

Ad Hoc Police Practices Review Commission

Communications Subcommittee

July 13, 2015 7:30 p.m.

Fairfax County Government Center, Board conference room – Room 152

Notetaker: TBD

1. Approval of minutes from the June 8 meeting
2. VA Freedom of Information Act
 - Presentation by Peter D. Andreoli, Jr., Deputy County Attorney
 - Discussion
 - FOIA allows...
 - FCPD actually provides....
 - Why?
 - Is a change (in law, practice and/or culture) needed? Why?
 - Questions to be discussed:
 - VA FOIA grants some of the broadest exemptions in the U.S. Are records presumed to be public with exemptions strictly and narrowly construed? Or are they presumed to be exempt, resulting in very little public disclosure? Are there any impediments to the county adopting a “predisposition to disclose” approach?
 - If the disclosure of most records is discretionary, how do we encourage a more liberal approach to disclosing information? Is a change to the law needed?
 - What is current practice, as opposed to current law? How are the decisions made, on a day-by-day basis, regarding what is and isn’t released?
 - Fairfax County complies with the VA Freedom of Information Act, there is no separate county policy that addresses VFOIA. But what actually governs what each county agency releases? Is it based solely on legal advice, or an agency regulation or document? If some agencies are more forthcoming in disclosing information than other county agencies, what is the best way to level all and raise the bar to create a countywide culture of transparency?
 - How much discretion does the police chief have to disregard the advice of the county attorney? Does the county attorney merely dispense advice or mandate certain actions? If the county attorney advises against release of documents in response to a FOIA request, but the police chief chooses to be transparent and releases the requested public records, will the county attorney still defend the police chief if his disclosure results in legal action?
 - Why is VFOIA not aligned with release of information practices and laws that govern most states? How can that be changed?
 - There appears to be a blanket approach to FOIA requests, with non-disclosure as the default response to requests even when there is allowable discretion to publicly release records. Is this mandated through written county policies or procedures or is it just part of the county’s culture that has evolved over the years?

- What does VA FOIA allow to be disclosed, what public records does FCPD actually disclose (and why) and what do we recommend (is a change in law or culture needed? Why?) regarding disclosure of public records re:
 - Deployment of deadly force
 - Officer-involved shootings
 - Police investigative reports
 - Identity of officers involved in a use-of-force incident
 - Criminal matters
 - Accidents
 - 911 calls
 - In-car videos
 - Day-to-day matters
- 3. Discussion led by Lt. Col. Tom Ryan, Deputy Chief of Police: Responding to the discussions and recommendations of this subcommittee, FCPD has moved forward with a proposal for a civilian director for the police department's public information office. To ensure recruitment and selection of the most qualified applicants through use of written, well-defined criteria and standards, Chief Ryan will present the draft position requirements for our review and comment.
- 4. In response to a request by the Fairfax County Board of Supervisors, the Police Executive Research Forum (PERF) has just been contracted to research best practices and conduct public outreach regarding the public release of information in connection with use of force and critical incident responses. This is the firm that recently conducted the "Use-of-Force Policy and Practice Review of the Fairfax County Police Department," which is posted online. Due to the timing of this new contract, it won't be possible for our Communications Subcommittee to review the PERF report before we conclude our meetings (our last subcommittee meeting is scheduled for July 20) and submit our final report and recommendations to the Ad Hoc Police Practices Review Commission on July 27. However, the PERF consultants have been invited to our last two subcommittee meetings and will also have the benefit of our online meeting minutes, reports and recommendations to help inform their work.
- 5. Final meeting of the Communications Subcommittee: July 20, 7 p.m. (note the earlier time), government center, board conference room – room 152
- 6. Presentation of Communications Subcommittee final report and recommendations to the Ad Hoc Police Practices Review Commission: July 27, 7:30 p.m. in the government center, conference rooms 2/3