

## **INDEPENDENT REVIEW PANEL MINUTES**

**February 24, 2009**

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

### **PANEL MEMBERS PRESENT**

Julia Dawson, Esq. Chairperson  
Jean-Robert Lafortune, 1<sup>st</sup> Vice Chairperson  
Tangier Scott, Ed.D., 2<sup>nd</sup> Vice Chairperson  
Doris Shellow, Substitute Member  
Michael R. Band, Esq.

### **EXCUSED**

Moiez Tapia, Ph.D  
Julie C. Ferguson, Esq.  
Glenn P. Falk, Esq.  
Jorge E. Reynardus, Esq.  
Josie Perez Velis, Esq.

### **PANEL STAFF PRESENT**

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

### **AUDIENCE**

MDPD, Professional Compliance Bureau (PCB): Sgt. Javier Ruiz; Sgt. Franklin Roig; Sgt. Gigi Ortiz; Sgt. Leo Ricelli  
Jamaican Delegation: Dave McIntosh, CEO, Jamaican Police Civilian Oversight Authority (PCOA); Andrew Beaumont, Manager of Inspection, PCOA  
Citizen Review Board of Key West: Stephen Muffler, Executive Director  
Civilian Investigative Panel: Don March

**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 January 27, 2009.** Ms. Dawson made additions on pg. 2, under item number 1, third paragraph and on pg. 3, under item 5. Ms. Shellow made a correction on pg. 2, under item number 2.

Ms. Shellow moved to adopt minutes as corrected pending ratification at the next panel meeting, due to a lack of quorum. Dr. Scott seconded. It was passed unanimously.

Mr. Lafortune arrived after the vote and asked that an exchange he had with another Panel member be added to the minutes. Mr. Lafortune stated that remarks were made that he did not appreciate. He commented that the Panel should embrace diversity of opinion so that when a member expresses his/her view, disrespectful remarks are not articulated. Ms. Dawson suggested that Mr. Lafortune craft the writing he would propose adding to the minutes. Ms. Boersma suggested that staff listen to the tape and work with Mr. Fortune. She also suggested that approval of the minutes be postponed to the next meeting, so that the minutes can be amended to include the remarks as requested by Mr. Lafortune. The Panel accepted Ms. Boersma's suggestions.

**Agenda Item #3) IRP Complaint A 2008.308 Zigler v. Miami-Dade Police Department**

**(MDPD)** Ms. Boersma explained the details of the incident which occurred as Ms. Zigler was going to work at Jackson Memorial Hospital (JMH). Ms. Zigler was inside the JMH complex when she encountered Officer Goulden, who was blocking traffic. Ms. Zigler stated that Officer Goulden was parked side-by-side with an undercover officer and the officers were talking. Ms. Zigler blew her horn and the officer got upset. Ms. Zigler stated that Officer Goulden approached her vehicle and shook her finger at the complainant, stating that, if Ms. Zigler blew her horn again, she would get a ticket.

**Contact Report**

Ms. Dawson stated that there seems to be discrepancies between Sgt. Roig's Contact Report and what Ms. Zigler said. Ms. Dawson referred to two statements in the Contact Report:

1. Sgt. Roig "advised Ms. Zigler of the options available to her regarding her complaint and she requested that her complaint be documented as a Contact Report." Ms. Dawson added that Sgt. Roig's report makes it appear that Ms. Zigler had options, when apparently she did not.
2. "Ms. Zigler did not wish to be contacted by a supervisor from Officer Goulden's chain of command." Ms. Dawson stated that Ms. Zigler decided to pursue her complaint because she *did* want to speak to a supervisor.

Sgt. Roig replied that he explained to Ms. Zigler what a Contact Report entailed when he spoke with her. A Contact Report was the appropriate response, based on the elements in her discourtesy complaint. Sgt. Roig said that Ms. Zigler did not request that a supervisor in Officer Goulden's chain of command contact her. Sgt. Roig reported that at the IRP committee meeting, Ms. Zigler stated that, had she known the Contact Report would be a permanent record kept in the Professional Compliance Bureau (PCB), she would not have requested the meeting.

Ms. Dawson asked Sgt. Roig if he gave Ms. Zigler the option of speaking to Officer Goulden's supervisor. Sgt. Roig replied that he did not. Ms. Dawson made reference to the statement in the Contact Report which reads: "Ms. Zigler stated that she did not wish to be contacted by a supervisor from Officer Goulden's chain of command." She commented that what Sgt. Roig wrote was not truthful.

Mr. Band inquired what Sgt. Roig would have done if the complainant wished to take the complaint further. Sgt. Roig stated he would have sent the Contact Report to the district and it would have been returned with a response. However, it would still be classified as a Contact Report. Mr. Band suggested that a check-off form might be appropriate to document the Contact Report process.

Dr. Diaz stated that the discourteous complaint was recorded. However, neither the officer nor the officer's supervisor was made aware of the complaint.

### **Permanent Records**

Ms. Dawson inquired if discipline files are separate from personnel files. Sgt. Ruiz commented that he believes individual personnel files reside at the Bureau or District where the officer works. A separate file is maintained at PCB regarding the officer's profile and history. Sgt. Ruiz reported that the officer's discipline is in his/her personnel file. Sgt. Ruiz also stated that complaints that are sustained, not sustained, unfounded, or exonerated reside in the officer's personnel file. However, Contact Reports are not kept in personnel files.

Mr. Lafortune inquired if Officer Roig informed Ms. Zigler that there are two personnel files for Officer Goulden. Sgt. Roig replied that he did not. Mr. Lafortune stated that he believes Sgt. Roig did not provide all the information when he informed Ms. Zigler that her complaint would be registered in Officer Goulden's file. Mr. Lafortune said he was disturbed by the fact that Sgt. Roig did not communicate to the complainant that the District could also be made aware of her complaint.

Sgt. Roig stated that after the IRP committee meeting, he attempted to contact Officer Goulden's immediate supervisor, but was unsuccessful so he spoke to the next in command, Lt. Gilreath. Lt. Gilreath will see that the complaint is addressed with Officer Goulden.

Mr. Band advised that files may be kept in different places because of collective bargaining or state statute. Because files are kept in different places does not mean that the public cannot view them. Mr. Band stated that a person who wishes to view a personnel file should specifically request what he/she wants.

Ms. Boersma inquired if the Panel would consider inviting the PCB Major to the next Panel meeting to explain Contact Reports. Ms. Dawson replied in the affirmative. Mr. Band suggested that staff also contact the MDPD Legal Bureau so that the basis for the different files can be explained. Ms. Dawson stated that she would like for staff to invite the appropriate person from PCB to attend a subsequent IRP meeting, along with someone from personnel to answer questions about the files kept on MDPD employees.

### **Committee Findings:**

#### **Regarding the allegation**

The committee found the allegation that Officer Goulden was discourteous to be SUSTAINED. Ms. Zigler presented a credible and consistent account of the incident. Officer Goulden was invited to participate in the committee meeting, but chose not to attend.

Ms. Boersma stated that Officer Goulden was also invited to participate in the Panel meeting and suggested adding that to the last sentence of the finding.

Mr. Lafortune moved to adopt the committee finding as amended. Dr. Scott seconded. It was passed unanimously.

### **Other Findings**

1. The supervisor of the involved employee may or may not be notified when a Contact Report is generated in response to a complaint. In this case, Officer Goulden's supervisor was not notified.

Ms. Dawson suggested adding the following after "notified: "initially by the Professional Compliance Bureau, but the supervisor was notified after the IRP committee meeting."

Mr. Lafortune made a motion to adopt the finding as amended. Ms. Shellow seconded. It was passed unanimously.

2. The involved employee may or may not be contacted when a Contact Report is generated in response to a complaint. In this case, Officer Goulden was not asked to provide her account of the incident.

Dr. Scott made a motion to adopt as written. Ms. Shellow seconded. It was passed unanimously.

### **Recommendations:**

1. That the MDPD Professional Compliance Bureau (PCB) notify the employee's chain of command whenever a complaint is filed against an employee. Ms. Shellow made a motion to adopt. Dr. Scott seconded. It was passed unanimously.
2. That MDPD obtain the involved employee's account whenever an employee is the subject of a complaint. Ms. Shellow made a motion to adopt. Dr. Scott seconded. It was passed unanimously.
3. Mr. Band made a motion to ask MDPD to create a check-off form, to be made a part of the Contact Report, which would cover the following: identifying information for the complainant, the narrative of the complaint, advising the complainant of the options, forwarding the complaint to the chain of command, and providing the complainant with a copy of the report. Mr. Lafortune seconded the motion. It was passed unanimously.

**Agenda Item #4) IRP Dialogue with Jamaican Delegation** Dr. Diaz reported that Mr. McIntosh and Mr. Beaumont are involved in a fairly new Police Civilian Oversight Authority (PCOA) in Jamaica, which was created in 2005. They have a lot of work to do and few resources to do it; therefore, they are trying to identify the best way to maximize the impact they will have on police accountability in Jamaica. Mr. McIntosh gave a brief synopsis on the history of the Jamaican Constabulary Force and what the Police Oversight Authority is dealing with in Jamaica.

### **Discussion between IRP Panel and Jamaican Delegation**

Mr. Band commented on the importance of credibility to both civilian and law enforcement, in order to promote confidence in fair hearings. Mr. Band suggested that the Jamaican Delegation follow-up on national and international civilian oversight organizations.

Mr. McIntosh questioned if deadly force is an area that comes before the Panel. Dr. Diaz reported that the Panel occasionally reviews police shootings, as well as use of force cases with less than lethal weapons such as tasers.

Ms. Dawson spoke about the IRP involvement in complaints generated during the Free Trade Area of the Americas (FTAA) International Conference held in Miami. She reported that there was a lot of political opposition to the FTAA and several police jurisdictions were involved in crowd control and security. There were many allegations regarding the actions of police officers from a number of jurisdictions.

Mr. McIntosh inquired about the outcome of IRP recommendations. Ms. Dawson replied that the Panel only has the power to recommend. It does not have the power to require implementation of its recommendations.

Mr. Lafortune asked what issues PCOA has addressed so far. Mr. Beaumont reported that PCOA has been able to bring about the destruction of weapons that were in police stations, and also those weapons that were no longer able to be used. PCOA worked with insurance companies of persons whose vehicles have been left at police stations after accidents, in an attempt to clear the compound at police stations.

Mr. Lafortune asked if citizens want PCOA to do more. Mr. Beaumont replied that the citizens at the moment are a little discouraged; however, they have gained citizen confidence by holding public forums in different parts of the county.

**Agenda Item # 5) Executive Director's Report** The following items were contained in Dr. Diaz's report:

- He offered Panel members a copy of the chapter he wrote entitled "Police Oversight" that appears in the Handbook on Building Cultures of Peace.
- His participation in the update of the County's Strategic Plan on Public Safety.
- Budget Meeting to be held the end of March.

**Agenda Item #6) Adjourn** Ms. Shellow made the motion to adjourn. Mr. Lafortune seconded. It was passed unanimously.