

May 16, 2013

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:34 P.M.

PRESENT: Commissioners: Sarah W. Morgan, Chair
Kathryn A. Hein
Richard C. Cox
Michael M. O'Hear
Ann Wilson

ABSENT: Commissioner: Paoi X. Lor (Excused)

ALSO PRESENT: Mark Rohlfing, Chief, Milwaukee Fire Department; and Edward Flynn, Chief, Milwaukee Police Department.

The Director presented for adoption minutes of the Regular Meeting of May 2, 2013. Commissioner O'Hear moved approval of the minutes as presented, seconded by Commissioner Cox. The motion carried unanimously.

1. NEW BUSINESS:

a) The Director presented correspondence dated May 10, 2013, from staff, wherein Police Sergeant Steve Herrmann requests an extension to his temporary residency exemption to continue to reside in Menomonee Falls until his home is built. Due to weather and construction delays, the builder has not completed the home, but gives an estimated move-in date at the end of July, 2013. Commissioner O'Hear moved to grant an extension until the September 5, 2013 meeting, seconded by Commissioner Hein. The motion carried unanimously.

The Director presented correspondence dated May 7, 2013, from staff, wherein Police Officer William Krumnow requests a temporary residency exemption to reside in Franklin due to personal issues. Commissioner O'Hear moved to grant a six month residency exemption, seconded by Commissioner Hein. The motion carried unanimously.

The Director presented correspondence dated May 9, 2013, from staff, wherein Firefighter Eric Daun requests a temporary residency exemption to reside in Cedar Grove until his home is sold. Firefighter Daun will be listing with a realtor and will have showings and open houses until the home is sold. Firefighter Daun is unable to afford to pay rent or a mortgage in Milwaukee and continue to pay his mortgage. Commissioner O'Hear moved to grant a six month residency extension, seconded by Commissioner Hein. The motion carried unanimously.

b) The Director presented a Fire and Police Commission Informational Memorandum regarding Confirmation of Warrants Prior to Arrest dated May 5, 2013 for approval. The Director provided background on the citizen complaint that prompted the review of this issue and recommended that officers confirm the existence of an actual arrest warrant prior to taking individuals into custody. Chief Flynn responded that the Milwaukee Police Department (MPD) will issue a memorandum addressing the issues raised by this communication, but also directing officers to consider the circumstance of the situation they are in.

c) The Director presented a Public Statement of the Executive Director Regarding the In-Custody Death of John Kriewaldt on July 28, 2012 dated May 13, 2013. The Director provided a summary of MPD's interaction with Mr. Kriewaldt, the investigations related to his death, and the investigative findings. The Director indicated that it would have been preferable for a member of the Crisis Intervention Team (CIT) to respond to this incident and he has asked the Chief to look at the incident relative to the dispatch of CIT members to

incidents involving mentally ill individuals. While this was an unfortunate situation and Mr. Kriewaldt died from a medical condition, the review of this incident was a good test of the Critical Incident Review Board (CIRB). In addition, community response regarding this statement demonstrates that the community is now aware that there are additional levels of review beyond MPD. Chief Flynn reported that the CIRB review highlighted inconsistencies regarding conveyance of violent persons between two Standard Operating Procedures (SOPs), which MPD will address through a change to one of the SOPs. Additionally, officers will be instructed to activate the Mobile Digital Video Recorder (MDVR) whenever they have an individual in the back of the squad car.

2. EXAMINATIONS:

a) The Director presented for adoption an eligible list for the position of Police Aide in the Police Department, consisting of 46 names. Toni Vanderboom, staff Human Resources Representative, presented the eligible list and answered questions. Commissioner Hein moved approval of the list, seconded by Commissioner O'Hear. The motion carried unanimously.

3. FIRE DEPARTMENT:

a) The following appointment, as presented by Chief Rohlfing, was approved by the Board:

TO FIRE EQUIPMENT MECHANIC, from Department of Employee Relations Vehicle Services Technician eligible list, effective May 26, 2013:

AARON A. NASH.

4. POLICE DEPARTMENT:

a) The Director presented correspondence dated May 8, 2013, from Chief Flynn, wherein he requests reinstatement after lay off of Delores Thomas to her previous position of Safety Specialist Senior, effective May 26, 2013. Commissioner Cox moved approval of the reinstatement, seconded by Commissioner O'Hear. The motion carried unanimously.

b) The Director presented correspondence dated May 15, 2013, from Chief Flynn, wherein he notifies the Board of the non-disciplinary termination of Police Officer Kurt Lacina, effective May 8, 2013.

c) The Director presented draft correspondence dated May 29, 2013, from Chief Flynn, wherein he requests approval of SOP 085 – Citizen Contacts, Field Interviews, Search and Seizure. Deputy Inspector Mary Hoerig said this policy was created because while the majority of this SOP had been taught to officers in the past, these items had not been codified into a written policy.

SOP 085 encompasses:

- Defining and setting policy for citizen contacts and conducting various types of searches.
- Doctrines.
- Other situations authorized by State and Federal Constitutional provisions.

The SOP was developed based upon a review and assessment of local, state, and federal court cases and case law, State and Federal Department of Justice opinions and documents related to this subject matter, and policies and procedures of other police departments nationwide. The SOP was reviewed by MPD supervisors and the District Attorney's office and both unions, the Milwaukee Police Association (MPA) and the Milwaukee Police Supervisors' Organization (MPSO). Deputy Inspector Hoerig discussed the creation and planned implementation of the Consent Search Authorization as well as the changes made regarding

strip searches. Commissioners asked questions regarding conditions for strip searches, consent to search, and search witnesses.

The Director asked Deputy Inspector Hoerig to discuss body cavity searches. Deputy Inspector Hoerig said that manual or visual body cavity searches are prohibited by MPD members. A search warrant has to be obtained to perform a body cavity search and it can only be performed by a physician, physician's assistant, or registered nurse. Body cavity searches cannot be performed in any MPD facility.

The Chair suggested that "gender expression" be used instead of "gender" in Section 085.00 Purpose/Policy. The Chair asked additional questions regarding field interviews, abandoned property, and courtesy and civility related to conduct of officers during field interviews. Commissioner Cox indicated the Wisconsin State Statute reference in Section 085.60 B.5 should be 968.255 rather than 965.255. Additionally, Section 085.60 C.2 should reference Wisconsin State Statutes 968.255(2)(b) and 968.255(2)(c) for clarity.

The Chair invited public comment regarding this SOP:

Rose Stietz, Milwaukee Inner-City Congregations Allied for Hope (MICAH), asked what happens if someone refuses to be searched. Chief Flynn indicated it is MPD's policy that if an individual does not give consent to be searched, officers do not search.

Debra Jenkins, Milwaukee resident, asked what the purpose of the search authorization form is if someone can be searched based upon verbal consent only; i.e., a signed form should be required for police to search because otherwise it is simply a verbal agreement that cannot be proven. The Chair responded that individuals cannot be made to sign the form if they do not want to, but police can search based upon an individual's verbal consent.

Thomas Coleman, son of James Coleman, said he is glad things are starting to change but believes things should have been handled better with regard to the incident involving his father and MPD.

Helen Kriewaldt, mother of John Kriewaldt, said she is also glad that procedures are changing. The public statement regarding her son failed to mention that her son died with a knee print in his back and she feels that was indicative of the use of extensive force. In addition, she said there were witnesses that heard Mr. Kriewaldt say he could not breathe. Ms. Kriewaldt said she would like a John Doe investigation because she does not feel it is valid for FPC to say whether or not her son would still be alive.

Carrie Scott, aunt of James Coleman, said she felt that while James Coleman was deeply disturbed, he could have been helped. She is also glad to hear changes are being made, but that if she observes individuals being treated poorly she will report it.

Tory Lowe said he is glad to hear about these policy changes and the department's efforts to change how they handle mentally ill individuals. Efforts should be made to dig into other policies that need to be changed because people want some type of protection against police misconduct. He thanked the Board and MPD for their efforts.

Chris Ahmuty, Executive Director of the American Civil Liberties Union (ACLU) of Wisconsin, thanked the Board for allowing public comment regarding the changes to this SOP. However, Mr. Ahmuty said he did not feel that three days' time and two minutes to speak was insufficient time for the public to comment and he requested the Board do more. One way to look at this policy is as risk management for the department, but it is difficult for the community to react to it in that way. Beyond that, Mr. Ahmuty asked that the policy be looked at in terms of what it will do with regard to systems and supervision.

Sarah Patch said she would also like the Board to provide more time for citizen feedback. Ms. Patch said she did not see a clear tie in the policy between the desired behaviors of the officers and the consequences when they do not follow the policies. She recommended making that clearer for citizens.

Harriet Callier said it should be noted in the SOP that only physician's assistants and registered nurses working under the direction of a physician can perform a body search. Ms. Callier also said she has witnessed and recorded several incidents where officers put an individual in the back seat of a squad car and the emergency lights were not on, indicating the events in the squad were not being recorded. Ms. Callier said she has questioned these scenarios and is told it does not violate state law, but violates SOPs. She would like to be clear on what is covered by SOP and what is covered by state law. Commissioner Cox responded that the language in the SOP regarding body cavity searches reflects the language of the state statute. Ms. Callier responded that perhaps the law needs to be changed because prescriptive authority should be required to perform a body cavity search.

Commissioner O'Hear asked additional questions regarding an early warning system relevant to officer behavior as it relates to search and seizure.

Commissioner Cox moved approval of the SOP with the understanding that minor changes may be made as discussed, seconded by Commissioner Hein. The motion carried unanimously.

d) The Director presented draft correspondence dated May 17, 2013, from Chief Flynn, wherein he requests approval of a change to SOP 160 – Mentally Ill Persons. The Director said the only change in this SOP relates to the earlier discussion under New Business, Item c); i.e., Section 160.55 B.2: "Persons displaying violent behavior **shall** be transported in a patrol wagon and adequately restrained." Deputy Inspector Hoerig verified this is the only change. The Chair asked a question regarding citizens properly communicating that an incident involves a mentally ill individual when calling for service. The Director responded that it is really more a matter of call takers being trained to get the right information from a caller in order to ascertain whether or not a mentally ill individual is involved. Commissioner Wilson moved approval of the change to the SOP, seconded by Commissioner O'Hear. The motion carried unanimously.

5. PUBLIC COMMENT:

Rose Stietz, MICAH, said she is concerned that cameras are not being used in squad cars. She requested clarification as to why the cameras are not being used and what the implications are for those people who thought there was a program in place regarding the cameras.

Harriet Callier said she wanted to speak with regard to SOP 160 – Mentally Ill Persons. She asked when it would be appropriate for cameras to be used to record a violent, mentally ill individual in full body restraint. Ms. Callier related an incident regarding a mentally ill woman and an eight-car police response where the first five squads on the scene did not have emergency lights activated and were not recording while the woman was in full body restraint. Ms. Callier said no emergency lights were activated until the patrol wagon arrived.

Chief Flynn responded that officers can turn on the camera manually to record a prisoner in the back seat. The emergency lights activate the front camera and citizens should not expect the camera to be on at all times.

Chris Ahmuty, ACLU, said there are still issues that are more global and system-wide that need to be reviewed regarding SOP 085 – Citizen Contacts, Field Interviews, Search and Seizure. Mr. Ahmuty wants to know how changes such as the Search Authorization Form and the recording of this information in the Tiburon System will be used by management and how does it relate to an early intervention strategy for officers.

Mike Crivello, Milwaukee Police Association, thanked those commissioners who attended the Law Enforcement Memorial service. Mr. Crivello's comments focused on the future of the detective corps and future promotional opportunities for those who choose to serve as detectives. He asks for clear guidance on what membership can expect with respect to this promotional path.

Commissioner Cox thanked everyone for allowing him to serve the citizens of Milwaukee for the past eight years as a member of the Board of Fire and Police Commissioners.

The Director thanked Commissioner Cox for his service and presented him with a proclamation to commemorate his 35+ years of service to both the city and county of Milwaukee.

Commissioner Wilson spoke regarding the Police Executive Research Forum (PERF) conference held in Milwaukee. She said she heard from attendees how impressed they were with Milwaukee and what a top-of-the-line police department Milwaukee has. While we still have things to work on, she said it was clear from her interaction with attendees of the conference that people outside Milwaukee realize what a great city Milwaukee is and what a great police force we have.

6. ADJOURNMENT:

Commissioner Cox moved to adjourn the meeting, seconded by Commissioner O'Hear. The motion carried unanimously.

The meeting concluded at 7:32 P.M.

Respectfully submitted,



Michael G. Tobin
Executive Director

MGT:kj