
Police Civilian Review Panel

Meeting Agenda

Location:	Fairfax County Government Center – Room 4/5 12000 Government Center Parkway Fairfax, VA 22035
Date:	March 7, 2024
Time:	7:00 pm
Website:	www.fairfaxcounty.gov/policecivilianreviewpanel/

Agenda details:

I. Call to Order

II. Agenda Items

- a. Approval of Agenda
- b. Approval of February 1, 2024 Draft Meeting Summary
- c. Public Comment
- d. Internal Affairs Bureau Presentation
- e. Subcommittee Report on CRP-23-15
- f. Subcommittee Report on CRP-23-25
- g. Panel Liaison Update

III. New Business

IV. Adjournment

Panel Meeting Schedule:

- April 4, 2024 at 7:00 p.m.

Panel's Purpose:

The nine-member Police Civilian Review Panel's mission is to enhance police legitimacy and to build and maintain trust between the citizens of Fairfax County, the Board of Supervisors and the Fairfax County Police Department (FCPD) by reviewing certain FCPD investigations to ensure the accuracy, completeness, thoroughness, objectivity and impartiality of the investigation. It is appointed by, and reports directly to, the Board of Supervisors. The Panel is governed both by the bylaws approved by the Board of Supervisors and a code of ethics adopted by the Panel.

Police Civilian Review Panel

February 1, 2024

Fairfax County Government Center

12000 Government Center Pkwy Fairfax, VA 22035

Meeting Summary

Panel Members Present:

Cheri Belkowitz, Vice Chair
Todd Cranford, Chair
Fazia Deen (virtual)
Bryon Garner
Dirck Hargraves (virtual)
Michael Lau
Celeste Peterson
William Ware
Janell Wolfe

Others Present:

Sanjida Lisa, PCR
Rachelle Ramirez, OIPA
Richard Schott, OIPA
Kenneth Bynum, Counsel
Madison Gibbs, Counsel
Lt. Chris Cosgriff, Internal Affairs Bureau

Chair Cranford called the Police Civilian Review Panel's (PCR) business meeting to order at 7:05 p.m., and after taking attendance, noted the presence of a quorum. He welcomed everyone to the Panel's February 1, 2024, meeting.

Approval of Agenda: Mr. Garner moved approval of the meeting agenda. Ms. Wolfe seconded the motion and it carried unanimously.

Approval of January 4, 2024 Draft Meeting Summary: Mr. Garner moved approval of the January 4, 2024 draft meeting summary. Mr. Ware seconded the motion and it carried unanimously.

Discussion of Panel 2023 Annual Report: Ms. Wolfe wanted to discuss the new Appendix A first. Ms. Belkowitz suggested adding "In addition to the meetings held at the Government Center, the Panel also held the following meetings..." on page five. Ms. Deen wanted to know why the Panel meeting held at Dar al Hijrah was not included in the annual report. Chair Cranford clarified that the annual report covers Panel business from March to March, and the Dar al Hijrah meeting was held in February. Panel members asked to implement a few other grammatical changes. Mr. Hargraves motioned to approve the 2023 Annual Report as amended. Mr. Garner seconded the motion and it carried unanimously.

Discussion of Subcommittee CRP-23-01: Ms. Lau presented the initial disposition of the subcommittee and provided a brief explanation of the Panel's subcommittee process. Mr. Lau continued to provide a summary of the facts of the case. Ms. Deen provided additional information for context and Ms.

Peterson made a correction about the timeline of the events. Mr. Lau presented the subcommittee findings and its recommendation. Ms. Wolfe moved to accept the subcommittee's recommendation. Mr. Garner seconded the motion and it carried unanimously.

Discussion of Subcommittee CRP-23-13: Ms. Belkowitz presented the allegations made by the complainant and provided a brief summary of the facts of the case. Ms. Wolfe provided a brief statement and shared her opinion on the case. Mr. Hargraves agreed and wanted to point out that a certain comment made by the complainant was akin to a racial slur. Mr. Hargraves also clarified that state legislature on freedom of speech in terms of when it is applicable and it isn't. Ms. Belkowitz presented the subcommittee findings and recommendation. Mr. Garner motioned to accept the subcommittee's recommendation. Mr. Lau seconded the motion and it carried unanimously.

New Business: Ms. Wolfe reminded the Panel that new scripts were utilized that the subcommittee meetings and any suggestions of edits or tweaks should be made to staff to incorporate. Ms. Wolfe reminded that there was also a new document that provided guidance for the complainant that would get sent out along with the notification letters.

Mr. Lau proposed a duty to decorum form for complainants to sign and acknowledge before attending a subcommittee meeting. Chair Cranford and Ms. Belkowitz both provided that there would be no way the Panel could enforce that. Mr. Bynum added that it would be ideal to handle it on a case by case basis. Ms. Peterson recommended getting some basic training on de-escalation for the Panel.

Mr. Hargraves provided an update on the police reform working matrix group and their recommendations around independent oversight. Mr. Bynum provided an update on the Gloss v. Wheeler case.

Chair Cranford announced that Panel member William Ware would be stepping down from the Panel after the February Panel meeting. Chair Cranford also wanted to emphasize Panel outreach and accessibility to the Panel. Chair Cranford also announced that the February Panel meeting would be his last official meeting as Chair of the meeting and that Ms. Belkowitz would be transitioning over as the new Panel Chair for 2024.

Adjournment: Mr. Garner motioned to adjourn the meeting. Mr. Ware seconded the motion and it carried unanimously. The meeting adjourned at 8:39 p.m.

Police Civilian Review Panel

March 4, 2024

Fairfax County Government Center, Conference Room 7

Subcommittee Meeting Summary (CRP-23-25)

Subcommittee Members Present:

Fazia Deen, Panel Member

Michael Lau, Panel Member

Janell Wolfe, Chair of Subcommittee

Others Present:

Sanjida Lisa, PCRCP

The Panel's meeting was called to order at 6:15 p.m. Ms. Wolfe welcomed everyone to the Panel's March 4, 2024, Subcommittee meeting.

Ms. Wolfe described the purpose of the subcommittee and its procedures to conduct an initial review of a complaint. She stated that subcommittee will complete the Initial Review Report, which was included in the meeting materials, and will make its recommendation to the full Panel at its March 7, 2024, meeting. Mr. Lau and Ms. Deen were also present in the room.

Initial Review of CRP-23-25:

Ms. Wolfe stated that the subcommittee members reviewed the complainant's statements, the Fairfax County Police Department (FCPD) disposition letter, and the FCPD's investigative files, which included body-worn camera (BWC) recordings. Ms. Wolfe provided a summary of the events of the incident that led to the complaint (CRP-23-25) and took comments from Mr. Lau and Ms. Deen. She identified the allegations made by the complainant in their correspondence to the Panel:

1. Failure to interview two witnesses and document their statements
2. Failure to accurately document the assault
3. FCPD officer provided inaccurate information to the involved individual regarding obtaining a warrant from the Magistrate
4. FCPD officer failed to follow up with the involved individual after a contact attempt was made
5. Allegation of systemic racism within FCPD
6. Failure to obtain camera footage from Home Depot
7. Denial of access to the police report and body worn camera (BWC) footage

The complainant was present at the subcommittee meeting and was given up to 15 minutes to address the subcommittee panel and answer any questions the panel members had. The complainant and individual involved also clarified that their complaint did not include an allegation of racial bias or systemic racism.

The subcommittee members considered whether each allegation was considered Serious Misconduct or Abuse of Authority, which is required for recommending full Panel review.

Subcommittee members discussed the first allegation and agreed that this did rise to the level of Serious Misconduct or Abuse of Authority. Accordingly, Panel members determined that this would be categorized under F, which states “Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.” All Panel members agreed this was substantiated in the investigative file.

Subcommittee members discussed the second allegation and agreed that this did rise to the level of Serious Misconduct or Abuse of Authority. Accordingly, Panel members determined that this would be categorized under F, which states “Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.” All Panel members agreed this was substantiated in the investigative file.

Subcommittee members discussed the third allegation and agreed that this did rise to the level of Serious Misconduct or Abuse of Authority. Accordingly, Panel members determined that this would be categorized under F, which states “Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.” All Panel members agreed this was substantiated in the investigative file.

Subcommittee members discussed the fourth allegation and Mr. Lau and Ms. Deen agreed that this did rise to the level of Serious Misconduct or Abuse of Authority. Accordingly, Mr. Lau and Ms. Deen determined that this would be categorized under F, which states “Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.” Ms. Wolfe did not agree, but the majority voted that this was substantiated in the investigative file.

Subcommittee members discussed the fifth allegation and Mr. Lau shared that this did rise to the level of Serious Misconduct or Abuse of Authority and would be categorized under F, while Ms. Wolfe and Ms. Deen did not. The majority vote determined that this was not substantiated in the investigative file.

Subcommittee members discussed the sixth allegation and agreed that this did rise to the level of Serious Misconduct or Abuse of Authority. Accordingly, Panel members determined that this would be categorized under F, which states “Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.” All Panel members agreed this was substantiated in the investigative file.

Subcommittee members discussed the seventh allegation and agreed that this did not rise to the level of Serious Misconduct or Abuse of Authority. All Panel members agreed this was not substantiated in the investigative file.

Ms. Wolfe moved that the subcommittee does recommend full Panel review based on the subcommittee voting yes on five of the seven allegations. All subcommittee members agreed that both Criteria 1 and Criteria 2 were met. Mr. Lau seconded the motion and it passed unanimously.

The meeting adjourned at 7:19 p.m.

Initial Review Report – Subcommittee Recommendation to the Fairfax County Police Civilian Review Panel

Request for Review – Basic Information

CRP Complaint Number: CRP-23-25

Subcommittee Members:

- Fazia Deen, Panel Member
- Michael Lau, Panel Member
- Janell Wolfe, Chair of Subcommittee

Key Dates: Date of Review Request: December 3, 2023, Date of Incident: August 2, 2022, Date of Initial Complaint (to FCPD): April 12, 2023, Date of FCPD Disposition Letter: October 19, 2023

Subcommittee Meeting

Date: March 4, 2024

Complainant present

Complainant spoke

Subcommittee Authority and Purpose

The Subcommittee conducts an Initial Review of the subject Complaint to determine whether the Complaint meets the minimum criteria for review and consideration by the full Panel. (See Panel Bylaws Article VI.D.2.(d))

The Subcommittee reviews complaints to determine whether: (Panel Bylaws Article VI.D.3.(a))

- (1) The Complaint alleges Serious Misconduct or Abuse of Authority as defined in its Bylaws; and
- (2) The evidence contained in the investigative file could lead a reasonable Panel to conclude that there is sufficient evidence to support the allegations.

Subcommittee's Role in Initial Review Process

The Subcommittee Initial Review Report sets forth the Subcommittee's recommendation. A unanimous Subcommittee vote is required to determine that a Complaint does not meet the criteria set forth in the Bylaws. The full Panel may or may not accept the Subcommittee's recommendation on whether to review a complaint.

The full Panel will consider the recommendation from the Subcommittee and vote to determine whether it accepts a Review Request. If the full Panel accepts the recommendation, it will conduct a full Panel Review Meeting. (Panel Bylaws Article VI.F.)

Categories of Abuse of Authority or Serious Misconduct

The Panel determines whether allegations can be categorized as one or more of the following: (Panel Bylaws Article VI(B))

- A. Use of abusive racial, ethnic or sexual language or gestures.
- B. Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability.
- C. Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense.
- D. Reckless endangerment of detainee or person in custody.
- E. Violation of laws or ordinances.

- F. Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.

Complainant Allegations

The Panel subcommittee considered the following allegation(s) by the Complainant to determine (1) whether each constitutes Serious Misconduct or an Abuse of Authority as defined above, and, if yes, (2) whether the Investigation Report reveals any observable substantiation.

Allegation(s) <i>List each allegation below as stated by the Complainant. Indicate in the next two columns whether the two criteria are met for each allegation.</i>	(1) Abuse of Authority or Serious Misconduct <i>Identify Category (A-F)</i>	(2) Substantiated in Investigative File <i>Indicate Yes/No</i>
1. Failure to interview two witnesses and document their statements	F	Yes
2. Failure to accurately document the assault	F	Yes
3. FCPD officer provided inaccurate information to the involved individual regarding obtaining a warrant from the Magistrate	F	Yes
4. FCPD officer failed to follow up with the involved individual after a contact attempt was made	F	Yes
5. Allegation of systemic racism within FCPD	N/A	No
6. Failure to obtain camera footage from Home Depot	F	Yes
7. Denial of access to the police report and body worn camera (BWC) footage	N/A	No

Missing Information

Subcommittee Findings and Recommendation

Check the Subcommittee's recommendation to the full Panel and keep one statement below that applies based on criteria met.

<input checked="" type="checkbox"/> Subcommittee Recommends full Panel Review	Criteria 1 and 2 are both met: The Subcommittee finds that the allegation(s) made by the Complainant meet the threshold of Serious Misconduct or Abuse of Authority as defined above AND that the evidence contained in the investigative file could lead a reasonable Panel to conclude that there is sufficient evidence to support the allegations. Therefore, the Panel subcommittee recommends that the full Panel take up review of this Complaint.
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Police Civilian Review Panel

March 5, 2024

Fairfax County Government Center, Conference Room 7

Subcommittee Meeting Summary (CRP-23-15)

Subcommittee Members Present:

Todd Cranford, Panel Member

Celeste Peterson, Panel Member

Bryon Garner, Chair of Subcommittee

Others Present:

Sanjida Lisa, PCRCP

Rachelle Ramirez, OIPA

Richard Schott, Independent Police Auditor

The Panel's meeting was called to order at 6:03 p.m. Mr. Garner welcomed everyone to the Panel's March 5, 2024, Subcommittee meeting.

Mr. Garner described the purpose of the subcommittee and its procedures to conduct an initial review of a complaint. He stated that subcommittee will complete the Initial Review Report, which was included in the meeting materials, and will make its recommendation to the full Panel at its March 7, 2024, meeting.

Mr. Cranford and Ms. Peterson were present in the room. The complainant was also present.

Initial Review of CRP-23-15:

Mr. Garner stated that the subcommittee members reviewed the complainant's statements, the Fairfax County Police Department (FCPD) disposition letter, and the FCPD's investigative files, which included body-worn camera (BWC) recordings. Mr. Garner provided a summary of the events of the incident that led to the complaint (CRP-23-15) and took comments from Ms. Peterson and Mr. Cranford. He identified the allegations made by the complainant in his correspondence to the Panel:

1. FCPD failed to knock on door to acknowledge their arrival before making entry into his home to serve an arrest warrant
2. FCPD did not have a search warrant at the time of entry, which violates VA state code.

The complainant was present at the subcommittee meeting and was given up to 15 minutes to address the subcommittee panel.

The subcommittee members considered whether each allegation was considered Serious Misconduct or Abuse of Authority, which is required for recommending full Panel review.

Subcommittee members discussed the first allegation and agreed that the police failing to knock on the door to acknowledge their arrival before making entry to serve an arrest warrant was not Serious Misconduct or Abuse of Authority. Mr. Cranford and Mr. Garner provided the distinction between an arrest warrant and a search warrant. Ms. Peterson wanted to ask whether SWAT officers could forego

wearing name tags during an operation and whether the robot that was deployed utilized lethal or non-lethal force.

Subcommittee members discussed the second allegation and agreed that it did not rise to the level of Serious Misconduct or Abuse of Authority.

Mr. Garner moved that the subcommittee does not recommend full Panel review based on the subcommittee voting no on each of the allegations. Mr. Cranford seconded the motion and it passed unanimously. All Panel members agreed they would be raising questions to FCPD regarding procedural policies.

The meeting adjourned at 6:55 p.m.

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Initial Review Report – Subcommittee Recommendation to the Fairfax County Police Civilian Review Panel

Request for Review – Basic Information

CRP Complaint Number: CRP-23-15

Subcommittee Members:

- Todd Cranford, Panel Member
- Celeste Peterson, Panel Member
- Bryon Garner, Chair of Subcommittee

Key Dates: Date of Review Request: 8/4/2023, Date of Incident: 10/13/2022, Date of Initial Complaint (to FCPD): 7/14/2023, Date of FCPD Disposition Letter: 7/19/2023

Subcommittee Meeting

Date: March 5, 2024

Complainant present

Complainant spoke

Subcommittee Authority and Purpose

The Subcommittee conducts an Initial Review of the subject Complaint to determine whether the Complaint meets the minimum criteria for review and consideration by the full Panel. (See Panel Bylaws Article VI.D.2.(d))

The Subcommittee reviews complaints to determine whether: (Panel Bylaws Article VI.D.3.(a))

- (1) The Complaint alleges Serious Misconduct or Abuse of Authority as defined in its Bylaws; and
- (2) The evidence contained in the investigative file could lead a reasonable Panel to conclude that there is sufficient evidence to support the allegations.

Subcommittee's Role in Initial Review Process

The Subcommittee Initial Review Report sets forth the Subcommittee's recommendation. A unanimous Subcommittee vote is required to determine that a Complaint does not meet the criteria set forth in the Bylaws. The full Panel may or may not accept the Subcommittee's recommendation on whether to review a complaint.

The full Panel will consider the recommendation from the Subcommittee and vote to determine whether it accepts a Review Request. If the full Panel accepts the recommendation, it will conduct a full Panel Review Meeting. (Panel Bylaws Article VI.F.)

Categories of Abuse of Authority or Serious Misconduct

The Panel determines whether allegations can be categorized as one or more of the following: (Panel Bylaws Article VI(B))

- A. Use of abusive racial, ethnic or sexual language or gestures.
- B. Harassment or discrimination based on race, color, sexual orientation, gender, religion, national origin, marital status, age, familial status, immigration status or disability.
- C. Acting in a rude, careless, angry, retaliatory or threatening manner not necessary for self-defense.
- D. Reckless endangerment of detainee or person in custody.
- E. Violation of laws or ordinances.

F. Other serious violations of Fairfax County or FCPD policies or procedures, including the FCPD Canon of Ethics, that occur both on or off duty.

Complainant Allegations

The Panel subcommittee considered the following allegation(s) by the Complainant to determine (1) whether each constitutes Serious Misconduct or an Abuse of Authority as defined above, and, if yes, (2) whether the Investigation Report reveals any observable substantiation.

Allegation(s)	(1) Abuse of Authority or Serious Misconduct Identify Category (A-F)	(2) Substantiated in Investigative File Indicate Yes/No
<i>List each allegation below as stated by the Complainant. Indicate in the next two columns whether the two criteria are met for each allegation.</i>		
1. FCPD failed to knock on door to acknowledge their arrival before making entry into his home to serve an arrest warrant	No	No
2. FCPD did not have a search warrant at the time of entry, which violates VA state code.	No	No

Missing Information

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Subcommittee Findings and Recommendation

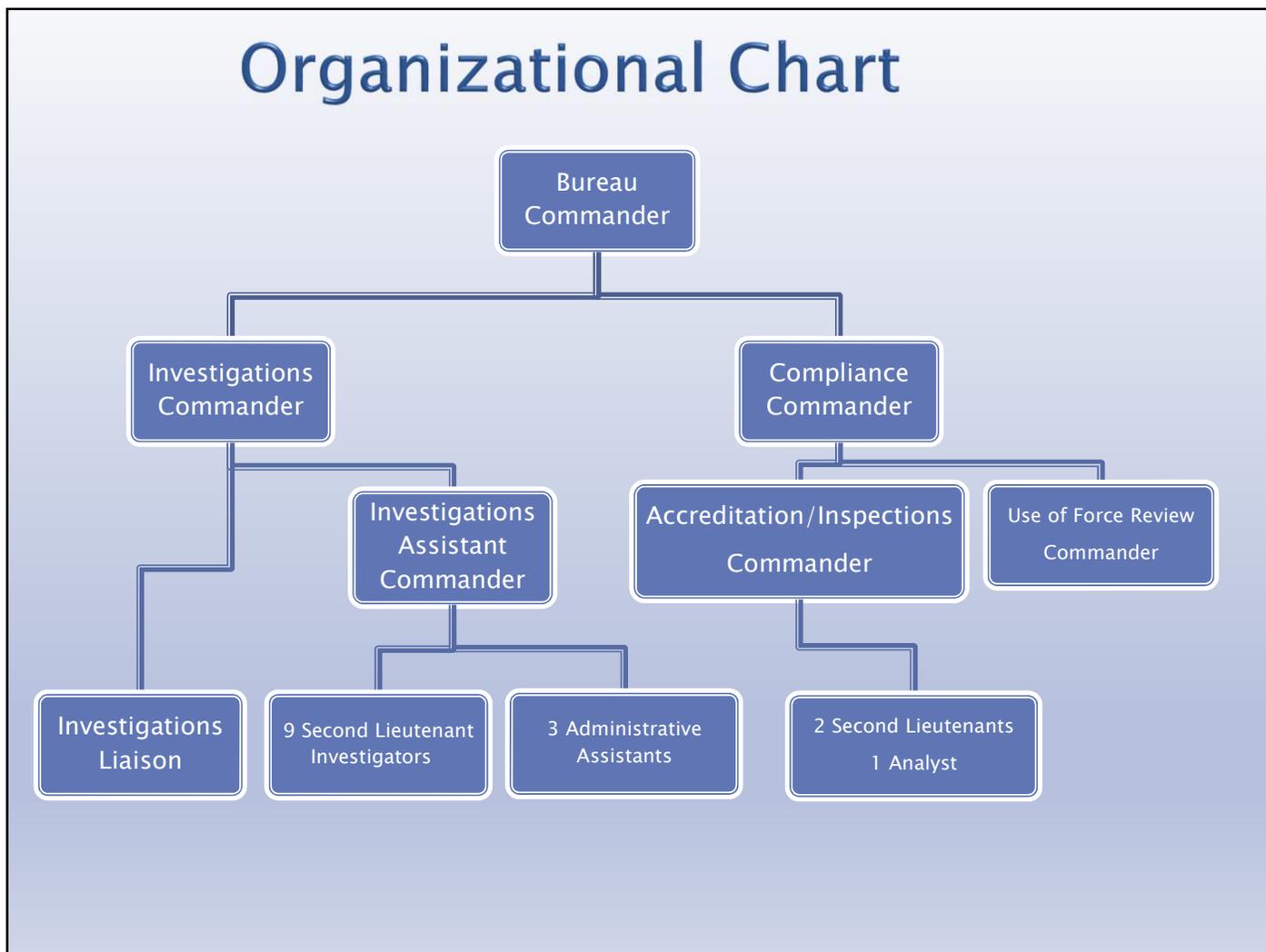
Check the Subcommittee's recommendation to the full Panel and keep one statement below that applies based on criteria met.

Subcommittee Does Not Recommend full Panel Review

Criterion 1 is not met: The Subcommittee unanimously finds that the allegation(s) made by the Complainant do not meet the threshold of Serious Misconduct or Abuse of Authority and therefore the Panel does not have authority to review the complaint. The Subcommittee does not recommend that the full Panel take up review of this Complaint.



Organizational Chart



Investigative Authority

▶ **Station Level Cases**

- Minor infractions of regulations: missed duty assignments, minor cruiser accidents.
- Community member dissatisfied with the way an officer investigated a crime, accident, or service complaint
- Allegations of rudeness
- Dissatisfaction with a policy, procedure, practice, philosophy, service level or legal standard of the agency
- Routine use of force and pursuit documentation

▶ **Internal Affairs Bureau Cases**

- Use of force and pursuits resulting in serious injury or death
- Officer involved shootings
- Sexual harassment / Discrimination / Misconduct / Workplace Violence
- Allegation of criminal misconduct (bifurcated with the Major Crimes Bureau)
- Biased based policing and unlawful discrimination
- Workplace violence
- Truthfulness
- Any case as directed by the Chief of Police

Dissatisfaction of Service VS. Administrative Investigation

- ▶ **Dissatisfaction of Service:** When a community member is displeased with a Department policy or action but there is no allegation of misconduct by an officer(s).
- ▶ **Administrative Investigation:** A non-criminal investigation conducted for the purpose of documenting the conduct, action(s), or performance of an employee and to determine whether such conduct, action(s), or performance is in compliance with Department policy.

Misconduct:

A behavior, action, or omission which, if proven to be true, would constitute or be considered:

A violation of departmental policy, procedure, or training procedure; that does not constitute a policy infraction.

Conduct which may reflect unfavorably upon the employee or Department, or adversely affect the efficiency or morale within the workplace (e.g., rudeness, use of inappropriate language in public, discourteous operation of police vehicles).

Investigative Steps

After the complaint is received:

- Complainant interviews / statements
- Witness interviews / statements
- Body-Worn Camera / In-Car Video
- Video surveillance / Recordings
- Review of police reports and other documentation
- Statement from law enforcement witnesses
- Open-source checks and social media checks
- Interview of involved officer

Administrative Investigations

▶ Allegation Outcomes

- **Unfounded (and Unfounded by Technology)**
 - Allegation is false, did not occur
 - Unfounded by Technology is proven false by video footage
- **Exonerated (and Exonerated by Technology)**
 - Actions were in compliance with rules / regulations
 - Exonerated by Technology where video footage shows actions were in compliance
- **Policy Infraction**
 - A behavior, action, or omission that does not fully comply with Department policy, procedure, or training which in nature has minimal impact on other individuals or on the Department's operations or mission
- **Not Sustained**
 - Insufficient evidence to prove or disprove the allegation
- **Sustained**
 - Allegation supported by preponderance of evidence

Disciplinary Action

▶ Imposed by Compliance Commander

- Non-Disciplinary Corrective Action
- Oral Reprimand
- Written Reprimand
- Suspension
- Assignment Transfer
- Reduction in Rank
- Termination

Progressive Discipline

- First offense for most minor violations:
 - Non-Disciplinary Corrective Action
 - Oral Reprimand
 - Written Reprimand
- Egregious or repeated sustained violations may lead to more severe discipline
 - Suspension
 - Termination

Criminal vs. Administrative

- Criminal Investigation
 - Bifurcated investigation with the Major Crime Bureau
 - Employee has the same rights as any community member under criminal investigation (5th Amendment rights)

- Administrative Investigation
 - Employee is compelled to speak w/ administrative investigator
 - Cannot have an attorney present during interview, but does have a right to union representation (for 2Lt and below)
 - Compelled statements can't be used against an officer in a criminal trial (Garrity)
 - Product of the corresponding criminal investigation is included within the administrative investigation's findings

24103187D

SENATE BILL NO. 415

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact § 2.2-3701 of the Code of Virginia, relating to the Virginia Freedom of Information Act; definition of "meeting."

Patron—Stuart

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3701 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3701. Definitions.

As used in this chapter, unless the context requires a different meaning:

"All-virtual public meeting" means a public meeting (i) conducted by a public body, other than those excepted pursuant to subsection C of § 2.2-3708.3, using electronic communication means, (ii) during which all members of the public body who participate do so remotely rather than being assembled in one physical location, and (iii) to which public access is provided through electronic communication means.

"Closed meeting" means a meeting from which the public is excluded.

"Electronic communication" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information," as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (a) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (b) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, or (c) at a local political party meeting, the purpose of which is to conduct political party business and not to discuss or transact any public business, shall be deemed a "meeting" subject to the provisions of this chapter.

"Official public government website" means any Internet site controlled by a public body and used, among any other purposes, to post required notices and other content pursuant to this chapter on behalf of the public body.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district, or agency of the Commonwealth or of any political subdivision of the Commonwealth, including counties, cities, and towns, municipal councils, governing bodies of counties, school boards, and planning commissions; governing boards of public institutions of higher education; and other organizations, corporations, or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee, or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public

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59 bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose
60 public records as other custodians of public records.

61 "Public records" means all writings and recordings that consist of letters, words, or numbers, or their
62 equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse,
63 optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation,
64 however stored, and regardless of physical form or characteristics, prepared or owned by, or in the
65 possession of a public body or its officers, employees, or agents in the transaction of public business.

66 "Regional public body" means a unit of government organized as provided by law within defined
67 boundaries, as determined by the General Assembly, which unit includes two or more localities.

68 "Remote participation" means participation by an individual member of a public body by electronic
69 communication means in a public meeting where a quorum of the public body is otherwise physically
70 assembled.

71 "Scholastic records" means those records containing information directly related to a student or an
72 applicant for admission and maintained by a public body that is an educational agency or institution or
73 by a person acting for such agency or institution.

74 "Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-336
75 et seq.).

2024 SESSION**SB 36 Virginia Freedom of Information Act; definitions.**Introduced by: **Mamie E. Locke** | [all patrons](#) ... [notes](#) | [add to my profiles](#)**SUMMARY AS PASSED SENATE:** (all summaries)

Virginia Freedom of Information Act; definitions of meetings and public business. Exempts certain public meetings from the definition of "meeting" under the Virginia Freedom of Information Act to clarify that three or more members of a public body may appear and participate in such public meeting without violating the Act, provided that no public business is transacted or discussed. The bill also exempts members of a public body who attend a public meeting of a second public body without violating the Act, provided that no public business is transacted or discussed. Finally, the bill defines "public business" as activity that a public body has undertaken or proposed to undertake on behalf of the people it represents.

FULL TEXT**12/16/23 Senate: Prefiled and ordered printed; offered 01/10/24 24102327D** [pdf](#) | [impact statement](#)**01/24/24 Senate: Committee substitute printed 24105430D-S1** [pdf](#) | [impact statement](#)**02/22/24 House: Committee substitute printed 24107940D-H1** [pdf](#) | [impact statement](#)**03/07/24 Senate: Conference substitute printed 24108910D-S2** [pdf](#)**AMENDMENTS****House subcommittee amendments and substitutes adopted****Senate committee, floor amendments and substitutes offered****Conference amendments****HISTORY****12/16/23 Senate: Prefiled and ordered printed; offered 01/10/24 24102327D****12/16/23 Senate: Referred to Committee on General Laws and Technology****01/24/24 Senate: Reported from General Laws and Technology with substitute (15-Y 0-N)****01/24/24 Senate: Committee substitute printed 24105430D-S1****01/26/24 Senate: Constitutional reading dispensed (37-Y 0-N)****01/29/24 Senate: Read second time****01/29/24 Senate: Reading of substitute waived****01/29/24 Senate: Committee substitute agreed to 24105430D-S1****01/29/24 Senate: Engrossed by Senate - committee substitute SB36S1****01/30/24 Senate: Read third time and passed Senate (40-Y 0-N)****02/13/24 House: Placed on Calendar****02/13/24 House: Read first time****02/13/24 House: Referred to Committee on General Laws****02/14/24 House: Assigned GL sub: Procurement/Open Government****02/20/24 House: Subcommittee recommends reporting with substitute (8-Y 0-N)****02/22/24 House: Reported from General Laws with substitute (22-Y 0-N)****02/22/24 House: Committee substitute printed 24107940D-H1****02/26/24 House: Read second time****02/27/24 House: Read third time****02/27/24 House: Committee substitute agreed to 24107940D-H1**

02/27/24 House: Engrossed by House - committee substitute SB36H1

02/27/24 House: Passed House with substitute BLOCK VOTE (97-Y 0-N)

02/27/24 House: VOTE: Block Vote Passage (97-Y 0-N)

02/29/24 Senate: House substitute rejected by Senate (0-Y 39-N)

03/01/24 House: House insisted on substitute

03/01/24 House: House requested conference committee

03/04/24 Senate: Passed by for the day

03/05/24 Senate: Senate acceded to request (40-Y 0-N)

03/05/24 Senate: Conferees appointed by Senate

03/05/24 Senate: Senators: Locke, McPike, Stuart

03/06/24 House: Conferees appointed by House

03/06/24 House: Delegates: Carr, McClure, Wiley

03/07/24 Conference: Amended by conference committee

03/07/24 Senate: Conference substitute printed 24108910D-S2

2024 SESSION
24108910D

SENATE BILL NO. 36
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Joint Conference Committee
on March 7, 2024)

(Patron Prior to Substitute--Senator Locke)

A BILL to amend and reenact § 2.2-3701 of the Code of Virginia, relating to the Virginia Freedom of Information Act; definitions.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3701 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3701. Definitions.

As used in this chapter, unless the context requires a different meaning:

"All-virtual public meeting" means a public meeting (i) conducted by a public body, other than those excepted pursuant to subsection C of § 2.2-3708.3, using electronic communication means, (ii) during which all members of the public body who participate do so remotely rather than being assembled in one physical location, and (iii) to which public access is provided through electronic communication means.

"Closed meeting" means a meeting from which the public is excluded.

"Electronic communication" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information," as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through electronic communication means pursuant to § 2.2-3708.2 or 2.2-3708.3, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (a) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, ~~and~~ such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, *and no discussion or transaction of public business takes place among the members of the public body* or (b) at a public forum, *informational gathering, candidate appearance, meeting of another public body,* or debate, the purpose of which is to inform the electorate *or to gather information from the public* and not to transact public business or to hold discussions relating to the transaction of public business, *where no discussion or transaction of public business takes place among the members of the public body,* even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion ~~or~~ debate, *or question presented by others* at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter. *The appointment of more than two members of a public body to another public body does not constitute a meeting of the first public body. For purposes of this definition of "meeting" only, the term "public business" means any activity a public body has undertaken or proposes to undertake on behalf of the people it represents.*

"Official public government website" means any Internet site controlled by a public body and used, among any other purposes, to post required notices and other content pursuant to this chapter on behalf of the public body.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district, or agency of the Commonwealth or of any political subdivision of the Commonwealth, including counties, cities, and towns, municipal councils, governing bodies of counties, school boards, and planning commissions; governing boards of public institutions of higher education; and other organizations, corporations, or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee, or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records.

"Public records" means all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees, or agents in the transaction of public business.

"Regional public body" means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, which unit includes two or more localities.

"Remote participation" means participation by an individual member of a public body by electronic communication means in a public meeting where a quorum of the public body is otherwise physically assembled.

"Scholastic records" means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution.

"Trade secret" means the same as that term is defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.).

2. That the provisions of this act are declarative of existing law.