

Police Civilian Review Panel

November 16, 2021

Fairfax County Government Center, Conference Room 9/10

Meeting Summary

Panel Members Present:

Jimmy Bierman, Chair

Dirck Hargraves, Vice-Chair

Todd Cranford

Frank Gallagher

Shirley Norman-Taylor

William Ware

Panel Members Joined Remotely:

Cheri Belkowitz

Others Present:

Chief Kevin Davis, FCPD

Lt. Derek Gray, FCPD

Lt. Col. Dean Lay, FCPD

Scott Meadows, Scott Meadows and Associates

Maj. Darrell Nichols, FCPD

Capt. Dana Robinson, FCPD

Richard Schott, Independent Police Auditor

Dre'Ana Whitfield, OIPA

Others Present Joined Remotely:

Anita McFadden. Counsel

The Panel's business meeting was called to order at 7:00 p.m. Mr. Bierman welcomed everyone to the Panel's November 16, 2021, meeting. Mr. Bierman took roll call to verify a quorum of the Panel was present. Everyone that was present in Conference Room 9/10 stated their name and their position. Ms. Belkowitz stated that she was participating remotely from Fairfax Station, Virginia.

Approval of Agenda: Mr. Gallagher moved approval of the meeting agenda. Ms. Norman-Taylor seconded the motion and it carried unanimously.

Remote Participation Approval: Mr. Bierman stated approval of remote participation from Ms. Belkowitz in accordance with the new remote participation policy.

Approval of October 12 Meeting Summary: Mr. Hargraves moved the approval of the Panel's October 12 meeting summary. Mr. Gallagher seconded the motion, and it carried unanimously.

Approval of Subcommittee Initial Review Report for CRP-21-21: Mr. Bierman invited the members of the subcommittee to explain the initial review meeting and the subcommittee's recommendation. Mr. Hargraves provided a summary of the complaint. He stated that the complainant alleged that his neighbor who is an FCPD auxiliary police officer (APO), removed a sign from the complainant's property. The FCPD determined that the sign was not stolen but was removed by the auxiliary police officer under the belief that the sign did not belong to the complainant. Mr. Hargraves explained that the subcommittee went through the facts to see if there was any serious misconduct or abuse of authority.

He noted that there was a discussion on whether an APO or a full-time FCPD officer is still subject to the rules and regulations in the general orders of the FCPD whether on or off duty.

Mr. Ware further added a few points regarding the complaint. He explained that in addition to the APO believing that the sign belonged to Long & Foster Real Estate, the officer also believed that the sign was placed on his property when he removed it. He noted that the complainant also acknowledged that the sign was not on his property but thought it was on public property. Mr. Ware stated that with the sign not being on the complainant's property, that reason also formed the basis of the subcommittee's recommendation. He further explained that the incidents alleged in the complaint are a culmination of an ongoing feud between the complainant and the APO. He noted that there are at least two additional administration investigations related to the feud between the two neighbors. He further stated that it is a tumultuous relationship between the two individuals and based on the information reviewed, the subcommittee did not see the substance of information that justified recommending to the full Panel.

Mr. Bierman reminded the Panel and the public that the subcommittee undertakes a review of the full case to determine whether the actual complaint alleges something that falls within the jurisdiction of the Panel. He noted that regarding the subcommittee process, ultimately the recommendation to not review must be passed by the full subcommittee. He read through the Panel's abuse of authority and serious misconduct checklist for the public. Mr. Bierman further explained the process of the subcommittee to the public.

Mr. Gallagher motioned approval to accept the recommendation of the subcommittee that the Panel does not undertake the full review of CRP-21-21. Ms. Norman-Taylor seconded the motion and it carried unanimously.

Update on Status of CRP-21-22 (Pending Litigation): Mr. Bierman stated that there is pending litigation regarding the complaint. He recommended that the Panel defer consideration until after the litigation concludes.

Discussion: Complainant Appearing at Panel Meetings: Mr. Bierman stated that the current subcommittee process does not provide the complainant with a specific opportunity to be heard. He noted that this is not something that the Panel necessarily considered up to this point. He further explained that every investigation involves an interview with the complainant where they have the opportunity to make their case. Mr. Bierman reviewed what was discussed at the October 12 Panel regarding whether the Panel should invite a complainant to appear and speak before the Panel if their complaint was not recommended at the subcommittee level. He reviewed some of the pros and cons of allowing complainants to speak. Ms. Norman-Taylor asked what the point would be of a complainant speaking before the full Panel – to convince the Panel that they missed something related to the criteria. Discussion ensued on whether complainants should be allowed to appear and speak at the subcommittee level or during full Panel meetings.

Mr. Hargraves asked if the Panel can accept a time limit on the discussion. Mr. Bierman agreed. He stated that if the Panel received a motion and that motion is seconded, the Panel will limit the discussion to five minutes.

Mr. Ware moved that the Panel takes up the discussion on the topic of having the complainant appear at the full Panel meeting at the point that the subcommittee makes an unfavorable recommendation to the Panel. Ms. Norman-Taylor seconded the motion.

Mr. Gallagher stated that he agreed with the concerns expressed by Ms. Norman-Taylor. Mr. Gallagher said that he does not see the purpose or value of allowing complainants to speak at the Panel meetings. He highlighted all the actions that the subcommittee takes when investigating a complaint. He voiced that if the subcommittee made a unanimous recommendation that the Panel does not undertake the complaint after reviewing the investigation file, allowing the complainant to appear and speak before the Panel is not as productive. Mr. Ware agreed he does not think it would be productive in the vast majority of cases. He stated that one of the benefits of having the complainant appear in person before the full Panel is to give confidence to the members of the community. Mr. Ware noted that it does add legitimacy and transparency to the process. Mr. Ware said that the benefits of allowing citizens and complainants to have the opportunity to let their voices be heard before the Panel is worthwhile. Discussion ensued on whether complainants should be allowed to appear and speak at the full Panel meetings. Mr. Ware stated that the Panel can limit the time that complainants are allowed to speak. He noted that the Panel can impose any protocols that are necessary but giving people the opportunity to speak is worthwhile. Ms. Belkowitz expressed concern about complainants not having an opportunity to appeal and not having the chance to be heard except during their interview process. Mr. Bierman said the Panel has authority to hear from the complainant, but it is not testimony. The Panel can ask clarifying questions to determine the fidelity of the investigative file.

Mr. Bierman called the question to allow a complainant to speak at the full Panel meeting when the Panel subcommittee recommends that the full Panel not conduct a review into a complaint. The motion carried with a vote of five, with Mr. Gallagher and Ms. Norman Taylor voting Nay.

Mr. Bierman stated that the Panel will now amend its procedures.

Presentation by Chief Davis on FCPD Implicit Bias Training: Mr. Bierman handed the floor over to FCPD Chief Kevin Davis. Chief Davis thanked the Panel for their good work and willingness to serve. He introduced Scott Meadows who has been delivering the implicit bias and procedural justice training to the FCPD for several months. The FCPD is scheduled to conclude training everyone by the end of 2022. Chief Davis stated that it is a lengthy process, but necessary. He further stated that they have received reviews and 8 out of 10 are positive. Chief Davis expressed that he is proud of the ways that the agency has embraced implicit bias and procedural justice conversations.

Major Nichols provided further context regarding the training. He stated that Mr. Meadows is a retired Captain from Stockton, California. He noted that Mr. Meadows has been teaching the training for over 10 years. Major Nichols explained that they are teaching police officers General Order 2 and the two new concepts of procedural justice and implicit bias. He stated that the FCPD is following the Virginia mandate that teaches police officers systemic racism awareness. Major Nichols explained that Mr. Meadows creates a safe learning environment where the police officers can speak freely and discuss implicit bias.

Mr. Meadows provided a summary of his background and his previous experience implementing procedural justice and implicit bias training. He explained how the training is implemented in Fairfax County. He provided an outline of what is discussed in the procedural justice training. He further

explained that at the procedural justice training, they set up the context in understanding history and how history has impacted communities in the United States. Mr. Meadows further explained that police officers learn by working through scenarios that can impact their decision-making and examine use of force case studies to apply intervention strategies that are discussed in the training. Discussion ensued on the procedural justice and implicit bias training for police officers of the FCPD.

Chief Davis noted that in 2022, the FCPD will introduce Integrating Communications Assessment and Tactics (ICAT), which will build on the implicit bias and procedural justice training.

Proposed Changes to Panel Correspondence Regarding Good Cause: Mr. Ware expressed the reason for proposing changes to the letter that is sent to complainants when the complaint or review request is received late. He stated that his concern is that complainants are not able to fully understand the contents of the “good cause” letter. Mr. Ware referred to the chart that illustrates the readability of the letter. He explained that the original “good cause” letter received a 17.6-grade level, which is like reading an academic paper. Mr. Ware stated that he updated the “good cause” letter and was able to lower the grade level to 11.7. He stated that there is room for improvement. He voiced that being able to convey specific information clearly will hopefully help complainants understand and be able to provide information that the Panel requests when it must make a good cause determination. Mr. Bierman agreed with the proposed changes in the letter.

Hargraves motioned to accept the proposed changes to the “good cause” letter. Mr. Gallagher seconded the motion and it carried unanimously.

Update on Executive Director Position: Mr. Schott provided a brief update on the Executive Director position. He informed the Panel that the advertisement for the position closed on November 5, 2021. He stated that the decision was made by Board of Supervisors Chairman McKay to create a separate County agency and that the Executive Director will be an agency head. He further explained that the Executive Director will be able to hire a staff member to assist with administrative duties. He stated that they received a total of 66 candidates. Mr. Schott stated that the County human resources department will lower it to a manageable number to begin the interview process. He informed the Panel that Mr. Bierman and Mr. Hargraves will be invited to be part of the initial interview panel.

New Business: Bierman stated that Ms. McFadden, who has served as the Panel’s Counsel for over a year, will be leaving. He thanked Ms. McFadden for her work. Mr. Bierman noted that there will be a process in finding a new Counsel for the Panel. He stated that he does not have an update for that at this time.

Adjournment: Mr. Cranford moved to adjourn the meeting. Mr. Gallagher seconded the motion and it carried unanimously.

The meeting adjourned at 8:36 p.m.

Next Meeting: The Panel's next business meeting will be held on December 2, 2021, at 7:00 p.m