



CIVILIAN INVESTIGATIVE PANEL
Summary of Minutes
Tuesday, May 19, 2009
5:30pm



Location

City Hall Chambers
3500 Pan American Drive
Miami, FL 33133

Members Present

Tom Rebull, Chairperson
Thomas Cobitz, Vice Chair
Susan Weintraub, Secretary
Rudy de la Guardia
Raymond Hart
Bess McElroy
Janet McAliley
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 April 21, 2009 meeting. **Moved by Mr. De la Guardia, seconded by Ms. McElroy. Motion carried.**

Approval of Agenda

Motion: To approve the Agenda of the May 19, 2009 meeting. **Moved by Ms. McAliley, seconded Ms. McElroy. Motion carried.**

A. PUBLIC FORUM I

No Speakers.

B. CHAIRPERSON'S REPORT

Chair Rebull advised that the City Commission again deferred appointments to the CIP. He stated that Commissioner Spence-Jones informed the Commission that she will be presenting proposed legislation at the June 11, 2009 Commission meeting. Mr. Rebull stated that the change is likely to amend the manner in which Panel members are appointed. Ms. McAliley enquired as to an approximate date that the CIP would receive so as to have adequate opportunity to review the proposed changes and alert interested parties. Mr. Mays responded that probably in a week but advised that the CIP should start taking action as deemed in the best interest of the CIP. Mr. De la Guardia commented that the Panel supports more diversity in its membership and has worked to reach out to the various communities but that the action contemplated by Commissioners would adversely affect the Panel's independence. Ms. McElroy added that having been actively involved in the research into civilian oversight, the creation of the CIP and in authoring the Ordinance. She advised that the action contemplated by City Commissioners is contrary to the intent of the drafters and would unduly politicize the oversight process.

Motion: To have the Executive Director and Panel Members reach out to organizations for support in opposing any modifications being made to the existing CIP Ordinance. **Moved by Mr. De la Guardia and seconded by Ms. McElory. Motion carried.**

C. INDEPENDENT COUNSEL'S REPORT

Independent Counsel reported to the Panel that the bill proposing amendments to the Law Enforcement Officers' Bill of Rights did not contain any provisions that would limit or otherwise alter the ruling in the *Timoney* decision. The Panel was also advised by Independent Counsel that he had received a courtesy call from the attorneys for the Fraternal Order of Police that it intended to file a legal action to challenge the subpoena issued by the CIP in a case under investigation by the CIP. Independent Counsel declared that if and when legal proceedings commence, that the CIP would vigorously defend its right to issue subpoenas as a necessary component to conducting an investigation. Independent Counsel also reminded the Panel that the Police Benevolent Association has challenged the jurisdiction of the Orlando Civilian Review Board and the Key West Civilian Review Board to conduct investigations, and further reported that the Fifth District Court of Appeal had not ruled in the Orlando litigation.

D. COMMITTEE REPORTS

D.1 Policies & Procedures

Committee Chair Cobitz reported that there were three issues discussed at the Committee meeting. The first concerned a recently publicized accident involving a police car. He reported that CIP staff has reviewed the closed IA file. Independent Counsel Charles Mays provided additional facts on the case, stating that a supervisor responding to the accident scene suspected that the officer was impaired; the officer declined to submit to roadside tests; an FOP representative provided the officer with an apple; and a blood test revealed the presence of alcohol. Mr. Mays further stated that the IA investigation was thorough and, from the CIP review, there appeared to be no systemic problems. He added that the CIP has no jurisdiction in light of the fact that the

officer has since resigned. Chair Rebull stated that the reason the CIP had done a review at this time was because IA had submitted a closed case. Committee Chair Cobitz reported that the Committee had also reviewed the status of "Rachel's Law" scheduled to become effective July 1st and having to do with confidential informants. The Committee will await any revisions to the Departmental Orders necessitated by this legislation, and respond accordingly. Finally, the Committee discussed the proposed changes in the Police Officers' Bill of Rights which was addressed earlier in the Agenda by Independent Counsel.

D.2 Outreach Committee

Ms. Abia stated that letters have been sent to various community and business organizations in the West Flagler and Little Havana area to advise their membership of the work of the CIP and request an opportunity to make a presentation at their meeting. She further reported that she will be following up with phone calls to those organizations before the end of the week. Additionally, letters were sent to Radio Belle and Island Television and she is in the process of scheduling interviews with them. Ms. Abia further communicated that Mr. St. Amand has offered to assist in securing air time. She further advised that CIP staff attended the 28th Annual People United to Lead the Struggle for Equality (PULSE) Conference held in Miami on Saturday, May 15th.

D.3 Budget Committee

Mr. De la Guardia reported that Budget Committee met last week and several budget scenarios were presented to the members for consideration and from which two were selected for recommendation to the full Panel. Both scenarios included a 7 % percent total reduction from the Fiscal Year 2009 budget. Scenario 1 proposes to have the Executive Director earn \$125,000. He further advised that included under Scenario 1 is a 1% percent reduction in salaries to employees earning over \$50,000 and a 3% reduction in Other Contractual Services. Scenario 2 proposes a salary of \$110,000 for the Executive Director. Neither Scenario includes the position of Assistant Director. Mr. De la Guardia added that both scenarios include a Typist Clerk position. He asked that Panel members vote to adopt either Scenario 1 or 2.

Motion: To adopt Scenario 2, with the Executive Director's Salary at \$110,000 and eliminating the Assistant Director's position. Moved by Mr. De la Guardia and seconded by Mr. Moore. Motion carried, with Ms. McElroy and Ms. McAliley opposed.

Mr. De la Guardia advised that he is troubled that the former Executive Director's salary continues to be taken bi-weekly from the CIP's budget at the annual rate of total of \$168,000. Chair Rebull re-assured the members that the City Manager has communicated that the CIP will be made whole.

Mr. Moore advised that the Personnel Committee was not placed on the agenda to present a report but that he wished to communicate to the Panel members that staff has posted on the CIP website the Executive Director's job specification. He added however that the recruitment period had not yet begun, pending a response from the City Manager in reference to his written notification of a hiring freeze, requiring that any requests for exceptions are to be approved by the City Manager. The Chair advised that the CIP has indicated in its letter to the Manager that the position of Executive Director, pursuant to the Ordinance, requires City Commission approval only and as such requesting that the Manager allow the Department of Employee Relations to provide the necessary assistance to the CIP in its recruitment and hiring for the position.

E. CASE MANAGEMENT

Chief Investigator Steven Wolf advised that eleven (11) cases would be presented to the Panel tonight, three (3) of which were previously deferred and being re-submitted with dispositions of **No Finding**. He further advised that the Investigations Section has closed two hundred and twenty-one (221) cases, opened one hundred ninety-three (193) and had thirty-nine (39) cases directly filed with the CIP.

Mr. Wolf communicated to the Panel a pending concern regarding the Monitoring List. He advised that dates provided to the CIP (via Internal Affairs) and used by the CIP as a basis for placement into the CIP Monitoring List is not in fact the complaint or incident date but rather, the date that I.A. entered the complaint into the IA Pro Case Management System. As a result of these entries, the Monitoring List needs to be re-examined. Mr. Wolf asked that Staff be provided with reasonable time to review the disciplinary histories of the officers on the list, towards rebuilding a more reliable list. Mr. Cobitz recommended that the issue be brought before the Complaints Committee at its next meeting to review corrective measures. Ms. Abia informed the Panel that List has been temporarily removed from the CIP website pending resolution of this issue. Further, that the process for replacing the revised list on the website can be done within a day or two. Chair Rebull directed Staff to immediately take necessary steps in order to ensure accuracy, fairness and timeliness of the list.

- E.1 Motion: Complainant:** Adrian Clark; **Principal Officer:** Officer Christopher Francis, (CIP #09-038, IA #08-08-274N): To close case as **Exonerated** for Abusive Treatment. Discussion ensued on the circumstances requiring an officer to complete a Response to Resistance Report.
Moved by Mr. de la Guardia, seconded by Mr. Cobitz. Motion carried.
- E.2 Motion: Complainant:** Ernst Jean-Louis; **Principal Officers:** Officer Elijah Taylor, Gary Sampson, Rossicia Allen, Alfredo Matias, Wayne Cooper, Javier Gonzalez, Suberto Hernandez and Kelly Macina (CIP #09-056 IA #08-333): To close as **Sustained for Improper Procedure** and **Not Sustained for Missing Property**. Mr. Wolf expressed concerns regarding the officers failure to secure a warrant to enter the residence and inconsistent statements from officers concerning whether the complainant within or outside the residence. Additionally, he raised concerns regarding IA's failure to interview another witness officer. **Moved by Mr. Cobitz, seconded by Ms. Shapiro. Motion carried.**

The following cases were presented as Summary Disposition:

- E.3 Complainant:** Wilnise Joseph Jean-Philippe; **Principal Officer:** Officer Jean M. Jean-Philippe (CIP #08-408, IA# 08-113): To close as **No Finding** for **Misconduct**.
- E. 4 Complainant:** Roosevelt Cayo; **Principal Officers:** Lazaro Alvarez and William Goins (CIP 08-028; IA 08-057N); To Close as **No Finding** for **Improper Procedure**.
- E. 5 Complainant:** Myrlande Simon; **Principal Officer:** Willie Bell (CIP 08-387, IA 08-019); To Close as **No Finding** for **Abusive Treatment and Discourtesy**.
- E.6 Complainant:** Cotekia Stringer; **Principal Officers:** Reinaldo Goyos and Richard Castellon (CIP 07-143; IA 08-103N); To Close as **No Finding** for **Abusive Treatment and Improper Procedure**.
- Panel expressed concern over injuries sustained by Complainant by Police K-9. There was a consensus to close the case as **NO Finding** as a result of mandatory investigative time frames but the Panel expressed a desire to hear from the Commander of the K-9 Unit regarding their procedures for deploying canines and the manner in which those cases were investigated. Staff will request a presentation by a representative of the K-9 Unit for the June Panel Meeting.
- E.7 Complainant:** Eric Bonita; **Principal Officer:** Lazaro Alvarez (CIP 08-055; IA 08-078N); To Close as **No Finding** for **Discourtesy**.
- E.8 Complainant:** Gigi Trinidad; **Principal Officers:** Armando Rigau, Wilfredo Perez and Francisco Sallano (CIP 08-060; IA 08-077 and 08-118N); To Close as **No Finding** for **Neglect of Duty, Abusive Treatment and False Arrest**.

Motion to close the cases presented as Summary Disposition with an entry of No Finding. Moved by Mr. Cobitz, seconded by Mr. de la Guardia. Motion carried.

E.9 Complainant: Veronica Morning-Morrison; Principal Officer: Pierreson Derogene (CIP 06-222; IA 06-081S); To Close as No Finding for Improper Procedure and Neglect of Duty. Moved by Mr. Cobitz, seconded by Mr. de la Guardia. Motion carried.

E.10 Complainant: City of Miami; Principal Officer: Harvey Nairn (CIP 06-347; IA 05-109); To Close as No Finding for Improper Procedure. Moved by Ms. Shapiro, seconded by Mr. de la Guardia. Motion carried.

E.11 Complainant: Oswald Nelson; Involved Officers: Sgt. Eugene Kowalski and Peter Romero (CIP 06-411; IA 02-192S); To Close as No Finding for Improper Procedure and Discourtesy. Moved by Ms. Shapiro, seconded by Mr. de la Guardia. Motion carried.

CIP 08-358 & CIP 08-189 (Companion Cases): Complainant: Myra Reyes-

Mr. Wolf advised that the CIP has closed this case but, because of policy concerns as relates to recurring incidents of domestic violence by Miami police officers, a referral was made to the Policies and Procedures Committee for appropriate action. He advised that the Committee has since submitted a letter to the Chief of Police requesting that the Department review its current policy and evaluate policy recommendations of the IACP on the subject.

F. PUBLIC FORUM II

No speakers.

G ANNOUNCEMENTS

G.1 Next CIP Meeting Date:

City of Miami- City Hall Chambers
June 16, 2009
5:30 P.M.