

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

In the Matter of the Appeal of Gary W. Inman

Hearing Date: June 26, 2020, and June 29, 2020

Hearing Location: City Hall, 200 E. Wells Street, Milwaukee, Wisconsin,
Room 301-A, 8:30 A.M.

Commissioners: Dr. Fred Crouther
Steven M. DeVougas, Esq.
Ms. Ann Wilson

Hearing Examiner: Rudolph M. Konrad, Esq.

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

For Appellant, Gary W. Inman
Brendan P. Matthews, Esq.
Rebecca Meyer, Esq.
Cermele & Matthews, S.C.

PROCEDURAL HISTORY

In Personnel Order 2019-96, dated August 20, 2019, Chief of Police Alfonso Morales (“Chief Morales”) found Police Officer Gary W. Inman (“Officer Inman”) violated Milwaukee Police Department Core Value 1.00, Competence, referencing Guiding Principle 1.04, which requires police officers to conduct prompt, thorough, impartial and careful investigations. Chief Morales found that Officer Inman failed to ensure the Sensitive Crimes Division was notified and involved in an investigation involving human trafficking. For this violation, he suspended Officer Inman for ten (10) working days.

Officer Inman 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 Gary W. Inman
 Dawn Jones (Retired Lieutenant)
 Sergeant Matthew Palmer
 Inspector Alex Ramirez

For Officer Inman: Police Officer Gary W. Inman
 Erin Moore, Pathfinders Client Advocate
 Sergeant Carlene Kennedy
 Danilo Cartegena (MPA Liaison Officer)
 Sergeant Denmark Morrison

FINDINGS OF FACT

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

1. Officer Inman was appointed to the Department on January 16, 1995. On the date of the incident that resulted in his discipline, he had served 23 and a half years on the police force as a patrol officer. (Ex. 30) Standard Operating Procedure 112, Sexual Assault, which was in effect on the date of the events giving rise to this discipline, defines the responsibilities of a police officer who learns of a sexual assault. Section 112.10 states at B-3, “Conduct a minimal facts interview of the victim,” and at B-4, “Notify the shift commander who will notify the Sensitive Crimes Division (SDC).” (Ex. 4)

At the Stop

2. On June 22, 2018, he was assigned as a patrol officer to District Seven, day shift. At 7:33 A.M., he was dispatched to investigate a report of a suspicious person/auto at North 19th Place, between West Purdue Street and West Courtland Avenue. The substance of the report was that a black male was “laying back” in a white minivan. He was assigned to this call as the prime unit, which meant he had the primary responsibility to investigate the call. (Ex. 1)

3. Officer Inman arrived on scene at 7:42 A.M. Police Officer Eric Brenson also responded in his squad. (Ex. 1) The reported vehicle was occupied by an adult male and a teenage girl. Neither of them had any identification. Officer Inman asked the driver, “what brings you here?” The driver said he was just talking to the girl. The driver said his name was Dominique D. Williams (“Williams”), age, 27. Officer Inman verified the driver’s identity based a police department online record that included a photograph. He also ran a wanted check, which was negative, and a registration and license check. The latter disclosed that Williams did not have a driver’s license and that the license plates did not belong to the vehicle, which was unregistered. (Ex. 6, 26)

4. The teenage girl (hereinafter referred to as “M.S.”) first gave a false name and said she was nineteen (19) years of age. After further questioning, she gave her true name and age, M.S., age, fifteen (15). When asked why she was hanging out with “this old guy,” she said “because I told him I was over age.” M.S. told the officers she needed to call her social worker and told them she

was missing from a group home. Checking her background, the officers learned she was missing from St. Rose group home since May 23, 2018. The reference is to the St. Rose Youth and Family Center, 3801 N. 88th St., in Milwaukee. Officer Inman stated he did attempt to obtain more information from the juvenile, but she was uncooperative, and his body camera was not activated. Nevertheless, Officer Brenson asked her if she was being “trafficked,” she said “no.” Officer Brenson told Officer Inman that she has been reported as missing, but had no warrants, and therefore, he should return her to the group home. (Ex. 26, 13, p. 9)

5. Officer Inman returned to the stopped vehicle and told Williams that M.S. was fifteen years old. Williams replied, “Ooooh.” Officer Inman said, “Know what that gets you? A prison term.” Williams began to reply when Officer Inman interrupted and said, “So you need to, figure out who you’re picking up from now on, alright?” Williams replied, “Yeah, I’m yeah.” Officer Inman then said, “Good thing you did not do anything else,” and then told him to, “move along,” closed the van door, and returned to his squad. Officer Brenson then left scene. (Ex., 13, 26)

6. Officer Inman conveyed M.S. in his squad to St. Rose group home without engaging in any conversation with her.

At St. Rose Youth and Family Center

7. Officer Inman and M.S. arrived at St. Rose group home at 8:16 A.M. At first, a staff member would not admit him into the group home because M.S. had been missing so long that she had been discharged and was no longer a resident. When Officer Inman told the staff member he had no place to take her, the staff member allowed him in to “figure this out.” (Ex. 13, 26)

8. Once inside, a staff member again told him they had no place for her. Officer Inman told the staff member that he could not take her anywhere else without a capias. He and M.S. followed the staff member to a waiting area adjacent to doors leading outside. M.S. sat down and Officer Inman followed the staff member through a door to an office. The staff member then told Officer Inman she would call M.S.’s social worker to learn where to take her. Officer Inman approached the room where M.S. was sitting on a chair alone and asked a staff member if she could “get out of there.” The staff member replied, “She can run if she wants,” and offered to have someone sit with her. Officer Inman replied, “I guess, if she runs away, she runs away,” and walked back to the office. (Ex. 13, 26)

9. The staff member attempted to contact the social worker assigned to M.S., but no one answered the phone. The staff member told Officer Inman again they could not admit her to the center. Officer Inman told the staff member that the Juvenile Justice Center would not accept M.S. without a capias, and then sat down in the waiting room. A few minutes later a staff member asked him if the male in the vehicle had been arrested. He told her no, because he and M.S. had just been sitting in the vehicle. (Ex. 13, 26)

10. At approximately 9:00 A.M. , three (3) staff members who had been speaking to M.S. told Officer Inman that M.S. disclosed to them that she had been “a victim of trafficking for this last month,” and that they had to report that to the police and to Child Protective Services. A staff member asked Officer Inman if he could now take her to the Sensitive Crimes Division. Officer

Inman replied, "They won't be able to do anything with her." The staff member told him M.S. also needed medical attention. (Ex. 13, 26)

11. Officer Inman then went to see M.S. A staff member told M.S. Officer Inman might have to take her to the hospital and she should tell him what has happened to her. M.S. replied, "No, I don't want him to take me. I'm not going." A staff member continued to urge her to tell Officer Inman what had happened to her. M.S. appeared to be crying and stated her body hurt and she needed to lie down. When asked if she had been "prostituting," she replied, "Just to make money." When asked where the money is, she said she gave it to someone else. She then told the staff member, "I ain't worried about the police. I ain't talking to no police." She would not tell the staff member her story because the staff member would just tell it to the police. At that point, Officer Inman left the room. (Ex. 13, 26)

12. A staff member asked Officer Inman if someone from Sensitive Crimes Division could take over the matter. Officer Inman shook his head from side to side and answered, "Not with some better evidence." It was now about 9:13 A.M. The staff member said M.S. might disclose her situation to a Sensitive Crimes Officer if she had previously dealt with one of them. Officer Inman stated that before he called the Sensitive Crimes Division, he required evidence that "something's going on." When asked if M.S. telling a staff member was not enough, he shook his head from side to side. When the staff member said, "that is kind of how it works" when it comes to working with a victim. He stated he had a protocol to follow, and then sat down in the waiting room. (Ex. 13, 26)

13. Ten (10) minutes later, a staff member spoke to him in the waiting room and informed him M.S. told her she had been with an individual named "Poo-bear," who drove a silver Lexus and reportedly obtained "white girls from the south side." M.S. told her she had been punched, beaten, and choked by him. "Poo-bear" lived on West North Avenue near the Advanced Auto store. The staff member also related M.S.'s description of "Poo-bear," but told Officer Inman M.S. was not willing to co-operate. The staff at St. Rose's contacted Pathfinders, a victim's advocate organization, which sent an advocate, Erin Moore, to pick up M.S. and take her to the Child Advocacy Center for a medical exam. (Ex. 13, 26)

14. At about 9:30 A.M. Officer Inman left the building and returned to his squad. He then read the M.S. missing report for the first time. It stated that when M.S. is found, Breanna Larson ("Larson"), M.S.'s former case worker, should be contacted to assist in placement. Officer Inman then spoke to Larson over the phone. He told her of his encounter with M.S. and that he conveyed her to St. Rose group home. She told him M.S. was a ward of the state and she would obtain a capias and deputies from St. Croix County would pick her up. Larson asked Officer Inman if he could take her to the Vel R. Phillips Juvenile Justice Center until officers from St. Croix County could pick her up. Officer Inman told her he could not take her there until he had a capias and that an advocate, Erin Moore, was taking her to the Child Advocacy Center for a medical exam because she was in pain and feared she had a sexually transmitted disease. Larson told him he should go with her to the Child Advocacy Center so that she does not run away. Officer Inman expressed reluctance to keep her in custody without a warrant. Inman apparently expected Larson would fax the department a Temporary Physical Custody Request because he told the staff members that a capias would be faxed and he informed the dispatcher by phone he would be waiting for the capias.

(Ex. 5, 9:35 call) Shortly before noon, Inman, apparently after eating lunch, returned to the St. Rose group home from his squad. A dispatch at 11:56 A.M. reports “still waiting on capias.” (Ex. 1) Larson faxed a Temporary Physical Custody Request, (Ex. 8), at 12:57 P.M., 1:19 P.M., and at 2:54 P.M. During the 12:27 P.M. phone call Officer Inman asked the Temporary Physical Custody Request be faxed to District Seven. (Ex. 13, 15)

15. Officer Inman testified that he did report to his supervisor that this case should be referred to the Sensitive Crimes Division, but he was not sure exactly when he called. His phone record shows he called District Seven shift commander at 9:35 A.M., at 10:39 A.M., and at 11:21 A.M. He believes he requested referral to Sensitive Crimes Division during the 11:21 A.M. call. He testified he spoke to Sergeant David Fuerte, whom he was positive was acting lieutenant that day. He did not speak to Seventh District Lieutenant Finkley, who was the shift commander. Sergeant Fuerte’s Computer Aided Dispatch squad history for June 22, 2018, indicates he was assigned to District Seven, and records he logged in at 9:04 A.M., and that was on scene at an assignment from 9:28 A.M. until 9:52 A.M. Sergeant Fuerte stated that he might have acted as acting lieutenant if Lieutenant Finkley had a meeting or another task, but has no recollection whether he did so or not on that day. He recalls a conversation with Officer Inman on the department phone about a fifteen year old missing juvenile he was conveying to the Sojourner Family Peace Center. [The Child Advocacy is located there.] He recalls no other discussion. He noted that if the juvenile were a victim of sexual assault, she would have been conveyed to the Sexual Assault Treatment Center at Mt. Sinai Hospital. A few hours later, Inman called and told him the juvenile had left with her caseworker. He was not informed that the juvenile was a victim of human trafficking. Had he been told, he would have remembered and would have definitely contacted the Sensitive Crimes Division. He had worked for the Sensitive Crimes Division for five (5) years and knew their protocol. In his response to charges memo, Officer Inman does not explicitly state that he told his shift commander that the juvenile in his custody was a sexual assault victim. Instead, he says: “I made several (approximately ten (10) calls throughout this investigation as revealed in my cell phone transcript/record to my district and Lieutenant. to update him regarding this investigation as per S.O.P.” (Exs. 3, 13, 25)

16. Officer Inman, Erin Moore, and M.S. left St. Rose at about 12:58 P.M. to take M.S. to her 1:45 P.M. medical appointment. Officer Inman allowed Erin Moore to convey M.S. in her car while he followed in his squad. The Child Advocacy Center, which is located within the Sojourner Family Peace Center, 619 W. Walnut St. (Ex. 13)

At the Child Advocacy Center

17. At the Child Advocacy Center, M.S., was taken to an examination room out of Officer Inman’s view. He waited in the hallway near the examination room. Erin Moore testified it was not clear to her what was to be done after the medical examination. Officer Inman told her he was waiting for a document to allow him to “collect” M.S. after the examination. The document would clarify what to do next. After the examination, M.S. told Moore she wanted to leave. Moore advised her of her alternatives, but told her she would have to decide what she wanted to do. M.S. decided to leave. Moore testified that she and M.S. left via the front door and did not see Officer Inman on the way out. After waiting several hours, Officer Inman checked with the receptionist and learned that M.S. had left with Erin Moore. (Ex. 13)

18. Police Captain Aimee Obregon received an email sent from the Child Advocacy Center informing her that M.S. was a victim of human trafficking and was scheduled for an examination there at 1:45 P.M. Captain Obregon read the email at 2:30 P.M. She forwarded it to Sergeant Kennedy and requested that a detective from human trafficking unit speak to M.S. Sergeant Kennedy believes the email was sent by Ericka Stuckert, a Center employee. Before receiving this email, Sergeant Charlene Kennedy, who had worked at Sensitive Crimes Division since 2010, stated the Division had not received any notification from either Officer Inman or other District Seven personnel about M.S. Neither she nor other Sensitive Crimes Division personnel were even aware that Officer Inman was inside the Sojourner Family Peace Center building. She assigned the case to Detective Michael Thomae, who had conducted a prior investigation involving M.S., but he was out on other assignments. When he returned at 4:55 P.M., and she began to brief him, an office assistant then told her she had received a phone call from, the Child Advocacy Center telling her M.S. had left the building with advocate Erin Moore and that Officer Inman was there, upset that she had left, and telling Child Advocacy Center personnel that M.S. had to be returned. (Ex. 13, 14, 16)

19. Officer Inman notified his shift commander that M.S. had left with her advocate. He was told to go to the Sensitive Crimes Division and inform Sergeant Kennedy. After hearing Officer Inman's report, Sergeant Kennedy took over the investigation. Sergeant Kennedy and Detective Thomae made many phone calls and left messages to speak to Erin Moore but no calls were answered or returned. When St. Croix deputies, after driving for five hours, arrived to pick M.S. up, they were informed she had absconded. (Ex. 13, 16)

20. In her testimony, Sergeant Kennedy explained that persons in custody should not be taken to the Sojourner Family Peace Center, in which the Child Advocacy Center is located. The building is not a secure facility. Most areas of the building are not open to police personnel; only personnel who worked in specific areas have limited access. Officer Inman was restricted to the waiting room. He could not wait outside the door of the examination room. Residents at the Child Advocacy Center are allowed to walk in and walk out. For these reasons, Officer Inman should not have permitted Erin Moore to take S.M. to that location. Officer Inman should have conveyed her to Children's Hospital for her medical examination, which is a secure facility.

Aftermath

21. On August 17, 2018, M.S. was taken into custody on an arrest warrant from St. Croix County. She was conveyed to Mt. Sinai Hospital for medical clearance. Detective Thomae spoke to her at the hospital. She told him she had not slept during the past week. She recently had ingested cocaine and had injected heroin. She told him she was pregnant, but denied being sexually assaulted or having been forced to do anything. She refused to give an address and did not want to speak to anyone from Sensitive Crimes Division. An agent from the Wisconsin Division of Criminal Justice spoke to her later at the Eau Claire Juvenile Detention Center, but she was unwilling to speak to him or any other law enforcement officials about human trafficking. (Ex. 13, 14)

CONCLUSIONS OF LAW

22. 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 all standards are satisfied with respect to the charge against Officer Inman. Accordingly, Officer Inman’s motion to dismiss the charges on the grounds that the just cause factors one through five have not been met is dismissed for the reasons stated below.

23. The first just cause standard asks, “whether the subordinate could reasonably be expected to have knowledge of the probable consequences of the alleged conduct.” Standard Operating Procedure 112, Sexual Assault, defines the responsibilities of a police officer who learns of a sexual assault. Section 112.10 stats at B-3, “Conduct a minimal facts interview of the victim.” Lieutenant Kennedy explained this meant enough to know a crime occurred in the city. At B-4 the SOP states “Notify the shift commander who will notify the Sensitive Crimes Division (SDC).” The obvious purpose of the SOP is to turn an investigation into a sexual assault over to the SDC as soon as it is established that a sexual assault had occurred so that the officers specially trained to deal with sexual assault victims can conduct the investigation. A patrol officer can reasonably be expected to know that his or her failure to turn the investigation over to specially trained officers could result in his failure to obtain the cooperation of the victim, in his failure to complete a comprehensive investigation, or in failure to place the victim with the appropriate agency. Lack of specialized knowledge on the part of the patrol officer can also result in other failures, as happen here, loss of custody of the victim. We conclude the Chief has satisfied the first standard by a preponderance of the evidence.

24. The second just cause standard asks, “whether the rule or order the subordinate allegedly violated is reasonable.” We have no problem finding SOP 112 to be reasonable and no credible argument has been made that it is not reasonable. It makes little sense for the Department to create an entire expertly trained unit, the Sensitive Crimes Division, and not adopt an SOP that seeks to ensure it has the opportunity to investigate sexual assaults as early as practicable, rather than permit the investigation to continue guided only the judgment of patrol officers not as thoroughly trained in sexual assault investigations. We conclude the Chief has satisfied the second standard by a preponderance of the evidence.

25. 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.” Sergeant Matthew Palmer testified regarding the effort made to investigate this case, which is recorded in his investigation. He interviewed and read the reports of all the available witness to the events, summarized what he saw the bodycam videos, and reviewed relevant telephone and dispatch records. (Ex. 13) Officer Inman also submitted a memorandum stating his understanding of what had occurred, which is part of the investigative file. (Ex. 3) Inman, through his attorney, argued that this just cause factor had not been met because the investigation did not include a commanding officer’s summary report described in SOP 450.35-I. That, however, is not the test to decide if the third just cause factor had been meet. The standard requires a “reasonable

effort,” and whether that standard has been met is decided by considering the investigation as a whole. We conclude the Chief has satisfied the third standard by a preponderance of the evidence.

26. The fourth just cause standard asks, whether the investigative effort described above was “fair and objective.” Reviewing the entire record in this matter, we find no evidence of any animus directed against Officer Inman or unfairness or lack of objectivity in the investigation. The Chief has satisfied the fourth standard by a preponderance of the evidence.

27. 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.” Officer Inman was charged for “failing to conduct an investigation in a prompt, thorough, impartial and careful manner by failing to ensure the SCD was notified and involved in an investigation involving the human trafficking of a juvenile.” (Ex. 17) Section 112.10 states at B-3, “Conduct a minimal facts interview of the victim,” and at B-4, “Notify the shift commander who will notify the Sensitive Crimes Division (SDC).” (Ex. 4) The Chief has satisfied the fifth standard by a preponderance of the evidence as explained below.

a. At the scene of the stop, Officer Inman saw circumstances that indicated a sexual assault or human trafficking crime might have occurred. He found a man who looked like he was in his thirties with a teenage girl. It had been reported that he had been lying down in the van. Neither had identification. The man had no driver’s license. The van was unregistered and the license plate was not registered for the van. He claimed not to know the girl’s name. The girl told the officers she was with the man because she had told him she was over age. They learned she was a runaway. Officer Inman told the man that she was fifteen and he should be careful who he “picks up.” Officer Brenson asked her if she was involved in human trafficking and she said, “no.”

b. At approximately 9:00 A.M. , St. Rose staff members who had been speaking to M.S. told Officer Inman that she disclosed to them that she had been “a victim of trafficking for this last month,” and that they had to report that to the police and to Child Protective Services. This information turned the “no” he heard on the street to a “yes.” A staff member even asked him if he could turn the case over to the Sensitive Crimes Division because M.S. had previously dealt with those officers. Based upon what he knew at this point, he should have called his shift commander to determine if the Sensitive Crimes Division should take over the case. He did not do so because he believed further investigation was needed in spite of the fact the SOP requires a “minimal fact interview” only.

c. At Approximately 9:23 A.M., a St. Rose staff member told Officer Inman that M.S. told her she had been with an individual named “Poo-bear,” who drove a silver Lexus and reportedly obtained “white girls from the south side.” M.S. told her she had been punched, beaten, and choked by him. “Poo-bear” lived on West North Avenue near the Advanced Auto store. The staff member also related M.S.’s description of “Poo-bear,” but told Officer Inman M.S. was not willing to co-

operate. Once again, he failed to report to his shift commander because he believed M.S. was uncooperative and he need to further investigate.

d. After forgoing calling his shift commander, he returned to his squad and on the computer read the missing report and learned M.S. should be returned to the custody of St. Croix County. Officer Inman believes he called the District Seven at 11:21 A.M., and spoke to Sergeant Fuerte, who filled in for the lieutenant from time to time. Sergeant Fuerte recalls a conversation with Officer Inman about a fifteen year old juvenile he was conveying. He recalls no discussion about a sexual assault. Had that been mentioned, he would have contacted the Sensitive Crimes Division. We find Sergeant Fuerte's account credible in light of Officer Inman repeated refusals to call for a sensitive crimes referral, even when St. Rose's staff asked him to, and the description of his phone calls in his response to charges in which he simply states he made 10 calls to the district to update the shift commander regarding the investigation. Whether he reported the sexual assault at 11:21 A.M., or not, is not crucial to our decision because he should have reported it much earlier.

e. His failure to report human trafficking to his shift commander left him in the dark as to the proper medical exam procedure to be followed when the child victim is a runaway or in custody or both. Although SOP 112-B-6 states child sexual assault victim may be taken to the Child Advocacy Center for treatment, had he spoken to someone in Sensitive Crimes Division, he would have been told that runaways or children in custody, she should not be taken to the Center because it is not secure; instead, she should be taken to Children's Hospital, a secure facility. The purpose of contacting the Sensitive Crimes Division early in an investigation is to benefit from their specialized knowledge and avoid those kinds of mistakes. Finally, when at the Child Advocacy Center, he either did not, or could not, take adequate precautions to safeguard her and she eluded his custody.

28. 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 the officer and there is no evidence in the record that the investigating officers treated Officer Inman unfairly in any way. The testimony of Inspector Alex Ramirez and the Discipline Review Summary and the supporting documents establish the considerations that were presented for the Chief's consideration. Reviewing the comparable disciplines in light of the different cases and records of the officers involved, we find no reason to believe that a ten (10) day suspension is, in any way, unfair or the product of discrimination. We conclude the Chief has satisfied the sixth standard by a preponderance of the evidence.

29. 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." To meet this standard the Chief reviewed the items listed in the discipline review summery and weighed the factors listed. We further note that Officer Inman's failure to contact his shift commander contributed to his failure to keep secure the juvenile in his custody, which resulted in the loss of an opportunity to avoid the sad aftermath described above in paragraph 21,

and, on a less note, the waste of time of the St. Croix deputies. We conclude the Chief has satisfied the seventh standard by a preponderance of the evidence.

DECISION

The Chief's Order of Suspension is sustained. The Appellant, Gary W. Inman, is ordered suspended from the Milwaukee Police Department for a period of ten (10) working days total.

Fred L. Crouther
Commissioner Dr. Fred Crouther

7-9-2020
Date


Commissioner Steven M. DeVougas, Esq.

7/9/2020
Date

Ann Wilson
Commissioner Ann Wilson

7/14/2020
Date