



civilian**Investigative**panel

CIVILIAN INVESTIGATIVE PANEL

Summary of Minutes

Tuesday, February 17, 2009

5:00 p.m.

LOCATION

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

MEMBERS PRESENT

Thomas Rebull, Chairperson
Thomas Cobitz, Vice Chair
Rudy de la Guardia
Janet McAilley
Timothy Moore

Brenda Shapiro
Raymond Hart
Michelle Delancy
Bess McElroy

MEMBERS ABSENT

Susan Weirtraub
Fred St. Amand
[Both notified the CIP office that they would be unable to attend.]

INDEPENDENT COUNSEL

Charles C. Mays, Esq.

STAFF PRESENT

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

WELCOME

Chairperson Rebull greeted attendees and called the meeting to order at 5:05 PM.

ROLL CALL

Roll call was conducted by Ms. Abia.

APPROVAL OF THE MINUTES

Motion: To approve the Minutes of the January 22, 2009 meeting. **Motion passed.**

APPROVAL OF AGENDA

Motion: To approve the Agenda of the Feb, 17, 2009 meeting. **Motion passed.**

A. CASE MANAGEMENT (I)

The Chair inquired if any persons were present for the purpose of addressing an issue before the Panel and there were none.

B. PANEL ITEMS

B.1 Recruitment: CIP Executive Director. Ms. McAliley inquired as to the conduct of a search to fill the vacant Executive Director position. Ms. Shapiro expressed her concern about the recent Miami Herald article that suggested there would be a nationwide search at a significant cost. In the discussion, it was established that through the NACOLE network, notice can go nationwide at no cost, and information of a comparative nature as to practices elsewhere, and qualifications deemed appropriate for executive directors in other organizations can be obtained to assist the Panel in its decision-making, also at no cost. The Interim Director indicated that this research was already underway. At no time has contracting with an executive search organization been discussed, nor have travel expenses for applicants been considered as something the Panel would underwrite. In addition, staff has consulted with the City of Miami Employee Relations Department as to the manner in which they conduct executive searches. The Chair indicated that this issue would be referred to the Personnel Committee, after the discussion of the need to establish core requirements and a qualifications summary consistent with practices within Civilian Oversight.

B. 2. Filling of the Clerical Positions. Ms. Abia reported that she has met with the City Office of Strategic Planning and been told that based on the manner in which the budget has been administered through this budget year, there are insufficient funds for re-filling both support positions vacated through the termination of two employees by the previous Executive Director. There are only funds sufficient to re-hire the Typist Clerk. It was reported that there are ongoing discussions with City Administration as to the budget impact of the terminations, and the position supported in the discussion during this meeting was that the Executive Director was terminated effective January 22, 2009, with no severance compensation, and the decision to continue her employment with the City of Miami by City Administration should have no effect on the CIP budget. The Chair announced his intention to follow through on the will of the Panel and try and get both support positions filled.

B. 3. Posting of the Monitoring List on the CIP Website. Vice Chair Cobitz raised the issue of the website posting of the Monitoring List and asked for a progress report. Ms. Abia reported that she has submitted a request to the City Information Technology Department to:

- Include the Monitoring List on the Website;
- Update the Policy Recommendations portion; and
- Provide a link to the Legislative Hub so that the public can review each case or conduct a search for a case by name or case number.

The chair mentioned that timely maintenance of the Monitoring List (updating) is an important action item.

B. 4. Posting of Complaint Synopses on CIP Website. (See B.3 above).

C. COMMITTEE REPORTS

C. 1 Policies and Procedures. Committee Chair Cobitz reported that the Committee addressed completion of follow-up on several issues that have come before the Panel:

- Constructive suggestions to be forwarded to MPD concerning some 20 D.O. revisions reviewed by the Panel have been reduced to an eleven page document that the Committee has directed should be sent.
- The resolution concerning the domestic violence issue agreed upon by the Panel should be going forth to MPD.

- Several items are being carried on the agenda from meeting to meeting while research is underway to locate past cases in support of positions taken. Staff has been encouraged to conclude this research.
- The Auto Theft Reporting recommendation and the letter praising the English proficiency D.O. have been posted on the website.
- The issues referred to the Committee by the Complaint Committee concerning the requirement of an officer to render aid and make a report when a complainant is apparently intoxicated led to an examination not only of the Departmental Orders, but also of the First Aid protocols that Miami Police officers are trained to follow. The determination was made that the Orders and protocols contain sufficient direction to require the provision of aid and the generation of a report when there are obvious injuries, and to evaluate complaints of injuries by persons apparently incapable of doing so, in their best interest. No changes to the directives are recommended.

C. 2. Outreach. Ms. Abia reported for Committee Chair McElroy that immediate plans for getting the word out about the work of the CIP include:

- meeting with the many neighborhood and homeowners' associations throughout the City;
- engaging the media to help us spread our message;
- becoming more involved in community projects; and
- making the CIP website current with information about our activities.

The agenda package includes a list of several outreach projects that it is anticipated the Panel will be involved in during the next few weeks. Ms. Abia and Ms. McElroy attended a meeting of the Buena Vista West Homeowners Association on February 11 and shared information about the CIP and were well received.

Ms. Abia also reminded the panel of a scheduled meeting with the Jamaican Civilian Police Authority on February 26 and encouraged members to attend. Also, two meetings with the Overtown Advisory Board are scheduled and members are encouraged to represent the CIP there.

D. CASE MANAGEMENT (II)

Mr. Steven Wolf, Chief Investigator, advised that 52 cases were opened in the CIP since October 1, 2008 which begins Fiscal Year 2009, 11 of which were directly filed with the CIP. Further, 125 cases have been closed from October to date with an additional 17 cases pending Panel action today.

Mr. Wolf thereupon presented to the Panel the following cases and recommendations for disposition.

- D.1 Motion:** McCullough, Travis CIP # 08-404 IA #08-038; Involved Officer(s): Nathaniel Dauphin (#1235); Allegation(s): Misconduct and Improper Procedure. To close case as No Finding on the allegation of Misconduct and Improper Procedure. In the ensuing discussion about the 120-day time limit for investigations, Independent Counsel reported, in response to questions from the Panel, that the proposed revisions to the enabling ordinance may appear on the City Commission agenda as early as April. **Motion passed.**
- D.2 Motion:** Phyllis Robinson CIP#: 08-423 IA#: 08-239N; Involved Officer(s): Unknown; Allegations: Harassment, Improper Procedure. To close as Not Sustained. Member Shapiro discussed this case as an example of a case that ought to be referred to the City of Miami Community Relations Board (CRB) so that they would be aware of these kinds of issues in the community. The Chair recommended that the Complaint Committee, as a matter of policy, refer pertinent issues to the CRB. **Motion passed.**

- D.3 Motion:** Brandon Hall CIP#: 08-426 IA#: 08-163; Involved Officer(s): Francisco Sallano (#6216); Allegation(s): Abusive Treatment, Discourtesy. To close as Not Sustained on the allegation of Abusive Treatment and Discourtesy. **Motion passed.**

Member Shapiro brought up the issue of subpoena power in instances where invited police officers fail to appear. Independent Counsel discussed the requirements of the Charter and Ordinance as to authorization of a request that a subpoena be issued.

Motion by Member Shapiro: In instances where an officer has been invited to appear before the Panel to give testimony and either ignores that invitation or refuses to appear, Independent Counsel and the Chief Investigator will, on a date to be decided, move forward with the process for issuance of a subpoena. **Motion passed. 7-2.**

- D12 Case:** Jose Garcia CIP#: 09-001 IA#: 08-341; Involved Officer(s): Unknown; Allegation(s): Improper Procedure. The Complainant appeared before the Panel and the matter was taken out of turn.

The Chair established that the complainant needs to go through the investigative process for referral to the Complaint Committee. Mr. Garcia spoke no English, and Investigator Cabanillas was assigned to explain the process.

Motion to Defer to allow Complainant an opportunity to speak with the Investigator and provide assistance in identifying the involved officer. **Motion passed.**

- D.4 Motion:** Lorraine Clement CIP#: 09-019 IA#: 08-192S; Involved Officer(s): Roberto Destephan (#27506), Luis Hernandez (#27502); Allegation(s): Neglect of Duty - Officer Destephan and Discourtesy - Officer Hernandez. To close case as Not Sustained on the allegation of Neglect of Duty against Officer Destephan and Not Sustained on the allegation of Discourtesy against Officer Hernandez. **Motion passed.**

Observation: A number of cases in which MPD officers did not prepare police reports to document incidents have been noted. The MPD policy is vague as to what circumstances police reports should be generated. Case should be referred to the Policies & Procedures Committee to review Departmental Order 11, Chapter 8, REPORTING PROCEDURES.

- D.5 Motion:** Mark Terry CIP # 08-424 IA #08-325; Involved Officer(s): Favian Rodriguez; Allegation(s): Misconduct, Improper Procedure; Discourtesy. To close case as Not Sustained and to add Officer Rodriguez to the Monitoring List. **Motion passed.**

Motion: To Close the following cases as No Finding (Summary Disposition):

- D.6** Julia Sweet- Farquharson CIP#: 08-256 IA#: 07-083S; Involved Officer(s): Pedro Vera, #7335; Allegations: Discourtesy.
- D.7** Tameka Daniels CIP#: 08-259 IA#: 07-087; Involved Officer(s): Stanley Jean Poix; Allegation(s): Discourtesy.
- D.8** Neremiah Johnson CIP#: 08-262 IA#: 07-09; Involved Officer(s): Antonio Fernandez; Allegation(s): Abusive Treatment.
- D.9** Marcus Powell CIP#: 08-409 IA#: 08-114; Involved Officer(s): Unknown Allegation(s): Abusive Treatment.

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- D.10 Maria Esquiabro CIP#: 09-026 IA#: 08-425N; Involved Officer(s): Eric Lopez Jr. Allegation(s): Discourtesy.
- D.11 Renita Holmes CIP#: 09-029 IA#: 08-312N; Involved Officer(s): Lorenzo Whitehead #7565; Allegation(s): Improper Procedure
- D.13 Vivian A. Williams CIP#: 08-025 IA#: 08-013N; Involved Officer(s): Sandra J. Green (formerly Clakley); Allegation(s): Discourtesy.
- D.14 James Mackey CIP#: 08-412 IA#: 08-178; Involved Officer(s): Vincent Miller; Allegation(s): Abusive Treatment.
- D.15 City of Miami CIP#: 08-062 IA#: 07-240; Involved Officer(s): Lizlinda Sola; Allegation(s): Misconduct.
- D.16 Leandre Mornay CIP#: 08-070 IA#: 07-016; Involved Officer(s): Marcel Jackson; Allegation(s): Discourtesy.
- D.17 John Reno CIP#: 09-003 IA#: 08-200N; Involved Officer(s): Jennifer Wing; Daniel Crocker #1246; Allegation(s): Abusive Treatment.

Motion passed.

Complaint Subcommittee meeting for March 6: After a discussion, Committee Chair McAilley discussed alternatives to the proposed 5 PM start time. An 11 AM start time met with agreement.

E. PUBLIC FORUM

Ms. Mattie Lomax of 125 NW 15 Street briefly discussed her complaints concerning MPD personnel, as well as both the MPD and CIP investigations and/or dispositions of the complaints. Chief Investigator Wolf responded to questions from the Panel. It was agreed that Ms. Lomax would meet with Chief Investigator Wolf to address her concerns, for an explanation of the investigative process and a report back to the Panel.

F. ANNOUNCEMENTS

The following announcements were made regarding Outreach opportunities:

F.1 Overtown Community Oversight Board Meeting, February 19, 2009, Culmer Center
1600 NW 3rd Avenue, Miami @ 6:00pm
Crime and Safety Committee

F.2 Overtown Community Oversight Board [Presentation]; February 26, 2009, Location: TBD @
6:00pm

F.3 Meeting with Jamaica PCOA @ 12:00 Noon

F.4 Next CIP General Meeting: March 17, 2009, City Hall Chambers @ 6:00pm

Words of appreciation were expressed for the leadership shown by the outgoing Chair Brenda Shapiro.

Independent Counsel brought forth a request from Investigator Hall for a subpoena in the form of the following resolution:

"A resolution of the Civilian Investigative Panel authorizing the Independent Counsel to

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subpoena any and all witnesses and entities necessary for the CIP to obtain testimony and documents relating to an independent investigation of alleged police misconduct in case number 09-059-CIP, whereas the Civilian Investigative Panel is conducting an independent investigation into allegations of police misconduct in case number 09-059-CIP, and whereas the Independent Counsel has determined that it is appropriate for the CIP to subpoena witnesses and entities for testimony and documents necessary to complete said investigation, therefore be it resolved that the Independent Counsel is hereby authorized to subpoena witnesses and entities necessary for the CIP to obtain testimony and documents relating to the investigation of alleged police misconduct in case number 09-059. The signature is for Mr. Rebull in the event this resolution is passed by the Civilian Investigative Panel at its next regularly scheduled meeting of February 17, 2009." Motion Shapiro, second Cobitz to approve: resolution adopted unanimously.

Mr. De la Guardia requested a meeting of the Personnel Committee as soon as possible.

Meeting adjourned at 6:40 PM.