

MEMORANDUM

Agenda Item No. 7(D)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

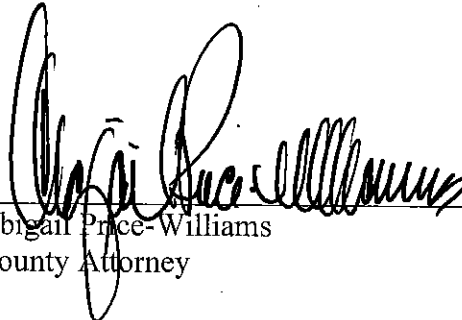
DATE: April 10, 2018

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to the Independent Review Panel; amending Chapter 2, Article IC of the Code; changing the name of the Independent Review Panel to the Independent Community Panel; amending the composition, authority, powers, and staffing of the Independent Review Panel

This item was amended at the 12-11-17 Housing and Social Services Committee to provide that the County Attorney shall render opinions relating to the Panel's duties, jurisdiction or power and to add a reporting requirement for the Mayor.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan and Co-Sponsor Commissioner Daniella Levine Cava.



Abigail Price-Williams
County Attorney

APW/smm

Memorandum



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To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

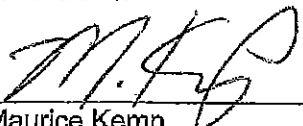
From: Carlos A. Gimenez
Mayor

Subject: Fiscal Impact Statement for Ordinance relating to the Independent Review Panel
and the respective changes to the Code of Miami-Dade County

The implementation of this ordinance will have a fiscal impact to the County. It is assumed that the Office of Community Advocacy would provide the staff support needed to manage the nominating and member selection process from existing resources. In addition, when the Independent Community Panel (ICP), formerly IRP was last funded in FY 2008-09, it had five (5) full-time employees and a countywide general fund allocation of \$599,000. The five-year impact assumes that the ICP is funded at the same level as in FY 2008-09. The attached analysis also assumes that the ICP begins its operations halfway through FY 2017-18 and includes a one-time capital expense for startup costs, including office space and equipment that may be needed to operate the new office. None of the resources necessary to re-establish the ICP are currently in place as the ICP would, in essence, be a new County agency.

Assuming a start date of April 1, 2018, the immediate fiscal impact is \$349,500. For year one of the future five-year fiscal impact, the costs would double to \$475,650, and assumes a five percent growth in personnel expenses and three percent growth in operating expenses, every year thereafter. Funding for the FY 2017-18 would be provided from the General Fund Public Safety Reserve. Future years funding would be subject to appropriation as part of annual budget development process. In addition, allocating this funding to the ICP would reduce the County's ability to address any additional public safety threats and concerns that are not currently funded.

Attachment



Maurice Kemp
Deputy Mayor

Ordinance Relating to the Independent Review Panel (172453)

Fiscal Impact Table

Use Existing
Resources

Revenue Category	Value	Year 1	Future Yr 1	Future Yr 2	Future Yr 3	Future Yr 4	Future Yr 5	Yes	No
General Fund	\$ 349,500	\$ 349,500	\$ 628,950	\$ 659,852	\$ 692,282	\$ 726,317	\$ 762,036	X	
Proprietary									
Federal Funds									
State Funds									
Interagency Transfers									
Subtotal	\$ 349,500	\$ 349,500	\$ 628,950	\$ 659,852	\$ 692,282	\$ 726,317	\$ 762,036		
Expenditure Category									
Operating									
Salary	\$ 226,500	\$ 226,500	\$ 475,650	\$ 499,433	\$ 524,404	\$ 550,624	\$ 578,156		X
Fringes	\$ 60,000	\$ 60,000	\$ 126,000	\$ 132,300	\$ 138,915	\$ 145,861	\$ 153,154		X
Court Costs									
Contractual Services									
Charges for County Services									
Other Operating	\$ 13,000	\$ 13,000	\$ 27,300	\$ 28,119	\$ 28,963	\$ 29,831	\$ 30,726		X
Grants to Outside Organizations									
Capital	\$ 50,000	\$ 50,000	\$ -	\$ -	\$ -	\$ -	\$ -		X
Subtotal	\$ 349,500	\$ 349,500	\$ 628,950	\$ 659,852	\$ 692,282	\$ 726,317	\$ 762,036		
Non-Operating									
Debt Services									
Distribution of Funds In Trust									
Transfers									
Depreciation, Amortization, and Deletions									
Subtotal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Grand Total	\$ 349,500	\$ 349,500	\$ 628,950	\$ 659,852	\$ 692,282	\$ 726,317	\$ 762,036		

Note: Fiscal impact narrative (paragraph above the table) should contain the following, if applicable:


1. Description of the anticipated increase or decrease of expenditures listed above and current and subsequent fiscal years, if any.
2. Description of projected dollar value of anticipated expenditures that will be absorbed within existing resources within the current fiscal year.
3. Description of subsequent governmental action that will be required in order to determine anticipated revenues and expenditures, including new revenues (federal, state, or the need to increase existing fees)
4. Any long-term fiscal implications as a result of the implementation of the proposed legislation, if any, in cases where risk factors or other variables that may impact future revenues or expenditures are uncertain, volatile, or difficult to project, a description of risk factors or variables and estimate or projection of anticipated or projected impacts to revenues and expenditures
5. Description of all assumptions used to project the fiscal impact of the proposed legislation and include estimate anticipated revenues and expenditures
6. In the cases where the Mayor has determined a "no fiscal impact", a description of the assumptions and analysis used to reach that conclusion

Memorandum



Date: April 10, 2018

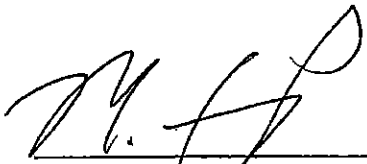
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Social Equity Statement for Ordinance Relating to the Independent Review Panel (IRP)

The proposed Ordinance relating to the Independent Review Panel (IRP), amends Chapter 2, Article IC of the Code of Miami-Dade County to change the name of the Independent Review Panel to the Independent Community Panel.

Additionally, establishing the Independent Community Panel (ICP) creates the means for external community fact-finding and dispute resolution. The ICP will conduct independent reviews of complaints or grievances made against an employee, agency or instrumentality of Miami-Dade County, thus enhancing the community's confidence in the results of such investigations with the goal of creating a better relationship between government and the residents of Miami-Dade County.



Maurice L. Kemp
Deputy Mayor

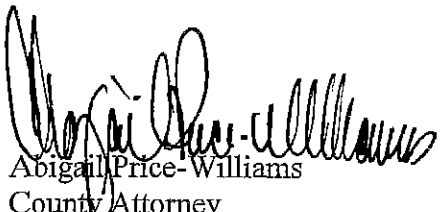


MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: April 10, 2018

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 7(D)

4-10-18

ORDINANCE NO. _____

ORDINANCE RELATING TO THE INDEPENDENT REVIEW PANEL; AMENDING CHAPTER 2, ARTICLE IC OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CHANGING THE NAME OF THE INDEPENDENT REVIEW PANEL TO THE INDEPENDENT COMMUNITY PANEL; AMENDING THE COMPOSITION, AUTHORITY, POWERS, AND STAFFING OF THE INDEPENDENT REVIEW PANEL; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Independent Review Panel (“IRP”) was created in 1980 after substantial unrest in the community; and

WHEREAS, the IRP is empowered to hold public hearings, prepare reports and propose recommendations regarding serious complaints or grievances made against employees, agencies or instrumentalities of Miami-Dade County; and

WHEREAS, the IRP was last funded during the 2008-2009 fiscal year; and

WHEREAS, in 2009, the County Commission did not provide funding for the IRP because of the economic downturn, and its funding has not since been recommenced; and

WHEREAS, on November 1, 2016, this Board adopted Resolution No. R-1075-16, which created the Miami-Dade County Independent Review Panel Working Group (“Working Group”) and charged it with: 1) reviewing Article IC – Independent Review Panel - of the Code of Miami-Dade County; 2) analyzing the history and effectiveness of the Independent Review Panel; 3) reviewing and analyzing similar entities from other jurisdictions; 4) obtaining input from the community; 5) reviewing relevant literature relating to citizens review panels, such as the Independent Review Panel; and 6) providing the Board with a list of recommendations for proposed amendments to IRP ordinance; and

WHEREAS, on July 6, 2017, the Working Group presented its initial report to this Board and its findings therein were adopted; and

WHEREAS, thereafter, on October 17, 2017, the Working Group presented its final report, which was, likewise, adopted by the Board; and

WHEREAS, in accordance with recommendations made by the Working Group, this Board wishes to amend the ordinance establishing the Independent Review Panel,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Chapter 2, Article IC of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

**ARTICLE IC – INDEPENDENT ~~[[REVIEW]]~~
>>COMMUNITY<< PANEL**

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]]~~ >>Community<< Panel conduct hear[[e]]>>r<<ings 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.

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 2-11.42. - Created, established.

There is hereby created and established an Independent ~~[[Review]]~~ >>Community<< Panel (hereinafter referred to as the "Panel") pursuant to Section 5.08(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]]~~ >>thirteen<< (~~[[9]]~~ >>13<<) 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]]~~ >>eleven<< (~~[[5]]~~ >>11<<) 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]]~~ >>eleven<< (~~[[5]]~~ >>11<<) lists:

(i) The ~~[[Community Relations Board]]~~ >>American Civil Liberties Union of Greater Miami<<.

(ii) The ~~[[Community Action Agency]]~~ >>Miami-Dade Branch of the National Association for the Advancement of Colored People<<.

(iii) The ~~[[Miami-Dade County League of Women Voters]]~~ >>Spanish American League Against Discrimination<<.

(iv) The ~~[[Miami-Dade County Bar Association]]~~ >>Florida Immigrant Coalition<<.

(v) The Miami-Dade >>County Association of Chiefs of<< 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 >>County Association of Chiefs of<< 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.

>>(vi) National Alliance on Mental Illness.

(vii) Miami Coalition of Christians and Jews.

(viii) Miami Coalition of South Florida Muslim Organizations.

(ix) Equality Florida.

(x) Haitian Women of Miami.

(xi) National Organization of Black Law Enforcement Executives.<<

(b) In addition to the ~~[[five]]~~ >>eleven<< (~~[[5]]>>11<<)~~ Panel members selected in accordance with the preceding subparagraph (a) of paragraph (1) of this subsection, >>the remaining Panel members shall be selected as follows:<<

>>(i) One<< ~~[[four]]~~ ([[4]]>>1<<) member[[s]] shall be appointed by the Panel based on consensus of integrity and community representation, considering ethnocultural and gender balance.

>>(ii) The Chair of the Miami-Dade County Youth Commission.

Individuals nominated for appointment to the Panel are not required to be members of or affiliated with the entities that recommend their appointment.<<

* * *

Sec. 2-11.44. - Organization and procedures.

(([[a]]>>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]]>>B<<) A simple majority of the constituted members of the Panel attending a Panel meeting or hearing shall constitute a quorum.

(([[c]]>>C<<) All action by the Panel shall be by majority vote.

(([[d]]>>D<<) All Panel proceedings shall be conducted in accordance with the [Government-in-the-] Sunshine Law, Section 286.011, Florida Statutes.

(([[e]]>>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]]>>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])>>A<<) The Panel may hold public hearings, >>conduct mediations or other forms of dispute resolution,<< 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 >>sufficient merit has been established for<< complaints or grievances ~~[[sufficiently serious]]~~ to institute a review process.
- (([b])>>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])>>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])>>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])>>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 >>to the extent permitted by applicable law<<.
- (([f])>>F<<) The Panel may conduct or participate in conferences, inquiries, meetings or studies.

(([[g]])>>F<<) The >>Panel may request the<<² County Attorney >>to<< [[shall]] render opinions relating to >>the Panel's<< [[its]] duties, jurisdiction or power [[and such opinions shall be binding upon and adhered to by the Panel]].

(([[h]])>>G<<) The Panel shall not interfere with any ongoing criminal investigation of the State Attorney.

>>(H) The Panel shall not act on matters that fall within the jurisdiction of the Miami-Dade County Office of Inspector General.

(I) The Panel shall be empowered to subpoena witnesses and/or documents for all matters within its jurisdiction, except for County employees who are law enforcement or correctional officers as defined in the Police Officers' Bill of Rights, codified in sections 112.531-121.535, Florida Statutes.<<

Sec. 2-11.46. - Panel proceedings.

Panel members shall meet with staff from time to time:

(([[1]])>>A<<) To consider the County's complaint review processes and investigatory activities designed to serve the public; and

(([[2]])>>B<<) To consider whether >>sufficient merit has been established for<< any complaint or grievance filed with the Panel [[is—sufficiently serious]] to >>warrant<< [[merit]] review by the full Panel.

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

* * *

² Committee amendments are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

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]]~~ >>Mayor or County Mayor's designee<< and the director of the concerned County department. >>Within 45 days of receipt of the Panel's final report, the County Mayor or County Mayor's designee shall transmit a report to the Board of County Commissioners and the Panel, which shall provide all actions taken in response to the Panel's final report and any recommendations made therein and the County Mayor or County Mayor's designee shall place such report on an agenda of the Board pursuant to Ordinance No. 14-65.<< 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. 2-11.51. – Physical facilities and staff.

(~~[[a]]~~)>>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]]~~)>>B<<) Executive Director. The Board of County Commissioners shall appoint an Executive Director from 3 nominees provided by the Independent ~~[[Review]]~~ >>Community<< Panel. The Independent ~~[[Review]]~~ >>Community<< Panel shall utilize a competitive selection process when selecting nominees for Executive Director. The Executive Director shall only be removed by the Independent ~~[[Review]]~~ >>Community<< Panel. Such removal shall be for good cause upon a majority vote. The Independent ~~[[Review]]~~ >>Community<< Panel shall establish the rate of remuneration of the Executive Director in conjunction, concurrence and consensus with the County ~~[[Manager]]~~ >>Mayor or County Mayor's designee<<.

(([[e]]>>C<<)) Staff. The Executive Director may hire and administer the necessary staff ~~[[, subject to budgetary allocation by the Board]]. >>At a minimum, subject to budgetary allocation by the Board, staff shall consist of the following positions:~~

- (1) Senior investigator/mediator.
- (2) Mediator.
- (3) Office Administrator.
- (4) Professional Auditor.<<

(([[d]]>>D<<)) Legal counsel. The County Attorney shall provide the Panel with necessary legal counsel.

(([[e]]>>E<<)) Research >>personnel<<, investigative personnel >>and independent counsel<<. The Panel may request the Board to provide such other fact-finding >>personnel<< ~~[[and]]~~ research personnel >>and independent counsel<< as it may determine are necessary from time to time.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

A handwritten signature in black ink, appearing to be 'APW', written over a horizontal line.

Prepared by:

A handwritten signature in black ink, appearing to be 'SG', written over a horizontal line.

Shanika A. Graves

Prime Sponsor: Commissioner Barbara J. Jordan
Co-Sponsor: Commissioner Daniella Levine Cava