

Memorandum

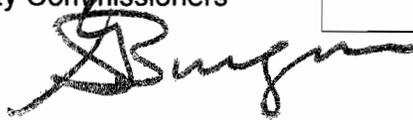
MIAMI-DADE
COUNTY

Date: April 7, 2009

Agenda Item No. 1(D)5

To: Honorable Chairman Dennis C. Moss and
Members, Board of County Commissioners

From: George M. Burgess
County Manager



Subject: Sunset Review of County Boards for 2009 - Independent Review Panel

In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2009 Sunset Review of County Boards Report for the Independent Review Panel. The Board approved the attached report at its meeting of January 27, 2009 and has recommended the continuation of its board.



Alina T. Hudak
Assistant County Manager

cmo06809

Date: January 27, 2009
To: George M. Burgess
County Manager
From: Julia Dawson, Esq.
Chairperson, Independent Review Panel
Subject: Sunset Review of County Boards for 2009 – Independent Review Panel

Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2009 Sunset Review of County Boards Report for the Independent Review Panel for transmittal to the Board of County Commissioners (BCC). The Panel approved the attached report at its meeting of January 27, 2009.

It is recommended that the BCC approve the continuation of the Independent Review Panel.

BACKGROUND

The Panel was created in 1980. The purpose of the Panel is to provide external community fact-finding and dispute-resolution, and citizen oversight of law enforcement utilizing an impartial review panel to conduct independent reviews and hold public hearings concerning serious complaints made against an employee, agency, or instrumentality of Miami-Dade County. The Panel should continue to function given the community needs an independent, non-adversarial venue in which to resolve conflicts between its citizens and its government. The IRP provides for citizen oversight that is independent and free of conflicts of interest. Committed volunteer Panel members listen to the people and to representatives of County Departments, and make recommendations to improve the way the County conducts business.



Julia Dawson, Esq.
Board Chairperson

SUNSET REVIEW QUESTIONNAIRE
MIAMI-DADE INDEPENDENT REVIEW PANEL
2009

I. GENERAL INFORMATION

1. Name of Board reporting:

Independent Review Panel

2. Indicate number of board members, terms of office, and number of vacancies:

Number of Board Members: Nine (9) Members

Terms of Office: Three (3) Years

Number of Vacancies: None

3. Identify number of meetings and members' attendance (Attach records reflecting activity from Jan. 1, 2007 through December 31, 2008):

Number of meetings: Twenty-three (23)

Number of Meetings with a Quorum: Twenty (20)

Attendance Records: See Attachment "A"

4. What is the source of your funding?

The County General Fund, ad valorem taxes.

5. Date of Board Creation

1980

6. Attach a copy of the ordinance creating the Board and subsequent amendments.

See Attachment "B".

7. Include the Board's Mission Statement or state its purpose:

Provide external community fact-finding and dispute-resolution, and citizen oversight of law enforcement complaint investigations, utilizing an impartial review panel to conduct independent reviews and hold public hearings concerning serious complaints or grievances made against an employee, agency, or instrumentality of Miami-Dade County.

8. Attach a copy of the Board's standard operating procedures, if any.

See Attachment "C".

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MIAMI-DADE INDEPENDENT REVIEW PANEL
2009**

9. Attach a copy of the Board's By-Laws (if any) and include the Board's Mission Statement:

See Rules of Procedures, Attachment "D".

10. Attach a copy of the Board minutes approving the Sunset Review Questionnaire, including a vote of the membership.

See Attachment "E".

II. EVALUATION CRITERIA

1. Is the Board serving the purpose for which it was created?

Yes, the community needs an independent, non-adversarial venue in which to resolve conflicts between its citizens and its government. The IRP provides for citizen oversight that is independent and free of conflicts of interest. Committed volunteer Panel members listen to the people and to representatives of County Departments, and make recommendations to improve the way the County conducts business.

2. Is the Board serving current community needs?

Yes, the IRP is actively engaged in external fact-finding and dispute resolution. It fulfills its legislative mandate to conduct independent reviews of serious complaints against employees, agencies and instrumentalities of County government through regularly scheduled public hearings.

3. What are the Board's major accomplishments?

- a. Last 24 months

Conducted 55 half-day workshops in dispute resolution and alternatives to violence, involving County employees (including police and corrections), the public and inmates.

Held 23 public hearings, attended by citizens and representatives from the Miami-Dade Police, Corrections and Rehabilitation, Consumer Services and the Anima! Services Departments, to review citizen complaints and improve County services.

Publicly reviewed the following areas of concern:

- Use of OC spray on psychiatric inmates
- Tasing a pregnant woman while she was handcuffed and sitting in the police car

SUNSET REVIEW QUESTIONNAIRE
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- MDPD complaint filing procedure
- Lack of visibility of officer ID and badge when officers wear jackets
- An officer using a gun with which he had not qualified according to MDPD requirements
- Officers' use of offensive language
- Overreaction: Using multiple MDPD officers to track down a man and arresting him for a minor traffic offense; arresting a man for a barking dog
- Taser use on a child
- Incorrect relay of the complainant's address by a dispatcher trainee
- Taxi companies requiring chauffeurs to surrender their hack licenses to the company when there is a traffic accident
- Consumer Services Department enforcement of the code requirement that there be written chauffeur agreements with the passenger service company and the for-hire license holder
- Animal Services procedures for notifying and citing dog owners regarding tag and vaccination renewals

The Executive Director served as President of the National Association for Civilian Oversight of Law Enforcement (NACOLE).

b. Since established

Held Public Hearings on a regularly scheduled monthly basis.

Addressed issues related to the MDPD Racial Profiling Report, employing multiple public hearings, transparency principles and constructive conflict accountability techniques. The Executive Director chaired the BCC created Racial Profiling Advisory Board that proposed ideas and recommendations as to how best to address getting beyond the MDPD Racial Profiling Study conducted by the Alpert Group.

Conducted Firm, Fair and Friendly: Police Community Relations Leadership Workshops, a collaborative effort with the Miami-Dade Police Department (MDPD) and the Community Relations Board (CRB). This involved a series of 8 workshops aimed at improving police/community relations.

Reviewed the actions of the Miami-Dade Police Department and the Miami-Dade Corrections and Rehabilitation Department during the November 2003 FTAA Ministerial in Miami. The Panel held public hearings which focused on four areas: Police Training, Organization and Deployment; Use of Force; Prisoner Processing; and Labor Community Concerns. The Independent Review Panel issued a 67-page report with 32 Findings and 16 Recommendations.

SUNSET REVIEW QUESTIONNAIRE
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Co-hosted the 11th National Association of Law Enforcement (NACOLE) National Conference held in Miami (with the Miami-Dade Community Relations Board, the Miami Civilian Investigative Panel and the Miami Community Relations Board).

The IRP was restructured by Ordinance 97-86, resulting in a new expanded Panel of nine members and improved ethno-cultural and gender balance by the appointment of four new members.

Addressed policies and practices that contribute to improved County Service:

MDPD

- The perception that officers use alleged mechanical defects to stop a vehicle.
- The discretionary authority of officers in making arrests.
- Implementation of "Notice of Complainant Rights" form to document the Internal Affairs (IA) investigator's explanation of options available to the complainant.
- Arrest records created absent the physical presence or knowledge of the arrestee.
- Citizens need to know that the law allows officers to approach and question citizens, even though the person questioned is not breaking any law.
- Citizens need to know that the law allows officers to stop, and temporarily detain for questioning citizens as long as the officers have reasonable suspicion that "such person has committed, is committing, or is about to commit a criminal offense."
- The expansion of MDPD Professional Compliance investigations to include Personnel Complaints as well as Internal Affairs Complaints.
- Contributed to the adoption of "Zero Tolerance of Racial Profiling" legislation, policy and practice in Miami-Dade County. The Panel released a report entitled "Police Complaints & Race: IRP Findings & Recommendations," in which the Panel recommended that the Board of County Commissioners: Consider appropriate legislative action to encourage or require local police departments to collect race, gender, age & ethnicity data on all arrests and stops, and pass a "Zero Tolerance of Racism Ordinance."

SUNSET REVIEW QUESTIONNAIRE
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MDCR

- Timely investigation of complaints.
- The alignment of the camera in the booking area to capture frisk activities.
- Revisions to Corrections & Rehabilitation Standard Operating Procedures which expedited the movement of complaints through the system, created an employee profile system, improved promotional procedures, and initiated a review of disciplinary action policy to ensure that appropriate and timely discipline is taken to address officer misconduct.

Building

- Clarification of "public record," so that complainants know any information they provide is available to the public, including names.
- Accurate documentation regarding complaints initiated by inspectors.

Public Works

- Lax enforcement of the requirement that utility companies pull permits, resulting in loss of revenue to the County.

Solid Waste Management (DSWM)

- Double billing by DSWM for service provided and Faircloth Sanitation, a private company under County contract, for service not provided.

Water & Sewer Department (WASD)

- Placing accounts that service more than one unit in a name other than that of the property owner.
- Customer Service Representatives failure to properly investigate the billing problems, and to assume that the bill problem is the customer's responsibility.

Fire Rescue

- Investigated, at the request of former Fire Chief R.D. Paulison, allegations of verbal abuse, abuse of authority, hazing and unfair administration of discipline in the Fire Rescue Department.

**SUNSET REVIEW QUESTIONNAIRE
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2009**

Finance, Tax Collector

- Developed a handout addressing ordinances regulating mobile vendors. This handout was distributed by the Tax Collector's Office, Occupational License Section.

4. Is there any other board, either public or private, which would better serve the function of this board?

No, there is no other body currently providing independent civilian oversight of the Miami-Dade Police Department, nor is there a body that provides independent dispute resolution services to improve how the County relates to the community it serves.

5. Should the ordinance creating the Board be amended to better enable the Board to serve the purpose for which it was created? (Attach proposed changes, if answer is "Yes")

No change is advisable at this time.

6. Should the Board's membership requirements be modified?

No, the current requirements provide for gender and ethno-cultural representation consideration.

7. What is the operating cost of the Board, both direct and indirect (Report on FY 2007 and FY 2008)?

FY 2007:	\$574,000
FY 2008:	\$630,000

8. Describe the Board's performance measures developed to determine its own effectiveness in achieving its stated goals.

Standard professional evaluations are improvement oriented and of a continuous sequential nature, focusing first on structure, then process, then outcome evaluation followed by informed change and more of the same. The IRP performance measures are process oriented, and are best expressed in qualitative terms as opposed to numbers or percent of disputes resolved. Quantitative information is rarely appropriate given that traditional measures of success such as establishing the satisfaction of one party in a dispute tend to diminish the value of the process itself and the discoveries that are made therein.

**SUNSET REVIEW QUESTIONNAIRE
MIAMI-DADE INDEPENDENT REVIEW PANEL
2009**

Process Integrity Performance Measures

Is everyone treated with respect?

Are Panel members alert to perceived injustice?

Does the Panel command respect in the community?

Does Panel staff take care to listen, report fairly and look out for injustice from multiple socio-cultural perspectives?

Are investigations of powerful alleged wrongdoers pursued like others?

Are County Departments provided unbiased feedback on how to improve service to citizens?

Is Complaint Prevention Skills training proactively offered?

Are public resources efficiently and effectively utilized?

Are fact-finding and dispute resolution meetings held at times and locations convenient to the citizens?

Is the public well informed of Panel process availability?

The answers to these questions may be depicted in a variety of ways at different times, but what is most important is that they be frequently asked and answered by Panel members and staff. For now, the overall assessment of the currently constituted Panel is indicated underlined on the scale that follows:

1 2 3 4 5
NEVER HARDLY EVER SOMETIMES ALMOST ALWAYS ALWAYS

Attachment A Attendance

PANEL MEMBERS ATTENDANCE 2007													
PANEL MEMBERS	Appt. Date	1/25	2/22	3/22	4/26	5/24	6/28	7/26	8/23	9/20	10/18	11/29	12/20
Band, Michael, Esq.	03/15/05	E	P	P	P	P		E	P	P	P	P	P
Dawson, Julia, Esq.	10/21/03	P	P	P	P	P		P	P	P	P	P	E
Ewell, Arcie	10/19/04	E	E	E	A	A	Resigned	-	-	-	-	-	-
Falk, Glenn, Esq.	09/09/04	P	E	P	E	P		P	P	P	P	P	E
Ferguson, Julie, Esq.	02/24/05	E	P	P	E	E		E	P	E	P	E	P
La Fortune, Jean Robert	11/28/06	E	P	E	P	P		E	P	E	P	P	P
Perez-Velis, Josefa, Esq.	01/01/07	P	P	P	E	P		E	P	P	P	P	E
Reynardus, Jorge, Esq.	06/04/02	E	P	P	P	E		E	E	P	P	P	E
Shellow, Doris, substitute	07/27/89	P	P	P	E	P		P	E	P	P	P	P
Tapia, Moiez, Ph.D.	09/25/03	P	E	P	P	P		P	E	E	P	P	E
6/28/08 - Meeting cancelled - Lack of Quorum													
P - Present E - Excused A - Absent													

PANEL MEMBERS ATTENDANCE 2008													
PANEL MEMBERS	Appt. Date	1/24	2/28	3/27	4/24	5/22	6/26	7/24	8/28	9/25	10/23	11/20	12/18
Band, Michael, Esq.	03/15/05	E	P	P	E	P	P	P	A	P	P	P	P
Dawson, Julia, Esq.	10/21/03	P	P	P	P	P	P	P	P	P	P	P	P
Falk, Glenn, Esq.	09/04/04	P	E	E	P	P	E	E	P	P	P	P	E
Ferguson, Julie, Esq.	02/24/05	P	E	P	P	E	E	P	E	A	E	P	P
La Fortune, Jean Robert	11/28/06	P	P	P	P	P	E	P	P	P	P	P	P
Perez-Velis, Josefa, Esq.	01/01/07	P	A	P	P	P	E	E	E	E	E	P	P
Reynardus, Jorge, Esq.	06/04/02	E	E	P	E	A	A	P	E	E	P	P	E
Scott, Tangier, Ed.D.	09/02/08	-	-	-	-	-	-	-	-	P	P	P	P
Shellow, Doris, substitute	07/27/89	P	P	P	P	P	P	E	P	P	P	P	P
Tapia, Moiez, Ph.D.	09/25/03	P	P	E	P	A	P	P	P	E	P	P	E
P - Present E - Excused A - Absent													

Attachment B Ordinance

County Code ARTICLE IC

Sec. 2-11.41. Legislative intent and purpose; liberal construction.

The purpose of this article is to create a mechanism for external community fact-finding and dispute resolution. It is the intent of the Board of County Commissioners that the impartial review panel created by this article conduct independent reviews and hold public hearings concerning serious complaints or grievances made against an employee, agency or instrumentality of Miami-Dade County. It is also the intent of the Board of County Commissioners that the Independent Review Panel conduct hearings as provided in Chapter 2, Article LXXI of the Code where there is a complaint of retaliation for the disclosure of specific information. The provisions of this article shall be liberally construed to accomplish these legislative objectives.

Sec. 2-11.42. Created, established.

There is hereby created and established an Independent Review Panel (hereinafter referred to as the "Panel") pursuant to Section 4.08(a) of the Miami-Dade County Home Rule Charter.

Sec. 2-11.43. Composition; appointment and terms of office; compensation, oath; attendance at meetings, vacancies.

(A) The Panel shall consist of nine (9) members, each of whom is a qualified elector of Miami-Dade County and possesses a reputation for civic pride, integrity, responsibility and has demonstrated an active interest in public affairs and service.

(1) Members:

(a) In order to secure representative membership on the Panel, each of the following five (5) community groups or organizations shall submit a list containing the names of three (3) qualified persons [and] the Board of County Commissioners shall select one (1) panel member from each of the five (5) lists:

(i) The Community Relations Board.

(ii) The Community Action Agency.

(iii) The Miami-Dade County League of Women Voters.

(iv) The Miami-Dade County Bar Association.

(v) The Miami-Dade Police Chiefs' Association. Each nominee by the Miami-Dade Police Chiefs' Association shall be an Association member. In the event the Panel is investigating an incident involving the jurisdiction employing this appointee, the Miami-Dade Police Chiefs' Association shall submit the names of three (3) different members for an appointment as a substitute until the conclusion of the investigation. In the event that none of the three (3) nominees meets with County Commission approval, the nominating entity shall submit another and entirely different list for Commission consideration. This process shall continue until a member has been appointed.

(b) In addition to the five (5) Panel members selected in accordance with the preceding subparagraph (a) of paragraph (1) of this subsection, four (4) members shall be

appointed by the Panel based on consensus of integrity and community representation, considering ethno-cultural and gender balance. The foregoing appointments shall constitute the membership of the Panel, and each member shall serve for a period of three (3) years. The Board of County Commissioners may extend this term if necessary to complete any pending investigation(s).

(2) Nonpermanent members. In addition to the foregoing, former Panel members may serve as substitute Panel members, given advance notice of absence of current members or vacancy pending appointment.

- (B) Members of the Panel shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties as shall be determined and approved by the Board of County Commissioners. Before entering upon the duties of office, each member shall submit written acceptance of appointment and subscribe to the oath of office prescribed by law, which shall be filed in the Office of the Clerk of the County Commission.
- (C) Any Panel member shall be automatically removed if absent for three (3) consecutive meetings without a satisfactory excuse or if absent from more than one-half of the Panel's meetings during his or her term of office. A Panel member shall be deemed absent from a meeting when not present at the meeting at least seventy-five (75) percent of the time. The provisions of this section may be waived by a two-thirds vote of the members of the full Board of County Commissioners. Any vacancy shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy shall serve for three (3) years from the date of appointment.

Sec. 2-11.44. Organization and procedures.

- (a) The members of the Panel shall select a chairperson to serve at the pleasure of the Panel, together with such other officers as may be deemed necessary by the Panel.
- (b) A simple majority of the constituted members of the Panel attending a Panel meeting or hearing shall constitute a quorum.
- (c) All action by the Panel shall be by majority vote.
- (d) All Panel proceedings shall be conducted in accordance with the Government-in-the-Sunshine Law, Section 286.011, Florida Statutes.
- (e) All Panel proceedings shall be conducted in accordance with the provisions of the Citizens' Bill of Rights of the Miami-Dade County Home Rule Charter.
- (f) The Panel shall be deemed an "agency" for purpose of compliance with the Public Records Law, Chapter 119, Florida Statutes.

Sec. 2-11.45. Authority and powers generally.

- (a) The Panel may hold public hearings, make factual determinations, draw conclusions, propose recommendations, and prepare interim and final reports on matters relating to serious complaints or grievances made against an employee, agency or instrumentality of Miami-

Dade County. The Panel may also hold hearings, render findings of fact and conclusions of law and issue recommendations, as provided in Chapter 2, Article LXXI of the Code. The Panel shall have the authority and responsibility to determine whether complaints or grievances are sufficiently serious to institute a review process.

- (b) The Panel may adopt, promulgate, amend and rescind such rules of procedure as may be necessary to exercise its authority; provided, however, that no rules shall conflict with the provisions of this article.
- (c) The Panel may demand, examine and duplicate public records and documents in accordance with the provisions of Chapter 119, Florida Statutes, as may be amended from time to time.
- (d) The Panel may enter and inspect any premises under the jurisdiction or control of Miami-Dade County or any of its agencies or instrumentalities.
- (e) The Panel may request any person, including the supervisor of the Internal Review Section of the Miami-Dade Police Department, to give sworn testimony or to produce documentary or other evidence.
- (f) The Panel may conduct or participate in conferences, inquiries, meetings or studies.
- (g) The Panel may request the County Attorney to render opinions relating to its duties, jurisdiction or power.
- (h) The Panel shall not interfere with any ongoing criminal investigation of the State Attorney.

Sec. 2-11.46. Panel proceedings.

Panel members shall meet with staff from time to time:

- (1) To consider the County's complaint review processes and investigatory activities designed to serve the public; and
- (2) To consider whether any complaint or grievance filed with the Panel is sufficiently serious to merit review by the full Panel.

Full panel meetings shall be scheduled monthly and with appropriate notice given to the public.

Sec. 2-11.47. Interim reports during pending review.

At least every thirty (30) days, the Panel shall receive interim reports from staff with regard to each pending review.

Sec. 2-11.48. Final reports on matters reviewed; referral for further proceedings.

The Panel shall publish a final report with regard to each matter reviewed. Said final report shall be transmitted simultaneously to the Board of County Commissioners, the County Manager and the director of the concerned County department. If the Panel has reason to believe that any public official, employee or other person warrants criminal or disciplinary proceedings, it shall refer the matter to the appropriate governmental authorities.

Sec. 2-11.49. Simultaneous reviews.

The Panel may review more than one (1) incident at the same time.

Sec. 2-11.50. Immunity of Panel members from suit.

The Panel members shall be, to the full extent permitted by law, immune from any suit based upon any action or report undertaken within the scope of the Panel's duties or powers as provided in this article.

Sec. 2-11.51. Physical facilities and staff.

- (a) Office space, etc.; auditorium. The County shall provide the Panel with appropriately located office space and auditorium facilities together with necessary office supplies, equipment and furnishings.
- (b) Executive Director. The Board of County Commissioners shall appoint an Executive Director from 3 nominees provided by the Independent Review Panel. The Independent Review Panel shall utilize a competitive selection process when selecting nominees for Executive Director. The Executive Director shall only be removed by the Independent Review Panel. Such removal shall be for good cause upon a majority vote. The Independent Review Panel shall establish the rate of remuneration of the Executive Director in conjunction, concurrence and consensus with the County Manager.
- (c) Staff. The Executive Director may hire and administer the necessary staff, subject to budgetary allocation by the Board.
- (d) Legal counsel. The County Attorney shall provide the Panel with necessary legal counsel.
- (e) Research, investigative personnel. The Panel may request the Board to provide such other fact-finding and research personnel as it may determine are necessary from time to time.

Sec. 2-11.52. Municipal utilization of Panel authorized.

At the request of any municipality, on a case-by-case basis or for a time certain, the Panel may assume jurisdiction to consider complaints of citizens against any employee, agency or instrumentality of said municipality. The Panel may proceed to consider, review, investigate and conduct hearings relative to such complaint or grievance. In such event, all references to the County or County officers, employees or representatives shall be determined to be references to the municipality and to the municipal officers, employees or representatives who serve in comparable capacities.

Attachment C Standard Operating Procedures

Standard operating procedures for serious complaints “A” Complaints”

1. Complaint is filed with IRP, by phone, letter, email, or in-person.
2. If filed verbally, either in-person or by phone:
 - A. Conflict resolution specialist fills out Grievance Report Form (GRF).
 - B. The GRF (and details) is provided to the complainant with the request that he/she make sure it is accurate, sign it and return it to the IRP office. (form letter #2)
3. The GRF and related documents are sent to the accused department (department head), with the request that the allegations be investigated. (form letter #9 or #10)
4. If the complainant makes changes to the GRF, after it has been sent to the department, staff provides the department with a copy of the complainant’s revisions.
5. When staff receives the accused department’s report, staff reviews it and follows up as needed.
6. The department’s report is sent to the complainant. (form letter #19)
7. If the complainant (or staff) is not satisfied with the department’s response, the complaint is assigned to a panel member and a dispute resolution committee meeting is scheduled. The complainant, the accused employee(s) and a representative (s) from the department are invited to attend. Any other interested party is also welcome to attend the meeting. The IRP cannot compel the attendance of county employees. (form letters #23, 24, 25)
8. The committee makes findings and recommendations to the full panel. The committee may request further investigation before it makes its recommendations. Staff prepares a “committee recommendation to panel” report, which is shared with the complainant, the involved department and involved employees before the public hearing. (form letters: #26, 27, 28)
9. The full panel holds a public hearing to review the report and make a disposition. The panel may make recommendations to the department, the county manager, the board of county commissioners or any entity it deems appropriate. The panel provides the commissioners, mayor, county manager, department directors and the complainant with a copy of its disposition. (form letters #29 or #30)

Attachment D Rules of Procedure

*Approved 11-24-98
Section 3.5 modified 11-18-99*

SECTION 1. Purpose

SECTION 2. Definitions

SECTION 3. Organization and Meetings

- 3.1 Composition of Panel
- 3.2 Reserved
- 3.3 Term
- 3.4 Compensation
- 3.5 Election of Chairperson, Vice Chairpersons
- 3.6 Election of Other Officers
- 3.7 Transaction of Business
- 3.8 Special Committees
- 3.9 Panel Meetings
- 3.10 Attendance at Meetings
- 3.11 Executive Director

SECTION 4. Procedures regarding Complaints or Grievances

- 4.1 Policy
- 4.2 Receiving Complaints
- 4.3 Complaint Form
- 4.4 Recording of Complaints
- 4.5 Withdrawal of Complaints

SECTION 5. Screening, Fact Finding and Evaluation

- 5.1 Screening and Classification
- 5.2 Deferral of Action on Complaints
- 5.3 Action on Complaints

SECTION 6. Committee Reviews and Investigations

- 6.1 Committee Assignments
- 6.2 Committee Procedures
- 6.3 Authority and Powers Generally

SECTION 7. Disposition by Panel

- 7.1 Submission to Panel
- 7.2 Notification to Parties
- 7.3 Panel Meeting Procedures
- 7.4 Consideration by Panel
- 7.5 Distribution of Final Report

SECTION 8. Whistleblower Retaliation Complaint Procedure

SECTION 9. Investigations: Resources and Scope

- 9.1 Investigative Staff
- 9.2 Scope of Investigation
- 9.3 Manner of Conducting Investigations

SECTION 10. Panel Hearings

- 10.1 Procedure for Scheduling Hearings
- 10.2 Open Public Hearings
- 10.3 Hearing Procedures
- 10.4 Counsel or Representative at Hearing
- 10.5 Testimony
- 10.6 Stenographic Record

SECTION 11. Findings of the Panel and Disposition of Complaints

- 11.1 Final Report
- 11.2 Distribution of Final Report

SECTION 12. Dissemination of Information to the Public

- 12.1 Press Releases
- 12.2 Pamphlet

SECTION 13. Public Records

- 13.1 Public Inspection
- 13.2 Files Open
- 13.3 Files Maintained

SECTION 14. Preservation of Rights

SECTION 15. Amendment

- SECTION 16. Waiver
- SECTION 17. Validity
- SECTION 18. Effective Date

SECTION 1. PURPOSE

It is hereby declared to be the purpose of these rules of procedure to facilitate the independent review process in Miami-Dade County, Florida, which shall be based on due regard for the Constitutional Rights of all persons, and which shall promote the highest possible degree of mutual respect between the agencies, instrumentalities and employees of Miami-Dade County and the people of Miami-Dade County.

In order that this purpose be achieved, the Independent Review Panel shall receive, consider, investigate and provide a public forum for the airing of serious complaints or grievances brought by the Public against any employee, agency or instrumentality of Miami-Dade County, Florida. These rules provide for the impartial, independent, open and prompt investigation and disposition of complaints and grievances in a manner which protects both the Public and the County agencies, instrumentalities or employees who are involved in such complaints. The Panel will encourage members of the public to bring forward legitimate complaints of abuses and allegations of improper conduct as it is imperative that they be able to communicate freely to the Panel their dissatisfaction with County services or with the particular conduct of individual employees or agencies of the County. The provisions of these rules shall be liberally construed to achieve these objectives.

It is a further purpose of these rules to facilitate the ability of the Independent Review Panel to review the established County procedures and policies or general patterns of conduct which give rise to conflict and misunderstanding between the County and the Public and to make recommendations to the appropriate authorities regarding revision of said policies and procedures.

SECTION 2. DEFINITIONS

Wherever used in these rules, unless plainly evident from the context that a different meaning is intended, the following terms mean:

2.1 "Accused Party" means the employee, agency or instrumentality of Miami-Dade County, Florida, or of any municipality which elects to avail itself of the Panel's services, against whom a Complaint or Grievance is directed.

2.2 "Aggrieved Person" means any person who appears from a Complaint or Grievance to have suffered injury, harm, humiliation, indignity, or any other damage whatsoever as a result of misconduct by any County agency, employee or instrumentality.

2.3 "Chairperson" means the Chairperson of the Independent Review Panel or the Vice Chairperson, if the Chairperson is not able to preside.

2.4 "Complaint" or "Grievance" means a statement alleging that an employee, agency or instrumentality of Metro-Dade County has engaged in an improper act or misconduct in connection with the performance of their official duties, or a statement indicating that the

Complainant believes that an existing policy, rule, procedure or practice operates to the detriment of the community as a whole or any segment thereof.

2.5 "Complainant" means any individual who files a Complaint or Grievance regarding the conduct of any County agency, employee or instrumentality. The Complainant may, but need not be an aggrieved person.

2.6 "County" means Miami-Dade County, Florida. The County is governed by an Executive Mayor and a thirteen member Board of County Commissioners. They employ a Manager to administer, on a day-to-day basis, the activities of employees who provide services such as police, fire, garbage collection, recreation and zoning for the unincorporated areas of the County. Miami-Dade County has an area of 2,000 square miles that has within it 30 municipalities. County-wide services such as environmental control, transportation, indigent health care, social services, water and sewers, maintaining tourist attractions and the county court system are provided for all residents (approximately 2.3 million).

2.7 "Enabling Ordinance" means County Ordinance No. 80-8 adopted by the Board of County Commissioners, Miami-Dade County, Florida, which became effective February 19, 1980, as amended.

2.8 "Panel" means the nine (9) members of the Miami-Dade County Independent Review Panel appointed in accordance with the provisions of the Enabling Ordinance.

SECTION 3. ORGANIZATION AND MEETINGS

3.1 Composition of the Panel

The Panel shall consist of nine (9) members, five (5) appointed by the Board of County Commissioners and four (4) by the Panel members, taking into consideration ethno-cultural and gender representation, as provided by the enabling ordinance. Each Panel member shall be a qualified elector of Miami-Dade County, shall possess a reputation for civic pride, integrity, responsibility, and shall have demonstrated an active interest in public affairs and service.

3.2 Reserved

3.3 Term

A. Panel members: each member of the Panel shall serve for a period of three years, which term may be extended by the Board of County Commissioners if necessary to complete any pending investigation(s). Any vacancy shall be filled in the same manner as the original appointment.

3.4 Compensation

Members of the Panel shall serve without compensation, but shall be reimbursed for the reasonable and necessary expenses incurred in the performance of their official duties. Before entering upon the duties of office, each member shall submit a written acceptance of appointment and subscribe to the oath of office prescribed by law, which shall be filed in the Office of the Clerk of the County Commission.

3.5 Election of Chairperson, Vice Chairpersons

The members of the Panel shall in November elect a Chairperson and two Vice Chairpersons to serve for a term of one year beginning with the first Panel meeting in January. The Chairperson may serve for more than one term. In the absence of the Chairperson, at any meeting, the First or Second Vice Chairperson shall preside over the meeting. In the absence of the three officers, the panel may carry on business by electing an Acting Chairperson from the members present.

3.6 Election of Other Officers

The members of the Panel may select such other officers as the Panel deems necessary in accordance with the provisions of the Enabling Ordinance.

3.7 Transaction of Business

A majority of the constituted members of the Panel attending a Panel meeting or hearing shall constitute a quorum. The affirmative vote of a majority of the Panel members present shall be necessary to take any action. Any such actions shall be made at a meeting open to the Public in accordance with the Sunshine Law, Chapter 286.011, Florida Statutes. All meetings shall be conducted in accordance with such rules of order as the Panel may from time to time adopt. All Panel proceedings shall be conducted in accordance with the provisions of the Citizens Bill of Rights of the Miami-Dade County Home Rule Charter.

3.8 Special Committees

Special Committees as may be necessary shall be appointed by the Panel Chairperson.

3.9 Panel Meetings

The regular meetings of the Panel shall be held with such frequency and at such time and place as the Panel elects. Special meetings may be held at the call of the Chairperson or the acting Chairperson. Upon petition of three (3) members of the Panel, the Executive Director shall call a meeting within two (2) weeks.

3.10 Attendance at Meetings

If a member of the Panel fails to attend three (3) consecutive meetings without a satisfactory excuse and notification prior to the meeting or if a Panel member is absent for more than one-half of the Panel's meetings during his or her term of office, his or her appointment shall cease. A Panel member shall be deemed absent from a meeting when not present at the meeting at least seventy-five (75) percent of the time. Any such excuse shall be subject to the approval of a majority of the Panel members present at the meeting. The provisions of this section may be waived by a two-thirds vote of the members of the full Board of County Commissioners.

3.11 Executive Director

The Chief Judge of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, shall appoint one (1) person to be the Executive Director of the Independent Review Panel. The Executive Director shall hire and shall supervise administrative, clerical, investigative and other personnel necessary to discharge the functions of the Independent Review Panel. The Executive Director shall promulgate internal office procedures and prepare necessary standardized forms for the conduct of investigations and the receipt of Complaints or Grievances.

The daily operations of the Panel, including the conduct of the investigations, shall be managed by the Executive Director who shall oversee the regular functioning of the staff assigned to carry out the duties of the Panel.

SECTION 4. PROCEDURES REGARDING COMPLAINTS OR GRIEVANCES

4.1 Policy

A. It is the policy of the Independent Review Panel to encourage citizens, who have serious Complaints or Grievances concerning the conduct of any employee, agency or instrumentality of Miami-Dade County, Florida to bring the same to the attention of the Independent Review Panel, which Complaint, if appropriate, will be considered, investigated and disposed of in accordance with the procedures set forth herein.

B. As promptly as possible the Panel's Executive Director shall notify each known aggrieved person, and each known accused employee, agency or instrumentality of the County that the matter is the subject of a Complaint or Grievance and shall forward a copy of the complaint form.

C. The Independent Review Panel will make every effort to ensure that no adverse consequences will result to any person or witness as a result of having brought a Complaint or having provided information in any investigation of a Complaint.

D. The Independent Review Panel will make every effort to consider and to respond to citizens' Complaints and Grievances against any employee, agency or instrumentality of the County, and, if necessary, will conduct an impartial, open and fair investigation into any such Complaints or Grievances in accordance with the procedures set forth herein.

E. The right of any person to bring a Complaint shall be absolute and unconditional; the reluctance or refusal of the Complainant to prepare a complaint form shall not impair his or her right to lodge a Complaint. If the Complainant will not fill out the form or sign it, it shall be completed by the Panel employee or Panel member with whom the Complaint is lodged.

4.2 Receiving Complaints

A. Complaints may be accepted in writing, in person, by telephone or by any other means of communication, whether the Complainant offers his or her name or submits the Complaint anonymously.

B. A Complaint may be lodged with the Independent Review Panel on behalf of oneself or on behalf of another person by any interested person or group.

C. All Complaints, if authorized under these rules, shall be investigated thoroughly, competently and impartially and be brought to final disposition in a reasonable manner which is fair to all parties.

D. No Complaint or Grievance will be deemed to have been filed with the Panel unless and until it has been reduced to writing, in accordance with the following procedures:

1. If the Complaint or Grievance is lodged in person, the Panel employee or Panel member receiving the Complaint shall furnish the Complainant with a blank complaint or grievance form. The Complainant shall be asked to fill out the form and to sign the form in the space provided. An oath or sworn declaration shall not be required. The Complainant may refuse to sign the form or to give his or her name. A copy of the completed form shall be given to the Complainant to serve as a record of the filing of the Complaint.

2. If a Complaint is lodged by mail, the complaint form shall be completed by the Panel staff on the basis of information contained within the correspondence. The Panel staff shall mail a copy of the completed complaint form to the Complainant as a record of the filing of the Complaint, together with a request that the Complainant review the complaint form for accuracy, and if accurate, sign the same and return it to the Panel offices.

3. If the Complaint is lodged by telephone, the Panel staff shall fill out an original complaint form and prepare one (1) duplicate copy of the complaint form as a record of the filing of the Complaint. The Panel staff employee taking the Complaint shall give his or her name to the Complainant. Panel staff shall furnish the Complainant with a copy of the completed form, together with a request for verification of accuracy and signature.

4. If the Complaint is lodged by an anonymous person, the Panel staff member receiving the Complaint shall endeavor to obtain the facts necessary and appropriate for the completion of the complaint form, record all information on the form and in the space provided for the Complainant's signature, indicate "Anonymous Complainant".

4.3 Complaint Form

The Panel shall cause all Complaints received by it to be reduced in writing on complaint forms.

4.4 Recording of Complaints

The Panel shall cause a central register of all Complaints filed with it to be maintained in its office. The central register shall record actions taken on each Complaint. The central register and complaint file shall be open for Public inspection during office hours and shall contain the following:

- A. Number of Complaint.
- B. Date Complaint was filed.
- C. A brief description of the subject matter of the Complaint.

- D. Complaint classification and disposition of the screening process.
- E. Date of referral to involved department or agency for investigation.
- F. Date department's or agency's response received.
- G. Results of committee and/or Panel consideration, if any.
- H. Date and content of final disposition of Complaint.

4.5 Withdrawal of Complaints

A Complaint may be withdrawn from further consideration at any time by a written notice of withdrawal signed and dated by the Complainant or by personal or telephonic notice to any Panel member or staff person by the Complainant.

SECTION 5. SCREENING, FACT FINDING and EVALUATION

5.1 Screening and Classification

A. Each complaint shall initially be screened by staff to determine its classification. Classifications of complaints are:

- 1. "A": Complaint against a Miami-Dade County agency, employee, instrumentality or policy which requires a thorough investigation.
- 2. "B": Complaint against a Miami-Dade County agency, employee, instrumentality or policy which does not warrant a full investigation.
- 3. "NJ": No jurisdiction. Complaint not against Miami-Dade agency or employee, eligible municipality or instrumentality.
- 4. "PC": Personnel complaint filed by a Miami-Dade employee against his/her supervisor(s) or co-worker(s) or employing Department.
- 5. "M": Miscellaneous. Requests for information, incomplete complaint data, counseling.

5.2 Deferral of Action on Complaints

A. If the subject matter of the complaint is under investigation by the County department or agency having jurisdiction, if it is the subject matter of established administrative review procedures of the County or other governmental agency having jurisdiction, or if it is the subject of pending criminal or civil judicial proceedings, the complaint shall be deferred and the matter shall remain pending until such proceedings have reached a final disposition.

B. The Executive Director shall immediately advise the State Attorney or the appropriate County department or agency that a complaint has been received regarding the matter, and request that the Panel be notified when their investigation or proceedings have reached a final disposition. Copies of all such communications shall be forwarded to the complainant.

C. The complainant shall be advised that if he or she is dissatisfied with the ultimate disposition of the matter by any such agency, department or governmental process, he or she may request the Independent Review Panel to review the matter further.

D. Notwithstanding the above provisions, the Panel shall not be required to continue deferral of a complaint if such administrative investigation or proceedings have not reached final disposition within sixty (60) days from the Panel's receipt of the complaint. This

section does not apply to criminal investigations by the State Attorney or to judicial proceedings.

5.3 Action on Complaints

A. Complaints not against a Miami-Dade County agency, employee or policy (NJ, PC OR M).

1. "NJ", No Jurisdiction. If the subject matter of the complaint is not within the jurisdiction of the Panel, the Complainant shall be so advised by the staff. The staff may refer the matter directly to the appropriate agency having jurisdiction of the matter, together with a request, on behalf of the Panel, that the matter be considered by such agency or instrumentality. The complainant shall be notified of such referral, and provided the name and title of the person to whom the matter was referred.

2. "PC", Personnel Complaint filed by a Miami-Dade County employee.

a. The Panel will not consider personnel complaints.

b. If there appears to be an issue of substantial inequity or unfairness, the Executive Director may present the complaint to the full Panel and request a waiver of "2 a", above.

3. "M", Miscellaneous. Requests for information, incomplete complaint data, advice and counsel. No further action will be taken after requests for information have been answered, after reasonable efforts have been made unsuccessfully to obtain information to complete a complaint, and/or advice and counsel have been given.

B. "A" and "B", complaints against a Miami-Dade County agency, employee or policy.

1. "B", Complaint against a Miami-Dade County agency, employee or policy which does not warrant a full investigation. Complaints may be referred by staff, on behalf of the complainant, to the appropriate person or persons in Miami-Dade County government for resolution. Such referral may be by telephone, in person or by mail. In all cases, the identity of the person or persons to whom a complaint is referred and the action taken in response to the complaint shall be noted in writing and filed with the complaint. The complainant shall be notified of the action whenever possible. No further action shall be required, but the Panel shall be provided a summary of such complaints upon request.

2. "A", Complaint against a Miami-Dade County agency, employee or policy which requires a thorough investigation.

a. Each "A" complaint shall be referred to the County department, agency or instrumentality named in the complaint for a prompt and complete investigation of the complaint.

b. The named department, agency or instrumentality shall be requested to report back to the Independent Review Panel the results of its investigation along with a full and complete copy of its investigative file, including but not limited to, tapes of all statements taken and transcriptions made there from.

c. The Independent Review Panel shall submit a full copy of the investigative file referred to in "b", above, to the complainant. Such copy need not include copies of tapes or statements taken, but shall be complete in all other respects.

d. If, after receipt of a copy of the investigative file made by the named department, agency or instrumentality, the complainant is satisfied with the resolution,

the complaint may be concluded. This shall not prevent the Panel from continuing to review issues either raised in the initial complaint or during the investigation and review of the complaint.

e. If, after reviewing the results of the investigation into his or her complaint, a complainant is not satisfied, he or she may request that a committee be established to investigate and/or review the complaint further, and to make recommendations regarding it to the full Panel. Upon such request, a committee shall be established.

f. A committee shall be established to consider a complaint further if either the staff or the Panel considers it is necessary to continue review of the complaint, even though the complainant does not wish to pursue the complaint. The committee shall be called a Review Committee.

SECTION 6. COMMITTEE REVIEWS AND INVESTIGATIONS

6.1 Committee Assignments

A. Assignment of complaints under this section shall be made by rotation among the Panel members. A Panel member may request that he or she be temporarily excused from the normal rotation to equalize caseload, avoid conflicts of interest, or for other good cause. When a Panel member's term of office expires and he or she is replaced, the replacement will automatically receive any pending complaints assigned to the departing Panel member.

B. If the assigned Panel member believes it to be necessary, he or she may request that an additional Panel member or members be assigned to serve on the committee. The assigned Panel member may request the designation and appointment of any additional Panel member whose experience and expertise in any given area may prove to be of benefit in analyzing or resolving the particular complaint. Occasionally several complaints that have similar and/or complex subject matter may be assigned by the Panel to a Panel member who has become familiar with the issues involved and/or the accused department's policies and procedures.

C. A staff member shall be a member of each committee and shall assist the assigned Panel member in each complaint review or investigation, and may conduct such aspects of the investigation that the Panel member requests.

D. The Director of the department or agency which is the subject of a complaint and/or the department's liaison to the Independent Review Panel shall be invited to attend committee meeting(s).

6.2 Committee Procedures

A. A complaint may require more than one committee meeting due to the complexity of the issues involved, the need for further information and review by the committee, or scheduling conflicts.

1. Every effort should be made to schedule committee meetings at a time and place that is convenient for the complainant.

2. A meeting may be cancelled and rescheduled at the request of a complainant one time, for good reason, but may not be rescheduled more than once, except by formal consent of the Panel.

3. If a complainant fails to appear at a scheduled committee meeting, without having notified IRP staff beforehand, the committee shall proceed without the complainant.

B. The Panel member serving on a committee shall be the Chairperson of the committee. Committee meetings are informal in nature.

C. In cases where there are two or more Panel members serving on a committee, the public must be notified of the date, time, and location of any meeting(s) in accordance with state law.

D. Prior to the start of a meeting, the Chairperson shall inform those present that an audio tape will be made of the meeting in order to assist in preparing an accurate record. The meeting shall continue with everyone present introducing themselves and providing their job titles, or describing themselves as complainant, witness, or observer.

E. After introducing the committee members, a brief statement describing the purpose of the Independent Review Panel, the nature of the complaint to be considered and the purpose of the committee meeting shall be made.

The introductory statement may also include:

1. The fact that the Panel does not have subpoena power (except for "whistle-blower" cases, Ord. 96-41), which is necessary to require that the accused county department or employee attend a committee meeting or a Panel meeting.

2. That the committee makes recommendations to the full Panel.

3. That the committee may recommend further investigation, departmental policy change or establishment, imposition of discipline or remedial action, if no disciplinary action has been taken, other corrective action and/or initiation of criminal proceedings.

4. That final disposition of the complaint will be made by the Panel at a future Panel meeting.

F. The committee Chairperson may summarize the complaint or ask the complainant to describe his or her complaint. The department representative shall then be asked to present the department's response to the complainant, the results of the departmental investigation and/or any steps that the department has taken to resolve the complaint. Statements may be made by any witnesses present at the meeting. Many complaints are resolved at this stage when the committee successfully acts as a mediator between the complainant and the accused department.

G. Where clarifications and/or further information are needed, the department may be asked to investigate further, and/or the Panel staff may interview witnesses and gather additional data.

6.3 Authority and Powers Generally

A. In the event that there is no specific incident, complaint or grievance which is the subject matter of a Panel review or investigation, and a review is initiated to consider the County's complaint handling procedures and activities designed to serve the public, the investigation shall include but not be limited to testimony taken from the appropriate department heads and employees, such statistical records as are available relative to the review, processing or complaint procedures, statements taken from citizens previously involved in such procedures or processes and such other information as may be deemed necessary by the Panel or its staff.

B. The Panel or its staff may demand, examine and duplicate public records and documents in accordance with the provisions of Chapter 119, Florida Statutes, as may be amended from time to time.

C. The Panel or its staff may enter and inspect any premises under the jurisdiction or control of Miami-Dade County or any of its agencies or instrumentalities.

SECTION 7. DISPOSITION BY PANEL

7.1 Submission to Panel

Following completion of the committee's review and/or investigation and recommendations, a written report shall be forwarded to all Panel members, and the matter shall be placed on the agenda of a scheduled or special meeting of the Panel.

7.2 Notification to Parties

A copy of the written report referred to in 7.1, above, shall be forwarded to each complainant and accused party, together with a notice of the time and place of the Panel meeting at which the complaint will be considered. All complainants and accused parties shall be notified that they have a right to be present at the said meeting, in person or through a representative of their choice, and to be heard by the Panel regarding the subject matter of the complaint. If for any reason the complainant or any accused party has not received a copy of the written report in advance of any meeting where the same is to be considered, Panel action thereon shall be deferred, upon the request of the complainant or accused party, to the next regularly scheduled meeting.

7.3 Panel Meeting Procedures

A. Meetings of the Panel shall be held regularly. Public notice of each meeting shall be given in accordance with the applicable state law.

B. The presence of five (5) Panel members is needed for a quorum. If it is known in advance that a quorum will not be attained, a scheduled meeting may be cancelled.

C. If a meeting is held with less than five (5) Panel members present, those present may review all items on the agenda, make motions and vote, with the understanding that any action taken does not become final until ratified by the Panel at the next meeting of five (5) or more Panel members.

D. All Panel meetings shall be tape recorded. Minutes summarizing each meeting shall be prepared by the Panel staff and adopted by the Panel by motion duly made, seconded and carried.

E. Panel meetings are informal in nature. County employees named as subjects in complaints, other county personnel, complainants and witnesses appear voluntarily and need not be sworn. Meetings are open to the public and anyone who wishes to address the Panel may do so "from the floor."

7.4 Consideration by Panel

The Panel shall consider the reports of committees and any other information that may be brought to its attention at the said meeting. Thereafter, the Panel may:

A. Vote to conclude a matter without further investigation or review;

B. Request further investigation or review by the staff, the Panel, or a committee of the Panel;

C. Take such other action as it deems necessary and appropriate, including making recommendations regarding policy or rule changes, or specific personnel action.

D. If the Panel has reason to believe that the actions of a public official, employee or other person warrants criminal or disciplinary proceedings, it shall refer the matter to the appropriate governmental authorities with a request that the Panel be advised of any action taken as a result thereof.

7.5 Distribution of Final Report

A. The Panel shall advise the Complainant, the aggrieved party and the accused employee or concerned department or agency in writing of the Panel's disposition and/or the outcome of any hearing before the Panel, and shall provide them with copies of the final report.

B. The Panel may further distribute and publicize the final report and shall include within it any conclusions or recommendations as it, in its discretion, determines to make in connection therewith.

SECTION 8- WHISTLEBLOWER RETALIATION COMPLAINT PROCEDURE

A - Stage One - SCREENING

1. Upon receipt of a written retaliation complaint from the County Manager's Office, the Independent Review Panel Executive Director or his/her designee shall screen the complaint to determine whether to proceed with a hearing or dismiss the complaint at screening. The complaint shall be dismissed at this stage only due to:
 - a. Failure of the written complaint to state facts which, if true, would authorize the granting of relief under Sec.2-967.8 of the Code of Metropolitan Dade County;
 - b. Failure of the complainant to sign a consent form indicating that the complainant is aware of his/her rights and responsibilities under the Whistle Blower Ordinance, and has read and understands the rules of procedure; or
 - c. Failure of the complainant to swear or affirm the truthfulness of the written complaint.
2. If the complaint is dismissed, the complainant shall be sent notification of same by the Executive Director, with signed concurrence by a Panel member. This notice shall clearly state the reason for the conclusion and provide notice of opportunity to appeal, in writing, to the Panel within 10 days. The notice shall contain a certificate of service as provided by Florida Rules of Civil Procedure 1.080(f). The time for appeal shall be measured from the date of service, so certified and computed as required by Fla. R. Civ. P. 1.090. Appeal shall be initiated by delivery to the office of the Executive Director of a written statement of intent to appeal. The Executive Director or his designee shall record the date and time of all such deliveries.
3. If the matter is not concluded at screening, the matter shall be scheduled for Public Adversarial Hearing.

B - Stage Two - MEDIATED CONFLICT RESOLUTION

The complainant and the accused will be offered mediated conflict resolution (MCR). If both parties agree to utilize this informal procedure, the resolution process will be mediated by a

Panel member and the Executive Director or his/her designee. If both parties agree with the outcome of the MCR process, the agreement resolution shall be submitted to the Panel for ratification, without a formal investigation. If the matter cannot be resolved at this stage, a public adversarial hearing shall be conducted.

Parties that choose to participate in Mediated Conflict Resolution shall be asked to affirm and document understanding of the following:

1. Each party has an absolute right to be represented by counsel in Mediated Conflict Resolution and all stages of the IRP process. Should an accused County Department choose to be represented by counsel, they would not be represented by the County Attorney's Office but would seek external counsel.

Confidential statements made during Mediated Conflict Resolution sessions will not be admissible for adversarial public hearing purposes or subsequent proceedings.

2. The IRP Chairperson may allow each party one postponement of a scheduled adversarial public hearing for a period not to exceed 60 days.
3. Parties to Mediated Conflict Resolution may be granted a second session to finalize a Mediated Negotiation Agreement within five business days of the first session. Any other settlement prior to the scheduled adversarial public hearing will not be mediated by IRP members or staff.

C - Stage Three - PUBLIC ADVERSARIAL HEARINGS

Within sixty days of receipt of the complaint by the IRP, the Panel shall conduct an adversarial hearing, or determine whether to ratify the resolution of mediated solution on which there has been an agreement. Upon application of a party to the complaint, or upon its own motion, the Panel, by its chairperson or his or her designee, may, for good cause shown, request the County Manager to extend, in sixty days increments, the time limitations of this process.

Subpoenas, signed by the Executive Director or designee, will be issued upon written request of the complainant, the accused or the Panel, to procure the attendance of witnesses and/or, with the approval of the County Manager, the production of records at the adversarial hearing.

1. *Setting and Notice of Hearing* - Staff shall coordinate with the parties and the Panel members to schedule a time and place for the hearing, and shall send written notice via U.S. Mail to the parties to the complaint, not less than 10 days before the hearing. A party's appearance at the hearing shall constitute a waiver of any deficiency in the notice of hearing.
2. *Absence of Party* - The hearing may proceed in the absence of a party who, after notice, fails to attend or to obtain a postponement from the Panel chairperson. Despite the absence of a party or parties, no recommendation shall be made without the submission of evidence to support the complaint.
3. *Representation by Counsel* - Each party has an absolute right to be represented by counsel at any adversarial hearing.
4. *Presentation of Evidence* - The Chairperson shall require all parties and witnesses to be sworn before they testify. The Chairperson, if he or she desires, may request opening statements and prescribe the order of proof. In any event, all parties shall be afforded full opportunity for the presentation of evidence. All pre-hearing discovery is prohibited.

If either party finds it necessary to perpetuate the testimony of a witness who would probably not be available to testify at the hearing, the deposition of that witness may be taken and submitted at the time of hearing in lieu of live testimony. Prior approval of the Executive Director shall be obtained prior to the taking of such deposition and the Executive Director shall grant such approval if he or she concludes the testimony of the witness relevant and there is a reasonable likelihood that the witness will not be available for the adversarial hearing.

The procedures for subpoenas and witness attendance shall be as prescribed in Sec. 2-50 of the Code of Metropolitan Dade County.

5. *Right of Party to Attend* - All parties shall have an absolute right to attend all hearings.
6. *Chair to Preside* - The Chairperson, or in his or her absence, the Vice Chair or a Panel member, shall preside at the hearing and shall rule on the admission and exclusion of evidence and on questions of procedure, and shall exercise all powers relating to the conduct of the hearing. The hearing shall be informal in nature without strict observance of the rules of evidence or the Florida Rules of Civil Procedures. Periods of time prescribed in these rules shall be computed as stated in Fla. R. Civ. P. 1.090.

D - Report to the County Manager

The Panel will transmit its findings of fact, conclusions and recommendations to the County Manager within 15 days of case dismissal, resolution or conclusion of adversarial hearing. Audio tape recorded testimony will be sent, along with Panel conclusions, for final consideration by the County Manager.

SECTION 9. INVESTIGATIONS: RESOURCES AND SCOPE

9.1 Investigative Staff

The Panel's Executive Director shall secure such investigative staff or fact finding and research personnel as the Executive Director may determine are necessary from the County Manager, from the State Attorney's Office or from such other source through which investigative assistance is available. No investigative personnel shall be utilized in connection with an investigation if such investigative personnel are not independent of the County agency or instrumentality which is the subject of the review or investigation. Should the Panel determine that a review or investigation requires investigators who are entirely independent of the County or State Government, the Executive Director may hire private investigative personnel after consultation with the Panel member assigned to that particular case. The Chairperson's, (or the Vice Chairperson's, in the Chairperson's absence) approval must be secured. The Panel shall be advised at its next regular meeting.

9.2 Scope of Investigation

The preliminary investigation or any subsequent investigation may include but shall not be limited to the following:

A. Interviews with the Complainant, the aggrieved party, interviews with the party or department head of the agency or instrumentality against whom the Complaint or Grievance is lodged and all other parties witnessing or involved in any alleged incident; examination of the scene of the incident; viewing, analyzing and preserving all physical evidence, if any, associated with the alleged incident; review, analysis and preservation of all other physical evidence, if any. It shall be the responsibility of the investigator to record each step in the investigation and the result thereof in an investigation report which shall be made a part of the complaint file.

B. The Panel's investigators shall attempt to secure written statements under oath from all participants in and witnesses to the alleged incident but where any witness or participant is unwilling to make a signed written statement, the assigned investigator shall provide a verbatim transcript or written summary of the oral statement, if any, provided by such participant or witness. Where a written statement is given and signed by a participant or witness, the assigned investigator shall provide the person making such statement with a copy of the statement.

C. In the event that there is no specific incident, Complaint or Grievance which is the subject matter of a Panel review or investigation, and a review is initiated to consider the County's complaint review processes and investigatory activities designed to serve the Public, the investigation shall include but not be limited to testimony taken from the appropriate department heads and employees, such statistical records as are available relative to the review, processing or Complaint procedures, statements taken from citizens previously involved in such procedures or processes and such other information as may be deemed necessary by the Panel or its staff.

9.3 Manner of Conducting Investigations

The Investigation shall be conducted in a manner designed to produce a minimum of inconvenience and embarrassment to the Complainant, the aggrieved person, the accused employee, agency or instrumentality of the County and the witnesses.

SECTION 10 PANEL HEARINGS

10.1 Procedure for Scheduling Hearings

After the conclusion of the preliminary investigation, the Panel's Executive Director shall determine the place, date and time of the Panel hearing and shall furnish written notice of the place, date and time of the hearing to each Panel member, the Complainant, each aggrieved person and the accused party. The Panel's Executive Director shall also give such notice of the subject matter, place, date and time of each hearing as is required by law.

10.2 Open Public Hearings

All Panel hearings will be open to the public and a taped record will be made and shall be available at cost to any person who requests it.

10.3 Hearing Procedures

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil or criminal actions.

10.4 Counsel or Representative at Hearing

An attorney or other representative acting on behalf of the Complainant, any aggrieved party, or any accused party may be present at the hearing, at the expense of such party, but such representation shall not be required.

10.5 Testimony

Testimony under oath administered by the Panel's Chairperson may be received from all persons who appear and purport to have information which is material to the matter under consideration by the Panel.

10.6 Stenographic Record

At the option of the Panel, a stenographic record may be kept, and if kept, shall be made available, upon payment of the cost of duplicating or transcribing the same, to any person requesting same.

SECTION 11. FINDINGS OF PANEL AND DISPOSITION OF COMPLAINTS

11.1 Final Report

Within thirty (30) days following the completion of the Panel hearing, and review of all additional evidence, if any, and the rules, procedures, orders, ordinances, statutes and Constitutional provisions allegedly violated, the Panel, by a majority vote, shall adopt and publish a final report with regard to each matter reviewed. Any final report of the Panel shall be transmitted simultaneously to the Executive Mayor, Board of County Commissioners, the County Manager and the Director of the concerned County department. If the Panel has reason to believe that a public official, employee or other person warrants criminal or disciplinary proceedings, it shall refer the matter to the appropriate governmental authorities with a request that the Panel be advised of any action taken as a result thereof. A dissenting Panel member or members may express the reasons for dissenting in writing and such dissent shall be included within such final report.

11.2 Distribution of Final Report

A. The Panel shall advise the Complainant, the aggrieved party and the accused employee or concerned department or agency in writing of the outcome of any hearing before the Panel and shall provide them with a copy of the final report.

B. The Panel may further distribute and publicize the final report and shall include within it any conclusions or recommendations as it in its discretion determines to make in connection therewith.

SECTION 12. DISSEMINATION OF INFORMATION TO THE PUBLIC

12.1 Press Releases

Press releases require prior authorization by the Executive Director.

12.2 Pamphlet

A pamphlet describing the purposes and procedures of the Independent Review Panel shall be prepared and distributed by the Independent Review Panel.

SECTION 13. PUBLIC RECORDS

13.1 Public Inspection

All matters within the jurisdiction of the Independent Review Panel, including without limitation, written statements of policy or interpretation formulated, adopted or used by the Panel in the discharge of its functions shall be made available for public inspection as required by law.

13.2 Files Open

Copies of all complaints, grievances, rules, reports or opinions of the Independent Review Panel shall be maintained on file and available for public inspection at the offices of the Independent Review Panel. Any party requesting copies of any such records may be provided with copies and charged a reasonable fee in accordance with Florida Statute 119.07 (1) and Miami-Dade County Administrative Order 4-48.

13.3 Files Maintained

All files of the Independent Review Panel shall be retained in accordance with the applicable state law.

SECTION 14. PRESERVATION OF RIGHTS

The within procedures shall be in addition to and not in derogation of:

A. The procedures existing from time to time for the preservation of rights of police officers, pursuant to the Police Officer's Bill of Rights, Florida Statute 112.531.

B. The applicable laws, ordinances, statutes and constitution of the State of Florida.

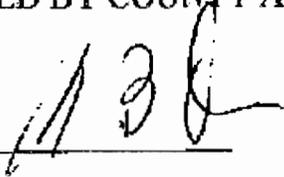
SECTION 15. AMENDMENT

The Rules of Procedure of the Independent Review Panel may be altered, amended or repealed, or new Rules may be adopted by the Panel at any regular meeting, or any special meeting called for that purpose, by a majority vote of the Panel members present at such meeting, provided, however, that notice of the intent of the Panel to consider the adoption of new Rules or the amendment, repeal or alteration of an existing rule is given to the members of the Panel at least five (5) days prior to the holding of such meeting. Such amendment or change in the rules may be initiated at the request of any member of the Panel filed with the Executive Director not less than fifteen (15) days prior to the date of any regular meeting at which such Panel member desires the matter to be considered.

SECTION 16. WAIVER

Any provision herein may be waived by a majority vote of the Panel members present at any regular meeting.

APPROVED BY COUNTY ATTORNEY AS TO FORM AND SUFFICIENCY:



Kenneth H. Drucker, Esq.
Assistant County Attorney

PASSED AND ADOPTED:

November 24, 1998

Attachment E

Independent Review Panel Minutes

January 27, 2009

140 W. Flagler Street

Members Present: Julia Dawson, Esq., Chairperson; Jean Lafortune, Second Vice Chair; Glenn Falk, Esq.; Julie Ferguson, Esq.; Josie Perez Velis, Esq.; Jorge E. Reynardus, Esq.; Tangier Scott, Ed.D.; Doris Shellow.

Members Absent: Michael Band, Esq., First Vice Chair; Moiez Tapia, Ph.D

- 1) Call to Order By Chair Dawson at 2:00 p.m.
- 2) Approval and adoption of the minutes from the meeting held on December 18, 2008
Adopted.
Mover: Jorge Reynardus
Seconder: Doris Shellow
Carried by unanimous vote.
- 3) IRP Complaint A 2006.312 Naidoo v. Miami-Dade Police Department (MDPD)
 - a. Findings regarding Discrepancies Reported by Mr. Naidoo
Adopted as amended.
Mover: Julie Ferguson
Seconder: Jorge Reynardus
Carried by unanimous vote.
 - b. Committee Findings
Adopted as amended.
Mover: Julie Ferguson
Seconder: Jorge Reynardus
Carried by unanimous vote.
 - c. Recommendations
Adopted as amended.
Mover: Dr. Tangier Scott
Seconder: Doris Shellow
Carried by a vote of 8-1.
- 4) Approval of Sunset Review 2007-2008
Adopted.
Mover: Julie Ferguson
Seconder: Jean Lafortune
Carried by unanimous vote.
- 5) Executive Director's Report
- 6) Adjourn
Adopted.
Mover: Josie Perez Velis
Seconder: Dr. Tangier Scott
Carried by unanimous vote.