

Police Civilian Review Panel

August 20, 2020

Conducted Electronically due to COVID-19 Pandemic

Initial Disposition Subcommittee – CRP-19-19

Members Present:

Hansel Aguilar, Review Liaison
Hollye Doane, Subcommittee Chair
Rhonda VanLowe, Review Liaison

Others Present:

Gentry Anderson, OIPA
Rachelle Ramirez, OIPA

NOTE: The Panel’s subcommittee 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 Initial Disposition Subcommittee was called to order at 5:11 p.m.

Motions to Conduct Electronic Meeting: Ms. Doane took roll call to verify a quorum of the Panel’s subcommittee was present and to ensure each subcommittee member’s voice could be heard clearly. She asked each subcommittee member to state their name and the location from which they were participating.

Mr. Aguilar was present and participated from the Braddock District.

Ms. Doane was present and participated from Oakton, Virginia.

Ms. VanLowe was present and participated from Reston, Virginia.

Ms. Doane moved that each member’s voice may be adequately heard by each other member of this Panel. The motion was seconded by Ms. VanLowe and it carried by unanimous vote.

Ms. Doane moved that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the subcommittee 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. She further moved that the subcommittee may conduct this meeting electronically through a dedicated WebEx plat form and audio-conferencing line, and that the public may access this meeting by using the WebEx attendee access link or by calling 408-418-9388 and entering access code 129 838 3332 as noted in the Public Meeting Notice. Ms. VanLowe seconded the motion and it carried by unanimous vote.

Ms. Doane moved that that all matters addressed on the agenda are necessary to continue operations and the discharge of the Panel's lawful purposes, duties, and responsibilities. Ms. VanLowe seconded the motion and it carried by unanimous vote.

Completion of Initial Review Report for CRP-19-19:

Ms. Doane asked the subcommittee to review each allegation listed in the complaint to see which allegations fall within the Panel's jurisdiction. Ms. VanLowe replied that it is her view that the Panel could potentially review one allegation made in the complaint because some allegations occurred prior to the establishment of the Panel.

Ms. Doane referenced an allegation that occurred in 2015 and stated that because it occurred prior to the Panel's establishment, the Panel would be unable to review that allegation. Mr. Aguilar asked if Panel Members recalled seeing information related to this allegation within the FCPD investigation file. Ms. Doane replied that the Panel is unable to review an allegation that occurred prior to the establishment of the Panel. Mr. Aguilar asked if the allegation in question was provided to the FCPD for investigation. Ms. Anderson replied that the complainant submitted her complaint to the Panel on April 18, 2019 and that the complaint in its entirety was forwarded to the FCPD Internal Affairs Bureau (IAB) for investigation. Ms. VanLowe replied that all allegations were addressed within the FCPD's investigation file as it was holistically investigated by IAB. She added that the complainant was unhappy with the outcome of the investigation and that the Panel is time barred from reviewing certain allegations made in the complaint. The subcommittee discussed how to best review each allegation to determine whether the Panel has authority to undertake a review of the complaint as the allegations stemmed from multiple incidents from different years.

Ms. VanLowe reminded the subcommittee that the complaint was subject to pending litigation that was recently resolved. She cautioned that the Panel should not act as an extrajudicial body. Ms. Doane replied that this concern should be raised before the full Panel when the subcommittee's initial review report is considered. Ms. Doane added that it is the subcommittee's purpose to look at the complaint and determine whether the allegations rise to the Panel's threshold of abuse of authority or serious misconduct and do not conflict with the limitations as established in the Panel's Bylaws and Action Item.

Ms. Doane reviewed each allegation as listed in the complaint:

- Complainant alleged she was falsely charged on October 28, 2015. The subcommittee determined that the incident occurred prior to December 6, 2016 and that it cannot be reviewed.
- Complainant alleged that she was pulled over in May 2016 which caused fear. The subcommittee determined that the incident occurred prior to December 6, 2016 and that it cannot be reviewed.

- Complainant alleged that on November 9, 2016 defective search warrant was issued and she was falsely charged. The subcommittee determined that the incident occurred prior to December 6, 2016 and that it cannot be reviewed.
- Complainant alleged on February 9, 2017 she felt intimidated. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged that she was extorted in February 2017. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged that an officer lied to housing authority on May 16, 2017. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged that an unlawful search of her car was conducted on July 11, 2017. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged officers lied under oath during trial on October 3, 2017. This specific allegation listed in the complaint was filed more than one year after the incident occurred. The Panel must find good cause to extend the filing deadline.
- Complainant alleged she was falsely incarcerated and harassed while in jail from October 2017 through April 2018. The subcommittee determined that the Panel does not have jurisdiction to review this allegation as the complainant was in custody of the Fairfax County Sherriff's Office.

The subcommittee further discussed the timing related to the incidents and allegations included in the complaint.

Ms. Doane suggested that the subcommittee recommend that the Panel does not have authority to review the allegations listed in the complaint that are considered untimely filed but see if the Panel determines good cause for the delay in submission of her complaint regarding the specific allegations that were filed more than one year after the date of the incident. Ms. VanLowe expressed her belief that the Panel does not have the authority to undertake a review of the complaint.

Ms. Doane highlighted two additional allegations that the complainant was falsely charged and harassed with excessive charges. The incident related to these allegations occurred in July 2018, which would be considered timely filed. Ms. VanLowe expressed concern that this incident was adjudicated and considered by a judge and magistrate. She added that it is not the Panel's job to second guess the court's decision.

Ms. Doane referred to a previous review conducted by the Panel where the incident subject of the complaint was litigated. She added that if the complaint includes an allegation of serious

misconduct and if the file includes evidence to support the allegations, the full Panel should be able to discuss the complaint.

Ms. VanLowe said that she did not see anything within the investigation file that substantiated the allegations. Ms. Doane agreed but replied that the subcommittee must base its decision on whether the complaint includes allegations of serious misconduct or abuse of authority and that it is the duty of the Panel to determine whether the investigation was complete, thorough, objective, impartial, and accurate. Ms. VanLowe expressed her belief that the subcommittee's role is unclear. It was Ms. VanLowe's understanding that the subcommittee process was in place to create efficiency for the Panel and to eliminate the review of complaints where the Panel's review process could not add value. The subcommittee further discussed the role of Panel subcommittees in the Panel's review process.

Mr. Aguilar added that the Panel's review authority is different than the judicial process. He explained that the Panel is in a position to review FCPD investigations holistically.

The subcommittee discussed the litigation that was related to the incidents subject of the complaint.

The subcommittee members completed the "Abuse of Authority and Serious Misconduct Checklist" on the Initial Review Report. The subcommittee found that the allegations in the complaint met the following criteria: Acting in a rude, careless, angry, retaliatory, or threatening manner not necessary for self-defense; Violation of laws or ordinances; Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Cannon of Ethics, that occur both on or off duty.

Ms. Doane moved that complaint CRP-19-19 be referred to the full Panel for consideration to be reviewed except for the incidents that occurred prior to December 6, 2016. Mr. Aguilar seconded the motion. The motion carried by a vote of two, with Ms. VanLowe voting "Nay."

Ms. Anderson informed the subcommittee that she would draft the initial review report and subcommittee summary.

The subcommittee discussed presenting their recommendation to the Panel at the Panel's August 27 meeting.

Ms. Doane moved to adjourn the meeting. Mr. Aguilar seconded the motion and it carried by unanimous vote.

The meeting adjourned at 6:26 p.m.