

CIP/ca



civilianinvestigativepanel

## **CIVILIAN INVESTIGATIVE PANEL**

**Summary of Minutes**

**Tuesday December 20, 2011**

**5:30 P.M.**

### **Location**

3500 Pan American Drive  
Miami, FL 33133

### **Members Present**

Thomas Cobitz, Chairperson  
Bess McElroy, Vice Chairperson  
Fred St. Amand, Treasurer  
Rolando Aedo  
Horacio Aguirre  
Alvin Bullard  
Michelle Delancy  
Ducosse Delva  
Raymond Hart  
Brenda Shapiro  
Daniel Suarez

### **Members Absent**

Ellis Berger

### **Independent Counsel**

Charles C. Mays, Esq.

### **Staff**

Carol Abia, Interim Exec. Director (**Absent**)  
Shewanda Hall, Investigator

The Meeting was called to order by Chairman Thomas Cobitz.

### **PLEDGE OF ALLEGIANCE**

Led by Mr. Cobitz.

**ROLL CALL**

Conducted by Mr. Mays

**APPROVING MINUTES of the November 15, 2011 Meeting**

**Moved by Mr. Aguirre and seconded by Mr. St. Amand. Motion carried unanimously.**

**APPROVING AGENDA of the December 20, 2011 Meeting**

**Moved by Ms. McElroy; seconded by Ms. Delancy. Motion carried unanimously.**

**REPORTS**

**A.1 DISCUSSION ITEM**

**11-01200 Independent Counsel's Report**

Independent Counsel Charles Mays advised that pursuant to a directive from the Panel, he requested information from the Law Department to determine the amount the City has paid as a result of lawsuits arising from police encounters. Mr. Mays informed the Panel that the records do not exist in the format requested, however, he received and reviewed volumes of documents and found that from 2006 to 2007 the City paid in excess of \$1.8million in police related judgments and settlements. According to Ms. Mays, this suggests that the amount the City expended in settlement of claims mitigated the cost of the dash cameras.

**A.2 DISCUSSION ITEM**

**11-01201 Ad Hoc Committee's Report**

Ms. Shapiro, Chairperson of the Ad Hoc Committee, provided a report on the November 15, 2011 meeting of the Ad Hoc Committee. In attendance were Committee members Alvin Bullard and Daniel Suarez, CIP Chair Thomas Cobitz and CIP Member Horacio Aguirre, Independent Counsel Charles Mays and Interim Director Carol Abia. Representing the community coalition was Ms. Julia Dawson. The committee members discussed the seven issues/recommendations raised by the coalition and heard comments from others in attendance.

Ms. Shapiro advised that the committee found the seven recommendations helpful, although most of the practices and procedures suggested were already in place. She stated the issue of whether the CIP is a quasi-judicial body or a review panel begs further examination and discussion and should therefore be a topic for the CIP Retreat. Ms. Shapiro advised that the CIP clearly has the power to investigate complaints, but in the exercise of that power cannot interfere with an ongoing, criminal investigation.

Ms. Shapiro also reported that there was agreement among the committee members that the CIP has to be more proactive. Additionally, that the CIP should revisit its earlier efforts to seek revision of the CIP's Ordinance. Further, that the Complaints Committee should review and simplify the current complaint form. Mr. Suarez added to the report that the committee also discussed issues of community outreach to include use of social media, for example, Twitter and Facebook; publishing of the Monitor List and exploring some community relations projects and programs offered through the Miami Police Department.

**A.3 DISCUSSION ITEM  
11-01213 Complaints Committee Report**

Bess McElroy, Chair of the Complaints Committee, stated that the CIP was not created to assume the role of advocate for complainants but rather to correct perceived unfair and biased investigations of citizen complaints. She stated that the Panel provides the forum for impartial investigations of alleged police misconduct and review of police practices and procedures. Ms. McElroy cautioned that the Panel must therefore remain impartial in its deliberations, basing its conclusions on the facts of the case as opposed to allowing emotions to sway the decision-making process. She encouraged members to review the CIP's Ordinance and suggested that training opportunities be made available to assist members in fulfilling their role.

Ms. Shapiro stated that the issue goes to whether the CIP is a quasi-judicial body or a hearing board. She underscored the importance of having the parties to a complaint appear before the Committee and Panel to present their version of the case. She further added that neither the parties to a complaint nor individual Panel members are expected to "leave their emotions at the door."

**CASE MANAGEMENT**

**B.1 DISCUSSION ITEM  
11-01065**

Case: Talat Gamil CIP#: 11-213 IA#: 10-296S; Involved Officer(s): Giraldo Linares-#4019;  
Allegation(s): Discourtesy and Misconduct.

CIP Investigator Shewanda Hall re-acquainted the Panel with the facts of the case to include testimony provided by the parties and a witness. She advised that Mr. Gamil appeared before the Panel at the November 15, 2011 meeting and presented new information and testimony, not previously submitted. The Panel deferred the case to the December 20<sup>th</sup> meeting to allow for receipt, review and verification of the new information.

Ms. Hall reported that upon further review, it was revealed that the alleged accident was investigated by police accident investigator Paul Jackson; and not Officer Linares as alleged by the Complainant. Furthermore, that the driver/owner of the other vehicle, Ms. Nadia Berkling, advised the vehicle was in fact damaged by Mr. Gamil but the damage was minor and that there was pre-existing damage to the bumper. Mr. Gamil's auto insurance carrier, Alliance Insurance, confirmed that it generated a letter in 2009 indicating that a claim was not pursued by the other party. Ms. Hall also informed the Panel that in contrast to Mr. Gamil's statement that Officer Linares "marred" his driving record, Mr. Gamil's record reflects 27 traffic infractions since 2002.

Notwithstanding Ms. Hall's report, Mr. Gamil insisted that there was no accident investigator on the scene and no civilian witnesses to the encounter.

**Motion to Close as Not Sustained as to the allegation of Discourtesy and Exonerated as to the allegation of Misconduct and Improper Procedure against Officer Linares. Moved by Mr. Aguirre; seconded by Mr. Hart. Motion carried unanimously.**

**B.2 DISCUSSION ITEM**

**11-01152**

Case: Rashid Nettles CIP#: 11-174 IA#: 11-033S; Involved Officer(s): Katherine Baker-#0232 and Rigoberto Hernandez-#2906; Allegation(s): Abusive Treatment, Discourtesy, Improper Procedure and Negligence of Duty.

Ms. Hall provided a summary of the case. She advised that Internal Affairs did not address the allegation of Abusive Treatment.

**Motion to Close as Not Sustained as to the allegation of Negligence of Duty against Sergeant Katherine Baker; Exonerated as to the allegation of Improper Procedure against Officer Hernandez and Not Sustained as to the allegations of Discourtesy and Negligence of Duty against Officer Hernandez. Moved by Ms. Delancy; seconded by Mr. Bullard. Motion carried unanimously.**

**B.3 DISCUSSION ITEM**

Case: Beverly Tamayo CIP#: 11-240 IA#: 11-117S; Involved Officer(s): Matthew Hall-#2692; Allegation(s): Abusive Treatment and Improper Procedure.

**Motion to Close as No Finding based on the unavailability of the complainant. Moved by Ms. Delancy; seconded by Ms. Shapiro. Motion carried unanimously.**

**B.4 DISCUSSION ITEM**

Case: Jack Shannon CIP#: 11-257 IA#: 11-012; Involved Officer(s): Marcel Jackson-#27416, Ivan Moreno-#27908 and Orestes Guas, Jr.-#2594; Allegation(s): Improper Procedure and Misconduct.

**Motion to Close as No Finding (Summary Disposition) based on the unavailability of the complainant. Moved by Ms. Delancy; seconded by Ms. Shapiro. Motion carried unanimously.**

**B.5 DISCUSSION ITEM**

Case: Darius Pringle CIP#: 11-255 IA#: 10-346; Involved Officer(s): Nestor Garcia-#2184; Allegation(s): Discourtesy and Missing Property.

Ms. Hall noted that Officer Nestor Garcia is currently on the CIP's Monitor List. Mr. Aedo asked for an explanation of the Monitor List. Independent Counsel Charles Mays explained that the CIP monitors the number of complaint incidents received by officers and established thresholds that when reached, places that officer on the list for further CIP scrutiny and alerts to the MPD for appropriate action.

**Motion to Close as No Finding based on the unavailability of the complainant. Moved by Ms. Delancy; seconded by Ms. Shapiro. Motion carried unanimously.**

**B.6 DISCUSSION ITEM**

Case: Jessica Rodriguez CIP#: 11-241 IA#: 11-144S; Involved Officer(s): Jairo Lozano-#4174; Allegation(s): Discourtesy.

**Motion to Close as No Finding based on the unavailability of the complainant. Moved by Ms. Delancy; seconded by Ms. Shapiro. Motion carried unanimously.**

**B.7 DISCUSSION ITEM**

Case: James Reed CIP#: 11-212 IA#: 10-343S; Involved Officer(s): John Kocur-#28612

Allegation(s): Discourtesy.

**Motion to Close as No Finding based on the unavailability of the complainant. Moved by Ms. Delancy; seconded by Ms. Shapiro. Motion carried unanimously.**

## **C. PUBLIC FORUM**

### **C.1 DISCUSSION ITEM**

#### **11-01198 Chief of Police Manuel Orosa**

Chairman Cobitz congratulated Chief Orosa on his recent appointment as Chief of the Miami Police Department. Chief Orosa advised that he is committed to advancing a cordial working relationship and open line of communication with the CIP. He agreed to provide on a monthly basis, police personnel from the various sections of the MPD to present information and respond to questions from the Panel on their functions and operations. Additionally, Chief Orosa stated that the MPD's Public Information and Community Relations Offices will provide regular notifications to the CIP on their programs and projects. The Chief also acknowledged the possibility of having a member of his staff attend CIP meetings after the monthly presentations have concluded.

Chairman Cobitz enquired of the Chief concerning outfitting Miami Police vehicles with dashboard cameras. Chief Orosa replied that efforts are underway to identify grants and any other available funding for such a project. He cautioned, however, that the cost to adequately outfit the vehicles, including cost for hardware, infrastructure and communication, amounts to approximately \$5,000 to \$6,000 per vehicle and the equipment would require replacement approximately every 4 years. Chief Orosa discussed the probability of a Pilot Program. The Chief was asked whether a time line for completing the research had been established. Chief Orosa replied that he had not established a time line but would be willing to provide a progress report in two to three months.

With regards to aged computers in police vehicles, Chief Orosa advised that the problem was identified and efforts to procure the equipment commenced but was delayed due to challenges to the procurement process. He advised that the issues in question have been resolved and the purchase of 200 new computers is underway.

Chief Orosa briefly addressed the question on morale in the MPD, and explained that it is being addressed through consistency and fairness across the board. He advised that aggrieved individuals have several avenues to address concerns including the City's Equal Employment Office, through their shift representatives and with command level staff who attend roll call.

### **C.2 DISCUSSION ITEM**

#### **11-01199 Complainant Talat Gamil, CIP #11-213**

(See B.1 above)

### **C.3**

Jeanne Baker of the ACLU and member of the Community Coalition advised that coalition members met with Chief Orosa and at the meeting expressed their support of the CIP's efforts to have cameras installed in Miami Police vehicles. Ms. Baker asked that the CIP also consider less expensive options such as lapel cameras if dashboard cameras are determined to be cost prohibitive at this time.

Ms. Baker also asked that the Panel respond to the seven recommendations submitted by the coalition. Ms. Baker was advised that the matter had been addressed by the Chairperson of the Ad Hoc Committee Brenda Shapiro earlier in the meeting. Ms. Shapiro summarized her earlier comments and advised that the coalition should also receive a written response. Ms. Shapiro further advised that the CIP will be scheduling a retreat and suggested that the coalition be given an opportunity to address the Panel at the retreat.

Ms. Baker stated that the Coalition has been reviewing the CIP's legislative history and the various models of civilian oversight in comparison to the current operations of the CIP. Chairman Cobitz stated that in light of time constraints Ms. Baker should present her comments in written form. Ms. Baker suggested that the Panel place these issues on the agenda for the retreat. Independent Counsel informed Ms. Baker that if she or the Coalition wishes to present materials for consideration by the Panel she should timely submit the materials to the Panel so as to facilitate an intelligent discussion on the matter.

**D. ANNOUNCEMENTS**

Chairman Cobitz made the following announcements:

Complaints Committee Meeting

January 6, 2012

12:00 Noon

Location: TBD

**Next CIP Meeting**

January 17, 2012

5:30 P.M.

City Hall Commission Chambers

**CIP FY 2010 Audit**

Reminder to submit 'Related Party Questionnaires.'

**Citizens Police Academy**

March 2012