

# Policy Agreement Between the City of Miami Civilian Investigative Panel and the City of Miami Police Department regarding the institution of a Community Police Mediation Program

## **I. Purpose and Scope**

Community-Police mediation is designed to help resolve conflict and allow the parties involved to come to a mutually acceptable resolution.

The Civilian Investigative Panel (CIP) in coordination with the Miami Police Department (MPD) is establishing the Community-Police Mediation Program because the adversarial disciplinary processes are not always the most effective way to resolve all police-community conflicts. Mediation may be offered as an option, to allow Miami Police Department (MPD) officers and community complainants to participate in an alternative to the traditional complaint investigation and disciplinary process.

The goal is to increase the level of trust between the City of Miami Police Department and the community at large. Mediation provides MPD officers with a mechanism to resolve complaints outside of the investigation process. The mediation program will begin as a pilot program and will be re-evaluated every six months until a final program/policy is created.

## **II. Definition Section**

For the purposes of this Policy:

**Mediation:** A mediation process helps parties develop a mutual understanding of a conflict. Mediation may help the parties identify disputed issues, facilitate communication, provide an opportunity to improve community relationships, and generate options that may help the parties reach a mutually acceptable resolution.

**Mediation Coordinator:** The Mediation Coordinator is a person designated by the CIP to serve as the unbiased, impartial and independent coordinator and facilitator of the Community-Police Mediation Program. The Mediation Coordinator will establish, coordinate, and review all the mediation processes and ensure the collection of evaluative data. The Mediation Coordinator will closely liaise with MPD Internal Affairs Section as necessary to develop and maintain the referral processes.

**Mediator:** The role of the mediator is to be a fair, impartial and trained third party who does not influence or pressure either party to come to an agreement; the complainant and the MPD Officers own the process.

**Complainant:** Any community member (minor or adult) who makes a complaint to the MPD or the CIP.

**MPD Officers:** Any sworn police officers, including full time or part time officers, reserve officers, and sworn officers working in off duty employment.

### **III. Eligibility Process**

Only external civilian complaints, arising outside of a city of Miami employee, will be considered eligible for mediation. The CIP director or designee in conjunction with the MPD administrative Internal Affairs Commanding officer or designee will assess complaint eligibility. Each party will have 5 business days, beginning from when the complaint is filed, to determine if a case is eligible for mediation. Complaints not transferred over into the mediation process will remain with the filing entity for appropriate non-mediation investigatory process.

#### **IV. Complaint Eligibility**

Certain civilian complaints will be considered eligible for mediation. For example: discourtesy, neglect of duty and bias based profiling.

The following complaints will not be considered eligible for mediation:

1. Where a complaint involves a criminal allegation against a sworn MPD officer;
2. Where a complaint could result in MPD officer termination;
3. Where a complaint alleges false arrest;
4. Where a complaint alleges unreasonable use of force;
5. Where a complaint alleges unlawful search;
6. Where a complaint alleges sexual misconduct;
7. Where a complaint alleges domestic violence;
8. Where a complaint alleges theft; or
9. Where the misconduct complained about implicates the conduct of the supervisory or command leadership of the subject MPD employee.

The complaint will not be eligible for mediation if the MPD employee against whom the complaint is made has already mediated two complaints within the previous twelve months.

Eligibility determinations will be final and not subject to appeal.

#### **V. Suitability Process**

Once a complaint has been deemed eligible for mediation. The CIP/MPD will assess the case and party suitability for mediation. The MPD will assess via a conversation with the officer and the CIP will assess the complainant. Whether the parties voluntarily agree to mediation will be considered in determining suitability. Complaints that the CIP determines are unsuitable will be automatically re-filed by MPD Internal affairs for the appropriate non-mediation investigatory process.

## **VI. Complainant Suitability**

The CIP will determine suitability for mediation. A complainant may be suitable for mediation when:

1. The complainant has provided informed consent to mediation;
2. If the complainant is a minor, the minor will be accompanied at the mediation by an adult support person;
3. The complainant agrees to sign the confidentiality form and the complaint waiver form and;
4. The complainant understands the expectations of mediation and is willing to participate in the mediation in good faith.

## **VII. Miami Police Department Officer Suitability**

The CIP and MPD will determine suitability for mediation. A MPD officer may be suitable for mediation when:

1. The MPD officer has provided informed consent;
2. The MPD officer has signed a confidentiality form; and
3. The MPD officer understand the expectations of mediation and is willing to participate in the mediation in good faith.

Suitability criteria will be final and not subject to appeal.

## **VIII. Agreement/Disagreement to Mediate**

Participation in the mediation process is voluntary, and the complainant and MPD officer must agree to mediation before the mediation can proceed. If an MPD officer agrees to mediate a complaint, he/she shall give written authorization by signing a tolling form that allows the investigation period for an additional 30 business days. The MPD employee must sign the extension form within 10 business days after MPD approve eligibility of the complaint.

If the complainant agrees to the mediation process, he/she must withdraw the complaint from formal investigation by signing a complaint waiver form within 10 business days after CIP provides the complaint to the MPD. The parties must agree to mediate and sign the confidentiality form within 10 business days after the CIP provides the complaint to MPD. If both parties agree to mediate, the Mediation Coordinator will select a mediator or mediators and a date for the mediation session.

If the MPD officer does not agree to mediate, the complaint will be automatically re-filed by the CIP and will be subjected to the appropriate non-mediation investigatory process. If the complainant does not agree to mediate, the complaint will be automatically re-filed by the CIP and will be subject to the appropriate non-mediation investigatory process.

#### **IX. Mediation Time Periods**

<b>Description:</b>	The MPD Internal Affairs Major (or designee) assesses complaint allegations and refers cases eligible for mediation to the CIP. If the complaint arises as a direct complaint to the CIP. The CIP will notify IA of the case, and either to proceed or not proceed with mediation within 10 business days of processing the complaint.	CIP determines suitability, and the parties agree to mediate and sign the confidentiality, complaint waiver forms.	Mediation date is set
<b>Time Frame:</b>	5 business days after the complaint is received by MPD/CIP	10 business days after the MPD provides the Complaint to the CIP. Or the CIP provides it to MPD	Before the 30 <sup>th</sup> business day received by the MPD/CIP

A complaint that is not mediated within 30 business days will be returned to the appropriate non-mediation investigatory process. In the case of a failure to mediate based on scheduling or a

failure of the MPD officer to participate in the mediation in good faith, either party chooses to mediate not in good faith, the complaint will be automatically re-filed by the CIP to the appropriate non-mediation investigatory process. The mediator will adequately document to the CIP the basis for his/her determination that the MPD or the Complainant officer failed to participate in the mediation in good faith.

#### **X.        Scheduling of Mediation**

The Mediation Coordinator will schedule the mediation at a time agreed upon by all parties. MPD officers will not be eligible for overtime compensation for mediation. Failure to agree on a date will not be the basis of any disciplinary action against a MPD officer. If a date cannot be agreed to, the complaint will be automatically re-filed by CIP/IA and will be subjected to the appropriate non-mediation investigatory process.

#### **XI.       Mediators**

All mediators will be selected by the CIP and a representative of MPD. This pool of mediators will consist of appropriately skilled community mediators, trained by organization agreed on by both MPD and the CIP. Ideally, mediation will be conducted by a panel of two mediators. Where a civilian complainant is not fluent in English, a bilingual mediator or an interpreter will be offered.

#### **XII.       Confidentiality**

The mediation and any information paperwork associated with the mediation are confidential. Both parties must sign a confidentiality agreement that will include a prohibition on the use of any information disclosed in the mediation process in any administrative investigation, administrative hearing, judicial, arbitration, or trial setting. Survey forms will be provided before



### **XIII. Conduct of Mediation**

Mediation is a non-confrontational dispute resolution process. The rules of evidence do not apply to mediations. The parties may bring whatever information they feel relevant to the mediation. The mediators will attempt to facilitate a resolution to issues brought up in the mediation. The goal is for parties to listen to each other to understand what led to the complaint and to the complainant-police interaction.

### **XIV. Mediation Outcomes**

Working together, all parties should attempt to decide on a resolution that will satisfy both parties. Parties may elect to draft and sign a resolution agreement and may choose to share that agreement with the CIP and or MPD/IA. A specific resolution is not required to successfully conclude a mediation session. The agreement to enter into mediation, the act of taking part in mediation, and the resolution of the mediation will not be recorded in the Internal Affairs disciplinary record. The complaint will have a determination/finding of “mediated”.

### **XV. Appeal**

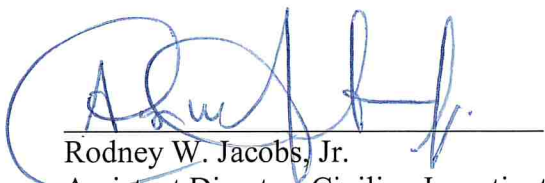
There shall be no appeal from the mediation process. Mediation is a voluntary process entered into willingly by both parties. Due to its voluntary nature, appeal is unnecessary.

On this day of 28 day of July, 2020 the parties below agree to institute the above policy:

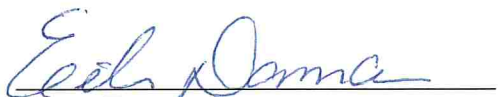
*For the City of Miami Civilian Investigative Panel;*



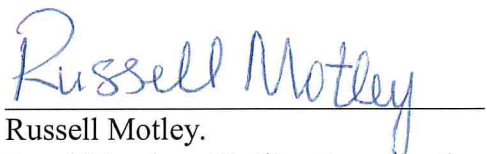
Cristina Beamud, Esq.  
Executive Director, Civilian Investigative Panel



Rodney W. Jacobs, Jr.  
Assistant Director, Civilian Investigative Panel


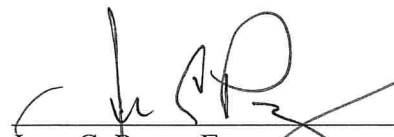


Eileen Damaso  
Chair, Civilian Investigative Panel

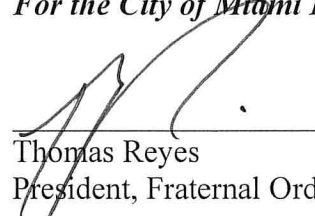


Russell Motley.  
Panel Member, Civilian Investigative Panel



  
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Jorge Colina  
Chief of Police, City of Miami Police Department  
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Armando Aguilar  
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Juan C. Perez, Esq.  
Assistant City Attorney, City of Miami Police Department Legal Advisor

***For the City of Miami Police Union, Fraternal Order of Police;***

  
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Thomas Reyes  
President, Fraternal Order of Police

