

# **INDEPENDENT REVIEW PANEL MINUTES**

**November 20, 2008**

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

## **PANEL MEMBERS PRESENT**

Julia Dawson, Esq. Chairperson  
Michael R. Band, Esq., 1st Vice Chairperson  
Jean-Robert Lafortune, 2nd Vice Chairperson  
Doris Shellow, Substitute Member  
Glenn P. Falk, Esq.  
Jorge E. Reynardus, Esq.  
Tangier Scott, Ed.D.  
Moiez Tapia, Ph.D  
Josie Perez Velis, Esq.  
Julie C. Ferguson, Esq.

## **PANEL STAFF PRESENT**

Dr. Eduardo Diaz, Executive Director  
Carol Boersma, Executive Assistant to the Director  
Anna Sidan, Conflict Resolution Specialist

## **AUDIENCE**

### County Officials:

MDPD: Major James O'Donnell Lt. Chris Carothers  
Office of Commission Auditor (OCA): Jewel Johnson  
Office of Strategic Business Management (OSBM): Michael W. Ruiz  
Commissioner Aide for Carlos A. Gimenez: Homer Whittaker  
Office of Community Advocacy: Eddie Harris and Yvans Morisseau

### Others:

Civilian Investigative Panel (CIP): Don March  
Miami Gardens Police: Officer Nelson Delgado  
Parents of the Aggrieved: Judith Smith and Joseph Smith  
*Miami Herald*: Priscilla Greear

**Agenda Item #1) Call to Order.** Ms. Dawson called the meeting to order at 2:05 p.m. and asked staff to call roll.

**Agenda Item #2) Adoptions of the Minutes from October 23, 2008.** Mr. Reynardus made a correction to his statement as it appears on page 2, the sentence above agenda item number 4. The sentence should read as follows: Mr. Reynardus said that arresting street vendors *only to nolle pros or*

*dismiss the charges* is not good use of taxpayers' money. (Italics added) Mr. Reynardus moved to pass the minutes as amended. Ms. Shellow seconded. The motion passed unanimously.

**Agenda Item #3) Complaint Follow-up: Peddler and Vendor Ordinance. MDPD Legal Bureau.** This item was deferred at the request of the MDPD Legal Bureau.

**Agenda Item #4) IRP Complaint A 2006.145 NAACP/Collier v. Miami-Dade Police Department (MDPD).** Ms. Boersma presented the case, which has to do with a police shooting on April 29, 2006. RID officers attempted to stop Javaris Collier because he left a gas station at a high rate of speed and they believed he might have been involved in a suspicious incident. The officers followed Mr. Collier as he entered the Villages of Naranja Apartment Complex where he lost control of his vehicle and crashed into a light pole. Officer Pfeiffer exited the passenger side of the police vehicle with his firearm drawn. As Officer Pfeiffer approached Mr. Collier's vehicle, Mr. Collier abruptly exited his vehicle with his right hand near his waistband. The officer said that Mr. Collier's hand appeared to be wrapped around a shiny object. Officer Pfeiffer, believing that Mr. Collier was armed, fired striking Mr. Collier in the upper left shoulder. Although Mr. Collier was injured he fled on foot within the apartment complex where he was subsequently apprehended by Officer Love, who utilized a taser to control him.

One of the Committee findings was that Officer Brian Pfeiffer shot Mr. Collier with his secondary firearm. He had not qualified with that firearm since 1999. MDPD policy requires annual qualification. Another finding was that there is an 8 minute discrepancy in the time documented on the vehicle pursuit report for the initiation of the pursuit and the time when Communications was contacted. MDPD policy requires that the primary pursuit unit immediately notify the Communications Bureau that the pursuit is under way.

The Committee recommended that the Panel ask the MDPD to provide an explanation for the 8 minute discrepancy and also that MDPD address the fact that Officer Pfeiffer violated MDPD policy when he carried a weapon with which he had not qualified since 1999.

Discussion

Major O'Donnell confirmed that Officer Pfeiffer used a firearm with which he had last qualified in 1999. That was a violation of departmental policy and as a result, the officer was recently counseled. Major O'Donnell acknowledged that he was the chairperson of the MDPD Disposition Panel and accepted responsibility for the failure to address the violation in the MDPD disposition. Dr. Scott asked if the counseling that the Officer Pfeiffer received was verbal or written. Major O'Donnell stated that it was verbal only.

Mr. Lafortune stated that informal counseling was not sufficient for the violation of carrying a gun with which the officer had not qualified. Ms. Dawson added that the violation merited documentation in the officer's record and with informal counseling there is no written record.

Mr. Falk responded that, in his opinion, informal counseling was adequate because the firearm qualification policy violation was not related to the shooting. There was no "proximate causation."

Major O'Donnell explained that normally a violation like this would result in a minimum of a formal record of counseling, but due to the time lapse, only informal counseling could be imposed. The Weaver Act requires that an administrative investigation be completed within 180 days after notice of the allegation for disciplinary action to be taken against the officer.

Mr. Band asked if there was an explanation for the 8 minute time discrepancy. Lt. Carothers said that the RID officers were operating off a special channel. The communications time was taken from a recording of the discussions that occurred car-to-car during the chase, with a voice-over announcing the time. Lt. Carothers said the source the technician used to document the time is unknown. The technician makes a cassette recording of the car-to-car audio and adds the time as he is recording. Although the clock times are not consistent, the duration of the pursuit is the same in the Vehicle Pursuit Report and the audio recording.

Judith Smith, the mother of Javaris Collier, presented an article from the newspaper called The South Miami Brick, which described the shooting of her son. She stated if there had been marked units chasing her son, the shooting would have not happened. She added unmarked vehicles with flashing lights are not always police officers. Ms. Smith stated that her son was not armed and he was not dangerous.

Mr. Lafortune moved to revisit the complaint after MDPD provides a written response regarding: (1) the 8-minute difference between the time documented in the Vehicle Pursuit Report for the initiation of the pursuit and the time when communications was contacted; and (2) the fact that Officer Brian Pfeiffer carried a weapon with which he had not qualified according to MDPD policy. The motion failed for lack of a second.

Mr. Reynardus moved to adopt the Findings of Fact, the Committee Findings and Recommendations as written. Ms. Shellow seconded the motion.

Mr. Band suggested adding a finding (#6) to reflect that the officer received informal counseling after the MDPD Disposition Panel read IRP Committee Finding #4, which documented that the firearm qualification policy violation was clearly a part of the Shooting Investigation file, however the MDPD Disposition Panel did not address the violation.

Mr. Reynardus revised his motion to eliminate recommendation #2, that MDPD address the firearm qualification policy violation, and include the suggestion made by Mr. Band. Ms. Shellow seconded. Mr. Falk suggested an amendment noting that the MDPD Disposition Panel, on receipt of IRP Committee Finding, took it upon itself to informally counsel the officer, which shows that the IRP process is working. Mr. Reynardus accepted the friendly amendment. The motion passed by a vote of 7 to 2.

**Agenda Item # 5) Elections of IRP Chairperson and Vice Chairs for terms of one year commencing January 2009.** Ms. Dawson and Mr. Band were nominated for Chairperson. Ms. Dawson was elected by a vote of 5-4. Mr. Lafortune was the only nomination for 1<sup>st</sup> Vice Chair. He was elected. Dr. Scott and Ms. Ferguson were nominated for 2<sup>nd</sup> Vice Chair. Dr. Scott was elected by a vote of 5-4.

**Agenda Item # 6) Election of Panel member nominated by the Panel itself. George Reynardus' term expires 11/30/08.** George Reynardus was reappointed. He is eligible for two more years.

**Agenda Item #7) NACOLE Conference Report** Dr. Diaz said that there was a good representation at the NACOLE Conference. IRP Chairperson Julia Dawson and Dr. Tangier Scott attended, as well as five representatives from the Civilian Investigative Panel (CIP). Dr. Scott stated it was an excellent conference. The workshops were relevant; it was well organized and the materials were great. Ms. Dawson concurred.

**Agenda Item #8) Executive Director's Report** Dr. Diaz stated that the Board of County Commissioners elected a new Chair and Vice Chair today. Commissioner Dennis Moss is the new Chair and Pepe Diaz is the Vice Chair. Dr. Diaz also stated that Major O'Donnell was one of the graduates of the "Fair, Firm and Friendly" workshop conducted with representatives of MDPD and the public. He was a Lieutenant at the time.

**Agenda Item #9) Adjourn** Julia Dawson moved to adjourn. Michael Band seconded. It passed unanimously.