

MEMORANDUM

Supplement to:
Agenda Item No. 7(D)

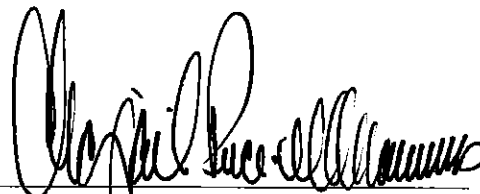
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: April 10, 2018

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Supplemental information
to ordinance relating to the
Independent Review Panel

The accompanying supplement was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.

A handwritten signature in black ink, appearing to read 'Abigail Price-Williams', is written over a horizontal line.

Abigail Price-Williams
County Attorney

APW/cp



COMMISSIONER BARBARA J. JORDAN
MEMORANDUM

111 NW First Street, Suite 220 Miami, Florida 33128 Tel. (305) 375-5694 Fax (305) 372-6028

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

DATE: April 10, 2018

FROM: Honorable Barbara J. Jordan, Member
Miami-Dade Board of County Commissioners

RE: Independent Review
Panel/Independent
Community Panel
Ordinance

A handwritten signature in cursive script, reading "Barbara J. Jordan", is written over a horizontal line.

Attached is a supplement to Item No. 7D relating to the Independent Review Panel/Independent Community Panel (Panel). Following the Board's February 6, 2018 decision to reconsider this ordinance, meetings were held with the Mayor, the Police Director, the Police Benevolent Association and numerous community representatives to review the proposed changes.

Below are the conceptual changes, in summary, to the subject ordinance:

- Changing the total membership of the Panel to 11 members;
- Changing the number of community organizations that can nominate persons to 10;
- Amending the list of organizations which may nominate persons for Board of County Commissioners (Board) appointments;
- Maintaining 5 Panel appointments by the Board from the community organization nominations;
- Providing for an appointment by the County Mayor;
- Providing for an appointment by the Miami-Dade County Chiefs of Police;

✓

- Providing for appointments of four at-large persons by the Panel, and providing that each such member shall be appointed based on their work experience in one of each of the following fields – judiciary (retired), human resources, clergy and social work;
- Providing that when the Panel detects a violation of one (1) of the ordinances within the jurisdiction of the Office of Inspector General or the Miami-Dade County Commission on Ethics and Public Trust, the Panel may refer the matter to the appropriate entity;
- Establishing that the rate of remuneration for the Panel's Executive Director shall be consistent with established Miami-Dade County Human Resources policies and salary ranges.

Other provisions remain unchanged from previous versions of the ordinance.

I ask for your support for this important initiative.

cc: Honorable Carlos A. Gimenez, Mayor
 Honorable Harvey Ruvlin, Clerk of the Courts
 Abigail Price-Williams, County Attorney
 Geri Bonzon-Keenan, First Assistant County Attorney
 Thomas Davis, Director of Policy, Office of the Commission Auditor
 Christopher Agrippa, Division Chief, Clerk of the Board
 Eugene Love, Agenda Coordinator

Commissioner Barbara J. Jordan's Supplement to Item No. 7(D)
Related to the Independent Review Panel/Independent Community Panel

The accompanying supplement to Item 7(D) was prepared and placed on the agenda at the request of Prime Sponsor, Barbara J. Jordan.

The proposed changes to Item No. 7(D) are reflected in Attachment A, which is a draft ordinance that compares the changes currently proposed in the supplement to the corresponding provisions of the existing ordinance.

Additionally, for ease of reference, Attachment B is a chart which compares the changes currently proposed in the supplement to the corresponding provisions of the existing ordinance and Item No. 7(D).

ATTACHMENT A

Approved _____ Mayor

Agenda Item No.

Veto _____

Override _____

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 hearings as provided in Chapter 2, Article LXXI of the

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. This draft ordinance does not show provisions of the reconsidered item which have been changed by the supplement as shown in this draft ordinance, as such editing is impractical and does not clarify the proposed amendments proposed to be made.

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]]~~ >>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-(9)]]~~ >>11<< 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)]]~~ >>10<< community groups or organizations shall submit ~~[[a—list containing]]~~ the name~~[[s]]~~ of ~~[[three qualified persons and the Board of County Commissioners shall select one (1) panel member from each of the five (5) lists]]~~ >>one qualified person from which the Board of County Commissioners shall make appointments<<:

(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.]]~~ >>National
Alliance on Mental Illness.

(vi) Miami Coalition of Christians and
Jews.

(vii) Miami Coalition of South Florida
Muslim Organizations.

(viii) Equality Florida.

(ix) Haitian Women of Miami.

(x) National Organization of Black Law
Enforcement Executives.

The Board of County Commissioners shall
appoint five Panel members from the names

submitted by the above-listed organizations.<<

- (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)]]~~ >>the remaining Panel members shall be appointed as follows:

(i) One member shall be appointed by the Mayor.

(ii) One member shall be appointed by The Miami-Dade County Association of Chiefs of Police. In the event the Panel is investigating an incident involving the jurisdiction employing this appointee, the Miami-Dade County Association of Chiefs of Police shall appointment a different member as a substitute until the conclusion of the investigation.

(iii) Four at-large members shall be appointed by the Panel based on their work experience, as follows: one member shall be a retired judge or magistrate judge; one member shall be or have been a human resources professional; one member shall be or have been a social work professional; and one member shall be or have been a member of the clergy. Such<< members shall be appointed by >>the<< Panel based on consensus of integrity and community representation, considering ethnocultural and gender balance.

>>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.
- (([[e]]>>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.

(([e])>>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])>>D<<) 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])>>E<<) The Panel may conduct or participate in conferences, inquiries, meetings or studies.

(([g])>>F<<) The >>Panel may request the<< 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) When the Panel detects a violation of one of the ordinances within the jurisdiction of the Commission on Ethics and Public Trust or the Office of the Inspector General, the Panel may refer the matter to such entity.

(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.

* * *

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. The Executive Director's remuneration shall be consistent with established Miami-Dade County Human Resources policies and salary ranges<<.

~~(((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.

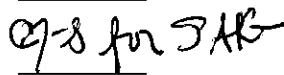
Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered 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:

Prepared by:



Shanika A. Graves

Prime Sponsor: Commissioner Barbara J. Jordan

Attachment B

Independent Review Panel/Independent Community Panel (Panel)

Summary Comparison of Changes Proposed by the Supplement, the Existing Code Provisions, and Item 7(D)

	Supplement	Existing Code	Item No. 7(D) (Reconsidered from 2/6/18 County Commission Meeting)	Section No.
<u>MEMBERSHIP</u>				
Total Number of Members	11	9	13	Sec. 2-11.43
Number of Members Appointed by the County Commission from Names Provided by Community Organizations listed on pg. 2 of this chart	5	5	11	Sec. 2-11.43
Member Appointed by the County Mayor	1	0	0	Sec. 2-11.43
Member Appointed by the Miami-Dade County Chiefs of Police	1	0	0	Sec. 2-11.43
At-Large Members Appointed by the Panel, as shown on pg. 3 of this chart	4	4	1	Sec. 2-11.43
Member Appointed by the Youth Commission	0	0	1	Sec. 2-11.43

Supplement	Existing Code	Item No. 7(D) (Reconsidered from 2/6/18 County Commission Meeting)	Section No.
------------	---------------	--	-------------

COMMUNITY ORGANIZATIONS THAT NOMINATE PERSONS FOR APPOINTMENT BY THE COUNTY COMMISSION

Names of Community Organizations			Sec. 2-11.43
<ol style="list-style-type: none"> 1. American Civil Liberties Union of Greater Miami (ACLU) 2. Miami-Dade Branch of the National Association of Advancement of Colored People (NAACP) 3. Spanish American League Against Discrimination (SALAD) 4. Florida Immigrant Coalition (FLIC) 5. National Alliance on Mental Illness (NAMI) 6. Miami Coalition of Christians and Jews (MCCJ) 7. Miami Coalition of South Florida Muslim Organizations (COSMOS) 8. Equality Florida (EQFL) 9. Haitian Women of Miami (FANM) 10. National Organization of Black Law Enforcement Executives (NOBLE) 	<ol style="list-style-type: none"> 1. Community Relations Board (CRB) 2. Community Action Agency (CAA) 3. Miami-Dade County League of Women Voters 4. Miami-Dade County Bar Association 5. Miami-Dade Police Chiefs' Association 	<ol style="list-style-type: none"> 1. American Civil Liberties Union of Greater Miami (ACLU) 2. Miami-Dade Branch of the National Association of Advancement of Colored People (NAACP) 3. Spanish American League Against Discrimination (SALAD) 4. Florida Immigrant Coalition (FLIC) 5. National Alliance on Mental Illness (NAMI) 6. Miami Coalition of Christians and Jews (MCCJ) 7. Miami Coalition of South Florida Muslim Organizations (COSMOS) 8. Equality Florida (EQFL) 9. Haitian Women of Miami (FANM) 10. National Organization of Black Law Enforcement Executives (NOBLE) 11. Miami-Dade County Association of Chiefs of Police (MDCACP) 	

16

Supplement	Existing Code	Item No. 7(D) (Reconsidered from 2/6/18 County Commission Meeting)	Section No.
------------	---------------	--	-------------

MISCELLANEOUS PROVISIONS

Qualifications for At-large Members	Professionals in the following fields: (1) Retired members of the judiciary (judge or magistrate) (2) human resources (3) clergy (4) social work.	Consensus of the Panel based on integrity and community representation, and consideration of ethnocultural and gender balance	Consensus of the Panel based on integrity and community representation, and consideration of ethnocultural and gender balance	Sec 2-11.43
Concurrent Jurisdiction of Investigating Bodies	When the Panel detects a violation of one of the ordinances within the jurisdiction of the Commission on Ethics and Public Trust or the Office of the Inspector General, the Panel may refer the matter to such entity	None	Panel shall not act on matters that fall within the jurisdiction of the Miami-Dade County Office of the Inspector General	Sec 2-11.45

	Supplement	Existing Code	Item No. 7(D) (Reconsidered from 2/6/18 County Commission Meeting)	Section No.
<u>MISCELLANEOUS PROVISIONS (Cont'd)</u>				
Remuneration for Executive Director	Established by the Panel in conjunction, concurrence and consensus with the County Mayor. Shall be consistent with established Miami-Dade County Human Resources policies and salary ranges	Established by the Panel in conjunction, concurrence and consensus with the County Mayor	Established by the Panel in conjunction, concurrence and consensus with the County Mayor	Sec. 2-11.51

81