

**BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE**

In the Matter of the Appeals of Bradley M. Johnson and Brian Young

Hearing Dates: December 19, 2017
 December 20, 2017

Hearing Location: City Hall, 200 E. Wells Street, Milwaukee, Wisconsin,
 Room 301-A, 8:30 A.M., on December 19, 2017
 Room 303, 8:30 A.M., on December 20, 2017

Commissioners: Nelson Soler
 Marisabel Cabrera, Esq.
 Fred Crouther

Hearing Examiner: Rudolph M. Konrad, Esq.

Appearances: For the Milwaukee Police Department,
 Robin A. Pederson, Esq.
 Office of the City Attorney

 For Bradley M. Johnson and Brian Young,
 Attorney Brendan Matthews, Esq.
 Cermele & Matthews, S.C.

PROCEDURAL HISTORY

In Personnel Orders 2017-40 and 2017-41, both dated April 25, 2017, Chief of Police, Edward A. Flynn, found Police Officers Bradley M. Johnson and Brian Young, failed to adhere to the department's citizen contact protocol in violation of Milwaukee Police Department Core Value 1.00, *Competence*, Guiding Principle 1.05, referencing Standard Operating Procedures regarding Citizen Contact, Field Interviews, Search and Seizure, Section 085.10, Contact Protocol.

This appeal was first scheduled for August 22 and 23, 2017. The officers, through their counsel, notified the Board that the parties had agreed to adjourn the hearing. The Board rescheduled the hearing to September 13 and 15, 2017. On August 30, 2017, the officers' counsel informed the Board he would be unavailable on the rescheduled dates. The hearing was then rescheduled to be heard on December 19 and 20, 2017. Counsel for the officers and counsel for the Chief signed a stipulation waiving any challenge to the Board's jurisdiction based upon the hearing taking place more than 120 day after service of the appeal. A copy of the stipulation is attached to this decision and marked as "Commission Exhibit A."

In reference to the initial contact between a police officer and a member of the public, Section 085.10-A-1 and 2, Contact Protocol, states as follows:

1. To the extent that safety considerations allow, police members will introduce themselves to all citizens they make contact with. A proper introduction will establish the identity of the police member, the authority of the police member, and the context surrounding the initiation of the contact. This provides the platform for the lawful actions or requests made by the police member during the contact. Introductions should be formulated so that they provide:

- a. The police member's name.
- b. The police member's rank or title.
- c. The police member's affiliation with the Milwaukee Police Department.
- d. The reason for the contact or stop.

2. The introduction shall occur as early in the contact as safety permits and will be given prior to the police member's request for identification or license and registration information from the citizen being contacted.

The Chief found that on April 20, 2016, Johnson and Young failed to identify themselves in compliance with the contact protocol as referenced in the Core Value, Guiding Principle, and Standard Operating Procedure noted above when they initiated a field interview of Mr. James Beamon after seeing him walk in the roadway at North 9th Street and West Concordia Avenue. For this violation the Chief suspended Johnson and Young for fifteen (15) working days without pay. Johnson and Young appealed the Chief's order to the Milwaukee Fire and Police Commission.

SUMMARY OF HEARING PROCEEDINGS

A hearing was held and recorded by a stenographic reporter. Testimony was taken from the following witnesses:

For the Police Chief:

Police Officer Bradley M. Johnson
Police Officer Brian Young
Sergeant Allen Groszcyk
Lieutenant Christopher Schroeder
Chief of Police Edward Flynn

For the Appellant:

Jose Alba
Inspector Leslie Thiele
Sergeant Gregory Sousek
Sergeant Cory Strey
Police Officer Gerald Kuwick
Police Officer Bradley M. Johnson
Police Officer Brian Young

FINDINGS OF FACT

We find the following facts have been established by a preponderance of the evidence.

1. On April 20, 2016, Police Officers Johnson and Young, in police uniform and assigned to an unmarked white squad, conducted a stop at 8:39 P.M., at North 9th Street and West Concordia Avenue. Johnson activated this body camera but Young did not. The squad was not equipped with a camera. The only video of the stop, therefore, is from Johnson's body camera. The video is marked as Exhibit 1.
2. Officers Johnson, who joined the force in 2004, and Officer Young, who joined the force in 2010, were assigned to the Neighborhood Task Force, Street Crimes Unit (NTF). NTF officers are assigned to patrol violent crime areas of the city to enforce traffic violations, address safety concerns, and stop persons engaged in conduct that creates reasonable suspicion that a crime may be in progress. The NTF creates a visible police presence and thereby seeks to reduce crime and improve safety. (Ex. 8)
3. Officer Johnson testified that while on patrol the officers saw a black man, later identified as James Beamon, walking in the roadway westbound on West Concordia Avenue. He was about seven feet off the curb. It was dark and raining and he was dressed in all black clothing. The officers were concerned about his safety and wanted to get him out of the street. As the officers drove eastbound toward Beamon, he did not move out of the street to permit the squad to pass. By not moving to the left, he interfered with the squad's movement. Wis. Stat. 346.29(2), which prohibits "standing or loitering on any roadway . . . if such act interferes with the lawful movement of traffic." The officers stopped and exited their squads to talk to Beamon, who stood near the front of the squad.
4. After he stepped out of the squad, Johnson testified he told Beamon to take his hands out of his pockets. Beamon then raised his hands in the air but started to back up and glanced backwards. Officer Young testified that at this point Beamon turned away. Johnson then grabbed his left arm and Young grabbed his right arm. Beamon was verbally aggressive and resisted the officers' efforts to move his hands behind his back to enable them to handcuff him. Johnson then pointed his Electronic Control Device (EDC), commonly known as a Taser, and threatened to use it if he continued to resist. He decided to point his Taser at Beamon because he refused to follow verbal commands. The officers ordered Beamon to his knees, which he refused to do. The officers then forced Beamon to the ground, cuffed him and took him into custody. Johnson had been trained and certified to use his EDC. (Ex. 3) The officers eventually issued Beamon citations for violating Wis. Stat. 346.29(2), noted above, and obstructing an officer.
5. Officer Johnson's body camera recorded the incident in part. A second by second review of the recording, beginning at "0," shows the following:

32 Squad door opens. Beamon is seen be standing in
the road near the curb.

33 Officer says, "hands out of pockets."

- 34 Beamon is standing several feet from the curb with his hands out of his pockets.
- 36 Beamon's hands are still out of his pockets and an officer yells "come here."
- 37 Beamon raises his hands.
- 38 Officer says, "step forward." Beamon says, "you all got guns." His left hand is up but the right hand is out of the camera's view. He does not step forward.
- 40 Officer says, "come here."
- 41 Off camera, Beamon says, "don't touch me."
- 42 Off camera, Beamon says, "don't touch me." Officer says, "come here." Beamon says, "for what."
- 43 Officers place hand on Beamon and try to push his hands behind his back, but he keeps his arms stiff to resist them.
- 44-48 The officers' efforts to pin Beamon's arms behind his back continues.
- 49-50 An officer asks if he has weed or a gun. Beamon answer "I don't have weed, I don't have a gun."
- 52 Officer Young has his hand on Beamon's shoulder. Officer Johnson points his Taser at Beamon and yells at him, "Get on your knees now, get on your fucking knees."
- 53-57 Officer Johnson pointing the Taser yells, "Get on your knees now or I'm going to tase your ass." Officer Johnson again yells "Get down, get down on your fucking knees."
- 1.00 Officers direct Beamon to sit down on the curb.
- 1.03 Beamon refuses to sit down and says, "I didn't do shit."
- 1.05 A officer tells him his offense is standing in the roadway.

- 1.09 Beamon is again told to sit on the curb.
- 1.17-1.29 Officer Johnson tells Beamon sit down or you are going to get tased. Beamon says he did nothing wrong. Officers ask for his name and he refuses to give his name.
- 1.30-1.48 Mostly off camera officers struggle to get Beamon onto the ground. At one point it is clear Officer Johnson still has the Taser in his hand.
- 1.49-2.01 The first attempt at take down ends. Officer Johnson again points Taser and yells “get on the fucking ground.” Beamon refuses and argues.
- 2.21 Officers try to take Beamon to the ground a second time and succeed. Officer Johnson is still holding his Taser.
- 2.36 Officer struggle to place handcuffs of Beamon.
- 3.00 Beamon is handcuffed.

The remainder of the video records conversation between the officers and Beamon in which the officers try to explain why they stopped him and why they had to use force to take him into custody. The officers also offered to drive him to his job. (Ex. 1)

- 6. In their defense, the officers point out SOP 085.00, states its purpose is to “provide guidance for enforcement actions, particularly citizen contacts (for traffic and field interviews).” (Ex. 6, page 1) Nevertheless, they further maintain that the contact protocol, 085.10, does not require the introduction to be made immediately, but rather as early in the contact as safety permits. (Ex. 6, page 3) So long as they did not see Beamon’s hands, the officers maintain, the situation was not sufficiently safe to follow the introduction portion of the contact protocol. Moreover, the officers assert that their conduct was in compliance with their training. Officer Johnson decided not to follow the REACT protocol but to threaten Beamon with his Taser because he did not follow directions, yelled, and talked over them. [REACT stands for a dispute resolution strategy, to wit: Request cooperation, Explain reason, Allow choice, Check decision, Take action.] (Ex. 7, page 102)
- 7. They maintain that their actions to control Beamon were in accordance to the DONE concept, which states the actions an officer should take when words do not achieve compliance, as described in the Law Enforcement Standards Board training guide. (Ex. 7, pages 77-78) The officers acknowledge that employment of verbal skills is always preferred, see exhibit 7 at page 77, but maintain that Beamon did not follow their verbal commands. They believe they followed the correct procedure for field interviews as stated in SOP 085.20 (B)(2), which requires officers to “be courteous at all times during the contact but maintain caution and vigilance to a subject’s actions which may be

suggestive of an attempt to retrieve a weapon, conceal or discard contraband, or other suspicious actions.” (Ex. 6, page 5, B-2) They believe that a field interview was justified because Beamon backed away from them, which is tantamount to fleeing, and that force they used to restrain Beamon was reasonable to prevent him from fleeing. (Ex. 6, page 5, A-9)

8. The remaining testimony consisted of opinions of a former and current department members. (1) Sgt. Allen Groszcyk, MPD director of training, expressed the opinion that the officers failed to leave enough distance between Beamon and themselves so that they could follow the introduction protocol. (2) Jose Alba, a retired police academy instructor, testified the officers acted consistent with their training and followed established police protocol. He disagrees with Sgt. Groszcyk opinion that the officers failed to leave enough distance between themselves and Beamon. He notes there is no requirement that a specific distance be maintained in a field interrogation. (3) Sgt. Gregory Sousek, who is one of Johnson’s and Young’s supervisor in the Street Crimes Unit, testified that in his opinion there was nothing wrong in the manner in which they handled the stop, that safety concerns justified the lack of verbal engagement, but that the officers could have employed other methods, but no other method was required. (4) Sgt. Corey Strey, who conducted the Johnson-Young counseling session, testified that he viewed the body camera video, listened to the officers’ explanation, and discussed with them what had occurred. In his opinion, the officers approach was “a little too much for a pedestrian violation,” but Beamon’s non-compliance caused the escalation. He believed the counseling session would be the end of the matter.
9. Insp. Leslie Thiele, who at the time of the incident was the captain in charge of the NTF and was Johnson’s and Young’s supervisor, testified that the officers went, in her words, “from 0 to 100 real quick.” They went “hands on” quite quickly, she explained. They could have and should have talked to Beamon more before grabbing him and pointing the Taser at him. She recommended counseling because it could be done quickly whereas a disciplinary proceeding takes years. She agreed with the comments written by Lt. Kristin Felsman on the incident report, which were more detailed. The lieutenant’s note states that as the squad approached, it appears Beamon moved to the side to allow it to pass. It also appears Beamon stepped back from the officers out of fear to create distance, not flee. She believes had they tried “using dialogue,” they would not have had to use force. She recommended counseling, “at least,” in other words, at a minimum (Ex. 10, page 114) Internal Affairs recommended discipline. (See Ex. 12 memorandum initiating investigation, and Ex. 9, Memorandum recommending charges)
10. After an investigation of the Beamon arrest, charges were recommended by the Internal Affairs Division. (Ex. 9) The basis of its recommendation is stated as follows:

Absent specific actionable intelligence, the contact with Mr. Beamon should have been consensual, despite the possible pedestrian violation. The officers should have approached while maintaining a safe distance, identified themselves as officers and informing Mr. Beamon of the reason they wanted to speak with him; they failed to do so. Upon speaking with him, allowing him to explain his actions and/or cooperate by

moving to the sidewalk should have been the optimal outcome, absent other aggravating circumstances. The threat of Mr. Beamon possibly being armed with a gun was a justifiable concern. But to establish the criteria to justify a Terry stop and frisk, the officers needed to overcome the fact that if Mr. Beamon was armed, he may have been lawfully so, due to Wisconsin's concealed carry laws. Professional dialogue coupled with tactical use of distance and observation would have provided for the best outcome of the contact. Instead, the officers ended up using force on and arresting an unarmed man on his way to work. (Ex. 9, page 3 of 4)

CONCLUSIONS OF LAW

11. This appeal is governed by the seven "just cause" standards set forth in Wis. Stat. Sec. 62.50(17) (b). The Commission must find by a preponderance of the evidence that there is just cause to sustain the charges. Preponderance of the evidence means "more likely than not," rather than just possible. See, e.g., *U.S. v. Johnson*, 342 F.3d 731, 734 (7th Cir. 2003). We conclude that standards are satisfied with respect to the charges against Officers Johnson and Young.
12. The first just cause standard asks, "whether the subordinate could reasonably be expected to have knowledge of the probable consequences of the alleged conduct." The officers could reasonably be expected to know that unnecessarily escalating a pedestrian stop into an arrest requiring force and the drawing of a Taser would have an adverse effect on the person stopped and the public's perception of the department. We conclude the Chief has satisfied the first standard by a preponderance of the evidence.
13. The second just cause standard asks, "whether the rule or order the subordinate allegedly violated is reasonable." Core Value 1.00, *Competence*, holds department members accountable for the quality of their performance. Reference Guiding Principle 1.05, requires department members be familiar with department policy, procedures and training and conduct themselves accordingly. Section 085.10, Contact Protocol, establishes the departmental goal that each contact be conducted in a courteous, professional and lawful manner. To achieve this goal, the contact protocol requires officers to introduce themselves to all citizens with whom they have contact. Its purpose is to provide a platform for the lawful actions or requests made by the police officer. The protocol specifically states, "to the extent safety considerations allow," officers are to state their name, rank, affiliation with the MPD, and the reason for the stop. The protocol requires that the introduction be made "as early in the contact as safety permits," and requires that it be given prior to the police officer's request for identification. We have no difficulty concluding that, Core Value 1.00, *Competence*, Reference Guiding Principle 1.05, and Section 085.10, Contact Protocol are reasonable. Police officers have contact with the public many times a day. The manner in which these contacts are conducted not only reflects on the public perception of the MPD, but also affects the safety of the officers, the person stopped, and bystanders. We conclude the Chief has satisfied the second standard by a preponderance of the evidence.

14. The third just cause standard asks, “whether the Chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate the rule or order.” The record of the department’s investigation of this incident is recorded in the Incident Report, (Ex. 10), the memorandum of Sgt. Christopher Schroeder, (Ex. 11), the memorandum of Lt. Timothy Leitzke, (Ex. 9), and the officers’ memorandums responding to the charges. (Exs. 17 and 18) We conclude the Chief has satisfied the third standard by a preponderance of the evidence.
15. The fourth just cause standard asks, “whether the effort was fair and objective.” Reviewing the entire record in this matter, we find no evidence of any animus directed against either Officer Johnson or Young. The officers were notified of the charges, were given an opportunity to respond to the charges, which they did in their PI-21 interviews and in their memoranda, and the investigation proceeded as noted in the above exhibits. Two specific issues of fairness, however, were raised by the officers in the course of the proceedings and are addressed below.
16. The officers moved to dismiss the charges on the ground that the rule they were charged with violating is too vague to comply with due process, which requires fair notice, citing *Bence v. Breier*, 501 F.2d 1185 (7th Cir. 1974). Generally, “a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.” *Connally v. General Const. Co.*, 269 U.S. 385, 391 (1926) In *Breier*, the court addressed whether the phrase “conduct unbecoming an officer and detrimental to the service” is unconstitutionally vague. The court found the terms “unbecoming” and “detrimental” have “no inherent objective content from which ascertainable standards defining the proscribed conduct could be fashioned,” and held the rule to be unconstitutionally vague.
17. In contrast to the rule in *Breier*, the Contact Protocol explicitly states the manner in which police officers should conduct themselves when stopping a member of the public. The officers’ objection is that the protocol contains the caveats “to the extent safety considerations allow,” and “as early in the contact as safety permits.” These limitations are not vague in the sense they lack inherent objective content, but they do require a police officer to exercise judgment. In essence, the officers argue the rule is vague because it requires police officers to decide whether it is safe to follow the protocol. The fact that a rule requires the exercise of judgment in its application, however, does not make the rule unconstitutionally vague, and the officers have cited no case so holding. Moreover, under the officers’ argument, the Fourth Amendment, which guarantees citizens the right “to be secure in their persons . . . against unreasonable seizures,” would be subject to attack on vagueness grounds because deciding what is “reasonable” requires the exercise of judgment, as would the application of any statute, regulation, or rule that used the word “reasonable.” As noted in *Colten v. Kentucky*, 407 U.S. 104 (1972), the vagueness doctrine is “not a principle designed to convert into a constitutional dilemma the practical difficulties in drawing criminal statutes both general enough to take into account a variety of human conduct and sufficiently specific to provide fair warning that certain kinds of conduct are prohibited.” *Id.* At 110. The motion to dismiss was correctly denied by the Commission.

18. The officers filed a motion to declare the discipline imposed unlawful as a matter of law on the grounds of double jeopardy. The Commission noted in the *Appeal of Daniel J. Vidmar*, June 26, 2014, that, although the Fifth Amendment Double Jeopardy Clause does not apply to Fire and Police Commission proceedings, a number of nonbinding labor arbitration cases hold that a similar doctrine applies in cases involving a just cause standard. Those authorities, the Commission noted, “reason that it is fundamentally unfair to impose two separate disciplinary sanctions on an employee for the same conduct, and that this unfairness precludes a finding of just cause for the second sanction.” In *Vidmar*, the Commission, recognized that the labor arbitration cases were not binding on it, nevertheless, the Commission accepted for the sake of argument that the imposition of a second discipline for the same conduct would be unfair and in violation of the fourth just cause standard. Accordingly, the Commission considered whether Vidmar was in fact disciplined earlier for the same conduct that was the subject of one of the charges in that proceeding. We will follow the same course here.
19. The officers’ brief argues that double jeopardy attaches here because NTF commanders recommended the officers undergo counseling in regard to the Beamon stop. (Ex. 10, page 5) Sgt. Cory Strey conducted the counseling session on May 20, 2016. (Ex. 22) At the session the sergeant and the officers viewed the body camera video, explained their actions, and talked with the sergeant about what had occurred. At the end of the session, he was under the impression that this would be the end of the matter. The officers claimed in their motion that the counseling session constituted discipline for their Beamon-stop conduct, and, therefore there is no legal basis for this discipline. However, counseling sessions in general and the counseling session in this case do not fit into the conventional definition of discipline. Webster defines “discipline” as meaning “to inflict suffering on or to penalize for the sake of discipline, regularity, order, or rule.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 645 (1971). The definition in BLACK’S LAW DICTIONARY gives the legal meaning of the term. Black defines “discipline” as “[p]unishment intended to correct or instruct, esp. a sanction or penalty imposed after an official finding of misconduct.” BLACK’S LAW DICTIONARY (10th ed. 2014). The common definition of “discipline” involve an affirmative act of punishment. The legal definition adds the requirement that the punishment be imposed after an official finding of misconduct. Under either definition, the Johnson-Young counseling session was not discipline. The motion to dismiss on double jeopardy grounds is denied.
20. Accordingly, based upon the facts found in paragraph 15 and the denial of the officers’ two motions, we conclude the Chief has satisfied the fourth standard by a preponderance of the evidence.
21. The fifth just cause standard asks, “whether the Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.” When officers Johnson and Young first saw Beamon walking in the street, they were going to advise him to walk on the sidewalk for his own safety. When they drove their squad near him, they claim he obstructed their squad, and thereby obstructed traffic. The latter claim is dubious because the body camera video appears to show him off to the side of the road and the officers stopped their squad to talk to him. (See also Lt.

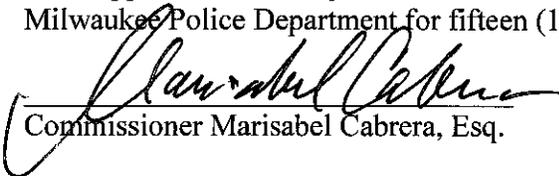
Felsman note on the video, exhibit 10, page 5) In either case, the stop, at most, was for a pedestrian violation. The officers had no reason to believe that Beamon was either armed or dangerous. They were not apprehending a suspect or looking for a person known to be dangerous. The body camera video shows that after the officers stepped out of the squad, they closed in on Beamon, whose hands were plainly visible, and grabbed hold of him within ten seconds. During those ten seconds the dialog was “hands out of pockets,” “come here,” “step forward,” to which Beamon responds “you’ve got guns,” “come here,” to which Beamon respond, “don’t touch me,” “come here,” and Beamon responds “for what.” At no time during these initial ten seconds did they tell Beamon why they had stopped him. If they intended to issue a citation, at no time during these initial ten second did they tell him what the violation was. Had they kept more distance, introduced themselves and explained the reason for the stop, as the contact protocol required, the use of force and arrest could have been avoided and Beamon could have continued on his way to work. Ten seconds after they grabbed Beamon, Officer Johnson pointed his Taser at Beamon and swore at him to compel him to sit down on the curb so that they could cuff him. Finally, about ten seconds later, an officer told Beamon his offense is standing in the roadway, and within half a minute later the officers are struggling with Beamon to bring him to the ground. The officer’s failure to even attempt to follow the contact protocol resulted in turning a pedestrian stop into an incident involving use of force, inappropriate language, and a Taser. The end result is a man walking in the street on his way to work is arrested and, because he failed to appear at work, lost his job. The officers’ explanation for their actions is that each step they took was necessary for their safety. They were concerned Beamon had a weapon, but there was no reason to believe that he had a weapon and his hands were visible after the officers stepped out of their squad. (See exhibit 1 at 34 seconds) The officers claim that he acted in a way that led them to believe he was about to flee, but as Lt. Felsman noted in the incident report, “In the video it does appear as if he is stepping back from the officers, however, it appears he is afraid of the officers and is just moving back to create distance not flee.” The Chief has satisfied the fifth standard by a preponderance of the evidence.

22. The sixth just cause standard asks, “whether the Chief is applying the rule or order fairly and without discrimination against the subordinate.” As discussed above, we find a thorough investigation was conducted with no credible evidence of animus against Johnson or Young, nor was any credible evidence of comparable disciplines presented that would dissuade the Commission from upholding the fifteen day suspensions. Chief Flynn testified he met with Internal Affairs staff and members of his command staff to discuss the case and view the video. He agreed with IA’s recommendation to sustain the charges. He reviewed the Code of Conduct and considered the officers’ past performance, experience, training, intent, and the degree of harm that resulted. On the positive side he found the officers to be hard working and well thought of by supervisors. In addition, he believed they acted with good intentions. On the negative side he concluded the degree of harm was great and the officers should have known better in light of their training and experience. The officers, he concluded, escalated the incident too rapidly from a pedestrian stop to an arrest involving the use of force. We conclude the Chief has satisfied the sixth standard by a preponderance of the evidence.
23. The seventh and final just cause standard asks, “whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate’s

record of service with the department.” As noted above, the Chief considered the officers’ records of service and found them to be positive, nevertheless, he testified that restraint is a core value of the department, that is, to use only the force necessary to fulfill the purpose of the task. Here, there was no reasonable suspicion to justify the tactics employed. The low level violation that occasioned the stop did not justify the officers’ reaction as if it were a felony stop. If a civilian pulled and pointed a Taser as Officer Johnson did it would be considered an aggravated assault. The harm done was great. Beamon lost his job and incidents of this kind can further inflame community prejudices against the department and have a negative impact on public trust; accordingly, the fifteen day suspensions were necessary to maintain the credibility of the department. We conclude the Chief has satisfied the seventh standard by a preponderance of the evidence.

DECISION

The Appellants, Bradley M. Johnson and Brian Young, are ordered suspended from the Milwaukee Police Department for fifteen (15) working days without pay.



Commissioner Marisabel Cabrera, Esq.

1/25/18

Date

Commissioner Fred Crouther

Date

Commissioner Nelson Soler

Date

record of service with the department.” As noted above, the Chief considered the officers’ records of service and found them to be positive, nevertheless, he testified that restraint is a core value of the department, that is, to use only the force necessary to fulfill the purpose of the task. Here, there was no reasonable suspicion to justify the tactics employed. The low level violation that occasioned the stop did not justify the officers’ reaction as if it were a felony stop. If a civilian pulled and pointed a Taser as Officer Johnson did it would be considered an aggravated assault. The harm done was great. Beamon lost his job and incidents of this kind can further inflame community prejudices against the department and have a negative impact on public trust; accordingly, the fifteen day suspensions were necessary to maintain the credibility of the department. We conclude the Chief has satisfied the seventh standard by a preponderance of the evidence.

DECISION

The Appellants, Bradley M. Johnson and Brian Young, are ordered suspended from the Milwaukee Police Department for fifteen (15) working days without pay.

Commissioner Marisabel Cabrera, Esq.

Dr. F. L. Crouther

Commissioner Fred Crouther

Date

1/19/2018

Date

Commissioner Nelson Soler

Date

record of service with the department." As noted above, the Chief considered the officers' records of service and found them to be positive, nevertheless, he testified that restraint is a core value of the department, that is, to use only the force necessary to fulfill the purpose of the task. Here, there was no reasonable suspicion to justify the tactics employed. The low level violation that occasioned the stop did not justify the officers' reaction as if it were a felony stop. If a civilian pulled and pointed a Taser as Officer Johnson did it would be considered an aggravated assault. The harm done was great. Beamon lost his job and incidents of this kind can further inflame community prejudices against the department and have a negative impact on public trust; accordingly, the fifteen day suspensions were necessary to maintain the credibility of the department. We conclude the Chief has satisfied the seventh standard by a preponderance of the evidence.

DECISION

The Appellants, Bradley M. Johnson and Brian Young, are ordered suspended from the Milwaukee Police Department for fifteen (15) working days without pay.

Commissioner Marisabel Cabrera, Esq.

Date

Commissioner Fred Crouther

Date



Commissioner Nelson Soler

Date

1/19/18

**BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE**

IN THE MATTER OF THE APPEAL OF:

BRADLEY M. JOHNSON

MPD Personnel Order No. 2017-40

BRIAN YOUNG

MPD Personnel Order No. 2017-41

STIPULATION WAIVING OBJECTION TO THE BOARD'S JURISDICTION

WHEREAS, Appellant notified the Board through counsel on August 16, 2017, that the parties had agreed to adjourn the appeal hearing scheduled for August 22nd and August 23rd, 2017.

WHEREAS, the Board rescheduled the appeal hearing to take place on September 13th and 15th, 2017.

WHEREAS, Appellant's counsel notified the Board that he is unavailable on the rescheduled dates on August 30, 2017.

WHEREAS, Appellant's counsel has requested involvement in the rescheduling of the appeal hearing.

WHEREAS, Wis. Stat. §62.50 (14) stipulates the time of trial may not be more than 120 days after service of the notice and a copy of the complaint to the Appellant.

IT IS HEREBY STIPULATED AND AGREED, by the parties hereto, through their undersigned counsel, that the parties waive any challenge to the Board's jurisdiction over the matter based on the trial taking place more than 120 days after service to the Appellant.



Brendan P. Matthews
Counsel for the Appellant



Robin Pederson
Counsel for the Appellee

Commission
Ex. A