



CIVILIAN INVESTIGATIVE PANEL

Summary of Minutes

Tuesday, August 18, 2009

5:30pm



Location

City of Miami - City Hall
3500 Pan American Drive
Miami, FL 33133

Members Present

Tom Rebull, Chairperson
Thomas Cobitz, Vice Chair
Fred St. Amand, Treasurer
Michelle Delancy
Raymond Hart
Janet McAliley
Bess McElroy
Timothy Moore
Brenda Shapiro

Independent Counsel

Charles C. Mays, Esq.

Staff Present

Carol A. Abia, Interim Executive Director
Steven Wolf, Chief Investigator
Donald March Jr., Research Analyst
Shewanda Hall, Investigator
Luis Cabanillas, Investigator

Welcome

Chairperson Rebull greeted attendees and called the meeting to order.

Roll Call

Roll call was conducted by Ms. Abia.

Approval of the Minutes

Motion: To approve the Minutes of the July 15, 2009 Special Meeting. **Moved by Ms. Shapiro and Seconded by Mr. Cobitz. Motion carried.**

Motion: To approve the Minutes of the July 23, 2009 meeting. **Moved by Ms. Delancy and Seconded by Mr. Cobitz.**

Approval of Agenda

Motion: To approve the Agenda of the August 18, 2009 meeting. **Moved by Mr. Cobitz and Seconded by Ms. Shapiro. Motion carried.**

A. PUBLIC FORUM I

No Speakers.

B. CHAIRPERSON'S REPORT

Mr. Rebull informed that there was not much additional information to report on the budget, however, he asked for the Panel's support during this budget process. He encouraged members to contact Commissioners to seek their support on the CIP budget proposal. Members were also encouraged to attend the Budget Hearings scheduled for September 10th and 24th.

C. INDEPENDENT COUNSEL'S REPORT

Independent Counsel informed the Panel that the Orange County Commission had refused to authorize the Orange County Attorney to appeal *Demings v. Orange County Citizens Review Board* to the Florida Supreme Court based on conflict with the Third District Court of Appeal in *Timoney v. City of Miami Civilian Investigative Panel*. He also reported that the Fifth District Court of Appeal had denied the County's motion for re-hearing, motion for re-hearing en banc, and motion for clarification. Independent Counsel noted that in a telephone conference he had with the Orange County Attorney, the latter will attempt to adopt new legislation to provide civilian oversight.

The Panel was also updated on the Key West litigation, and advised that a motion to dismiss is scheduled in November of this year.

Independent Counsel reported that the CIP's and the City of Miami's respective motion to intervene in the *FOP v. City of Miami*, and the D'Agostino cases had been granted. He observed that the litigation should be short-lived because the issues presented are essentially legal rather than factual disputes and, based upon the decision in *Timoney v. City of Miami Civilian Investigative Panel*, should conclude favorably for the CIP and the City of Miami.

D. BUDGET UPDATE

Please see item B.

E. COMMITTEE REPORTS

E.1 Policies & Procedures

Mr. Cobitz reported that there were no Departmental Order revisions forwarded last month and there was no meeting of the Committee. However, staff is involved in the following:

- A review of all recommendations made to date, in consideration of resubmission and to update the website;
- A review of the recently completed FDLE report on crime statistics for any possible policy issues;
- K-9 issues during the last five years, for future discussions on the topic.

In response to a question from Mr. Hart concerning the use of dash cameras, Panel members were reminded that the Panel's initial recommendation to the MPD for use of the cameras had

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been re-submitted along with a request for the information that led the MPD to conclude that the cameras were not affordable.

E.2 Personnel

Mr. Moore advised that the search for an Executive Director began July 23, 2009. He further indicated that Staff had received thirty-six (36) expressions of interest to date, with eleven (11) completed applications. The other twenty-five (25) prospective applicants have been advised as to the application procedures. Mr. Moore further advised that only three (3) applicants are from the City of Miami, twenty-three (23) from Florida, nine (9) from other states and one (1) from Canada. He also communicated that he needed to convene a Committee meeting in order to review the selection process and to determine a deadline for submitting applications. Finally, Committee members were surveyed and a Personnel Committee meeting was set for Wednesday, August 26, 2009 at 12 noon in the CIP conference room.

F. CASE MANAGEMENT

Mr. Wolf reported that fourteen (14) cases were being presented. Initially there were fifteen (15) cases however the **Paul Turner** case (CIP# 09-163), which was heard by the Complaints Committee, was deferred so that the principal officer could be noticed. He further stated that a total of three-hundred one (301) cases were Closed, two-hundred twelve (212) Opened to date, fifty-one (51) of which were *Direct Files*.

- F.1 Motion: Complainant:** Michael Thomas Lenton; **Principal Officers:** Juan Ortega; Daniel Pastor (CIP #09-079, IA #09-082): To Close as **Sustained** on the allegation of **Improper Procedure** against Officer Pastor. Close as **Not Sustained** on the allegation of **Abusive Treatment** against Officer Juan Ortega.

Discussion: Ms. McAliley stated that Mr. Lenton's complaint alleges that he was punched in the face by an officer. The Committee recommended a Not Sustained finding as to Abusive Treatment but Sustained as to the allegation of Improper Procedure based on the Officer Pastor's failure to report the use of physical force. Ms. McAliley added that Officer Pastor was cited by the MPD for not reporting the injury.

Motion moved by Ms. Delancy and Seconded by Mr. Cobitz. Motion carried

- F.2 Motion: Complainant:** Wensdaille Nelson Barr; **Principal Officers:** Raymond Gonzalez (CIP #09-070, IA #08-307): To Close as **Not Sustained** on the allegation of **Misconduct** against Officer Raymond Gonzalez. **Motion moved by Ms. Shapiro and Seconded by Mr. Cobitz. Motion carried.**

Motion to Close the Following Cases as No Finding with the exception of F5; F5 (Kesner Louis-Jean), To Close as Not Sustained. Motion moved by Ms. Shapiro and Seconded by Mr. Cobitz.

- F.3 Complainant:** Walter Chandia; **Principal Officer:** Roberto Mallon, (CIP# 09-184, IA #08-297)
- F.4 Complainant:** Norman Brooks; **Principal Officer:** Garret Wing, (CIP #09-027, IA #05-185)
- F.5 Complainant:** Kesner Louis-Jean; **Principal Officer:** Blake Weinger, (CIP #09-149, IA #09-152); Not Sustained. Motion moved by Mr. Cobitz and Seconded by Ms. Delancy.
- F.6 Complainant:** Giraldo Linares; **Principal Officer:** Wilfredo Abscal, (CIP #09-088, IA #08-245)
- F.7 Complainant:** Anderson Sterling; **Principal Officers:** Lazaro Alvarez, (CIP #09-157, IA # 09-029)

Discussion: Ms. McAliley commented as to the oddity that all three witness officers, Ashton, Williams and Luis testified that they *did not recall* Officer Alvarez strike anyone. Mr. Wolf added that the complainant, Mr. Sterling, did not wish to pursue the case.

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F.8 Complainant: Joseph Maya; **Principal Officer:** Yoslan Marrero, (CIP #09-187, IA #09-095)

Discussion: Ms. McAliley advised that Mr. Maya owns a small restaurant and had been employing off-duty officers for security purposes. As his business declined, he was unable to afford the officers. She added the complainant alleged he has been subjected to verbal abuse by the officers as a result of his business decision to discontinue the use of off-duty officers. Ms. McAliley indicated that Mr. Maya did not wish for the CIP to continue to investigate his complaint.

F.9 Complainant: Anthonette Nelson; **Principal Officer:** Unknown, (CIP #09-164, IA #08-117)

F.10 Complainant: Reid Welch; **Principal Officer:** William Gonzalez; Eduardo Perez; Ofren Vera, (CIP #09-117, IA #08-407s)

F.11 Complainant: Stanley E. Fulton; **Principal Officer:** Maximiliano Valdes, (CIP #09-110, IA #09-047)

F.12 Complainant: Eugenio Mendez; **Principal Officer:** Commander Jose Alfonso; Yoslan Marrero, (CIP #09-086, IA #08-395)

F.13 Complainant: Richardson Dalce; **Principal Officer:** Lazaro Alvarez, (CIP #09-112, IA #09-017)

F.14 Complainant: Elizabeth Stephens; **Principal Officer:** Brandon Lanier, (CIP #09-165, IA #09-034)

Discussion: Ms. Shapiro requested that the record to reflect the following officers have multiple complaints before the Panel on today's date: Officer Yoslan Murrero F.8 and F12 and Officer Lazaro Alvarez F.7 and F.13. Mr. Wolf acknowledged same and agreed to Ms. Shapiro's suggestion for careful monitoring of the named officers.

Motion carried.

G. PUBLIC FORUM II
Please see item A.

H. ANNOUNCEMENTS

H.1 City Commission Meeting of September 10, 2009 re Proposed Ordinance Revision & Membership Appointments.

Ms. Abia communicated that this item scheduled for September 10, 2009 may be deferred or continued by the City Commission. Ms. Shapiro communicated that she wants to convene an Ordinance Revision meeting prior to September 10, 2009 in order to be prepared for said meeting on September 10th. Committee members agreed to have a meeting on September 2, 2009 at 12 noon, CIP Conference Room.

H.2 City Commission Meeting

Please see item H.1.

H.3 Next CIP Meeting Date:

The next CIP meeting will be September 15, 2009 at City Hall Chambers, 5:30 p.m.

H.4 Executive Director's Recruitment (On-going)

Please see item E.2.