

Police Civilian Review Panel

January 4, 2018

Fairfax County Government Center, Conference Room 232

Meeting Summary

The Panel's business meeting was called to order at 7:02 p.m.

Panel Members present:

Hansel Aguilar

Kathleen Davis-Siudut

Steve Descano

Hollye Doane

Doug Kay

Randy Sayles

Jean Senseman

Adrian Steel, Panel Chairman

Rhonda VanLowe

Others present:

Laxmi Chegu

Julia Judkins

Major Gun Lee

Rachelle Ramirez

Major Gervais Reed

Colonel Edwin C. Roessler, Jr., Chief of Police

Richard Schott

Overview of the Review Process: Chairman Steel summarized the review process, including that the complainant, Ms. Chegu will have the opportunity to describe the reasons why she is seeking a review of the FCPD Internal Affairs investigation into her complaint. Chief Ed Roessler, Jr. indicated that he will speak on behalf of the police department and the involved officers. Mr. Steel noted the possibility that the Panel will go into closed session during the meeting to ask questions of the Chief regarding personnel information in the confidential FCPD file. The Panel will discuss and make its final decision during a future meeting.

Process for Going Into Closed Session: Mr. Steel described the agreed upon protocol (developed in partnership with Ms. VanLowe and the Panel's counsel, Ms. Judkins) for the Panel to go into closed session. Discussion during closed session is limited to the identified, exempted matter. There will be no record kept of the closed session and no votes are allowed in the closed session. When the Panel reconvenes in open session, members must first vote to certify that only exempted matters were discussed in closed session. Then, if needed, they may take a vote in the reconvened open session on any Panel decisions, without identifying any confidential information.

Complainant Statement: The complainant, Ms. Chegu described the reasons she requested a review of the FCPD investigation.¹

¹ Note that all statements, questions, and responses are paraphrased in this summary. An audio recording of the meeting is available on the Civilian Review Panel's website.

Ms. Chegu previously rented a townhouse in Herndon from a private landlord, during which she claims that the landlord abused the terms of the lease multiple times. At one point, she called FCPD officers to the townhouse after the landlord and his wife sought access. The landlord and his wife left before the officers arrived. Officers tried to reach the landlord by phone, but could not. The officers suggested that she change the lock on the door.

On or around April 5, 2017, her landlord asked her to sign a lease addendum to remove some of her furniture from the house. On the morning of April 10, Ms. Chegu received notice from the landlord that he was planning to work on the house that same afternoon. When he knocked on the door, she refused him entry and then he forced the door open. He removed a futon and a bookshelf and placed them outside on the patio. Ms. Chegu was asked by a neighbor if the landlord could take the furniture. She said yes, but claims that she did not consent because she was feeling helpless. Ms. Chegu called the FCPD on April 11, 2017 to show them the lease and the email addendum and another officer responded to the house and called the landlord. The landlord claimed that a broker (the neighbor) said he could take the furniture.

A warrant was issued for the landlord's arrest. The prosecutor decided to try the case as a civil matter. Ms. Chegu had a district court hearing on July 28, 2017 to ask for damages (i.e., loss of income from real estate business and lost deposit). Two police officers were subpoenaed to court. One of the officers did not appear at court to testify. Ms. Chegu requested this review hoping that the Panel would provide a letter of support for submission to the bankruptcy court.

Complainant Questioning: Next, each Panel member was given the opportunity to ask the complainant questions regarding her complaint:

Mr. Aguilar: What testimony did you think the officer could have provided that would have impacted your case? The officer responded (with a second officer) to a call when the landlord tried to enter the house without permission. Ms. Chegu believed the officer would have been able to give testimony in court regarding the notes on her computer.

Mr. Aguilar: Did either officer get a warrant? Another officer went to the magistrate to get an arrest warrant related to the removal of furniture without consent.

Ms. Doane: Did the officer who did not appear in court treat you in a respectful manner? Yes, she was pleasant and well-mannered. She recommended that Ms. Chegu change the locks if the landlord was abusing access.

Mr. Kay: When your landlord came in to take the furniture was the officer (who did not appear in court) present? No, there were no officers present at that time. The officer did not respond to that incident but another one in which the landlord was trying to gain access without permission. She did not see the landlord because he left before the officers arrived.

Mr. Descano: Were you dissatisfied with the outcome of the FCPD Internal Affairs investigation into your complaint? She said that she only received the letter that stated the incident was addressed and that she could request a review from the Panel.

Mr. Descano: Do you think that there was someone the investigators should have interviewed, that they did not interview? Ms. Chegu stated that she had not seen the investigative file and that her concern is that the subpoenaed officer did not show up in court.

Ms. Senseman: What is it you would like from the Panel? She is looking for the Panel to provide a letter to the bankruptcy court that this was the wrong judgment.

Mr. Steel: Do you know the names of investigators that came to talk to you about your complaint? She made a phone call to the police station and told them that the officer did not show up in court. The officer's supervisor then called her and said the FCPD would conduct an investigation into her complaint. The next correspondence she received was the letter from the FCPD.

Mr. Aguilar: What was the line of questioning of the investigator over the phone? The officer's supervisor asked whether the officer was subpoenaed. She asked whether the opposing counsel might have stopped the officer from attending court. He said that does not normally happen.

Mr. Aguilar: Was there anything else the investigator should have asked you when they were interviewing you? Or did they ask you what they needed to conduct a thorough investigation? The supervisor received the information he needed to trigger an internal investigation.

Ms. Chegu noted that following the subpoena, her attorney called the officer, who told her that she had notes in her computer and would come to court to testify. The hearing lasted for six to seven hours. Her attorney went to the police liaison to ask her if the officer had checked in and she had not.

Mr. Aguilar: To your knowledge, did the police liaison or the officer present at the hearing call the officer while they were waiting for her to show in court? No.

Ms. Doane: You suspected that the defendant might have tried to persuade the officer from coming to court. Do you have any evidence to confirm your suspicion? The defendant's counsel mentioned in court that he talked to the police officer and whether she had the right to give legal advice. Ms. Chegu said that after the hearing the officer told her that she did not have notes in her computer, but that the other officer did.

Mr. Kay: Do you remember the name of the judge who heard your case? No.

Mr. Kay: Do you remember if your attorney asked for a continuance? He did not.

Mr. Sayles stated the Panel's authority is limited to reviewing the Internal Affairs investigation and that the Panel cannot address the request of the complainant, which is related to the ruling of a judge.

Mr. Steel noted that the Panel will consider the complainant's request in consultation with the Panel's counsel. The Panel can also consider making recommendations regarding related FCPD policies.

FCPD Representative Statement: Chief Roessler stated that the matter under review was a civil matter that went through the legal system appropriately. He said that the Panel does not have the authority to provide the remedy that the complainant seeks and that, as Chief of Police, he does not have the legal authority to settle landlord tenant issues. If the officer does not show, there is a communication process

to find the officer. He stated that his obligation was to address the officer missing court, and that he stood behind the investigation as being thorough and proper.

The Chief stated that he supported the establishment of the Panel, challenged the Panel to review the process that preceded the review meeting to identify lessons learned from taking on this case. He suggested that earlier communication between the Panel and the Chief may have avoided the Panel trying a civil matter in a public meeting.

FCPD Representative Questioning: Next, each Panel member was given the opportunity to ask Chief Roessler questions regarding the investigation into the complaint under review:

Mr. Steel asked whether there was a stated policy of how subpoenas are handled. Chief Roessler noted that the policy is available on the FCPD website.

Mr. Aguilar asked if internal affairs interviews are recorded. Chief Roessler said that interviews by Internal Affairs are recorded but that it is up to the discretion of individual stations whether or not they record interviews. Mr. Aguilar asked if the Chief would entertain the possibility that all interviews are recorded so that they can be reviewed and the Chief answered affirmatively.

Mr. Kay asked whether police liaisons at the court have accurate contact information so that they can contact missing officers. The Chief stated that there is a policy requiring all employees of the FCPD to have updated contact information in the personnel management database.

Mr. Steel said he would like to see the notes from the Supervisor's telephone conversation with the complainant.

Mr. Aguilar asked if officers missing court is a widespread problem. The Chief said that it is not and that officers are humans and sometimes miss appointments.

Ms. VanLowe asked if the subpoena is the personal responsibility of the officer or the station. Chief Roessler stated that officers are served personally and the information goes back to the court.

Recess/Closed Session: At 8:31 p.m., Mr. Descano moved that the Panel recess and go into closed session for discussion and consideration of personnel matters enumerated in Virginia Code Section 2.2-3711(a)(1). Those matters involve confidential personnel information pertaining to the FCPD officer subject to the investigation being reviewed by the Panel. Mr. Aguilar seconded the motion and it carried by unanimous vote.

Certification Regarding Items Discussed in Closed Session: The panel came out of closed session at 8:55 p.m. Mr. Kay moved that the Panel certify that, to the best of each member's knowledge, only public matters lawfully exempted from the open meeting requirement, and only such public business matters as were identified in the motion by which the Closed Session was convened, were heard, discussed or considered by the Panel during the Closed Session. The motion carried by unanimous vote.

Review Process Conclusion and Next Steps: Panel members thanked Ms. Chegu for attending and referred her to the letter she received from the Panel regarding the scope of their authority. Ms. Chegu will be informed of the next meeting during which the Panel's findings regarding her complaint will be discussed.

December 7 Meeting Summary: Mr. Kay moved to approve the meeting summary from the Panel's December 7 meeting. The motion carried by unanimous vote.

Public Forum Summaries: Draft summaries from the two Public Forums have been distributed to Panel members. *Panel members should review and provide any corrections to IPA for incorporation.* The Panel will approve the summaries at the next meeting.

Updates on Related Public Safety Issues: Revisions to the FCPD general orders on pursuit and the P.I.T. maneuver will be discussed at the next Public Safety Committee meeting on January 9.

Panel's Annual Report: *Ms. VanLowe and Mr. Steel will draft the Panel's 2017 annual report, with assistance from Ms. Ramirez.* While the report is not due until March 31, the Panel would like to finish its report by February 28 so that it can be reviewed by Panel members and approved during the Panel's March 1, 2018 meeting. Supervisor Cook has requested that the Auditor and the Panel present their annual reports to the Public Safety Committee at its meeting in the Spring.

Term Lengths/Election for Vice Chair: Appointments to fill the three 1-year Panel member terms will occur at the Feb. 20, 2018 Board of Supervisors meeting. *Members with 1-year terms should express interest in reappointment to Chairman Bulova in writing.* The election of a new Vice Chair will occur at the Panel's February 1 meeting. *Nominations should be forwarded to Mr. Steel and Ms. VanLowe.*

Meeting with the Auditor: The Panel will meet with Richard Schott (Independent Auditor) during the Panel's February 1 meeting to discuss the incident report he released on December 29, 2017. *Panel members should read that report (available on the website) in advance of the meeting.*

Panel Operating Practices and Procedures: Ms. VanLowe, Ms. Davis-Siudut and Ms. Ramirez discussed how to begin documenting the Panel's operating procedures to supplement the bylaws and meeting summaries. Panel members will be asked to review a draft outline of this procedures manual and will continue to develop the document over the upcoming year. Ms. Doane requested that it include methods for documenting trends in policy issues (e.g. subpoenas). Mr. Steel asked that it include how a request for review should proceed if not all members are able to review the file. *Panel members were asked to send any further comments or requests for consideration to Ms. VanLowe or Ms. Davis-Siudut.*

Community Outreach: The first community meeting is with the McLean Citizens Advisory Committee on January 11. Ms. Doane will be in touch with The Arc of Northern Virginia and Ms. Senseman will contact NAMI. *Panel members should let Steve know if there are groups he should reach out to.*

Panel and FCPD Processes: There will be a meeting on January 12 between representatives of the Panel, FCPD, Auditor's office, and Julia Judkins to discuss in more detail the interface between the Panel, Auditor and FCPD. Process issues such as the need for reports, communications between the entities, and correspondence with complainants will be discussed. Mr. Aguilar requested that in future reviews, the FCPD make files available for viewing by Panel members over the weekend. *Mr. Steel requested that Panel members send additional concerns, information needs, or clarifications to the Chair or Vice-Chair to bring with them to the meeting on the 12th.*

Next Meeting: The Panel's next meeting is scheduled for Thursday, February 1, 2018 at 7:00 p.m. in the Government Center.

The meeting adjourned at 9:23 p.m.