



civilianinvestigativepanel

CIVILIAN INVESTIGATIVE PANEL
Summary of Minutes
Tuesday October 18, 2011
5:30 P.M.

Location

3500 Pan American Drive
Miami, FL 33133

Members Present

Thomas Cobitz
Fred St. Amand
Brenda Shapiro
Bess McElroy
Michelle Delancy
Horacio Aguirre
Daniel Suarez

Independent Counsel

Charles C. Mays

Staff

Carol Abia, Interim Executive Director
Shewanda Hall, CIP Investigator

The Meeting was called to order by Chairman Thomas Cobitz.

PLEDGE OF ALLEGIANCE

Led by Mr. Cobitz.

ROLL CALL

Conducted by Ms. Abia

APPROVING MINUTES of the September 20, 2011 Meeting

Moved by Ms. Delancy; seconded by Mr. St. Amand. Motion carried by unanimous vote.

APPROVING AGENDA of the October 18, 2011 Meeting

Moved by Ms. Shapiro; seconded by Ms. Delancy. Motion carried by unanimous vote.

PRESENTATIONS

Former CIP Member Judge Thomas J. Rebull was presented with a plaque in recognition of his nine years of service as member and Chairman of the CIP. Judge Rebull expressed his well wishes and appreciation to members and staff who work tirelessly, as a team, in service to the Miami community.

WELCOME NEW MEMBER(S)

Mr. Daniel Suarez appointed to the CIP by the City Commission on October 13, 2011, was recognized as a new member. Mr. Suarez introduced himself and expressed his desire to learn and his commitment to serve on the Panel.

A. PUBLIC FORUM

A.1 Discussion: Dash Board Cameras with Brandon McDonald, Force 911 Consultant

Independent Counsel Charles Mays informed the Panel that Mr. McDonald was unable to attend due to an emergency. Presentation deferred.

A.2 Commissioner Marc Sarnoff

Chairman Cobitz introduced invitee City of Miami Commissioner Marc Sarnoff. Chairman Cobitz, joined by other members, expressed their appreciation to the Miami Commission and to Commissioner Sarnoff for supporting and approving the CIP's FY 2012 budget proposal.

Commissioner Sarnoff was informed of the Panel's attempts over several years to have the MPD install dashboard cameras in Miami police vehicles. The Commissioner expressed his support for incrementally installing dashboard cameras on a trial basis. He cautioned, however, regarding the difficulties of quantifying the effectiveness of the cameras and advised that they should not be viewed as a panacea.

Commissioner Sarnoff was informed of a request received by the CIP for a review of the Miami Police Department's culture and morale. Chairman Cobitz asked Commissioner Sarnoff to comment on any perceptible changes in the culture and morale in the Department. The Commissioner advised that none were noted by him until the escalation this year of matters related to the budget and Police Chief. He advised of perceived factions within the department. Commissioner Sarnoff also shared some thoughts regarding the recruitment and hiring of a Police Chief from within the ranks versus hiring someone from outside. Other considerations were whether to hire a public safety director, and if so, should the public safety director be hired from outside the department and the police chief from within?

No opportunity for questions or comments was provided to the public. Chairman Cobitz advised that the address by Commissioner Sarnoff was not a public hearing item, and that the Commissioner's schedule would not allow for further follow-up questions. Mr. Leroy Jones, Executive Director of the Neighbors for Neighbors, raised objections to being prevented from addressing the Commissioner.

A.3 Coalition of Community Organizations

Jeanne Baker introduced coalition members representing Brothers of the Same Mind, Neighbors and Neighbors Association (NANA), Haitian American Grassroots Coalition, Spanish-American League Against Discrimination (SALAD), National Association for the Advancement of Colored People (NAACP) and People United to Lead the Struggle for Equality (PULSE). She advised that they represent "voices from the past... and for the future" that worked together for the creation of the CIP and are present at the meeting to formally voice their concerns and requests to the Panel.

Ms. Baker advised that the coalition approached the Panel in February 2011 with a request that it investigate seven police involved shootings. She stated that they have since been following the CIP meetings and have perceived a drift by the CIP from the original intent of conducting investigations to conducting reviews after the Police Internal Affairs has completed its investigation.

Ms. Baker presented to the members a document outlining seven of the Coalition's ideas for enhancing operations to include (a) CIP members initiating complaints by being signatories thereto; (b) moving forward on the investigation of complaints to include police involved shootings without waiting on the completion of the Internal Affairs investigation; (c) overtly and aggressively advocating on behalf of the complaining individual as opposed to taking an impartial role; (d) making credibility decisions without reliance on independent witnesses or third parties; (e) bringing about enhanced community awareness by conducting meetings in the various communities; (f) including the CIP Monitor List on a user-friendly website and (g) conducting a retreat for CIP members to include presentations from subject matter experts especially on police procedures and civilian oversight.

Jean Robert LaFortune, Chairman of the Haitian American Grassroots Coalition, implored the CIP to use the tools provided to attain its goals. He advised that his organization assisted in the creation of the CIP and continues to support it. Mr. Leroy Jones, Executive Director of NANA advised that he can assist the CIP in reaching a larger audience through radio and print media. He suggested that the CIP meet at such venues as Charles Hadley Park, Joseph Caleb Center and the Black Police Precinct. Brad Brown of the NAACP stated that the CIP, similar to many of its counterparts, came into being following a heightened event involving law enforcement and citizens. He stated that with the passage of time apathy sets in until another event occurs. He added that the CIP must nonetheless maintain community support through visibility, attending community meetings and making presentations where there are large groups gathering, for example, at schools and conferences. Mr. Nathaniel Wilcox, Executive Director of PULSE, offered his organization's support and assistance in strengthening the CIP. He requested that the CIP call for a federal investigation and intervention in the operations of the Miami Police Department. Mr. Aguirre, in response to Mr. Wilcox, advised that Miami Mayor Tomas Regalado has already made such a request of the Department of Justice.

Ms. Shapiro thanked the coalition members for their presence, support and offers of assistance. She expressed her agreement that the CIP may initiate a complaint but advised that a CIP investigation cannot interfere with or jeopardize a criminal investigation. She urged staff to follow up on means of getting CIP information out to the community. Ms. Shapiro advised that at such time as a retreat is scheduled, the agenda should include discussion on whether the CIP is a

hearing versus a quasi-judicial body. Ms. Baker re-asserted her position that the CIP was designed to represent the citizens rather than act as an impartial judge.

Mr. St. Amand thanked the coalition. He asked, however, that prior to bringing matters of this magnitude before the Panel that such information be provided to CIP members and Independent Counsel so as to afford an opportunity for a meaningful review and discussion.

B. REPORTS

B.1 Chairperson's Report

Chairman Thomas Cobitz reported on a meeting with Interim Police Chief Manuel Orosa to discuss the need for dash board cameras and other issues and concerns. Present at the meeting were Chief Orosa, Miami Police Legal Advisor George Wysong, Internal Affairs Commander Rodolfo Llanes, CIP Independent Counsel Charles Mays, Interim Executive Director Carol Abia and himself. The Chairman advised that there are many areas of common interests that the CIP and the Chief share, including the issue of incrementally installing dashboard cameras in Miami police vehicles. He stated that Chief Orosa expressed that there are challenges insofar as the funding for the cameras, but he is willing to further explore any available avenues.

B.2 Independent Counsel's Report CIP Independent Counsel Charles Mays advised that regarding the Steven Wolf Whistleblower Complaint, neither Mr. Wolf nor his attorney were present at the Civil Service Board Hearing on the Findings of Facts and Conclusions of Law. He stated that their attendance and participation in the proceedings are conditions precedent to filing a lawsuit and that their failure to attend amounts to an abandonment of their administrative remedies.

Mr. Mays also informed of an invitation extended from University of Miami Law students for the CIP to participate in a forum on Police Use of Force on Friday, October 21, 2011.

B.3 Budget Committee's Report

Mr. Horacio Aguirre, Chairman of the Budget Committee, presented a report on the outcome of the City Commission Hearing on the CIP's FY 2012 proposed budget. Appreciation was extended to members, staff and supporters who attended. Mr. Aguirre advised that after an approximate 40-minute discussion on the budget, the Commission voted to appropriate the requested \$464,000 without any set-asides. He added that this will allow for a reorganization of CIP staff positions and hiring of two additional investigators.

Mr. Aguirre underscored the need for the Budget Committee to monitor the relationship between the CIP and the City's Budget and Finance Departments and to meet at least four times each year to review and discuss budget and finance matters. He thereupon proffered the following motion.

Motion to change the name of the CIP Budget Committee to Budget and Finance Committee. Moved by Mr. Aguirre; seconded by Ms. Shapiro. Motion carried unanimously.

C. CASE MANAGEMENT

C.1 DISCUSSION ITEM

Case: Tyries Jackson CIP#: 11-148 IA#: 11-036; Involved Officer(s): Ernesto Sierra-#6500, Glenn Maura-#4491, Michael Cadavid-#27584 and Aquiles Carmona-#0840; Allegation(s): Abusive Treatment, Discourtesy and Improper Procedure.

Ms. Hall noted that this case was deferred from the September 2011 CIP meeting for additional efforts to contact the complainant based on mistaken information that he was incarcerated and therefore accessible to provide a statement. Ms. Hall advised of her repeated, unsuccessful attempts to contact the Complainant who is not in fact incarcerated but merely reluctant to cooperate with the investigation.

Ms. Hall also brought a attention to the complainant's arrest affidavit which she stated did not appear to show probable cause for his arrest. She directed attention to a strongly worded precautionary statement from Police Legal Advisor George Wysong regarding the stop and arrest of Mr. Jackson.

Motion to Close as Sustained for Improper Procedure as to Sergeant Sierra and Detective Carmona; Sustained as to the allegation of Abusive Treatment and Discourtesy regarding Sergeant Ernesto Sierra; Sustained as to the allegation Discourtesy regarding Detective Aquiles Carmona; Sustained as to the allegation of Discourtesy regarding Detectives Maura and Cadavid. Moved by Ms. Delancy; seconded by Mr. Aguirre. Motion carried by unanimous vote.

C.2 DISCUSSION ITEM

Case: Gary Paul Yuen CIP#: 11-214 IA#: 10-283S; Involved Officer(s); Larry Hagan-#2670
Allegation(s): Improper Procedure.

Motion to Close as Not Sustained based on witness statements and official records. Moved by Ms. Delancy; seconded by Mr. Aguirre. Motion carried by unanimous vote.

Ms. Hall brought attention to inappropriate questions relating to the Complainant's medical condition that were asked by the IA Detective, Andre Losa during the interview.

Motion to submit a letter to the Chief of Police to review unconstitutional actions of Internal Affairs' Detective Andre Losa (#4159) who during an interview with the Complainant asked the Complainant if he is contagious or HIV positive. Moved by Mr. Aguirre; seconded by Ms. Delancy. Motion carried by unanimous vote.

C.3 DISCUSSION ITEM

Case: Ronald Bain CIP#: 11-178 IA#: 10-290; Involved Officer(s): Ivan Moreno-#27908
Albert Pagan-#29106; Allegation(s): Abusive Treatment, Damaged Property, Discourtesy and Improper Procedure.

Motion to Close as Not Sustained as to the allegation of Abusive Treatment regarding Officer Ivan Moreno; Close as Not Sustained as to the allegation of Discourtesy regarding Officer Ivan Moreno and Alvin Pagan; Close as Exonerated as to the allegations of Damaged Property and Improper Procedure regarding Officer Pagan. Moved by Ms. Delancy; seconded by Ms. Shapiro. Motion carried by unanimous vote.

C.4 DISCUSSION ITEM

Case: Ricardo Nagen, Jr. CIP#: 11-169 IA#: 11-072S; Involved Officer(s): Jose Galvez-#28644; Allegation(s): Discourtesy.

Discussion:

Complainant Nagen presented testimony to the Panel on his complaint. Other sworn and civilian witnesses who were notified of the meeting and asked to attend and provide testimony did not appear. Questions and concerns were raised whether Officer Galvez was justified in holding Mr. Nagen by the neck because Nagen was not walking in the flow of pedestrian traffic as directed by the officer. Investigator Hall advised that Mr. Nagen informed in his statement that he punched Officer Galvez on the hand when Officer Galvez grabbed him by the neck. Ms. Hall further advised that Mr. Nagen subsequently and at this meeting stated he merely tapped or touched the officer's hand. Officer Galvez alleged in his IA statement that Mr. Nagen pushed him. Ms. Delancy and Ms. Shapiro countered that had Mr. Nagen punched Officer Galvez or had he pushed Officer Galvez as alleged by the latter, it is unlikely that he would be arrested on misdemeanor charges of Resisting Arrest Without Violence and Disorderly Conduct as opposed to felony charges of Resisting with Violence or Battery on a Law Enforcement Officer.

Ms. Delancy suggested that additional attempts be made to get a statement from Mr. Nagen's friend who was a witness to the incident.

Motion by Ms. Delancy; seconded by Ms. Shapiro to defer the case to allow additional time for Mr. Nagen to have his witness appear for an interview. Discussion ensued.

Ms. Hall detailed exhaustive attempts already made to contact the witness. She further advised that the witness provided a statement to Internal Affairs which was consistent with that of Mr. Nagen. Ms. Delancy indicated that the Panel should therefore consider the two consistent statements, the credibility of Mr. Nagen and the inconsistency of the charges given the assertions of the officer. She thereupon withdrew her previous motion and proffered the following motion.

Motion: Close as Sustained based on a preponderance of the evidence. Moved by Ms. Delancy; seconded by Ms. Shapiro. A roll call vote was conducted. Ayes: McElroy, St. Amand, Delancy, Shapiro and Cobitz. Nays: Aguirre and Suarez. Motion carried by majority vote of 5:2.

Mr. Aguirre and Mr. St. Amand raised concerns that some people, especially youths, are unaware of how to act and avoid escalation of a situation when they are confronted by a law enforcement officer. It was suggested that the CIP conduct sessions in the community on what to do when confronted by a law enforcement officer.

C.5 DISCUSSION ITEM

Case: Precious Williams CIP#: 11-171 IA#: 11-097S; Involved Officer(s): Jackie Jesurum-#3422; Allegation(s): Discourtesy.

Motion to Close as Exonerated based on witness statements and the statement of the Complainant, who acknowledged that the officer did not make any biased statements regarding her race, gender or ethnicity. Moved by Ms. Delancy; seconded by Mr. Aguirre. Motion carried by unanimous vote.

C.6 DISCUSSION ITEM

Case: Anthony Johnson CIP#: 11-194 IA#: 10-348S; Involved Officer(s): Angel Mercado-#28179, Horace Jones-#28103 and Harold James-#3382; Allegation(s): Discourtesy, Reckless Driving and Improper Procedure.

Motion to Close as Not Sustained as to the allegations of Discourtesy and Reckless Driving regarding Officers Angel Mercado and Harold James; Close as Exonerated as to the allegation of Improper Procedure filed against Officer Mercado as the towing requested by Officer Roshan Milligan. Moved by Ms. Delancy; seconded by Mr. Aguirre. Motion carried by unanimous vote.

Observation(s):

Ms. Hall indicated that Internal Affairs did not consider the fact that the arrest was not based on probable cause to believe that the complainant had committed a crime.

C.7 DISCUSSION ITEM

Case: Rolando Rosales, Jr. CIP#: 11-180 IA#: 10-282S; Involved Officer(s): Carlos Antunez-#0166; Allegation(s): Discourtesy

Motion to Close as No Finding based on the unavailability of the witness. Moved by Mr. Aguirre; seconded by Ms. Delancy. Motion carried by unanimous vote.

C.8 DISCUSSION ITEM

Case: Aparicio Solange CIP#: 11-220 IA#: 11-156; Involved Officer(s): Unknown
Allegation(s): Abusive Treatment.

Motion to Close as No Finding based on the complainant's inability to provide additional information to pursue the complaint. Moved by Mr. Aguirre; seconded by Ms. Delancy. Motion carried by unanimous vote.

D. PUBLIC FORUM II

No Appearances.

E. ANNOUNCEMENTS

The following announcements were made by the Chairman:

CIP/ca

Next Complaints Committee Meeting

Nov 4, 2011 at 12:00 Noon

CIP Office

Chairman Cobitz suggested that the Complaints Committee may meet off-site in the community.

Next CIP Meeting

Nov 15, 2011 at 5:30 P.M.

City Hall Commission Chambers

Other Announcements

None.

Meeting adjourned at 7:35 P.M.