

MEMORANDUM

Agenda Item No. 11(A)(9)

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

DATE: October 6, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution urging the Florida
Legislature to enact legislation to
allow the Florida Department of
Highway Safety and Motor
Vehicles to grant local inspector
general agencies access to
records of driver license
photographs and signatures from
the Driver and Vehicle
Information Database

Resolution No. R-955-22

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/jp



MEMORANDUM (Revised)

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

DATE: October 6, 2022

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Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(9)

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)(9)
10-6-22

RESOLUTION NO. _____ R-955-22

RESOLUTION URGING THE FLORIDA LEGISLATURE TO
ENACT LEGISLATION TO ALLOW THE FLORIDA
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR
VEHICLES TO GRANT LOCAL INSPECTOR GENERAL
AGENCIES ACCESS TO RECORDS OF DRIVER LICENSE
PHOTOGRAPHS AND SIGNATURES FROM THE DRIVER
AND VEHICLE INFORMATION DATABASE

WHEREAS, the Driver’s Privacy Protection Act, 18 USC section 2721, prohibits state departments of motor vehicles, including the Florida Department of Highway Safety and Motor Vehicles (“DHSMV”), from knowingly disclosing or making available personal information including driver license photographs, with certain exceptions, including for “use by any government agency, including any court or law enforcement agency, in carrying out its functions”; and

WHEREAS, section 322.142(4), Florida Statutes, further clarifies these disclosure limitations by permitting the DHSMV to use records of driver license photographs and signatures, which it stores in its Driver and Vehicle Information Database (“DAVID”), either by itself in response to law enforcement and court system requests or when provided to certain enumerated government agencies pursuant to interagency agreements with the DHSMV; and

WHEREAS, the use of DAVID records pursuant to interagency agreements is designed to facilitate the performance of various government agencies’ duties, which may include identification or location of individuals, or to assist in the agency’s ability to investigate and prevent fraud; and

WHEREAS, although the Miami-Dade County Office of the Inspector General (“OIG”) has a long-standing interagency agreement with the DHSMV, which previously included DAVID photograph access, the DHSMV revoked that access when renewing the interagency agreement in 2022 because local inspector general agencies are not entities enumerated in the exceptions of section 322.142(4), Florida Statutes; and

WHEREAS, the OIG is an independent agency of Miami-Dade County, established pursuant to the Home Rule Charter of Miami-Dade County; and

WHEREAS, Article 9, section 9.11 of the Home Rule Charter empowers the OIG to perform investigations, audits, reviews, and oversight of the County and County programs to detect waste, abuse, and mismanagement; and

WHEREAS, section 2-1076 of the Code of Miami-Dade County (the “Code”) specifies that the Inspector General has authority to “audit, investigate, monitor, oversee, inspect and review the operations, activities, and performance . . . [of] officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud”; and

WHEREAS, to carry out this function, section 2-1076(d)(3) of the Code empowers the OIG to “subpoena witnesses, administer oaths and require the production of records,” and section 2-1076(d)(7) of the Code mandates that “[w]here the Inspector General detects corruption or fraud, he or she shall notify the appropriate law enforcement agencies,” and thereafter “may assist the law enforcement agency in concluding the investigation”; and

WHEREAS, the OIG has regularly conducted joint investigations with federal law enforcement agencies, including the following:

- United States Attorney’s Office;

- Federal Bureau of Investigation;
- United States Secret Service;
- United States Postal Inspection Service;
- United States Postal Service, Office of Inspector General;
- United States Department of Veteran Affairs, Office of Inspector General;
- United States Department of Housing and Urban Development, Office of Inspector General;
- United States Department of Health and Human Services, Office of Inspector General;
- United States Department of Homeland Security;
- Internal Revenue Service, Criminal Investigation; and

WHEREAS, the OIG has regularly conducted joint investigations with state law enforcement agencies, including the following:

- Miami-Dade State Attorney's Office;
- Miami, Orlando, and Tampa Regional Offices of the Florida Department of Law Enforcement;
- Florida Attorney General's Office of Statewide Prosecution;
- Florida Attorney General's Medicaid Fraud Control Unit;
- State of Florida Financial Services, Division of Insurance Fraud;
- Florida Comptroller's Office, Criminal Investigations Division;
- Florida Department of Health, Office of Inspector General; and

WHEREAS, the OIG has regularly conducted joint investigations with local law enforcement agencies, including the following:

- Miami-Dade Police Department;
- City of Miami Police Department;
- City of Miami Beach Police Department; and

WHEREAS, the OIG's investigations have resulted in prosecutions by the U.S. Attorney's Office for the Southern District of Florida, the Office of Statewide Prosecution, the Miami-Dade State Attorney's Office, and the Broward County State Attorney's Office; and

WHEREAS, the OIG has presented investigations before the Miami-Dade Grand Jury, resulting in both reports and criminal indictments, as well as the Federal Grand Jury, resulting in a criminal indictment; and

WHEREAS, since 2000, the OIG's criminal investigations have resulted in the prosecutions of over 300 individuals and 14 corporations and, in most of these cases, the OIG investigators were either lead investigators, the arrest warrant affiant, or the principal witness before the grand jury; and

WHEREAS, in conducting the investigations discussed above, the OIG has relied on DAVID photographs to correctly identify potential witnesses, subjects, and potential security risks; and

WHEREAS, the OIG's newfound inability to access DAVID photographs directly impacts its investigative efforts, as access to DAVID photographs allows the OIG to perform its primary functions of gathering evidence, conducting investigations, and providing investigator safety; and

WHEREAS, accordingly, this Board wishes to urge the Florida Legislature to amend state law to permit local inspector general agencies, such as the OIG, access to DAVID photographs to further the agencies' investigative responsibilities and duties,

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 to allow the DHSMV to grant local inspector general agencies access to records of driver license photographs and signatures from the DAVID.

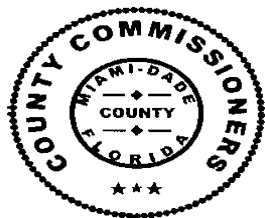
Section 2. Directs the Clerk of the Board to transmit certified copies of this resolution to the Governor, the Senate President, the House Speaker, the Chair and the Members of the Miami-Dade State Legislative Delegation, and the Executive Director of the DHSMV.

Section 3. Directs the County’s state lobbyists to advocate for the legislation described 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 **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Keon Hardemon** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of October, 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

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in dark ink, appearing to be "JO", written over a horizontal line.

Jose I. Ortega
Javier Zapata