




**TO:** City Manager Daniel J. Alfonso

**FROM:** Horacio Stuart Aguirre, Chair, Civilian Investigative Panel 

**RE:** Annual Report – Fiscal Year 2016-2017

**DATE:** December 19, 2017

**CC:** Mayor Francis Suarez, Commissioner Willy Gort, Commissioner Ken Russell, Commissioner Joe Carollo, Commissioner Manolo Reyes, Commissioner Keon Hardemon

## FISCAL YEAR 2016-2017 ANNUAL REPORT

### INTRODUCTION

The City of Miami Civilian Investigative Panel (“CIP”) is required, pursuant to Section 2-890 and 11.5-37 of the Code of the City of Miami to submit an annual report to the Mayor, City Commission, City Manager, and Chief of Police, regarding whether the CIP is serving the purpose for which it was created; whether the CIP is serving current community needs; the CIP’s major accomplishments; whether any other public or private board would better serve the function of the CIP; whether the ordinance creating the CIP should be amended to better enable the CIP to serve the purpose for which it was created; whether the CIP’s membership requirements should be modified; and, the direct and indirect cost of maintaining the CIP. This annual report complies with the legislative mandates and provides information regarding the activities and progress of the CIP.

### BACKGROUND

In November 2001, a referendum was held to determine whether the City Charter should be amended to establish the legal framework for creating independent civilian oversight over the sworn members of the City of Miami Police Department. The referendum was supported by 73 percent of the electorate, thus giving rise to Section 51 of the City of Miami Charter. The CIP was subsequently created in February 2001 by the City Commission, enacting City of Miami Code, Art. II, §11.5 (2002) (hereinafter, the “Enabling Ordinance”). The CIP’s primary mission is to exercise “independent civilian oversight of the sworn police department.”

Again, in November 2016, a voter referendum approved the Civilian Investigative Panel’s right to hire and fire an executive director and independent counsel, as well as confirming its ability to investigate and review

policies and practices of the Miami Police Department. The referendum was supported by 78% of the voters. Ordinance revisions were enacted by the City Commission in order to clarify the authorities and organization of the Civilian Investigative Panel on June 8, 2017.

The enabling ordinance empowers and obligates the CIP to do the following:

- (1) Act as independent civilian oversight of the sworn officers of the City police department;
- (2) Exercise its powers so as to not interfere with any pending or potential criminal investigations or prosecutions and conduct its activities consistent with applicable law, including but not limited to the Florida Government in the Sunshine Law and with applicable labor contracts;
- (3) Engage the services of trained investigators and secure adequate training for its panel members, including training in police policies and practices;
- (4) Conduct investigations, inquiries, audits, and public hearings to make factual determinations, facilitate resolutions, and propose recommendations as to disposition of other outcome to the police chief, City Manager, or, where appropriate, other City officials regarding
  - (a) Allegations of misconduct by officers of the City Police Department;
  - (b) Incidents of uses of force by officers of the City Police Department resulting in death or great bodily harm to a person, with the mandatory duty to automatically investigate police shootings or other uses of force resulting in the death of a person;
  - (c) Incidents, events, or systemic problems involving officers of the City Police Department that affect the community.
- (5) Promote community understanding and utilization of the process by which complaints are submitted and reviewed or investigated by the CIP and/or the City Police Department;
- (6) Forward complaints alleging criminal activity to the City police department;
- (7) Request issuance of subpoenas after consultation with the State Attorney of the Eleventh Judicial Circuit in and for Miami-Dade County for the purpose of obtaining evidence with witnesses and production of books, papers, and other evidence, which subpoenas shall be signed, served, and enforced pursuant to applicable law, provided that no immunity be conferred by the CIP, and further, that no actions of the CIP may interfere with any pending or potential criminal investigation or prosecution;
- (8) Make written recommendations to the Police Chief as to current and proposed City Police Department policies, procedures, and practices concerning but not limited to training, recruitment, and disciplinary procedures;
- (9) Issue reports, requests, and recommendations to the Mayor, City Commission, City Attorney, City Manager, Police Chief, and the public concerning any matter within the CIP's authority;
- (10) Establish, in collaboration with the Executive Director, written rules and standard operating procedures for internal governance and standards for training for CIP members and staff; and
- (11) Evaluate the performance of the Executive Director and of the Independent Counsel annually pursuant to written criteria established by the CIP.

#### **IS THE CIP SERVING THE PURPOSE FOR WHICH IT WAS CREATED?**

The CIP was created to provide oversight of the police and to improve accountability and transparency concerning the provision of public safety services. The CIP promotes procedural justice through a process in which complainants are treated with respect and dignity and recommendations are made

based on facts and neutral principles, by fellow members of the community who, unlike police who police themselves, do not have a stake in the outcome. The CIP also benefits the police by increasing the prospects that incidents of misconduct will be effectively investigated by encouraging thoroughness in internal investigations.

A major function of the CIP is the receipt, review and investigation of citizen complaints of alleged police misconduct. During fiscal year 2016-2017, the CIP received 271 complaints and closed 232 cases. Of these 232 closed cases, 71 were fully investigated. The remainder were reviewed by the panel, but did not result in a finding. Most importantly, the citizens who made the original complaint were given an opportunity to have their allegations addressed by a panel of independent community members.

In addition to its fundamental mission, the CIP was actively engaged with community stakeholders in order to propose and enact the new ordinance and the City of Miami Charter. As stated above, the Charter revisions were approved by the voters on November 8, 2016 and the ordinance revisions were enacted in June 2017. Thus, the CIP served the purpose for which it was created.

### **IS THE CIP SERVING CURRENT COMMUNITY NEEDS?**

During the fiscal year, the CIP was able to hire an Assistant Director, Rodney Jacobs. Mr. Jacobs joined the office in March of 2017 and has spent much of his time informing the community of the services provided by the CIP and developing relationships in the community. He has endeavored to serve the needs of the community by updating and distributing information, improving the CIP's website, and attending to the needs of individuals and groups. The information provided below regarding case management shows that these efforts have resulted in an increased use of the services provided by the CIP. He has also served as support to the Community Advisory Board (CAB). This work has resulted in further relationship building and community input into the processes employed by the CIP. We have profited from more input from the community particularly in matters relating to policy. The CIP continues to support the community when there are grievances and aspires to provide a forum for grievances and concerns.

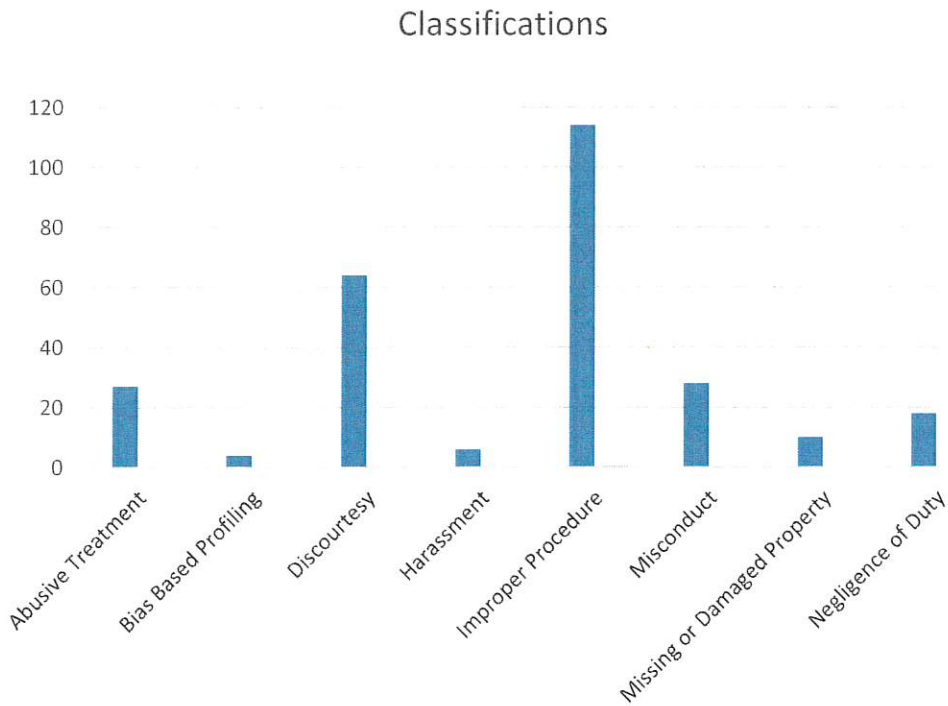
### **MAJOR ACCOMPLISHMENTS:**

1. Received 271 complaints ( 30% increase from FY 2015-2016)
2. Investigated and adjudicated 71 complaints
3. Proposed a Charter Amendment that passed by a vote of 78% of the voters
4. Proposed ordinance revisions to comply with new Charter provisions and to address concerns by the community
5. Recruited applicants to replace vacancies on the CIP
6. Updated CIP website and community outreach plan
7. Successfully appealed a challenge to the CIP's subpoena authority to the Florida Supreme Court

### **CASE MANAGEMENT:**

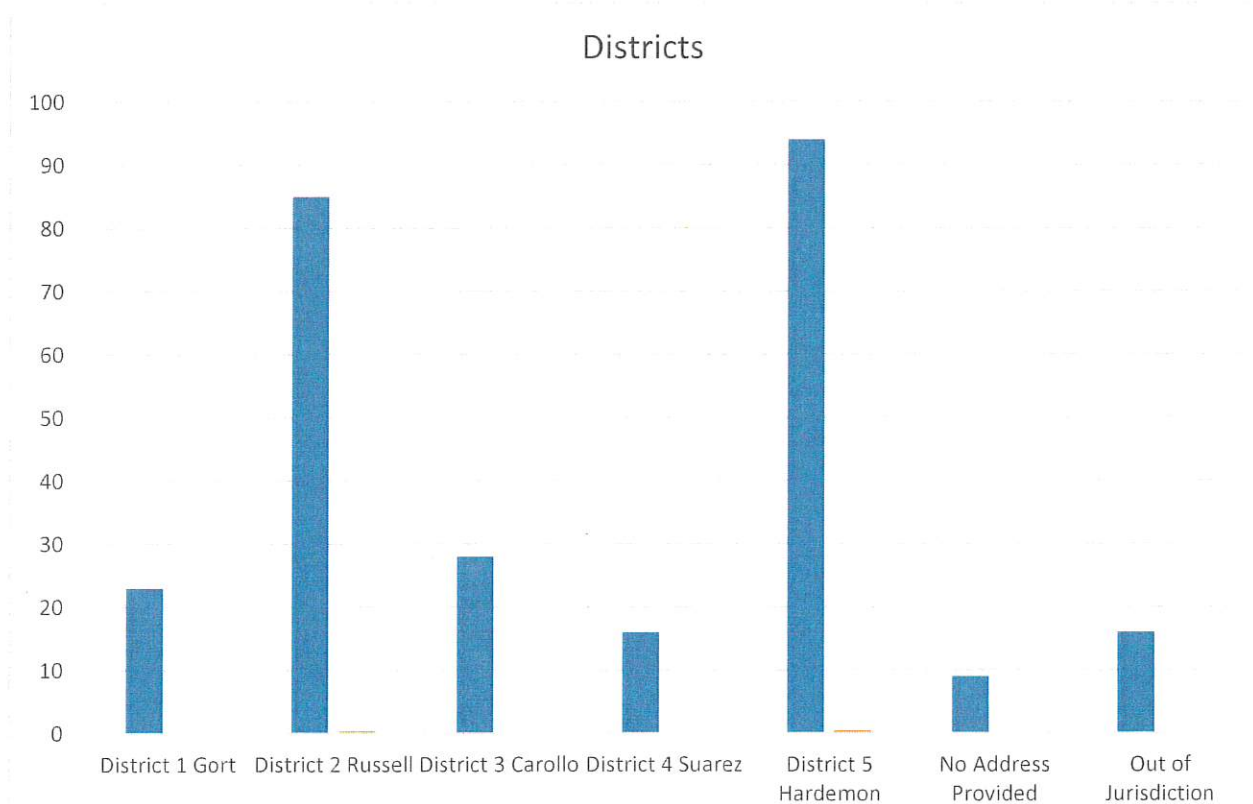
The Civilian Investigative Panel received 271 cases during FY 2016-2017. During FY 2015-2016, the CIP received 209 cases. This represents a 30% increase in the number of cases considered by the Panel. The charts below show the nature of the complaints received and the location where the incident in question occurred.

Classification	Count	% of Total
Abusive Treatment	27	10%
Bias Based Profiling	4	1%
Discourtesy	64	24%
Harassment	6	2%
Improper Procedure	114	42%
Misconduct	28	10%
Missing or Damaged Property	10	4%
Negligence of Duty	18	7%
<b>Total</b>	<b>271</b>	<b>100%</b>



In order to evaluate the distribution of complaints, it may be helpful to know where each of the complaints originated. Over forty-one percent (41%) of the complaints were related to an incident that occurred in District 5. Below is the breakdown by commission district.

Districts	Count of CIP	No	% Total
District 1	23		8%
District 2	85		31%
District 3	28		10%
District 4	16		6%
District 5	94		35%
No Address Provided	9		3%
Out of Jurisdiction	16		6%
<b>Total</b>	<b>271</b>		<b>100</b>



**WHETHER THERE IS ANY OTHER BOARD, EITHER PUBLIC OR PRIVATE, WHICH WOULD BETTER SERVE THE FUNCTION OF THE CIP?**

There is no other public or private board that can serve the unique function of the CIP. The CIP is authorized to investigate and review police misconduct, including the alleged misconduct of the Chief of Police. See: Timoney v. City of Miami Civilian Investigative Panel, 990 So.2d 614, 619 (Fla. 3d DCA 2008). The community called for the establishment of oversight to help the police department provide fair, firm and consistent policing, to re-build trust between officers and the communities they serve and to prevent death and injury to citizens and police. The CIP has the authority to examine and comment on departmental policies and procedures. This cannot be accomplished by any other board, public or private.

**WHETHER THE ORDINANCE CREATING THE BOARD SHOULD BE AMENDED?**

The City Commission enacted ordinance revisions in June 2017. They included the recommendations made by the Independent Review Committee in 2014. These recommendations included the following:

1. The Ordinance should clearly reflect the duties and responsibilities of the Independent Counsel and the Executive Director and who has the authority to hire, terminate and discipline the positions.
2. The Ordinance should reflect the time periods to complete investigations and should clearly indicate when the time periods are triggered; what event triggers the time periods and whether anything tolls the time periods. The time period should be extended to 180 days, instead of the current 120 days in order to complete an investigation.
3. The CIP should be able to independently investigate and or review any issues germane to its authority.
4. The decision to hire and remove the CIP's Independent Counsel and Executive Director should be made by majority vote of the CIP membership. The City Attorney's authority to hire or remove the Independent Counsel should be eliminated.

These recommendations were fully accepted by the commission and are now law. The changes improve the effectiveness of this civilian oversight body. They promote independence, transparency, community involvement and provide for adequate funding and resources. The robust voter support for independent oversight represents a notable achievement for the Panel and the City of Miami.

**WHETHER THE BOARD'S MEMBERSHIP REQUIREMENTS SHOULD BE MODIFIED.**

The ordinance addressing the nomination and appointment of members of the Panel requires that applications be solicited in English, Spanish and Creole in public notices disseminated through the community and through the media and city NET offices. The purpose of this is to promote diversity in the composition of the panel. The Panel sees no need for modification of the ordinance in this regard.

The Panel is required to screen and nominate members. The nominations must be approved by the City Commission. This is an important provision of the ordinance, as it is designed to minimize political influence and promote independence. Thus, the membership requirements should not be modified.

**THE COST, BOTH DIRECT AND INDIRECT, OF MAINTAINING THE BOARD.**

The CIP was allocated \$ 736,400 during Fiscal Year 2016-2017. There are currently five full time employees and we support and train a panel of 12 members. We strive to provide value to the residents and visitors to the City of Miami. This value is realized by supporting effective policing, protecting civil rights, ensuring accountability, managing risk, building bridges between the community and the police, and ultimately increasing confidence in the Miami Police Department.

If you have any further questions or concerns, please feel free to call the Chair of the Civilian Investigative Panel or Executive Director, Cristina Beamud.