

May 28, 2015

A meeting of the Research Committee of the Board of Fire and Police Commissioners was held on the above date at Hillside Family Resource Center, 1452 North 7th Street, commencing at 11:34 a.m.

PRESENT: Commissioners: Michael M. O'Hear, Chair  
Ann Wilson  
Marisabel Cabrera  
Steven M. DeVougas

ALSO PRESENT: Deputy Inspector Michael Brunson and Officer Dena Klemstein, Milwaukee Police Department; Steven Fronk, FPC

The Chair asked everyone present to introduce themselves. The Chair stated that although the committee has been meeting consistently on the fourth Thursday of the month, others have expressed a desire to have meetings at different times and places. Commissioner Wilson said meeting in the evenings would allow more people who work to attend, and the location needs to have public parking available. After discussion of dates, times and places, the Chair stated the next meeting will be at 5:30 p.m. on Tuesday, June 30, location to be announced.

The minutes of the April 30, 2015 meeting were not available for approval.

The Chair stated this is the 3<sup>rd</sup> meeting of the committee. At the first meeting, the committee had decided to focus on the citizen complaint process and determine if there were recommendations for improvement to be made to the full Board. At the last meeting, FPC staff educated the committee on the process a complaint goes through when filed with the FPC. Today's meeting will focus on the process for complaints filed with the Police Department (MPD). At the next meeting he would like to have some members of the community tell about their experiences with the complaint process and share any suggestions they may have about the process. He will talk with anyone after the meeting who has suggestions about how to inform the community about the next meeting. He will also welcome emails to his personal email address with suggestions for ways to involve the public at the next meeting. If there are people who have ideas or experiences to share who cannot attend the next meeting, email those also and he will share them with the other commissioners. Commissioner Wilson asked if there is a way to put people's concerns on the website. Renee Keinert, staff support, said she would add the information to the website. Mr. Fronk suggested it would be more appropriate to send emails to the FPC website rather than the Chair's email which would then be forwarded to the other commissioners, which might incur a violation of the open meetings law. The general FPC email address is [fpc@milwaukee.gov](mailto:fpc@milwaukee.gov). Chris Ahmuty, ACLU, stated there is a link already on the website to submit comments regarding the use of force report, and the same could be done for the complaint process.

Deputy Inspector Michael Brunson, commanding officer of the Internal Affairs Division (IAD), gave a presentation on the MPD's citizen complaint process. He is responsible for overseeing all facets of internal investigations and criminal allegations against all members of the MPD. Every complaint the MPD receives comes through him at some point. He makes the decision as to who will investigate the complaint. Serious allegations will be investigated by the sergeants in IAD. Civility complaints, the most common type of complaint, could be sent to the commanding officer of an accused member for a district sergeant to investigate. If it is a criminal allegation, it will go to the special investigation section where there are six detectives and a lieutenant. They will investigate, present it to an Assistant District Attorney (ADA) who will decide whether to issue charges, and then the charges are also investigated internally whether the ADA charges or not. Critical incidents (death in MPD custody, uses of force, officer involved shooting) are also reviewed for code of conduct violations. DI Brunson oversees those investigations to make sure they are complete, and reviews the district level investigations as well. Complaints that are investigated at the district level will be reviewed by the captain, then by the assistant chief, and then by DI Brunson who makes sure nothing was missed and determines the disposition of the investigation. If the

investigation is sustained and it is a minor offense, we look at comparables and whether the employee has a history of this kind of offense. The district level written reprimand is the first level of discipline. It is a corrective measure that tells the employee he needs to review the policy again to make sure he understands it. DI Brunson can issue a district level reprimand. Anything more serious is written up as a charge and goes to Chief Flynn for discipline review, who looks at the comparables and decides on the discipline. The burden of proof at IAD is preponderance of the evidence (i.e., is it more likely than not that this allegation occurred). Proving allegations has gotten better with the use of MDVRs (mobile data video recorders—in car videos). He is looking forward to the use of body cameras because more evidence enables them to prove/disprove allegations better, especially in cases where it is the officer's word against the complainant's. An employee's history is looked at to determine whether there is a pattern of conduct. An audit is conducted every six months, and if an employee is found to have a high level of complaints of the same kind, the commanding officer is alerted and a discussion is had about how to address this issue with the employee proactively (retraining, making sure the squad car is equipped with an MDVR, etc.). DI Brunson is also on the Use of Force committee, which looks at anyone who has a high level of use of force in a certain time frame. Each incident is reviewed by the supervisor, the employee is debriefed, and corrective measures are put in place. This completed the overview of the process.

An audience member asked what percentage of squad cars actually have cameras in them. DI Brunson was unsure but answered probably 80%. Commissioner Wilson asked who reviews critical incidents besides DI Brunson and the chief. DI Brunson answered that the State Department of Justice investigates some critical incidents as well as in custody deaths and officer involved shootings. If the shooting victim is not expected to die, the MPD investigates instead. However, IAD still conducts a review of cases where the DOJ did the whole investigation for code of conduct violations.

Nate Hamilton asked about the average number of citizen complaints received each year. DI Brunson gave the following figures for citizen complaints filed in the years 2007-2014:

2007	488
2008	361
2009	363
2010	309
2011	258
2012	347
2013	201
2014	166

In 2012 there was a spike because of the strip search cases. The above numbers broken down by the two largest core values (out of six) are as follows:

Respect		Failure to Investigate	
2007	213	2007	118
2008	191	2008	82
2009	194	2009	94
2010	166	2010	83
2011	102	2011	78
2012	114	2012	99
2013	73	2013	65
2014	55	2014	77

Mr. Hamilton asked how many complaint allegations are sustained and not sustained. DI Brunson believes one of the reasons why the number of civility complaints has decreased is due to the

use of MDVR and the officers' awareness that they are being recorded even by citizen cell phone cameras. The video will also show whether a complainant is making a false complaint against an officer, which is a Class A forfeiture offense and will result in a finding of unfounded. "Unfounded" means an allegation is not true, whereas "Not sustained" means you don't have enough evidence to prove the allegation. Commissioner Wilson asked what happens to an officer who has disrespected someone if allegation is sustained. DI Brunson replied it depends on what the allegation is, the officer's history, comparables and mitigating circumstances. The MPD uses progressive discipline. If this is the first violation, a district level reprimand is given. If the allegation is more serious, the officer can be suspended.

Mr. Ahmuty observed that DI Brunson had said a possible explanation for the decline in the number of complaints filed is the use of squad cameras. He asked if pedestrian stops are also recorded and if complaints from those incidents have also decreased. DI Brunson clarified that pedestrian stops are called field interviews. The MPD standard operating procedure (SOP) requires the squad camera to be running when a field interview is conducted. Activating the squad lights automatically turns on the camera, and an officer can also activate the camera manually. When an interview is held on the sidewalk out of the camera's view and the camera is still on, the officer's microphone which is clipped to his lapel is feeding the audio of the incident to the camera. The microphone is not activated if the camera is not on. Commissioner Cabrera asked what happens if the officer didn't turn on the camera even though the SOP says he should have. DI Brunson replied those incidents are looked at also. The kind of discipline given for that would depend on whether it was part of a complaint. If a complaint was filed and the incident was very serious, and the officer didn't have the camera/microphone on, the discipline for that would be much greater. DI Brunson didn't know how the body cameras will be operated because they are not available yet. Mr. Ahmuty asked if all complaints are recorded in the AIM system. DI Brunson stated they are, but if a complaint is handled at the district level and does not rise to being given a formal complaint number, it is not recorded in AIM and remains in the district file. Such a complaint is not viewed as being an official investigation. Commissioner Cabrera asked if a citizen files a complaint and the officer did not record as he was supposed to, what happens to him. DI Brunson said discipline could be anywhere from a policy review to a district level reprimand.

Mr. Hamilton asked if there is a department psychologist who talks to the officers. Mr. Ahmuty asked if the six-month audit of complaint patterns is done for every member. What happens if a member has a complaint every six months? DI Brunson answered he is working toward being able to look at an employee's history over an eight year period.

Commissioner Wilson observed that what is disrespectful to one person may not be to another. How does IAD determine what is disrespectful and what is not? DI Brunson explained the code of conduct sets standards (be professional at all times, no inappropriate statements, profanity, etc.) that are further augmented by the investigator's experience. Commissioner Cabrera asked if civility complaints are only limited to verbal disrespect. DI Brunson stated that officers found guilty of disrespect could be counseled to understand that people are being put off by their conduct. Mr. Ahmuty asked if there is a policy on when to give a Gerrity warning to an officer. DI Brunson answered that a PI-21 form tells an officer what they are being investigated for. They have the right to bring a representative to the interview, and the answers they give may not result in criminal charges. They have 7 days and then the interview is scheduled. The officer has to answer the questions. Mr. Hamilton asked if the evidence at the interview cannot be used against them criminally, what can be used? DI Brunson answered the criminal investigation would give such evidence. The interview process is looking at whether there were code of conduct violations, which is used only for personnel actions.

The Chair asked DI Brunson to walk through the complaint process. A citizen comes in complaining of how he was treated. The desk officer has to get a supervisor who takes the complaint, talks to the citizen to find out what the issue is, and gives a PI-31 (a citizen complaint form) to the citizen to fill out. The sergeant can fill it out for the citizen if requested to do so. The form has to be notarized

and contains a warning about filing a false complaint. A PI-32 is filled out by the supervisor who gets CAD reports and does a preliminary investigation. The supervisor calls IAD to get an AIM complaint number. Even if the sergeant doesn't think there is a violation, he still has to report it to the Captain. The Captain will review the PI-31 & 32 to determine if the complaint violates the code of conduct. If there is no violation, the Captain ends the complaint. The Captain reports the resolution of the complaint to IAD. DI Brunson reviews the decision and can overrule it. Commissioner Wilson asked what a complainant's options are if he goes into a district station and all the officers are busy. DI Brunson replied you can have an officer give you the form, take it home and fill it out, and bring it back. Some citizens file their complaints directly with IAD. You only have to wait for a supervisor if you don't want to fill it out yourself. Mr. Fronk asked if it is possible for a citizen to come in and fill out the form at the desk if a sergeant is not available to speak with him. DI Brunson stated that was okay, and that a sergeant could be recalled from the street to take a complaint if necessary. Two sergeants at each district are notaries. If a complaint is received that is not notarized, the citizen will be called in to have it done. Mr. Hamilton noted that a person who takes the bus might not be able to travel back and forth easily. DI Brunson stated his officers can make house calls. DI Brunson stated he reviews the complaints and assigns them to his investigators. After evidence is obtained, a PI-21 interview is held and the investigation is typed up. Internal allegations are looked at in addition to allegations brought by citizens. The investigation is reviewed by a Lieutenant. A Captain writes up a summary of the investigation and makes a recommendation for disposition. The Assistant Chief makes his determination, and then it comes to DI Brunson who makes his determination.

The Early Intervention Program (EIP) is a risk management analysis tool for supervisors to help them identify job stress or training deficiencies. It collects data (use of force, vehicle pursuits, etc.) from IAD through the AIM system along with sick time from the payroll system. Once an employee reaches a certain number of incidents within a 90-day period, an alert is sent to the commanding officer. The supervisor reviews the employee's performance, and then a confidential non-disciplinary meeting is held with the employee to try and get the employee back on track. There would have to be three incidents in the 90 days, or a combination of incidents and squad accidents, or two incidents in 45 days. Supervisors and co-workers can also refer an employee to the EIP. There are other alerts that are more serious and result in a mandatory referral to the Employee Assistance Program (EAP).

It is voluntary for employees to enroll in the EAP. The Chair asked how often the EIP program utilizes the EAP program. Officer Dena Klemstein stated the EAP program is a resource employees use along with the Police Officer Support Team (POST). The Chair asked what happens if an employee is generating two incidents every 90 days instead of the three which would trigger an alert. Officer Klemstein stated a report is generated every 90 days about such employees. The EAP program is not disciplinary, and if an employee doesn't feel they need assistance, they do not have to participate in the program. Commissioner Wilson wondered how you help people who don't think they need assistance. Officer Klemstein stated whenever an officer is involved in a critical incident, they have to go through a debriefing along with their partner. There is a 30-day mandatory follow up. In 2014, over half of those people have enrolled in courses even though they did not have to. There is a chart in the handout that shows a 380% increase in officers using the EAP services. In 2013 a doctor from the Dallas Police Department trained members on how to conduct the interventions and make them meaningful. From 2013 and 2014 there has been an increase in supervisor referrals. The Chair asked if research is going to be done to determine whether this program is having an effect on future alerts. Officer Klemstein stated she took over the program in 2012 and did research on EIP programs. The MPD and other departments across the country are still working on how you measure success in these programs. Commissioner Wilson summarized that officers can participate in these services and not tell the MPD they are attending. Officer Klemstein said that was correct.

The Chair asked if Officer Klemstein is able to determine if anyone who has gone through the program has continued to receive complaints. She answered she would have to look at that (employees who had received discipline and how many alerts they had over the years). Commissioner Cabrera

stated the data should already be there in terms of getting an alert, following the recommendations and then still continuing to receive alerts. Officer Klemstein stated even if there are many alerts in a year, it doesn't mean an employee is doing anything wrong. Commissioner Cabrera stated a way to determine the success of the program could be whether such employees continued to receive alerts. DI Brunson stated even if an officer had two pursuits and a use of force alert, it could just mean the officer was very active. Commissioner Cabrera stated if the whole point of the EIP is to have early warnings and flag people who may be having problems, and there is no way of determining whether the program is working, she would like to know if a person continues to get alerts. Officer Klemstein stated if that employee alerts again and is doing something wrong, they will end up in the IAD section. Between 2008 and 2012 information was coming into the system, and the system was remodeled in 2012. Within the next year or two it should be possible to do what Commissioner Cabrera is suggesting. Mr. Ahmuty asked if the EIP process for the alerts can determine if the incident was a domestic violence complaint.

The Chair asked for a motion to adjourn. Commissioner Wilson moved to adjourn the meeting, seconded by Commissioner Cabrera. The motion carried unanimously.

The meeting concluded at 1:05 P.M.

Respectfully submitted,



Michael M. O'Hear  
Commissioner

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