

ARTICLE IC. - INDEPENDENT CIVILIAN PANEL⁵

Footnotes:

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Editor's note— Ord. No. 20-80, § 1, adopted Aug. 31, 2020, amended the title of Art. IC to read as set out herein. The former Art. IC title pertained to Independent Review Panel.

Editor's note— Ord. No. 80-8, §§ 1—12, adopted Feb. 19, 1980, did not expressly amend this Code; hence, codification as Art. IC of Ch. 2, §§ 2-11.41—2-11.52, is at the discretion of the editor.

Sec. 2-11.41. - Legislative intent and purpose; liberal construction.

The purpose of this article is to create a mechanism for external community fact-finding and dispute resolution. It is the intent of the Board that the impartial review panel created by this article conduct independent investigations and reviews and hold public hearings concerning complaints or grievances made against sworn officers of (i) the Miami-Dade Police Department or any successor agency, or (ii) any other law enforcement agency established by the Board. Further, it is the intent of the Board that, to the extent permitted by law, all County employees shall cooperate with requests from and participate in investigations conducted by the Independent Civilian Panel ("Panel"). It is also the intent of the Board that the Panel conduct hearings as provided in Chapter 2, Article LXXI of the Code where there is a complaint of retaliation for the disclosure of specific information related to matters investigated or reviewed by the Panel. The provisions of this article shall be liberally construed to accomplish these legislative objectives.

(Ord. No. 80-8, § 1, 2-19-80; Ord. No. 96-41, § 2, 3-5-96; Ord. No. 20-80, § 1, 8-31-20)

Sec. 2-11.42. - Created, established.

There is hereby created and established an Independent Civilian Panel pursuant to Section 5.08(a) of the Miami-Dade County Home Rule Charter.

(Ord. No. 80-8, § 2, 2-19-80; Ord. No. 20-80, § 1, 8-31-20)

Sec. 2-11.43. - Composition; appointment and terms of office; compensation, oath; attendance at meetings, vacancies.

- (a) *Composition.* The Panel shall consist of 13 members, each of whom is a qualified elector of Miami-Dade County and possesses a reputation for civic pride, integrity, responsibility, and has demonstrated an active interest in public affairs and service. Each County Commissioner shall appoint one person to serve on the Panel as set forth below. Panel members should have diverse backgrounds. Consideration should be given to appointing a retired law enforcement officer and retired member of the judiciary, judge, or magistrate, and retired or active individuals in the following fields: (1) human resources; (2) faith-based; (3) social justice; and (4) civil rights law. No Panel member or any Panel member's immediate family shall be a sworn law enforcement officer.
- (b) *Appointments.*
 - (1) *Nominating committee.* There shall be a nominating committee consisting of nine members to make recommendations to each County Commissioner for his or her appointment to the Panel. The Office of Community Advocacy shall request that each of the following County advisory boards submit the name of one member appointed to each board to serve as a member of the nominating committee:

- A. Asian-American Advisory Board;
- B. Black Affairs Advisory Board;
- C. Commission for Women;
- D. Community Relations Board;
- E. Elder Affairs Advisory Board;
- F. Hispanic Affairs Advisory Board;
- G. Interfaith Advisory Board;
- H. LGBTQ Advisory Board; and
- I. Military Affairs Advisory Board.

- (2) *Appointment of the Panel.* After the nominating committee is empaneled, the Office of Community Advocacy shall advertise the open Panel seats and provide applications through public notices, which may be published on social media, print media, and the County's website. After considering all applicants as directed by the Board, the nominating committee shall provide each County Commissioner with the names of no less than two applicants from his or her district. Each Commissioner may, but is not required to, select his or her appointment to the Panel from the applicants submitted by the nominating committee. In the event the nominating committee does not receive applications from at least two qualified candidates or upon any Commissioner's request, the Office of Community Advocacy shall readvertise the open seat and repeat the process until the seat is filled.

- (c) *Terms of Office.* The nominating committee shall stagger the terms of initial Panel members as follows:

- (1) Five members shall be appointed to serve for three years;
- (2) Four members shall be appointed to serve for two years; and
- (3) Four members shall be appointed to serve for one year.

The nominating committee shall utilize a random selection process to determine the applicable term for each Commission district. Subject to the initial staggered terms above, but notwithstanding any other provision of the Code including, but not limited to, Section 2-11.38.2, each member shall serve for a period of three years. The Board may extend this term if necessary to complete any pending investigations.

The initial Panel members may be eligible to serve for one additional term of three years after their initial terms expires.

Nonpermanent members. In addition to the foregoing, former Panel members may serve as substitute Panel members given advanced notice of absence of current members or vacancy pending appointment. The selection of nonpermanent members will be specified in an implementing order pertaining to the Panel.

- (d) *Compensation.* Members of the Panel shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties as shall be determined and approved by the Board.
- (e) *Oath.* Before entering upon the duties of office, each member shall submit written acceptance of appointment and subscribe to the oath of office prescribed by law, which shall be filed in the Office of the Clerk of the Board.
- (f) *Attendance at Meetings.* Any Panel member shall be automatically removed if absent for three consecutive meetings without a satisfactory excuse or if absent from more than one-half of the Panel's meetings during his or her term of office. A Panel member shall be deemed absent from a meeting when not present at the meeting at least 75 percent of the time. The provisions of this section may be waived by a two-thirds vote of the members of the full Board. Any vacancy shall be filled in the same

manner as the original appointment. A member appointed to fill a vacancy shall serve for three years from the date of appointment

- (g) *Vacancies.* In the event of a vacancy on the Panel, the Chair of the Panel shall appoint at least five Panel members to serve as a nominating committee. The nominating committee shall advertise the open seat on the Panel as provided in subsection (b)(2) above and interview candidates. Said advertisement shall include the professions or backgrounds of the existing Panel members. The Panel shall then submit the names of at least two applicants to the County Commissioner who appoints the open seat for selection and appointment to the Panel.

(Ord. No. 80-8, § 4, 2-19-80; Ord. No. 81-44, § 1, 4-21-81; Ord. No. 97-86, § 1, 6-5-97; Ord. No. 20-80, § 1, 8-31-20; Ord. No. 21-83, § 1, 9-1-21)

Sec. 2-11.44. - Organization and procedures.

- (a) The members of the Panel shall select a chairperson to serve at the pleasure of the Panel, together with such other officers as may be deemed necessary by the Panel.
- (b) A simple majority of the constituted members of the Panel attending a Panel meeting or hearing shall constitute a quorum.
- (c) All action by the Panel shall be by majority vote.
- (d) All Panel proceedings shall be conducted in accordance with the [Government-in-the-] Sunshine Law, Section 286.011, Florida Statutes.
- (e) All Panel proceedings shall be conducted in accordance with the provisions of the Citizens' Bill of Rights of the Miami-Dade County Home Rule Charter.
- (f) The Panel shall be deemed an "agency" for purpose of compliance with the Public Records Law, Chapter 119, Florida Statutes.

(Ord. No. 80-8, § 6, 2-19-80)

Sec. 2-11.45. - Authority and powers generally.

- (a) The Panel's authority and powers shall relate to matters involving sworn officers of (i) the Miami-Dade Police Department or any successor agency or (ii) any other law enforcement agency established by the Board.
- (b) The Panel shall have the authority to investigate or review the following matters:
 - (1) Allegations of misconduct;
 - (2) Use of force incidents resulting in death, permanent disability, permanent disfigurement, or other great bodily harm to a person;
 - (3) All files that have been closed by the Miami-Dade Police Department, Professional Compliance Bureau, Internal Affairs Section or any successor entity. The Miami-Dade Police Department shall transmit such files to the Panel within three days of the date the Miami-Dade Police Department Director signs the file;
 - (4) Upon request for inspection and copying, all documents and records in any medium supporting or relating to a closed investigation conducted by the Professional Compliance Bureau, Internal Affairs Section or any successor entity; and
 - (5) Other matters relating to policing.

- (c) The Panel shall have the authority to make recommendations regarding current and proposed police department policies, procedures, and practices on matters including, but not limited to training, recruitment, and disciplinary procedures.
- (d) The Panel may hold public hearings, conduct alternative dispute resolution, make factual determinations, draw conclusions, propose recommendations, and prepare interim and final reports on matters relating to complaints or grievances.
- (e) The Panel may hold hearings, render findings of fact, and issue recommendations, as provided in Chapter 2, Article LXXI of the Code for matters related to those investigated or reviewed by the Panel.
- (f) The Panel shall have the authority and responsibility to determine whether sufficient merit has been established for complaints or grievances to institute a review or investigative process.
- (g) The Panel may adopt, promulgate, amend, and rescind such rules of procedure as may be necessary to exercise its authority; provided, however, that no rules shall conflict with the provisions of this article.
- (h) The Panel may demand, examine, and duplicate public records and documents in accordance with the provisions of Chapter 119, Florida Statutes, as may be amended from time to time.
- (i) The Panel may request any person give sworn testimony or to produce documentary or other evidence, to the extent permitted by applicable law.
- (j) The Panel, in whole or part, may conduct or participate in conferences, inquiries, meetings, or studies.
- (k) The Panel may request the County Attorney to render opinions relating to the Panel's duties, jurisdiction, or power.
- (l) The Panel shall not interfere with any investigation of the State Attorney, Miami-Dade County Commission on Ethics and Public Trust, Miami-Dade County Office of Inspector General, Miami-Dade Police Department, or any state or federal agency that has jurisdiction over matters investigated by the Panel, when the Panel is expressly notified by representatives from said entities that the Panel's investigation may interfere with an investigation.
- (m) Upon a majority vote, the Panel shall have the authority to request the issuance of subpoenas for witnesses, documents, and other potential evidence for all matters within its jurisdiction, except as may be prohibited by applicable law or if notified by representatives identified in subsection (1) above that the Panel's investigation would be interfering in an investigation. Notwithstanding the above, no such subpoena shall be issued to: (i) a County Commissioner, (ii) the County Mayor, or (iii) a County employee to appear as a witness. Said subpoenas shall be signed, served, and enforced pursuant to applicable law. Ten days prior to the issuance of any subpoena, the Executive Director shall notify the State Attorney, Miami-Dade County Commission on Ethics and Public Trust, Miami-Dade County Office of Inspector General, or Miami-Dade Police Department of the Panel's intention to issue the subpoena.
- (n) The Panel shall establish bylaws or procedures or both for its governance and training standards for Panel members and staff.
- (o) The Panel shall establish evaluation criteria to assess the Executive Director's performance.
- (p) The Panel's Executive Director shall ensure staff and Panel members receive (i) Ethics Training from the Miami-Dade County Commission on Ethics and Public Trust, and (ii) Police-Based Perception Training or other civilian police training that simulates police encounters, and (iii) training on police policies, procedures, and practices from the Miami-Dade Police Department or another entity that trains civilian panels that provide oversight to law enforcement agencies. Panel members shall receive all required training prior to investigating or reviewing any matter.

(Ord. No. 80-8, § 3, 2-19-80; Ord. No. 96-41, § 2, 3-5-96; Ord. No. 20-80, § 1, 8-31-20)

Sec. 2-11.46. - Panel proceedings.

The Panel shall meet with the Executive Director from time to time:

- (1) To consider the County's complaint review processes and investigatory activities designed to serve the public; and
- (2) To consider whether sufficient merit has been established for any complaint or grievance filed with the Panel to warrant investigation or review by the full Panel.

Full Panel meetings shall be scheduled monthly and with appropriate notice given to the public.

(Ord. No. 80-8, § 5, 2-19-80; Ord. No. 81-44, § 2, 4-21-81; Ord. No. 97-86, § 2, 6-5-97; Ord. No. 20-80, § 1, 8-31-20)

Sec. 2-11.47. - Interim reports during pending review.

At least every thirty (30) days, the Panel shall receive interim reports from staff with regard to each pending review.

(Ord. No. 80-8, § 7, 2-19-80; Ord. No. 97-86, § 3, 6-5-97)

Sec. 2-11.48. - Final reports on matters reviewed; referral for further proceedings.

The Panel shall publish a final report with regard to each matter investigated or reviewed. Said final report shall be transmitted simultaneously to the Board, the County Mayor or County Mayor's designee, and the director of the Miami-Dade Police Department or any successor agency. Within 45 days of receipt of the Panel's final report, the County Mayor or County Mayor's designee shall transmit a report to the Board and the Panel, which shall provide all actions taken in response to the Panel's final report and any related recommendations. The County Mayor or County Mayor's designee shall place such report on an agenda of the Board pursuant to Ordinance No. 14-65. If the Panel has reason to believe that any public official, employee, or other person warrants criminal or disciplinary proceedings, it shall refer the matter to the appropriate governmental authorities.

(Ord. No. 80-8, § 8, 2-19-80; Ord. No. 20-80, § 1, 8-31-20)

Sec. 2-11.49. - Simultaneous reviews.

The Panel may review more than one (1) incident at the same time.

(Ord. No. 80-8, § 11, 2-19-80; Ord. No. 97-86, § 4, 6-5-97)

Sec. 2-11.50. - Immunity of Panel members from suit.

The Panel members shall be, to the full extent permitted by law, immune from any suit based upon any action or report undertaken within the scope of the Panel's duties or powers as provided in this article.

(Ord. No. 80-8, § 9, 2-19-80)

Sec. 2-11.51. - Physical facilities and staff.

- (a) *Office space, etc.; auditorium.* The County shall provide the Panel with appropriately located office space and auditorium facilities together with necessary office supplies, equipment, and furnishings.

- (b) *Executive Director.* Subject to approval by the Board, the Panel shall appoint a full-time Independent Executive Director, who shall be employed at will and under the supervision and direction of the Panel. The Executive Director shall have an educational background or professional work experience in fields including, but not limited to social work, social justice, civil rights, and criminal justice. The Panel shall have the authority to remove the Executive Director, subject to approval from the Board. The Panel shall utilize an open competitive selection process when selecting nominees for Executive Director. The Board shall establish the salary and benefits of the Executive Director. The Executive Director's salary and benefits shall be consistent with policies and salary ranges established by Miami-Dade County Human Resources Department, or its successor department.
- (c) *Staff.* The Executive Director may hire, terminate, and administer the necessary staff. At a minimum, subject to budget allocations by the Board, staff shall consist of the following positions:
 - (1) Senior investigator/mediator.
 - (2) Other investigative personnel.
 - (3) Office Administrator.
 - (4) Policy Analyst.
- (d) *Legal counsel.* The County Attorney shall provide the Panel with necessary legal counsel.
- (e) *Research personnel, investigative personnel, and outside counsel.* The Panel may request the Board provide such other fact-finding personnel research personnel, and outside counsel as it may determine are necessary from time to time.

(Ord. No. 80-8, § 10, 2-19-80; Ord. No. 81-44, § 3, 4-21-81; Ord. No. 83-19, § 1, 4-19-83; Ord. No. 83-42, § 1, 6-21-83; Ord. No. 97-86, § 5, 6-5-97; Ord. No. 97-130, § 1, 7-22-97; Ord. No. 06-31, § 1, 3-7-06; Ord. No. 20-80, § 1, 8-31-20)

Sec. 2-11.52. - Municipal utilization of Panel authorized.

At the request of any municipality, on a case-by-case basis or for a time certain, the Panel may assume jurisdiction to consider all matters authorized herein on behalf of said municipality against sworn police officers the municipality employs. In such event, all references to the County or County employees or sworn officers of (i) the Miami-Dade Police Department or any successor agency, or (ii) any other law enforcement agency established by the Board, as applicable, shall be determined to be references to the municipality, municipal employees, and sworn municipal police officers.

(Ord. No. 80-8, § 12, 2-19-80; Ord. No. 81-44, § 4, 4-21-81; Ord. No. 97-86, § 6, 6-5-97; Ord. No. 20-80, § 1, 8-31-20)