

# **INDEPENDENT REVIEW PANEL MINUTES**

April 24, 2008

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

## **PANEL MEMBERS PRESENT**

Julia Dawson, Esq., Chairperson  
Jean-Robert Lafortune, 2<sup>nd</sup> Vice-Chairperson  
Julie Ferguson, Esq.  
Doris Shellow  
Josie Perez Velis, Esq.  
Glenn P. Falk, Esq.  
Moiez A. Tapia, Ph. D.

## **EXCUSED ABSENCES**

Michael R. Band, 1st Vice-Chairperson  
Jorge E. Reynardus, Esq.

## **PANEL STAFF PRESENT**

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

## **AUDIENCE:**

MDPD: Sgt. Lorine Kingcade, MDPD Professional Compliance Bureau

Complainant: Helen B. Williams

Civilians: Patrick E. Collins and Barbara E. Palm, Court Watchers

**Agenda Item #1) Call to Order.** Julia Dawson called the meeting to order at 2:00 p.m. and asked staff to call roll.

## **Agenda Item #2) Approval and adoption of the minutes held on March 27, 2008.**

Ms. Dawson referred to agenda item #3 and stated that Mr. Justiniani pointed out that his copy of the Arrest Affidavit was not legible. It should be documented in the minutes that the Panel concurred.

Ms. Dawson referred to the top of page 2 and stated that the Panel's discussion showed that Mr. Justiniani was not aware of the difference between the investigations done by Internal Affairs and the District when he agreed to a District investigation. She reported that because the investigation was done at the District level, there were no tape recorded or transcribed statements. Ms. Dawson commented that minutes should document that the complainant may have made a different decision if he had known of the differences.

Ms. Dawson also made reference to item #6 and stated suggested that the names of the Mayor and County Manager, as well as their titles, be included in the minutes.

Ms. Shellow moved to adopt the minutes as amended. Julie Ferguson seconded. The motion passed unanimously.

### **Agenda Item #3) IRP Complaint A 2006.148 Williams vs. MDPD.**

Ms. Williams cited several items from a letter she wrote to the IRP dated 4/21/08:

#### Profanity

Ms. Williams stated that she did not use profanity as alleged, and she is certain that Sgt. Garcia would have noted it on the arrest affidavit if she had. Ms. Williams reported that she is running for Mayor of Miami-Dade County and does not want anyone to believe that she would use racial slurs.

#### Occupation

Ms. Williams reported that she was dismissed from Miami-Dade County School system and when Sgt. Garcia asked her what her occupation was, she replied she is unemployed. Sgt. Garcia asked her what her occupation was prior to her employment. She replied that she was a teacher and Sgt. Garcia wrote that on the Arrest Affidavit. Ms. Williams stated that it is her personal opinion that Sgt. Garcia wrote "teacher" on the affidavit because he knows her from Shenandoah Middle School and he wanted the School Board to be notified of her arrest.

#### Refusal to leave the scene

Ms. Williams stated that she never refused to leave the scene. When she inquired if she could leave, Sgt. Garcia informed her that she could not.

#### Miranda Rights

Ms. Williams stated that the officers did not read her the Miranda Rights. Ms. Dawson explained that an officer is only required to read Miranda Rights when a subject is *questioned* about a crime, not just because a person is arrested. Ms. Williams disagreed with this explanation.

#### Property Receipt

Ms. Williams reported that it was illegal to document that she "refused" to sign the property receipt when in fact she had never seen the receipt. She stated that she does not understand how Officer Perez- Noques could be exonerated for that.

#### The Arrest

Ms. Williams stated that there is no material evidence that proved she did anything wrong and she believes she was arrested because she is Black. Ms. Williams also stated that the Report to the Panel incorrectly relates that arrest affidavit said she threw a "can" of soda, when in fact it says a "cup."

Ms. Dawson reported that the arrest affidavit documents that Ms. Williams was charged with resisting arrest without violence because she "stiffened her arms and threw herself down to the ground" to avoid being handcuffed. Ms. Williams replied that she did not do that. She stated that when she asked why she was being arrested, Sgt. Garcia told her she was being arrested for disorderly conduct.

Mr. Falk inquired if Ms. Williams collapsed to the ground. Ms. Williams reported that she was pulled to the ground.

Mr. Falk read an excerpt from Ms. Williams' IA statement where she said she "collapsed and went to the ground." Ms. Williams commented that pressure was applied to her which resulted in her being pulled to the ground. The officers are responsible for her hitting the ground.

### Discrepancies in Statements

Ms. Dawson commented that there are discrepancies in what Ms. Williams said and what the officers said. She asked whether IA attempts to resolve discrepancies uncovered during questioning. Dr. Diaz replied that IA's job is fact-finding, not the resolution of conflicting accounts. Ms. Boersma added that legal and union regulations govern the questioning of an accused officer. Also, the accused officer has the right to review all witness and complaint statements before he/she is questioned. Ms. Perez-Velis pointed out that the IA process is a non-adversarial process.

### Discussion of Committee Findings

1. *Sgt. Rene Garcia forcibly grabbed her right arm causing injury.* NOT SUSTAINED.

*There are no witnesses or evidence to support or refute the allegation.*

Ms. Dawson recommended that "not sustained be changed to "Insufficient Evidence to Support or Refute Allegation." The finding, as amended, passed by a vote of 6-1. Mr. Falk opposed.

2. *Sgt. Rene Garcia refused to provide his name when requested.* NOT SUSTAINED.

*There are no independent witnesses or evidence to support the allegation. Officer Octavio Santiago stated that when Ms. Williams asked Sgt. Garcia for his name, he provided his name and informed her that his name was also on the Arrest Form.*

Dr. Diaz suggested that "independent" be placed before the word "witnesses" and that "not sustained" be changed to "Insufficient Evidence to Support or Refute Allegation." Ms. Shellow made a motion to adopt finding as amended. Mr. Tapia seconded. The motion was passed 6-1. Mr. Falk opposed.

3. *Sgt. Rene Garcia failed to provide Ms. Williams with a copy of the Property Receipt and the location where her property was impounded.* SUSTAINED.

*Sgt. Garcia does not remember providing Ms. Williams with a receipt. Ms. Williams said she did not know where her property was being held.*

Dr. Tapia made a motion to accept the finding as written. Mr. Lafortune seconded. The motion was passed unanimously.

4. *Officer Patricia Perez-Nogues failed to provide Ms. Williams with a copy of the Property Receipt and the location where her property was impounded.* EXONERATED.

*Officer Perez-Nogues was following Sgt. Garcia's instruction to impound Ms. Williams' property. She gave the Property Receipt to Sgt. Garcia and advised him where the property was impounded.*

Ms. Ferguson made a motion to accept finding as written. Ms. Shellow seconded. It was passed unanimously.

5. *The MDPD disposition panel did not address the fact that false information was written on the Property Receipt. Ms Williams did not refuse to sign the Property Receipt; she was never given the opportunity to sign.*

Dr. Tapia made a motion to accept finding as written. Mr. Lafortune seconded. The motion was passed unanimously.

6. *Although the officer has the greater responsibility in making citizen contacts which inspire respect and generate cooperation, the citizen also influences the interaction between the officer and the citizen. In this case a littering incident escalated to an arrest and incarceration. The arrest and incarceration of a mature woman with no prior arrest record may have been unnecessary. Sgt. Garcia could have issued a citation.*

Dr. Tapia made a motion to accept the finding as written. Ms. Ferguson made a friendly amendment to amend the finding by deleting everything after the second sentence. Dr. Tapia accepted the amendment and the motion, as amended, was passed unanimously.

#### Discussion of Committee Recommendations

1. *That MDPD address the finding that false information was written on the Property Receipt. Officer Patricia Perez-Nogues wrote "refused" in the space provided for Ms. Williams' signature on the Property Receipt, when in fact Ms. Williams was not present and was never offered the opportunity to sign.*

Dr. Tapia made a motion to adopt as written. Ms. Ferguson seconded. It was passed unanimously.

2. *That an MDPD supervisor discuss the Independent Review Panel disposition with Sergeant Rene M. Garcia and Officer Patricia A. Perez-Nogues.*

Dr. Tapia made a motion to accept. Julie Ferguson seconded. It was passed unanimously.

3. *Mr. Lafortune made a motion to add a third recommendation: That MDPD use this complaint in its training program to address the importance of sensitivity to cultural, ethnic and racial differences, to improve Community/Police Relations.*

Ms. Shellow seconded. The motion was passed unanimously.

**Agenda Item #4) Executive Director's Report** Dr. Diaz reported that staff will begin to make visits to various district police stations along with Panel Members. He said that he would like to gain a better sense of how the station functions and who they are paying attention to in the community. Dr. Diaz reported that he will be attending a Community Advisory Council meeting in the Intracoastal District to learn who attends and what kind of advice they give police.

Dr. Diaz mentioned that this is a very difficult budget year.

**Agenda Item # 7). Adjourn** Mr. Tapia made a motion to adjourn. Ms. Dawson seconded. It was passed unanimously.