
- (e) The Panel shall not take testimony or receive evidence.
- (f) At the request of the Panel or if the Complainant attends and requests an opportunity to be heard at the Panel Review Meeting, the complainant shall have the opportunity to state the reasons for filing the Review Request, and the Panel may ask questions of the complainant regarding those reasons. The Panel shall submit to the FCPD contact information for those persons who were not interviewed with a request for further investigation of the matters under review.
- (g) At the request of the Panel, an FCPD representative knowledgeable of the Investigation under review shall appear before the Panel at a Panel Review Meeting (as determined by the Panel) to review and answer questions from the Panel about the Investigation, including all findings of fact, evidence collected and received, witness statements and action taken or not.
- (h) At the Panel's discretion, it may request further investigation by the FCPD, and the FCPD shall, within a reasonable time, conduct further investigation and provide to

the Panel a supplemental report that details the findings of the additional investigation.

- (i) Translation services will be provided for a complainant or other person that needs translation assistance to present to the Panel or respond to questions from Panel Members.

2. Closed Sessions, and Confidential Matters During Panel Review Meetings.

- (a) The Panel may conduct portions of any Panel Meeting (including Panel Review Meetings) in closed session, so long as the purpose for and conduct of the closed session is consistent with VFOIA.
- (b) Any statement made by a FCPD police officer to the FCPD that the FCPD required under the provisions of *Garrity v. New Jersey*, 385 U.S. 493 (1967), shall not be disclosed in public. The Panel shall have confidential access to the entire statement for its review. Unless the FCPD officer consents to the public release of the entire statement given during an Investigation, the FCPD representative(s) presenting information to the Panel on a Complaint may publicly state only that the officer admitted or denied the allegation.
- (c) Panel Members shall not reveal the identity of (i) any juvenile, or (ii) victim of sexual assault (unless authorized to do so by the victim in writing).
- (d) Each Panel Member who reviews a FCPD officer's personnel record or a FCPD internal administrative investigative case file shall sign a Notice of Confidentiality affirming that an officer's personnel record and those portions of the investigative case file reflecting officer discipline, other officers, confidential informants, victims, or witnesses, personal information including names, social security number, date of birth, driver's license number, agency-issued identification number, student identification number, criminal or employment record, shall not be disclosed or disseminated unless the information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia Law.
- (e) Portions of records of law-enforcement agencies, including the FCPD, that contain specific tactical plans or investigative procedures, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public, shall also not be disclosed or disseminated unless such information has been disclosed by the FCPD in a disposition letter or at a Panel meeting, or by the Complainant, and is not otherwise specifically prohibited by separate statute or ordinance under Virginia law.
- (f) If information subject to the Panel's review concerns an identifiable juvenile, the requested information shall first be forwarded to the County Attorney's Office for redaction in conformance with Code of Virginia §16.1-301, as amended.

F. Disposition of Review Requests.

1. Timely Completion.

- (a) The Panel shall complete the review of an Investigation and issue a public written report detailing the Panel Findings (defined below) within ninety (90) days of Receipt of the Investigation Report.
- (b) The Panel may extend the deadline for completion for good cause. The Chair shall report all deadline extensions (and the reason for the extension) to the Board of Supervisors. The Panel shall send written notice to the complainant, if the deadline for completion is extended. The notice shall include an approximate date for completion.

2. Panel Findings.

- (a) Upon completing a requested Investigation review, the Panel may reach one of the following Panel Findings:
 - (i) Concur with the findings and determination detailed in the Investigation Report;
 - (ii) Advise the Board of Supervisors that the findings are not supported by the information reasonably available to the FCPD and recommend further review and consideration by the Chief; or
 - (iii) Advise the Board of Supervisors that, in the Panel's judgment, the Investigation is incomplete and recommend additional investigation.
- (b) If the Panel Finding is either (ii) or (iii) above, the Board of Supervisors may direct the Chief to take further action as the Board of Supervisors deems appropriate.
- (c) A majority of the appointed Panel Members must concur in the Panel Findings for the Panel Findings to be the authorized conclusion of the Panel.
- (d) The Chair may assign to one or more Panel Members concurring in the conclusions of the Panel Findings the responsibility for drafting the Panel's final review report that shall be sent to the complainant, the Board of Supervisors, the Chief and the Auditor.

ARTICLE VII. RECOMMENDATIONS FOR REVISIONS TO FCPD POLICIES, TRAINING AND PRACTICES

A. Review of Law Enforcement Policies and Practices.

- 1. ~~Based on the Panel's review of Investigations, t~~The Panel may recommend to the Chief and the Board of Supervisors revisions to FCPD policies, ~~and~~ practices, and procedures that the Panel concludes are needed.

2. The Panel may conduct up to six public meetings annually, where it solicits and receives public comment and answers questions relating to law enforcement policies, practices, and procedures. Such public meetings may be sponsored by the Panel or by others, and they must meet applicable VFOIA requirements. ~~Public Meetings to assist the Panel in making recommendations for policy and practice changes to the Chief and the Board of Supervisors.~~

B. Meetings with the Auditor.

The Panel may meet periodically with the Auditor concerning the findings and recommendations of the Auditor as to use of force cases so that the Panel can provide the Panel's view to the Board of Supervisors and the Chief as to changes in policies and practices that may be warranted.

ARTICLE VIII. OTHER DUTIES OF PANEL MEMBERS

A. Training.

All Panel Members shall complete all training mandated by the Board of Supervisors, which may include police ride alongs. The Panel shall determine the calendar for the presentation and completion of the required training. The Panel shall conduct other training as it determines would be helpful.

B. Confidentiality.

Each Panel Member shall maintain the confidentiality of all confidential or privileged information that Panel Members receive during service on the Panel.

C. Conflicts of Interest.

Panel Members shall avoid conflicts of interest with the provisions of Chapter 31 – State and Local Government Conflict of Interests Act, Virginia Code §§ 2.2-3100, et seq. A Panel Member shall consult with counsel to the Panel if the Panel Member believes that the Panel Member has or may have a conflict of interest with respect to a matter that the Panel will consider. A Panel Member with a conflict of interest shall not participate in or vote on the matter.

D. Communications.

1. Only the Chair or the Chair's designee shall make public statements on behalf of the Panel. The primary means for the Panel to communicate to the public shall be the Panel's written reports that are approved by a majority of the Panel Members.

2. Except as expressly authorized by the Chair in furtherance of a Panel Member's duties, Panel Members shall make diligent efforts to avoid individual discussion of a matter before the Panel with any person with an interest in the matter, including but not limited to a complainant, a witness to events giving rise to a complaint, or an FCPD officer that is the subject of a Complaint. The Panel Member shall inform the Chair if any interested party communication occurs and provide the Chair with any information about the communication that the Chair requests.

ARTICLE IX. RECORDKEEPING; ANNUAL REPORT

A. Recordkeeping.

1. All Panel meetings, including Panel Review Meetings and Public Comment Meetings, but excluding closed sessions within a Panel Meeting, shall be recorded and records maintained in accordance with the Library of Virginia Records Retention and Disposition Schedule.
2. The Auditor shall maintain a copy of all Complaints together with the reports detailing the disposition of each Complaint.

B. The Annual Report.

1. The Panel shall prepare the Annual Report describing its activities for the reporting year, including any recommendations to the Board of Supervisors, Auditor, and the Chief for revisions to FCPD policies, training, and practices that the Panel concludes are needed.
2. The Annual Report must be approved by a majority of the appointed Panel Members before the Annual Report is released publicly.
3. The Panel shall deliver the Annual Report to the Board of Supervisors through the Auditor and the Chair of the Board's Public Safety Committee. The Annual Report shall then be released to the public.
4. The initial Annual Report of the Panel shall be due on March 31, 2018. Subsequent Annual Reports shall be published in accordance with this section no later than March 1st of each year.

ARTICLE X. COMPLIANCE WITH LAW AND COUNTY POLICY; CONFLICTS OF LAW AND POLICY; PANEL IMMUNITY

A. Compliance with Law and County Policy.

The Panel and each Panel Member shall comply with all Virginia laws, including, but not limited to, VFOIA, and the Virginia State and Local Government Conflict of Interests Act,

Virginia Code §§ 2.2-3100 through -3131, as amended, all County ordinances, the Panel Code of Ethics and with all County policies concerning the activities of its boards, authorities, and commissions.

B. Conflicts of Law and Policy.

These Bylaws are not intended to conflict with Laws or policies of the Board of Supervisors. To the extent there is a conflict between any Law or any other resolution or matter passed by the Board, and these Bylaws, the Law or Board action shall govern.

C. Panel Immunity.

Panel Members shall enjoy the protection of sovereign immunity to the extent allowed and provided under Virginia law whether common law or statutory, including, but not limited to, the Virginia State Government Volunteers Act, Virginia Code §§ 2.2-3600, *et seq.*, and the provisions of Virginia Code § 15.2-1405.

ARTICLE XI. DUTIES OF THE COUNTY EXECUTIVE AND THE AUDITOR; BOARD OF SUPERVISORS

A. The County Executive.

1. The County Executive shall cause the attendance of any County employee, other than the involved officer(s), at any Panel meeting whose appearance is requested by the Panel, unless the required attendance violates a statutory or constitutional right of the employee.
2. The County Executive shall cause the submission (from any County agency including the FCPD) of any relevant documents or other relevant materials requested by the Panel, including the full FCPD internal administrative investigative case file, unless legal privilege to withhold exists and is not waived.

B. The Auditor.

The staff of the Office of the Auditor shall provide administrative support for the Panel.

C. The Board of Supervisors.

1. The Board of Supervisors may conduct a review of the Panel at any time, except that the initial review shall be conducted within six months of receipt of the Panel's first annual report.
2. The Board of Supervisors shall ensure the Panel and Panel Members, as necessary, have the benefit of legal counsel.

|

ARTICLE XII. EFFECTIVE DATE OF THE BYLAWS; AMENDMENT OF THE BYLAWS

A. Effective Date of the Bylaws.

The Bylaws shall become effective upon approval by the Board of Supervisors.

B. Amendment of the Bylaws.

These Bylaws may be amended by the Panel by adopting the proposed amendment or amendments and by presenting those proposed changes for approval to the Board of Supervisors. Any such amendments to the Bylaws shall become effective upon approval of the Board of Supervisors.

DRAFT

Exhibit A

DEFINED TERMS

The following terms used in these Bylaws of the Fairfax County Police Civilian Review Panel mean the following:

Abuse of Authority has the meaning assigned to the term in Article VI.B.

Annual Report means the written annual report the Panel shall deliver to the Board of Supervisors as described in Article IX.B.1.

Auditor means the Fairfax County Independent Police Auditor.

Board of Supervisors means the Board of Supervisors of Fairfax County.

Bylaws means the Bylaws of the Fairfax County Police Civilian Review Panel

Chief means the FCPD Chief of Police.

Complaint means collectively, unless the context otherwise indicates, an Initial Complaint and a Review Request.

Counsel means the legal counsel that the Board of Supervisors designates to support the Panel.

FCPD means the Fairfax County Police Department.

FCSO means the Fairfax County Sheriff's Office.

Initial Complaint means a complaint from any person about the FCPD or its officers that has been first submitted to the Panel and not the FCPD.

Initial Disposition Notice means the notice that the Panel sends to a complainant detailing the Panel's disposition of the Review Request after the initial review described in Article VI.C.2.

Investigation(s) means a FCPD internal administrative investigation.

Investigation Report means the completed written FCPD report setting forth the findings of the Investigation.

Laws means collectively any Virginia or Fairfax County law, ordinance, regulation, resolution, or other Fairfax County policy duly authorized by the Board of Supervisors.

|

Meeting(s) has the meaning assigned to the term in VFOIA and includes work sessions, when sitting physically, or through telephonic or video equipment, as defined in VFOIA, as a body or entity, or as an informal assemblage of (i) as many as three Panel Members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

Panel means the Fairfax County Police Civilian Review Panel.

Panel Findings means those conclusions that the Panel can adopt in response to a Review Request that are delineated in Article VI.F.2(a).

Panel Meeting means a meeting of the Panel.

Panel Meeting Notice means the written notice stating the date, time, and location of a Panel Meeting.

Panel Member(s) means each of the persons that the Board of Supervisors appoints to the Panel.

Panel Review Meeting means a Panel Meeting where a Review Request is reviewed by the Panel, including a Panel Meeting where a complainant or FCPD representative is present to discuss an Investigation.

Panel Review Meeting Notice means the Panel Meeting Notice for a Panel Review Meeting.

Public Meeting(s) means a Panel Meeting open to the public conducted on issues within the Panel's jurisdiction and on law enforcement policies and practices where the public is invited to comment on such issues and policies and practices.

Receipt of the Investigation Report is deemed to occur at the first Panel meeting subsequent to FCPD making an Investigation Report available to the Panel in response to a Review Request.

Review Request means a person's request for the Panel to review an Investigation.

Serious Misconduct has the meaning assigned to the term in Article VI.B.

VFOIA means the Virginia Freedom of Information Act, as amended from time to time.