



Fairfax County
Police Civilian Review Panel
Annual Report 2022

Building Community Trust Through Accountability

Fairfax County Police Civilian Review Panel: Annual Report 2022



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¹ Refer to Appendix G

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	[1]
HISTORY OF CIVILIAN REVIEW PANEL (PCRP)	[1]
PURPOSE, STRUCTURE, AND SCOPE	[2]
INCREASING COMMUNITY IMPACT	[3]
YEAR IN REVIEW	[4]
INCREASED EFFICIENCY IN PCRPP REVIEW OF COMPLAINTS	[6]
ACKNOWLEDGEMENTS.....	[6]
APPENDICES	[7]

EXECUTIVE SUMMARY

The Fairfax County Police Civilian Review Panel (“PCRCP” or “Panel”) joins hundreds of similar civilian oversight bodies across the country in working to foster better communication and trust between law enforcement and the communities they have sworn to serve. Additionally, civilian oversight seeks to improve policing, directly and indirectly, through their efforts. This is certainly true of the PCRCP. Through the intentional steps the PCRCP takes to increase awareness in the Fairfax County community of its role and activities, as well as the cooperative working relationship it builds with the police, the PCRCP seeks to improve policing in the county.

Building these relationships and creating a culture of respect and understanding does not, however, happen overnight. It takes time and effort. This Annual Report highlights the PCRCP’s activities and successes during 2022 in achieving these foundational goals. Appropriate oversight by both public officials and community members is essential to creating a culture of transparency and cooperation. In Fairfax County, the nine -member Police Civilian Review PCRCP and the Office of the Independent Police Auditor provide civilian oversight.

HISTORY OF THE POLICE CIVILIAN REVIEW PANEL (PCRCP)

The PCRCP was born out of frustration with the perceived lack of transparency by the FCPD in connection with officer involved shootings. The PCRCP’s origins can be traced to the work of the late Nicholas Beltrante, Jr., a retired District of Columbia homicide detective who, more than a decade ago, created the Citizens Coalition for Police Accountability (CCPA). The CCPA and others worked diligently to persuade the Fairfax County Board of Supervisors (Board of Supervisors) to establish a civilian oversight entity after an FCPD officer fatally shot David Masters in November 2009. Many community members became suspicious of the investigation into the shooting because of the lack of information that county officials and the FCPD provided. This led to a demand for greater transparency and accountability, including some

level of civilian oversight. Neither the Board of Supervisors nor FCPD took significant steps to incorporate any measure of civilian oversight at that time.

Frustration with the process by which officer involved shootings were investigated arose again in the wake of an August 2013 incident in which a FCPD officer fatally shot Fairfax County resident Mr. John Geer. At the time of the shooting, Mr. Geer was unarmed with his hands raised in the air and a holstered gun lay on the ground nearby. This time, community outrage, combined with significant media attention and a more receptive Board of Supervisors, led to the establishment in 2013 of the Ad Hoc Police Review Commission (the Commission). The Commission, in a contentious environment, submitted recommendations to the Board of Supervisors in October 2015, which resulted in a hybrid civilian oversight model which includes both the PCRCP and an Independent Auditor.

In December 2016, the Board of Supervisors approved the creation of the PCRCP based on a Commission recommendation in October 2015.

PURPOSE, STRUCTURE, AND SCOPE

PCRCP is comprised of nine (9) Fairfax County residents who are appointed by the Board of Supervisors and who represent a cross-section of the community. PCRCP members serve voluntarily for a three-year term. According to the PCRCP Bylaws, the PCRCP's mission is to "enhance police legitimacy and to build and maintain trust between the FCPD, the Board of Supervisors, and the public." The PCRCP is empowered to review completed FCPD Internal Affairs Bureau (IAB) investigations of complaints alleging **abuse of authority** or **serious misconduct** by an FCPD officer. The PCRCP's scope of review of the investigatory files is limited to considering the **accuracy, completeness, thoroughness, objectivity, and impartiality** of the investigation. The PCRCP is governed both by the Bylaws approved by the Board of Supervisors and a Code of Ethics adopted by the PCRCP.

Under Fairfax County's hybrid civilian oversight model, the PCRCP reviews abuse of authority and serious misconduct complaints while the Independent Police Auditor monitors and reviews internal investigations of FCPD officer-involved shootings, in-custody (of the FCPD)

deaths, and use of force cases in which an individual is killed or seriously injured, or about which there is a public complaint.

Abuse of Authority and Serious Misconduct

The PCRP reviews community member complaints alleging that an FCPD officer or civilian employee has engaged in any of the following:

- Use of abusive racial, ethnic, or sexual language or gestures.
- Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status, or disability.
- Acting in a rude, careless, angry, retaliatory, or threatening manner not necessary for self-defense.
- Reckless endangerment of a detainee or person in-custody; violation of laws or ordinances.
- Other serious violations of the county or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur **on or off duty**.

The PCRP may hold public meetings on issues within the PCRP's jurisdiction and on law enforcement policies and practices at which the public is invited to comment to assist the PCRP in making recommendations for policy and practices changes to the Chief of Police and Board of Supervisors. The PCRP may also meet periodically with the Independent Police Auditor concerning its findings and conclusions in use of force cases so that the PCRP can provide its views to the Board of Supervisors and the Chief of Police as to changes in policies and practices that may be warranted.

INCREASING COMMUNITY IMPACT

In February 2022, the PCRP's administrative capacity expanded, as did its ability to engage in community outreach, when the Board of Supervisors hired the PCRP's first Executive Director, Steven Richardson. Mr. Richardson comes to the PCRP with a significant experience in the criminal justice system, including as a New York City police officer and Investigator, a

Project Manager with the Cook County Sheriff's Office, and as a captain on the George Washington University police force. The PCRP received additional support with the hiring of Sanjida Lisa, a Management Analyst I, who comes to the PCRP from the FCPD. Both hires have significantly expanded the PCRP's visibility and ability to engage with community members. Having full-time staff to support the PCRP's work had been an ongoing PCRP request and the PCRP is pleased that the positions were created and filled. We continue to strive to bring greater awareness of the PCRP and its activities to the community and the Executive Director is an integral part of these efforts.

Examples of this increased activity in 2022 include:

- A November 10, 2022 community reception attended by more than 100 people held at the Fairfax Government Center with community members, PCRP members, FCPD, and county leadership
- Beginning to hold PCRP meetings, which are open to the public, in sites throughout the county, such as the Gum Springs Community Center and the James Lee Community Center, to increase awareness of and access to the PCRP by community members
- The Executive Director attending numerous events around the county with the targeted purpose of engaging in communities identified as the most vulnerable by a Fairfax County Vulnerability Index, including South County and along the Route 1 corridor.
- PCRP is now functioning at optimal capacity, having all vacancies filled, for the first time in more than a year.

YEAR IN REVIEW

PCR P Meetings and Case Review

PCR P held 10 meetings in person. In order to increase exposure in the community, PCR P began holding meetings at various locations around the community, starting in November 2022 (Appendix D).

- November 3, 2022 at the Gum Springs Community Center

- December 1, 2022 at the James Lee Community Center
- January 5, 2023 at the Pozez Jewish Community Center
- February 2, 2023 at Dar Al-Hijrah Islamic Center

In 2022, the PCRP received seven (7) Complaint Request for Reviews (Appendix A and Appendix B). A duly noticed subcommittee comprised of three rotating PCRP members reviewed the Internal Affairs Bureau (IAB) file of each of the seven (7) requests. The subcommittee then presented a summary and the result of the review to the full PCRP for a vote. Of the seven (7) requests, the PCRP voted that one (1) should receive a Full PCRP Review (Appendix C).

Training

During the calendar year 2022 the PCRP participated in several trainings. The first training was a Team Building/Strategic Planning Training held at the Government Center on Saturday, October 1, 2022. The facilitator was the former General Counsel for the National Organization of Black Law Enforcement Executives (NOBLE). The training offered PCRP members and opportunity to reflect on what's been achieved since the PCRP's inception and to brainstorm and strategize on what they hope to achieve. On Saturday, November 12, 2022, the PCRP received training on Civilian Oversight and Case Reviews from the Past President National Association for Civilian Oversight of Law Enforcement, Brian Corr, in the Pennino Building. And, as previously noted, on Saturday, February 18, 2023, the PCRP received a much needed refresher training in its Bylaws, which was facilitated by Past PCRP Chairman, Adrian Steel.

In conjunction with the Office of the Independent Police Auditor, the FCPD, the Commonwealth Attorney's Office, the Public Defenders Offices, Juvenile and Domestic Relations District Court and other County Partners, a proposed, comprehensive, mandatory training has been presented to the Chairman of the Board of Supervisors Public Safety Committee, Supervisor Lusk, and is attached for BOS input and approval. This training, when implemented, can become a standard for Civilian Oversight Training. This training will further equip PCRP members with an understanding of the intricacies and nuances of the criminal justice continuum. It will also increase the credibility of the PCRP in that much of the training

offered will come directly from criminal justice practitioners. As the PCRP strives to take on more responsibility and add to the scope of their authority, such training will be crucial.

Panel members participated in a Community Use of Force Day hosted by the FCPD on March 26, 2022 where they learned about FCPD procedures, training, and use of force options, participated in interactive scenarios, and viewed force demonstrations to gain a better understanding of FCPD officer responses to critical incidents. Panel members also heard a presentation from the Independent Police Auditor on his legal and policy considerations when assessing FCPD investigations into use of force incidents and officer-involved shootings.

INCREASED EFFICIENCY IN PCRP REVIEW OF COMPLAINTS

As example of the cooperative relationship between the PCRP and FCPD, Chief Davis has granted PCRP members the ability to review investigative files in local districts, streamlining the subcommittee and full Panel case investigative file review process. Prior to this recent accommodation, PCRP members were required to review investigative files exclusively at Public Safety Headquarters. Furthermore, in the spirit of collaboration, Chief Davis graciously offered space at Public Safety Headquarters for the PCRP's Saturday, February 18, 2023, Bylaws Training. This level of commitment from the FCPD and Chief Kevin Davis to Civilian Oversight and to creating opportunities to work with and support the PCRP is greatly appreciated.

ACKNOWLEDGMENTS

The PCRP would like to thank the Fairfax County Board of Supervisors. In particular, we would like to thank Board Chairman Jeff McKay and Public Safety Committee Chairman Rodney Lusk for their leadership and support. The PCRP would also like to extend gratitude to all of the community centers and houses of worship for graciously hosting our monthly public meetings from November 2022 to March 2023.

The PCRP thanks County Executive Bryan Hill and Deputy County Executive for Public Safety Thomas Arnold, FCPD Chief Kevin Davis, Major Todd Billeb, the IAB team, and the men and women of the Fairfax County Police Department, for their support of PCRP efforts. We

must also recognize the collaborations with the Fairfax County Office of Neighborhood and Community Services, The Fairfax County Interfaith Coordinators Office, and the Office of Immigrant Community Affairs, who each played an integral role in our outreach efforts.

Finally, we also recognize and thank our colleagues in the Office of the Independent Police Auditor (OIPA), Richard Schott and Rachelle Ramirez. Prior to hiring the Executive Director, the OIPA provided the necessary administrative support to the PCRCP, without which the PCRCP would not have been able to function. They are truly partners in this work of civilian oversight. The PCRCP would like to thank Rachelle Ramirez especially, who stepped in to provide needed administrative support to the PCRCP. Ms. Ramirez also supports the work of the OIPA, and the PCRCP is most appreciative that she has taken on two demanding jobs during a period of transition for the PCRCP.

APPENDICES

Appendix A: Complaints and Requests for Review Received by the PCRCP, 2017-2022

Appendix B: Status of FCPD Investigations into Initial Complaints Received in 2022

Appendix C: Review Report CRP-22-06

Appendix D: PCRCP Outreach in 2022

Appendix E: PCRCP Recommendation Matrix

Appendix F: Proposed Training Curriculum

Appendix G: Police Civilian Review PCRCP Member Biographies

Appendix H: Letters of Appreciation

APPENDIX A: Complaints and Requests for Review Received by the Panel, 2018 - 2022

	2018 ^{&}	2019	2020	2021 ^{&}	2022	All Years
Number of All Complaints filed against the FCPD (Panel Authority)	31	29	35	28	24	147
Number of Initial Complaints brought to the Panel	24	20	21	14	21*	100
Number of Initial Complaints filed with the Panel but for which there is no ultimate review request	18	14	10	2	7	51
Number of Initial Complaints that are later requested to be reviewed by the Panel	2	5	11	8	1	27
Number of Initial Complaints in process (investigation ongoing as of 12/31/2022)	0	0	0	4	14	18
Number of Review Requests Brought to the Panel	7	9	14	14	3	47
Number of Review Requests Accepted for Full Panel Review	4	5	5	0	1	15
Number of Review Requests Reviewed by a Subcommittee	1	8	9	9	5	32
Number of Review Requests Rejected by the Panel (No full Panel Review)	2	4	9	11 [^]	4	30
Number of Review Requests in process (as of 12/31/2022)	0	0	0	1	1	2
Number of FCPD Investigations still pending (as of 12/31/2022)	0	0	0	0	5	5
Allegations[#]	2018	2019	2020	2021	2022	All Years
Bias - race/ethnicity	7	6	4	6	3	26
Bias - other discrimination	2	1			1	4
False arrest/Malicious prosecution	4	3	4	2	1	14
FCPD communication issue	1	1	4			6
Harassment	6	3	4	2	1	16
Hostile/threatening manner	4	2	3	2	2	13
Illegal search	3	1	1	1		6
Illegal stop	1					1
Failed to File Report or Investigate/Incomplete investigation		1		4	1	6
Law/FCPD policy violation	5	6	9	7	19	46
Misconduct	4					4
Negligence	6	4				10
Officer did not identify			1	1		2
Officer had unprofessional manner	1	1	9		4	15
Officer was untruthful	2	4	5		3	14
Other	3	4	1	2		10
Use of Force	2	1	3		8	14
Grand Total	51	38	48	27	43	207

Notes:

* In 2022, 12 Initial Complaints were related to two incidents captured online (4 Initial Complaints in one incident, and 8 in another).

& In 2021, 1 Review Request was unclear so no action was taken. In 2018, 3 Initial Complaints and 1 Review Request were withdrawn.

[^] In 2021, 3 Review Requests were denied due to late submission.

[#] There may be multiple allegations associated with a single complaint.

APPENDIX B: Status of FCPD Investigations into Initial Complaints Received in 2022

CRP Case Number	Date Forwarded to FCPD	Date Findings Due	Date Findings Received	Disposition
CRP-22-01	1/2/2022	4/4/2022	3/29/2022	IC No Review Requested
CRP-22-02	1/4/2022	4/4/2022	3/29/2022	IC No Review Requested
CRP-22-03	1/4/2022	4/4/2022	3/29/2022	IC No Review Requested
CRP-22-04	1/4/2022	4/4/2022	3/29/2022	IC No Review Requested
CRP-22-05	3/1/2022	5/30/2022	4/28/2022	IC Review Requested
CRP-22-07	4/15/2022	7/14/2022	7/13/2022	IC No Review Requested
CRP-22-09a	7/11/2022	9/9/2022	1/10/2023	IC No Review Requested
CRP-22-09b	7/11/2022	9/9/2022	1/10/2023	IC No Review Requested
CRP-22-09c	7/11/2022	9/9/2022	1/10/2023	IC No Review Requested
CRP-22-09d	7/11/2022	9/9/2022	1/10/2023	IC No Review Requested
CRP-22-09e	7/11/2022	9/9/2022	1/10/2023	IC No Review Requested
CRP-22-09f	7/11/2022	9/9/2022	1/10/2023	IC No Review Requested
CRP-22-09g	7/11/2022	9/9/2022	1/10/2023	IC No Review Requested
CRP-22-09h	7/11/2022	9/9/2022	1/10/2023	IC No Review Requested
CRP-22-10	6/22/2022	8/21/2022	8/17/2022	IC No Review Requested
CRP-22-11	7/21/2022	9/19/2022	^	
CRP-22-14	11/30/2022	3/30/2023	^	
CRP-22-17	11/18/2022	3/30/2023	2/27/2023	IC Review Requested

^ - Outstanding as of June 1, 2023

IC – Initial Complaint filed



County of Fairfax, Virginia

MEMORANDUM

DATE: October 14, 2022

TO: Fairfax County Board of Supervisors
FCPD Chief of Department, Kevin Davis
Richard Schott, Independent Police Auditor

FROM: Fairfax County Police Civilian Review Panel

SUBJECT: Report of Panel Findings for Complaint No. CRP-22-06

Executive Summary

This review report concerns the investigation into Complaint No. CRP-22-06. The Complaint centered on a call for service related to an interaction between a Black female Amazon delivery driver and a White male resident of an apartment building. The Complainants, both the delivery driver and her mother, alleged that officers of the Fairfax County Police Department (“FCPD”) did not respond properly to a 9-1-1 call that the mother made after receiving a phone call from her frightened daughter about a man and a gun. The daughter alleged in that phone call and to responding officers that the male resident walked behind her carrying a gun at his side minutes after a short, terse conversation regarding a parking spot. The responding FCPD officers neither arrested nor charged the resident with a crime following interviews of the driver and resident, respectively.

The Complainants’ primary contention was that responding officers, both White males, demonstrated racial bias in how they handled the matter because the outcome would have been different if the races of the individuals involved were reversed. The Internal Affairs Bureau (“IAB”) of the FCPD investigated the Complaint and ultimately agreed that a supervisor of the responding officers had mistakenly provided inaccurate and incomplete information to the mother of the delivery driver the day after the incident, in violation of FCPD policies, and the IAB took corrective action with respect to the supervisor. The IAB, however, did not find the responding officers (or the supervisor) to have engaged in bias-based policing constituting serious misconduct.

A subcommittee of the Panel reviewed the IAB investigation and determined that it contained allegations of serious misconduct and abuse of authority and sufficient evidence to support a full Panel review. After reviewing the IAB investigation, the full Panel requested additional investigation. Following the conclusion of the additional investigation and with the additional requested information, the Panel concurred with findings of the IAB and determined unanimously that the investigation was complete, thorough, objective, accurate, and impartial.

The Panel did not take the allegations of the Complainants lightly and wrestled with significant issues in the case. Several Panel members were candid about their concern that the call for service may possibly have been handled differently if the races of the individuals involved were reversed. Ultimately, however, the Panel found that the investigation, including the requested additional investigation, properly examined and assessed the officers' behavior, that the responding officers' actions were consistent with law and FCPD policy, and that there was no evidence to support an allegation of bias, which constitutes serious misconduct under the Panel's rules. The Panel further agreed with the IAB that the supervising officer's misstatements of the law were problematic, but that there was no evidence the error was motivated by bias.

For reasons described in more detail below, however, the Panel believes that the FCPD would benefit from using this case as a teaching tool in discussions of de-escalatory tactics, implicit bias, and policing in an Open Carry Commonwealth. Further, the Panel wishes to emphasize that its determination that the investigation was complete, thorough, objective, accurate, and impartial is neither a determination that the incident was handled perfectly nor that there is no room for improvement, which, again, is itself a position wholly consistent with the findings of the IAB investigation itself.

A complete description of the Panel's process, deliberations, analysis, conclusions, and recommendations follow

I. Introduction

On November 12, 2021, the Panel received an informal email complaint from the mother of an Amazon delivery driver and a follow-up formal complaint using the Panel's official complaint form from the Amazon delivery driver herself regarding an incident in the parking lot of a McLean apartment complex. (Hereinafter, the mother and daughter will be referred to collectively as the "Complainants" and individually as "Complainant Mother" and "Complainant Driver.") The Complaint alleged improper handling of a call for service and racial bias.

On January 25, 2022, Chief of Police Kevin Davis sent a disposition letter to the Complainants informing them that the administrative investigation found no misconduct or evidence of bias on the part of the responding officers.

On March 26, 2022, the Complainants submitted a review request to the Panel.

On April 28, 2022, a subcommittee of the Panel convened to discuss the investigation and whether the Complaint raised issues the full Panel should consider. The subcommittee voted unanimously to recommend the full Panel consider the matter.

On May 5, 2022, the Panel voted unanimously to hear the Complaint as a full Panel.

On June 2, 2022, the full Panel convened and reviewed the investigation. The Complainant Mother appeared in person and addressed the Panel. The Panel also heard from IAB

representatives. As discussed below, following a lengthy discussion the Panel recommended that IAB conduct additional investigation into the Complaint.

On July 15, 2022, Chief Davis informed the Panel of the completed additional investigation. The additional investigation did not change the findings with respect to the responding officers. Unlike the disposition letter sent to the Complainants, the July 15 letter did make clear, as was discussed in the investigation file, that the FCPD did find a “regrettable” mistake on the part of the supervising officer in how he handled follow up with the Complainant Mother, but emphasized that IAB had addressed this mistake, remedial action had been taken, and that the mistake did not constitute serious misconduct or an abuse of authority.

On September 1, 2022, the full Panel convened a second time to review the additional investigation. Following a lengthy discussion, the Panel voted unanimously to concur with the investigation and find that it was complete, thorough, accurate, objective, and impartial. The Panel determined that that this report would include recommendations regarding police policies and practices consistent with the Panel’s discussions and analysis during the Panel review meetings.

On October 6, 2022, the full Panel met to consider this report and adopted this report and its recommendations.

II. Background Facts¹

On November 10, 2022, at 4:34 p.m., the Complainant Mother called 9-1-1. She recounted to the dispatcher that she had just received a call from her daughter, a twenty-one-year-old Amazon driver on her second day on the job. The Complainant Mother explained to the dispatcher that her daughter had told her that she was delivering a package when “a driver and his wife pulled a gun out on her.” The Complainant Mother emphasized in the call that her daughter was Black and that the alleged perpetrator (the “Alleged Perpetrator”) was White. Complainant Mother explained that according to her daughter who had called her using FaceTime, following a short discussion about a parking space, “he was walking towards her [daughter] with a gun in his hand.” “She is very afraid,” the Complainant Mother explained.

Two officers were dispatched to the scene, an apartment complex in McLean, with the first officer arriving approximately ten minutes after clearing a prior incident in another part of the service district, and a total of 24 minutes after the 9-1-1 call started. The officers traveled several miles through the congested McLean district and their response times were consistent with typical travel times at that time of day.

The officers, both of whom were White males, met the Complainant at the apartment complex, finding her several minutes after arriving when she got back to her van from delivering more

¹ These Background Facts regarding the incident in question are drawn primarily from audio recordings and documentation in the investigative file and from bodycam footage recorded by the responding officers. The Panel’s role is to review the investigation into the actions of the police officers, not to investigate the underlying incident. The Panel’s recitation of the facts is consistent with that mission.

packages. One officer (“Lead Interview Officer” or “LIO”) took the lead in interviewing the Complainant Driver while the other officer (“Support Officer” or “SO”) assessed the scene and took appropriate safety precautions given the stated presence of a gun in the call for service.

The Complainant Driver explained to the Lead Interview Officer that she parked her Amazon van in a spot outside the door of a section of the complex to begin delivering packages. When she returned to her van from an initial round of deliveries, she noticed that a car with a White man in the driver’s seat and a White woman in the passenger seat had pulled up in front of her van. At the time, the man was talking to a FedEx worker on the street. “Complainant Driver stated that she attempted to determine why the car was parked in front of her truck, so she approached the vehicle “trying to talk to him like am I in your spot because he was parked in front of my van . . . But I still had more deliveries right here so I wasn’t worried about moving right now, but he didn’t say nothing, he ignored me.” The Complainant Driver went to retrieve more packages from her van and then the Alleged Perpetrator said “are you going to move out of my spot?” At that point, the Complainant Driver said that she had asked him if this was his spot but in any event she would move but she needed him to move his car first. Following this terse, short conversation, he moved his car at which point she moved the van across the parking lot to another spot directly across from where she had parked initially and the Alleged Perpetrator backed into the spot

When speaking with the Lead Interview Officer (“LIO”), the Complainant Driver (“CD”) described what happened as she prepared to deliver another package:

CD: “And then I just happened to turn around just to look because I felt like there was some animosity or something and I looked and he had his gun in his hand, just holding it, with his wife beside him, and walking behind me. And I just like flinched. Yeah, like why you have your gun in your hand. I know it’s Virginia and you can carry but like I feel like if I wasn’t right here you wouldn’t have had your gun out, because is your neighborhood, why are you pulling your gun out?”²

LIO: “So it was out of the holster and everything, like he had it, just in his hand.”

CD: “Yeah it was just in his hand.”

LIO: “Did he point it at you or anybody or anything like that.”

CD: “No, he didn’t point it at me or anything. He just had it in his hand, walking, with something else in his other hand.”

The Complainant Driver motioned to indicate that the gun was in the Alleged Perpetrator’s hand down at his side. She explained that after seeing the gun, she had turned around and

² The Complainant Driver later told an IAB Investigator, consistent with what she told the Lead Interview Officer, that “He didn’t really pull his gun on me; he just has it in his hand walking behind me with his wife.” But she did not offer this exact characterization—that of not “really pull[ing] his gun on me”—during her interaction with the responding officers.

walked back to her van and that she had seen the Alleged Perpetrator look back at her as she passed.

When asked to describe the gun, the Complainant Driver said that it was a black handgun that was not in a holster and that it “fit in his hand.”

The Lead Interview Officer tried to get further clarification regarding the interaction:

LIO: “And so he wasn’t like, I just want to make sure, he wasn’t like trying to intimidate you or anything like that with the gun or anything?”

CD: “I felt scared. But I don’t know what his intention was.”

LIO: “Ok, but you felt scared”

CD: “I felt threatened, yes.”

LIO: “Did he say anything to you at all other than like ‘Are you going to move your van?’”

CD: “No, he just said ‘Are you going to get out of my spot?’”

When asked by the Lead Interview Officer, the Complainant Driver described the Alleged Perpetrator as White, bald, and around forty years old, wearing a navy blue long-sleeve shirt or sweater with jeans and black shoes. The Complainant Driver described the woman with the Alleged Perpetrator as White with short blond hair wearing a black dress. The Complainant further explained that she believed that the Alleged Perpetrator lived on the fourth floor because, after stopping back at her van, she got into the elevator “right after them and it was coming from the fourth floor.”

The Lead Interview Officer asked if the dashcam on the Amazon van would have picked anything up, but the Complainant Driver said it would not have because she was parked in the opposite direction.

At the end of the initial interview, the Lead Interview Officer asked: “So if through the course of my investigation if I go speak to him and everything I determine that there is a crime like a brandishing or something, do you want to go to court, do you want to press charges?” The Complainant Driver responded affirmatively.

The Lead Interview Officer then went back to his car to run the Alleged Perpetrator’s license plates. The Support Officer arrived having already verified that the Alleged Perpetrator did have a conceal carry permit for his weapon.

With the Lead Interview Officer still working in his car, the Support Officer asked “Ma’am, was anyone else out here that like witnessed it or anything that you saw.” The Complainant Driver explained that she wasn’t sure about others, but there was the FedEx worker. The Complainant Driver explained “Like when I walked out I was like [to the FedEx worker] ‘You

didn't see him with a gun in his hand' and he was like 'I'm pretty sure your fine, just finish doing your job.'" The Complainant noted that the FedEx worker had been previously talking to the Alleged Perpetrator.

The Lead Interview Officer then handed his card, with a case number, to the Complainant Driver and told her that if she needed anything she should just send him an email. The Lead Interview Officer then explained that he was going to "go up and speak" with the Alleged Perpetrator and "see how cooperative he is." He described the potential crime generally as "brandishing" which was a misdemeanor. The Lead Interview Officer double-checked that he had the right phone number and said that he would give the Complainant Driver "a call in a little bit and I'll explain to you what the process is for pressing charges and getting a warrant and everything." The Lead Interview Officer did not suggest that he would arrest the Alleged Perpetrator. He did say that he didn't know whether she had other business to do and that she could stick around but he would talk to her either way.

The Officers found the Alleged Perpetrator's apartment and knocked on the door. When the Alleged Perpetrator opened his door, he was wearing a dark short-sleeved t-shirt and jeans, which was fairly consistent with the Complainant Driver's description. The Lead Interview Officer explained that the police had gotten a call because someone in the parking lot said they had had a dispute with the Alleged Perpetrator. The Alleged Perpetrator looked confused and the Lead Interview Officer supplied "like an Amazon driver?" The Alleged Perpetrator responded that he had had an interaction with an Amazon driver when he had come home because the van was in two spots, but explained nonchalantly that while waiting he had had a conversation with "Kevin, the mailman" and then after a short conversation he had moved his car, the driver had moved her van, and then he (and his companion) "just went inside."

The Lead Interview Officer asked "Was there a gun involved?" The Alleged Perpetrator responded "No, I mean, I have a firearm that I carry with me." The Lead Interview Officer asked if it was with him at the time, asked if it was in a holster, and proffered that it was "concealed, I assume." The Alleged Perpetrator asserted that he had the gun with him and it was in a holster, but it was not concealed. "No, because we just got back from the gym, so it was locked up in the glove compartment, come home, unlock it, take it out, I don't put it back on the sweats," the Alleged Perpetrator explained, indicating that he had been wearing sweatpants, "and I just carried it, as I always do." The Alleged Perpetrator indicated that the gun was in the holster but just in his hand.

The Lead Interview Officer explained that the Amazon driver had seen the gun and was "kinda freaked out, understandably." The Lead Interview Officer said that it sounded like there wasn't an issue because he hadn't threatened her or done anything like that. "No, no," the Alleged Perpetrator replied, adding that "there's actually video in the lobby that points to the road. No, we're licensed concealed carriers so when we're out and about I will carry . . . so if we go out somewhere I'll take it with me and lock it in the glove compartment. I'm happy to show you what it is if you want to see it." The Lead Interview Officer said that wouldn't be necessary. The Lead Interview Officer indicated that he thought that it was a misunderstanding.

The Alleged Perpetrator considered the situation and again reiterated “I always carry it and I don’t really think much about it because I always carry it in the holster.” The Lead Interview Officer asked about the holster and what kind of a holster it was. The Alleged Perpetrator told him that it was a Kydex holster and added “I can show you, I’m happy to show you.” The Lead Interview Officer demurred but the Alleged Perpetrator invited him inside his apartment. “I just want you to see what it is, I’m happy to show it to you.”

The Lead Interview Officer entered the apartment while the Support Officer remained at the door. The Alleged Perpetrator’s wife, a White woman with wet, short brown hair, was behind the kitchen countertop and the officer exchanged pleasantries as the Alleged Perpetrator retrieved the gun from a back room, which the Lead Interview Officer said was an alright thing to do “as long as it’s in the holster.” Upon his return, the Alleged Perpetrator presented a black gun inside of a small black holster. The holster was not bulky and roughly conformed to the outline of the gun. The Alleged Perpetrator showed how he carries the gun pointed down at his side as his wife again explained that her husband was simply carrying his gun at his side as they entered the apartment building after returning from the gym. The Alleged Perpetrator again said that he had never threatened the Complainant Driver and his wife pointed out that “Kevin, the mailman” was right there for the interaction.

After providing the Alleged Perpetrator with the case information, advising him that he probably shouldn’t be carrying his gun out in the open next time and can just “throw it in a gym bag,” and indicating that he did not expect there to be charges, the Lead Interview Officer left the Apartment. The interaction lasted a little over five minutes and was largely comfortable and cordial.

At 5:32 p.m., shortly after leaving the apartment, the Lead Interview Officer made one phone call to the Complainant Driver, but when the phone went to voicemail and he did not leave a message. There was no second attempt to contact the Complainant Driver that evening.

The next morning, November 11, 2021, the Lead Interview Officer briefed his supervisor (the “Supervising Officer”) regarding the incident and informed the Supervising Officer that he had not yet reached the Complainant. By then, the Complainant Mother had already called the station and the Supervising Officer told the Lead Interview Officer that he would handle it. The Lead Interview Officer never attempted to make another call to the Complainant Driver.

The Supervising Officer called the Complainant Mother back. The Complainant Mother was incensed and asserted that she wanted to file for a restraining order against the Alleged Perpetrator. She requested that the Supervising Officer provide her with the name of the Alleged Perpetrator for that purpose. During that conversation, the Supervising Officer explained, incorrectly, that unfortunately he could not discuss her daughter’s case with her because she was twenty-one years of age and he had not been granted permission to discuss the case, which meant he was unable to provide specific information concerning the case. The Complainant Mother explained that she was very troubled that there had been no follow up and explanation provided to her daughter.

At that point, the Supervising Officer explained that what he could tell her was that under state code a brandishing had not occurred because a brandishing requires that a gun be pointed at an individual, wrongly omitting, as discussed further below, that the state code does provide that there can be violations of the statute when a gun is not pointed at an individual but is held in a manner that reasonably induces fear. The Supervising Officer further incorrectly explained that by state code, officers that do not witness elements of a crime cannot make an arrest or obtain a warrant and that she would have to go to a magistrate to obtain the warrant. (As discussed below, in fact, a police officer does not have to witness a crime to make an arrest.)

The Supervising Officer explained correctly that the Complainant Driver could go to a magistrate to obtain a warrant or a restraining order, but that he would not provide the name of the Alleged Perpetrator due to policy but that this would not prevent the Complainant Driver from acting because he could provide the case number, which was all that was necessary to give to the magistrate. The Supervising Officer and the Complainant Mother argued about the incident before the Complainant Mother appeared to hang up on the Supervising Officer. The Supervising Officer immediately called back and left a message. The Complainant Mother never returned his call.

Although the Supervising Officer had asserted in no uncertain terms to the Complainant Mother that he did not believe a criminal violation had occurred here, four days later (November 15) he directed the Support Officer to request the apartment complex video. An employee of the apartment complex advised the Support Officer that they were in the process of changing vendors and that the video, therefore, could not be immediately accessed. The Support Officer left his card for the property manager and asked them to update him on the video tape.

The Supervising Officer did not order any additional investigation. At no time before the IAB investigation did FCPD follow-up to locate the FedEx/Mailman who purportedly witnessed the incident. Similarly, there was no further attempt to determine if there was any dashcam footage from the Amazon truck that might shed light on the incident. The property manager never contacted the Support Officer about the missing footage.

III. Procedural Background and Initial Investigation.

On November 12, 2022, the Complainant Mother sent an email directly to the Police Civilian Review Panel titled “White man threatens 21 year old [sic] black woman Amazon driver with gun for being in his assigned parking space.” In the email, the Complainant Mother set forth the facts related to her daughter’s incident and said that at the time her daughter “began walking to deliver packages . . . this man is walking behind her with a gun saying ‘are you gonna move your car?’” She complained that no action had been taken by the police and that the Supervising Officer had “said the perpetrator had a 1st amendment right to say what he wanted to say while walking behind my daughter and that the perpetrator had 2nd amendment right to have his gun outside his holster and he never threatened my daughter [and that] the perpetrator violated no Virginia codes by walking behind my daughter with his gun out of the holster asking her if she’s going to move her vehicle.” Later that day, a formal complaint form

completed by the Complainant Daughter with the same allegations was received by the Panel as well.

The IAB opened an investigation into the incident. Based on initial conversations with the Complainant Mother, the IAB investigated the incident specifically with an eye toward evidence of bias-based policing. The Complainant Mother explained her belief that the police had discounted the evidence in the case and had not improperly made an arrest because her daughter is Black and the Alleged Perpetrator is White. The Complainant Driver told an IAB interviewer: “I was in a predominantly white area and I didn’t see any other black people out there and I feel like if I was a white person that called in a black neighborhood and had the same complaint, it would have [been taken] more serious[ly]. And I don’t think they took it seriously enough.”

The initial investigation also specifically considered whether the responding officers had properly performed their investigative duties, including whether they should have placed the Alleged Perpetrator under arrest; whether the Lead Interview Officer failed to properly follow up with the Complainant; and whether the officers took too long in their response to the call for service.

The initial investigation consisted of, among other things, reviewing body worn camera footage from the Lead Interview Officer and the Support Officer, interviewing by phone both Complainants, reviewing the 9-1-1 calls, interviewing both the Lead Interview Officer and the Support Officer via videoconference, asking for legal advice from the County Attorney’s office regarding the statutes involved,³ proffering the facts to a Commonwealth’s Attorney for information about whether a crime was committed, studying collected data concerning the officers’ response time and utilizing Google Maps to predict reasonable times to arrive on the scene, performing an open source review of the responding officer’s social media profiles to look for any bias-related information, attempting to obtain footage from the apartment complex, and attempting to obtain footage from the Amazon van dashcam. The IAB was not able to obtain videos from the apartment complex, which this time when approached by the police asserted that the cameras in the hallway were not in fact operational. Amazon did not respond to several requests for footage.

The initial investigation reviewed and concluded based on the totality of the circumstances that the responding officers had not violated their duty in believing that there was no probable cause for an arrest. The incident as described both by the Complainant Driver and the Alleged Perpetrator had not involved any outward threats or acts that would make out a violation of the **Code of Virginia § 18.2-282 – “Pointing, holding, or brandishing firearm, air or gas**

³ Although the initial investigation did not specify who had assisted in the review of the caselaw, which is part of why a second investigation was conducted, the follow up investigation indicated that the IAB had consulted with the County Attorney’s Office.

operated weapon or object similar in appearance, penalty.”⁴ Consulting with the Commonwealth’s Attorney had confirmed that this would not be a case to prosecute. The initial investigation also quoted from a Virginia case from 1983 where a perpetrator had pointed a pistol at a victim, in contrast to what occurred here, and a Virginia case from 2011 defining the term “brandishing” as exhibiting a firearm in an “ostentatious, shameless, or aggressive manner.” The incident clearly had not consisted of brandishing, but the investigation also found that the responding officers had not been in error because it was not clear that the gun had been held in a manner to “reasonably induce fear” in another, though the investigation did not contain caselaw regarding this non-brandishing standard. Further, the initial investigation found no indication that the responding officers had come to this conclusion based on the race of the participants or engaged in bias-based policing.

The initial investigation considered whether the Lead Interview Officer had violated FCPD General Orders in failing to follow up with the Complainant Driver. While the initial investigation asserted that it would have been advisable to leave a message or call multiple times after the incident, the initial investigation noted that the Lead Interview Officer had intended to and offered to reach out further to the Complainant Driver the next day but had been told to stand down by his Supervising Officer, therefore he had not been in violation of the General Orders.

Although the initial investigation did not explicitly target the Supervising Officer, it did find that the Supervising Officer had made errors in his conversation with the Complainant Mother. First, he had said that he was not allowed to discuss the case with the Complainant Mother, which was incorrect under the circumstances. Second, he had improperly described the brandishing statute, because in fact “pointing” the gun is not a necessary element in order to violate the statute. Finally, the Supervising Officer had provided incorrect information regarding the need for officers to witness an incident in order to make an arrest without a warrant. The IAB investigation indicated that corrective disciplinary action was taken with respect to the Supervising Officer.⁵

Finally, the initial investigation reviewed all of the information regarding the length of time it took the officers to arrive on the scene and determined that there was no indication that the officers had not acted with appropriate and speed. For instance, the Google Maps estimated travel time from the first responding officer’s prior event to the apartment complex at that time of day was 12 to 22 minutes, but he had arrived in just under 11 minutes.

⁴ “It shall be unlawful for any person to point, hold or brandish any firearm or any air or gas operated weapon or any object similar in appearance, whether capable of being fired or not, in such a manner as to reasonably induce fear in the mind of another or hold a firearm or any air or gas operated weapon in a public place in such a manner as to reasonably induce fear in the mind of another of being shot or injured.”

⁵ The Panel does not review or comment on what specific disciplinary actions are taken, nor does the Panel have any authority to discipline officers.

IV. First Panel Review Meeting

The Panel held its first Review Meeting on June 2, 2022. Under the Panel's remit, the Panel is charged with reviewing investigations into allegations of serious misconduct or abuse of authority to determine if the investigation was "complete, thorough, accurate, impartial, and objective."

The Complainant Mother appeared in person at the Review Meeting and the Complainant Driver did not appear. The Panel heard from the Complainant Mother and from IAB representatives and asked questions of all.

a. Complainant Mother's Statement and Questioning

In her opening statement, the Complainant Mother recounted how on the evening in question she received a call from her daughter who was deeply distressed about a White man who she claimed had pulled a gun on her. The crux of the Complainant Mother's complaint about FCPD in her opening statement was "had she [Complainant Driver] been a white female saying that some black man was brandishing a gun behind her, none of this would have happened this way."

She went on to recount how she called the police on her daughter's behalf and provided FCPD with all of the information she had at the time. Her daughter had told her that following a discussion about a parking space, the alleged perpetrator "was walking with a gun" behind her leading her to fear that she might "get shot in the back." The Complainant Mother stated that she "was shocked because although [she] told them [she] was the mom and that [her daughter] was scared for her life, no one called me and no one called her."

Instead, the Complainant Mother had to reach out FCPD the next day. According to the Complainant Mother, the FCPD rebuffed her and asserted that no crime had been committed. Further, according to the mother, although she said "[g]ive me his name and I'll go to the magistrate and I'll press charges and I'll file a civil suit," the officer had refused to provide a name and she was not able to vindicate the rights of her daughter.

Panel members asked follow up questions. One Panel member asked what, given the limited scope of the Panel's review, in which the Panel reviews the IAB investigation not the underlying incident, did the Complainant Mother want out of the process. She responded that she wished to see additional and better training for the officers. She asked that officers be trained to at times "close their eyes and see the victim as white" because she believed that the outcome would be different. She also asked that the police go back over this case to determine why it went wrong in her view and why it was handled differently than it would have been handled with a white victim. She also expressed again that she wanted the Alleged Perpetrator's information so that she could obtain a restraining order.

Another Panel member asked what the Complainant Mother's reaction would have been had the police properly followed up with her daughter and with her and had informed her of what the Alleged Perpetrator had said and that they would be following up with another witness.

The Complainant Mother said that she could not evaluate what did not happen. The Panel member further asked what the Complainant Mother thought should happen in a similar situation where the races were reversed and how the police should handle that situation, using a hypothetical regarding the facts of the case. She responded that she knew that if the races were reversed the outcome would have been dramatically different as the whole interaction would have begun differently, likely with the police taking a much more aggressive tact with a Black alleged perpetrator—she asserted that the police never would have approached such an alleged perpetrator in the manner they did here. The Panel member conceded that yes, the outcome very well could have been different for exactly the reason expressed by the Complainant Mother, but reiterated that he was asking what should happen in these cases regardless of race because the Panel’s job is to consider police practices and procedures. The Complainant Mother surmised that what should happen is that the police should send “officers who would respond without seeing race,” while stating that that is not the way the world actually works.

A Panel member asked a final question as to whether Complainant Mother felt that her daughter’s age and gender had anything to do with what happened in addition to her race. The Complainant Mother responded that she did think that the situation was exacerbated because her daughter was a young Black woman.

b. IAB’s Statement and Questioning

IAB Representatives presented the findings of the IAB investigation. They first recounted the facts of the FCPD’s interview with the Complainant Driver as evidenced on the bodycam footage. They further discussed the 9-1-1 call and what the Complainant Driver reported during the IAB investigation, namely that the Alleged Perpetrator had had his gun in his hand while he walked behind her but that he had never pointed the gun at her.

The IAB Representatives also set forth the Complainants’ contentions that: 1) the officer did not properly perform his duties by not placing the suspect under arrest; 2) after the investigation, the officer did not follow up with the complainant as promised; 3) the officer would have treated her differently if she were a White woman in a Black neighborhood; and 4) the officers took a long time to arrive on the scene following her 9-1-1 call.

The IAB representatives addressed each contention in turn. The IAB investigation concluded that the officer was correct in deciding that there was not probable cause to make an arrest on the scene. Among other things, the IAB proffered the facts to the Commonwealth Attorney’s Office, which also determined that no crime occurred and that they would not attempt to prosecute such a case. The IAB also asserted that Virginia case law defines brandishing where the suspect has acted in an ostentatious, shameful, or aggressive manner, none of which were observed or described by anyone involved.

The IAB noted that immediately after the investigation, the officer attempted to call the Complainant Driver, but the phone call went to voicemail. The officer did not leave a message with the intention to call the Complainant Driver back on his next shift the following day. Before the officer’s next shift, however, the Complainant Mother called the FCPD to inquire about the status of the investigation. The officer’s supervisor told him that he would handle the

call and the officer believed his supervisor would perform the follow-up. The IAB Representative then conceded that the Supervising Officer incorrectly stated several aspects of Virginia law to the Complainant Mother and asserted that the FCPD had required the Supervising Officer to undergo additional training to correct his mistakes.

The IAB Representatives explained that the IAB investigation found no evidence that race was a factor in how the call for service was responded to. For instance, regarding the allegation of slow police response, the Complainant Mother called 9-1-1 at 4:34 p.m., and the 9-1-1 call taker created an event 3 minutes later. The primary officer was handling a different event in the area. The officer cleared the event he was handling 10 minutes after the complaint was created and 13 minutes after the Complainant Mother originally called 911. The officer was dispatched 43 seconds after he cleared the other event and arrived on the scene at 4:58 p.m. The response time of the officer was 10 minutes and 18 seconds. It took another 6 minutes and 57 seconds before the officer located the Complainant Driver, who had continued to deliver packages in the same location. The IAB reported that their investigation showed no anomalies in these response times.

Panel members extensively questioned the IAB Representative regarding the investigation.

One line of inquiry several Panel members pursued concerned the legal analysis in the IAB file regarding Code of Virginia § 18.2-282, colloquially referred to as the “brandishing” statute. As one Panel member pointed out, under Code of Virginia § 18.2-282 it is unlawful “to point, hold or brandish any firearm . . . in such manner as to reasonably induce fear in the mind of another.” Despite the fact that the statute refers to “pointing,” “holding,” or “brandishing,” the IAB investigation seemed to focus on brandishing. Worse still, the Panel member asserted, the caselaw provided was old caselaw related to “brandishing” rather than newer caselaw discussing that a crime can be committed simply by “holding” a gun in a manner that would “reasonably induce fear in the mind of another.” The Panel member thus asserted that the critical element here was the Complainant Driver’s fear and questioned why that had been discounted. Another Panel member questioned whether it should matter that the situation involved a young Black woman being followed by an older White man carrying the gun.

The IAB Representative could not comment on the intricacies of the statute and caselaw but asserted that the officers felt that based on the totality of the circumstances, including the comments of the Complainant Driver regarding how the gun was carried and the interview with the Alleged Perpetrator, that there was not probable cause for arrest here. In response to several questions, the IAB Representatives also noted that Virginia is an Open Carry state where legal firearm owners are allowed to carry weapons out in the open, so long as they do not violate § 18.2-282. They further noted that the facts of the case had been brought before a Commonwealth’s Attorney and that they had been informed that such a case would not be prosecuted, but members of the Panel questioned *how* the police had actually presented such facts.

Another line of inquiry concerned the actions of the Supervising Officer. One Panel member expressed frustration that the Supervising Officer had shut down investigation of the incident

prematurely and that the Supervising Officer's actions had meant that there was no proper attempt to contact a crucial witness: "Kevin, the mailman" (or FedEx worker) who allegedly saw the whole thing. The IAB Representatives asserted that in fact there was an attempt to locate the driver when one officer returned to the complex several days later, but the officer did not have the necessary information to identify the driver. Further, the IAB Representatives conceded that the actions of the Supervisor had been improper, especially in providing incorrect information to the Complainant Mother. The Panel member asked why a full and complete investigation into the actions of the Supervisor similar to the responding officers had not been completed and why the Supervising Officer had not been interviewed. IAB Representatives asserted that the Supervising Officer's phone calls with the Complainant Mother had been recorded in full, so there was no need to interview the Supervising Officer, who had received additional training for his mistakes.

Panel members also questioned the actions of the responding officers in interviewing the Alleged Perpetrator. For instance, one Panel member asked whether it was standard practice to enter the apartment of an Alleged Perpetrator known to be armed and then allow that Alleged Perpetrator to go into a back room to retrieve his gun. IAB Representatives asserted that it depends on a number of variables, including where the officers are, how many there are, and how they are positioned; every officer has to make their own judgement based on their training and experience. Another Panel member asked whether the officers in question had ever been asked to imagine that the racial makeup of the individuals were flipped and how that might have affected their response. The IAB responded that it does not ask questions in that manner. The IAB does ask officers direct questions about whether racial bias affected their thinking.

Panel members also zeroed in on what was not in the IAB file. Several Panel members questioned why the IAB file did not include the arrest and stop statistics of the officers in question. IAB Representatives asserted that such statistics are provided in cases where there are complaints that the arrests or stops were the result of bias. This situation was a little different than that because it was a response to a call for service. Panel members pushed back asserting that such statistics might still be useful. One Panel member asked, for instance, if there were any statistics regarding the race of arrests involving a brandishing charge.

And important final line of inquiry in questioning revisited the question of whether the responding officers properly considered the Complainant Driver's stated and expressed fear. IAB Representatives asserted that while the stated fear is obviously a very important factor to consider, the officers still judged the totality of the circumstances here as being insufficient to create probable cause for arrest.

c. Discussion and Request for Additional Review

The Panel deliberated extensively and for reasons described below unanimously concluded that that additional investigation was necessary. Under Article VI.E.(1)(h) of the Bylaws governing the Police Civilian Review Panel, "[a]t the Panel's discretion, it may request further investigation by FCPD, and the FCPD shall, within a reasonable time, conduct further

investigation and provide to the Panel a supplemental report that details the findings of the additional investigation.”

At the outset, the Panel grappled with how to assess alleged bias as serious misconduct in this case. The Panel seemed generally in agreement that, yes, if the races of the individuals had been reversed, the situation might very well have turned out differently, but did that indicate “serious misconduct” on the part of the officers here, in this specific instance? There were significant efforts to grapple with how to consider bias as related to the responding officers’ exercise of discretion: people of color (and not, for that matter) have been arrested based on a lot less evidence, but did that make the officers decision (*i.e.*, exercise of discretion) to not make an arrest here “serious misconduct” demonstrating bias?

For instance, one Panel member asserted, the responding officers appeared professional but reserved with respect to the Complainant Driver, but seemed, in his words, “almost chummy” with the Alleged Perpetrator. Other Panel members explained that the responding officer’s comments opining on what the likely outcome of the complaint would be seemed inappropriate at the time. And yet that same first Panel member conceded that de-escalatory tactics and actions taken by police aren’t necessarily a bad thing, particularly if said de-escalation is applied regardless of race in similar situations. Another Panel member fully conceded that things might have turned out differently if the races had been reversed but asserted that the responding officers handled the situation as they should have regardless of the race of the participants, and thus counseled against a finding of serious misconduct.

What emerged in the midst of this debate was genuine disagreement if not confusion among the members of the Panel as to a central question in the case: regardless of race, was there probable cause to make an arrest here? Some Panel members thought there might be based on the Complainant Driver’s real, expressed fear; others believed that there was not based on the facts before the responding officers, including that the Alleged Perpetrator held the gun at his side and another witness allegedly saw nothing wrong with the incident, and the objective standard regarding fear. And this only created another question to be grappled with (a tricky one at that): given race, was there probable cause to arrest here? In other words, how does (and/or how should) the lived experience of a young Black woman factor into understanding whether the actions of the Alleged Perpetrator reasonably induced fear?

Trying to hew to the mission and purpose of the Panel, which is to review the *investigation* into misconduct, the Panel came to a general consensus on one thing despite such disagreements: the IAB investigation had not provided a proper, useful legal analysis of a situation where, as here, the Alleged Perpetrator merely “holds” a gun (as opposed to brandishing or pointing it).⁶ Such an analysis would need to occur before the Panel could find the investigation to be complete, thorough, accurate, impartial, and objective. And as a corollary to that aspect of the

⁶ Indeed, the discussion in the IAB investigation of the standards for “brandishing” seemed misplaced because the actions as described by the Complainant Driver were nowhere near brandishing in the first place but rather, on their own terms, conceded that the gun had been carried but neither pointed nor waved.

investigation some Panel members also felt that they needed a better explanation of whether the responding officers had properly accounted for the Complainant Driver's expressed fear.

Panel members also questioned whether the actions of the Supervising Officer had completely been investigated. In many ways, the actions of the Supervising Officer, shutting down the investigation before it was complete and providing improper information to the Complainant Mother seemed to exacerbate everything that led to the Complaint in the first place. Although the IAB asserted mistake on the part of the Supervising Officer, this mistake was not formally investigated in a manner comparable to other aspects of the case.

Finally, with respect to the investigative file itself, Panel members questioned why the IAB's now generally standard practice—the result of a previous Panel recommendation—of providing arrest and stop statistics of the responding officers had been discarded. Panel members conceded that such statistics might not provide apples to apples comparisons, but the Panel had previously emphasized that a review of such statistics is an imperfect prophylactic measure in bias cases. Such statistics could reveal an apparent history of bias that would certainly inform whether bias occurred in the specific case at hand.

Following its extensive deliberation period, the Panel articulated its specific ask to the IAB and requested the following occur in order to complete the investigation:

- That the statistics and/or arrest and stop record of the primary officer be considered and made available to the Panel;
- That an independent legal analysis regarding instances in which a gun is held but not brandished” be conducted and provided;
- That an additional and complete investigation of the actions of the supervising officer be performed; and
- That the investigation into the original matter consider the crucial element of fear articulated by the complainant, and whether it was adequately addressed.

Several days after the Panel Meeting, the Chair of the Panel sent a letter with the exact asks listed above.⁷

⁷ It is also worth mentioning that the Panel did consider the question of whether it could ever recommend reopening an investigation, but several members of the Panel strongly asserted that this was not the province of the Panel and would be inappropriate. As reiterated repeatedly in this report, the Panel considers allegations of serious misconduct and abuse of authority, and the Panel's concurrence with or acceptance of an IAB investigation is not a conclusion that the acts of the police were infallible. During review of the bodycam footage, one thing noticed by the Panel's Executive Director was that the Alleged Perpetrator asserted that he had carried the gun at his side rather than attaching his holster because he was wearing sweatpants and the gun would cause his pants to sag, but when he arrived at his door, he was wearing jeans as the Complainant Driver had described him. The Executive Director asked whether the Panel could recommend reopening the investigation based on this

V. Additional Investigation

On July 15, 2022, Chief Davis informed the Panel that the additional investigation had been completed. Chief Davis's letter closed by explaining:

I have thoroughly reviewed and concurred with the supplemental investigative findings and confirmed that no new evidence was revealed to support any further investigative steps. Furthermore, my officer acted within both policy and applicable case law. Regrettably, there was improper information provided by the officer's supervisor, which was thoroughly documented, and proper corrective action has since been taken.

The additional investigation is summarized below.

a. Arrest and Stop Record Statistics

The IAB compiled the arrest and stop record statistics of the Lead Interview Officer. There were no apparent anomalies based on race and his arrest and stop statistics were consistent with those of other officers at his duty station. Nothing in the statistics indicated a history of bias.

b. Legal Analysis.

As discussed, the Panel faulted the initial legal analysis largely on two grounds: (1) that it did not adequately cover situations in which a gun is neither brandished nor pointed and (2) that it did not provide insight into or comment on how to assess the element of fear described in the statute to assess what should have happened here, where the Complainant Driver expressed significant fear. There were also concerns expressed that any legal analysis provided in the initial investigation was improperly colored by how the incident was presented by the police themselves to the analyzer.

The additional investigation contained analysis from the Deputy Commonwealth's Attorney.

The Deputy Commonwealth's Attorney was provided with the same body cam footage that the Panel had access to; in other words, the Deputy CA was able to assess the situation without giving undue weight to the editorializing of the FCPD. The Deputy CA explained that the statute creates an objective standard with respect to what induces fear by explaining that it is unlawful to hold any firearm "in such manner as to *reasonably* induce fear in the mind of another" (emphasis added). *See* Code of Virginia § 18.2-282. The objective reasonableness standard was not met here in the view of the Deputy CA because, among other things, the complaining witness had stated that the gun was never pointed at her, that the individual did

fact. Panel Members agreed that the Panel is not a place to go to request that cases be reopened. Rather, the Panel is supposed to investigate *police misconduct*, not underlying alleged crimes. Further, this after-the-fact observation did not demonstrate serious misconduct on the part of the officers. But it did, arguably, suggest that the Panel might make a police practice recommendation—which is squarely within its mandate—that investigations not be closed in advance of a full bodycam review.

not make any threats, and that the individual was simply walking into his building with the gun at his side. Further, this account was corroborated in an interview with the Alleged Perpetrator who also offered a reason why he had the gun, he was returning it to his apartment from the glove compartment of his car, and a reason he had the gun out, because the holster did not fit with his post-gym clothes. As such, the legal analysis explained there was no probable cause established for a criminal violation and no probable cause to make an arrest because the gun had not been held in a manner that an objectively reasonable person, as understood by the law, would interpret as a threat, regardless of whether the complaining witness here expressed subjective fear of the situation.

c. Additional Investigation into the Actions of the Supervising Officer.

The additional investigation reiterated points made in the prior investigation regarding the actions of the Supervising Officer. The additional investigation conceded that the Supervising Officer had acted in error. First, he had simply been wrong in asserting that there could be no arrest without a warrant in a case where the responding officers had not been witnesses to the incident because under Code of Virginia § 19.2-81, this is not a requirement for an arrest without a warrant. Second, as explained above, the Supervising Officer had been wrong to focus only on brandishing because brandishing is not a necessary element in all violations of Code of Virginia § 18.2-282. The additional investigation made clear that the Supervising Officer's actions were unacceptable and had been addressed by his Division Commander. While the actions were unacceptable and regrettable, however, there was no evidence that these mistakes were the product of bias and the additional investigation asserted that such mistakes did not constitute serious misconduct or abuse of authority.

VI. Second Panel Review Meeting

The Panel reconvened on September 1, 2022, to consider whether, with the benefit of the additional investigation provided, the investigation into allegations of serious misconduct and abuse of authority was complete, thorough, accurate, impartial, and objective. The Panel further attempted to look at the case and investigation holistically to consider what it could learn from the case in order to make recommendations to improve the policies and procedures of the FCPD.

The Complainants did not choose to participate in this meeting and were not present.

a. Discussion of the Additional Investigation

While IAB representatives attended the meeting, there was no question-and-answer session like in the prior meeting. Rather, the preamble to the discussion of the additional investigation was a request that the Executive Director share his thoughts on the additional investigation and information provided. The Executive Director reviewed the lines of inquiry requested as described above and offered his opinion that the additional investigation was adequate and thorough.

i. Additional Investigation: Statistical Analysis

The Panel was in agreement that the additional statistical analysis provided in response to its request was sufficient and that it revealed no anomalies in the history of the responding officers that would suggest bias.

There was disagreement among the Panel with the assertion made by Chief Davis in his response letter that proactive statistics—*i.e.* records of stops and arrest—are not useful in assessing a reactive situation—*i.e.* where the officer responds to a call for service like that made by the Complainant. One Panel member agreed with the Chief’s view that police dispatched to a scene is different than police acting on their own initiative. She wondered whether apples to oranges comparisons could be useful.

Other Panel members conceded that point but emphasized that the inclusion of such statistics is still necessary to *complete* a bias investigation. One Panel member noted that the Panel started asking for statistics as a prophylactic measure when bias is alleged to see if there is any history of bias that may reveal a potential motive in the underlying case. He explained that, in most cases one would hope that the statistics do *not* reveal a history of bias and are not all that useful. However, if the arrest and stop statistics are widely out of step with the police officers’ peers, this could be helpful information—or, as another Panel member put it, helpful “context”—in assessing bias in a present case. In other words, exposed anomalies could be revelatory, which is why the Panel started asking for such information in the first place. One Panel member made clear to the IAB representatives present that he intended to continue asking for such information in the future.

ii. Additional Investigation: The Supervising Officer

As noted during the First Review overview above, the Panel generally agreed with the IAB’s assertions that the deficiencies and mistakes by the Supervising Officer were not the product of bias and could be sufficiently addressed by providing additional training. For some members of the Panel, it was the actions of the Supervising Officer, especially the lack of communication with the Complainant Driver on the night of the incident and lack of subsequent, corrective follow-up with Complainant Mother that did more than anything to ensure that the case ended up before the Panel.

iii. Additional Investigation: Legal Analysis

As one Panel member observed, the charge to provide additional legal analysis into the question of whether a crime can be committed when a gun is held rather than brandished was largely “comingled” with the question of whether the responding officers and investigation adequately addressed the crucial element of fear in this case. This was because, as described above, the question was what it really means to hold a firearm “in such manner as to *reasonably* induce fear in the mind of another” and whether the responding officers were correct to not effectuate an arrest here.

The Panel continued to grapple with these questions as it did in its prior review meeting, and further grappled with the question in the context of the sufficiency of the investigation.

As to the latter issue, several Panel members pointed out that they were uncertain how to view the completeness of the legal analysis before them. For instance, one Panel member expected to see more because the legal analysis explained why the facts of this case did *not* present fear regarding the holding of the firearm that was “objectively reasonable” under the statute to warrant an arrest or prosecution, but did not go further to say explicitly what *would have* been enough for prosecution.

Other Panel members disagreed. Having been asked to obtain an independent legal analysis regarding the statute in question and whether the responding officers had acted appropriately and properly considered fear, the IAB went to the Deputy Commonwealth’s Attorney, provided him with all body cam footage, and received an explanation as to why there was no reason to prosecute this case (and further why the officers had acted appropriately in not effectuating an arrest). Importantly, as was noted, by providing all the bodycam footage to the Deputy Commonwealth’s Attorney, the IAB ensured that the legal analysis would not be overly influenced by how the police framed the case in their proffer. Thus, other Panel members argued, the IAB had adequately completed its task.

As to the substantive issue, some members of the Panel continued to question the analysis of the Deputy Commonwealth’s Attorney and to express further frustration around the law itself. One Panel member, for instance, while acknowledging that she did not believe that the Panel could really do anything more here, explained that she believed that any young person who found themselves confronted with the sight of a gun after having terse words with someone would be fearful and would probably think that they had seen a gun brandished “as a means of intimidation.”⁸ Another Panel member also emphasized that while she knew that guns are prevalent in society and the Commonwealth is an Open Carry jurisdiction, it was to her apparent that the “having words with someone” followed by the behavior shown would make for a scary situation. Still another Panel member expressed frustration at how difficult it is figure out “objective reasonableness,” and how difficult it is for the Panel to play judge and jury on such a question. Moreover, several members of the Panel acknowledged the difficulty of making such fear determinations given the many different emotional responses that one can

⁸ This Panel member, again while conceding that she probably thought the legal analysis was sufficient, also identified another specific concern in the case at hand. As she explained, in her experience and in society, people of color often appear to be treated as older than they actually are and given less latitude to be young. To her in this instance, she felt that the Complainant Driver, a twenty-one-year old, had been asked a question—what kind of gun was it?—more appropriate for a mature adult than a scared kid. This Panel member’s view of the inappropriateness of that specific question was not necessarily shared by other members of the Panel who believed the question and those like it regarding a description of the gun were necessary, and by another token, many would assert that a twenty-one-year old has reached the age of maturity in the eyes of society and the law, but the Panel member’s point is still well taken, and only emphasizes another challenge in this case: the age disparities of the participants involved.

have to scary situations.⁹ Another Panel member noted that cultural bias could be a factor in scenarios involving Complainants who do not display sufficient fear or whose allegations of fear are deemed objectively reasonable by the prosecutor. One Panel member expressed her belief that if the responding officers had read the statute in full, an arrest would have occurred.

But other members of the Panel agreed with the Deputy Commonwealth's Attorney's analysis and asserted that the facts before the responding officers at the time did not support probable cause for an arrest (and they did not *require* an arrest). Accordingly, a finding of serious misconduct or abuse of authority based on bias simply was not appropriate. As one Panel member put it, the statute contemplates that there are instances involving the holding of guns where no crime is committed "regardless of how scared [the complaining witness] may have [actually] been." The same Panel member also urged the Panel to confine its review of the legal analysis (and the investigation itself) to the facts of the case before it and not the legitimate and understandable gut feeling and intuition (in the words of the Panel member: "especially among the Black and Brown members of the Panel") that the officers may have taken a different approach with the races reversed. Confined to the case, the legal analysis and the officers' actions to not arrest the Alleged Perpetrator were reasonable. Another Panel member emphasized that he shared some of the same frustrations with the state of the law as had been expressed, and that he shared some of the same perceptions of what could or should cause fear.¹⁰ But he pointed out that such perceptions were not necessarily in line with the law in an Open Carry Commonwealth. Further, the facts as presented to the responding officers, including the fact that the gun was down at the side, that the Alleged Perpetrator said nothing additional to the Complainant Driver after asking if she was going to move out of a parking spot minutes before, that there was a witness who supposedly told the Complainant Driver that things were OK, and that the interview with the Alleged Perpetrator largely confirmed these facts, did not create probable cause for arrest.

Finally, as to the question of how the legal analysis informs what *should* have happened, there were strong sentiments from several Panel members that the responding officers' de-escalatory tactics were themselves commendable. As one Panel member put it, he found it hard to fault officers who responded in a calm and de-escalatory manner that "he would like to see" from police officers as often as possible. In fact, it was in part his concern about how police officers have violently responded to other instances of legal gun owners of color notifying police of the presence of their guns that made that Panel member applaud a situation in which that did not happen. Another Panel member cited General Order 540, which emphasizes the importance of de-escalatory strategies when possible and suggested that he did think "we want a situation where if the races were reversed the black legally armed person would not be arrested" based

⁹ For instance, for one Panel member, it did not make sense that a person's response to a situation she found fearful would be to call her mother rather than 9-1-1; for another Panel member, just the opposite was true.

¹⁰ Indeed, he surmised that the principle of Open Carry for protection perhaps necessarily includes a component of intimidation of other (carrying openly means displaying a gun in a manner that protects you by alerting to others that you are armed and potentially dangerous).

on the facts before the Panel here because the de-escalatory element should be applied universally.

b. Panel Purpose and Vote

During deliberations, a common discussion among the Panel emerged as to what its role really is and how it is supposed to approach the Complaints before it. That discussion involved both assertions of the importance of the Panel “staying in its lane” in terms of assessing individual cases (and individual officer actions), but also that the Panel’s role is to be a *civilian* review Panel that candidly expresses and elevates *civilian* and *public* views. This led, for instance, one Panel member to make clear that even though she would ultimately concur in the findings of the case based on the rubrics of Panel review, she wanted it on the record that certain aspects of the case troubled her and that she felt the pain and frustration of the Complainants. Another Panel member emphasized that the Panel had been highly conscientious and deliberative in arriving at its conclusions. Still another Panel member emphasized that concurrence (and even, in his case, a belief in the appropriateness of the individual officers’ actions here) was neither a belief that the police acted perfectly nor an assertion that there were not things that could be learned from this process.

In the end, the Panel voted unanimously that the initial investigation and the additional investigation were complete, thorough, accurate, objective, and impartial. The Panel also voted to produce at its next meeting recommendations based on the deliberations and discussed.

VII. Analysis and Conclusions

The Panel’s dual mission clearly presented a challenge in this case.

On the one hand, the Panel’s mission is case-specific. The Panel’s first stated purpose in its bylaws is to “Review certain Investigations to ensure the thoroughness, completeness, accuracy, objectivity, and impartiality of the Investigations [into alleged police misconduct].” *See* Bylaws Article II.A.

On the other hand, the Panel’s mission is to engage in broad, systemic review. The Panel also exists to “[m]ake recommendations on law enforcement policies, practices, and procedures to assist the FCPD Chief of Police (“Chief”) and Board of Supervisors in policy review.” *See* Bylaws Article II.C.

What the Panel had before it was a case in which police officers acted in a calm, de-escalatory, and professional manner to best assess the facts before them. They did not lead the complaining witness but neither did they discount her concerns. They asked necessary and useful questions. They did not promise an arrest but nor did they tell the complaining witness that her concerns were unfounded.

The officers were candid with the Alleged Perpetrator as to the situation at hand, but not aggressive. Responding and reacting to the conversation and the facts and circumstances

surrounding them, the officers did not rush to judgment with respect to the actions of a gun owner and his possession of a legal firearm. Although the situation concerned very real, expressed fear and the presence of lethal weaponry, no actions were taken that could have likely led to a deadly confrontation.

In a County where there have unfortunately been five officer-involved shootings as of the time of this report, in a country where gun violence is an epidemic, and in a Commonwealth where open carry is legal and there are hundreds of thousands of registered guns,¹¹ this is an outcome that should be welcomed. Multiple Panel members specifically commended the responding officers on how they handled a potentially volatile situation.

At the same time, the Panel can and must acknowledge the frustrating nature of this case for the Complainants and for Community Members. Although there is no evidence that the officers in this case acted with bias, and there is a sincere hope that the racial makeup of the complaining witness and the alleged perpetrator is not definitive here, there is real, justifiable concern that it could be. There are simply too many well-known examples across the country of Black gun owners who did not meet with the same fate when carrying legally owned firearms to discount.¹²

Further, this concern, especially for the Complainants themselves, could have only been exacerbated by the failure to effectively communicate the rights of the Complainants and the mistake that probably cut off all further investigation of the incident. (Notably, the Panel makes no comment on what that investigation would have or would not have revealed.)

In the end though, based on the record before it, the Panel must find that the investigation was complete, thorough, accurate, impartial, and objective, and that the responding officers (if not their supervisor) generally acted appropriately. Put most basically, the responding officers did not abuse their discretion nor were they, as explained by an independent legal analysis, wrong to find no probable cause here. As such, their behavior did not constitute serious misconduct or abuse of authority.

But importantly, this case-specific determination is not a systemic analysis. The Panel does not make this determination out of confidence that if the races had been reversed the situation would have been handled in the same manner, but perhaps despite the lack of such confidence. Rather, what arguably becomes clear in reviewing this incident while acknowledging that reality is that police *can* handle volatile situations in a calm and professional manner *when race and implicit bias do not cloud the judgment of the actors involved*.

¹¹ See World Population Review, “Gun Ownership by State,” <https://worldpopulationreview.com/state-rankings/gun-ownership-by-state>.

¹² See, e.g., the killing of Philando Castile (<https://www.nytimes.com/2017/06/26/us/philando-castile-family-settlement.html>), the killing of Donovan Lynch (<https://www.washingtonpost.com/dc-md-va/2021/11/30/va-beach-donovan-lynch-shooting-police/>), or the killing of Amir Locke (<https://www.washingtonpost.com/nation/2022/02/15/amir-locke-police-shooting-explainer/>).

It is for that reason that the Panel sincerely hopes that the FCPD will find a way to use a case study of this incident in its trainings and officer development going forward. This incident arguably displayed the intersection of race, gender, and gun issues facing society and police departments today. Reviewing the de-escalatory approach taken by the responding officers while asking police officers to consider how the racial, gender, and age makeup of the participants may or may not have affected outcomes would be a useful tool in training officers to treat all who they encounter equally and respectfully while also engaging in effective harm avoidance. This is essential where police officers themselves face potentially explosive situations understanding that they may not be the only armed individuals involved, situations that if improperly escalated can have deadly consequences. Finally, a case study of this incident would be useful in any discussion of how implicit bias affects perception and policing.

VIII. Recommendations

1. The FCPD should, if not already a part of its training, develop a training based on the facts and circumstances of this case that considers how race, gender, age, and socioeconomic status affect policing and de-escalation. This training should be provided to trainees at the Criminal Justice Academy and to officers throughout the FCPD.
2. In order to emphasize and maintain compliance with General Order 201.1 “Knowledge and Obedience to Laws, Regulations, and Training,” FCPD officers should be encouraged to directly consult criminal code language when in the field when time and circumstances permit. Such consultation can aid both in proper application of the criminal code and in providing accurate and useful information to alleged victims.
3. FCPD officers should directly consult the criminal code in advance of all follow-up interactions with alleged victims.
4. General Order 501.II should be revised to add the italicized language that follows: “Victims and witnesses shall be provided with assistance pertaining to victim’s rights, their role in the court process, *the magistrate’s role in the court process*, support services, and any other needed resources required by law or Department policy.”
5. General Order 501 should be revised to require that responding officers take all deliberate care to follow up with crime victims and complainants before the end of their shifts and leave voicemail messages when necessary.
6. FCPD implicit bias training should, to the extent that it does not, consider how implicit biases may affect how FCPD officers interact with alleged *victims* and *witnesses* in addition to alleged perpetrators.
7. With respect to Complaints that include allegations of bias and/or racial profiling, the arrest, stop, community contacts, and search statistics of the officers involved shall be provided to the Police Civilian Review Panel in the IAB investigation file.

APPENDIX D: Panel Outreach in 2022

Faith and Community Organizations and Events

- ❖ Hybla Valley Community Back-to School Fair
- ❖ Bethlehem Baptist Church Community Event
- ❖ National Night Out (South County)
- ❖ Faithful Servants Award Ceremony
- ❖ Gum Springs Community Center*
- ❖ NAACP
- ❖ Honduran and El Salvadorian Consulate
- ❖ 2nd Story Culmore meet and greet
- ❖ First Baptist of Vienna*
- ❖ Dar Al-Hijrah Islamic Center*
- ❖ Pozez Jewish Community Center*
- ❖ James Lee Center*
- ❖ Temple Rodef Shalom*
- ❖ Capital Youth Empowerment Program
- ❖ Omega Psi Phi Fraternity, Inc., Psi Alpha Alpha Chapter Achievement Week Breakfast

Public Forums

- ❖ PCRFP First Annual Reception
- ❖ PCRFP First Annual Interfaith/Public Safety Breakfast

Fairfax County Police Department

- ❖ FCPD Leadership Staff Meetings
- ❖ Introductory meeting with Internal Affairs Bureau
- ❖ FCPD Station visits

Other Outreach

- ❖ Inside Scoop (Fairfax Public Access Channel 10)
- ❖ Channel 16 Police Oversight Discussion

*denotes a location where a Panel meeting was held

APPENDIX E: Panel Recommendation Matrix

POLICE CIVILIAN REVIEW PANEL RECOMMENDATIONS MATRIX

Working version 06/05/2023

<u>Report</u>	<u>Panel Recommendation</u>	<u>FCPD Action</u>	<u>Status (as determined by the Panel)</u>
<p>As per the February 2, 2023 Panel Meeting</p>	<p>The Panel requests a 30 day response on all recommendations moving forward - either by taking action or making a request for more time if needed.</p>	<p>FCPD will continue to respond to PCRCP requests in a timely manner. When achievable, the FCPD will respond within 30 business days to panel requests that are independently communicated in writing to the FCPD. Recent miscommunications have caused delays in the FCPD receiving recommendations from the PCRCP. This process has been addressed and should prevent any future avoidable delays. The reconstitution of previous best practices of the FCPD receiving the PCRCP requests in independently written and dated form will prevent any future ambiguity of the request(s) itself or the date requested.</p>	
<p>CRP-22-06 (Published October 14, 2022)</p>	<p>The FCPD should, if not already a part of its training, develop a training based on the facts and circumstances of this case that considers how race, gender, age, and socioeconomic status affect policing and de-escalation. This training should be provided to trainees at the Criminal Justice Academy and to officers throughout the FCPD.</p>	<p>See attached response letter</p>	
<p>CRP-22-06 (Published October 14, 2022)</p>	<p>In order to emphasize and maintain compliance with General Order 201.1 "Knowledge and Obedience to Laws, Regulations, and Training," FCPD officers should be encouraged to directly consult criminal code language when in the field when time and</p>	<p>See attached response letter</p>	

	circumstances permit. Such consultation can aid both in proper application of the criminal code and in providing accurate and useful information to alleged victims.		
CRP-22-06 (Published October 14, 2022)	FCPD officers should directly consult the criminal code in advance of all follow-up interactions with alleged victims.	See attached response letter	
CRP-22-06 (Published October 14, 2022)	General Order 501.II should be revised to add the italicized language that follows: "Victims and witnesses shall be provided with assistance pertaining to victim's rights, their role in the court process, <i>the magistrate's role in the court process</i> , support services, and any other needed resources required by law or Department policy."	See attached response letter	
CRP-22-06 (Published October 14, 2022)	General Order 501 should be revised to require that responding officers take all deliberate care to follow up with crime victims and complainants before the end of their shifts and leave voicemail messages when necessary.	See attached response letter	
CRP-22-06 (Published October 14, 2022)	FCPD implicit bias training should, to the extent that it does not, consider how implicit biases may affect how FCPD officers interact with alleged <i>victims</i> and <i>witnesses</i> in addition to alleged perpetrators.	See attached response letter	
CRP-22-06 (Published October 14, 2022)	With respect to Complaints that include allegations of bias and/or racial profiling, the arrest, stop, community contacts, and search statistics of the	See attached response letter	

	officers involved shall be provided to the Police Civilian Review Panel in the IAB investigation file.		
CRP-20-20 and CRP-20-21 (Published May 10, 2021)	The FCPD should consider how officers respond to incidents where the scene does not match the description in a 911 call, provide the necessary training to officers on these situations, and whether they can investigate calls as potential false police reports.	FCPD has taken this recommendation under consideration and will research best practices to ensure General Order 520.3 (Hostage/Barricaded Persons) reflects these suggestions in future revisions.	
CRP-20-20 and CRP-20-21 (Published May 10, 2021)	The FCPD should review and revise General Order 601.4 regarding how officers identify and announce themselves when responding to domestic service calls, clarify the situations when they are permitted to delay in announcing or otherwise identifying themselves, and ensure that officers are properly trained in implementing a revised general order.	Current version of 601.4 Section IV, Subsection C, states officers <i>“shall identify themselves as police officers, explain the reason for their presence, and request entry into the home.”</i> Officers are also expected to use proper discretion when circumstances indicate or suggest there are potential weapons involved in an event, or a potential subject could be looking to ambush an officer arriving at a domestic event, as domestic events constitute highly unpredictable and dangerous events for responding officers. All officers are required to acknowledge General Order revisions via Power DMS. Supervisors are required to ensure officers under their guise are up to date on new policies and procedures and schedule squad	Implemented by FCPD Panel requests that the FCPD consider adding the explanatory sentence highlighted to the next version of the General Order.

		training initiatives as necessary to ensure compliance.	
CRP-20-20 and CRP-20-21 (Published May 10, 2021)	The FCPD should consider how it can better communicate with Complainants the outcomes of its investigations, including whether such communication should go beyond standard disposition letters.	Complaints in all formats are accepted by the FCPD and proper acknowledgment is provided at the time of receipt that the complaint will be investigated and followed-up on. Investigating supervisors are expected to inform complainants that their cases will be investigated thoroughly and as expeditiously as possible depending upon the nature and complexity of the specific allegation(s). Once an investigation has concluded, supervisors are expected to notify complainants as such and note the case is under a review and action process at the command level. Disposition letters are sent once the investigation has resolved, with a thorough recitation of the facts and circumstances of the allegation, as well as a recitation of FCPD investigative findings. These letters also include contact information for appeals to both CRP and the Office of the Independent Police Auditor. Any inquiry regarding case status during the investigative process from a complainant is required to be responded to in a timely manner.	

<p>CRP-20-19 and CRP-20-27 (Published February 9, 2021)</p>	<p>The FCPD should create a policy requiring all district station interviews be recorded.</p>	<p>FCPD General Order 501.2 covers Investigative Responsibilities but makes no reference to recording of interviews. Since the last revision (04-01-13), all district station interview rooms have been equipped with audio/video technology. In-progress revisions to this General Order will note that all investigating officers/detectives ensure interviews are recorded unless unusual/unforeseen circumstances (ex: technology failures, interviews in outdoor environments) exist. Also, it should be noted that officers equipped with body-worn cameras are required to activate them during any rendering of police service unless unusual circumstances exist (ex: hospital, schools, bathrooms) or whenever interviewing victims of sexual assault for their privacy concerns.</p>	<p>Implemented by FCPD</p>
<p>CRP-20-19 and CRP-20-27 (Published February 9, 2021)</p>	<p>The FCPD should ensure that all FCPD Officers are informed of its policy 501.2 Investigative Responsibilities.</p>	<p>All officers are required to acknowledge via PowerDMS signature any revisions to Department policy, to include General Orders, SOPs, and Department-wide Command Staff Memorandums. These signatures are audited and any officer failing to acknowledge is notified via their direct supervisor. As</p>	<p>Implemented by FCPD</p>

		mentioned above, General Order 501.2 is under revision and once completed will necessitate officer acknowledgement.	
CRP-20-19 and CRP-20-27 (Published February 9, 2021)	The FCPD should encourage the Fairfax County Sheriff to record and preserve video taken from inside the Fairfax County Adult Detention Center.	As the FCSO constitutes a separate agency run via an elected official (Sheriff Stacey Kincaid), it would be inappropriate for FCPD to make best practices recommendations to her agency. CRP recommendations on FCSO policies and practices should be made directly to the FCSO by the Panel.	Not Implemented by FCPD. The Panel understands that the Sheriff is an elected official, but given the degree to which the FCPD does ultimately interact with and work with the Sherriff's office, we think such encouragement is entirely appropriate.
CRP-19-29 (Published October 23, 2020)	"The FCPD should develop objective criteria and processes to evaluate allegations of bias or profiling (as pertains to race, ethnicity, sexuality, religion or sexual orientation) in internal investigations of complaints against officers. These criteria may include (1) searching the officer's public social media profiles; (2) interviewing coworkers in the officer's unit and other potential witnesses; (3) quantitatively and/or qualitatively analyzing data (by trained analysts) from community contacts, stops, searches and arrests; and (4) comparing the circumstances and claims of the current complaint to any prior complaints.	<ol style="list-style-type: none"> 1) All Internal Affairs investigations receive an open-source social media inquiry as of April 1, 2020. 2) General Order 301, Internal Investigations, states that witnesses shall be interviewed if they would assist in an investigation. Regulation 201.3, Obedience to Laws, Regulations, and Training, as it pertains to Regulation 201.5, Reporting Violation, states any employee shall immediately report any 	<ol style="list-style-type: none"> 1) Implemented by FCPD. 2) Not Implemented by FCPD. Presently being reviewed by the FCPD following the January 26, 2021 decision by the Board of Supervisors in CRP-29-19 directing the FCPD to take further action,

	<p>Quantitative analysis of data should not be limited to descriptive analyses, but when appropriate, should include bivariate and multivariate analyses to ensure that appropriate variables are considered. The investigation file should contain a clear evaluation and summary of the officer's actions under each of the criteria listed above."</p>	<p>violation, including bias-based policing.</p> <p>3) Arrests and traffic statistics are publicly shared on the FCPD website. IAB is in the process of procuring a Management Analyst to perform quantitative and qualitative analysis of public safety data.</p> <p>4) To ensure qualitative analysis, consistency and thoroughness, the administrative due process includes several levels of review up to the Chief of Police in each administrative investigation. These levels of review include prior consideration of sustained allegations against the subject employee, and appropriate action to be taken for further sustained violations of patterns of conduct. Use of criterion of "circumstances and claims of the current</p>	<p>including conducting interviews with the officer's co-workers.</p> <p>3) Pending further analysis by the FCPD. Data analysis conducted for investigations must include quantitative and qualitative analysis of community contacts and stops by officers, as well an analysis of publicly shared data on arrests and traffic statistics.</p> <p>4) FCPD explanation is responsive.</p>
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		complaint to any prior complaints” is subjectively vague and non-definitive as it pertains to whether or not an officer engaged in either unlawful or procedurally violative conduct.	
CRP-19-29 (Published October 23, 2020)	“All community contacts, stops, searches and arrests by the FCPD should be entered into the data management system. Data analysis of an officer’s community contacts, stops, searches and arrests should be broken down by the race and ethnicity of community members. Data on community contacts should be broken down as follows: (1) community contacts that remain consensual for the duration of the encounter; (2) community contacts that evolve into detentions by virtue of reasonable suspicion; and (3) community contacts that evolve into detentions by virtue of probable cause. Officers should also enter into the data base the reasons for the community contact, stop, search or arrest. Such rationale should be coded (i.e., by a particular violation of law, type of behavior, appearance, time, place, etc.). If a community contact evolves into a detention, the officer should enter into the data base the reasons for such detention.”	General Order 603.4, Police Community Member Contacts, and General Order 601, Arrest Procedures, requires specific documentation regarding all community member contacts, including voluntary contacts. FCPD is currently in the process of upgrading agency record management systems which will further enhance tracking.	Pending upgrade to FCPD’s data management system.
CRP-19-29 (Published October 23, 2020)	“Data analysis of an officer’s community contacts, stops, searches and arrests should be compared and contrasted with comparable data from the district	For all bias allegations, the Internal Affairs Bureau conducts an 18-month examination of the officer’s arrests and citations. This data is compared	Pending upgrade to FCPD’s data management system.

	<p>station where the incident occurred and the county as a whole. The data analysis should also take into account the racial and ethnic composition of each district as compared to the county overall.”</p>	<p>to pertinent station demographics. The demographics of each district station and the County are publicly available in the IAB annual report.</p> <p>FPCPD is assessing capabilities of reviewing officer field contacts and searches in future RMS programs. Currently searches of these descriptions are limited to technological limitations inherent in I/LEADS RMS. With implementation of a new RMS in the future, the hope is that tracking of contacts and searches, the two recommended data points, will be more feasible, changing policy on how the Department tracks field contacts and searches.</p>	
<p>CRP-19-29 (Published October 23, 2020)</p>	<p>“For the purposes of investigations into allegations of bias or profiling, data analysis of the officer’s community contacts, stops, searches and arrests should cover a period of 3-5 years, or if the officer has less tenure, for the duration of his service in the FCPD. If during the prescribed time period the officer has worked in different districts within the county, the review and analysis of the officer’s community contacts, stops, searches and arrests should not be limited to the district where the officer is assigned at the moment, but rather should include all such encounters in every county district where the officer served during the time period.”</p>	<p>Bias investigations include an 18-month statistical analysis of the officer’s arrests and citations, comparing them with other officers at the same station. Historic database software is only capable of tracking certain data. System replacement and procurement will permit advances to add tracking fields and information categories.</p>	<p>Pending upgrade to FCPD’s data management system.</p>

<p>CRP-19-29 (Published October 23, 2020)</p>	<p>“Like the efforts the FCPD has undertaken to analyze and identify use of force incidents, the FCPD should consider creating an early warning system to alert commanders as to whether an officer’s community contacts, stops, searches or arrests are excessive and disproportionate for a particular race or ethnic group.”</p>	<p>Since November 2012, per policy, the FCPD has utilized an Early Identification System.</p> <p>Monitored incidents include administrative investigations (including cruiser crashes), initial inquiries, forced entries, de-arrests, off-duty traffic citations, off-duty civil and criminal court actions, use of force, and pursuits. Community contacts, stops, searches, and/or arrests are non-dispositive of whether or not an officer has potentially engaged in bias-based policing which FCPD has an absolute prohibition against its employees engaging in. These actions are based upon legally defined standards of probable cause and reasonable suspicion, regardless of race or ethnicity. Where these legally defined standards are non-existent, searches, stops, and arrests would be improper and ultimately unlawful. Where a complaint is made that any officer engaged in disproportionate policing, that complaint would automatically initiate an administrative investigation, which would account as stated above as a qualifying EIS event. This also includes supervisor audits and reviews of officer BWC and ICV</p>	<p>FCPD explanation is responsive.</p>
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		footage to ensure stops, arrest, and searches are within FCPD policy.	
CRP-19-29 (Published October 23, 2020)	“The FCPD should retain an independent expert on implicit bias to examine all law enforcement policies, practices and training for the purpose of recommending evidence-based strategies to mitigate the impact of implicit bias on policing.”	<p>In addition to mandatory County and/or agency training on bias, the Fairfax County Police Department is currently engaging an outside independent expert to train implicit bias, the understanding of implicit bias; procedural justice; “<i>trust building</i>,” and detecting and addressing institutional and structural racism.</p> <p>Independent subject matter experts on bias have lectured to Command Staff.</p> <p>Bias and culture-based training has been offered to employees through academy and other venture partnerships.</p>	Training implemented. Further explanation is required as to the examination of all law enforcement policies and practices.
CRP-19-29 (Published October 23, 2020)	“Officers should receive implicit bias training on an annual basis.”	The FCPD Equity Team and its Ambassadors will receive specialized independent bias-based training. This education will provide a unique, cutting-edge platform for organizations to build a foundational capacity to address or discuss equity gaps, race, equality, cultures, and unity. The independent expert will also train-the-trainer for annual	Implemented by FCPD.

		refresher courses on implicit bias, procedural justice, and <i>trust building</i> .	
2019 Annual Report (Published February 28, 2020)	“Where the evidence gathered during an Investigation into a Complaint of racial bias does not offer a race-neutral explanation for the conduct of the accused officer, the FCPD should continue to investigate seeking some explanation for the officer’s conduct by obtaining reasonably available evidence that will corroborate either a race-neutral or race-biased explanation such as examining the officer’s social media accounts and/or interviewing witnesses.”	This recommendation is counter intuitive. Where there is no “race-neutral explanation,” to explain officer conduct, then by default the conduct would fall within the purview of bias-based or discriminatory conduct and appropriate action would be taken swiftly by the Department. Where conduct falls within these parameters, all available investigatory measures will be taken to ascertain the root of why the action took place. The Fairfax County Police Department Internal Affairs Bureau conducts investigations into all complaints involving any allegation of perceived bias. Bias-based complaints will include obtaining all available evidence; such as, but not limited to, witness statements, videos, publicly available social media, statistics, reports, etc. Consistent with all investigations completed by the police department; any available evidence is thoroughly examined for appropriate response and lawful action.	FCPD explanation is responsive. The Panel’s recommendation is that the FCPD proactively continue to investigate to find corroborating evidence, if the available evidence does not offer a “race-neutral explanation” (including times when there simply is no explanation) for the conduct of the officer. The Panel recommends (see recommendation in CRP-19-29) that the FCPD develop objective criteria and processes to evaluate allegations of bias or profiling separate from its normal investigation processes.
CRP-19-11 (Published			Implemented by FCPD.

<p>January 15, 2020)</p>	<p>“With respect to obvious, known witnesses who are not interviewed, Investigation Reports should include an explanation for why such an interview failed to occur.”</p>	<p><u>General Order 301</u>, Internal Investigations, states that witnesses shall be interviewed if they would assist in an investigation of a complaint or incident. Commanders were reminded of this policy in a March 2020 Command Staff meeting. Furthermore, Bureau Commanders are responsible for ensuring all investigative tasks have been properly completed as an additional quality control and review oversight protocol.</p>	
<p>CRP-19-11 (Published January 15, 2020)</p>	<p>“FCPD civilian ride-a-long individuals should be tracked and recorded in all instances. A police ride-a-long individual should never be unknown such that when an incident containing alleged misconduct is investigated, the civilian witness cannot be determined.”</p>	<p><u>General Order 430.3</u> sets policy and procedure for each Ride-Along to include maintenance of the application and required documentation for every Ride-Along. Commanders were reminded of this importance during a Command Staff meeting in March 2020.</p>	<p>Implemented by FCPD.</p>
<p>CRP-19-11 (Published January 15, 2020)</p>	<p>“The FCPD should implement a clear policy for what officers should do in situations where children are left unattended by detained individuals to make sure that such children are safe during such incidents.”</p>	<p>FCPD policy requires officers to “<i>preserve the sanctity of life</i>” and, as community caretakers, officers must attend to the needs of any person who is unable to care for themselves as expeditiously as possible. <u>Regulation 201.6, Preservation of Peace and Protection of Life and Property</u>, states:</p>	<p>Implemented by FCPD.</p>

		<p><i>“It shall be the duty of each sworn officer of the Department to:</i></p> <ul style="list-style-type: none"> • <i>Preserve the public peace;</i> • <i>Protect life and property; and</i> • <i>Enforce and uphold the laws of the Commonwealth of Virginia and the ordinances of the County of Fairfax.”</i> <p>This policy requires officers to attend to children, and any other person who is left alone and unable to care for themselves, under their oath as a sworn officer to protect life. Furthermore, officers are provided guidance from <u>the Fairfax County Family Services Child Supervision Guidelines</u> regarding unattended minors and children.</p>	
<p>CRP-18-27 (Published July 12, 2019)</p>	<p>“[T]he Panel recommends that in the future the Department refrain from publicly releasing [investigatory information pertaining to the Complainant’s social media accounts], because it “discourages individuals from filing future complaints,</p>	<p>Respectfully disagree. Open source information is by definition, available publicly to all individuals and entities. Where an individual posts publicly available information of relevance to an investigation, the Department will</p>	<p>Implemented by FCPD, as the Panel understands the response to be to the Panel’s prior belief that</p>

	and it undermines community trust in the Panel.” If the FCPD believes such information is relevant to the investigation, “that information should be included only in the Department’s investigative file.”	examine this content for relevancy as it pertains to either a criminal or administrative investigation. The Department does not publicly release the findings of administrative investigations, except in the rarest of occasions where, due to public request, the Department would be compelled to disclose whether an accused officer was found in violation of Department policy. The Department does not publicly post administrative investigatory information in any event, and that information is kept confidential within the Department unless subjected to court-ordered discovery or in accordance with the Code of Virginia. All of the information was obtained via public websites from a Google search. The information that was released was already publicly available on the internet.	this was “not implemented” because in fact the FCPD will not be publicly releasing social media information of complaints.
2018 Annual Report (Published March 21, 2019)	FCPD disposition letters to the complainant upon conclusion of FCPD investigations, “must contain sufficient, specific detail to provide complainant with a clear understanding of the scope of the FCPD investigation and the rationale for the FCPD findings.”	The FCPD co-produced a disposition letter with members of the community. Commanders who author these letters were then trained on the new form in September. Since that time, the new form has been in use.	New format for more explanatory disposition letters has been adopted by the FCPD and is being implemented.

<p>2018 Annual Report (Published March 21, 2019)</p>	<p>“Action Item 17, dated December 6, 2016 (p. 278), limits the Panel’s ability to include salient facts in public reports. This restriction inhibits “the Panel’s ability to achieve its purpose ‘to enhance police legitimacy and to build and maintain public trust between the FCPD, the Board of Supervisors and the public.”</p>	<p>During Quarterly Meetings, FCPD representatives coordinated with the CRP in preparation of the proposed Action Item that was adopted by the Board of Supervisors on September 24, 2019, giving the Panel the authority to disclose facts of the investigation in the Panel’s Review Reports, with certain restrictions.</p>	<p>Action Item adopted by the Board of Supervisors on September 24, 2019, gives the Panel authority to disclose facts of the investigation in Review Reports with certain limited restrictions.</p>
<p>2018 Annual Report (Published March 21, 2019)</p>	<p>“The Panel suggests that the Board of Supervisors require a quarterly meeting among the Chiefs of Staff for the Chairman of the Board of Supervisors and the Chairman of the Public Safety Committee, the FCPD Chief, and the Chair and Vice-Chair of the Panel to review Panel comments and recommendations and discuss the implementation of the same.</p>	<p>The FCPD supports the quarterly meetings and the sharing of information regarding Panel comments and recommendations. These meetings began in June 2019 and are continuing to occur with FCPD staff present for each of them.</p>	<p>Implemented by FCPD</p>
<p>CRP-18-26 (Published March 8, 2019)</p>	<p>“During FCPD administrative investigations, where statistical evidence is used, [the Panel] recommends the Crime Analyst Unit (CAU) be consulted in the gathering, preparation and reporting of the statistical data.”</p>	<p>The compilation of statistical evidence is the responsibility of the Analyst assigned to the Internal Affairs Bureau.</p>	<p>Implemented by FCPD</p>

<p>CRP-18-26 (Published March 8, 2019)</p>	<p>“The FCPD should make BWC and In-Car Video (ICV) footage available for viewing at Panel Review Meetings as requested by the Panel.”</p>	<p>Requests for the Panel to view video and audio footage will be approved on a case-by-case basis.</p>	<p>FCPD explanation noted. The Chief has committed to review any Panel request for footage and determine whether to release of requested footage on a case-by-case basis.</p>
<p>CRP-18-26 (Published March 8, 2019)</p>	<p>“The Panel recommends that the FCPD ensures that individuals involved in incidents with FCPD officers which are subject to a complaint be provided with an opportunity to review the video footage of the incidents.”</p>	<p>It has been the policy of the Police Department to allow complainants to view video footage consistent with <u>Body Worn Camera Pilot Program SOP 18-506, Section VII, Paragraph B</u> and <u>General Order 430.8, In Car Video Program Procedures, Section IV, Paragraph C-5</u>.</p>	<p>Implemented by FCPD</p>
<p>CRP-18-12 (Published <u>January 9, 2019</u>)</p>	<p>“The Panel recommends that FCPD periodically summarize and publish all FCPD discipline across the entire FCPD without specifically identifying the disciplined officer by name.”</p>	<p>In keeping with our commitment to transparency, the FCPD annually publishes an <u>Internal Affairs Bureau Statistical Report</u>, which is made available both within and outside of the Department. IAB is currently researching best practices. Once a template is developed, it will be discussed with the County Attorney for legal review. These reports are posted quarterly, and identify rank of the accused</p>	<p>Under Review by FCPD.</p>

		officer, allegation, disciplinary measures implemented, and disposition.	
<u>CRP-18-12</u> <u>(Published January 9, 2019)</u>	“The Panel recommends that the FCPD ensure that all concerns outlined in future Complaints be fully investigated and separately addressed in the Investigation Report.” (Officer’s demeanor was not explicitly discussed in the Investigation Report, even though it had been an issue in the Complaint).”	Complaints received by the FCPD are thoroughly investigated. As stated in your report, Major Reed assured the Civilian Review Panel (CRP) members that investigators take a holistic approach to ensure that all aspects of a complaint are addressed. Upon completion, all investigations are subject to a multi-layer review. This investigative review may be conducted by Station Commanders, Bureau Commanders, Deputy Chiefs, and the Chief of Police to ensure accuracy and thoroughness.	FCPD explanation noted.
<u>CRP-18-12</u> <u>(Published January 9, 2019)</u>	“The Panel recommends that the FCPD develop an efficient methodology to reintegrate some level of supervision over the submission of [FR300P accident report] forms [by FCPD officers].” The Panel concluded that the consequences for errors could be problematic, as certain insurance claims were initially denied based on erroneous information in the initial FR300P.”	Under the Traffic Records Electronic Data System (<u>TREDS</u>) system, which is a VA State Program, when an officer submits an FR300P, a layered approval process begins. The first layer is the TREDS system itself, which provides a real-time review to ensure all required fields are populated. After the TREDS system review, the report is submitted for internal review by the FCPD Central Records Division. The Central	The Panel accepts explanation of FCPD regarding supervision under TREDS System.

		Records Division has received specialized training on TREDs and have the delegated authority to accept or reject accident reports if they are not in compliance. In addition, the Central Records Staff distributes error reports to supervisory staff to ensure quality control and accountability.	
<u>CRP-17-10</u> <u>(Published March 26, 2018)</u>	"[T]he Complainant indicated in her statement to the Panel that, other than the Notification, she had not received any further explanation from the FCPD. The Panel recommends that the FCPD contact the complainant and offer her whatever additional explanation that is legally permissible and appropriate under the circumstances."	Letter signed by Station Commander was sent to the complainant indicating the officer's violation was addressed and how to seek additional recourse. Internal Affairs Bureau (IAB) personnel also had a phone conversation with the complainant to address their concerns.	Implemented by FCPD



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods, and diverse communities of Fairfax County

Kevin Davis
Chief of Police

May 4, 2023

Executive Director Steven Richardson
Fairfax County Police Civilian Review Panel
12000 Government Center Parkway, Suite 150A
Fairfax VA, 22035

**Lt. Colonel
Brian J. Reilly**
*Executive Deputy
Chief of Police*

Dear Executive Director Richardson:

The Police Civilian Review Panel (PCRP) requested a response to recommendations from the recommendations matrix on April 7, 2023.

**Lt. Colonel
Brooke D. Wright**
*Deputy Chief of Police
for Administration*

The panel requested a Fairfax County Police Department (FCPD) response on the following recommendations:

**Lt. Colonel
Eli Cory**
*Deputy Chief of Police
for Investigations*

1. The panel requests a 30 day response on all recommendations moving forward - either by taking action or making a request for more time if needed

**Lt. Colonel
Robert A. Blakley**
*Deputy Chief of Police
for Operations*

2. The FCPD should, if not already a part of its training, develop a training based on the facts and circumstances of this case that considers how race, gender, age, and socioeconomic status affect policing and de-escalation. This training should be provided to trainees at the Criminal Justice Academy and to officers throughout the FCPD.

**Major
Todd W. Billeb**
*Commander Internal
Affairs Bureau*

3. In order to emphasize and maintain compliance with General Order 201.1 "Knowledge and Obedience to Laws, Regulations, and Training," FCPD officers should be encouraged to directly consult criminal code language when in the field when time and circumstances permit. Such consultation can aid both in proper application of the criminal code and in providing accurate and useful information to alleged victims.

**Captain
Jane A. Burns**
*Commander,
Investigations Division
- Internal Affairs
Bureau*

4. FCPD officers should directly consult the criminal code in advance of all follow-up interactions with alleged victims.

**Lieutenant
Todd B. Sweeney**
*Assistant Commander,
Investigations Division
-Internal Affairs Bureau*

Fairfax County Police Department
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5. General Order 501.II should be revised to add the italicized language that follows: "Victims and witnesses shall be provided with assistance pertaining to victim's rights, their role in the court process, *the magistrate's role in the court process*, support services, and any other needed resources required by law or Department policy."
6. General Order 501 should be revised to require that responding officers take all deliberate care to follow up with crime victims and complainants before the end of their shifts and leave voicemail messages when necessary.
7. FCPD implicit bias training should, to the extent that it does not, consider how implicit biases may affect how FCPD officers interact with alleged *victims* and *witnesses* in addition to alleged perpetrators.
8. With respect to complaints that include allegations of bias and/or racial profiling, the arrest, stop, community contacts, and search statistics of the officers involved shall be provided to the PCRCP in the Internal Affairs Bureau investigation file.

The Fairfax County Police Department's Internal Affairs Bureau worked with the Planning and Research Bureau to provide the following responses to the PCRCP recommendations.

Recommendation One: *The panel requests a 30 day response on all recommendations moving forward - either by taking action or making a request for more time if needed*

FCPD will continue to respond to PCRCP requests in a timely manner. When achievable, the FCPD will respond within 30 business days to panel requests that are independently communicated in writing to the FCPD. Recent miscommunications have caused delays in the FCPD receiving recommendations from the PCRCP. This process has been addressed and should prevent any future avoidable delays. The reconstitution of previous best practices of the FCPD receiving the PCRCP requests in independently written and dated form will prevent any future ambiguity of the request(s) itself or the date requested.

Recommendation Two: *The FCPD should, if not already a part of its training, develop a training based on the facts and circumstances of this case that considers how race, gender, age, and socioeconomic status affect policing and de-escalation. This training should be provided to trainees at the Criminal Justice Academy and to officers throughout the FCPD.*

In 2021 FCPD implemented an agency wide procedural justice training program. This class addresses the influence race, gender, age, sexual orientation, occupation, mental illness, disability, and other identifiers may potentially have on decision-making processes by officers. This training was mandatory for all FCPD officers.

The FCPD, through General Order 002 (Human Relations), strictly prohibits its members from performing any law enforcement activity conducted solely upon the basis of race, sex, gender, gender identity, sexual orientation, color, national origin, ethnicity, creed, religion, disability, or other personal characteristic(s). All FCPD officers receive mandatory annual training on this topic and FCPD recruits receive initial training while attending the Criminal Justice Academy.

In order to emphasize and maintain compliance with General Order 201.1 "Knowledge and Obedience to Laws, Regulations, and Training," FCPD officers should be encouraged to directly consult criminal code language when in the field when time and circumstances permit. Such consultation can aid both in proper application of the criminal code and in providing accurate and useful information to alleged victims.

Regulation 201.1 requires officers to maintain a working knowledge of laws and ordinances in effect in both the Commonwealth of Virginia and Fairfax County. Officers have direct access to the Code of Virginia and the Fairfax County Code of Ordinances through the FCPD Intranet site which can be accessed in the field or at any police facility. As part of maintaining DCJS accreditation, police officers are required to comply with legal training hours biennially, which are provided through in-service training at the Fairfax County Criminal Justice Academy via the Fairfax County Attorney's Office. Patrol officers are also routinely encouraged to consult with both their supervisors and members of the Office of the Commonwealth's Attorney for legal guidance when available and feasible under the circumstances. The department's Planning and Research Bureau also disseminates annual legal updates to all members of the agency as they originate from the Virginia General Assembly, as well as provides case synopsis summaries stemming from the case holdings of the Supreme Court of the United States, the United States Court of Appeals for the 4th Circuit, and any other court of applicable jurisdiction.

Recommendation Three: *In order to emphasize and maintain compliance with General Order 201.1 "Knowledge and Obedience to Laws, Regulations, and Training," FCPD officers should be encouraged to directly consult criminal code language when in the field when time and circumstances permit. Such consultation can aid both in proper application of the criminal code and in providing accurate and useful information to alleged victims..*

Regulation 201.1 requires officers to maintain a working knowledge of laws and ordinances in effect in both the Commonwealth of Virginia and Fairfax County. Officers have direct access to the Code of Virginia and the Fairfax County Code of Ordinances through the FCPD Intranet site which can be accessed in the field or at any police facility. As part of maintaining DCJS accreditation, police officers are

required to comply with legal training hours biennially, which are provided through in-service training at the Fairfax County Criminal Justice Academy via the Fairfax County Attorney's Office. Patrol officers are also routinely encouraged to consult with both their supervisors and members of the Office of the Commonwealth's Attorney for legal guidance when available and feasible under the circumstances. The department's Planning and Research Bureau also disseminates annual legal updates to all members of the agency as they originate from the Virginia General Assembly, as well as provides case synopsis summaries stemming from the case holdings of the Supreme Court of the United States, the United States Court of Appeals for the 4th Circuit, and any other court of applicable jurisdiction.

Recommendation Four: *FCPD officers should directly consult the criminal code in advance of all follow-up interactions with alleged victims.*

As previously mentioned, Regulation 201.1 requires officers to maintain a working knowledge of laws and ordinances in effect in both the Commonwealth of Virginia and Fairfax County. Officers have direct access to the Code of Virginia and the Fairfax County Code of Ordinances through the FCPD Intranet site which can be accessed in the field or at any police facility, as well as access to the Office of the Commonwealth's Attorney, County Attorney's Office, their direct supervisors and commanders, and other legal resources as available.

Though each individual officer, based upon their training and years of experience may have varying levels of expertise with the Code of Virginia based upon their assignment and experience, a mandatory requirement of consulting the criminal code may not always be necessary in every instance. FCPD officers, like most police officers around the nation, are routinely called upon to address, mitigate, and resolve a myriad of disputes, issues, and quandaries, not all of which are predicated upon legal interpretation of a statute, ordinance, or judicial precedent. FCPD concurs that it is generally deemed a best practice for an officer to provide a victim with the most accurate information available whenever discussing the elements of the Code of Virginia and routinely encourages officers to review pertinent sections of the Code of Virginia whenever possible and applicable under the circumstances.

Recommendation Five: *General Order 501.11 should be revised to add the italicized language that follows: "Victims and witnesses shall be provided with assistance pertaining to victim's rights, their role in the court process, the magistrate's role in the court process, support services, and any other needed resources required by law or Department policy."*

Revised version of GO 501 Section IV (A)(7) states, "*Furnish information to victims whenever appropriate in order for them to seek warrants from a magistrate or seek appropriate civil resources as necessary.*"

Recommendation Six: *General Order 501 should be revised to require that responding officers take all deliberate care to follow up with crime victims and complainants before the end of their shifts and leave voicemail messages when necessary.*

GO 501 was revised in September 2022, to include the following language:

Policy Section (pg. 1): "It is the policy of the FCPD that law enforcement investigations be conducted in a manner that treats all community members fairly, equitably, and with due respect. Investigations begin with the arrival of the first officer on scene, are divided into preliminary and follow-up stages, and eventually conclude once adjudicated through the courts. Follow-up responsibilities are determined by the nature of the act and necessity for further investigation. Victims and witnesses shall be provided with assistance pertaining to victim's rights, their role in the court process, support services, and any other needed resources required by law or Department policy."

Follow-Up Investigations Section (pg. 5) "Periodic contact via telephone or in-person shall be made with crime victims for additional information as needed and to notify them of changes in case status in a timely manner. All victim contacts should be documented in supplements to the original incident report."

Services to Crime Victims, Witnesses, and Survivors Section (pg. 11):

A. "The Victim Services Division (VSD) shall provide services to crime victims to ensure their rights as provided for by the Code of Virginia are protected and reduce the reoccurrence of secondary trauma that might potentially be experienced after an initial crime results."

B. Officer Responsibilities: In the absence of a VSD specialist, officer and detectives shall be responsible for addressing the immediate needs and concerns of victims and witnesses, to include but not be limited to, providing case numbers, phone numbers, addresses for police or county services, transportation to shelters or medical facilities, protection from harm or threat arising out of cooperation with either law enforcement or prosecutorial efforts, assistance in petitioning for protective orders, scheduling line-ups, interviews and other appearances at the convenience of the victim or witness, notification of court dates and hearings, updates on case status, and return of victim property held as evidence in a timely manner when no longer required for prosecution."

Additionally, it should be noted that, depending upon the crime, the FCPD has staffed a 24/7 Victim Services Division (VSD), staffed by non-sworn victim services specialist trained in advocacy, care, and crisis intervention strategies and techniques for victims of many serious offenses. As it specifically pertains to crime victims covered by VSD, they include victims of the following criminal offenses (pg. 11):

1. Homicide/Manslaughter
2. Adult/Child Rape and Sexual Assault
3. Child Physical Abuse
4. Domestic and Intimate Partner Violence
5. Stalking
6. Assault/Battery
7. Malicious Wounding
8. Vehicular Manslaughter
9. Home Invasions
10. Robbery
11. Human Trafficking
12. Carjacking

When counseling victims of these crimes, VSD specialists are required to perform provide services, information, and referrals to victims and witnesses of crimes on the following resources:

1. Emergency Aid: On-scene crisis intervention, information pertaining to victim and witness rights and services, safety planning, referral for emergency financial aid, emergency transportation, response and accompaniment to a medical facility for sexual assault, intimate partner examination, emergency restraining or protective orders, information assistance on recovery of stolen property, crime scene clean-up, and interpreter services.
2. Counseling and Advocacy: Crisis intervention services, referrals for short and long-term counseling, access and referrals to support groups and group counseling, community crisis response, access to counseling during criminal and juvenile justice adjudication procedures, intervention with employers, creditors, and landlords, and intervention with public agencies.
3. Investigations: Regular updates on investigation status as appropriate, basic information on the criminal justice system (but not provide legal advice), assistance with scheduling of line-ups, interviews, and other required appearances at victim and witness convenience, compensation claim filing and processing assistance, protection from intimidation and/or harassment, notification of pretrial release of an accused individual, input into bail and bond release decisions, and transportation/parking assistance for appearances associated with the investigation.
4. Prosecution: Orientation with the criminal justice system, updates on case status, accompaniment to court, assistance in being provided separate waiting areas during court proceedings when appropriate, witness alert/on-call technology 24/7, employer intervention services, assistance in recovery of property held as evidence, restitution routinely requested or an explanation in writing, landlord/creditor intervention, and notification of plea negotiations and victim consultation in plea decisions.

5. Post-Prosecution: Notification of the right to submit a victim impact statement, distribution of victim impact statements to probation and parole, victim impact statement in allocutions, information/notifications of appeal of parole hearings, and notifications of change in status.

As noted above, the FCPD has devoted a bevy of resources to victims of crime and witnesses to criminal offenses. This aforementioned language fully addresses an officer's critical responsibility to follow up in a timely manner with a victim or complainant, as well as outlines the inherently valuable role VSD victim's specialists provide on a daily basis to victims of serious criminal offenses. The FCPD's VSD serves as the gold benchmark standard for many agencies throughout the country, and its members are routinely called upon to present at various law enforcement seminars around the country, as well as community meetings throughout Fairfax County. The panel's suggested language of a blanket requirement of following up prior to the end of a shift does not take into account factors that may prohibit or intentionally limit an officer's ability from doing so, (late case or arrest, victims who wish to find a safe place to stay the night and do not wish to have the whereabouts known at the time, group living homes, victims who return to their respective workplace and do not wish to have law enforcement contact them at work, victims who are temporarily unavailable, time of day, etc.).

Recommendation Seven: *FCPD implicit bias training should, to the extent that it does not, consider how implicit biases may affect how FCPD officers interact with alleged victims and witnesses in addition to alleged perpetrators.*

In 2021 all FCPD officers began participation in mandatory implicit bias and procedural justice training. These classes work through the concepts of implicit bias and daily encounters. This includes defining implicit bias, the types of situations specific to law enforcement where implicit bias can affect outcomes and provides strategies to reduce the influence of implicit bias. The training is designed to teach intervention strategies and minimize the impact of implicit bias. The concepts of both implicit bias and procedural justice are not merely relegated to alleged perpetrators of crime or traffic offenses, nor does the curriculum suggest at any time this to be the case. Rather, these bedrock principles of effective and meaningful police-community relationships incorporate dialogue and actions between all members of the community, not just those suspected of potential wrongdoing.

FCPD General Order 002, Human Relations, specifically defines procedural justice as follows:

"The idea of fairness in the process that resolve disputes and allocate resources. It is a concept that, when embraced, promotes positive organizational change, and bolster better relationships. Police officers engage in procedural justice when they treat people with respect, explain the reason for the encounter, listen, and answer people's questions. Procedural justice speaks to four principles:

1. Being fair in process.
2. Being transparent in actions.
3. Providing opportunity for voice.
4. Being impartial in decision making.

Additionally, GO 002 Humans Relations, requires officers apply those principles to all interactions with community members: "Members of the Department will provide equitable service and treatment to all community members and other Department members regardless of known or perceived age, race, color, sex, pregnancy, gender, gender identity, ethnicity, creed, religious preferences, sexual orientation, disability, immigration status, citizenship, or national origin, except where otherwise required by state or federal law." FCPD mandates annual training on bias-based policing.(SOP 13-050)

Recommendation Eight: *With respect to Complaints that include allegations of bias and/or racial profiling, the arrest, stop, community contacts, and search statistics of the officers involved shall be provided to the Police Civilian Review Panel in the IAB investigation file.*

Internal Affairs will continue to provide applicable statistics when germane to the case investigation and when a statistically significant amount of data is available. Statistics are currently included in every case involving an allegation of racial bias.

In closing, I have reviewed and concur with the responses above and believe they satisfy the concerns brought forth by the PCRCP recommendations. FCPD looks forward to continued cooperation with the PCRCP.

Sincerely,



Todd B. Sweeney
Assistant Commander - Investigations Division
Internal Affairs Bureau

TBS/mdl

cc: Chair Todd Cranford, Police Civilian Review Panel

Appendix F 2022: Proposed PCRCP Training Curriculum

PCRCP TRAINING

Day 1 (Saturday 4hr Training)

History of the Police Civilian Review Panel (PCRCP) and Oversight in Fairfax County -
Proctored by Past Panel Chair, Adrian Steele and IPA, Richard Schott

Day 2 (During regular Panel Meeting)

Public Meeting Rules/Closed Sessions, VFOIA/Records Management and Retention – *Proctored by Independent Counsel*

Panel Processes and Procedures – *Proctored by OIPA MA, Rachelle Ramirez, PCRCP ED, Steven Richardson and MA, Sanjida Lisa*

Day 3 (Saturday 4hr Training)

Overview of FCPD: Organizational Chart Breakdown

Recruitment and Hiring Process

Training Academy – Recruit Training, In-Service Training, Implicit Bias Training, Crisis Intervention Training, etc.

Patrol / Investigations / Special Units

Administrative Investigations – District Station Level / Internal Affairs Bureau (IAB) –
Proctored by FCPD Personnel

Day 4 (Saturday 4hr Training)

Fourth Amendment

Searches and Seizures

Racial Profiling / Bias Allegations – *Proctored by IPA, Richard Schott*

Day 5 (During regular Panel Meeting)

Law: Use of Force/Deadly Force – Graham v Connor – Proctored by IPA, Richard Schott

FCPD Use of Force Policy – Proctored by FCPD Personnel

Virtual Scenario Training

Saheed Vassel Shooting (“EDP” in Brooklyn, NYC holding a pipe:

<http://youtube/WAMPexQ7iVw>

Day 6 (Saturday 4hr Training)

What happens after arrest??? – Proctored by Magistrates Office, Commonwealth Attorney’s Office, Public Defenders Office, Sheriff’s Office

Juvenile Justice Procedures – Proctored by Fairfax County Juvenile & Domestic Relations District Court

****In addition to training modules, all Panel Members must participate in at least one FCPD Ride Along.***

*****This curriculum will be endorsed by the Fairfax County Board of Supervisors, Fairfax County Police Department, Commonwealth Attorney’s Office, Sheriff’s Office, and the Public Defenders Office. Certificates shall be conferred upon successful completion.***

*****Trainings will be recorded for future use.***

Appendix G 2022: Police Civilian Review Panel Member Biographies

Cheryl “Cheri” Belkowitz, Fairfax Station (Vice-Chair)

Ms. Belkowitz is an education attorney who practices throughout Virginia and in Washington, D.C. She is a zealous advocate for children with disabilities and their families in all school-related matters. She represents families in special education law matters arising under the Individuals with Disabilities Education Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973. Ms. Belkowitz is active in the special needs community, and she served four terms as Chair of the Fairfax County Public Schools Advisory Committee for Students with Disabilities. She also served as a member of the Fairfax Equity Stakeholders Committee and as a Director on the Board of The Arc of Northern Virginia. Ms. Belkowitz also currently serves as a Board Member of the Fairfax Special Education PTA (SEPTA). She was invited by the Secretary of the Air Force as a civic leader to participate in the National Security Forum at Air War College at Maxwell Air Force Base in Montgomery, Alabama, to share perspectives with senior military officers on strategic leadership, national security, and global security. Among other recognitions, Ms. Belkowitz received the JCC of Northern Virginia Finkelstein Award for her service, leadership, and program development in the special needs community and the SEPTA “Community Champion Award” in 2020 for her exceptional commitment to the special needs community in the public schools. She graduated *cum laude* from Brandeis University, and she earned her Juris Doctor, *magna cum laude*, from Syracuse University College of Law. She served as Notes and Comments Editor of *The Syracuse Law Review* and was a member of the Justinian Honorary Law Society.

James Bierman, McLean¹

Mr. Bierman is a resident of McLean, where he grew up, and is an Attorney Advisor in the Office of the General Counsel at the Department of Homeland Security, where he works on administrative law issues across the Department. Before joining the Federal government, Mr. Bierman was a litigator who represented clients in complex litigation such as antitrust, securities, pharmaceutical defense, false advertising, trade secrets, copyright infringement, trademark infringement, commercial paper, and domestic matters in federal and state courts across the country as well as before federal administrative agencies. Mr. Bierman also maintained a large pro bono practice in which he has represented undocumented immigrants in wage disputes against predatory employers, disabled individuals in Social Security benefit matters, and criminal defendants in state court at both the trial and appellate levels. Further, he advised nonprofits and community organizations in disputes with state and local governments. Before entering private practice, Mr. Bierman served as a law clerk to the Honorable Beverly B. Martin of the U.S. Court of Appeals for the Eleventh Circuit.

¹ Mr. Bierman stepped down from the Panel in December 2022

Todd L. Cranford, Fairfax (Chair)

Mr. Cranford, a 15-year Fairfax County resident, is Board Counsel to the Public Company Accounting Oversight Board. Previously, he was the Head of Government Affairs & External Relations for the Financial Accounting Foundation. Mr. Cranford has broad experience in both the public and private sectors, including serving in the enforcement division of the U.S. Securities and Exchange Commission, on Capitol Hill with the House Financial Services Committee, and with the international law firm Patton Boggs LLP. Mr. Cranford is committed to giving back to his community. In addition to service on the Panel, he serves on the boards of the National Domestic Violence Hotline and The Commonwealth Institute for Fiscal Analysis. He is also a member of the 2020 class of Leadership Fairfax and 100 Black Men of Greater Washington, D.C.

Fazia Deen, Falls Church²

Fazia Deen, mother of three children, was born and raised in Latin America, Guyana, where she attended Roman Catholic School. Completed high school in Canada. Undergraduate study at Indiana University. Practiced law for 11 years in Indiana after receiving her Juris Doctorate from Thomas Cooley Law School of Western Michigan University. Dealt with divorce, amicable separation, custody cases; Juvenile and CHINS advocacy, represented and appealed challenging Immigration cases. In addition, managed an urgent health care clinic, while she was the Corporate Wellness Director for one of the largest wellness centers in Indiana. Currently, serving the public as the Deputy Outreach Director at Dar Al-Hijrah Islamic Center in Falls Church, Virginia, always challenging racism, she specializes in interfaith community outreach, civic engagement; and her advocacy for equity, justice and fairness, led to her mentorship and life coaching for women and teens in the surrounding communities, adding to her CV in 2023, Fazia joins Fairfax's Police Civilian Review Panel (PCRP) as the first Muslim and 9th member.

Bryon Garner, Alexandria

Mr. Garner recently served as Lee District representative on the Fairfax Country Redistricting Advisory Committee and member of the City of Alexandria Commission on HIV/AIDS. From 2012-2015, he served on the City of San Diego Community Review Board on Police Practices, which investigated citizen claims against the San Diego Police Department. A nine-year veteran of the U.S. Navy, Mr. Garner earned his Master of Liberal Arts from Johns Hopkins University and is currently a PhD candidate in Interdisciplinary Studies with a Major in Humanities and a certificate in Philosophy and Ethics at Union Institute & University. With over 20 years of government service, Mr. Garner is currently employed by the Department of State.

Dirck A. Hargraves, Esq., Kingstowne

² Ms. Deen was appointed to the Panel in March 2023

Mr. Hargraves has over 25 years of legal, regulatory and legislative experience and is the founder and principal of a public affairs and strategic communications firm that specializes in creating winning public policy campaigns. Mr. Hargraves has a long-held belief in the rule of law and passion for social justice. At the time, he was the youngest president of a local NAACP Branch, where he sought transparency regarding the use of lethal force after an unarmed drug suspect was fatally shot by the police while fleeing a bust. A Citizen's Police Academy was formed shortly thereafter with NAACP input so that civilians were given a clearer understanding of how police determine when to use lethal force. Mr. Hargraves, also served as legislative counsel to US Representative Sheila Jackson Lee, where he supported the congresswoman on the House Judiciary Committee and at field hearings, including listening to the testimony of African American and Latino law enforcement at the World Trade Center in the aftermath of the Abner Louima police brutality scandal. That field hearing informed Members as they debated the National Police Training Commission Act of 1999, which presciently defined the seemingly intractable challenge of policing when Act found that: Respect for law and order is the cornerstone of a free society. The rule of law is predicated upon the consent of people who believe the laws are administered fairly, thus commanding respect and confidence. Unjust or discriminatory administration of law by excessive force tends only to create distrust and contempt for the law and law enforcement agencies.

Michael Lau, Esq., Springfield³

Mr. Michael Lau became a resident of Fairfax County in 1993. He grew up and attended schools in Illinois and Iowa. Mr. Lau has always been involved in civic engagements. He was a co-founding member and national advisor of the 1882 Project which sought apologies from the U.S. Government for passing and implementing the Chinese Exclusion Act of 1882. U.S. started with excluding Chinese, but ended with excluding all Asians in the Immigration Act of 1924. With legislations introduced by Congresswomen Judy Chu of California, Congress expressed regret for the Chinese Exclusion Act in House Resolution 683 on June 8, 2012. With legislations introduced by Senator Scott Brown of Massachusetts, the Senate expressed regret for the Chinese Exclusion Act in Senate Resolution 201 on October 6, 2011.

Mr. Lau is a former Chairman and President of the Coalition of Asian Pacific Americans of Virginia (CAPAVA), representing the interest of Virginia Asian Americans closed to half a million in number. In this capacity, he has organized and held annual Legislative Sessions and Receptions attended by Asian Americans and by Virginia elected officials, including the Governor, Lieutenant Governor, Secretary of Commerce, Attorney General, Members of Senate and House of Delegate.

Professionally, Mr. Lau started his career as an Intellectual Property Attorney and he is now a general litigator. In years 2011 and 2012, he was twice elected by members of his peers to serve as the President of the Government Intellectual Property Law Association. In this capacity, he had opportunities to work with members of the Federal Judiciary, Senate, House, and the Executive branch. He contributed to the American Invents Act of 2011.

Mr. Lau is an Alumnus of the Citizen's Academy of the Federal Bureau of Investigation.

³ Mr. Lau was appointed to the Panel in February 2023

Among all the organization, the longest Mr. Lau has served in is President of the Agape Evangelistic Association, from 1997 to the present.

Mr. Lau attends the Harvester Presbyterian Church in Springfield, VA.

Mr. Lau married Audrey; together they have a son James and a daughter Megan.

Celeste R. Peterson, Centreville

An early morning phone call transformed Celeste Peterson from a proud, devoted and loving mother into the public voice for the legacy left by her 18-year-old daughter, Erin, who died April 16, 2007, at Virginia Tech in the worst college tragedy in history. That same year, Ms. Peterson and her husband Grafton; co-founded the Erin Peterson Fund (EPF), a non-profit organization that awards scholarships and grants to help students with the same dreams and aspirations as Erin. Grafton, unfortunately passed and joined Erin in March 2016. Ms. Peterson continues to honor both their legacies through the fund. Since 2008, the Erin Peterson Fund is the sole external financial supporter of the extremely successful Young Men's Leadership Group (YMLG), formerly known as the Boys Leadership Group at Westfield High School. In 2019, YMLG was the Fairfax County Public School winner of the Team Excellence Award. Additionally, EPF supports and funds Girls Reaching for Academic and Cultural Excellence (GRACE) groups at Stone Middle and Westfield High School.

A 36-year, now retired employee of an aerospace, intelligence and defense company, Ms. Peterson was responsible for technical training and employee welfare. During her career, Ms. Peterson served as the chair of the Health and Wellness Committee and as a council member of the company's regional diversity and inclusion program. Ms. Peterson's was presented with the President's Inclusion Award in recognition for her contributions in promoting and ensuring an inclusive and diverse culture in the workplace. Ms. Peterson served on the Partners in Education Advisory board for Fairfax County Public Schools for 3 years with one year as co-chair. Ms. Peterson has been honored with numerous awards, including as an Outstanding Leader by Fairfax County's Business School Partnership (2008), the Friend of Education award by Phi Delta Kappa International (2011), the 2012 Outstanding Educator Award by the Martin Luther King, Jr. Cultural Foundation, Inc., and the Fairfax County NAACP 2015 Community Service Award. Ms. Peterson's professional and personal life has mirrored the values that are important to her: family, friends, community and a strong desire to help young people be the very best they can be.

William Ware, Alexandria

Mr. Ware is a native Virginian and 20-year resident of Fairfax County. His career includes service across several federal community corrections organizations where he has been laser-focused on reentry and supporting positive outcomes for returning citizens. Mr. Ware started his career as a Community Supervision Officer with the Court Services and Offender Supervision Agency (Washington, DC probation and parole). He transitioned to the Army Clemency and Parole Board serving as a Case Analyst and Hearing Examiner for court-martialed soldiers and, in 2019, Mr. Ware was selected as Deputy Chair for the Air Force Clemency and Parole

Board. In that capacity, he presided over clemency and parole hearings for court-martialed Airmen and managed operations for the Air Force clemency and parole program. Mr. Ware joined the Probation and Pretrial Services Office at the Administrative Office of the U.S. Courts in 2021 and assumed responsibility for the reentry and Second Chance Act portfolio for the federal probation system. Beyond his federal experience, Mr. Ware has served in volunteer capacities on the Alexandria Sheriff's Office Advisory Board, Alexandria Reentry Council, and Fairfax County Communities of Trust. He holds a BA in Criminal Justice and MS in Criminology.

Janell Wolfe, Fairfax

Ms. Wolfe has resided in Fairfax County for over 30 years. She obtained her J.D. degree from the Antioch School of Law in Washington, D.C. A member of the Virginia, District of Columbia and Supreme Court of the United States bars, Ms. Wolfe was a criminal defense attorney with a solo practice in Arlington, Virginia. She was appointed as a Commissioner in Chancery for the 17th Judicial District of Virginia and served on the Board of Directors for Northern Virginia Legal Services. Ms. Wolfe has served as a magistrate for Fairfax County. Currently she represents respondents in mental health hearings for Arlington County and is on the Committee of Admissions for the District of Columbia bar. Ms. Wolfe was selected as a docent in 2010 for the Supreme Court of the United States. She presents lectures in the courtroom of the Supreme Court to visitors and conducts educational tours for guests at the request of the Justices. She also volunteers at the Fairfax County Animal Shelter.



January 17, 2023

Mr. Steven Richardson
Executive Director
Police Civilian Review Panel
12000 Government Center Parkway, Suite 150A
Fairfax, VA 22035

Dear Mr. Richardson,

Recently, I attended a meeting of the Police Civilian Review Panel. As a first time visitor and observer, I was impressed by the quality of discussions on matters brought before the Panel. My observations were informed by my experience and interactions with law enforcement officers and agencies across the nation.

Recently, I retired after 21 years as the ethics instructor for the California Department of Justice Peace Officer Standards and Training (POST). In that capacity, I worked directly with law enforcement executives, including police chiefs, sheriffs, and executive staff for every law enforcement agency in the State of California. Also, I was a news reporter for more than 40 years and have had direct interactions with law enforcement personnel in multiple situations across the nation many times.

Given my background, I found the meeting of the Police Civilian Review Panel informative and significant. Such an entity helps to increase public confidence and provides a point of entry and contact for representation and review of policies and public interaction with law enforcement executives. Thus, credibility and confidence are heightened when the Review Panel convenes.

I was impressed by the protocol and open process exhibited by members of the panel as specific cases were identified and reviewed. It was also impressive to witness the environment of an authentic effort to invite, engage, and involve members of the wider community to attend, observe, and participate in the panel's meeting.

Sincerely,

Arthur L. Cribbs, Jr.
Rev. Dr. Arthur L. Cribbs, Jr
Interim Senior Pastor



February 23, 2023

Capital Youth Empowerment Program
950 N Washington St.
Suite #350
Alexandria, VA 22314

To whom this may concern,

On behalf of the Capital Youth Empowerment Program (CYEP) I would like to express our gratitude to Steven Richardson, Executive Director of the Fairfax County Police Civilian Review Panel. Mr. Richardson has been a trusted resource for our organization and has done an excellent job representing the important work of the Panel with our team and our clients. Mr. Richardson was also a supporter of the CYEP Unite Conference and Career Expo which was held in February of 2023. The conference was attended by over 1,100 males of color, allies and advocates who all participated in the day of the events that focused on upward economic mobility. The conference focused on key success factors for high school and college students, job seekers, business professionals, educators, government officials and community leaders from around the DMV region.

I look forward to collaborating with the Panel on future youth educational initiatives and we plan to bring our youth participants to some of the Panel's monthly meeting in the near future. The Panel serves a vital role in strengthening the relationship between the community (especially the minority youth we serve) and the police. CYEP fully supports the Panel's efforts and looks forward to a more formal partnership to support our efforts around Fairfax County's My Brother's Keeper (MBK) Initiative which will start in the Fall of 2023.

A handwritten signature in black ink, appearing to read 'Isaac King', with a large, stylized flourish extending from the end of the signature.

Isaac A. King
Co-Founder & Chief Operations Officer



January 17, 2023

Mr. Steven Richardson
Executive Director
Police Civilian Review Panel
12000 Government Center Parkway,
Suite 233A
Fairfax, VA 22035

Dear Mr. Richardson,

The purpose for this letter is to share my appreciation for the Police Civilian Review Panel's work, undertaking to build and maintain trust between Fairfax County residents, the Board of Supervisors, and the Fairfax County Police Department.

As a community organization representative, I appreciate the Panel's endeavors to work with our diverse Fairfax community. It has been a positive experience to witness some of the efforts providing the resources, such as interpretation services, to ensure community members are provided with platforms where they learn how their voices can be heard.

I look forward to attending the monthly meetings and extending the invitation to other community members and organizations.

Sincerely,

Carla Paredes Gomez

Carla Paredes Gomez
Executive Director

www.HACANVA.org

6131 Willston Dr. Room 8. Falls Church, VA 22044
Federal Taxpayer I.D. # 54-1405697
United Way Campaign #8719

The Police Civilian Review Panel
Testimonial/Input on behalf of Steven Richardson

My name is Nelfred Tilly Blanding, a Fairfax County citizen and retired Social Worker of almost 30 years with Fairfax County government. It is my pleasure to write about my experiences with this much needed program in our community, The Police Civilian Review Panel. This is a fairly new project in our county, and I was made aware of it by my former colleague who thought that I would be interested as someone who has fought for justice and equality my entire life.

First, I applaud the Fairfax County Board of Supervisors for having the heart to care about this issue and to put in place program that seeks to Prevent unwanted situations.

I have attended a few meetings of the Police Review Panel and I am very impressed the Executive Director, Steven Richardson. He displays strong leadership by engaging people and making them feel a part of the solution. You can tell from the way he speaks that he truly cares about ensuring that each case is treated with the utmost care, concern, and fairness. Steven attended our Sequoyah Community Day last summer and there were over 600 people from the community in attendance. I observed him treating each person with kindness as he introduced himself and explained his program to them.

Thank you, Steven, and the Police Civilian Review Panel, for being a vital presence in our county and doing a great job for all our citizens because we all deserve to be treated with dignity and respect.

