

INDEPENDENT REVIEW PANEL MINUTES

January 26, 2006

LOCATION: 140 West Flagler Street, Conference Room 908
Miami, Florida 33130

PANEL MEMBERS PRESENT

Julia Dawson, Esq., 1st Vice Chairperson
Moiez Tapia, Ph.D. 2nd Vice Chairperson
Doris Shellow
Julie C. Ferguson, Esq.
Arcie Ewell
Joseph López, Esq.

MEMBERS ABSENT WITH NOTIFICATION

Jorge Reynardus, Esq., Chairperson
Glenn Falk, Esq.
Michael Band, Esq.

MEMBER ABSENT WITHOUT NOTIFICATION

PANEL STAFF PRESENT

Eduardo I. Diaz, Ph.D., Executive Director
Carol Boersma, Executive Assistant to the Director
Fernando L. Robreño, Conflict Resolution Specialist
Linda Pierre, Conflict Resolution Specialist

COUNTY OFFICIALS AND EMPLOYEES PRESENT: Ronald Bernstein, Esq., Assistant County Attorney; Sgt. Jose Lugo, MDPD; Amy Carswell, Community Relations Board; Robert Meyers, Executive Director, Commission on Ethics and Public Trust

AUDIENCE: Cheryl B. Cummings, ANM, Jackson Memorial Hospital; Ileana Hollant, RN, Complainant; Emile Hollant, Complainant's Husband; Rudy Marshall, Journalist, WFOR CBS-4; Noaki Schwartz, Reporter, Miami Herald; Jackie Gutierrez, Community Relations Liaison, Miami Civilian Investigative Panel; Marianne Burt, Panel Member Guest

Agenda Item #1) Call to Order. Ms. Dawson called the meeting to order at 2:00 PM and asked staff to call roll.

Agenda Item #2) Approval and adoption of the minutes. Dr. Tapia made a motion to adopt the minutes. Seconded by Ms. Shellow, motion passed unanimously.

Agenda Item #3) Robert Meyers, Executive Director, Commission on Ethics and Public Trust. Mr. Meyers informed the Panel of the work Dr. Diaz has done moderating a TV series on ethics broadcasted on Cable TAP and praised his involvement.

Dr. Diaz thanked Mr. Meyers for his words of appreciation.

Agenda Item #4) Peddlers and Vendors – MDPD Legal Bulletin – DEFERRED TO 2/23/06.

Ms. Boersma explained that this item was deferred because Mr. Falk was particularly interested in this issue and was unable to attend the Panel meeting.

Agenda Item #5) IRP Complaint A 2005.043 Hollant v. Miami-Dade Police Department (MDPD).

Ms. Pierre presented the complaint in where the complainant, a registered nurse at Jackson Memorial Hospital, was arrested after an officer told her to draw blood on an inmate during a shift change and she replied that the officer would have to wait until she received her assignment for the shift.

Ms. Dawson asked Ms. Hollant if she wished to add anything to the report. Ms. Hollant declined.

Ms. Dawson thanked Sgt. Lugo for being present and asked him if he wished to add anything. Sgt. Lugo stated he felt there was nothing else he could add to the report.

Ms. Boersma informed the Panel that the Legal Bulletin provided by MDPD was written as a result of the incident on January 7th 2005. The bulletin was written on February 14th 2005. The bulletin states that: “if an officer requests a registered nurse to draw blood and the request is not complied with, the nurse shall be guilty of a misdemeanor.”

Ms. Cummings stated an officer may arrest a nurse if she refused to draw blood, but the complainant did not refuse and was doing her job by attempting to report to her station to receive her shift assignment. In addition, she stated that if a nurse feels it’s unsafe to draw blood, he/she does not have to.

Ms. Dawson inquired whether Officer Closius could have asked Miami-Dade Fire-Rescue (MDFR) to draw blood and avoided the entire incident. Sgt. Lugo stated MDFR can draw blood but he could not attest to the circumstances in this case since he was not present.

Mr. Lopez stated that he felt Officer Closius acted with restraint because he contacted MDPD Legal Bureau and did not arrest the complainant and take her to jail; he gave her a Promise to Appear. Mr. Lopez stated both individuals acted unprofessionally but he did not believe the officer should be disciplined.

Ms. Pierre stated she spoke to Bart Armstrong, MDPD legal advisor, and was informed that MDPD and JMH have met and rewritten their policies pertaining to blood withdrawal, and have created a 24 hour hotline where both officers and nurses can call.

Dr. Diaz informed the Panel that Staff was left with the impression that MDPD and JMH have rewritten their individual policies but have not written a joint policy, as recommended in the Committee Report.

Dr. Tapia asked whether a police officer could ask a nurse who was off duty to withdraw blood, and if so, would she be obligated to do so. Dr. Diaz stated that the MDPD Legal Bureau does not specifically address that issue but as they may interpret it, a nurse would be compelled to comply at all times, unless there was imminent threat of harm to the nurse.

Dr. Tapia wanted the joint policy to clarify when a nurse could refuse a police officer’s request to withdraw blood from a suspect.

Dr. Tapia made motion to approve the Committee Findings and Recommendations. Ms. Ferguson seconded the motion. The motion was approved 5-1, Mr. Lopez dissenting.

Agenda Item #6) Proposed Revision to IRP Ordinance. Dr. Diaz presented to the Panel a proposal sponsored by Commission Chairman Joe Martinez and prepared by County Attorney Murray Greenburg that will change how the Executive Director is appointed and enumerated. The proposal passed its first reading before the Board of County Commissioners (BCC) on January 24th, 2006 and will be publicly heard in committee on February 15th, 2006.

Dr. Diaz stated he emailed Chairman Martinez with a counter proposal, developed with Chairperson Reynardus that would adopt the Commission on Ethics and Public Trust's model for selecting an Executive Director. The model would allow the IRP to select the Executive Director and have his salary determined by the Chairperson of the IRP in consultation with the County Manager.

Mr. Meyers added that he felt the Panel itself is best equipped to evaluate the Executive Director. Mr. Meyers opined that if the Panel wishes to remain independent, the BCC should not appoint the Executive Director.

Dr. Diaz advised the Panel to consider a resolution recommending that the Panel adopt the Commission on Ethics and Public Trust's model, approving the alternative language proposal, and have it communicated to the County Commissioners.

Dr. Tapia made a motion to adopt that resolution. Ms. Shellow seconded the motion. Motion passed unanimously.

Dr. Diaz advised the Panel to consider a resolution to request assistance from the Community Relations Board to gauge the degree of concern from the community on the threat to the Panel's independence created by the proposal sponsored by Chairman Martinez.

Dr. Tapia made a motion to adopt that resolution. Ms. Shellow seconded the motion. Motion passed unanimously.

Ms. Dawson recommended that Dr. Diaz make contact with the numerous community organizations and County Boards to inform them of the proposed IRP ordinance change and to give them time to formally respond.

Ms. Ferguson made a motion to adopt the recommendation. Dr. Tapia seconded the motion. Motion passed unanimously.

Agenda Item #7) Executive Director's Report. Dr. Diaz informed the Panel that the next NACOLE conference will be from September 25th-28th in Boise, Idaho and the IRP budget allows for the Executive Director and one Panel member to attend.

Dr. Diaz reminded the Panel that every Panel member must complete ethics training if they haven't done so.

Ms. Dawson passed out a flyer advertising a forum sponsored by the ACLU pertaining to police/community relations and hoped some Panel members would attend. Ms. Dawson added that Chief Michael Hammerschmidt of the Coral Gables Police Department would be a panelist.

Agenda Item #8) Adjourn. Dr. Tapia made a motion to adjourn. Seconded by Ms. Shellow, motion passed unanimously.