

# **INDEPENDENT REVIEW PANEL MINUTES**

August 24, 2006

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

## **PANEL MEMBERS PRESENT**

Jorge Reynardus, Esq., Chairperson  
Julia Dawson, Esq., 1st Vice Chairperson  
Moiez Tapia, Ph.D. 2nd Vice Chairperson  
Michael Band, Esq.  
Glenn Falk, Esq.  
Julie C. Ferguson, Esq.  
Doris Shellow

## **MEMBERS ABSENT WITH NOTIFICATION**

Joseph Lopez, Esq.

## **MEMBERS ABSENT WITHOUT NOTIFICATION**

Arcie Ewell

## **PANEL STAFF PRESENT**

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

**COUNTY OFFICIALS AND EMPLOYEES PRESENT:** Ronald Bernstein, Esq., Assistant County Attorney; Lt. Garry Jeanniton, Accused, Miami-Dade Police Department (MDPD); Sgt. Roberto Morales, MDPD Professional Compliance Bureau; Sgt. Al Stier, MDPD Professional Compliance Bureau; Bill Lyons, MDPD Legal Bureau; Christia A. White, Legislative Director, Commissioner Audrey Edmonson's Office, District 3

**AUDIENCE:** Marvin George, Complainant; Jackie Gutierrez, City of Miami Civilian Investigative Panel (CIP)

**Agenda Item #1) Call to Order.** Mr. Reynardus 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. Dawson, motion passed unanimously.

**Agenda Item #3) IRP Complaint A 2004.318 Anonymous v. Miami-Dade Police Department (MDPD).** Ms. Boersma presented the complaint in which Lt. Jeanniton drew his gun twice during an off-duty traffic incident.

Lt. Jeanniton expressed that he perceived a threat when the individual in the other vehicle approached him with one hand in his pocket. Lt. Jeanniton stated that he pulled his gun a second time because the same individual went back to his car and he feared the individual might flee or grab a weapon.

Lt. Jeanniton felt that the Committee's finding that he used his firearm improperly was unfair because in a matter of split seconds an officer must decide whether or not to draw his weapon to protect his life. Lt. Jeanniton stated a gun is just a tool which he is trained to use, and it is his decision whether or not to use the gun.

Dr. Diaz stated some people perceive the pointing of a gun as a use of force even though the gun is not fired. Dr. Diaz stated that there is no MDPD policy requiring officers to document when they draw their weapons.

Ms. Dawson expressed concern over Lt. Jeanniton's statement that his gun is just a tool. Ms. Dawson stated that a gun is a deadly weapon and should not be merely thought of as "just a tool."

Mr. Reynardus asked Sgt Morales if pulling a gun to prevent someone from fleeing was within departmental policy. Sgt. Morales stated that officers are allowed to use their guns when they fear for their safety. When Lt. Jeanniton pulled his gun the second time, he said he was in control of the scene and it appears he did not fear for his safety.

Mr. Band stated that it was clear that the other individual could have been arrested for reckless driving but it was the officer's discretion not to. Mr. Band also stated he supported Lt. Jeanniton's assertion that his gun is a tool, as is an officer's baton.

Ms. Dawson expressed her concern with the fact that officers do not have to document when they draw their gun, only when they shoot. Ms. Dawson also stated she did not believe that Lt. Jeanniton was in fear when he pointed his gun at the individual a second time because the individual was going toward his car. First of all, Lt. Jeanniton allowed the gentlemen to cross the road to urinate and second he never patted the individual down.

Lt. Jeanniton stated he was insulted by Ms. Dawson's approach. He stated he was at the meeting because he has nothing to hide; he is being truthful and his actions were appropriate considering the circumstances.

Mr. Reynardus made a motion to adopt the Committee Findings, Other Finding # 3, the first sentence in the Observations and Recommendation # 3 and to add a new Other Finding that states "*The Panel found Lt. Jeanniton's testimony credible and appreciates his participation in the IRP process.*" Ms. Shellow seconded the motion. Mr. Falk made a friendly amendment to exclude Other Finding # 3. Mr. Reynardus accepted the amendment. The motion passed 4-3, Dr. Tapia, Ms. Dawson and Ms. Ferguson dissenting.

Ms. Dawson made a motion to adopt Other Finding # 1, Ms. Ferguson seconded. The motion failed 3-4, Ms. Dawson, Dr. Tapia and Ms. Ferguson in favor.

Ms. Dawson made a motion to adopt Other Finding # 2, Ms. Ferguson seconded. The motion failed 3-4, Ms. Dawson, Dr. Tapia and Ms. Ferguson in favor.

Ms. Dawson made a motion to adopt Other Finding # 3, Dr. Tapia seconded. The motion failed 3-4, Mr. Reynardus, Ms. Dawson and Dr. Tapia in favor.

Ms. Dawson made a motion to modify the additional Other Finding to read, "*The Panel commends Lt. Jeanniton for participating in the IRP process.*" The motion was seconded Ms. Shellow. The motion passed 4-3, Mr. Reynardus, Mr. Falk and Mr. Band dissenting.

Ms. Dawson made a motion to adopt the entire paragraph in Observations. Ms. Ferguson seconded the motion. The motion failed 3-4, Ms. Dawson, Ms. Ferguson and Dr. Tapia in favor.

Ms. Dawson made a motion to adopt Recommendation # 1. There was no second and the motion failed.

**Agenda Item #4) IRP Complaint A 2004.233 George v. Miami-Dade Police Department (MDPD).** Mr. Robreño presented the complaint to the Panel. Mr. George was stopped by Tactical Narcotics Team (TNT) officers after the “eyeball” observed him making a buy. No drugs were found.

Mr. George stated that the officers involved had no reason to search his truck and they refused to give their names when asked.

Ms. Dawson expressed concern that Officer Cruz, the “eyeball” had no recollection of Mr. George buying narcotics. Sgt. Stier stated that the Panel must keep in mind that Officer Cruz does these type of operations hundreds of times and if no drugs were found, it would be difficult to remember the specific circumstance.

Mr. Falk stated he did not feel Officer Figueroa handled the situation tactfully when he told Mr. George to come to his police vehicle to get his (Figueroa’s) name, however he did not actually refuse to give Mr. George his name and badge number.

Ms. Shellow made a motion to adopt the Committee Findings, Observations and Recommendations. Dr. Tapia seconded the motion. Ms. Dawson proposed a friendly amendment that Recommendation # 2 remove the word “*encourage*” and replace it with “*require.*” Ms. Shellow accepted. Mr. Falk proposed a friendly amendment to delete Officer Thelwell’s name from Finding # 2. The amendment was not accepted. The motion, with Ms. Dawson’s amendment, was passed 6-1, Mr. Falk dissenting.

**Agenda Item #5) Peddlers and Vendors – Glenn Falk letter regarding Complaint A 2003.252 Gonzalez-Cortes v. MDPD and MDPD Legal Bulletin 95-4.** Ms. Dawson made a motion to have the Panel recommend that MDPD advise its officers not to adhere to Legal Bulletin 95-4 until the ordinance is clarified. Dr. Tapia seconded and the motion passed unanimously.

Mr. Reynardus made a motion to have the Panel recommend that the County Attorney’s Office review the ordinance. Dr. Tapia seconded and the motion passed unanimously.

**Agenda Item #6) Executive Director’s Report.** Dr. Diaz informed the Panel that their next meeting will be on September 21, 2006.

Dr. Diaz informed the Panel that as a member organization of NACOLE, they have one vote in the upcoming NACOLE elections. Dr. Diaz asked the Panel if they would like him to remain the designated voter. Ms. Dawson made a motion to have Dr. Diaz remain as the Panel’s designated voter in NACOLE. Dr. Tapia seconded and the motion passed unanimously.

Dr. Diaz informed the Panel that he has added his name to the list of candidates for the presidency of NACOLE in 2006. Dr. Diaz asked the Panel if they would allow him to do so. Ms. Dawson made a motion to allow Dr. Diaz to pursue his candidacy for NACOLE president. Ms. Shellow seconded and the motion passed unanimously.

Dr. Diaz informed the Panel that the next budget hearing will be on September 7<sup>th</sup> and the final hearing will be on September 20<sup>th</sup>. Dr. Diaz invited the Panel member to attend the hearings.

**Agenda Item #6) Adjourn.** Dr. Tapia made a motion to adjourn, seconded by Ms. Shellow. Motion passed unanimously.