

# MEMORANDUM

Agenda Item No. 4(B)

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**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** June 16, 2020

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Ordinance relating to the  
Independent Review Panel  
("Panel"); amending Article IC  
of Chapter 2 of the Code;  
changing the name of the Panel;  
amending the composition,  
authority, powers, and staffing of  
the Panel; providing terms of  
members appointed to the Panel  
notwithstanding other provisions  
of the Code; directing the County  
Mayor to identify a funding  
source for the operation of the  
Panel during the current Fiscal  
Year and include such funding in  
future annual budgets

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



Abigail Price-Williams  
County Attorney



APW/uw



# MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

DATE: June 16, 2020

FROM:   
Abigail Price-Williams  
County Attorney

SUBJECT: Agenda Item No. 4(B)

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 present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ 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. 4(B)  
6-16-20

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO THE INDEPENDENT REVIEW PANEL (“PANEL”); AMENDING ARTICLE IC OF CHAPTER 2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; CHANGING THE NAME OF THE PANEL; AMENDING THE COMPOSITION, AUTHORITY, POWERS, AND STAFFING OF THE PANEL; PROVIDING TERMS OF MEMBERS APPOINTED TO THE PANEL NOTWITHSTANDING OTHER PROVISIONS OF THE CODE; DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO IDENTIFY A FUNDING SOURCE FOR THE OPERATION OF THE PANEL DURING THE CURRENT FISCAL YEAR AND INCLUDE SUCH FUNDING IN FUTURE ANNUAL BUDGETS; 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 funding for the IRP has not been recommenced since; 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 the IRP ordinance; and

**WHEREAS**, the Working Group presented its initial report to this Board on July 6, 2017, and its final report on October 17, 2017, and the Board accepted the Working Group's findings in both the initial and final reports; and

**WHEREAS**, thereafter, through the fall of 2018, this Board considered the recommendations made by the Working Group as well as statements made at publicly noticed meetings during which proposed amendments to the Independent Review Panel ordinance were discussed; and

**WHEREAS**, since that time, the community has maintained its demand for an entity that could provide independent oversight of Miami-Dade County employees and accountability to the community for any transgressions or behavior that violates Miami-Dade County policies and procedures; and

**WHEREAS**, reinstatement of the IRP with revisions set forth below will allow this Board to reassure the Miami-Dade County community that County employees are exercising utmost respect for every resident of and visitor to Miami-Dade County and provide increased transparency as it relates to reported allegations of misconduct or questionable behavior or interactions,

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

**Section 1.** Article IC of chapter 2 of the Code of Miami-Dade County, Florida, is

hereby amended to read as follows:<sup>1</sup>

**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. >>Further, it is the intent of the Board of County Commissioners that, to the extent permitted by law, all County employees shall cooperate with requests from and participate in investigations conducted by the Independent Community Panel (“Panel”).<< It is also the intent of the Board of County Commissioners that the ~~[[Independent Review]]~~ Panel conduct ~~[[hearings]]~~ >>hearings<< as provided in ~~[[Chapter]]~~ >>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]]~~ >>Community<< Panel ~~[[hereinafter referred to as the “Panel”]]~~ pursuant to Section ~~[[4.08(a)]]~~ >>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)]]~~ >>(a)<< The Panel shall consist of ~~[[nine (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

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

interest in public affairs and service. >>Each member of the Board of County Commissioners shall appoint one person to serve on the Panel who shall be approved by a majority vote of members present at a regularly scheduled Board of County Commissioners meeting after compliance with section 2-1 of the Code and Resolution No. R-636-14. Panel members should have diverse professional backgrounds. However consideration should be given to appointing a retired member of the judiciary, judge or magistrate, and retired or active professionals in the following fields: (1) human resources; (2) faith-based; (3) social justice; and (4) law enforcement.<<

~~[(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 the Board of County Commissioners shall select one (1) panel member from each of the five 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 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.~~

~~(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 ethnocultural and gender balance.~~

~~The foregoing appointments shall constitute the membership of the Panel, and each]]~~  
>>Notwithstanding any other provision of the Code including, but not limited to, section 2-11.38.2,  
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 advanced notice of absence of current members or vacancy pending appointment.

[[{B}]] >>(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]]~~ >>(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~~[[1]]~~ 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. 2-11.45. - Authority and powers generally.**

- (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 >><sub>1</sub><< 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]]~~ >>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) The Panel may adopt, promulgate, amend >><sub>1</sub><< 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]]~~ >>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 >>, 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 render opinions relating to >>the Panel's<< ~~[[its]]~~ duties, jurisdiction or power.

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

>>~~(h)~~ The Panel shall not interfere with any investigation of the Miami-Dade County Office of Inspector General or Miami-Dade County Commission on Ethics and Public Trust.

(i) The Panel shall be empowered to subpoena witnesses, documents and other potential evidence 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.**

>>The Panel<< shall meet with ~~[[staff]]~~ >>the Executive Director<< 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 >>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]]~~ >>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 of County Commissioners 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) 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]]~~ three nominees provided by the ~~[[Independent Review]]~~ Panel. The ~~[[Independent Review]]~~ Panel shall utilize ~~[[a]]~~ >>an open<< competitive selection process when selecting nominees for Executive Director. ~~[[The Executive Director shall only be removed by]]~~ >>The Chairperson of the Board of County Commissioners may terminate the Executive Director upon a vote of no confidence approved by a majority of the<< ~~[[Independent Review]]~~ Panel. ~~[[Such removal shall be for good cause upon a majority vote.]]~~ The >>Chairperson of the Board of County

Commissioners<< ~~[[Independent Review Panel]]~~ shall establish ~~[[the rate of remuneration]]~~ >>the salary and benefits<< of the Executive Director ~~[[in conjunction, concurrence and consensus with the County Manager]]~~. >>The Executive Director's salary and benefits shall be consistent with established Miami-Dade County Human Resources Department policies and salary ranges.<<

- (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 of County Commissioners, staff shall consist of the following positions:

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

- (d) Legal counsel. The County Attorney shall provide the Panel with necessary legal counsel.

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

- >>(f) The Office of the Chairperson of the County Commission shall provide appropriate support for the Panel through the Office of Community Advocacy.<<

\* \* \*

**Section 2.** This Board directs the County Mayor or County Mayor's designee to

identify a funding source for the operation of the Independent Community Panel, established by article IC of chapter 2 of the Code of Miami-Dade County, as may be amended from time to time, during the current fiscal year, to include such funding in the fiscal year 2020-21 budget and future proposed annual budgets.

**Section 3.** 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 4.** 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 5.** 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.

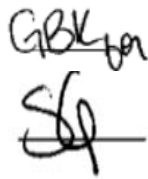
PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

Shanika A. Graves

Prime Sponsor: Commissioner Barbara J. Jordan

Handwritten signatures of GBL and SG.