

October 20, 2016

A Regular Meeting of the Board of Fire and Police Commissioners was held on the above date, commencing at 5:31 P.M.

PRESENT: Commissioners: Steven M. DeVougas (Chair)
Kathryn Hein
Marisabel Cabrera
Ann Wilson
Fred Crouther
Angela McKenzie
Nelson Soler

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

The meeting was staffed by Executive Director MaryNell Regan. The Chair opened the meeting with Public Comment.

1. PUBLIC COMMENT:

Ms. Carol Limbach, a retired social worker, counselor and former director of a halfway house, spoke of wanting justice for black citizens and having information from the investigations regarding the deaths of Sylville Smith and Jay Anderson be released to the public quicker. She complained that it takes too long between when an officer-involved incident occurs to when the results of an investigation are released. She stated this strains the relationship between the community and the police and fosters mistrust.

Mr. Chris Ahmuty, Executive Director, ACLU of Wisconsin, would like more information on the agenda item concerning the Suburban Critical Incident Team. He commended the Chief on recognizing there have been problems with transparency and response times concerning investigations of critical incidents. Mr. Ahmuty is concerned that the investigators from the Suburban Critical Incident Team will be comprised of former or retired MPD officers.

Mr. Ben Turk is a member of the Incarcerated Workers Organizing Committee of the Industrial Workers of the World (IWW) and advocates for incarcerated individuals. He asserted that the conditions in Wisconsin prisons are the worst in the country. Prisoners are routinely harassed, tortured and put into lockdown, as exemplified by Lincoln Hills, Waupun and Green Bay Correctional. He noted that Wisconsin has the highest rate of incarceration of black men in the country. He understands the prisons are not under the jurisdiction of the police, but the police are putting the people there. He urged the Commissioners to think about this when considering funding for the police to solve problems in the community and realize this is the system people are being placed into to solve the problem. He urged defunding the police.

Ms. Leilani López identified herself as a Warrior for Justice. She was one of the individuals at Sherman Park during the riots observing and filming the interactions between the police and protestors. She was arrested and taken to County Jail. While at the jail, she suffered an asthma attack and was denied her inhaler and treatment with a nebulizer. She stated she and the other prisoners were treated poorly by the deputies. She was traumatized by the incident and continues to be traumatized by it. She was able to get her bail money back because she works for the courts, and court employees helped her out. She wonders how many other individuals who were held at the jail have been traumatized by their treatment, whose job may have been affected or who was never able to recoup their bail money, all as a result of being arrested by the police.

Mr. Thaddeus Ashford is the cousin of Sylville Smith. He spoke on behalf of the family and wants to see justice. He wants the officer to be criminally charged. He believes there are other victims of the officer

who killed his cousin. He shared his experience of being incarcerated and said it was stressful as a black male because they are intimidated and harassed. Some of the deputies at the County Jail would deliberately antagonize inmates to provoke them and cause them to have new charges filed against them. He pointed out that when people look at him they label him a criminal or "thug", but he is a home health care provider. Yet, the very people who are supposed to be correct and someone to look up to and protect you, are the ones who are actually committing the criminal acts. Who are people like him supposed to go to for protection? On behalf of the family, he requested the video be released.

Ms. Mary Watkins believes there has been a smear campaign against Sylville Smith. She criticized the FPC for posting a FAQ on its website on officer-involved death investigations and the release of evidence, instead of releasing the video of the incident. She criticized the media for being so slow in broadcasting the overnight arrest of the officer involved in the shooting. She asserts the "system" is not broken because the laws are not written by or for them and therefore they need to smash and destroy the machinery of the system. She demanded the release of the video in the Smith and Anderson investigations.

Mr. Vaun Mayes Bey of Program the Parks also complained that the arrest of the officer was unknown for hours, yet information about an ongoing investigation concerning Mr. Smith was published. He believes the Board and the Chief have the authority to release the video of the officer-involved shooting without approval from the District Attorney. He believes that by not releasing the video, it is creating a powder keg in the community waiting to go off. He believes someone needs to stop dragging their feet and take the initiative and release the videos in both the Anderson and Smith shootings.

Ms. Cynthia Greenwood was overjoyed the officer involved in the Sylville Smith shooting is finally locked up and does not understand why it took so long to happen. She believes the entire system is filthy.

Ms. Markasa Tucker spoke on behalf of Ms. Leilani Lopez and the traumatization she suffered as a result of her jail experience. She understands that the MPD are not at the jail, but the MPD put her there. Ms. Tucker believes there was no justification for Ms. Lopez's arrest. She understands that the proper procedure is to file a complaint, but people don't because they don't believe anything will happen in a system that is broke and was never meant to help them. She hopes someone will really do something to change the system.

2. CONSENT AGENDA:

The Director presented the following items for approval on the consent agenda. (Detailed information concerning the items can be found under the appropriate regular meeting agenda heading in the minutes.)

- A. Regular Meeting Minutes:
 1. September 15, 2016
 2. October 6, 2016
- B. Appointment: Police Services Specialist (half-time)
- C. Correspondence regarding Discharge of Police Officer
- D. Correspondence regarding Termination of Police Officer
- E. Correspondence regarding Supplementation of Detective Disciplinary Action

There being no objections, all of the items were approved for adoption.

3. UNFINISHED BUSINESS:

a) The Director announced that in response to frequently asked questions about the release of video footage in the investigation of Mr. Sylville Smith's death, a FAQ sheet has been posted on the FPC's website to explain the process of officer-involved death investigations and the release of evidence in those investigations. The Director encouraged anyone who had questions about the procedure to call or email her.

b) The Director presented to the Board a letter dated October 19, 2016, wherein the Chief described the selection process for the position of the Police Planning and Policy Director. Commissioner McKenzie thanked the Chief for providing the Board with information on the selection process.

The following appointment, as presented by Chief Flynn, was approved by the Board:

TO POLICE PLANNING AND POLICY DIRECTOR, contingent upon successful completion of a medical examination and drug screening, effective October 24, 2016:

LESLIE C. SILLETTI.

4. NEW BUSINESS:

a & b) The Director presented for approval the publication of a combined FPC "annual" report for the years 2013-2014 and a separate annual report for 2015. David Gelting, FPC Research & Policy Analyst, gave a presentation on the information contained in the reports, which includes Board approval of policy changes for the Milwaukee Police and Fire Departments, summaries of analyses of current policies, hiring and promotional data of MPD and MFD personnel, position profile demographics of both services, summaries of disciplinary appeals conducted, and statistical information concerning citizen complaints filed with and investigated by the FPC.

Commissioner Cabrera requested that a slide in the presentation depicting the demographic profile of complainants be part of the annual report. Commissioner Wilson requested that the reports also contain end-of-the-year information on issues or matters that have been brought to the Board's attention, but which the Board has not moved forward on yet. She stated this could be part of the annual report or in a stand-alone format.

Commissioner Crouther moved approval of the 2013-2014 combined report, and Commissioner Hein seconded it. Commissioner Cabrera objected to approving "draft" reports and suggested that the Board only vote on the final version of the reports. The motion to approve then failed unanimously.

Commissioner Cabrera moved to table the 2015 draft report, seconded by Commissioner Wilson. The motion passed unanimously. The Board requested that final versions of the reports containing the additional information requested be presented for approval.

5. EXAMINATIONS:

a) The Director presented for approval an examination announcement bulletin for the position of Health and Safety Officer in the Police Department. Nola Nelson, DER Staffing Analyst, provided a presentation to the Board and explained this is a civilian position responsible for developing, implementing and administering programs to enhance safety and reduce employee absenteeism in the Police Department. The last recruitment for this position was in 2010. The minimum requirements are a Bachelor's Degree with a major in occupational safety, health care administration, human resources, public or business administration or a related field, and three years of related experience. Applications will be accepted beginning on October 21, 2016 and will close on November 11, 2016. Commissioner Soler moved approval of the bulletin, seconded by Commissioner Cabrera. The motion carried unanimously.

6. POLICE DEPARTMENT:

a) The Director presented a letter dated October 13, 2016, from Chief Flynn, wherein he requests that Police Lieutenant Paul J. Formolo serve as Acting Captain of the Metropolitan Investigations Division for more than 30 days until a promotion to Captain can be made, effective retroactive to October 11, 2016. Commissioner McKenzie moved approval, seconded by Commissioner Hein. The motion carried unanimously.

b) The Director presented a letter dated October 13, 2016, from Chief Flynn, wherein he requests that Police Lieutenant Kristin M. Riestra serve as Acting Captain of the Inspections Division for more than 30 days until a promotion to Captain can be made, effective retroactive to October 11, 2016. Commissioner Crouther moved approval, seconded by Commissioner Hein. The motion carried unanimously.

c) The following appointment, as presented by Chief Flynn, was approved by the Board under the Consent Agenda, Item B:

TO POLICE SERVICES SPECIALIST (half-time), contingent upon successful completion of a medical examination and drug screening, effective October 31, 2016:

JAMES SOBEK.

d) The following communications, as presented by the Director, were previously received by the Board under the Consent Agenda, Items C-E:

A letter dated October 5, 2016, from Chief Flynn, wherein he notifies the Board that Officer Sonthana M. Rajaphoumi has been discharged from the Department for violating Department Core Values, under Personnel Order No. 2016-121.

An order dated September 22, 2016, from Chief Flynn, wherein he notifies the Board that Probationary Police Recruit Officer Adrian Rivera III has been terminated from the Department consistent with Fire and Police Commission Rule XI, Section 7, under Personnel Order No. 2016-119.

A letter dated October 13, 2016, from Chief Flynn, wherein the Board is notified of Detective Rodolfo Gomez, Jr.'s June 2, 2016 Plea Agreement admissions and conviction in U.S. District Court, Eastern District of Wisconsin, of violating Title 18 U.S.C. § 242, thereby disqualifying him from serving public office with the Department. (Article XIII, § 3(2), Wis. Const. and Wis. Admin. Code, § LES 2.01(1)(c).) As a result of the admissions and agreement, Detective Gomez is not eligible for employment with the Department, retroactive to June 2, 2016 and effective immediately under Personnel Order No. 2016-131.

e) The Director presented a letter dated October 11, 2016, from Chief Flynn, wherein he requests approval of a policy change concerning investigations of critical incidents, as outlined in a Memorandum of Understanding (MOU) with members of the Suburban Critical Incident Team. Chief Flynn explained that because of the new law implemented in April 2014 requiring all investigations of officer-involved deaths be conducted by an outside agency, the Department entered into a Memorandum of Understanding with county law enforcement agencies in August 2014. It was agreed at that time that the Milwaukee Police Department would investigate officer-involved deaths in the surrounding jurisdictions, and the State of Wisconsin Department of Criminal Investigations (DCI) would conduct the investigations involving Milwaukee police officers. The MOU also created a task force that created the Suburban Critical Incident Team, comprised of members from fifteen local enforcement agencies. Those agencies have been training their investigators, supervisors and command staff and shadowing Milwaukee investigators on how to conduct officer-involved death investigations.

Assistant Chief William Jessup further explained that the Milwaukee Police Department has entered into a new MOU with regional suburban law enforcement agencies, which allows the MPD to have the Suburban Critical Incident Team investigate officer-involved deaths in Milwaukee. This will allow a quick initial response to an incident by investigators who are not affiliated with the Milwaukee Police Department. There are fifteen agencies which have committed to the Suburban Critical Incident Team, providing 50 investigators, resources and the Wisconsin Regional Crime Lab office in Milwaukee to investigate officer-involved deaths. Five of the agencies (Greenfield Police Department, Milwaukee Police Department, Oak Creek Police Department, Wauwatosa Police Department and the West Allis Police Department) will act as primary and secondary lead agencies on a monthly rotating basis. Each of the lead agencies has significant detective and supervisory investigative experience and understands how to handle these investigations in a

very thorough and professional manner. The lead agency is the primary investigator and can call on the Suburban Critical Incident Team for additional manpower, supervisors or facilities. Milwaukee can still ask the DCI to investigate; however, this takes the pressure off of the DCI because they do not have the capacity to respond to all of the officer-involved deaths they are asked to investigate. It will also eliminate the concern that former Milwaukee Police Officers are investigating current Milwaukee police officers.

In response to questions by Commissioners, Assistant Chief Jessup indicated that other regions of the state have been able to comply with the law by relying on the county sheriff departments to act as outside investigative agencies because they have robust investigative functions. This is not the case in Milwaukee in which the Sheriff's Department has no investigative capacity. Sheboygan and Winnebago County have also created a regional team to respond to incidents. The rotating lead agency model means that the MPD will be investigating fewer incidents, because previously they were investigating all of the incidents in this region. The DCI has not issued an opinion on this agreement, but from MPD's discussion with them, they are happy with this process and appreciate the help it will provide with DCI's capacity issue. All of the investigative reports by the lead agency will go to the District Attorney's Office for review. Summary reports will be prepared and available under the Open Records Law. Depending on the capacity of the suburbs, the reports may be posted online. The Suburban Critical Incident Team has a copy of MPD's standard operating procedures so that they know what to investigate if it is an MPD incident. The MPD has also provided classroom training to all of the suburban investigators. Commissioner Soler requested information on the diversity of the investigators, and Commissioner Cabrera requested a copy of the MOU. A motion was made by Commissioner Cabrera to table this matter until the Board has reviewed the MOU and diversity information on the investigators. It was seconded by Commissioner Soler and carried unanimously.

7. ADJOURNMENT:

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

The meeting concluded at 6:51 P.M.

Respectfully submitted,



MaryNell Regan
Executive Director

MNR:JCS:js