



County of Fairfax, Virginia

MEMORANDUM

DATE: 5/7/2018

TO: Fairfax County Board of Supervisors
Col. Edwin C. Roessler, Jr., Chief of Police
Mr. Richard G. Schott, Independent Police Auditor

FROM: Fairfax County Police Civilian Review Panel

SUBJECT: Report of Panel Findings for Complaint CRP-18-02

I. Introduction

We are writing to inform you that the Fairfax County Police Civilian Review Panel (the "Panel") has concurred with the findings and determination of the Fairfax County Police Department ("FCPD") regarding the investigation of a complaint submitted by a complainant.¹

II. Review Request

On June 22, 2017, two FCPD officers responded to calls concerning a landlord-tenant civil dispute at two residences in Lorton. During their encounter with the complainant at his home, the officers observed him slurring his speech, smelling of alcohol and having watery eyes. The officers advised the complainant not to leave his house because doing so would expose him to arrest for a violation of Fairfax County Code Section 5-1-1 (which prohibits persons from being drunk in public). Thereafter, the complainant left his house and approached the vehicle of one of the officers. The officers observed the complainant as being unsteady as he walked, and he was arrested for being drunk in public. The Complainant filed a Complaint with the FCPD, claiming that he was falsely arrested and was not drunk. He stated that the arresting officer did not have sufficient time to observe him in order to make a determination that he was drunk. He said that he asked the officers to give him an alcohol breath test and that they refused.

III. Procedural Background

The complainant initially filed a Complaint with the FCPD on July 5, 2017. An investigation by the FCPD found that the arrest was in compliance with Regulation 2013, General Order 601. Mr. Loesch was informed of the finding on January 9, 2018, and on January 26, 2018, he was informed that he had the right to seek a review by the Panel. On February 7, 2018, the complainant asked for a Panel review of the police investigation of his Complaint.

IV. Panel Meeting

The Panel met on March 1, 2018, at a public meeting. Prior to the meeting, all members had reviewed the FCPD investigation file concerning the complainant's complaint. At the meeting, the Panel voted unanimously that (i) the complainant's allegation of false arrest falls within the Panel's scope of review authority, and (by a vote of 5 in favor, 2 opposing and 2 abstaining) that (ii) a separate Review Meeting with the complainant and the FCPD was not needed prior to a vote on a finding. On April 5, 2018, the Panel met at a public meeting and voted to concur with the findings and determinations detailed in the FCPD Investigation Report. On May 3, 2018, the Panel voted to approve publication of this report. Audio recordings and summaries of the Panel meetings may be reviewed here: <https://www.fairfaxcounty.gov/policecivilianreviewpanel/panel-meetings>

V. Comments

Several Panel members noted that the audio tapes of the interviews and the video of the police transport of the complainant after his arrest were helpful in their determinations.

In addition, a body-worn camera recording might have been useful in the matter to give a better view of the complainant's behavior during the arrest.

CC: Complainant

ⁱ Unless stated, capitalized terms shall have the same meaning stated in the Bylaws