

MEMORANDUM

Agenda Item No. 11(A)(19)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: September 1, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact legislation to
expand public records
exemptions relating to murder
investigations in order to protect
the identity and statements of
witnesses and key details of the
crime for a certain period of time

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor
Chairman Jose "Pepe" Diaz.



Geri Bonzon-Keenan
County Attorney

GBK/gh



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

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County Attorney

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Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(19)
9-1-22

RESOLUTION NO. _____

RESOLUTION URGING THE FLORIDA LEGISLATURE TO ENACT LEGISLATION TO EXPAND PUBLIC RECORDS EXEMPTIONS RELATING TO MURDER INVESTIGATIONS IN ORDER TO PROTECT THE IDENTITY AND STATEMENTS OF WITNESSES AND KEY DETAILS OF THE CRIME FOR A CERTAIN PERIOD OF TIME

WHEREAS, murder, as defined in section 782.04, Florida Statutes, is such a heinous crime against humanity that there is no statute of limitations on its prosecution; and

WHEREAS, some murder cases take years to develop sufficient evidence to secure convictions; and

WHEREAS, it is important that certain information in older murder cases remain exempt from public records disclosure in order to protect the investigation and those individuals who cooperate with law enforcement; and

WHEREAS, in particular, during the course of a murder investigation, the police may interview numerous eye and fact witnesses, including the victim's family, friends, neighbors, and other members of the public who have information that is relevant to solving the crime; and

WHEREAS, statements from such eye and fact witnesses, as well as their contact information, are gathered and included as part of the police murder investigation file; and

WHEREAS, because the cooperation of witnesses is essential to solving murder cases, the disclosure of their personal information and their statements can have a chilling effect on people coming forward to cooperate with police, for fear of intimidation or retaliation; and

WHEREAS, currently, section 119.071(2)(m), Florida Statutes, provides only a limited exemption from disclosure under chapter 119, Florida Statutes (the “public records law”), for witnesses who “observe” the murder for two years from the date on which the murder was observed; and

WHEREAS, while section 119.071, Florida Statutes, makes certain personal information of many classes of people performing valuable roles in the criminal justice system exempt from disclosure indefinitely (including law enforcement officers, judges, magistrates, prosecutors, and public defenders), eyewitnesses receive only limited protection, and other fact witnesses receive none; and

WHEREAS, in addition to witness information and statements, the police murder investigation file also contains key details of the crime scene, such as the murder weapon, the existence or non-existence of DNA or other serological evidence, and other critical details (collectively, “key details of the crime”); and

WHEREAS, investigators need to withhold key details of the crime from the public in order to evaluate the veracity of new tips and evidence; and

WHEREAS, the Miami-Dade Police Department’s (MDPD) Homicide Bureau is dedicated to solving all murder cases, no matter how long that takes; and

WHEREAS, despite a period of inactivity on old murder cases, many old cases are later solved due to new technologies, improvements to the analysis of DNA evidence, and new tips from witnesses; and

WHEREAS, one cold case recently closed by MDPD’s Homicide Bureau Cold Case Unit involved the murder of 16-year-old Dilcia Mejia, who was found murdered in her bed on the morning of September 17, 2004; and

WHEREAS, her stepfather was always MDPD’s person of interest, but investigators needed additional evidence to charge him and secure a conviction; and

WHEREAS, 16 years later, in 2020, cold case detectives used new techniques in DNA analysis to match the DNA found in fingernail scrapings collected from the victim to the stepfather; and

WHEREAS, this new DNA evidence, combined with key details of the crime never released to the public, including that Ms. Mejia had one broken fingernail which matched the pattern of scratches in photos taken in 2004 of the stepfather’s arms, was enough to finally arrest the stepfather for second degree murder and give closure to Ms. Mejia’s family; and

WHEREAS, in 2021, MDPD’s Homicide Bureau Cold Case Unit closed 17 cold cases, and, as of July 25, 2022, they have already closed 10 cold cases this year; and

WHEREAS, MDPD’s Homicide Bureau Cold Case Unit’s focus on solving murder cases and bringing closure and justice to the victims’ families continues; and

WHEREAS, however, without being able to withhold key details of the crime from the public, law enforcement may never be able to solve older murder cases; and

WHEREAS, currently, the public records law provides an exemption for criminal investigative information and criminal intelligence information, both of which are defined in chapter 119, but only while the information is “active,” which means it is “related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future”; and

WHEREAS, the investigation into the murder of Dilcia Mejia, however, exemplifies the value of maintaining and preserving the secrecy of key details of the crime even when that information is not necessarily “active” as defined in section 119.011(3)(d), Florida Statutes; and

WHEREAS, this Board desires to assist law enforcement in their ability to more effectively solve murders, and urges the Florida Legislature to expand the current public records law exemptions to protect the personal identifying information and statements of all witnesses in murder investigations as well as key details of the crime, regardless of whether that information is still considered “active,” until the records are given or required by law or agency rule to be given to the person arrested; and

WHEREAS, on August 20, 2021, this Board adopted Resolution No. R-826-21, urging the Florida Legislature to enact legislation to expand public records exemptions relating to murder investigations in order to protect the identity and statements of witnesses as well as key details of the crime until such records are given or required by law or agency rule to be given to the person arrested; and

WHEREAS, former Senator Manny Diaz (R – Hialeah Gardens) filed Senate Bill 1282 for consideration during the 2022 session of the Florida Legislature which would have provided the expanded exemptions from public records requirements supported by this Board in Resolution No. R-826-21; and

WHEREAS, although SB 1282 ultimately died in committee, this Board wishes to demonstrate its continued support for this exemption,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges the Florida Legislature to enact legislation expanding public records law exemptions relating to murder investigations to protect: (1) the personal identifying information and statements of all witnesses; and (2) key details of the crime which a law enforcement agency, in its discretion, determines must be withheld in order to secure a future arrest or conviction, notwithstanding whether the information is active as defined in section 119.011(3)(d), Florida Statutes, until the records are given or required by law or agency rule to be given to the person arrested.

Section 2. Directs the Clerk of the Board to send a certified copy of this resolution to the Governor, Attorney General, Senate President, House Speaker, the Chair and Members of the Miami-Dade State Legislative Delegation, and the Florida Department of Law Enforcement Commissioner.

Section 3. Directs the County’s state lobbyists to advocate for the actions set forth in section 1 above and authorizes and directs the Office of Intergovernmental Affairs to include this item in the 2023 State Legislative Package when it is presented to the Board.

The Prime Sponsor of the foregoing resolution is Chairman Jose “Pepe” Diaz. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

- | | |
|---------------------------------------|------------------------|
| Jose “Pepe” Diaz, Chairman | |
| Oliver G. Gilbert, III, Vice-Chairman | |
| Sen. René García | Keon Hardemon |
| Sally A. Heyman | Danielle Cohen Higgins |
| Eileen Higgins | Joe A. Martinez |
| Kionne L. McGhee | Jean Monestime |
| Raquel A. Regalado | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of September, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

LCK

Leigh C. Kobrinski