

# **INDEPENDENT REVIEW PANEL MINUTES**

June 26, 2008

**LOCATION:** 140 West Flagler Street, Conference Room 1103  
Miami, Florida 33130

## **PANEL MEMBERS PRESENT**

Julia Dawson, Esq., Chairperson  
Michael R. Band, Esq., 1<sup>st</sup> Vice Chairperson  
Doris Shellow  
Moiez A. Tapia, Ph.D.

## **EXCUSED**

Julie Ferguson, Esq.  
Jean-Robert Lafortune  
Glenn P. Falk, Esq.  
Josie Perez Velis, Esq.

## **ABSENT**

Jorge E. Reynardus, Esq.

## **PANEL STAFF PRESENT**

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

## **AUDIENCE:**

Professional Compliance Bureau: Sergeant Jose Lugo; Sergeant D. Cooper; Sergeant J. Harrison; Sergeant R. Rodriguez; Sergeant J. Cameron

Complainant: Lamont Missick

Civilian Investigative Panel (CIP): Shewanda Hall, CIP Investigator

Civilians: Farrar Fatima; F. Tapia

**Agenda Item #1) Call to Order.** Ms. Dawson called the meeting to order at 2:03 p.m. and asked staff to call roll.

## **Agenda Item #2) Adoption of the minutes from the meeting held on May 22, 2008.**

Ms. Dawson identified two typos. Ms. Shellow moved to adopt minutes as amended. Dr. Tapia seconded. The motion passed unanimously. Dr. Diaz commented that, due to the lack of a quorum, Panel members would need to ratify any items passed today at the next Panel meeting.

Ms. Dawson asked staff to follow up on two items in the minutes: (1) "CSD will determine if there should have been a second fine for the second deposit, and advise the IRP," and (2) "That CSD submit to BCC (Board of County Commissioners) an amendment to the code that would give CSD the authority to impose more severe sanctions than are currently in existence for violations of the code." Dr. Diaz reported that CSD has already provided a response regarding the second fine. Ms. Boersma provided copies for the Panel members.

**Agenda Item #3) IRP Complaint A 2007.030 Missick v. Miami-Dade Police Department (MDPD).** Dr. Diaz gave a brief synopsis of the complaint. As well, Mr. Missick gave his perspective of what took place on January 30, 2007 at St. Thomas University where he is a professor.

*Identification*

Mr. Band stated that in the photograph Mr. Missick took of Officer Hanna, Officer Hanna is shown wearing a jacket and no identification is visible. Officer Hanna may have been wearing identification on his shirt, but it was covered by his jacket.

Ms. Dawson explained that after the IRP committee meeting, MDPD re-opened the investigation and wrote an addendum, because Officer Hanna told the IA investigator that he was wearing his badge and name identification, however the investigator did not pursue the fact that the identification was under Officer Hanna's jacket, even though MDPD had the photograph.

Mr. Band replied that the addendum did not address whether the officer's identification was visible. He inquired if Mr. Missick asked Officer Hanna for a business card. Mr. Missick replied that Officer Hanna did not want to provide his identity. He asked Officer Hanna several times for identification, to which Officer Hanna replied, "I'm a Homeland Security Officer." Dr. Diaz added that in his formal statement, Officer Hanna denied refusing to provide Mr. Missick his name or badge number.

Mr. Band stated that he understands that departmental policy requires an officer to provide name and badge number when requested to do so. Sergeant Lugo confirmed the policy and added there were other ways Mr. Missick could have obtained Officer Hanna's identification. He stated that Mr. Missick could have asked for a supervisor to respond; asked for a business card; or obtained the vehicle or tag number of the police cruiser. Dr. Diaz stated that he is not convinced that every officer has business cards.

*Photograph*

Ms. Dawson stated that, if Officer Hanna had identified himself, Mr. Missick would not have gone to the police station with the photograph to try to identify the officer. Mr. Band added that Mr. Missick's credibility is supported by the photograph.

Mr. Band inquired if Sergeant Lugo, the complaint investigator, had the opportunity to view the photograph. Sergeant replied that he first saw the photograph at the IRP committee meeting. Mr. Band asked Sergeant Lugo if, after being aware of the photo, he questioned the officer about wearing a jacket that obscured his identity. Sergeant Lugo stated he did not because Officer Hanna is seen wearing a department approved uniform. Mr. Band responded that the issue in this case is whether the citizen can identify the officer.

### Homeland Security

Ms. Dawson stated that in the Internal Affairs' report, Officer Hanna said that he was observing Mr. Missick, "Taking pictures of a building, either dormitory, or people, students. I thought about questioning him why he was taking the pictures since we are in Homeland Security." Mr. Missick responded that he was only taking pictures of the dent on the passenger side of his vehicle.

Mr. Missick stated that Officer Hanna's comment that he (Missick) might be from Al-Qaeda was offensive and, after he provided Officer Hanna with his Florida Drivers License, Officer Hanna questioned him regarding his place of origin.

### Discussion of Committee Findings

#### **Regarding the Allegations**

1. Officer James Hanna did not properly identify himself by name and did not display a police badge.

The committee found the allegation to be **SUSTAINED**, based on the preponderance of the evidence:

Although Officer Hanna stated that his name and badge were properly displayed on his shirt, he neglected to say he was wearing a jacket, which covered his nameplate and his badge. If Officer Hanna had, in fact, identified himself as "Officer Hanna" at the time he asked Mr. Missick for identification, Mr. Missick would not have had so much trouble identifying the officer when he went to the Miami Gardens Station. At the Miami Gardens Station, Mr. Missick showed the photograph he had taken and spoke to several officers before he learned the name of Officer Hanna.

**Adopted as written by unanimous vote.**

2. Officer James Hanna made a comment that Mr. Missick could be from Al-Qaeda, a comment that offended Mr. Missick.

The committee found **Insufficient Evidence to Support or Refute Allegation**.

It was the word of the complainant versus the word of the officer. There were no witnesses.

**Adopted as written by unanimous vote.**

#### **Other Findings**

1. Mr. Missick was a credible and professional witness.

**Adopted as written by unanimous vote.**

2. Officer Hanna's marked police vehicle and uniform clearly identified him as a Miami-Dade police officer, however, if he was wearing a badge and nameplate, they were covered by his jacket.

**Adopted as written by unanimous vote.**

3. Officer Hanna's questions to Missick were triggered by Homeland Security concerns. In his PCB statement, Officer Hanna said, "I observed the gentleman taking pictures of a building...of students, and I thought about questioning him why he was taking the pictures since we are in Homeland Security, and that's how I asked him for identification and who he was."

**Adopted as written by unanimous vote.**

4. Sergeant Lugo's questioning techniques with Officer Hanna did not comply with the Professional Compliance Bureau Vision Statement to "objectively investigate internal affairs cases striving to clearly establish the truth." Sergeant Lugo left several important facts unresolved; he asked leading questions; he asked two questions in the same sentence; questions that were not answered were not followed up on; and the photo which clearly showed that Officer Hanna's badge and name were covered by his jacket was ignored.

**Adopted as written by a 3-1 vote. Mr. Band opposed.**

5. In the state of Florida, an officer has the right to ask an individual for identification, however, an officer cannot detain an individual unless the officer believes the individual has committed, is committing, or is about to commit a criminal offense.

**Adopted as written by unanimous vote.**

6. The MDPD complaint form appears in the MDPD brochure but it does not provide for the complainant to get a receipt to document that he/she filed a complaint, or the name of the person who received that complaint, or the date and time the complaint was received.

**Ms. Dawson amended the finding to read as follows: The MDPD complaint form appears in the MDPD brochure but it does not provide for the complainant to get a copy of the complaint filed, a receipt to document that he/she filed a complaint, the name of the person who received the complaint, and the date and time the complaint was received.**

**Adopted as amended by unanimous vote.**

#### *Discussion of Committee Recommendations*

1. That all MDPD officers on duty display their name and badge number at all times in a way that is visible to the public.

**Mr. Band suggested adding "uniformed" [MDPD officers]. Adopted as amended by unanimous vote.**

2. That Officer Hanna be counseled on the requirement that his name and badge number be visibly displayed at all times.

**Mr. Band suggested adding "and that upon request he provide his name and badge number." Adopted as amended by unanimous vote.**

3. That MDPD establish a complaint filing procedure which enables a complainant to get a copy of the complaint he/she filed, a receipt to document that he/she filed a complaint, the name of the person who received the complaint, and the date and time the complaint was received.

**Adopted as written by unanimous vote.**

4. That Police Director Robert Parker address questioning techniques during professional compliance investigations that leave facts in citizen complaints unresolved.

**Adopted as written by unanimous vote.**

5. **Dr. Tapia moved to add a 5<sup>th</sup> recommendation: That MDPD provide police officers with business cards that at a minimum include the officer's name and badge number, and that police officers provide a card when his/her identification is requested. Mr. Band seconded. The motion was adopted by a 3-1 vote. Mrs. Shellow opposed.**

6. That the Panel conclude the complaint.

**Adopted as written by unanimous vote.**

**Agenda Item #4) Executive Director's Report.** Dr. Diaz reported that the IRP is fully staffed in the 08-09 budget proposed by Mayor Alvarez and County Manager Burgess. The final decision will be made by the Board of County Commissioners in September. Between now and September, there will be opportunities for the County Commissioners to address items in the proposed budget.

Dr. Diaz mentioned that the County Administration has become very sensitive about Fraud and Senior Management is being trained on Fraud and Control Prevention.

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