



civilian**investigative**panel

## **CIVILIAN INVESTIGATIVE PANEL**

### **Summary of Minutes**

**Thursday, January 22, 2009**

**CIP Conference Room**

**6:00 p.m.**

### **Location**

City of Miami Civilian Investigative Panel - Conference Room  
155 South Miami Avenue, PH1-B  
Miami, FL 33130

### **Members Present**

Brenda Shapiro, Chairperson  
Rudy de la Guardia, Vice Chair  
Bess McElroy, Treasurer  
Janet McAliley  
Timothy Moore  
Fred St. Amand  
Susan Weintraub  
Thomas Cobitz  
Raymond Hart

### **Members Absent**

Michelle Delancy-absent due to scheduling conflict.  
Thomas Rebull-absent due to a death in the family and made arrangements to call in and participate in discussions. Mr. Rebull called in but advised he would be unable to remain on the line to participate.

### **Independent Counsel**

Charles C. Mays, Esq.

### **Staff Present**

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

### **Staff Absent.**

Shirley Richardson, Executive Director, advised that she could not attend due to illness.

### **Welcome**

Chairperson Shapiro called the meeting to order at 6:00 PM.

### **Roll Call**

Roll call was conducted by Ms. Abia.

### **Opening Remarks by the Chair.**

Chairperson Shapiro greeted attendees. She proceeded to explained that two members had asked concerning telephonic participation in the meeting and sought confirmation from legal counsel that only those members present can vote; that by ordinance and by law, one cannot vote in absentia, or by proxy, or over the phone. Mr. Mays verified concerning the protocols and requirements per the ordinance. He further explained that an ordinance supersedes a by-law, just as a statute supersedes an ordinance. Further, that what governs our proceedings is our ordinance that came about because of our charter.

### **Approval of the Minutes**

**Motion to approve the Minutes of the December 16, 2008 meeting: Motion by Ms. McAliley; second by Mr. Cobitz. There were no objections, additions or corrections. Motion Passed.**

### **Approval of Agenda**

**Motion to approve the Agenda of the January 22, 2009 meeting. Motion by Mr. De la Guardia, second by Mr. St. Amand. There were no objections. Motion Passed.**

### **A. CHAIRPERSON'S REPORT**

Chairperson Shapiro expressed her appreciation to the Panel members for their service to the citizens of Miami. As she reflected on her two years as the leader of the CIP, she acknowledged the challenges given her by the Panel, stating that she never once questioned their dedication to and concern for the citizens served. She thanked staff for their support in completing investigations of alleged

police misconduct and in assisting the Panel with input to the police department concerning policies and procedures. She remarked that she had set as a goal the staffing of the investigative function with full time investigators, versus contract personnel, and heralded the resulting completion of 319 cases in the past year as a result of the advent of full time investigators.

Ms. Shapiro reported that the Executive Director was home ill, under Doctor's orders. The Chair reminded the Panel that at the last meeting, Ms. Richardson had elected to not make a statement on her proposed termination, reserving the right to make such statement at this month's meeting when the issue came up. In that she was not going to be present, the Chair reported that Ms. Richardson was asked if she had a written statement so that it could be provided to the Panel, and she responded that she did not. The Chair stated that the agenda was approved as posted, and that based on same, there would be no change in the agenda. She expressed her regret that Ms. Richardson could not be here to make a statement.

## **B. ADMINISTRATIVE ISSUES**

### **B.1 Standard Operating Procedures for Investigations.**

Ms. Abia commended the investigative staff, Independent Counsel and CIP members Rebull, Weintraub, and McAliley who met along with her and Ms. Richardson to finalize the draft procedures included in the agenda packet. The Chair noted that Mr. Wolf first began working on these procedures upon his arrival and the first draft she recalled seeing was in January 2008. [Note: At this point, Mr. Rebull was patched in on speaker phone, and advised that he would NOT be able to participate, ending his call shortly thereafter.] When queried by the Chair, Independent Counsel advised that the Procedures document before the Panel was not there for approval, as their production was an administrative matter. Member McAliley challenged this opinion, citing involvement by the Complaints Committee in the review of earlier draft language. The Chair discussed the language in the Ordinance concerning internal governance. Mr. Mays stated that the language is subject to interpretation and that there is sufficient elasticity that the Panel could decide the extent to which they wanted to involve themselves in such matters.

**Motion for the Investigative Procedures to be referred to the Complaints Committee for report back to the Panel. Moved by Ms. McAliley; second by Mr. De la Guardia. Motion passed unanimously.**

### **B.2 Panel Vacancy**

Ms. Abia reported that the as of the last deadline for applications for Panel membership, 26 were received, with 24 appearing on their face to meet the minimum qualifications. She advised that Ms. Delancy, Chair of the Vacancy Committee, will be scheduling a meeting of the Committee to review the applications, copies of which will be provided to Panel Vacancy Committee

members and to the full membership. Mr. Cobitz asked concerning the treatment of the five (5) applicants whose names were previously submitted by the Committee. Ms. Abia reported that each has been contacted and asked if they wanted their applications to be re-considered, and that they will be included in the group if they responded in the affirmative. Ms. McAliley inquired if the three incumbents' names would be submitted to the Commission. The Chair responded that the answer to that question would not be known until the Panel Vacancy Committee met. The Chair then reminded the Panel that upon the end of her term, the constitution and leadership of the Committees and their respective Chairs will be determined by the incoming CIP Chair.

Mr. De la Guardia shared his recommendation that the Panel Vacancy Committee review the candidates and submit the names of those who they deemed the most qualified. The Chair also commented further on the issue of standing committees, stating that the Budget Committee ought to be a standing committee and the By-Laws Revision Committee should take note of that recommendation, in light of the most recent experience the Panel has had in asserting a right to determine how to budget whatever amount is provided to the CIP by the City. She stated that the CIP has sole responsibility for its budget and is held fiscally accountable by the Commission.

### **C. PANEL ITEMS**

#### **C.1. Termination of Executive Director, naming Interim Director & opening position to hire a permanent replacement.**

The Chair reminded the Panel that this issue was first brought before it at the October 2008 meeting, and then called on the maker of the original motion, Mr. de la Guardia, to address the Panel. Mr. De la Guardia first discussed research that he had done on the issue and after reminding the group of the remarks earlier, that a statute supersedes an ordinance, and an ordinance supersedes a by-law, stated that he believed that the CIP By-Law requiring a super majority to terminate the Executive Director, is superseded by an ordinance provision that requires only a simple majority. Independent Counsel was called upon and he affirmed that conclusion, informing the group that the By-law is inconsistent and in conflict with the Ordinance that requires only a simple majority of the votes cast by those present (51%) for the Panel to take action. Mr. De la Guardia then made the following Motion, seconded by Mr. Cobitz.

**Motion to terminate the Executive Director, appoint an Interim Director and conduct a national search for a replacement.** Discussion ensued.

In support of his motion, Mr. De la Guardia distributed documents pertaining to his argument that the Executive Director should be terminated due to insubordination and to her failure to: provide leadership to staff; propose an acceptable budget; keep the Panel informed of critical issues; operate the office efficiently through staff; promote outreach for the CIP and make herself available to staff. These findings were based in part on responses from former employees

to exit interview questions and on a questionnaire created by him and completed by current staff members. Testimony was elicited in the meeting from two recently terminated staff members who were present, Ivette Davila and Symphony Lyricist, who also responded to questions from the Panel. The Chair closed the discussion with comments in support of the Motion, with her support tied to a failure on the part of the Executive Director to fulfill her obligations as called for in her job description: to conduct outreach; deliver detailed reports on complex issues pertinent to the mission of the Panel; produce studies and finally, to responsibly manage the budget.

**Motion passed, 8-0, with Member McElroy abstaining.**

Discussion ensued on the determination of a replacement for the Executive Director.

**Motion to designate Ms. Carol Abia as Interim Executive Director, to facilitate a national search for a replacement. Moved by Mr. de la Guardia; second by Mr. Hart. Motion passed, with Ms. Weintraub dissenting.**

Ms. Abia agreed to accept the interim position at the salary proposed in the CIP budget of \$135,000. The Chair informed the Panel that the incoming Chair would have to decide whether to impanel a Personnel Committee, and whether that Committee should address the issue of job descriptions. In response to questions as to the re-hiring of clerical support staff and follow-up on the administrative requirements associated with the termination of the Executive Director, the Chair indicated that the coordination of these matters would fall to the Interim Director.

#### **C.2. Discussion RE: Amendment to By-Laws removing 2/3 majority for termination of Executive Director.**

This item was not discussed further, having been addressed earlier in the meeting.

#### **D. ELECTION OF OFFICERS**

Ms. Abia read the nominations received:

1. Chair: Rudy De la Guardia and Tom Rebull
2. Vice-Chair- Tom Cobitz
3. Treasurer- Fred St. Amand
4. Secretary- Susan Weintraub

Mr. De la Guardia expressed his appreciation for the nomination and asked that his name be withdrawn. With no opposition, the Chair then pronounced the installation of the new officers. In the absence of Chairperson Rebull, Ms. Shapiro turned the gavel over to the Vice-Chair, Mr. Cobitz.

E. PUBLIC FORUM

Ms. Mattie Lomax appeared to speak about police corruption. The Vice-Chair established through questions of the citizen and investigative staff that Ms. Lomax had discussed several complaints with CIP staff. Mr. Mays reported that the most recent case had come before the Complaints Committee and had been closed in December. The Vice-Chair asked that the issue come back before the CIP at the next meeting.

F. CASE MANAGEMENT

- F.1 **Motion:** Complainant: Gary Jeanty; Principal Officer: Officer Carlos Antunez, (CIP #08-390, IA #08-070): **To close case as Sustained for Misconduct. Motion Passed.**
- F.2 **Motion:** Complainant: Iluta Sutra; Principal Officer: Officer Yatha Legrand (CIP #08-389 IA #08-064): **To close as Not Sustained for Misconduct (Battery) and Not Sustained for Misconduct (Untruthfulness). Motion Passed.**
- F.3 **Motion:** Complainant: Rafael Gonzalez; Principal Officer: Officer Andy Valdez (CIP #08-150, IA# 08-142S): **To close as No Finding for Improper Procedure. Motion Passed.**
- F.4 **Motion:** Complainant: Antoine Patterson; Principal Officer: Officer Cesar Villafana (CIP #08-391, IA #08-072): **To close case as No Finding for Abusive Treatment and Discourtesy. Motion Passed.**
- F.5 **Motion:** Complainant: Alesha Bruce; Principal Officer: Officer Javier Ortiz (CIP #08-407, IA# 08-110): **To close case as No Finding for Abusive Treatment and Discourtesy. Motion Passed.**
- F.6 **Motion:** Complainant: Maria Chirinos; Principal Officer: Officer David San Juan (CIP #08-427, IA #08-206): **To close case as No Finding for Abusive Treatment and Improper Procedure. Motion Passed.**
- F.7 **Motion:** Complainant: Victor Riveron; Principal Officer: Sergeant Alejandro Mendez (CIP #008-248, IA #07-071): **To close case as Exonerated on Neglect of Duty. Discussion ensued. Motion Passed.**  
**Motion:** **To submit the case to the Policies and Procedures Committee for review of MPD and Fire Rescue policies for handling and treatment of intoxicated subjects. Motion Passed.**
- F.8 **Motion:** Complainant: Oscar Ruiz-Gallo; Principal Officer: Officer Margarita Crown (CIP #08-419, IA #08-278S): **To close case as Not Sustained on Improper Procedure and Discourtesy. Motion Passed.**

(Member Cobitz abstained advising that a party to the complaint is a former client.)

- F.9 **Motion:** Complainant: Mark Terry; Principal Officer: Officer Favian Rodriguez (CIP #08-424): **To close case as Not Sustained on Misconduct, Improper Procedure, and Discourtesy.**  
**Discussion:** Mr. Terry addressed the Panel and responded to questions. Discussion ensued on issues related to expiration of the 120 days for the CIP investigation, the need for an Ordinance revision to address the 120-day deadline set forth in the Ordinance; timely notification for issuance of subpoenas and the absence of the Internal Affairs (I.A.) report.  
**Case deferred pending receipt of the I.A report.**

**Motion: To Close the Following Cases by Summary Disposition**

- F.10 Complainant: Xavier Woods; Principal Officer: Officer Debra Grant, (CIP #08-181, IA #06-110S)
- F.11 Complainant: Marcia Santana; Principal Officer: Officer Gloria Douthett, (CIP #08-183, IA #06-113)
- F.12 Complainant: Jakkarrie Hill; Principal Officer: Officer Manuel Cabrera, (CIP #08-209, IA #06-169S)
- F.13 Complainant: Lavon Williams; Principal Officer: Officer Nathaniel Fudge, (CIP #08-211, IA #06-175N)
- F.14 Complainant: Ronald Kohn; Principal Officer: Officer Reinaldo Tejera, (CIP #08-215, IA #06-203)
- F.15 Complainant: Emilio Dominguez; Principal Officer: Officer William Ledlow and Officer Carlos Deschamps, (CIP #08-216, IA #06-205S)
- F.16 Complainant: Lanea Everett; Principal Officer: Officer Schonton Fordham, (CIP #08-255, IA #07-082)
- F.17 Complainant: Solomon Mayberg and Jason Mirmelli; Principal Officer: Officer Jorge Loo, (CIP #08-275, IA #07-122)
- F.18 Complainant: Aimee Burk; Principal Officer: Andre Mathis, (CIP #09-015, IA #07-103S)
- F.19 Complainant: Lewatha Junior; Principal Officer: Officer Carlos Decespedes, (CIP #08-011, IA #08-051S)
- F.20 Complainant: Alfredo Vicedo; Principal Officer: Officer Anthony Perez and Officer Jesus Fundora, (CIP #07-067, IA #04-055N)

- F.21 Complainant: Fernando Nunez; Principal Officer: Officer Ricky Lopez and Jermaine Douglas, (CIP #08-249, IA #07-075)
- F.22 Complainant: Joel Martinez; Principal Officer: Officer Urbano Valentin and Officer Jude Odera, (CIP #08-213, IA #06-183S)
- F.23 Complainant: Frank Augustin; Principal Officer: Officer Ray Vickers, (CIP #08-265, IA #06-158S)

**Motion Passed.**

**G. Committee Reports**

**G.1 Policies & Procedures**

Committee Chair Cobitz read the following recommendation from the Committee:

A review of complaints handled by MPD lead to research into the experiences elsewhere in domestic violence cases where the victim and/or the offender is/are police officer(s). The IACP in 2003 issued a Model Policy and an accompanying Discussion Paper, characterized as a "product of the IACP Police Response to Violence Against Women Project." A review of MPD D.O. 9 Chapter 15 @ 15.13 articulates a policy that does not specifically address many of the issues of concern discussed in the IACP paper. We recommend that your staff review the aforementioned publications, benefit from the research done and the language developed, on behalf of prevention of domestic violence, or provision of quality intervention when necessary. **Motion to recommend by Ms. McAiley, second Hart. Motion passed.**

**H. Announcements**

**H.1 Next meeting Date**

Tuesday, February 17, 2009  
City of Miami – City Hall  
6:00 PM

**I. Meeting adjourned at 8:39 pm.**