

September 29, 2015

A Special Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:30 P.M.

PRESENT: Commissioners: Steven M. DeVougas, Chair
Kathryn A. Hein
Ann Wilson
Marisabel Cabrera
Fred Crouther

ABSENT: Commissioners: Michael M. O'Hear (Excused)

ALSO PRESENT: Milwaukee Police Department Inspector Mary Hoerig and Sergeant Douglas Wiorek.

The meeting was staffed by Executive Director MaryNell Regan.

1. INTRODUCTION:

The Director opened the meeting by reminding the public that this meeting has been noticed to address only one topic, which is the implementation of the body worn cameras (BWCs) and the proposed Milwaukee Police Department standard operating procedure regarding BWCs.

2. PRESENTATION:

Sergeant Douglas Wiorek of the Milwaukee Police Department provided a demonstration on the use of the body worn camera. Sergeant Wiorek explained that when an officer begins his shift, he will pick up his camera and battery unit from the docking site and attach it to himself. A docking station is located at each district station. Each officer will have their own camera. The camera may be mounted on the collar, on a headband, on the vest, or on a pair of glasses. The camera has about 8 gigs of memory for 9½ hours of video, and the battery lasts about 11 to 12 hours. The video is compressed to act as a low level HD camera, and it records in a 30-second loop, meaning that it records 30 seconds prior to the record button being activated. At the end of the shift, the officers will place the camera and battery into the charging unit. As the camera is charging, the videos are downloaded into the storage unit, Evidence.com, which is a cloud service.

Sergeant Wiorek indicated that a pilot program was conducted at District 5 for 60 days in which five different cameras were tested. Based on the pilot study, a request for proposal was made, specifically requesting a 30-second pre-buffer and a point-of-view option in the camera. The top proposal was from TASER, and negotiations were held with them from March until June 2015. TASER was ultimately awarded a contract for 1,200 cameras and cloud storage of the video. The Department wanted a point-of-view camera mounted at the shoulder level or above because it captures the best view of what the officer is seeing. Sergeant Wiorek played a video demonstrating the different points of view captured during a use of force incident from a squad camera, a camera placed at the chest level, and a camera placed near the head. By far the best view of what was happening was the camera mounted near the head. Sergeant Wiorek underscored that the camera is not the answer to everything but is another tool for the officer to utilize.

Sergeant Wiorek described the proposed implementation of the cameras. He indicated that over 190 officers were trained on how to use the camera between August and September 2015, including members from the Command Staff, Internal Affairs, Districts 5 & 7, and the Neighborhood Task Force. The Department would like to initially start to furnish officers with cameras beginning October 12, 2015. By the end of the year in Phase 2, an additional 300 cameras would be distributed. In Phase 3, around March 2016, 300 more cameras would be distributed, until the final 400 cameras were distributed in June/July 2016. All patrol officers and patrol supervisors are expected to have body cameras. Logistically, by the end of the year there

will be 50 cameras at each district, up to 100 at each work location by March 2016, until by June everyone on patrol will have a camera. In order to prepare for this, Sergeant Wiorek states "Superuser" training was provided to sergeants, lieutenants, Command Staff, Internal Affairs, Inspections, and seven police officer trainers. In addition, Open Records and Court Administration received training on how to handle open records requests and how to process the backend system of Evidence.com.

With regard to preparing the policy for body worn cameras, Sergeant Wiorek stated the Department reviewed many other police department's policies across the country over a two-year period. The Department also reviewed model policies from the Police Executive Research Forum (PERF), from the International Association of Chiefs of Police (IACP), and the ACLU. From these sources and the other police departments, the Department believes it has developed a best practices and standard operating procedure. Sergeant Wiorek emphasized that the policy is a work in progress and will be tweaked as things change and everyone gains more experience with the cameras, both locally and nationally. The Department will use the first couple of hundred officers to help forge the policy, and will be asking for a lot of input. The Department will also be holding listening sessions to get feedback from the public.

Sergeant Wiorek stated that the policy will require all officers who are assigned a camera to wear it. The cameras must be turned on for all investigative or enforcement contacts with the public. Officer safety is also paramount with the use of the cameras. If it is unsafe to activate the camera, the officer should do so as soon as safely practicable. Officers should know by the type of the call when to activate the camera. Once the camera is on, the camera must stay on. The only exception is, for example, if a witness or victim requests the camera be off when providing a statement, and then the officer needs to verbally indicate on the recording that he is turning off the camera and the reason for doing so. General conversation between officers will not be recorded, as well as conversation between officers when they are deciding to arrest an individual or not, or conversations with undercover officers or confidential informants. Recordings will not be made in dressing rooms, restrooms or locker rooms. Recordings will not be made during strip or body cavity searches. Video will be retained for a minimum of 120 days; some video will be kept longer. All video will be downloaded to Evidence.com at the end of each shift.

Anytime a body worn camera is involved, it will be cited in a police report. Officers will be allowed to view their video to write their reports. Supervisors may review videos as part of an investigation, and the Fire and Police Commission may review videos. Supervisors will not review videos for policy violations without a specific reason or allegation. In general, the public will not be able to view an officer's video at a scene; however, a copy can be obtained through the open records process. There will be no unauthorized copying of videos.

Commissioner Hein asked a question about the open records process, and wanted to know if anyone could obtain a copy of a video of a "well-known" person that is videotaped. Sergeant Wiorek responded "yes"; however, each request for video is reviewed by an open records redaction team, and the video might require redacting of audio or blurring of images. Commissioner Hein expressed concern about how much turning "on" and "off" there was going to be with the cameras and thought it invited human error. She wondered how the Department was going to address turning the camera on five seconds too late. Sergeant Wiorek acknowledged that there was going to be an extreme learning curve not only for the Milwaukee Police Department, but the entire country and that as with every new technology that is adapted, officers will have to train to develop muscle memory so that it becomes automatic to turn the camera on. The rule is that the camera has to be turned on "as soon as safe and practicable".

Commissioner Cabrera asked if the camera would be turned on for a pedestrian stop. Sergeant Wiorek indicated that the camera would be "on" because it was an investigatory stop. This is different from someone asking directions on how to get somewhere. Commissioner Cabrera shared that when she received training on body worn cameras from the various vendors, it was communicated to her that situations with the public can change very quickly and that it makes better sense to have the camera "on" all the time. Sergeant Wiorek acknowledged that there is a very fine line they are trying to walk; in that they do not want

the public to avoid officers and not provide information because they are constantly being recorded. Commissioner Wilson echoed that concern and said she was very troubled that no one would be willing to talk to the police or share information because a camera was always running. The policy does not require it, but it is suggested that officers remind individuals that they are being recorded.

3. PUBLIC COMMENT:

The Chair opened the floor to public comment. There were approximately 25 public speakers.

Ms. Mary Watkins proclaimed the policy as a whole is a band-aid over a decades-old problem of police brutality and racism. She stated the policy does not mention what the consequences are if the policy is not followed, and that needs to be spelled out. She is also concerned that costs for open record requests will be exorbitant and that it will prevent people from getting the information they need. She wants more information on how information requested will be redacted or quarantined, and if there will be any administrative-holds processes. She does not understand how use-of-force designations can be overridden by the Chief, and is very concerned that will occur during a critical incident. She understands that Commissioners can review video for FPC disciplinary appeal hearings, but wonders if that applies to citizen complaints as well.

Mr. Alan Schultz of UW-Milwaukee Community Uprise! complained that the video will be uploaded at the end of the shift. He thinks it should be uploaded automatically to the Cloud - the same as the ACLU is able to do with their cameras. He claims that officers will destroy evidence and the cameras if they are allowed to wait until the end of a shift to upload the video and will escape public scrutiny. He does not feel that officers should have the ability to ever view their video, and that they should have no discretion in turning on and off cameras. He complained about police departments in general using camera software to read license plates on vehicles. He also complained that there is no community oversight of wrongdoing by police officers, and that those officers are only judged by fellow law enforcement members and the established legal system. He claims that citizens are cut out of the oversight process in their communities and that there is no transparency if everything is left up to the legal system.

Mr. Mike Wilder of African-American Roundtable also expressed concern that there are a lot of instances in which cameras can be turned off, but no consequences for not turning them on. As a member of the public, he would like to know what the consequences will be. He also seeks clarity on exactly what is meant when an officer states he felt his life was "at jeopardy". He feels the cameras should always be on so he can see how or why an officer would feel that way. He states that if officers are permitted "learning curves" then citizens should also be allowed "learning curves" for the mistakes they make in dealing with the police. He states that taxpayers want to know about every interaction officers have with citizens.

Mr. Jim Carpenter of the Coalition for Justice provided the Commissioners with a copy of the report on the President's Task Force on 21st Century Policing. He quoted a finding from the report stating that it is highly suggestive that body worn cameras can significantly reduce officers' use-of-force and complaints against officers. Officers wearing the cameras had 85% less use-of-force incidents and 59% fewer citizen complaints than officers not wearing the cameras. However, Mr. Carpenter also issued a word of caution on too much reliance on technology to solve problems.

Commissioner Cabrera asked what training the officers were receiving with the body worn cameras. Sergeant Wiorek responded that TASER provided one week of training to MPD's training officers on how to operate the system and the back-end. Individual officers received three hours training on how to operate the camera and one hour training on policy, because the policy has not been approved by the Commission yet. Commissioner Cabrera indicated she has been reading the report from the PERF on implementing body worn cameras, and they recommend reviewing videos of officers in their probationary period and of officers

who have a pattern of allegations of verbal or physical abuse or have been identified in early prevention programs. That is not included in MPD's policy, and she believes it should be included. She believes that some sort of auditing function needs to occur, including auditing by the Fire and Police Commission.

Cherith Love is also concerned about the discretion officers have in turning off cameras. She believes that officers will lie when they turn off the cameras. She believes that officers need to be monitored and that a "learning curve" is just an excuse. She claims that officers break into houses and plant listening and tracking devices. She wants to know who is auditing the police.

Eiristine Kennedy complained about a threatening incident in her neighborhood.

L. Gibson wanted to know if officers could accidentally delete the video from their cameras. Sergeant Wiorek indicated that could not happen. He also confirmed that the cameras would continue to work in cold weather. Mr. Gibson observed that not everyone who is a police officer is suited to be a police officer and if they don't love the job, they should quit.

Commissioner Wilson wanted to know how it was being determined who would receive the cameras first. Sergeant Wiorek indicated that early shift officers (4:00 p.m.-midnight) would receive the cameras first at three different work locations, and then late shift officers would receive them, and finally day shift officers. The cameras were distributed alphabetically for the first 50 cameras.

Angela Walker does not believe officers should be able to turn off the cameras at all, because as a bus driver she could never turn off the camera on her bus. She feels that if this is being done to keep people honest and make them accountable, then she needs to see some consequences for not complying and community oversight. She agrees with Ms. Watkins that this is nothing but a band-aid on a cancer. The problems go much deeper.

Mary Devitt, Mothers for Justice United, is saddened about the necessity for this measure and the expense. She feels the \$900,000 could be spent on other problems in the City. She is also concerned about the potential for misuse of the cameras. She believes there needs to be rigorous training, and it needs to address attitude and motivation about the job. She wants to see rigorous field training, consequences for non-compliance and auditing of video. She also does not want the community to rely on technology to "solve" their problems. She believes that efforts should be concentrated on human capital – on recruitment, training, mentoring, and supervising officers so that decision making in crisis situations is improved. She also believes that the Department needs to be investing in de-escalation. She suggests that the City should apply for some of the money in the 21st Century Policing program and study de-escalation and learn the body posture to de-escalate situations.

Sequanna Taylor of Open Arms Community, Inc. has the same concerns, but is thankful that there is something in place to make not only the police department but the City as a whole a better place. She wants the officers to feel safe and the City to feel safe, and that her children are safe when they have encounters with police officers and are not scared of what is going on. She is also concerned about who will receive the first body cameras. She wants to know what the consequence will be if the camera is not turned on when it should be. She also feels that the community should be the entity that decides if the officer did something wrong, and not some other police department.

Inspector Mary Hoerig explained that discipline is guided by the Code of Conduct and does not appear in Standard Operating Procedures. As with any policy violation, there is an investigation by the Milwaukee Police Department or the Fire and Police Commission, and if there is a violation of department policy, there can be discipline, including discharge from the Department. Some of the factors that will influence the level of discipline are degree of harm, past practices and the member's prior disciplinary record. A member can suffer discipline for any policy violation.

Attorney Jon Safran from Samster, Konkell & Safran is a strong believer in body cameras to protect police officers from unmeritorious claims and to protect citizens from police misconduct. He believes that visual- audio evidence is an important tool in investigations. Attorney Safran has some concerns about the Milwaukee Police Department's proposed policy because the policy states that members will "make every effort to activate" the camera, rather than making it mandatory, as stated in the International Association of Chiefs of Police model policy. He also points out that the record retention for the videos is shorter than the statute of limitations for filing a notice of injury or federal civil rights claim. He too does not want officers to review their video to prepare reports.

Brian Verdin from the Milwaukee Coalition for Justice states the Coalition hates the system that allows police officers to use excessive force, racially profile, and get away with crimes. He stated it should be real obvious that they do not trust the Milwaukee Police and therefore the cameras need to be on all the time. He also noted that a whole lot of money would be saved by having the cameras from not having to pay for lawsuits from citizens being beat up by the police.

Jennifer Hazard stated that the reason the Commission is hearing the same thing over and over is because there is a real problem here. She has questions about the redaction process. She would like to know who authorizes the redactions; is there an external authorization that needs to occur before a redaction can be made; and what is the timeframe in which this occurs? She believes that officers who have a pattern of abuse should be wearing the cameras first. She believes that any investigation of an officer who failed to turn on their camera when a situation turned bad must involve the community. The investigation cannot just be an internal investigation by the MPD or FPC. She reiterated that there has to be consequences for an officer's action in which a person dies.

Commissioner Cabrera requested a response from Sergeant Wiorek on why the Department wants officers to be able to review their video when preparing reports since they are not able to do that now. Sergeant Wiorek explained that the Department wants to make sure police reports are as accurate as possible, and that human errors occur and people do not have perfect recall. The video may remind an officer of a statement or an action that occurred, or may show him something he was not aware of because he was focused on something else. The video assists with documenting a factual accounting of the incident. A report prepared without a video may be accurate, but it may not be the complete picture. The video is an investigatory tool. Inspector Hoerig confirmed that officers are allowed to review their dashcam video in preparing their reports.

Cynthia Greenwood with the Coalition for Justice declared that she does not like the police and does not trust them. She described the difficult life everyone is experiencing in Milwaukee County and in her personal life. She is mad and tired of talking and is ready to "take it to the streets". She does not believe that talking gets anyone anywhere. She is opposed to body worn cameras. She believes that Milwaukee police need to go through anger management training.

Linea Sundstrom stated that no one knows how many police shootings took place before cell phones and video cameras, so this is part of the atmosphere of distrust that has risen up in the last few years. People on both sides are dealing with that and trying to adjust to it and turn it into something positive. After reviewing the policy, it is her opinion that the exemptions to turning on the camera seem to have to do with the wrong people seeing the video. It seems to her that the real concern is that officers will take these videos and put them online. That is a disciplinary problem and not a problem of what is being videotaped. She also believes that everyone is used to living in a world in which you are being recorded, and you should just assume that you are being recorded all the time. She also thinks that it would be beneficial for a new officer to have their videos reviewed by a supervisor who can point out alternative ways to handle a situation or applaud a job well done. She believes a lot of people are monitored at work, and she does not view this as a negative. She also thinks that in situations of sexual assault, it may be useful to have a recording of what the victim says, because they probably are not thinking clearly and may not remember everything later on. She also believes that all encounters with children should be videotaped, and that the child should not be given

the decision to request the video be turned off. She also inquired about strip-searches occurring that do not take place in a hospital and wondered if the camera would be turned off in that situation.

Abdul Mateen complained that the discussion about the cameras was focused on how it is a tool to catch "bad guys". He stated the real reason cameras are being requested across the nation is so they can be used as a tool for citizens to deter police misconduct and corruption. He claims that most civil rights misconduct against police officers is not reported. He believes the videos need to be reviewed proactively, without any allegation of wrongdoing being reported, so that wrongdoing can be detected. He wants to know how the Department will audit to make sure that the video is being correctly categorized and not deliberately placed in a category with a shorter retention life. He also believes that videos should be released promptly and that citizens should not have to wait six months to a year to have access to a video. The community as the employer of the Milwaukee Police should have timely access to the video. He believes the camera should be on any time an officer is outside of a vehicle, and a squad camera should be on when officers are inside a vehicle. The officer's entire shift should be video recorded. He believes that any privacy concerns can be addressed by blurring the image or changing the voice pattern. He strongly feels that the videos need to be audited because most victims of police brutality will not report it, and officers cannot be trusted to self-report. If officers are allowed to turn cameras off, the reason for turning the camera off needs to be investigated and not taken at face-value. Lastly, he believes the police department needs to address a zero-tolerance policy for excessive use-of-force and racist incidents. He believes all officers are guilty because they are not turning in the bad cops; he would have to go to court if his friend caused trouble, and he would be charged as an accessory. The same standard should be applied to the police department.

Wendell Harris has learned over the past thirty years of working with African American youth that the youth feel as threatened by the police as they do by gang members. He believes allowing the officers discretion on turning the cameras on and off defeats the purpose of the camera. He believes that as long as officers can charge citizens with obstruction, the cameras need to stay on. He believes the current policy is part of the problem.

Jarrett English of the ACLU of Wisconsin stated some of his concerns were redundant, but that redundancy was an indication of how important the issue is to the community. He questioned whether the Board will have enough time to absorb the comments from tonight and address citizens' concerns prior to the proposed vote on this matter on Thursday. He would like to know if the video from the body worn cameras will be used with any facial recognition software. The ACLU is very much opposed to the video being used in conjunction with that software. He would also like to know if detectives and other specialized units will be wearing body worn cameras as well. If those officers are not going to be wearing cameras, are they going to have the same access to the video footage? He wants to know when prosecutors and defense attorneys will be able to receive the video data and if the FPC will have access to the video simultaneously. Inspector Hoerig confirmed the FPC will have the same access to the video as Internal Affairs does. He agrees with Commissioners Wilson and Cabrera that police officers flagged in the early warning system should receive the cameras first. He also wants to know who the Superusers are that are able to delete video.

Chris Ahmuty, Executive Director of the ACLU of Wisconsin, explained that his organization has examined police issues for many years, including the use of body worn cameras by law enforcement and how to balance concerns about privacy and public safety with their use. His organization recognizes that no one technology is going to be the solution in improving police-community relations and generating trust. He believes MPD's proposed policy is a good start, but that more time is needed to address the community's concerns. He would rather see the time spent up-front to get things right, rather than expediting the implementation of the cameras to meet the mayor's timetable of having all of the cameras distributed by early next year. He believes the cameras may help to improve community trust and police accountability, but it needs to be balanced against privacy issues and potential for misuse. He sees the issues being clustered around "officer discretion" and "system integrity". He argues that officers exercise discretion in their job every day, and that the real issue is how you guide that discretion and hold officers accountable. For example, the proposed policy encourages officers to announce they have the camera on or are turning it on. In terms of

transparency, Mr. Ahmuty believes it would be better if the announcement was a mandate and not an option. With regard to auditing, Mr. Ahmuty would like to know what an "integrity inspection" entails and how frequently it would be conducted. Would the Commissioners have access to those reports as well? If the Commission wants to perform their own independent integrity inspection, would they have access to the data? He would like integrity inspections to focus on whether the camera was turned on when it was supposed to be turned on, if it has been tagged correctly, and if proper chain of custody is being followed. He feels that if officers were aware that there would be broad-ranging audits from different entities that it would be less tempting for officers to violate a rule. He urged the Commission not to make a final decision on the SOP by Thursday. The Commission has the authority under state statute to review, modify or suspend rules. Mr. Ahmuty believes there needs to be more clarity about open records requests. He also believes that it would be beneficial to see if the training the police department's open records section received regarding body worn camera videos is any different from the training they received on releasing dash-cam video.

Nate Hamilton from Coalition of Justice wants the Commission to "step into their power". He does not want officers reviewing video when they complete their reports because then they "will always pass the test". He wants to know if the "jump out boys" will have cameras because they are always harassing the community. He does not want any cameras in the community until next year because the policy is very, very wrong. The community needs more time to be involved in this matter.

Jimmy Harris does not believe any videos should be deleted and the videos should be streamed to a third party that has nothing to do with the police department.

Keith Bailey, aldermanic candidate, believes every incident involving the police needs to be recorded.

Justin Bielinski believes the cameras should be on all the time. He feels the privacy issue only comes into play about sharing the video, not whether the video should exist in the first place. He is also concerned that the videos will be used to increase the mass incarceration problem in the City. He believes the video gives the police an unfair advantage in creating reports and preparing for cases and testimony. He believes that victims and defendants of crime will not have equal access to the video because they need to pay a fee to get it and they may have to wait a long time to get it. He thinks more people could end up being put in jail rather than having the police held accountable.

3. ADJOURNMENT:

Commissioner Crouther moved to adjourn the meeting, seconded by Commissioner Hein. The motion carried unanimously.

The meeting concluded at 8:35 P.M.

Respectfully submitted,



MaryNell Regan
Executive Director

MNR:jcs