



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** 9/17/2019

**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-19-07

On behalf of the members of the Fairfax County Civilian Review Panel, I submit to you Panel Findings for Complaint CRP-19-07 (“Complaint”). As explained below, the Panel found the Investigation met the criteria of accuracy, completeness, thoroughness, objectivity, and impartiality.

### I. Introduction<sup>i</sup>

The Panel held a Panel Review Meeting on August 1<sup>st</sup>, 2019, to review the Investigation resulting from a complaint submitted to the Panel for review on April 11, 2019. After discussion, the Panel voted unanimously that the FCPD’s Investigation Report met expected criteria.

### II. Background Facts and Review Request

According to the complainant, on or around December 18, 2018 an FCPD investigated concerns of complainant that an affidavit (germane to his court case) was removed from the physical case file as well as the electronic case file management system of the Fairfax County Circuit Court. Upon completing his review of the file, the detective informed the complainant that the affidavit was not actually missing from the file at all, and that the complainant apparently failed to locate it in the case file. The complainant did not believe the detective thoroughly investigated his complaint, so he filed a complaint against the detective with the FCPD Internal Affairs Bureau, and the FCPD conducted an Investigation into the complaint. Upon the completion of the Investigation, the FCPD sent a letter to the complainant, dated April 1, 2019, informing him that the FCPD concluded the subject detective’s actions were lawful and in compliance with FCPD regulations. The complainant requested a Panel Review.

The complainant expressed that the assigned detective closed out the investigation making “false statements” and remaining “silent” on key facts. Specifically, according to the complainant, the detective:

- Claimed the ‘missing’ Affidavit was in its "appropriate location".

- Claimed that the complainant was "conducting research" and that the complainant asked the filing clerks to conduct research for him.
- Remained silent on whether the Affidavit he found was an original document.
- Remained silent on whether the electronic Affidavit was missing in the case file management system.

When seeking a review of the Investigation, the complainant made three specific requests that fell within the scope of the Panel's mandate: a thorough review of the detective's investigation to determine whether proper procedures were followed; verify whether the affidavit in question was missing from both the physical and electronic case file; and verify whether the complainant asked the filing clerks to conduct research. The complainant also made three requests that were outside the purview of the Panel's duties: conduct a forensic analysis of the August 31, 2018 affidavit to determine whether it is an original document; conduct a forensic digital analysis to determine who deleted the electronic record of the affidavit; and confirm whether a scanned copy of the affidavit ever existed.

### III. Procedural Background

Pursuant to the Bylaws, the Panel forwarded the Complaint to the FCPD for investigation. After the Investigation Report was completed, Chief Roessler sent a letter to the Complainant notifying him of the outcome of the FCPD's review. The Complainant timely filed a Review Request.

On June 20, 2019, the Panel conducted an initial review of the Review Request in which it addressed: 1) whether the request was timely and 2) whether the complaint met the seriousness standards of the Panel's by-laws. The Panel concluded that the Complainant's allegations met both requirements for review.

### IV. Panel Review Meeting

The Panel Review Meeting for CRP-19-07 was held on August 1, 2019.<sup>1</sup> Prior to the Panel Review Meeting, all Panel members had reviewed the Investigation Report.

The complainant attended the Panel Review Meeting and reiterated the allegations as outlined in his email communications to the IAB and the Panel. Specifically, he stressed that the affidavit shown in the file was not an original document, which he believed was evidence that it was removed and or altered from the official file.

The Commander of the Internal Affairs Bureau, Major Matt Owens, attended the Panel Meeting and provided an overview of the case, the Investigation of the Complaint, and a

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<sup>1</sup> Audio of the August 1, 2019 Panel meeting is at <https://soundcloud.com/fairfaxcounty/police-civilian-review-panel-august-1-2019>. A summary of the August 1, 2019 meeting is at <https://www.fairfaxcounty.gov/policecivilianreviewpanel/sites/policecivilianreviewpanel/files/assets/august%201%20summary.pdf>

summary of the FCPD response to each item in the Complaint:

**“Appropriate location.”** There was no evidence to suggest there was reasonable suspicion, let alone probable cause, that the file was misplaced and or removed from its appropriate location.

**Conducting Research.** The complainant went to the courthouse to attempt to locate the affidavit in question.

**Original document.** There was no evidence to suggest there was reasonable suspicion, let alone probable cause, that there was any wrongdoing or criminal behavior in this matter.

**Electronic affidavit.** There was no evidence to suggest there was reasonable suspicion, let alone probable cause, that there was any wrongdoing or criminal behavior in this matter.

After discussion of the adequacy and appropriateness of the FCPD’s actions and Investigation of the Complaint, the Panel voted unanimously to concur with the findings and determination detailed in the Investigation Report.

V. Comment

No Comments

VI. Recommendations

No recommendations.

**CC:** Complainant

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<sup>i</sup> Unless otherwise noted, terms with initial capital letters are defined in the Bylaws.