

**Ad Hoc Police Practices Review Commission
Independent Oversight and Investigations Subcommittee
June 1, 2015, 7:30PM
Room 232, Fairfax County Government Center**

Meeting began at 7:31

Members Present:

Jack Johnson
Michael Kwon
Sally Determan
Adrian Steel
Sal Culosi
George Becerra
Sean Corcoran
John Wallace
Bob Callahan
John Lovaas
Robert Sarvis
David Stover

Members Absent:

Nicholas Beltrante
James Stewart
Jeff Stewart
Amy Dillard
Bob Horan
Marc Harrold
Ben Getto

Others Present:

Clayton Medford
Katie Boyle
Gordon Dean
Anita Culosi

Previous Minutes

Mr. Sarvis asked the word “negated” be stricken. Mr. Johnson said the topic Mr. Sarvis was discussing is outside the scope of the subcommittee.

Mr. Sarvis said the charter as written does not limit it to use of force incidents. Mr. Johnson said the subcommittee needs to decide now whether the use of surveillance is within the scope of

the subcommittee. Mr. Lovaas said scope is broader than Mr. Johnson believes. Mr. Steel said the overall scope is limited and Mr. Lovaas agreed.

Mr. Sarvis objected to the process that led to the writing of the scope. He said the commission is supposed to be forward looking.

Mr. Lovaas said the new scope is limiting by making the review of best practices only from comparable jurisdictions. Mr. Johnson said the subcommittee needs an apples-to-apples comparison and to look at jurisdictions with similar resources. Mr. Johnson and Mr. Steel said this is a good starting point and individual members are not limited to just those reports.

Ms. Determan asked for definition of critical incident response.

Mr. Corcoran said it's an incident where deadly force is involved, fatal traffic accident, death or injury.

Mr. Culosi said subcommittee needs to determine if Fairfax County needs to have an oversight board. If that is a consideration, we need to have that discussion. The NACOLE report has 3 models – what model will we recommend to the Board of Supervisors?. If that is not the task, and we decide we don't need an oversight committee, we can end this process. Mr. Johnson said there are two extremes – nothing, which is not an option – or civilians conducting an investigation on their own. Mr. Johnson said the subcommittee needs to figure out what is needed. He added there are a lot of options – auditor, joint task force of trained investigators, others. Mr. Lovaas said “citizen” needs to be a part of the ultimate model. Mr. Steel said public involvement along the way is good – don't want citizens investigating but maybe they can review final.

Mr. Kwon entered a point of order.

Mr. Johnson repeated statement of assumptions about establishing oversight function vs. body. Mr. Johnson said he's not sure what an additional oversight function would perform if the Commonwealth's Attorney has full confidence in his investigations.

Mr. Kwon said the process of conducting business needs to be clear.

Mr. Callahan said it appears the task of the communications subcommittee is the most critical of the areas being discussed. He is concerned statistics need to be used carefully. He is not persuaded by the argument that “no one has been prosecuted, therefore there needs to be oversight.” Mr. Callahan said the citizens are demanding more information and we need to provide it. Mr. Callahan mentioned the role of the Human Rights Commission in investigating complaints.

Mr. Becerra said this subcommittee is presenting last to the commission so there doesn't need to be a rush. He described some of the potential areas of an oversight function he is most interested in.

Mr. Kwon said the October deadline is beyond our purview. The Board of Supervisors approved this date. Mr. Kwon said recommendations may require General Assembly action, and Mr. Johnson clarified that that depended on the powers the subcommittee recommends.

Discussion was held on having citizens vs. county employees serve on an oversight body.

Mr. Steel recommended discussion on ideas cease and the subcommittee move toward breaking up the work on the scope among members.

Mr. Johnson concurred and said the goal tonight is to break up into 3 smaller groups.

Mr. Culosi said he reviewed the DOJ Cleveland Report and proceeded to read an excerpt related to investigator bias. He then told the story of his son being shot by FCPD in 2006 and asked whether in that situation, the Commonwealth's Attorney would have disagreed with the results that it was an accident when that conclusion was reached so quickly.

Mr. Johnson ended Mr. Culosi's remarks.

Mr. Callahan said he was personally involved in the investigation of Mr. Culosi's son. He said he regrets the way Mr. Culosi took the efforts of FCPD.

Mr. Corcoran said comparing the challenges present in Cleveland to Fairfax is apples-to-oranges. The problems in Cleveland are not the problems in Fairfax County.

Mr. Johnson said in Baltimore, the number of police-initiated actions has dropped, highest number of shootings in decades. In the long term, there could be an exodus from Baltimore and you have to be careful how strong of a mechanism we push in place. Subcommittee needs to do what's needed.

Mr. Steel said VCCPA has identified the dozen or so shootings since 2005 – that is the universe the subcommittee is dealing with and not the 31 shootings per year in Cleveland. The commission and subcommittees are looking at specific problems – transparency, SWAT deployment, release of information.

Mr. Lovaas said an oversight function would be low cost with the low number of shootings where people have raised questions. Lack of charges against officers plays into whether or not an officer deploys force in the field. Mr. Steel disagreed.

Ms. Determan said reviewing existing polices as they change and in the changes around information is positive. Then best practices for investigation is something we can be moderately helpful in. Third, an oversight board there is a wide variety of possible responses we can make. There is a problem with the close relationship between police departments and prosecutors. She then discussed the models and said she doesn't believe there is justification for an investigative body.

Discussion moved to the scope of work and assigned. (not in attendance italicized)

#1 – David Stover (chair), Adrian Steel, Bob Callahan, *Nick Beltrante, Amy Dillard, James Stewart*

#2 – Sally Determan, John Lovaas, *Jeff Stewart, Sean Corcoran (chair), Bob Horan, Marc Harrold*

#3 – George Becerra (chair), Robert Sarvis, Michael Kwon, Sal Culosi, John Wallace, *Ben Getto*

Mr. Johnson said the subcommittee is inviting speakers – the Commonwealth’s Attorney, Chief of Police have been invited. He may ask for the County Attorney to attend. For Mr. Morrogh, he will be presented with our scope and asked to provide his opinion on oversight functions.

Mr. Becerra asked whether Mr. Rohrer should also be invited. Mr. Johnson said he believes Mr. Rohrer has been in favor of an oversight function of some kind.

Mr. Johnson said for the next few meetings, invited speakers will begin, then Q and A, then working groups give status on progress.

Discussion was held on FOIA restrictions related to subcommittee group meetings

Mr. Corcoran said the process of civil investigations involve the County Attorney and their perspective is important.

Mr. Johnson concurred and said there could be a case to be made the FCPD needs its own attorney.

Mr. Culosi asked about responsibilities of oversight function and whether it would be able to review Commonwealth Attorney’s practices. Multiple members said no and that the power of the Commonwealth’s Attorney is derived from the Constitution of Virginia.

Discussion was held on the different responsibilities of the IAB and CIB.

The committee broke up into subgroups.

Mr. Becerra’s group decided to make the NACOLE report the focus of their work and they will seek examples of the models in the report.