



CIVILIAN INVESTIGATIVE PANEL
Summary of Minutes
Tuesday, July 23, 2009
5:30pm



Location

Civilian Investigative Panel (Conference Room)
155 S. Miami Avenue, PH1-B
Miami, FL 33130

Members Present

Tom Rebull, Chairperson
Thomas Cobitz, Vice Chair
Susan Weintraub, Secretary
Fred St. Amand, Treasurer
Michelle Delancy
Rudy de la Guardia
Raymond Hart
Bess McElroy
Timothy Moore
Brenda Shapiro

Independent Counsel

Charles C. Mays, Esq.

Staff Present

Carol A. Abia, Interim Executive Director
Donald March Jr., Research Analyst
Steven Wolf, Chief Investigator
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 June 16, 2009 meeting. **Moved by Mr. Cobitz and Seconded by Ms. Shapiro. Motion carried.**

Approval of Agenda

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

A. PUBLIC FORUM I

Mr. Joseph Simmons addressed the Panel regarding a complaint filed with the CIP but not yet scheduled to be heard by either the Complaints Committee or full Panel. Mr. Mays advised that upon his initial review of the case file, the customary 10-day notification letter was sent to the Complainant. Mr. Mays added that after a meeting with Mr. Simmons concerning his complaint, he advised Chief Investigator Steven Wolf to obtain the police dispatch tape. Upon his review of the tape, he advised Mr. Wolf that an investigation should proceed on the complaint. Mr. Simmons expressed his dissatisfaction with Mr. Mays' initial determination and stated that he would be filing a complaint with the Panel against him. Mr. Simmons was directed to submit any new information or complaints to investigative staff.

B. CHAIRPERSON'S REPORT

Chairperson Rebull reminded the members regarding CIP matters scheduled for the September 10th and September 24th City Commission meetings, i.e., the proposed revisions to the Ordinance, approval of nominations for membership and the proposed budget. He advised the members on the changes to the Ordinance as proposed by the ACLU. Discussion ensued. It was the position of the Panel that any revision to the Ordinance should include a requirement that each Commissioner submit recommendations for nominations to the CIP. Further, that the Ordinance should include a fixed period of time by which the Commission must either approve or reject the Panel's nominations.

With regards to absences by members at Panel meetings, the Chair directed attention to the requirements of the Ordinance with reference to absenteeism and waiver requirements. Ms. Weintraub requested that where consideration is being given to a change in a regularly scheduled meeting that members should be provided with sufficient notice.

C. BUDGET RESOLUTION

Independent Counsel read the following Resolution into the record, approval of which was initially made at the Special Budget meeting of June 15, 2009:

Resolution of the City of Miami Civilian Investigative Panel with attachment(s) approving for submission to the Mayor and Miami City Commission a proposed budget in the amount of \$835,200 for FY 2010 whereas the CIP according to ordinance no.:12188 Sec. 11.5-10 is required to submit to the City Commission a Budget request pertaining to its functions; and Whereas the CIP has reviewed the attached Budget proposal in the amount of \$835,200 for Fiscal Year commencing October 1, 2009 and ending September 30, 2010; and

Now therefore, be it resolved by the Civilian Investigative Panel that:

- 1. The proposed CIP Annual Budget for Fiscal Year commencing October 1, 2009 and ending September 30, 2010, in the amount of \$835,200 attached and incorporated are approved by the Panel on this 23rd day of July 2009.*
- 2. This Resolution shall become effective immediately upon its adoption and signature by the Chairperson.*

There were no objections to the Resolution.

D. INDEPENDENT COUNSEL'S REPORT

Independent Counsel advised he submitted an agreed order to the court granting the CIP's motion

to intervene in the FOP vs. City of Miami lawsuit and of his intention to transfer the FOP lawsuit to the judge hearing the D'Agostiono v. CIP lawsuit. He stated that the litigation is proceeding well. Independent Counsel informed that the Orlando County Attorney's office still had not been authorized by the Orlando County Commission to appeal to the Florida Supreme Court the adverse decision rendered by the Fifth District Court of Appeal in Demings v. Orange County Citizens Review Board. Independent Counsel explained that the absence of a decision authorizing such an appeal appears to be mired in political considerations, and observed that several of the Orange County commissioners are up for re-election and the Police Benevolent Association has waged and continues to wage a vigorous political campaign against civilian oversight. Shifting to the litigation involving the Key West Civilian Review Board, where the Police Benevolent Association has challenged the authority of the Key West CRB to investigate and subpoena a Key West police officer, Independent Counsel reported that the preceding day the PBA had moved to dismiss the CRB'S petition to enforce the subpoena with a two-pronged attack: (1) The PBA contended that the Key West City Commission does not have the legal authority to issue subpoenas and, therefore, Key West could not confer such power upon the CRB; and (2) the Law Enforcement Officers' Bill of Rights, as interpreted in Demings v. Orange County Citizens Review Board, precludes the CRB from investigating police officers. Independent Counsel also reported that the status quo in Fort Myers is unchanged, save for a referendum in November to confer subpoena power upon the newly created civilian review board. Independent Counsel distributed to the panel a copy of a facsimile he received that day from the attorney of Steven Wolf threatening to sue the CIP in the event Mr. Wolf's salary is reduced.

E. CASE MANAGEMENT

Mr. Wolf reported that 12 cases are to be presented on today's date. He further stated that Investigations has closed 275 cases; in addition, 238 have been opened of which 47 were directly filed with the CIP.

E.1 Complainant: George Carrazana; Principal Officers: Teresita Lopez, and William Cook (CIP #09-080, IA #08-332 S): Motion to close case as Not Sustained for Discourtesy and Improper Procedure and with the following observations:

- Internal Affairs failed to investigate Officer Lopez as a Principal Officer, and no finding was rendered with regard to her;
- Internal Affairs failed to investigate the justification for the Officers' stop of Mr. Carrazana;
- The Officers involved should have called for a uniformed Officer to make the stop; and,
- Internal Affairs failed to investigate the allegation of damaged property (the mutilated driver's license.)

Moved by Mr. Cobitz, seconded by Mr. Hart. Motion Carried.

E.2 Complainant: Willie Fluker; Principal Officers: Robert Laurenceau and Armando Alvarez (CIP #09-059 IA #09-027): Motion to close as Sustained for Improper Procedure and No finding for Abusive Treatment. Moved by Mr. Cobitz, seconded by Mr. Hart. Motion Carried.

Motion to Close the Following Cases with Summary Disposition and No Finding:

E.3 Complainant: Ralph Ericken; Principal Officer: Francisco Sallano (CIP #09-190, IA# 09-105)

E. 4 Complainant: Gregoria Denis; Principal Officer: Wilfredo Perez (CIP# 09-191, IA# 09 004)

CIP/id

- E. 5 Complainant: Yanick Edmond; Principal Officer: Harold James (CIP# 09-206, IA# 09-112)
- E.6 Complainant: Delores Shorter; Principal Officer: Unknown (CIP# 09-178; IA# 09-079)
- E.7 Complainant: Zina Jones; Principal Officer: Tika Jones (CIP# 09-113; IA UNK.)
- E.8 Complainant: Zack Abdo; Principal Officer: Matthew Hall (CIP# 09-114; IA# 09-014)
- E.9 Complainant: Elie Didier; Principal Officer: Marc Francois (CIP# 09-111, IA# 09-036)
- E.10 Complainant: Lee David Silver; Principal Officer: Betty Nelson (CIP# 09-118, IA# 08404)
- E.11 Complainant: Clinton Kelly; Principal Officer: Juan Vera (CIP#09-105, IA#08-342)
- E.12 Complainant: Pablo Tirade-Hernandez; Principal Officer: Commander Jose Alfonso (CIP#09-129, IA#08-257).

Discussion ensued on whether the Principal Officer should be placed on the Monitor List. Mr. Wolf advised that staff is still working on validating the List.

Moved by Mr. Cobitz, seconded by Mr. Hart. Motion Carried.

F. PUBLIC FORUM II

No members of the public addressed the Panel.

G. ANNOUNCEMENTS

Mr. Rebull informed Panel members that Miami-Dade County Mayor Carlos Alvarez proposed to eliminate the Independent Review Panel (the County's counterpart of the CIP) and reduce all County employees' salaries across the board. He further reminded everyone of the severity of the budget crisis, underscoring the need for the CIP to actively participate in and support the budget process.

Mr. Moore asked whether Panel members had any further comments/input with regards to the advertisement for the Executive Director position. Panel members expressed their concurrence with the notice as it currently reads. Ms. Abia informed the members that the Department of Employee Relations advised that the CIP should proceed as it has done in the past with conducting its own recruitment.

Ms. Abia corrected the record of the June 15, 2009 meeting to reflect that the CIP contract with the firm of Harvey, Covington & Thomas, LLC., (a CPA firm contracted to perform annual audits of the CIP's financials) is for a two-year term with an option to renew for three additional one-year terms. The initial two years will expire in November 2009. The Chair instructed Ms. Abia to work with Mr. Moore and a new Committee to be formed, to consider the feasibility and process for obtaining proposals from interested firms, beginning with the FY 2009 CIP financials.

G.1 Next CIP Meeting Date

Members were reminded of the next meeting date of August 18, 2009, City Hall Commission Chambers at 5:30 PM

G.2 City Commission Budget Workshops

Members were informed of upcoming Commission budget workshops scheduled for August 6, 2009 at 9:00 AM and August 27, 2009 also at 9:00 AM. Ms. Abia assured the Panel that she will be in attendance at both Workshops.

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G.3 City Commission Meeting

Members were further notified of CIP related items scheduled before the City Commission on September 10, 2009, namely, a Resolution to amend the CIP Ordinance; Appointments for Membership and the Budget Hearing.