

An aerial night photograph of a city skyline, likely Miami, showing numerous skyscrapers illuminated with various lights. The lights create a bokeh effect in the background. The text is overlaid in the lower center of the image.

**Miami Police Department
Independent Reviewer
Second Report
May 2017**

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Introduction

As a point of reference and refresher, the Department of Justice and the City of Miami entered into an Agreement on April 28, 2016 as a result of calls from various entities, including the City of Miami, to investigate a series of police involved shootings that occurred between the years of 2008 and 2011. Not only were the uses of force examined, the associated investigations and relationships with the community, Fraternal Order of Police, and the Office of the State Attorney were considered as well. The investigation resulted in the Agreement referenced above that mandates the Miami Police Department to satisfy clear and measurable requirements in a number of delineated areas within organization and out in the community. While the obligations are clear, the Miami Police Department retained the flexibility to design, develop and implement solutions appropriate for the community they serve. The overarching goal of this Agreement is to ensure “that police services continue to be delivered to the people of the City in a manner that fully complies with the Constitution and laws of the United States, effectively ensuring public and officer safety, and promotes public confidence in the MPD”.¹

As the Independent Reviewer, I am tasked with overseeing the successful implementation of the Agreement. As stipulated in the Agreement, compliance with a material requirement mandates that the City has: (a) incorporated the requirement into policy; (b) trained all relevant personnel as necessary to fulfill their responsibilities pursuant to the requirement; (c) verified that the requirement is being carried out in actual practice.

The agreement also requires the City to assemble a community board of consisting of Miami residents that will provide oversight and feedback on policies and practices pertaining to use of deadly force to the MPD and to the Independent Reviewer”.²

This report will contain progress made between January and May 2017 in the areas of Policy Review And Implementation, Specialized Units, Training and Community Oversight.

The Parties jointly selected me as the Independent Reviewer who will advise and oversee of this Agreement with the understanding that the MPD bears the burden of demonstrating compliance with the Agreement. The Independent Reviewer is tasked with conducting quantitative and qualitative audits and reviews to determine if the City/MPD has implemented

¹ City of Miami Legislation; Resolution R-16-0206 Agreement Between DOJ/City of Miami

² Agreement United States Department of Justice and City of Miami

and continues to meet the terms of the material requirements of this agreement. Compliance would be met when the City/MPD has: (a) incorporated the requirements into policy (b) trained all relevant personnel as necessary to fulfill their responsibilities pursuant to the requirement and (c) verified that the requirement is being carried out in actual practice.

Compliance Ratings

The agreement mandates that the Independent Monitor provide a report every four months outlining MPD’s compliance with Agreement requirements. The ratings below represent the current assessment of compliance and are included to provide MPD and the citizens of Miami with a clear and accurate summary of the progress to date, as well as areas that remain in need of attention and action.

The definition of each rating is as follows:

- Substantial Compliance – indicates that most or all components of a specific category or requirement have been satisfied.
- Partial Compliance – indicates that compliance has been achieved on some components of the requirements or category, but significant work remains or extended time is needed for audits.
- Non-Compliance – indicates that most components of a requirement or category have not been met.
- Compliance Rating Pending – indicates that there is insufficient information or additional time is needed for assessment in the specific area.

<u>Settlement Agreement Area</u>	<u>Status of Compliance</u>
II. POLICY REVIEW/IMPLEMENTATION	Partial Compliance
a. Revision and Development	Pending Compliance
b. Action Plan	Substantial Compliance
c. Training	Pending Compliance

III. OFFICER INVOLVED SHOOTINGS	Partial Compliance
a. Firearm Discharge Review	Partial Compliance
b. Administrative Investigations	Partial Compliance
c. Incident Tracking System	Pending Compliance
d. High Liability Board	Substantial Compliance
IV. SUPERVISION	Partial Compliance
a. Accountability	Partial Compliance
b. Tactical Operations Section	Partial Compliance
c. Span of Control	Partial Compliance
V. SPECIALIZED UNITS	Partial Compliance
a. Assignment Criteria	Partial Compliance
b. Documentation	Partial Compliance
c. Oversight	Partial Compliance
VI. TRAINING	Substantial Compliance
a. DOJ Training	Substantial Compliance
b. Firearms Training	Substantial Compliance
c. In Service Training	Substantial Compliance
VII. COMMUNITY OVERSIGHT	Partial Compliance
a. Create Community Advisory Board	Substantial Compliance
b. Facilitate Activities and Communication	Partial Compliance

Work Completed During Second Reporting Period

January-May 2017

Work completed by the Independent Reviewer includes the following:

- a. Continued regular contact with DOJ and personnel at the Miami Police Department.
- b. Built a relationship with Major Richard Perez, who has taken over the role of Compliance Coordinator.
- c. Completed a thorough review of all updated policies.
- d. Met with command staff, majors and above, including those newly promoted and/or transferred, to gain insight into their leadership and management philosophies.
- e. Completed a series of site visits.
- f. Attended a variety of training sessions, as well as reviewing lesson plans, test materials, practical exercises, instructor credentials, goals and outcomes.
- g. Met with members of the Civilian Investigative Panel and the Civilian Advisory Board, attended their meetings, reviewed committee structures, meeting agendas and reports.
- h. Interviewed Specialty Unit Commanders and observed specialized training.

The following site visits were completed during this review period;

December 4-9, 2016

December 12-13, 2016

January 23, 2017 (Release of First Independent Reviewers Report)

February 27- March 1, 2017

April 19, 2017

As time has progressed a solid working relationship has been developed between personnel at MPD, DOJ and myself. Members of the DOJ team have attended two site visits in Miami, interviewing commanders from various areas of the department and attending a Civilian Advisory Board meeting.

Major Richard Perez has been a great asset, providing all requested documentation without hesitation, answering all questions, organizing visits and making individuals available for interviews. He has also reorganized the Professional Compliance Section that he oversees.

Regular meetings and conversations are conducted with Assistant City Attorney George Wysong, lead legal advisor at MPD. He has been the main contact for the DOJ and Independent Reviewer throughout this process, as he is the individual who worked with DOJ on the investigation and crafting of the Agreement. As such he is the most knowledgeable about the process and requirements. In addition, he was tasked with creation and implementation of the Civilian Advisory Board. He attends all CAB meetings as a consistent representative of MPD. Mr. Wysong and his office remain responsive to questions, requests and contact.

The Miami Police Department continues to be open and transparent, projecting a willing desire to affect positive change within their organization and within the community that they serve.

As indicated this reporting period has been quite busy, with a great deal being accomplished.

Major Perez has reorganized the HLB since his assignment to the PCS, changing the format and increasing the level of participation by department personnel. In addition, each individual chapter of Departmental Orders is being reviewed regarding its logical relation to the organization and organized thematically. For example, all policies relation to the use of force and associated lethal and less lethal weapons are under the same chapter and reformatted to an outline configuration. The manner in which policies are reviewed was realigned as well, to include the DOJ Compliance Unit and CALEA.

This review period's site visits afforded me the opportunity to attend two sessions of the Policy Review Committee. The process is very thoughtful and thorough, albeit slow moving.

Agreement Progress to Date

In this section the progression, setbacks and observations will be discussed for six of the areas covered in the agreement

II. POLICY REVIEW AND IMPLEMENTATION:

MPD has endeavored to develop and implement policies on constitutional policing principles and best practices. Major Perez has assumed responsibility of the Policy Review Committee, enhancing the process to include the Assistant Chief's participation along with subject matter

experts, legal advisors, and PCS members. This change allows for a comprehensive understanding and involvement by a crosscut of organizational members. While this process is a welcome improvement, it has also slowed the process significantly. In the final analysis, solid policy should be worth a reasonable delay. Once policies are crafted they are reviewed and finalized by the PRC. The Chief of Police then reviews the approved draft policy. After the Chief's approval, they are sent to the Civilian Investigative Panel, Independent Reviewer and DOJ for awareness and input. The Independent Reviewer and DOJ both have ten days to respond with comment while the CIP has thirty days to provide comments to the Chief. At the conclusion of the CIP's thirty - day review period the policies are then returned to the PRC for publication and dissemination. The MPD policies and procedures are now posted on the departmental website.

To date, the following policies have been revised or authored; Professional Compliance Section, Training, Tactical Robbery Unit, Felony Apprehension Teams, Special Threat Response Unit, Homicide, Internal Affairs Section, DOJ Agreement and Standards, and Incident Tracking, Police Standards Certification and Decertification, Rules and Regulations, Military Leave, Investigative Funds, Cellular Telephone Usage, Grants Program Coordination and Administration, Uniforms, Equipment and Dress, Video Recording of Police Activity. In addition, procedures (SOP's) addressing Homicide, Internal Affairs, Training, and Tactical Operations Section were revised.

MPD is still actively reviewing, updating and re-writing policies and procedures in accordance with the upcoming reaccreditation through CALEA.

Training on the DOJ Agreement was conducted in May 2016. A copy of the sign-in sheet is attached as an addendum.³ MPD has indicated that roll call training has been conducted on all new policies. The process for tracking this training has not been reviewed, in addition revisions and designs in policies and procedures are on-going. It is understood that this training was conducted via roll call or MDT, requiring more time and effort to assess the effectiveness of the delivery and understanding and operationalizing of the content by officers.

II. OFFICER INVOLVED SHOOTINGS:

As indicated, MPD and FDLE entered into an agreement (MOU) that calls for FDLE to investigate all MPD officer involved shootings and in custody deaths. The MOU has been reviewed, as have forms and directives associated with FDLE involvement in these incidents. Since this process is relatively new and there have been very few officer involved shootings or in-custody deaths, it

³ See attached DOJ Agreement Sign In Sheet

is difficult to fully determine the over-arching effectiveness at this point.

An FDLE investigative report of the MPD officer involved shooting of Fritz Severe was reviewed and found to be thorough, comprehensive and concise. This FDLE driven initiative has the potential of dramatically streamlining MPD officer involved shooting investigations in the Miami-Dade area.

I attended two sessions of the High Liability Board. One case review dealt with a suicidal woman who was armed with a knife. Officers used an Electronic Control Device (ECD) to subdue and take her into custody for a Baker Act. The second HLB meeting reviewed a traffic stop that ended in a violent assault on the officers. In both instances the briefing books were painstakingly detailed, to include backgrounds on all personnel involved, photographs, an aerial map, reports, Communications recordings, along with applicable policy and procedures. Involved supervisors and commanders, dispatch, subject matter experts, Legal Advisor, Training and PCS Commanders, along with anyone else deemed appropriate attend the sessions. The event is dissected step by step to determine the effectiveness and appropriateness of each person's actions. The overarching mission of the HLB is to develop policies and training that will keep officers and citizens safe, while providing a detailed review of actions by all involved. These sessions are not fault finding or disciplinary, but rather an opportunity to review critical situations for lessons learned. Although invited, the involved officers have not attended to date, which may be attributed to the erroneous thought that the process may result in discipline. Follow up will be conducted to determine if lessons learned are actionized into appropriate changes.

A review of the Incident Tracking System is planned for the next evaluation period.

IV. SUPERVISION:

Supervisory responsibilities are spelled out in general and specific terms throughout written orders and policies. Initial background work has been accomplished, however the majority of effort to ensure this requirement is successfully accomplished lies ahead in observation of first line functionality.

As discussed, MPD has implemented the Staff Duty Officer process to ensure, among other things, that commanders stay in touch and up to date on the myriad of department functions and issues, but more importantly to provide oversight on any major occurrences or concerns. The "sole responsibility of the Staff Duty Officer is to act as the Chief's designee by providing

broad oversight to unusual or serious occurrences or emergencies involving the department unless he is relieved of that duty by the Division Chief or the Chief of Police".⁴ The creation of this position was not a mandate, but a positive endeavor to provide additional layers of supervision in high risk, large scale or use of force incidents.

I sat in on a department Comstat session which involved the entire command staff. Each commander provided an update on their area of responsibility, including crime, significant issues and incidents, community engagement efforts, and proposed approaches and solutions to the issues discussed.

As a point of reference, MPD does not have any patrol officers in plain clothes assignments.

Supervisory requirements are spelled out and strictly followed in the Tactical Operations Section. There are plans in place to address short and long term supervisory absences. SWAT also has three lieutenants assigned as direct team supervisors. One is lead, with the others in place as a form of succession planning. This is to ensure consistent supervisory and enforcement philosophy in team leadership.

Span of control reports for the TOS have been provided as required and satisfy the agreement.

V. SPECIALIZED UNITS:

A focus was also placed on the Tactical Operations Section as well this review period by attending search warrant briefings, training and scenario exercises. Investigative units had authored four high risk narcotics search warrants to be executed by the SWAT Team. The briefings were well organized and very informational. All necessary personnel were in attendance, including supervisors. Briefing sheets were provided and everyone was given an overview of the investigation and specific assignments in each warrant. Plans were well crafted with alternatives covered based on potential safety issues that may arise, affecting citizens and officers.

A regularly scheduled training session for the SWAT team involved specific scenarios that required team members to obtain pertinent information, analyze the situation and location, develop a plan and execute. The focus was on bringing each incident to a safe conclusion using minimal amount of force necessary, if any. The training was in a warehouse that allowed for the configuration of rooms, hallways, windows, etc, all of which added a level of reality. The

⁴ Office of the Chief of Police D.O. 01-06

exercises were designed to test team leader's skill, ability and knowledge. To promote best practices and lessons learned, a review or 'hot wash' of each scenario was conducted at the conclusion of individual exercises.

In addition, SWAT activity logs and statistics for a six- month period, as well as search warrants and after action reports were reviewed. All were acceptable for the topic covered.

K9 training was also observed and a discussion concerning the team philosophy, deployments, lead style, training reports, bite reports, etc. were generally discussed with the team leader.

VI. TRAINING:

A great deal of time and effort was spent on the topic and area of training during this evaluation period. The Training Section was able to meet a very robust timeline in getting all sworn MPD personnel through the training required as part of the Agreement. This was done in addition to recruit training, In Service and any training mandated by the state. The Training Section continues to be well organized, staffed with qualified instructors, and properly supervised, with an attention to detail.

The Miami Police Department has a unique training facility. The campus includes a Dade County Magnet High School with a focus on law, as well as the MPD's Training Facility, which is broken down into the Academy for new recruits, Specialty/In Service for sworn personnel and the International Academy which trains law enforcement from other countries. This training facility is replete with a live indoor firing range, state of the art gym, and a simulator.

Major Ferro still commands this area and provided an in-depth look into this unit. There is a lieutenant in charge of each of the three areas of training; Recruits, Specialty/ In Service and International. The majority of training is delivered through one of three tracks; classroom lecture, mobile computer and practical exercises. Some training may require a combination of these methods.

In response to Agreement requirements, members of the Training Section developed the Miami Agreement Training (MAT) and Miami Agreement Supervisors Training (MAST).

MAT consisted of four sessions that deal with Use of Force and De-escalation. The first segment was an in-depth three-hour course that covered Deadly Force, Use of Force and De-escalation. Topics include state law, department policy, legal guidelines, communication skills, physical presentation, response to resistance, observations and perception, guardian/warrior concepts

and alternatives to force. A second segment was titled Conflicts and Resolutions which consisted of a five-hour block of reality based training on a Meggitt simulator. During this training officers are put on a tread mill to elevate their heart rate to simulate a stressful situation. They are then escorted into a dark room and provided details of a call to which they will be responding. A video is then played that puts them in a real-life situation that they must respond to appropriately. There are several scenarios involving a variety of incidents calling for different responses, including de-escalation, split second decision making, as well as knowledge of legal and departmental policies. The third segment consisted of ten hours of practical scenario based training focusing on role play exercises that include, among others, domestic violence, felony vehicle stops and dealing with the mentally ill. This training is also focused on Use of Force and De-escalation. Finally, there was six hours of firearms training, which includes the state mandated FDLE firearm qualification course, as well as scenario based training predicated on Agreement requirements.

Follow-up will be needed to determine compliance with any judicial updates.

All elements of the firearm training requirement have been observed and found to be adequate. Stress, de-escalation, use of force decision making, knowledge of law and policy, threat assessment, safety are all woven throughout the instruction, live fire and practical scenario training.

The Miami Agreement Supervisor Training (MAST) was broken down into three segments. There is a ten-hour refresher course on the Incident Command System, which is a process used to provide stability, structure and oversight in large scale or dynamic incidents. In other words, it is a standardized approach to command, control and coordination to all hazards events. MPD is to be commended for providing this training as few law enforcement agencies, I have come into contact with, continue to train or follow the ICS model. In doing so, MPD is prepared to deal more effectively with the unexpected. The second segment of MAST is a six- hour course that focuses on Human Diversity, Domestic Violence, Juvenile Sex Offenders and Profiling/Professional Traffic Stops. Woven into this training are discussions about procedural justice, communication skills, de-escalation, ethical behavior, issues of misconduct, understanding profiling and perceived issues within minority communities concerning policing. Lastly, an eighteen-hour course titled Supervisors Role In Critical Firearms Discharge. This training incorporates ethical management, community engagement, employee development and scene investigation into the role of a supervisor as a leader. Students are instructed, not only on how to investigate officer misconduct and complaints, use of force and crime scene management, but in how to prevent incidents from occurring through oversight and employee

development.

I attended and observed most of the MAT and MAST training outlined above. In addition, I spoke with a few of the training attendees. The supervisors understood the department philosophy and their responsibilities as leaders. Most personnel seemed to absorb the presentations and practical exercises, and agreed the training was organized, informative and delivered in a way that was very engaging.

Although MPD has indicated that all sworn personnel have received the appropriate level of training required by the agreement, I have not had the opportunity to audit all training rosters.⁵

When speaking with some of the supervisors participating in the MAST a few student comments struck me as significant. One sergeant advised that in the past there was a belief that you were not a “real cop” unless you had been involved in a shooting. The sergeant felt that Chief Timoney had changed that mind set and culture to one of service and protection of the community. Another supervisor felt that training had changed dramatically in recent years, with officers being trained in a service model from the academy on up. A lunch time conversation with some of the supervisors centered on the importance of leadership, de-escalation and community relations, as everyone understood the significant part they played in the success of MPD’s mission.

One supervisor expressed a fear that there would be a departmental “back slide” against the progress achieved, as a significant number of staff members were slated to retire in the near future and they feared there would be a void in adequate leadership.

Overall, Training has done a stellar job in designing instruction that is relevant, thoughtful and delivered in ways that intertwine the principles and policies of the MPD along with the philosophy of rightful policing. Although MPD was mandated to a degree, other agencies would do well to follow their model.

VII. COMMUNITY OVERSIGHT:

As required by the Agreement, MPD created a Citizen’s Advisory Board. There are thirteen members of the CAB and they meet on the third Monday of each month. All meetings are public and held in easily accessed locations in alternating districts throughout the city. Agendas are

⁵ See MAST Staff Training Roster

printed ahead of time and made available at the meetings.⁶ Mr. Wysong is the mainstay MPD representative and is the main contact for the CAB, other members of the MPD attend as needed and when available. I have found attendance by CAB members to be high, while the presence of citizens very low during the two meetings that I attended.

The CAB is broken down into four committees, with a member of the board heading each; Training, Policy, and Procedures - Chair Justin Pinn, Community Policing - Chair Lorena Ramos, Community Outreach - Chair Agatha Caraballo, Compliance and Implementation - Chair Barbara Ibarra. In a meeting with the Board Chair Evian White a number of issues of concern arose. There was a great deal of frustration surrounding the level of clerical support, timely response to public records requests, scheduling delays, and general communication issues.

Evian White was selected as the CAB chair. I met with her for an extended period of time to discuss board structure, functions, vision and any issues or obstacle. She felt that the CAB was not receiving the appropriate clerical support that had been mandated by the agreement and supplied several examples to underscore her point. She was confident the board understood its purpose and mandates.

Ms. White stepped down from the chair position based on work commitments and Mr. Justin Pinn has taken over those duties.

Although MPD has satisfied the requirement of constructing a CAB, it is still a work in progress. There are no acclaimed guidelines for these advisory boards. This, in consideration with the unique needs of each community, is the reason MPD's CAB is still carving the course that will provide the highest functionality and benefit for their city.

The Community Advisory Board has authored their first report and it has been distributed, it will also be posted on MPD's website.⁷ There are several ideas on how the CAB and MPD can work more closely, as well as increasing citizen attendance at regularly held meetings. These ideas will be discussed with the MPD and the CAB in the near future.

⁶ See Agenda Exemplar

⁷ See CAB First Report in Appendix

Conclusion

MPD continues to be open, transparent and accommodating, fully understanding the significance and obligations of the Agreement. All staff members that I have encountered are committed to improvements that will allow them to better serve their community. In addition, the MPD appears fully engaged and committed to the successful implementation of the Agreement.

Next steps in the assessment process will include a continued focus on Policy Review and Implementation, along with Specialty Units. An audit will be completed on Training records and issues affecting the performance of the CAB will be addressed. In addition, a more in-depth examination of the Internal Affairs Bureau processes and procedures will be undertaken.

COMMUNITY ADVISORY BOARD

Agenda

Meeting: January 23, 2017

Location: José Martí Park, 351 SW 4 Street, Miami, FL 33130

Time: 6:00 p.m. – 8:00 p.m.

- I. Pledge of allegiance
- II. Roll call
- III. Opening comments
 - a. Welcome (and reminder to sign-in)
 - b. Introductions
 - i. Interpreters
 - ii. CAB members
 - iii. Police department
 - iv. Members of the public
- IV. Open forum for the public
- V. Minutes
 - a. Outstanding minutes: November 14, 2016, and December 12, 2016.
 - i. Last update from the City of Miami is that those minutes are not ready and there is not an estimate of when they will be ready.
- VI. Discussion items
 - a. Old business
 - i. Independent Reviewer
 - 1. According to Paragraph 67 of the Settlement Agreement, the first report was due four months after the effective date (April 28, 2016), which would have been August 28, 2016. Subsequent reports due every six months after that (February 28, 2017; August 28, 2017; April 28, 2018...).
 - 2. Jane Castor reported that the first report is coming out this month.
 - ii. Update on public records requests.
 - iii. Reauthorizing the CAB.
 - 1. Resolution R-16-0206, Section 8, requires that the CAB will sunset 364 days after its creation and every year after that unless a majority vote of the City of Miami Commission extends it in 364-day increments. Deadline: April 27, 2017.
 - 2. Commissioner Ken Russell's office is working on legislation to be presented at the March or April of 2016 City Commission meeting.
 - iv. Documentation that Chief Llanes referred to at the meeting on November 14, 2016.
 - v. Attendance at subcommittee meetings.
 - 1. See Ordinance 2-885, 2-886. Discuss telephonic appearances.
 - b. New business.
 - i. City Commission meetings. Suggestion that a Board Member from the CAB attends each month.

- ii. First CAB report and recommendations.
 - 1. Set deadline for draft and finalized first report. Contents.
- iii. Meeting locations for April through July of 2017.
- iv. Subcommittee reports.
 - 1. Training, Policy, and Procedures (59.a.).
 - a. Members: Rahel Weldeyesus, Andre Joyce, Justin Pinn (Chair), Camilo Mejia, Ian Ward, Maithe Gonzalez.
 - 2. Community Policing (59.b.).
 - a. Members: Cecilia Stewart, Lorena Ramos (Chair), Maithe Gonzalez, Ian Ward, Rahel Weldeyesus.
 - 3. Community Outreach and Education (59.c.).
 - a. Members: Cecilia Stewart, Evian White, Agatha Caraballo (Chair), Camilo Mejia.
 - 4. Compliance and Implementation (59.d.).
 - a. Members: Andre Joyce, Barbara (Bobbie) Ibarra (Chair), Justin Pinn, Andrew Kemp-Gerstel.
- c. Open forum for the Board.

VII. City of Miami updates

- a. Website: what is needed to do this, and estimate on time frame.
- b. Minutes: update on when these will be completed.
- c. Administrative assistance: update on when the City of Miami will resume working on CAB issues. As of January 3, 2017, the City of Miami suspended its work on the CAB. On January 4, 2017, the City of Miami suggested foregoing January's subcommittee meetings. Pursuant to Paragraph 63 of the Settlement Agreement, the City of Miami is supposed to provide the CAB "with reasonable administrative support, including meeting space."
- d. Subcommittee meetings: update on when they will be scheduled for subsequent months.

VIII. Future meetings

- a. Future meeting locations
 - i. February 13, 2017: District 5, Florida New Majority. 8330 Biscayne Boulevard, Miami, FL 33138.
 - ii. March 20, 2017: District 1, Curtis Park. 1901 NW 24 Avenue, Miami, FL 33125.
 - iii. April 17, 2017: District 2 (TBD)
 - iv. May 15, 2017: District 4 (TBD)
 - v. June 19, 2017: District 3 (TBD)
 - vi. July 17, 2017: District 2 (TBD)

IX. Closing remarks



Chief's Staff Meeting DOJ Agreement Training



SIGN-IN SHEET - PLEASE PRINT

DATE: 5/11/16

RANK	NAME	SECTION	UNIT	Signature
✓ 1	CRADY. ERVENS FORD	FOD	LITTLE HAVEN	[Signature]
✓ 2	CRADY Debbie Mills	FOD	Model City	[Signature]
✓ 3	CRADY Manuel Morales	FOD	C. Grace	CRADY [Signature]
✓ 4	CRADY Ricardo Perez	FOD	Argon	[Signature]
✓ 5	CRADY JESUS IBARRA	FOD	LITTLE HAVEN	[Signature]
✓ 6	CRADY ANTONIO DIAZ	FOD	BRICKELL-ROADS	[Signature]
✓ 7	CRADY JOSE PEREZ	FOD	SDSS	[Signature]
✓ 8	CRADY ARMANDO AVILA	FOD	SDSS - CW	[Signature]
✓ 9	MAJOR RAMON MARTINEZ	PCS		[Signature]
✓ 10	MAJOR ALBERTO ALBERTO	FOD	SOS	[Signature]
✓ 11	MAJOR DANILO SANDOZ	IAS	IA	[Signature]
✓ 12	MAJOR DENNIS M. JACKSON II	FOD	North District	[Signature]
✓ 13	CHIEF JOSE GOMEZ	ADM		[Signature]
✓ 14	CHIEF JOSE COLINA	FOD		[Signature]
✓ 15	CHIEF ANITA M. NASH	CID	STAFF	[Signature]
✓ 16	MAJOR ESTHER FARMER	FOD	CENTRAL DISTRICT	[Signature]
✓ 17	MAJOR KEITH CUNNINGHAM	ADM	SIS	[Signature]
✓ 18	MAJ JAMES A. MANSOUR	SIS	SIS	[Signature]
✓ 19	COMD. DOMINGO BLANCO	CRS	CRS	[Signature]
✓ 20	COMDR JOSE ALFONSO	FOD	Downtown	[Signature]
✓ 21	COMDR FRANK M. MARTINEZ	FOD	Upper Eastside	[Signature]
✓ 22	COMDR RON LABERGE	FOD	ALLAHAMM	[Signature]
✓ 23	COMDR DUNE CARR	FOD	Downtown	[Signature]
✓ 24	IE/ISSI Eunice Lopez	office of COP		[Signature]
✓ 25	IE/A Umset Barnes	COP	COP	[Signature]
✓ 26	Cap RODOLFO LLANES	Cap	Cap	[Signature]
✓	Maj Ronald P. PIER	PAMS		[Signature]

MEMORANDUM

TO: City of Miami Police Department

CC: United States Department of Justice Jane Castor, Independent Reviewer

Mayor Tomas P. Regalado, Commissioner Wifredo (Willy) Gort, Commissioner Ken Russell, Vice Chair Commissioner Frank Carollo, Commissioner Francis Suarez
Commissioner Keon Hardemon, Chair Daniel J. Alfonso, City Manager

FROM: Community Advisory Board **DATE:** March 21, 2017

First Report

RE: I. BACKGROUND

On November 17, 2011, the United States Department of Justice (“DOJ”) initiated an investigation of the City of Miami Police Department’s (“MPD”) use of deadly force by police officers. (City of Miami Resolution No. R-16-02026, Final Action Date: April 28, 2016, p. 1). The DOJ and the City of Miami (“City”) negotiated an agreement to avoid federal court litigation. (*Id.*; Agreement between the United States Department of Justice and the City of Miami regarding the City of Miami Police Department executed on March 10, 2016 (“Settlement Agreement”).

Section VII of the Settlement Agreement, “Community Oversight,” required the City to convene and support a community board of civilian City residents “to address policing concerns and promote greater transparency and public understanding of the MPD.” (Settlement Agreement, Section VII, ¶ 59-65.)

Specifically, the Community Advisory Board (“CAB”) is authorized to:

- a. (a) Advise the Chief, majors, and commanders on strategies and training to improve community relations and MDP responsiveness to community concerns;
- b. (b) Work with the Chief, majors, and commanders to establish and carry out public safety priorities;
- c. (c) Provide the community with information on the Settlement Agreement and its implementation; and,
- d. (d) Receive and convey to MPD and DOJ public comments and concerns in

addition to MPD’s civilian complaint system.

Settlement Agreement, Section VII, ¶ 59. 1

In accordance with its responsibilities under the Settlement Agreement, this is CAB’s First Report. The CAB will address its progress and achievements, in general and with respect to the Subcommittees, and it will address the CAB’s goals in the future.

II. PROGRESS AND ACHIEVEMENTS A. GENERALLY

1. MEETINGS

The CAB held its first meeting on August 17, 2016. Since then, the CAB has held monthly meetings and scheduled meeting dates for the upcoming year. These meetings are strategically held in the different Districts throughout the City. The City ensures that we have Spanish and Haitian Creole interpreters at each meeting. This is the schedule of meeting dates and places:

Date	Location
August 17, 2016	District 1 – City Hall 3500 Pan American Drive, Miami, FL 33133
September 19, 2016	District 1 – City Hall 3500 Pan American Drive, Miami, FL 33133
October 17, 2016	District 1 – City Hall 3500 Pan American Drive, Miami, FL 33133
November 14, 2016	District 5 – Charles Hadley Park 1350 NW 50 Street, Miami, FL 33142
December 12, 2016	District 4 – Shenandoah Park 1800 SW 21 Avenue, Miami, FL 33145

January 23, 2017	District 3 – Jose Martí Park 351 SW 4 Street, Miami FL 33144
February 13, 2017	District 5 – New Florida Majority 8330 Biscayne Boulevard, Miami, FL 33138
March 20, 2017	District 1 – Curtis Park 1901 NW 24 Avenue, Miami, FL 33125
April 17, 2017	District 5 – Little Haiti Soccer Park 6301 NE 2 Avenue, Miami, FL 33138
May 15, 2017	District 4 – TBD (City of Miami is scheduling)
June 19, 2017	District 3 – TBD (City of Miami is scheduling)
July 17, 2017	District 5 – Miami Workers Center (Julia Dawson, a member of the community who has been very involved with the CAB, is scheduling).

2. SUBCOMMITTEES

Shortly after forming, the CAB recognized that to be effective, it would have to create Subcommittees. The purpose of each Subcommittee is in line with Paragraphs 59(a)-(d) of Section VII of the Settlement Agreement. Each month, the Subcommittees meet once in addition to the general meetings. Their reports are contained later in this First Report.

3. SUCCESSES a. GENERALLY

In the short time that the CAB has been in existence, it has laid the foundation and structure for its current and future successes. In general, the CAB's former Chairperson, Ms. White, opened lines of communication and facilitated constructive dialogue with the City, the MPD, Jane Castor (the Independent

Reviewer), the DOJ, local activists, stakeholders, the co-facilitators, and members of the Community. At each meeting, the MPD sends, at the very least, the local district commander. The CAB appreciates this support. Due to an unforeseen career change, Ms. White resigned as Chairperson, but is still a Board Member. At the Board Meeting on February 13, 2017, the CAB elected Mr. Pinn as the new Chairperson. The Vice Chairperson is still Ms. Ibarra.

a. GOVERNMENT PARTICIPATION

At each CAB meeting, there are at least two MPD representatives (usually the district commander, and sometimes Chief Rodolfo Llanes). Malissa Treviño and Milton Vickers represent the City. George Wysong is the City Attorney; and, in part, his duties include representing the MPD. Commissioner Francis Suarez attended the meeting on December 12, 2016. Leah Weston from Commissioner Ken Russell's office has attended several meetings. The CAB is satisfied with the attendance from the various areas of government, except for the reservations otherwise expressed in this First Report.

b. COMMUNITY PARTICIPATION AND FEEDBACK

The CAB has heartily encouraged community participation and feedback. The agendas are intentionally structured so that the public can comment and ask questions at the beginning of the meeting so that they do not have to wait until after the CAB has completed routine business. Often, the CAB has happily tabled routine housekeeping matters when the community participation dominates the meetings.

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2	November 14, 2016	Chris Manson	The community fears the police. He is very concerned about the mindset of young people. Need more outreach, de-escalation techniques. He wants to see drug testing for the officers to carry AK-15s.
3	November 14, 2016	Samir Odill	Concerned about how to close the trust gap. If the police and community do not know each other, how can they trust each other?
4	November 14, 2016	Jeanne Baker	Expressed frustrations with MPD Internal Affairs. Supporter of Citizens Investigative Panel ("CIP").
5	November 14, 2016	Ms. Stewart	Expressed frustrations with MPD Internal Affairs.
6	December 12, 2016	Daniel Suarez	Mr. Suarez is a member of the CIP. He expressed great concern about the partiality and effectiveness MPD Internal Affairs and Mr. Wysong.
7	January 23, 2017	Leroy Jones	Regarding the policy where a MPD officer may voluntarily carry AK-15, Mr. Jones suggested that the officer voluntarily submit him or herself to psychological tests. This addresses MPD's concern that the union will not allow mandatory psychological testing.
8	January 23, 2017	Elisa	Elisa mentioned that there are significant mental health issues in our community, and that police officers are first responders.

9	February 13, 2017	Cortes Maria Lewis	Ms. Lewis is a GAL. She would like to see that the MPD is calling DCF each time that they are called out for domestic violence, regardless of whether the child is home. She has seen a pattern of domestic violence cases that have not been reported to DCF when there is a child in the household.
10	February 13, 2017	Samuel Latimore	Mr. Latimore is retired from the police force. He was heavily involved with training officers. While he is generally very supportive of the police, Mr. Latimore shared a troubling experience about one year ago. One day, Mr. Latimore approached a Haitian man on the street. He was hurt, and Mr. Latimore wanted to see if he was okay. Police told Mr. Latimore to go down the street. Mr. Latimore did so, but the police came back and arrested him after throwing him on the hood of a car. Mr. Latimore suggested that the police work with those officers who see citizens' rights as less than what they are, and support the good officers.

The following is a sampling of community participation and feedback. It should be noted that these recollections are from the CAB's notes and memory. At the meeting on February 13, 2017, the CAB asked the City for the recordings of the meetings to verify the accuracy of this information, but it has not yet received the same. At the meeting on March 20, 2017, Ms. Treviño advised the CAB that she sent the recordings to two Board Members; however, there are problems with some of the recordings. For the September 19, 2016, meeting, Ms. Ramos cannot open the file. For the October 17, 2016, Ms. Treviño did not record it at all. Another one of the recordings is inaudible.

#	Meeting Date	Name	Comments & Recommendations
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1	November 14, 2016	Leroy Jones	Very concerned about purchase of AK-15 assault rifles for “neighborhoods like this” because people who get hit are not usually the intended target. Police are using fear to police the community.
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#	Meeting Date	Name	Comments & Recommendations
11	March 20, 2017	Sharon Frazier	She lives in Section 8 in the eastern part of Little Haiti. About two weeks ago, a young man and his sister got into an argument because the lights were off in their home. The police were called. When the police got there, they told the young man and his sister that “somebody is going to jail.” Ms. Frazier said she told the police not to tell the young man and his sister that they are going to jail – give them resources instead. She carries “resource bag” to give to people that she meets. She wants to see the community unified. She would also like to see a meeting at Arthur Teele Park in District 5.

4. CHALLENGES a. INDEPENDENT REVIEWER

Jane Castor is the Independent Reviewer. She was the former Tampa Police Department Chief of Police. This is the first time that Ms. Castor has served in the role of an Independent Reviewer. Under the terms of the Settlement Agreement, Ms. Castor is to conduct her independent reviews of the MDP through March 15, 2020, unless terminated sooner. (Settlement Agreement, Section XI, ¶ 92, p. 20).

Ms. Castor has not been timely in submitting reports. Within thirty days of the execution of the Settlement Agreement, i.e. April 30, 2016, Ms. Castor was to “develop individual plans and a methodology for conducting the compliance reviews and audits...” (Settlement Agreement, Section IX.B., ¶ 76, p. 16). This was not done.

Ms. Castor is also supposed to issue reports every four months. (Settlement Agreement, Section IX.C., ¶ 79-81, p. 17). The Settlement Agreement was executed on March 10, 2016. (Settlement Agreement, p. 21). Ms. Castor should have issued her initial report by July of 2016. This was not done either. The CAB was told that this was due to prolonged negotiations over the insurance provisions of Ms. Castor's contract.

The draft of Ms. Castor's initial report was the main topic of discussion at the CAB meeting on December 12, 2016. The Settlement Agreement provides that Ms. Castor "...shall provide a copy of the reports to the Parties in draft form at least ten business days prior to the public release of the reports to allow the Parties to informally comment on the reports." (Settlement Agreement, Section IX.C., ¶ 80, p. 17). Both the City and the DOJ had the opportunity to review, comment, and make suggestions to Ms. Castor before her initial report was released. As such, the draft is public record. On December 14, 2016, the CAB submitted a public records request for the draft. To date, the City has not responded to this public records request. It is important to the CAB to compare Ms. Castor's draft of the initial report with what was finally released to see whether anything of substance was changed after the City's feedback.

Ms. Castor sent a version of the draft of the initial report to the CAB on January 20, 2017. While Ms. Castor's initial report was issued soon thereafter, to the CAB's knowledge, the first report was not "...posted to MPD's public website within five days of completion," if at all. This is required under the terms of the Settlement Agreement (Section IX.C., ¶ 81, p. 17).

On March 16, 2017, Ms. White followed up with Ms. Castor about when she would be issuing her next report. That inquiry remains unanswered. According to the terms of the Settlement Agreement, Ms. Castor's second report is due in mid-May of 2017.

b. SUPPORT FROM THE CITY

The Settlement Agreement states that the "City will provide the community board with reasonable administrative support, including meeting space." (Settlement Agreement, Section VII, ¶ 63, p. 13). The City's compliance with this part of the Settlement Agreement has been dismal, at best.

The City appointed Ms. Treviño as the board liaison and Mr. Wysong as the attorney. Ms. Treviño is overwhelmed with other projects in her department, and the CAB has consistently suffered because of that. It took until March 14, 2017, for the City to complete the minutes from the meetings from November 14, 2016, to the present. At one point, Ms. Treviño advised the CAB that: "...I have been asked to momentarily suspend my work on the CAB to complete numerous projects in my office. I kindly ask that you all please be patient as I will resume once these tasks are complete..." (E-mail from Ms. Treviño dated January 4, 2017). The City's work on the CAB did not resume for about a month.

This had a crippling effect on the CAB. Without administrative support from the City, not only is the City out of compliance with the Settlement Agreement, but the CAB cannot schedule meetings, meet, or work on anything related to the CAB without violating the Sunshine Law.

Next, Mr. Wysong is the City attorney for the MPD. At best, there is a perceived conflict because Mr. Wysong's client is the MPD. The CAB's role is foreseeably at odds with that. One minor example of how this may be troubling is that the City, including Mr. Wysong and Ms. Treviño, wrongly required to the CAB to issue an annual report at the beginning of 2017. This was the subject of discussion at both the January 23, 2017, and February 13, 2017, CAB meetings. However, the CAB is specifically exempted from this requirement. After pushback from community activist, Ms. Dawson, and the CAB, Mr. Wysong agreed that the CAB is exempted from this requirement. This not only leads the CAB to question the allegiances of the City, but it wastes precious time that the CAB could be dedicating to fulfilling its role. At the meeting on March 20, 2017, Ms. Ramos and others present expressed related concerns.

Lastly, "within four months from the Effective Date, and every six months thereafter until this [Settlement] Agreement is terminated, the City will provide to DOJ...a self-assessment Compliance Report..." Settlement Agreement, Section VIII.B., ¶ 67, p. 13). The next one should be due in mid-May of 2017. To facilitate better communication with the CAB, the City should continue to proactively forward all relevant reports and documents, including its self-assessment Compliance Reports, to the CAB.

5. OUSTANDING ISSUES a. RENEWING THE CAB

Ms. White worked with Julia Dawson, an activist in the community, and Leah Weston at Commissioner Ken Russell's office to sponsor legislation to renew the CAB before it sunsets. This must be done every 364 days throughout the duration of the Settlement Agreement. The proposed resolution renewing the CAB will be presented to the City Commission on March 23, 2017.

b. OUSTANDING REQUESTS TO THE CITY FOR SUPPORT

Again, the City has the obligation to provide the CAB with reasonable administrative support. (Settlement Agreement, Section VII, ¶ 63, p. 13). Despite several requests and follow up, the following items are still outstanding from the City:

- a. **Copies of the sign-in sheets from the meetings.** The CAB wants to add the individuals who have attended the meetings to the mailing list.
- b. **Website.** The CAB should be added as an organization to the City's website at: <http://www.miamigov.com/home/organizations.html>. The CAB has requested this from the beginning of its existence.
- c. **Scheduling meetings.** The CAB needs the meeting times and locations confirmed for the CAB at large and its Subcommittees through and including July of 2017.
- d. **Public records.** Ms. White previously requested several public records The City provided those. Ms. White sent the compiled public records to the City for distribution to the CAB at large (to comply with Sunshine Law), but the City has yet to distribute these to the CAB.
- e. **Draft of Ms. Castor's initial report.** This public records request from December 14, 2016, remains outstanding.
- f. **Recordings.** The CAB has requested the audio recordings of all the CAB meetings and Subcommittee meetings. In part, this was to accurately complete this First Report. The CAB still needs those audio recordings.
- g. **Chief Rodolfo Llanes should attend every CAB meeting.** The public and the

CAB have greatly benefited from Chief Llanes' attendance at two different meetings – November 14, 2016, and January 23, 2017. It is crucial that Chief Llanes continue attending the CAB meetings to foster trust and dialogue with the community and the CAB.

B. SUBCOMMITTEES

1. SECTION 59(a): TRAINING, POLICY, AND PROCEDURES (advising the Chief, majors, and commanders on strategies and

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[Pending]

training to improve community relations and MDP responsiveness to community concerns).

A. PROGRESS

B. CHALLENGES

C. LOOKING FORWARD

a. SECTION 59(b): COMMUNITY POLICING (working with the Chief, majors, and commanders to establish and carry out public safety priorities).

PROGRESS

CHALLENGES

LOOKING FORWARD

b. SECTION 59(c): COMMUNITY OUTREACH AND EDUCATION (providing the community with information on the Settlement Agreement and its implementation).

a. PROGRESS

[Pending]

[Pending]

Ms. Stewart was the key to getting stellar participation and input from the community at the November 14, 2016, meeting held at Charles Hadley Park. On very short notice, she distributed flyers and got substantial turnout for the meeting.

Since then, Ms. Caraballo and Mr. Mejia designed a flyer template to use for future meetings. Ms. White had it translated into Haitian Creole and Mr. Mejia had it translated into Spanish.

Ms. White compiled an Excel spreadsheet of the individuals and organizations who are interested in the CAB, along with their e-mails. The City will distribute that to the CAB. Ms. White also set up a MailChimp account (community.advisory.board.miami@gmail.com) to facilitate distribution

of meeting flyers and agendas via e-mail, Facebook, and Twitter before each meeting. Ms. Caraballo is creating EventBrite pages for the CAB meetings.

b. CHALLENGES

The City is supposed to provide the CAB with reasonable administrative support. (Settlement Agreement, Section VII, ¶ 63, p. 13). While the City regularly provides translation services, the CAB has not received the benefit of those for its flyers. The CAB was told that its request to translate a simple flyer would be put in line with the other translation requests for the City, and no completion date could be estimated. Unwilling to wait for an undetermined amount of time, the Subcommittee members got the flyer translated with in-kind services.

c. LOOKING FORWARD

The CAB should have its own social media accounts, including but not limited to Facebook, Twitter, and Instagram. One of the members of this Subcommittee should be appointed to manage those accounts (so that the CAB social media accounts are not used or perceived to being used in violation of the Sunshine Law). The City communications department should work with the CAB. This falls within the scope of reasonable administrative support. (Settlement Agreement, Section VII, ¶ 63, p. 13).

[Pending]

4. SECTION 59(d): COMPLIANCE AND IMPLEMENTATION (receiving and conveying to MPD and DOJ public comments and concerns in addition to MPD’s civilian complaint system).

a. PROGRESS

b. CHALLENGES

c. LOOKING FORWARD

III. LOOKING FORWARD

The CAB looks forward to continuing its work under the Settlement Agreement. However, without the basic, fundamental support from the City that is required under the Settlement Agreement, the CAB cannot properly carry out its charges. (Settlement Agreement, Section VII, ¶ 63, p. 13). The CAB remains hopeful that the City will provide that reasonable administrative support for the remainder of the time left under the Settlement Agreement.

Lastly, the City must post this report and recommendations to the MPD website, and “MPD will consider and respond to the community board’s recommendations in a timely matter.” (Settlement Agreement, Section VII, ¶ 62). The CAB looks forward to that timely response.

BY:

Community Advisory Board Members Justin Pinn, Chair Barbara “Bobbie” Ibarra,
Vice-Chair Agatha Caraballo

Jennifer Garcia Maithe Gonzalez Andre Joyce Andrew Kemp-Gerstel Camilo Mejia

Lorena Ramos Cecilia Stewart Ian Ward Rahel Weldeyesus Evian White