

Police Civilian Review Panel

July 1, 2021

Conducted Electronically due to COVID-19 Pandemic

Meeting Summary

Panel Members Present:<sup>1</sup>

Cheri Belkowitz

Todd Cranford

Jimmy Bierman, Chair

Dirck Hargraves, Vice-Chair

Doug Kay

Shirley Norman-Taylor

William Ware

Panel Members Absent

Frank Gallagher

Others Present:

Anita McFadden, Counsel

Rachelle Ramirez, OIPA

Richard Schott, Independent Police Auditor

NOTE: The Panel's July 1 meeting was conducted electronically due to the COVID-19 Pandemic. The electronic meeting was hosted on WebEx and allowed for members of the public to virtually attend via WebEx or conference call.

The Panel's business meeting was called to order at 7:01 p.m. Mr. Bierman welcomed everyone to the Panel's July 1, 2021 meeting and noted a few housekeeping rules.

Motions to Conduct Electronic Meeting: Mr. Bierman took roll call to verify a quorum of the Panel was present and to ensure each Panel Member's voice could be heard clearly. He asked each Panel Member to state their name and the location from which they were participating.

Ms. Belkowitz was present and participated from Fairfax Station, Virginia.

Mr. Bierman was present and participated from McLean, Virginia.

Mr. Cranford was present and participated from Fairfax, Virginia.

Mr. Hargraves was present and participated from Kingstown, Virginia.

Mr. Kay was present and participated from Fairfax, Virginia.

Ms. Norman-Taylor was present and participated from Lincolnton, Georgia.

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<sup>1</sup> One Panel seat was vacant for this meeting.

Mr. Ware was present and participated from Alexandria, Virginia.

Mr. Bierman moved that each member's voice may be adequately heard by each other member of this Panel. Mr. Cranford seconded the motion and it carried unanimously, with Mr. Gallagher being absent.

Mr. Bierman moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the Panel to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of this Panel and the physical presence of the public, cannot be implemented safely or practically. He further moved that the Panel may conduct this meeting electronically through a dedicated WebEx platform and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 1-844-621-3956 and entering access code 173 848 7871as noted in the Public Meeting Notice. The motion was seconded by Mr. Hargraves and it carried unanimously, with Mr. Gallagher being absent.

Mr. Bierman moved that all matters addressed on the agenda are necessary to continue operations and the discharge of the Panel's lawful purposes, duties, and responsibilities. The second to the motion was inaudible and it carried with a vote of seven, with Mr. Gallagher being absent.

Approval of May 26 Public Forum Summary: Mr. Kay moved approval of the meeting summary for the May 26 Public Forum. Mr. Hargraves seconded the motion and it carried with a vote of seven, with Mr. Gallagher being absent.

Approval of June 3 Meeting Summary: Mr. Kay moved approval of the Panel's June 3 meeting summary. Mr. Ware seconded the motion and it carried with a vote of seven, with Mr. Gallagher being absent.

Approval of Subcommittee Initial Review Report for CRP-21-10: Mr. Bierman provided a summary of the complaint. He said there were two neighbors in a series of disputes over parking in a cul-de-sac in front of their homes. The Complainant called the police to report that her neighbor parked improperly. The officer dispatched to the scene issued tickets to three cars for not parking parallel to the curb and a fourth car for parking in the driveway of a third neighbor. The officer did not know who had made the call. After placing the tickets on windshields, the Complainant's husband came outside and asked why she ticketed three of their cars. The Complainant and husband were Black and the officer was White. The officer explained that the cars were improperly parked and drove away; it did not appear to be a rude interaction. The Complainant alleged that their cars were ticketed because they were Black and said it was racial profiling. The subcommittee reviewed the investigative file, which included the officer's body-worn camera footage, interviews with the Complainant and her husband, a follow-up interview by another officer dispatched to the Complainants' house, and pictures of the scene. The subcommittee also reviewed statistics in the file on the officer's citations and arrests by race. The analysis showed that the officer cites a lower percentage of Black residents

than her peers. The subcommittee found no substantiation to the allegations of racial profiling and that the complaint was wholly unfounded. They did not find evidence that the investigation was not complete, thorough, accurate, impartial or objective.

Ms. Belkowitz moved that the Panel adopt the recommendation of the subcommittee regarding CRP-21-10 and not move forward. The motion was seconded by Mr. Kay and it carried unanimously, with Mr. Gallagher being absent.

Proposal for Codifying the Subcommittee Process: Mr. Hargraves said he will meet with Mr. Cranford to talk about the subcommittee process and potential changes for the Bylaws. He said he will reach out to Chairman McKay's office to get his insight as well. Mr. Cranford said he hopes to have recommendations to share with the Panel by its next meeting.

Preparation for Public Safety Committee Meeting and Next Quarterly Meeting: Mr. Bierman said he has been in touch with Supervisor Lusk about when the Panel will present their 2020 Annual Report and Four-Year Review to the Board of Supervisors' Public Safety Committee (PSC) meeting. He described the topics covered in PSC meetings this year and that there will not be a PSC meeting in July.

Mr. Bierman encouraged Panel members to read the use of force study conducted by University of Texas San Antonio and watch the recording from the PSC meeting. Mr. Hargraves noted that they found overrepresentation of Blacks in use of force incidents. Mr. Bierman summarized his takeaways from the report, including that there was disproportionality in the level of use of force against Blacks and that there were certain district stations with more disproportionality. He said there was much discussion about how the researchers recoded the category of force level for the pointing of firearms from a level 3 to a level 1, and whether to use census population as a benchmark. He said that there were recommendations for policy and training, including to rotate officers from high crime areas. Mr. Bierman said that Chief Davis acknowledged that he wanted the FCPD to focus on the pointing of firearms and on implementing implicit bias training.

Mr. Bierman said that he and Mr. Hargraves will meet with Chief Davis, the Chiefs of Staff for Chairman McKay and Supervisor Lusk, a representative from the County Attorney's office, and the Independent Police Auditor and his staff on July 23.

Mr. Bierman said he met with the admin staff of the FCPD, which included all Majors and Commanders of the bureaus. He said he briefed the admin staff on the work of the Panel, including what the Panel does, its mandate to review and make recommendations on policies and practices, the Panel's standard of review, and how it provides an independent intake venue for complaints. He said he also talked about the Four-Year Review and priorities for the Panel, including the recommendations regarding an Executive Director for the Panel.

Mr. Bierman said that the recommendations in the Four-Year Review that he thinks are the biggest priorities are (1) getting a full-time Executive Director and dedicated administrative

staff, (2) for the Panel to have limited independent investigative authority and monitoring authority for certain investigations involving racial bias, and (3) that the Panel focuses on the “what” and “how” of the investigation and not necessarily on the “why” of the complaint. He said that Supervisor Lusk told him that the Panel will be getting an Executive Director but does not have information on the job description. He said the independence of the Panel is important to gaining community trust. He referenced a complainant who has emailed the Panel and the Auditor about how its process is fundamentally flawed.

Mr. Bierman said the Panel wants to be able to say whether the conclusion reached in the investigation was correct or not. He referenced a past case when the votes of the Panel did not agree with the conclusion of the investigation, but the only recourse was to send it to the Board of Supervisors to ask for further investigation. Mr. Bierman said that, in the case, the FCPD completed additional investigation, which included interviewing the coworkers of the officer. The FCPD continues to find no bias which is contrary to findings of the Panel, but the Panel is limited in what it can do.

Mr. Bierman said that he took questions from the admin staff members. He said there was a discussion on the approval ratings of the police and that they were higher among Whites than Blacks, and how police can increase trust in these communities and accountability.

Mr. Bierman said that Ms. Belkowitz joined him in meeting with FCPD recruits. The recruits asked a question about discipline, and Mr. Bierman told them that the Panel does not have disciplinary authority but can make recommendations. He said that under the new state statute, the Panel could have disciplinary authority, but the Panel did not include that as one of its recommendations made to the Board. Ms. Belkowitz said the recruits were very responsive and had excellent questions.

Mr. Bierman asked the Panel members whether they agreed with the three main asks of the Board of Supervisors that he just reviewed. Discussion ensued on the issue with Ms. Belkowitz, Mr. Kay, and Mr. Ware expressing their agreement with the priorities. Mr. Ware requested that the issue be brought up regarding the Panel getting digital access to investigations.

Mr. Bierman expressed his thanks to Chief Davis for inviting him to the FCPD admin meeting. He said the Panel will present at the PSC meeting on September 28, 2021.

Discussion: Transition Back to In-person Meetings: Mr. Bierman said that until the state of emergency is lifted the Panel can continue to have meetings electronically. He said there are changes to the FOIA law to allow members to join virtually when meetings are again held in person. He said the Panel should plan to meet in person at the September 2 meeting and that staff will send a calendar of dates for the Panel to meet in the fall. Mr. Ware noted his preference for virtual meetings. Mr. Bierman said that the Panel must meet in accordance with FOIA.

Outreach Updates: Mr. Bierman said that he was invited by Patrick Smaldore to participate in a criminal justice forum on November 18 with the IPA, the former Chair of the Panel, the heads of two police associations, and the president of the NAACP. He said he will ask Mr. Hargraves or another Panel member to join him. No other Panel members had updates on outreach.

Mr. Bierman informed the Panel that there were at least two FCPD disposition letters sent out in the last week and so the Panel may receive additional review requests. He noted that the work of the Panel ebbs and flows and the subcommittee process makes the work of the Panel more efficient.

Adjournment: Mr. Cranford moved to adjourn the meeting. Ms. Norman-Taylor seconded the motion and it carried unanimously.

The meeting adjourned at 8:02 p.m.

Next Meeting: The Panel's next business meeting will be held on Thursday, August 12 at 7:00 p.m. The meeting will be conducted electronically and information for public access will be included in the public meeting notice.