



## Fire and Police Commission

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May 13, 2013

### **PUBLIC STATEMENT OF THE EXECUTIVE DIRECTOR REGARDING THE IN-CUSTODY DEATH OF JOHN KRIEVALDT ON JULY 28, 2012**

#### **Synopsis**

On July 28, 2012, Milwaukee Police Officers were dispatched to the Thurston Group Home. The group home requested to have a resident, Mr. John Kriewaldt, a mentally ill adult, conveyed to Milwaukee County Mental Health Complex (MCMH) for an emergency detention. Upon the officers' arrival, Mr. Kriewaldt slapped the face of one of the officers. The officers handcuffed Mr. Kriewaldt and placed him in the back seat of their squad car. Mr. Kriewaldt immediately began banging his head on the partition separating the front and rear seat. Officers removed Mr. Kriewaldt from the rear seat, placed him on the ground and requested an ambulance. After medical attention arrived and Emergency Medical Technicians (EMTs) began treating Mr. Kriewaldt for the injuries to his forehead, he stopped breathing. EMTs began cardiopulmonary resuscitation (CPR) and called for a Milwaukee Fire Department (MFD) Advanced Life Support Med Unit. The Med Unit was able to recover a faint pulse and Mr. Kriewaldt was transported to St. Joseph's Hospital. Mr. Kriewaldt was subsequently pronounced deceased on July 30, 2012 at the hospital. The Milwaukee County Medical Examiner determined the cause of death as complications of pneumonia.

A full investigation was initiated to determine whether the actions of the Milwaukee Police Officers were appropriate and whether criminal charges or disciplinary sanctions should be imposed upon the involved officers.

The question relating to criminal charges was answered on October 19, 2012, when Milwaukee County District Attorney John Chisholm authored a statement declining to file criminal charges against the officers, indicating in part:

“I am satisfied that Officers Jordan, Connell, and Kasberger committed no crime in connection with this incident and that their use of force, to the extent any was actually used, was completely appropriate given the circumstances.”

Following the decision of the District Attorney, the case was returned to Milwaukee Police Chief Edward Flynn for further investigation as to whether the involved officers were in violation of any rules, policies, or procedures which would justify disciplinary sanctions. An investigation was conducted by the Internal Affairs Division and on January 7, 2013,



Chief Flynn determined that the involved officers did not violate department rules, policies, or procedures.

Upon completion of the Milwaukee Police Department (MPD) investigation, the Executive Director of the Fire and Police Commission (FPC), in accordance with FPC operating procedures, initiated a review of the incident and conducted an audit of the police investigation. These procedures are followed regardless of whether a complaint alleging misconduct was filed by family members. In this instance, no complaint has been filed on behalf of Mr. Kriewaldt.

This report is an independent statement issued in part to fulfill the requirement of Common Council Resolution #110427. The resolution directs the FPC to report to the Common Council on deaths of citizens in police custody and incidents of officer-involved shootings. This report is a summary of the incident based upon witness statements, police reports, district attorney reports, medical examiner reports, and electronically stored communications.

Among the implicit purposes of issuing this report is to provide an increased level of accountability and public transparency regarding instances in which police actions may be questioned by the community. A police department that is transparent in its operations and accountable for its actions will enjoy the trust and respect of the community. The FPC shares the concerns of the community, especially as it relates to individuals that die while in police custody. An incident that is perceived as mishandled, improperly investigated or concealed from the community only serves to adversely affect the public's trust in its police officers as well as their trust in those responsible for selecting, training, and disciplining those officers.

This report necessarily involves a careful and responsible interpretation of the facts, evidence, and witness statements. The actions of Mr. Kriewaldt and the involved officers are interpreted with respect to the rules, policies, and procedures of the police department that were in effect at the time of the incident.

### **The Incident**

On July 28, 2012, at approximately 8:36 p.m., Milwaukee Police received a call which was created at 5734 N. 94 Street, the Thurston Group Home, for a mentally ill adult. The caller was J.L.<sup>1</sup>, a member of the staff at Thurston Group Home. She advised that a resident, Mr. John Kriewaldt, was throwing objects around and at staff, and was a danger to himself and others. At 10:07 p.m., Squad 4430, P.O. James Jordan, and Squad 4440, P.O. Michael Connell, were dispatched and both squads were on scene within 22 seconds of receiving the assignment.

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<sup>1</sup> For the purposes of this public statement, civilian witnesses are identified by initials only. The full identities of these witnesses are contained in the MPD files related to this case.

Upon the officers' arrival, they were met by staff who advised them of Mr. Kriewaldt's behavior and their desire to have him conveyed to MCMH as an emergency detention. When Officer Jordan attempted to speak with Mr. Kriewaldt, he slapped the officer on the face. The officers responded by handcuffing Mr. Kriewaldt and escorted him to a squad car. Staff members followed the officers and Mr. Kriewaldt as he was placed in the back of the squad. Within seconds of being placed in the back of the squad, Mr. Kriewaldt began to bang his head six (6) to seven (7) times on the partition that separates the front and rear seats. Officers immediately removed Mr. Kriewaldt from the back of the squad. Upon removing Mr. Kriewaldt from the squad, officers noticed blood on his forehead. Mr. Kriewaldt continued to struggle and was directed to the ground by officers. He was brought to the ground on his stomach and chest area, and then rolled to his side. Officers called for a police transport van as well as for medical attention.

Officer Kasberger arrived on the scene for the conveyance at approximately the same time Paratech Ambulance EMTs did. Paratech EMTs began treating Mr. Kriewaldt for his forehead injury and observed he had a pulse and was breathing. While Paratech EMTs were treating Mr. Kriewaldt for his injury, Officer Kasberger noticed Mr. Kriewaldt was not breathing and informed the EMTs. Officer Connell removed the handcuffs and Mr. Kriewaldt was rolled onto his back. Paratech EMTs called for assistance from MFD and began CPR.

MFD Engine 4 arrived on the scene and observed Paratech EMTs performing CPR and suctioning what appeared to be a watery vomit from Mr. Kriewaldt's mouth. MFD EMTs replaced the Paratech EMTs and continued to perform CPR until transport. MFD Medical Unit 19, staffed with paramedics, also responded. MFD was able to establish a pulse at the scene. Mr. Kriewaldt was transported to St. Joseph's Hospital by MFD, but he was unable to breathe without assistance during conveyance. He was admitted to the hospital on July 28, 2012, and was placed on a ventilator at the time of admission. Two (2) days later, while in the hospital, Mr. Kriewaldt was pronounced dead by hospital physicians.

#### **Initial Request for Police Assistance**

Prior to the incident at the Thurston Group Home, Milwaukee Police Officers Douglas Anderer and Efrain Cornejo responded to a call earlier on that same day, July 28, 2012, at the residence of Mr. Kriewaldt's mother, H.K. Mr. Kriewaldt's mother had called MPD for assistance with her adult son who was behaving in an irrational manner.

Officer Cornejo interviewed H.K., who stated that she was having trouble taking care of her son, Mr. Kriewaldt, and that he had been putting things in his mouth and putting his fingers down his throat. While Officer Anderer was attempting to interview Mr. Kriewaldt, Mr. Kriewaldt was observed eating a scrap of paper and then stood up and attempted to leave the room. The officers, believing that he was going to leave before they completed their investigation, handcuffed Mr. Kriewaldt, and placed him in the back of the squad. Officer Anderer observed Mr. Kriewaldt sliding back and forth on the seat and he appeared to bang his head against the back seat divider. Officer Cornejo continued to interview H.K.; she was upset the officers handcuffed her son. During the interview, H.K. received a phone

call from a staff member of the Thurston Group Home. She was told that because Mr. Kriewaldt had taken his medication that day, they would accept him at the home.<sup>2</sup> Officer Cornejo spoke with the staff member on the phone who stated Mr. Kriewaldt could be brought in by police or H.K. herself. H.K. requested she be allowed to convey her son to the home. Officers removed Mr. Kriewaldt from the back of their squad and removed the handcuffs. H.K. escorted Mr. Kriewaldt back inside the home and transported him to the group home a short time later.

### **Interview of Responding Police Officers**

#### **Police Officer Jordan**

Officer Jordan was dispatched to the Thurston Group Home for a disruptive mentally ill adult. He was dispatched along with Police Officer Connell. The two officers were in separate squad cars. Upon their arrival, Officers Jordan and Connell approached the group home together. They were met by members of the group home staff who informed them that Mr. Kriewaldt was being very combative. Staff members requested Mr. Kriewaldt be removed from the home.<sup>3</sup> As the officers entered the front door, Mr. Kriewaldt approached them. Officer Jordan asked Mr. Kriewaldt what was going on. Officer Jordan stated Mr. Kriewaldt walked up to him and asked, "Are you taking me home?" Before he could respond, Mr. Kriewaldt slapped him across the forehead with an open hand. Officers Jordan and Connell decided to take Mr. Kriewaldt into custody and handcuffed him. As they handcuffed him, Mr. Kriewaldt struggled and attempted to pull away but Officers Jordan and Connell were able to control each of his arms. After being handcuffed, Mr. Kriewaldt continued to struggle and attempt to pull away and Officer Jordan decided to put him in the back seat of the police squad to better secure him. Mr. Kriewaldt was walked to Officer Jordan's squad and placed in the back seat without incident. As they walked to the squad, Mr. Kriewaldt again asked if they were taking him home, but made no other statements.

Once Mr. Kriewaldt was secured in the back of the squad, Officer Jordan went to the rear of the squad to interview a staff member. Within a few seconds Officer Jordan observed Mr. Kriewaldt striking his head against the rear seat partition at least two (2) to three (3) times. Officers Jordan and Officer Connell immediately opened the rear passenger door and removed Mr. Kriewaldt from the squad by grasping his armpits and stood him up outside the squad. Mr. Kriewaldt began to struggle and pull away as if he wanted to run. At this point, Officer Jordan observed blood in the center of Mr. Kriewaldt's forehead. Based on Mr. Kriewaldt's actions of trying to pull away, officers guided him to the ground to obtain better control. According to Officer Jordan, Mr. Kriewaldt did not strike his head when they guided him to the ground and he landed on his stomach and chest area. Officers immediately rolled Mr. Kriewaldt to his right side. Mr. Kriewaldt did not say anything but continued to struggle despite the officers' request to stop resisting. S.M., a group home staff member, was

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<sup>2</sup> Mr. Kriewaldt had a mental health condition and was prescribed a number of medications related to that condition.

<sup>3</sup> Wis. Stat., Sec. 51.15 authorizes a law enforcement officer to take a person into custody and deliver them to a mental health facility if the person evidences a substantial probability of harm to themselves or others.

standing in the immediate vicinity and also telling him to calm down. Officer Jordan controlled Mr. Kriewaldt's legs and Officer Connell controlled his upper body. Officer Jordan then called for medical attention and a police transport van because Mr. Kriewaldt continued to struggle with officers.

As they waited for medical attention and a police transport van, Mr. Kriewaldt continued to struggle and attempted to move onto his stomach for three (3) to four (4) minutes. Officers Jordan and Connell continued to roll him back onto his right side. Mr. Kriewaldt did not say anything during this time but kept making "growling" noises.

Paratech Ambulance personnel and a transport van driven by Officer Blake Kasberger arrived at the same time. Upon his arrival, Officer Kasberger secured Mr. Kriewaldt's legs by holding them with his hands and Officer Jordan observed the EMTs as they assessed Mr. Kriewaldt. According to Officer Jordan, as the EMTs were assessing Mr. Kriewaldt, Mr. Kriewaldt began vomiting. This caused Officer Jordan to turn his head away from Mr. Kriewaldt. Within one (1) minute of Mr. Kriewaldt vomiting, Officer Jordan heard someone say that Mr. Kriewaldt's lips were blue. Officer Jordan turned around and observed the EMTs performing CPR. Officer Jordan then called for a supervisor and began securing the area by placing police tape around the scene.

#### Police Officer Connell

Officer Connell was dispatched with Officer Jordan to the Thurston Group Home for trouble with a mentally ill adult. Officer Connell stated that upon their arrival, he and Officer Jordan approached Thurston Group Home together where they were met by staff members. Staff advised them that Mr. Kriewaldt was acting violently, hitting people, and self-inducing vomiting. Staff members requested that the officers take Mr. Kriewaldt for medical clearance and then to MCMH. While speaking with staff, Officer Connell could see Mr. Kriewaldt standing in the first floor hallway. Officer Jordan asked Mr. Kriewaldt what was wrong, at which time Mr. Kriewaldt demanded to be taken home. Mr. Kriewaldt then struck Officer Jordan with his hand making a noise consistent with a slap. Officer Jordan immediately gained control of Mr. Kriewaldt by grabbing his right arm and Officer Connell took control of his left. Officer Connell observed that Officer Jordan had turned Mr. Kriewaldt so Mr. Kriewaldt was now facing the wall. Officer Jordan used the wall to secure Mr. Kriewaldt and keep him upright and stable. Mr. Kriewaldt resisted by refusing to place his hands behind his back and attempted to pull his arms away from officers. Officers Connell and Jordan were able to get control of Mr. Kriewaldt and handcuff him. Mr. Kriewaldt was then escorted outside to Officer Jordan's squad. Mr. Kriewaldt walked without assistance and was placed in the back seat. Officers then attempted to interview staff members.

Within seconds of placing Mr. Kriewaldt in the back of the squad, Officer Connell heard loud banging noises coming from within the squad. Officer Connell observed Mr. Kriewaldt bang his head against the black metal bar on the partition in the back of the squad. Officer Connell opened the rear passenger door believing Mr. Kriewaldt did not want to be in a confined space. When he opened the door, he observed that Mr. Kriewaldt was bleeding

from a laceration to the middle of his forehead. Officer Connell felt it was necessary to remove Mr. Kriewaldt from the squad to prevent him from causing any more harm to himself. Officer Connell pulled Mr. Kriewaldt out of the squad from under his armpits, first sitting him down on the grass and then placing him on his side. Mr. Kriewaldt did not resist being removed from the squad, but once on the ground he started thrashing his body, arching his back, and kicking his legs.

Officer Connell attempted to keep Mr. Kriewaldt on his right side by positioning himself behind Mr. Kriewaldt's back and placing his hands on Mr. Kriewaldt's shoulder and hip. He applied downward pressure on these areas in an attempt to minimize the kicking and thrashing. Officer Connell continued to ask Mr. Kriewaldt to relax and calm down. He observed Officer Jordan attempt to control Mr. Kriewaldt's legs and call for a police transport van and medical attention. Officer Connell stated from the time they handcuffed Mr. Kriewaldt to the time he was placed on the ground, Mr. Kriewaldt did not make any coherent statements, only "grunting" noises. Shortly after being placed on the ground, Officer Connell observed Mr. Kriewaldt vomit over five times. He described the vomit as clear and watery with no blood. He continued to try and keep Mr. Kriewaldt on his side to prevent him from choking on his own vomit.

Paratech Ambulance arrived on the scene at the same time as Officer Kasberger arrived with the police transport van. Officer Connell requested Officer Kasberger remain with Mr. Kriewaldt so he could brief Paratech EMTs. While the EMTs treated Mr. Kriewaldt, he heard Officer Kasberger state that Mr. Kriewaldt's lips were blue. The EMTs attached an Automated External Defibrillator (AED) and requested Officer Connell remove Mr. Kriewaldt's handcuffs. After removing Mr. Kriewaldt's handcuffs, Officer Connell did not have any further contact with him.

#### Police Officer Kasberger

Officer Kasberger responded with his emergency lights and siren activated in the police transport van to the Thurston Group Home. Paratech Ambulance arrived on the scene at the same time. He exited his van and noticed no one was in the rear seat of Officer Jordan's squad. Officer Kasberger then observed Mr. Kriewaldt lying on the ground on his stomach while Officer Connell was kneeling on the ground next to him with his hand on Mr. Kriewaldt's back. He approached Mr. Kriewaldt, placed both hands on Mr. Kriewaldt's shoulder, and with the assistance of Officer Connell, pulled Mr. Kriewaldt so that he was now lying on his side. Officer Kasberger did not observe Mr. Kriewaldt resisting at this time and he did not use force on him nor did he observe any officer use force. Officer Kasberger observed Mr. Kriewaldt breathing at this time.

Officer Kasberger said the Paratech EMTs approached and began treating Mr. Kriewaldt for the laceration on his forehead. Officer Kasberger observed a milky white substance come out of Mr. Kriewaldt's mouth. While one of the EMTs spoke with the group home staff about the medications Mr. Kriewaldt was taking, Officer Kasberger shined his flashlight on Mr. Kriewaldt's face. Officer Kasberger observed that Mr. Kriewaldt's lips were turning purple and he did not appear to be breathing. The EMT checked for a pulse and was unable

to find one. Officer Connell offered to remove the handcuffs. Officer Kasberger stabilized Mr. Kriewaldt while Officer Connell removed the handcuffs. The EMTs then rolled Mr. Kriewaldt onto his back and Officer Kasberger noticed Mr. Kriewaldt was unresponsive. Officer Kasberger advised Officer Jordan to call for a supervisor and observed him use the radio to call for one.

Officer Kasberger observed the EMTs begin CPR on Mr. Kriewaldt and attach a defibrillator to him. He heard the machine give a message of “defibrillator not to be deployed.” The EMTs also tried to use a suction instrument to clear liquid from Mr. Kriewaldt’s throat and radioed for MFD Paramedics to respond.

### **Interview of Medical First Responders**

#### **Paratech EMT M.G.**

M.G. and her partner, E.G., were dispatched to a patient with a head laceration. Upon arrival, M.G. observed Mr. Kriewaldt lying face down on the lawn with handcuffs on. M.G. observed Mr. Kriewaldt “thrashing around”. Officer Connell placed a hand on Mr. Kriewaldt’s back to hold him down as Officer Connell knelt next to him. Officer Jordan informed her of the call the officers had received and that Mr. Kriewaldt had been banging his head in the back seat of the squad car. Officer Jordan explained that they removed Mr. Kriewaldt from the back seat and placed him on the ground. Thurston Group Home staff had advised Officer Jordan that Mr. Kriewaldt had consumed toilet paper and had attempted to vomit. M.G. stated E.B. did a cursory check of Mr. Kriewaldt and observed he was breathing and had a pulse.

M.G. went back to the ambulance to retrieve a suction device and a defibrillator. When she returned approximately 45 seconds to one (1) minute later, she observed Mr. Kriewaldt was now on his back and the handcuffs had been removed. M.G. was advised by E.B. that Mr. Kriewaldt was not breathing and did not have a pulse. M.G. set up a suction device and a nasal airway while E.B. set up the defibrillator. She then radioed for additional medical attention for a compromised airway. M.G. began chest compressions and observed that the defibrillator recommended no shock be delivered.<sup>4</sup> MFD arrived on scene and took over emergency medical treatment a short time later.

#### **Paratech EMT E.B.**

E.B. was partnered with M.G. when they were sent to the Thurston Group Home. Upon arrival, Mr. Kriewaldt was breathing and they began treating him. Less than one minute later, Mr. Kriewaldt stopped breathing.

### **Interview of Group Home Caregiver**

Detectives interviewed several staff members at the Thurston Group Home that evening. K.G., a caregiver at the group home, stated Mr. Kriewaldt had been at the home for the past

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<sup>4</sup> An automatic defibrillator is programmed to recommend no shock be delivered to a patient when an electrical impulse of a heartbeat is detected by the machine.

two (2) months. During his stay, Mr. Kriewaldt had been known to throw objects, hit workers, overturn furniture and cause himself to regurgitate food by sticking his fingers down his throat. K.G. said it was also very difficult to hold a conversation with Mr. Kriewaldt. On July 19, 2012, Mr. Kriewaldt was released to his mother because he had been improving. On July 28, 2012, K.G. received a call that Mr. Kriewaldt was returning to the group home because his mother, H.K., was having difficulty with him at home. Upon his return, Mr. Kriewaldt acted out and staff wanted him conveyed to MCMH. Mr. Kriewaldt struck K.G. three (3) times and he observed Mr. Kriewaldt regurgitate food by sticking his fingers down his throat five (5) times before police arrived.

When police arrived, staff informed the officers of Mr. Kriewaldt's behavior and their desire to have him conveyed to MCMH. He observed that when Officer Jordan attempted to talk with Mr. Kriewaldt, Mr. Kriewaldt turned and slapped the officer. The officer responded by handcuffing Mr. Kriewaldt. Both officers escorted Mr. Kriewaldt to the squad car and K.G. followed them outside. Mr. Kriewaldt was placed in the back of the squad and he immediately started banging his head back and forth inside the squad six (6) to seven (7) times before officers were able to remove him. Upon removing Mr. Kriewaldt from the squad, he attempted to pull away and run. The officers held onto Mr. Kriewaldt while struggling and fell to the ground. Mr. Kriewaldt continued to fight and kick at the officers. One officer was ordering him to remain on the ground. K.G. then observed blood on Mr. Kriewaldt's forehead as a result of banging his head in the squad. K.G. observed Officer Connell place his knee into the back of Mr. Kriewaldt to push him back to the ground because he continued to struggle. K.G. stated Officer Connell never kept his knee on Mr. Kriewaldt's back; rather, Officer Connell knelt next to him. At one point, K.G. observed Officer Connell laid his upper body across the upper body of Mr. Kriewaldt while Officer Jordan took control of his feet. While the officers waited for backup, they observed Mr. Kriewaldt was not breathing. Officer Connell checked for a pulse and when he did not find one, the officers began CPR and called for medical attention. They continued CPR until MFD arrived. The statement of K.G. omitted any reference to the arrival of Paratech Ambulance personnel and the medical treatment they provided.

### **Interview of Group Home Staff Members**

#### **S.M.**

S.M. stated Mr. Kriewaldt arrived at the group home at approximately 5:00 P.M. Mr. Kriewaldt ate dinner and then wanted to go outside. S.M. observed Mr. Kriewaldt stick his hand down his throat six (6) times to make himself throw up and later throw things and knock over furniture. He contacted the nurse several times because of Mr. Kriewaldt's behavior and was ultimately instructed to call police. When police arrived, S.M. did not observe their initial contact with Mr. Kriewaldt because S.M. was upstairs getting Mr. Kriewaldt's medication ready for police to take with them. When S.M. went outside, he observed Mr. Kriewaldt bang his head on the partition in the back seat of the squad car. Both officers removed Mr. Kriewaldt from the squad and laid him on the ground where he continued to "squirm." S.M. then went inside to call H.K. When he came back out, paramedics were performing CPR on Mr. Kriewaldt. S.M. did not observe officers do anything improper to Mr. Kriewaldt.

J.L.

J.L. observed Mr. Kriewaldt stick his hand down his throat to make himself vomit, throw shoes, push over a dresser, and spit at her. She also called the on-duty nurse to inform her about Mr. Kriewaldt's behavior and was advised to call the police. At one point, Mr. Kriewaldt removed his clothes and J.L. and K.G. attempted to redress him. She observed Mr. Kriewaldt "go after" Officer Jordan's face and the officers handcuff him. She followed the officers as they escorted Mr. Kriewaldt outside and observed him bang his head on the plastic shield in the squad car. She observed the officers remove Mr. Kriewaldt from the squad and place him on the ground. She went back inside and when she came out again, she observed paramedics attending to Mr. Kriewaldt.

**Interview of Neighborhood Witness**

W.H., an individual who lives in the neighborhood, said he recognized Mr. Kriewaldt from the neighborhood. He observed Mr. Kriewaldt lying on the ground on his stomach with his hands handcuffed behind his back. He observed Officer Connell kneeling next to Mr. Kriewaldt and Officer Jordan standing next to him. Mr. Kriewaldt was on the ground "grunting" and "jerking around" which caused W.H. to assume Mr. Kriewaldt was being Tased.<sup>5</sup> He did not observe any of the officers with Tasers nor did he observe the officers do anything physically to Mr. Kriewaldt.

**Squad Video and Audio Recording**

There was no squad video or audio recording available for this incident. The squad car Mr. Kriewaldt was seated in was equipped with a Digital Patroller II recorder system. This system can be activated by one of three methods: automatically by engaging the emergency light bar, automatically when the car is involved in an accident, or manually when an officer switches it on. To manually activate the system, the key must be in the ignition with the accessory switch on or the engine must be running. Officers were unable to activate the squad video camera prior to placing him in the rear seat area. Once Mr. Kriewaldt was placed in the rear seat, he immediately began banging his head on the partition. Officers then removed Mr. Kriewaldt from the rear seat and were unable to activate the squad video camera due to his continuing to struggle with officers.

**Computer Aided Dispatch Report**

The Computer Aided Dispatch (CAD) Report is a summary of radio, telephone, and computer communications that occurred during the incident. The following is a summary of the pertinent CAD entries on the night MPD responded to the Thurston Group Home.

**8:36 p.m.** – Milwaukee Police received a call from a staff member of the Thurston Group Home. The caller stated that Mr. Kriewaldt was throwing things around and at the staff. The caller stated Mr. Kriewaldt was a danger to himself and others and was bi-polar. Mr. Kriewaldt regurgitated his

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<sup>5</sup> No Tasers were deployed or utilized during this incident.

medication that evening so it was as if Mr. Kriewaldt was not taking it. The call was entered as a “Trouble with a Subject”.

**9:52 p.m.** – Thurston Group Home called MPD to check on the status of the squad.

**10:02 p.m.** – Thurston Group Home called MPD to update the call. Mr. Kriewaldt was now physically assaulting staff members.

**10:07 p.m.** – Officers Jordan and Connell were dispatched to Thurston Group Home.

**10:07 p.m.** – Both squads arrived on scene.

**10:12 p.m.** – Officer Connell requested a police transport van as well as medical attention for Mr. Kriewaldt for a laceration to Mr. Kriewaldt’s head. Mr. Kriewaldt was conscious and breathing.

**10:23 p.m.** – Officer Kasberger arrived on the scene with a police transport van.

**10:26 p.m.** – Officer Jordan requested a supervisor respond to the scene. Mr. Kriewaldt was unresponsive.

#### **Post-Mortem Examination**

On July 31, 2012, Milwaukee County Medical Examiner Brian Peterson performed an autopsy on Mr. Kriewaldt. Dr. Peterson issued a finding that Mr. Kriewaldt’s manner of death was natural and caused by complications of lobar pneumonia. This is a form of pneumonia which affects a large and continuous area of the lobe of a lung. Observations of Mr. Kriewaldt indicated five (5) red abrasions to the head and neck area. These abrasions were determined to be cutaneous injuries only and not contributory factors in his death; there was no subgaleal hemorrhage, no skull fracture, and no epidural, subdural or subarachnoid hemorrhage. The Medical Examiner did not identify any action or inaction by MPD officers that may have contributed to the death of Mr. Kriewaldt.

#### **Milwaukee County District Attorney Investigation**

The Milwaukee County District Attorney’s Office conducted an investigation related to the use of force in connection with the death of Mr. Kriewaldt. On October 19, 2012, Milwaukee County District Attorney John Chisholm concluded that Mr. Kriewaldt’s death was not the result of wrongdoing by any members of the MPD. District Attorney Chisholm further stated that he was satisfied that no officer committed any crime in connection with this incident and that their use of force, to the extent any was actually used, was appropriate given the circumstances. District Attorney Chisholm met with the Kriewaldt family on three separate occasions. Medical Examiner Peterson attended at least one of the family meetings to address any questions the family had regarding his autopsy conclusion.

### The Administrative Review

Following the decision by the District Attorney, this case was returned to MPD for review pursuant to the newly established SOP 455 and the Critical Incident Review Board (CIRB).

Standard Operating Procedure (SOP) 455 states:

“The Critical Incident Review Board (CIRB) will serve as an advisory body to the Chief of Police. The role of the CIRB is to conduct objective, thorough, and timely analyses of a critical incident or any use of force or any other incident the Chief of Police determines is appropriate for such review. During its review process, the board shall seek to evaluate and recommend policies and procedures, improve training, and ensure that best practices are in place to critical incidents. The goal of the CIRB is to set State standards in the review of critical incidents.”

Upon the completion of the CIRB investigation on January 4, 2013, Police Chief Edward Flynn concurred that there was no indication that any of the officers involved in this incident violated any laws, the Department’s Code of Conduct, or Standard Operating Procedure.

The CIRB made the following two policy recommendations:

1. *SOPs 090 – Prisoners and 160 – Mentally Ill Persons should require the same transportation actions.*

The current SOP 090.30 (c) (4) directs persons displaying violent behavior during or immediately after arrest **shall** be transported in a patrol wagon. SOP 160.55 (b) (2) (a) regarding mentally ill persons directs that a patrol wagon **may** be used. The policies should be congruent in transportation/conveyance situations relating to violent persons.

2. *SOP 730.10 (a) (4) (5) – Mobile Digital Video Recording Equipment states that the Mobile Digital Video Recorder (MDVR) shall be used to record the following: transportation of subjects who have been placed in emergency detention and whenever a citizen is placed in a department vehicle whether conveyed or not.*

When Mr. Kriewaldt was placed in the rear of the squad, video of his confinement was not captured. The officers did not have time to enter the squad, start the engine and activate the video. The CIRB recommends a review of the SOP to determine whether changes should be made to activation of the MDVR system and if activation of the recording can begin when an individual is placed inside the squad car when the vehicle is not running.

### Conclusion

In 2012, Milwaukee Police made 34,711 arrests. It is a rare occurrence for a death to occur to an individual while in the custody of the MPD. Mr. Kriewaldt’s death was the sole incident in the calendar year 2012 in which a person died while in the custody of the MPD.

It is important for the FPC to assure the members of Mr. Kriewaldt's family and the community that this case has been reviewed and analyzed carefully. No evidence was identified that would substantially support a conclusion that the involved officers failed to act in accordance with the law, department policies, or procedures. No evidence was identified that would justify referring any of the involved officers to a citizen board hearing for potential disciplinary action. The FPC takes its duties seriously and will not hesitate to hold members of the police department accountable for misconduct. However, such action is not appropriate in this case.

The MPD has expanded its training for dealing with mentally ill persons over the past several years, specifically detailed in SOP 160 – Mentally Ill Persons. It has created a specialized program to train designated officers in the management of mentally ill persons as part of a Crisis Intervention Team (CIT). The CIT is incorporated into the current SOP. This team undergoes extensive and periodic training in this specialized area. The CIT was in existence at the time of this incident but was not dispatched to the scene. Due to Mr. Kriewaldt's medical condition, a CIT response would not have altered the final outcome. However, the telephone request from the group home was classified by the dispatch center as 1636 "Trouble with a Subject". The records indicate that the call could have been more accurately classified as 1626 "MO: A Person Likely to Be in Need of Mental Observation". By classifying the call as 1626 MO a response by a CIT member may have resulted. While not directly germane to the outcome of this incident, the MPD should continue to expand CIT training to more officers while ensuring that telecommunicators are properly classifying all incidents that may involve mentally ill persons. This may provide opportunities to optimize utilization of the CIT.

The death of Mr. Kriewaldt is undoubtedly tragic. However, the death of Mr. Kriewaldt was not intended by anyone. Officers requested medical attention immediately upon observing a laceration to Mr. Kriewaldt's forehead. The facts and circumstances surrounding this event indicate that no excessive force was exercised by the officers and no department policies were violated. This conclusion, while consistent with the findings of the Milwaukee County District Attorney, Milwaukee County Medical Examiner, and the MPD, was reached by an independent review of the facts and circumstances of this case. The death of Mr. Kriewaldt was that of natural causes and not a probable consequence of the actions of the officers. The officers were carrying out their duties consistent with their training and took actions that were appropriate at the time and under the circumstances that they were presented with.

Sincerely,



Michael G. Tobin  
Executive Director  
Milwaukee Fire and Police Commission