

Milwaukee Police Department

**Executive Overview of July 20, 2020 Milwaukee Fire &
Police Commission Directives**

Released: August 5, 2020

EXHIBITS

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EXHIBIT 1

FEBRUARY 12, 2001

LEGAL OPINION

CITY OF MILWAUKEE

Form CA-43

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February 12, 2001

Mr. Joseph J. Czarnecki
Executive Director
Fire & Police Commission
809 North Broadway, Room 104
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Re: Interpretation of Sec. 62.50(23), Wis. Stats.

Dear Mr. Czarnecki:

This letter will respond to your request of December 21, 2000 concerning the proper interpretation of that portion of sec. 62.50(23), Wis. Stats., pertaining to the issuance by the Board of Fire & Police Commissioners ("Board") of "directives" to the Chief of Police ("Chief") with respect to operations of the Milwaukee Police Department ("Department").¹ You have posed six questions for our review and response. We are pleased to provide guidance as to these matters and will respond to each question in turn.

The operative portion of the above-referenced statute under consideration reads as follows:

"The chief of police shall preserve the public peace and enforce all laws and ordinances of the city. The chiefs shall be responsible for the efficiency and general good conduct of the department under their control. The board may review the efficiency and general good conduct of the department. A chief shall

¹ Although the application of the advice contained within this letter to the Milwaukee Fire Department is an issue not directly implicated by your request, the language of the operative statute and the context of sec. 62.50, Stats., generally indicates that the advice herein would equally apply to that Department.

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act as an adviser to the board when the board reviews his or her department. The board may issue written directives to a chief based on a review of the chief's department. The chief receiving the directive shall implement the directive unless the directive is overruled in writing by the mayor."

1. **The Board assumes that a "directive" is an order and must be lawful, reasonable and in writing. Is this so?**

We concur that a "directive" is an order, of a mandatory nature, in the particular context of the applicable statute. As noted above, the second sentence of the pertinent portion of sec. 62.50(23), Wis. Stats. states that: "the chief receiving the directive shall implement the directive unless the directive is overruled in writing by the mayor." The term "shall" is mandatory and not simply directory, and requires that the Chief implement the directive unless the Mayor rules otherwise. This provision of the statute is clear, unambiguous, and capable of only one reasonable interpretation, and thus must be interpreted and applied in accordance with its plain language. Dieter v. Chrysler Corporation, 234 Wis. 2d 670, 681, 683, 610 N.W.2d 832, 838, 2000 WI 45 (2000); Reves v. Greatway Insurance Company, 227 Wis. 2d 357, 365, 597 N.W.2d 687, 691 (1999).

Section 62.50(23), Wis. Stats. explicitly requires a directive issued by the Board to the Chief to be "written." That statute itself does not specifically indicate whether any such directive must be "lawful," or "reasonable." Obviously, the Board may not act in an unlawful manner; thus, any directive that it issues must be lawful. Finally, the directive should be reasonable in order to minimize any possibility of it being overruled by a reviewing court under the standards applicable to judicial review under these circumstances.

One additional and closely related item raised by this inquiry concerns the extent of the subject matter that may be addressed by a directive from the Board issued under authority of sec. 62.50(23), Wis. Stats. We now turn to that item.

The current text of sec. 62.50(23), Wis. Stats. was considerably influenced by two statutory amendments (specifically, Laws of 1979, Ch. 307 §1; Laws of 1983, Ch. 179 §1) that were explicitly intended to broaden the extent of the Board's control over Police Department governance and operations. (For a more detailed discussion, please refer to prior opinions of this Office at 87 OCA 526 (7/27/87); 84 OCA 705 (7/23/84); 82 OCA 387 (3/16/82); 81 OCA 788 (7/30/81); 81 OCA 118 (2/5/81); 80 OCA 1353 (11/24/80); and 78 OCA 1522 (11/29/78) copies of which are attached to this opinion). Of greatest significance to the issue at hand is the division of responsibilities accorded by current sec. 62.50(23), Wis. Stats. between the Board and the Chief of Police. Under the current provision, the Chief of Police is responsible: (a) to "preserve the peace and enforce all laws and ordinances of the

city"; and (b) "for the efficiency and general good conduct of the departments under their control." The Board, however, "may review the efficiency and general good conduct of the departments" (i.e., category (b) above) and may issue "directives to a chief" based upon that review. No comparable authority is accorded to the Board with respect to category (a) above, i.e. preservation of the peace and enforcement of the laws and ordinances of the City. The Board's authority to review "the efficiency and general good conduct of the departments" is a product of the 1983 amendment to sec. 62.50(23), Wis. Stats. referenced above. Prior to that amendment, the Chief of Police retained sole authority and responsibility under sec. 62.50(23), Wis. Stats. and predecessor statutes for the items referenced in both categories (a) and (b), above.

This, of course, begs the question of what items of Departmental governance and administration may properly be assigned to each of these categories. Unfortunately, neither the statute itself nor any reported case law provides guidance on this question. Thus, we must attempt our own best construction of the statutory terms themselves.

The phrase "efficiency and general good conduct of the departments" (category (b) above) is "quasi-legislative" in nature. It appears to be very broadly stated and may be interpreted to encompass most matters associated with Departmental administration. In our opinion, this could include decision-making with respect to deployment of Departmental personnel and other resources. (See our prior opinion at 84 OCA 705 (7/23/84), copy attached). The statute accords authority over such matters to both the Board and the Chief but accords superior authority to the Board, through its power to issue directives to the Chief subject only to mayoral veto. In contrast, the phrase "preserve the public peace and enforce all laws and ordinances of the city" (category (a) above) is suggestive of an executive function subordinate to the quasi-legislative authority described above, to be discharged by the Chief of Police under the superintendence of the Board, under the preconditions and procedures specified by sec. 62.50(23), Wis. Stats. (Those preconditions and procedures shall be addressed in our response to your second inquiry). These executive functions are explicitly mandatory; the Chief is directed to discharge them and may not decline to do so, in whole or in part.

It is possible to imagine a scenario where the legislative and executive functions described above come into irreconcilable conflict, i.e. where exercise of the former renders discharge of the latter literally impossible. For this reason, the Board may not issue a directive to the Chief that such executive functions not be exercised, i.e., that particular laws or ordinances not be enforced; such a directive would be illegal.

2. Section 62.50(23) states, "the board may issue a written directive to a chief based on a review of the chief's department." In the exercise of its oversight responsibilities, the Board conducts an annual performance review of the two chiefs. The Board also conducts specific policy reviews of each department. Are these reviews sufficient to meet the statutory criteria for issuance of a directive?

This inquiry addresses the procedural requisites for lawful directives of the Board under sec. 62.50(23), Wis. Stats. The evident intent of that provision is to mandate that any such directive be the product of reasoned, thoughtful deliberation on the part of the Board, following consultation with the Chief of Police, and (conversely) to preclude issuance of directives in a spontaneous or willy-nilly fashion without the benefit of supporting evidence. It is for this reason that a directive must be "based upon a review of the chief's department." The requirement that the Chief be consulted throughout this review process is embodied in the portion of sec. 62.50(23), Wis. Stats. which states that: "A chief shall act as an advisor to the board when the board reviews his or her department." Clearly, the statute envisions a collaborative review process, including the participation of both the Board and the Chief of Police, as opposed to one in which the Board would act independently of the Chief. Furthermore, given the quasi-legislative nature of the Board's power to issue directives under that statute, "a (legislative-type) hearing and a record sufficient for judicial review to determine whether the exercise of the power was capricious or arbitrary is fundamental." State ex rel. Ruffalo v. Common Council, 38 Wis. 2d 518, 524, 157 N.W.2d 568, 571 (1968). Such a hearing and record may best be developed in the course of the Board's public meeting(s); a trial-type hearing incorporating the right to cross-examine or to require testimony to be given under oath is not necessarily required. Id., 38 Wis. 2d at 524-525, 157 N.W.2d at 571; see also Kopf v. State, 158 Wis. 2d 208, 215-217, 461 N.W.2d 813, 815-816 (Ct. App. 1990). (See our response to your inquiry no. 4, below).

There remains the question of what type of "review" is included within the scope of the statute. The statutory language itself is open-ended, strongly suggesting that any form of careful and organized inquiry into Departmental operations performed by the Board with the Chief's assistance, as discussed above, would qualify. Section 62.50(1m), Wis. Stats. enumerates (indeed, mandates) one type of such a review - specifically, a "policy review of all aspects of the operations of the police and fire departments of the city," to be conducted by the Board at least annually. This provision is, however, not exclusive of other forms of "review" that may be conducted under authority of sec. 62.50(23), Wis. Stats. It is merely exemplary of one form that such a review might take. Section 62.50(23), Wis. Stats. does not limit or restrict the frequency or breadth of a review conducted thereunder; nor does it preclude reviews that are restricted to one or more particular items as contrasted with a general "policy review" of the operations of the Police Department.

Given this framework, we now turn to the specific subject of your second inquiry. We agree that the reviews noted in that inquiry would be sufficient to meet the statutory precondition for issuance of a directive under sec. 62.50(23), Wis. Stats. A "review of the chief's department" as described in that statute most certainly would include a policy review of the Department. Furthermore, given the extent of the power and influence exercised by the Chief over the operations of the Department, we would apply the same conclusion to a performance review of the Chief, particularly in the context of an annual performance review, which is (by its nature) designed to be comprehensive and detailed.

3. **The statutes also provide that a chief "shall implement the directive unless the directive is overruled in writing by the mayor." Does the statute require the Board to submit a directive to the mayor?**

Although the statute does not specifically require that the Board submit each directive issued under authority of sec. 62.50(23), Wis. Stats. to the Mayor, we would advise that that is a practical requirement that should be followed in all cases. Obviously, the Mayor's receipt of each such directive is a prerequisite for the exercise of his or her oversight responsibilities as specified by sec. 62.50(23), Wis. Stats. (i.e., the responsibility for determining whether or not to overrule the directive). We suggest transmittal of the written directive to the Mayor as a matter of routine, together with a specific indication that the directive is adopted by the Board under authority of sec. 62.50(23), Wis. Stats..

4. **Must a directive be voted upon and approved by a majority of the Board at a public meeting pursuant to section 19.85 Wis. Stats.?**

In our opinion, yes. The Wisconsin Open Meetings Law, secs. 19.81-19.98, Wis. Stats., is explicitly to be construed broadly and liberally. Section 19.81, Wis. Stats. Section 19.83(1), Wis. Stats. serves as the operative statutory provision for those purposes raised by your inquiry, and states as follows:

19.83 Meetings of governmental bodies. (1) Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussions shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

In this respect, reference must also be made to the statutory definition of a "meeting" which appears at sec. 19.82(2), Wis. Stats. and which states as follows:

(2) "Meeting" means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. . . ."

There is little doubt that the formulation and issuance of a directive under sec. 62.50(23), Wis. Stats.: (a) would require the convening of the Board for purposes of deliberation and voting upon the directive, and (b) that such activities constitute an exercise of the "responsibilities, authority or duties delegated to or vested in" the Board. As such, the adoption of any such directive would constitute a statutory "meeting" within the scope of sec. 19.83(1), Wis. Stats., thus subjecting that activity to the requirements of the Open Meetings Law, unless one or more of the exemptions set forth in sec. 19.85, Wis. Stats. would apply to a particular directive.

In this respect, reference to the decision of the Wisconsin Supreme Court in State ex rel. Newspapers, Inc. v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987) is instructive. In that case, the Court described the necessary trigger for invocation of the Open Meetings Law as follows:

. . . [W]e conclude that the trigger is two-fold. First, there must be a purpose to engage in governmental business, be it discussion, decision or information gathering. Second, the number of members present must be sufficient to determine the parent body's course of action regarding the proposal discussed.

135 Wis. 2d at 102, 398 N.W.2d at 165.

The type of directive contemplated by sec. 62.50(23), Wis. Stats. would require a convening of the Board under conditions that satisfy both of these preconditions; thus, the Open Meetings Law would be triggered. Such directives constitute the conduct of serious governmental business and would, in all likelihood, comprise substantial matters of public policy.

As noted above the particular subject matter of such a directive may come within the parameters of one or more of the exemptions to the Open Meetings Law as set forth in sec. 19.85, Wis. Stats. In such cases, the provisions of that Law might authorize consideration of the particular directive(s) at issue in executive session. We caution and reiterate that, in any event and irrespective of whether an open or closed session is utilized, a sufficient record of the Board's deliberations as to any such directive must be developed and recorded in anticipation of potential judicial review. As noted in our response to your inquiry no. 2, ". . .

in those cases where the judicial branch has the jurisdiction to review the action of the legislative function the facts which lie within the knowledge of the agency must be disclosed in the record so that the record is complete and adequate for a judicial review to determine whether the action was arbitrary, capricious or discriminatory." State ex rel. Ruffalo v. Common Council, supra, 38 Wis. 2d at 524, 157 N.W.2d at 471 citing Goldsmith v. Board of Tax Appeals, 270 U.S. 117, 46 S.Ct. 215, 70 L.Ed. 494 (1926).

5. **What recourse does the Board have in the event a chief refuses to implement a lawful, written directive issued by the Board?**

Directives or orders issued by the Board are not self-enforcing in the event that the Chief refuses to implement a directive lawfully adopted by the Board pursuant to sec. 62.50(23), Wis. Stats. Under such circumstances, the Board's primary recourse would be to petition the Circuit Court for a writ of mandamus ordering the Chief to implement the directive. Secs. 781.01, 783.01-783.07, Wis. Stats.; see also State ex rel. Oman v. Hunkins, 120 Wis. 2d 86, 352 N.W.2d 220 (Ct. App. 1984). The grant of a writ of mandamus is discretionary with the Court, State ex rel. Moran v. Department of Administration, 103 Wis. 2d 311, 320, 307 N.W.2d 658 (1981). The requisites for the grant of the writ have been described as follows:

Mandamus will not lie unless the following requirements are met: (1) a clear legal right; (2) a plain and positive duty; (3) substantial damages or injury should the relief not be granted, and (4) no other adequate remedy at law. Law Enforcement Standards Board v. Village of Lyndon Station, 101 Wis. 2d 472, 493-94, 305 N.W.2d 89, 99 (1981). Mandamus is the appropriate remedy to compel public officers to perform duties arising out of their offices. The duty, however, must be clear and unequivocal and not discretionary. Id. at 494, 305 N.W.2d at 99-100.

State ex rel. Oman v. Hunkins, supra, 120 Wis. 2d at 88, 352 N.W.2d at 221. See also In re State ex rel. S.M.O., 110 Wis. 2d 447, 449, 329 N.W.2d 275, 276 (Ct. App. 1982).

It is quite possible that the Board will be able to satisfy these requisites for the issuance of a writ of mandamus under the circumstances described by your inquiry. Section 62.50(23), Wis. Stats. requires that the Chief "shall" implement the directive unless it is overruled in writing by the Mayor. It is quite apparent that the duty of the Chief to do so is ministerial and not discretionary. The Chief's failure or refusal to implement the directive may well result in "substantial damages or injury." The Board would have no clearly evident alternative or adequate remedy at law to thwart the attempted frustration of its statutory authority to promulgate such directives and to see that they are effectively and expeditiously implemented.

Absent consideration of case-specific circumstances, however, such a result cannot be assured. Additionally, the Chief might attempt to assert a defense to a mandamus action by claiming that the directive is "arbitrary, capricious or discriminatory." (see our response to your inquiry no. 6, *infra*).

Alternatively, the Board might make an attempt to remove a recalcitrant Chief from office. Traditionally, governmental employment can, in the absence of legislation, be revoked at the will of the appointing authority. Richards v. Bd. of Ed. Jt. School Dist. No. 1, City of Sheboygan, 58 Wis. 2d 444, 451, 206 N.W.2d 597, 600 (1973). The analysis here, however, is affected by pertinent legislation. Although the Board controls appointment to the position of Chief (secs. 62.50(2) and (3)(b), Wis. Stats.), and may appoint a Chief in the event of a vacancy in the office (sec. 62.50(6), Wis. Stats.), the Chief is not an "at will" appointee but is instead appointed for a fixed term of seven years (sec. 312-01 Milwaukee Code of Ordinances; see also Milwaukee City Charter sec. 2-04).²

It has been held that a public official holding an office for a fixed term is entitled to hold office until his or her successor is qualified, Morris v. Wisconsin Employee Trust Funds Board, 203 Wis. 2d 172, 180, 554 N.W.2d 205, 209 (Ct. App. 1996) (Tax Appeals Commissioner). State ex rel. Pluntz v. Johnson, 176 Wis. 107, 186 N.W.2d 729, 729-730 (1922) (county sheriff), although the continuation of the official's tenure during a "holdover" period in the event of a failure to qualify a successor as of the expiration of the fixed term has been disputed. State ex rel. Martin v. Heil, 242 Wis. 41, 47-51, 7 N.W.2d 375, 377-379 (1942) (Governor). We find no case law, however, supporting the conclusion that such an official may be removed by the appointing authority before the expiration of his or her fixed term of office. Although it is well-established that employees at the policy-making level of government may be fired on political grounds, Elrod v. Burns, 427 U.S. 347, 367-368, 96 S.Ct. 2673, 49 L.Ed. 2d 547 (1976); Soderbeck v. Burnett County, 752 F.2d 285, 288 (7th Cir. 1985), cert. denied 471 U.S. 1117, appeal after remand 821 F.2d 446 (7th Cir. 1987), such cases involved officials of indeterminate term who lacked civil-service tenure and who served at the pleasure of the relevant appointing authority.

We have also found no provision of statute or ordinance authorizing the direct removal of an incumbent Chief by the Board, at its own instance, during his or her term of office. Such a removal may be effectuated indirectly, however, by way of the "citizen complaint" procedure set forth in sec. 62.50(19), Wis. Stats. This statute states the following:

² The situation here is, for this reason, quite different from that applicable to police and fire chiefs serving other units of local government within the State of Wisconsin and who hold their respective offices "during good behavior, subject to suspension or removal by the board for cause." Sec. 62.13(3), Wis. Stats.; see also Jenner v. Board of Trustees of Village of East Troy, 389 F. Supp. 430 (E.D. Wis., 1974).

(19) **Charges by aggrieved person.** In cases where duly verified charges are filed by any aggrieved person with the board of fire and police commissioners, setting forth sufficient cause for the removal of any member of either of the departments, **including the chiefs or their assistants**, the board or chief may suspend such member or officer pending disposition of such charges. The board shall cause notice of the filing of the charges with a copy to be served upon the accused and shall set a date for the trial and investigation of the charges, following the procedure under this section. The board shall decide by a majority vote and subject to the just cause standard described in sub. (17)(b) whether the charges are sustained. If sustained, the board shall immediately determine whether the good of the service requires that the accused be removed, suspended from office without pay for a period not exceeding 60 days or reduced in rank. If the charges are not sustained, the accused shall be immediately reinstated without prejudice. The secretary of the board shall make the decision public. (Emphasis added).

Implementation of this procedure would require an "aggrieved person" (citizen-complainant) to initiate removal proceedings and the conduct of those proceedings by the Board. The incumbent Chief could be removed only upon a finding of "just cause," similar to the standard applicable to the conduct of police-officer disciplinary hearings by the Board under sec. 62.50(17)(b), Wis. Stats.

There remains the question of whether a member of the Board itself could initiate proceedings against an incumbent Chief under sec. 62.50(23), Wis. Stats. in the capacity of a citizen-complainant. There is no reported case that we have located directly responsive to this item. The phrase "any aggrieved person" appearing in the statute is, on its face, broad and not self-limiting. This office has previously opined under entirely different circumstances that the phrase refers to any person who has suffered an injury or loss as a consequence of the matter complained of or who otherwise has an interest in that matter greater than the "general interest common to all members of the public." 91 OCA 66 (2/5/91). Given the obvious potential of a real or apparent conflict of interest in the event that a member of the Board attempted to act as a citizen-complainant for this purpose, however, we must consider the question anew.

Obviously, a member of the Board could not participate in deliberations concerning potential removal of an incumbent Chief or cast a vote on the question of removal where he or she initiated the removal proceedings as a citizen-complainant. Any attempt to do so would combine the functions of prosecutor and adjudicator in direct and indisputable contravention of the most fundamental rights of fair play and due process, to which the Chief would be entitled under such circumstances. It is "undisputable that a minimal rudiment of due process is a fair and impartial decision-maker." Goldberg v. Kelly, 397 U.S. 254, 271, 90 S.Ct. 1011, 1022,

25 L.Ed. 287 (1970); Guthrie v. Wisconsin Employment Relations Commission, 111 Wis. 2d 447, 454, 331 N.W.2d 331, 335 (1983). It is equally clear that "if a decision-maker is not fair or is not impartial, due process is violated." Guthrie, supra, citing Withrow v. Larkin, 421 U.S. 35, 46, 95 S.Ct. 1456, 1453, 43 L.Ed. 2d 712 (1975). These considerations specifically apply to "administrative agencies which adjudicate as well as to courts." Withrow, supra; Guthrie, supra. A more pertinent question would be: if the Board member who is also a citizen-complainant against an incumbent Chief recuses himself or herself from participation in the Board's deliberations upon, and determination of, the issue of whether the Chief may remain in office, may the remainder of the Board nevertheless proceed to consider that issue consistent with the requirement that due process be afforded to the Chief? This is by no means a simple proposition.

It is well-established that an administrative agency is not disqualified from acting as a statutory decision-maker in a dispute simply by virtue of pre-existing familiarity with the facts of that dispute or of its having taken a particular position on an issue of public policy related to the dispute, absent a specific showing that the agency is not capable of judging the dispute fairly and on the basis of its own circumstances." Hortonville Jt. School District No. 1 v. Hortonville Education Association, 426 U.S. 482, 493, 93 S.Ct. 2308, 2314, 49 L.Ed. 1, 9 (1976); see also Trust & Investment Advisers, Inc. v. Hogsett, 43 F.2d 290, 297 (7th Cir. 1994); 43 F.2d 290, 297 (7th Cir. 1994); Myrick v. City of Dallas, 810 F.2d 1382, 1387 (5th Cir. 1987); Welch v. Barham, 635 F.2d 1322, 1325-1326 (8th Cir. 1980); Patterson v. Board of Regents of the University of Wisconsin System, 114 Wis. 2d 495, 502, 339 N.W.2d 130, 134 (Ct. App. 1983) affirmed 119 Wis. 2d 570, 350 N.W.2d 612 (1984). The circumstances that would prevail were a member of the Board himself or herself to file a citizen complaint under sec. 62.50(19), Wis. Stats. would, however, and in light of the Board's small size and collegial nature, intertwine the Board and the complaint to a significantly greater degree than the more attenuated relationships presented in Hortonville and the remaining cases cited above.

In State ex rel. Richey v. Neenah Police & Fire Commission, 48 Wis. 2d 575, 583-585, 180 N.W.2d 743, 748-749 (1970) the Court let stand the Board's affirmance of the discharge of a police officer despite the fact that one member of the Board had clearly prejudged the case, on the grounds that: (1) there was no statutory basis for disqualification either of the member in question or the Board generally; and (2) because there was no evidence to indicate that the remaining members of the Board were comparably "tainted." Richey, however, involved a set of circumstances distinct from these under consideration here in that: (1) the Board member in Richey never assumed the role of complainant; and (2) that Board member did not recuse himself from deliberating and voting on the matter then at issue. Furthermore, given the increased focus that the law has placed upon the right of due process in the quasi-judicial administrative setting over the past 30 years, it is uncertain as to whether a Richey - type case would yield the same result today.

Nevertheless, we cannot conclude that a contrary result to that reached in Richey would prevail, particularly given the long-established, heavy "presumption of honesty and integrity in those serving as adjudicators" or in "policymakers with decision-making power." Withrow, supra, 421 U.S. at 47, 95 S.Ct. at 1464 (1975). Faust v. Ladysmith-Hawkins Jr. School Dist. No. 1, 88 Wis. 2d 525, 535, 277 N.W.2d 303, 307 (1979); State ex rel. Kalt v. Milwaukee Fire & Police Commission, 145 Wis. 2d 504, 513-514, 427 N.W.2d 408, 412 (Ct. App. 1988); State ex rel. Reedy v. Law Enforcement Disciplinary Committee of the City of Stanley, 156 Wis. 2d 600, 607-608, 457 N.W.2d 505, 509 (Ct. App. 1990). Our best conclusion is that case-specific circumstances will determine the viability of citizen-complaint proceedings before the Board commenced by a Board member himself or herself against an incumbent Chief of Police under authority of sec. 62.50(19), Wis. Stats. At a minimum, it would seem that recusal of the Board member-complainant would be required, together with a clear showing that the remaining Board members were nevertheless capable of a fair, impartial and unbiased adjudication of the matter.

6. Is a directive subject to judicial review?

In our opinion, judicial review may be available by way of the declaratory judgment procedure specified in sec. 806.04, Wis. Stats. Most determinations of the Board (such as disciplinary decisions and findings) are of a quasi-judicial nature and are thus reviewable by a circuit court solely on the record by way of certiorari. See secs. 62.50(20)-(22), Wis. Stats.; State ex rel. Smits v. City of DePere, 104 Wis. 2d 26, 31, 310 N.W.2d 607, 609 (1981); State ex rel. Kaczkowski v. Fire & Police Commission, 33 Wis. 2d 488, 500-501, 148 N.W.2d 44, 50 (1967). The situation at hand, however, is different because directives issued by the Board under authority of sec. 62.50(23), Wis. Stats. are: (1) quasi-legislative, and not quasi-judicial, in nature (see response to your inquiry no. 1, above); and (2) are not specifically reviewable under any other available mechanism, thus rendering them reviewable by way of a declaratory judgment. Town of Eagle v. Christensen, 191 Wis. 2d 301, 317-318, 529 N.W.2d 245, 251 (Ct. App. 1995). The specific enabling authority for invocation of the declaratory ruling procedure is contained in sec. 806.04(2), Wis. Stats., which states in pertinent part as follows:

"(2) **Power to construe, etc.** Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise, and obtain a declaration of rights, status or other legal relations thereunder. . . ."

The most obvious circumstance under which this statute might be invoked would occur in the event that the Chief of Police attempted to do so following a disagreement with a directive issued by the Board (and not overruled by the Mayor) under authority of sec. 62.50(23), Wis. Stats. The Chief would undoubtedly constitute a "person interested" under sec. 806.04(2), Wis. Stats., quoted above. That, however, constitutes only part of the relevant analysis; sec. 806.04, Wis. Stats. incorporates very specific standing and jurisdictional requisites that must also be satisfied. These have been often expressed by the courts as the requirement that there must exist a "justiciable controversy" before a party is entitled to seek or obtain declaratory relief, comprised of the following four elements, all of which must be present:

"There must exist a justiciable controversy – that is to say:

- (1) A controversy in which a claim of right is asserted against one who has an interest in contesting it.
- (2) The controversy must be between persons whose interests are adverse.
- (3) The party seeking declaratory relief must have a legal interest in the controversy – that is to say, a legally protectible interest.
- (4) The issue involved in the controversy must be ripe for judicial determination."

State ex rel. Badke v. Village Board of Greendale, 173 Wis. 2d 553, 565-566, 494 N.W.2d 408, 412 (1993); State ex rel. Chiarkas v. Skow, 160 Wis. 2d 123, 132, 465 N.W.2d 625, 628 (1991); Loy v. Bunderson, 107 Wis. 2d 400, 410, 320 N.W.2d 175, 181 (1982).

Thus, a hypothetical or contingent dispute, or one that affects only future rights as opposed to those that are present and/or fixed is not "justiciable" and thus not reviewable under this procedure. Klaus v. Vander Heyden, 106 Wis. 2d 353, 364-365, 316 N.W.2d 664, 670 (1982). Nor will a simple difference of opinion constitute a "justiciable controversy"; courts will not render advisory opinions under the vehicle of the declaratory judgment procedure. City of Janesville v. Rock County, 107 Wis. 2d 187, 199, 319 N.W.2d 891, 897 (Ct. App. 1982); Voight v. Walters, 262 Wis. 356, 358-360, 55 N.W.2d 399, 400-401 (1952); State ex rel. LaFollette v. Dammann, 220 Wis. 17, 22, 264 N.W. 627, 629 (1936). Finally, the determination to consider or to grant declaratory relief is discretionary with the circuit court, and a party has no "right" to such relief. State ex rel. Lynch v. Conta, 71 Wis. 2d 662, 668, 239 N.W.2d 313, 322 (1976); State ex rel. Brennan v. Circuit Court, Branch 24, 104 Wis. 2d 72, 75, 310 N.W.2d 629, 630 (Ct. App. 1981).

As we have earlier noted in our response to your inquiry nos. 2 and 4, above, the standard governing this form of judicial review accords considerable latitude to the Board in the exercise of its quasi-legislative power to issue directives under authority of sec. 62.50(23), Wis. Stats. Such directives will generally be upheld if they are not "arbitrary, capricious or discriminatory" i.e. if there are facts in the record that could reasonably be conceived to sustain the directive and if there is a reasonable relationship between the directive and the purposes for which it was issued. State v. Flood, 195 Wis. 2d 515, 522, 524, 533, 536 N.W.2d 458, 461, 462, 465 (Ct. App. 1995); Burrus v. Goodrich, 194 Wis. 2d 654, 663, 535 N.W.2d 85, 87 (Ct. App. 1994). Wisconsin State Telephone Assn. v. Public Service Commission, 105 Wis. 2d 601, 610-611, 314 N.W.2d 873, 877-878 (Ct. App. 1981) reversed in part on other grounds, Liberty Homes, Inc. v. Dep't of Industry, Labor & Human Relations, 136 Wis. 2d 368, 401 N.W.2d 805 (1987). This is a rather difficult standard for a challenger to meet, and would apply to a Chief attempting to challenge a directive either offensively (via a petition for declaratory ruling) or defensively (as a defense to an attempt by the Board to enforce a directive via a writ of mandamus).

One relatively recent instance in which the declaratory judgment procedure was invoked by the Chief of Police for a similar purpose to that raised by your inquiry occurred in Breier v. Balen, 114 Wis. 2d 237, 338 N.W.2d 304 (Ct. App. 1983) in which Chief Harold A. Breier sought declaratory relief concerning the existence and extent of the Board's authority to amend a Department rule under an earlier version of sec. 62.50(23), Wis. Stats. where the subject of the amendment was not addressed by the original rule issued by Chief Breier. The Court ruled that: (1) Chief Breier had standing to challenge the Board's amendment and a "legally protectible interest" in the dispute; (2) a "justiciable controversy" in accordance with the standards prevailing under sec. 806.04, Wis. Stats. (discussed above) existed; (3) the Board lacked authority to amend the rule in the manner that it did under the version of sec. 62.50(23), Wis. Stats. then in existence. While the precisely-identical controversy could not arise under the current version of the statute, Breier v. Balen, supra, illustrates how judicial review of a directive issued by the Board under sec. 62.50(23), Wis. Stats. might be successfully pursued and obtained.

Consequently, a directive issued by the Board to the Chief pursuant to sec. 62.50(23), Wis. Stats. may be overridden under two completely unrelated scenarios as follows: (a) by the Mayor, in writing, in accordance with the terms of the statute itself; or (b) by a finding of a reviewing court that the directive is "arbitrary, capricious or discriminatory" via either a declaratory judgment issued in accordance with sec. 806.04, Wis. Stats. or a successful defense to an attempt by the Board to enforce a directive by obtaining a writ of mandamus.

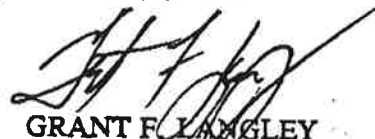
Joseph J. Czarnecki

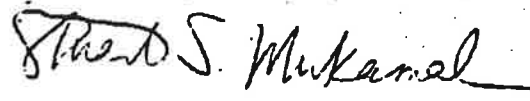
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February 12, 2001

We trust that the foregoing sufficiently responds to the questions posed by your recent inquiry. If you have any further questions, please do not hesitate to contact this office.

Very truly yours,


GRANT F. LANGLEY
City Attorney


STUART S. MUKAMAL
Assistant City Attorney

SSM/bl

c: Mayor John O. Norquist
Chief Arthur L. Jones
Chief Lawrence A. Gardner
Mr. Ronald D. Leonhardt

1095-2000001
37354

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EXHIBIT 2

PURSUIT DIRECTIVE



Fire and Police Commission

Mary Nell Regan
Executive Director

Steven M. DeVougas
Chair
Fred Crouther
Vice-Chair
Kathryn A. Hein
Ann Wilson
Marisabel Cabrera
Angela McKenzie
Nelson Soler
Commissioners

**A DIRECTIVE to the Milwaukee Chief of Police Edward A. Flynn
by the City of Milwaukee Board of Fire and Police Commissioners
relating to changes to Milwaukee Police Department Standard Operating Procedure 660
Vehicle Pursuits and Emergency Vehicle Operations.**

WHEREAS, The Board of Fire and Police Commissioners serves as the citizens' voice in police and fire matters and as a means of ensuring more responsive and effective city government; and

WHEREAS, The Board of Fire and Police Commissioners has received an overwhelming number of requests from both citizens and their elected representatives to examine the Milwaukee Police Department's vehicle pursuit policy in light of concerns for traffic safety in the City of Milwaukee; and

WHEREAS, On May 18, 2017, The Board of Fire and Police Commissioners was presented with the 2016 Vehicle Pursuit Report and Addendum regarding Non-Pursuits; and

WHEREAS, On June 7, 2017, The Board of Fire and Police Commissioners Committee on Policies and Standards held a public meeting in order to gather further information regarding traffic safety and the Milwaukee Police Department vehicle pursuit policy, and at such meeting Chief Flynn indicated that he does not intend to amend the current Milwaukee Police Department vehicle pursuit policy; and

WHEREAS, Between January and May of 2017 there has been a 53% increase in the number of fatal motor vehicle accidents in the City of Milwaukee compared to the same time period in 2016; and

WHEREAS, Between January and May of 2017 there has been a 160% increase in the number of hit and run fatalities in the City of Milwaukee compared to the same time period in 2016; and

WHEREAS, Between January and April of 2017 there were over 600 vehicles every month fleeing from Milwaukee Police Department officers during traffic stops; and

WHEREAS, The numbers of vehicles fleeing from traffic stops has undergone dramatic year over year increases often in excess of 100%; and



WHEREAS, Owners of vehicles which flee from traffic stops are issued citations for the offense in only 20% of instances; and

WHEREAS, Criminal investigations have identified an increasing pattern in the use of motor vehicles as the primary locations for the distribution of illegal drugs; and

WHEREAS, News reports have reported that the increase in the use of motor vehicles for the distribution of drugs has occurred with the knowledge that Milwaukee Police do not currently give chase for drug dealing, and fleeing the police is part of the plan within drug dealing networks; and

WHEREAS, The Milwaukee County Medical Examiner's Office has stated that, at current pace, the number of drug overdose deaths in Milwaukee County could reach 400 in 2017, and this would break the record high of 343 drug overdose deaths recorded in 2016; and

WHEREAS, The current Standard Operating Procedure governing vehicle pursuits already allows for vehicular pursuit in instances in which the threat to the safety of others is outweighed by the level of danger created by the vehicle pursuit; and

WHEREAS, The current Standard Operating Procedure governing vehicle pursuits does not clearly and unambiguously allow for vehicular pursuit in response to some reckless behaviors that are indeed extremely threatening to the safety of others and that indeed outweigh the level of danger created by the vehicle pursuit; and

WHEREAS, Sec. 62.50(1m) Wis. Stats. provides that, The board shall conduct at least once each year a policy review of all aspects of the operations of the police and fire departments of the city; and

WHEREAS, Sec. 62.50(23) Wis. Stats. provides that, The board may review the efficiency and general good conduct of the departments; and

WHEREAS, The Board has, on an ongoing basis, reviewed the efficiency and general good conduct of the Police Department; and

WHEREAS, These reviews have resulted in the aforementioned findings; and

WHEREAS, Sec. 62.50(23) Wis. Stats. provides that, The board may issue written directives to a chief based on a review of the chief's department; and

WHEREAS, Sec. 62.50(23) Wis. Stats. further provides that, The chief receiving a directive shall implement the directive unless the directive is overruled in writing by the mayor; now, therefore

BE IT RESOLVED, That the Board of Fire and Police Commissioners of the City of Milwaukee, pursuant to Section 62.50 (23) Wis. Stats. does hereby direct Milwaukee Chief of Police Edward A. Flynn to establish a high value target vehicle list that will identify and catalog vehicles that are identified as being used for "mobile drug dealing" and that will identify and catalog vehicles which have been involved in two or more non-pursuit events; and

BE IT FURTHER RESOLVED, That the Board of Fire and Police Commissioners of the City of Milwaukee, does hereby direct Milwaukee Chief of Police Edward A. Flynn to amend Standard Operating Procedure 660 – Vehicle Pursuits and Emergency Vehicle Operations section 660.15 in order to provide the Standard Operating Procedure with a definition of the high value target vehicle list referenced in the previous paragraph of this directive; and

BE IT FURTHER RESOLVED, That an additional change to Standard Operating Procedure 660 shall also include, but not be limited to, an amendment to section 660.20(B) allowing for police members to justifiably pursue fleeing vehicles which are listed on the previously defined high value target vehicle list; and

BE IT FURTHER RESOLVED, That an additional change to Standard Operating Procedure 660 shall also include, but not be limited to, an amendment to section 660.20(B) allowing for police members to justifiably pursue fleeing vehicles when the police member knows or has probable cause to believe that the vehicle has engaged in excessively reckless driving including excessive speeding, reckless lane changes, and failure to stop at stop signals and signs; and

BE IT FURTHER RESOLVED, That the Chief of Police shall submit the amended Standard Operating Procedure to the Board of Fire and Police Commissioners for approval on or before July 27, 2017; and


BE IT FURTHER RESOLVED, That the Chief of Police shall submit a report to the Board of Fire and Police Commissioners on or before September 7, 2017 which will detail the number of non-pursuit events which have occurred between May and August of 2017, the number of non-pursuit subject vehicles during that time period which have had identified license plates, the number of non-pursuit subject vehicles which were identified as stolen vehicles, and the number of non-pursuit subject vehicle owners which were cited under State Statute 346.175; and

BE IT FURTHER RESOLVED, That the report submitted on or before September 7th shall also include an account of any departmental personnel reassignments, procedure modifications or policy changes which have occurred in order to address the recent increases in non-pursuit events and should identify any areas in which the Chief anticipates future changes to address this issue; and

BE IT FURTHER RESOLVED, That failure to comply with this directive may result in disciplinary action by the Board, including discharge, suspension without pay, or reduction in rank, pursuant to Sec. 62.50 Wis. Stats.

Adopted by the Board of Fire and Police Commissioners this 13th day of July, 2017


Steven M. DeVougas, Chairman


Fred L. Crouther, Vice-Chair


Kathryn Hein, Commissioner


Ann Wilson, Commissioner


Marisabel Cabrera, Commissioner


Angela McKenzie, Commissioner

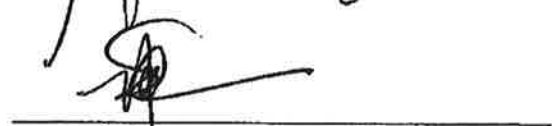

Nelson Solet, Commissioner

EXHIBIT 3

AUGUST 1, 2020

LETTER FROM ED ALDRETE



Fire and Police Commission

Griselda Aldrete
Executive Director

Steven M. DeVougas
Chair

Nelson Soler
Vice-Chair

Ann Wilson
Fred Crouther
Angela McKenzie
Everett Cocroft
Raymond Robakowski
Commissioners

August 1, 2020

VIA EMAIL

Alfonso Morales, Chief
Milwaukee Police Department
749 W. State St.
Milwaukee, WI 53233

RE: Directive #1 (H)

Dear Chief Morales:

On behalf of the Board of the Fire and Police Commission, this letter serves to advise you that the due date for **Directive #1 (H) has been extended to Thursday, October 1, 2020.**

Currently, the directive reads as follows:

“That the Board of Fire and Police Commissioners of the City of Milwaukee, does hereby direct Milwaukee Chief of Police Alfonso Morales provide a full update of Department compliance efforts and status as it relates to the ACLU Settlement Agreement mandates, also known as the *Collins, et al.* Settlement Agreement, in response to the upcoming findings of the Year Two report by CJI. This shall be provided in writing to the Executive Director and the Board of the Fire and Police Commission within fifteen (15) days from today’s date (July 20, 2020). Deadline: August 4, 2020.”

Due to the fact that the City of Milwaukee, the Fire and Police Commission and the Milwaukee Police Department all have a responsibility to respond to the Crime and Justice Institute (CJI) our compliance efforts in year two (2) in the month of August; and knowing the report will be completed and made public on **September 23, 2020 by CJI**, the Board of the Fire and Police Commission wants to ensure that the confidentiality of any discussions and reports regarding the compliance of all parties named in the Settlement Agreement is maintained. **Therefore, the Board of the Fire and Police Commission will not want to receive any documents (via email, in person, or in any manner) relating to the Milwaukee Police Departments compliance efforts for year two (2).**

Knowing this, Directive #1 (H) to give the Board of the Fire and Police Commission a full update on the Milwaukee Police Department’s compliance efforts will now be due on Thursday, October 1, 2020.

The due date extension applies for this directive ONLY.

Sincerely,

Griselda Aldrete
Executive Director

cc: Board of the Fire and Police Commission
Mayor of Milwaukee, Tom Barrett
City Attorney, Tearnan Spencer



EXHIBIT 4

LEGAL OPINION

RE: ACLU DIRECTIVE

TEARMAN SPENCER
City Attorney

MIRIAM R. HORWITZ
ADAM B. STEPHENS
MARY L. SCHANNING
Deputy City Attorneys

**CITY OF
MILWAUKEE**
Office of the City Attorney

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JAMES M. CARROLL
WILLIAM G. DAVIDSON
MEIGHAN M. ANGER
ALEXANDER R. CARSON
JENNIFER J. TATE
Assistant City Attorneys

July 28, 2020

Mayor Tom Barrett
City Hall
200 East Wells Street, Room 201
Milwaukee, WI 53202

Re: FPC Directive to Chief Alfonso Morales concerning *Collins* Settlement Agreement

Dear Mayor Barrett:

Your office has requested a legal opinion as to a recent Milwaukee Fire and Police Commission ("FPC") directive to the Chief of Police that he produce a written update concerning Milwaukee Police Department ("MPD") compliance with respect to the obligations set forth by the settlement agreement in *Collins et al. v. City of Milwaukee, et al.*, Case No. 17-C-2344 (E.D. Wis. 2017), ("Settlement Agreement"), which is sometimes referred to as the ACLU settlement. Specifically, your office asked the City Attorney to opine on this active litigation and to clarify whether the FPC's directive would jeopardize the Settlement Agreement or the pending work of the City's paid consultant in preparing an annual compliance report, and to identify any other concerns.

State law provides the Mayor of the City of Milwaukee with oversight authority of FPC directives. Wisconsin Statute § 62.50(23) provides that the Chief of Police must implement the FPC's directives unless "overruled by the mayor in writing." One of the recent directives issued to the Chief of Police by the FPC requires the following:

That the Board of Fire and Police Commissioners of the City of Milwaukee, does hereby direct Milwaukee Chief of Police Alfonso Morales provide a full update of Department compliance efforts and status as it relates [sic] to the ACLU Settlement Agreement mandates, also known as the Collins, et al. Settlement



Mayor Tom Barrett

July 28, 2020

2

Agreement, in response to the upcoming findings of the Year Two report by CJI. This shall be provided in writing to the Executive Director and the Board of the Fire and Police Commission within fifteen (15) days from today's date (July 20, 2020). Deadline: August 4, 2020.

(July 20, 2020 FPC Directive #1.h.). We believe that the directive to the Chief of Police to share any MPD response to consultant Crime and Justice Institute ("CJI")'s draft Second Annual Report by August 4, 2020 is in violation of the Settlement Agreement and Court Order and fails to honor the intent of certain terms agreed to by the parties. In addition to the City of Milwaukee, the FPC and Chief Alfonso Morales (in his official capacity) are defendants in the litigation and subject to compliance with the Settlement Agreement.

The draft report was provided to the parties by CJI on July 23rd, three days after the FPC directive was verbally given. The parties have agreed and are further under order by United States District Judge J.P. Stadtmueller to "not make public any Draft Report" before the final report is filed with the Court and published on the FPC's website on September 22nd. (Agreement and Order, ECF Doc. No. 135 at ¶ V.A.9.c.). The draft and its contents are required to be confidential for 60 days after July 23rd. During the first 30 days, the parties may review and draft corrections and objections to the report to be served on each other and CJI. (Agreement and Order, ECF Doc. No. 135 at ¶ V.A.9.a.). During the next 30 days, CJI will review the objections and finalize the report for publication by September 22nd. The deadline imposed on Chief Morales by the FPC violates the confidentiality period. Even if arguably allowed under the Settlement Agreement, the August 4th deadline deprives the Chief of Police of a significant amount of time to work with his staff and counsel to vet the draft report for factual inaccuracies in complex data and analyses. Release of MPD's response to the CJI report prior to August 21st will provide plaintiffs' counsel with an opportunity to review MPD's objections without the City having a reciprocal opportunity. This is inconsistent with the intent and terms of the Settlement Agreement that was negotiated by the parties and is detrimental to the City's litigation interests. Moreover, compliance with the directive will duplicate, and perhaps undermine, the work of the expert consultant, CJI, which is paid \$1.5 million per year by the City to track and report on the City defendants' compliance.

Per the Settlement Agreement, the plaintiffs may allege that any of the defendants are in substantial non-compliance with its terms and return to Court to litigate those matters. All of the City parties have a significant interest in avoiding such litigation. As part of the Settlement Agreement, the City paid \$1.9 million in attorney's fees to the ACLU. Any additional litigation could obligate taxpayers to pay additional attorney's fees to the ACLU. Further, if substantial non-

Mayor Tom Barrett
July 28, 2020
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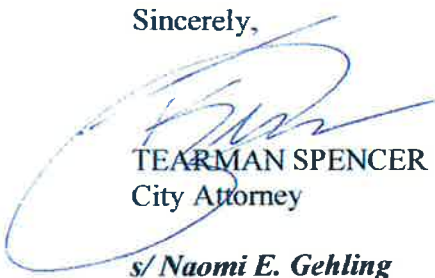
compliance results in the time period of the Settlement Agreement being extended, the obligation to pay CJI \$1.5 million per year will similarly extend.

Notably, if the Mayor exercises the oversight authority granted by Wis. Stat. § 62.50(23) to overrule this directive, it will not deprive either the FPC or the public of information about the state of MPD's compliance with the mandates of the Settlement Agreement. The MPD comments on the draft will be served on FPC on August 21st pursuant to the terms of the Settlement Agreement. The vetted and final CJI Second Annual Report will, by the terms of the Settlement Agreement, be filed with the Court and published on the FPC website.

Given the fact that responding to this directive could have a negative impact on ongoing collaborative efforts with the ACLU and could have significant risk costing the taxpayers millions of dollars and unnecessarily expend MPD resources, you may wish to exercise your discretion to override this particular FPC directive to the Chief of Police.

We hope that this adequately addresses your questions. Please let us know if we can be of further assistance.

Sincerely,



TEARMAN SPENCER
City Attorney

s/ Naomi E. Gehling

NAOMI E. GEHLING
Assistant City Attorney

s/ Heather H. Hough

HEATHER H. HOUGH
Assistant City Attorney

s/ Julie P. Wilson

JULIE P. WILSON
Assistant City Attorney

1077-2020-1082:269612

EXHIBIT 5

911 MEMO

FROM ED ALDRETE



Fire and Police Commission

Griselda Aldrete
Executive Director

Steven M. DeVougas
Chair

Nelson Soler
Vice-Chair

Ann Wilson
Fred Crouther
Angela McKenzie
Everett Cocroft
Raymond Robakowski
Commissioners

TO: Honorable Members of the Milwaukee Common Council

FROM: Griselda Aldrete, Executive Director

RE: **Quarter 1, 2020:** File No. 190001, Amendment 33: Insert a footnote directing the Executive Director of the Fire & Police Commission to provide quarterly reports to the Common Council on 9-1-1 call wait times, as well as activities, training, and initiatives to reduce 9-1-1 call wait times.

DATE: May 21, 2020

This memo is in response to Communications File 190001, Amendment 33, requesting the Fire and Police Commission to provide quarterly reports of the volume of 9-1-1 calls and average wait times received at the City of Milwaukee Fire and Police Departments Public Safety Answering Points (PSAPs). The City's current 9-1-1 system was installed in 2010 and there are limitations to its reporting capabilities. The contract for a replacement 9-1-1 system for both Fire and Police was signed in January of 2020, however implementation has been delayed due to the DNC and the COVID-19 pandemic. At this time, we are hopeful that the new system will be installed before the end of the year.

Along with the new 9-1-1 system, an RFP for a joint Fire and Police Computer Aided Dispatch system (CAD) should be published very shortly. The combined Fire and Police CAD project is mission critical in the establishment of a consolidated Fire and Police 9-1-1 call center. One of the efficiencies gained by this consolidation will be universal call-taking (UTC), which will significantly improve 9-1-1 call taking operations and reduce response times to emergency medical incidents. 9-1-1 callers will talk to a single call taker trained to manage both Fire/EMS and Police incidents. This will improve call center performance by eliminating the transfer of calls between Police and Fire, resulting in more call-takers available to answer emergency calls, thereby reducing wait times for our residents.

To ensure that this consolidation is successful, the Fire and Police Commission has contracted with Winbourne Consulting to evaluate the current state of our PSAPS including current and future systems, call flow, staffing, policies and procedures, response times, and data collection and reporting. Their report will identify gaps in the above areas and make recommendations, along with highlighting potential roadblocks that could jeopardize the success of this initiative. Depending upon delays from the DNC and COVID-19, this project is scheduled to be completed in by Q3 2020.

Below you will see tables and definitions with the 9-1-1 call volume data, including abandoned calls, as well as some average times for calls. Included are wait times by average and by interval.

Also included below is a table with some data concerning non-emergency calls. This is an initial attempt to pull data for these types of calls, and while not required by the Communications file, is being provided at the request of several Aldermen. You may also see disclaimers where shortcomings in the data have been identified. It is highly likely that these reports will change and/or additional disclaimers added as the Winbourne PSAP Assessment Report comes back with their findings.

Incoming Emergency Call Data

Definitions:

All incoming Calls – count includes all calls where 9-1-1 or our 10 digit emergency number was dialed whether the call was answered or not.

Answered Calls – count includes calls that were answered by a call-taker.

Abandoned Calls – count includes calls that reached our 9-1-1 system, but were never answered by a call-taker. This could be because a caller mistakenly dialed 9-1-1 and quickly hung up, or because they hung up while waiting for a call-taker to answer. The vast majority of calls that abandon in under 10 seconds are of the first type of abandoned call.



Fire and Police Commission

Griselda Aldrete
Executive Director

Steven M. DeVougas
Chair

Nelson Soler
Vice-Chair

Ann Wilson
Fred Crouther
Angela McKenzie
Everett Cocroft
Raymond Robakowski
Commissioners

Incoming MPD 9-1-1 Calls	January	February	March
All Received	40,968	39,171	41,899
Answered	31,923	29,910	33,105
Abandoned	9,045	9,261	8,794
MPD Answered 9-1-1 Calls	January	February	March
Average 9-1-1 Call Wait Time	0:00:12	0:00:13	0:00:09
Average 9-1-1 Caller Talk Time	0:01:52	0:02:00	0:02:06
Average 9-1-1 Total Call Time	0:02:37	0:02:47	0:02:55
Percent Answered Within 10 sec	82.30%	82.20%	88.00%

Incoming MFD 9-1-1 Calls	January	February	March
All Received	8,315	7,648	8,275
Answered	8,276	7,621	8,245
Abandoned	39	27	30
MFD Answered 9-1-1 Calls	January	February	March
Average 9-1-1 Call Wait Time	0:00:16	0:00:13	0:00:15
Average 9-1-1 Caller Talk Time	0:02:07	0:02:08	0:02:09
Average 9-1-1 Total Call Time	0:02:55	0:02:39	0:02:48
Percent Answered Within 10 sec	68.00%	71.00%	68.00%

Disclaimer: It is important to note that the Fire Department operates as a secondary PSAP, meaning that all 9-1-1 calls go to the Police first and are then transferred to Fire if an EMS or Fire response is needed. So, while the call volume can be considered accurate, the Wait, Talk, and Total times for these types of calls is not giving an accurate representation of the total time the caller spent waiting and talking to both Police and then Fire call-takers. At this time, we have no accurate way to provide total call time statistics for calls that traverse both Police and Fire call centers.

Wait Time Interval Tables for Emergency Calls

The wait time intervals for all incoming, answered, and abandoned calls is given in the following tables. For example, the first table shows that for March, 2020, of the total of 41,899 emergency calls made to MPD, 36,991 were either answered or abandoned (caller disconnected) within the first 10 seconds. The next two tables break out the answered and abandoned calls into their time intervals. Unfortunately, we did not receive the data for MPD for the months of January and February in time to include with this quarterly report.



Fire and Police Commission

Griselda Aldrete
Executive Director

Steven M. DeVougas
Chair

Nelson Soler
Vice-Chair

Ann Wilson
Fred Crouther
Angela McKenzie
Everett Cocroft
Raymond Robakowski
Commissioners

All MPD Incoming Emergency Calls									
	Wait Time in Seconds	0 - 10	11 - 20	21 - 30	31 - 40	41 - 50	51 - 60	>=61	Total
January	Calls Ans./Aban. Within Time Interval	33,892	2,370	1,129	901	659	470	1,547	40,968
	% Ans./Aban. Within Time Interval	82.7%	5.8%	2.8%	2.2%	1.6%	1.1%	3.8%	
	% Ans./Aban. Within Time Interval (Cumulative)	82.7%	88.5%	91.3%	93.5%	95.1%	96.2%	100.0%	
February	Calls Ans./Aban. Within Time Interval	31,779	2,164	1,245	919	643	535	1,886	39,171
	% Ans./Aban. Within Time Interval	81.1%	5.5%	3.2%	2.3%	1.6%	1.4%	4.8%	
	% Ans./Aban. Within Time Interval (Cumulative)	81.1%	86.7%	89.8%	92.2%	93.8%	95.2%	100.0%	
March	Calls Ans./Aban. Within Time Interval	36,991	1,750	776	589	435	334	1,024	41,899
	% Ans./Aban. Within Time Interval	88.3%	4.2%	1.9%	1.4%	1.0%	0.8%	2.4%	
	% Ans./Aban. Within Time Interval (Cumulative)	88.3%	92.5%	94.3%	95.7%	96.8%	97.6%	100.0%	

MPD Answered Emergency Calls*									
	Wait Time in Seconds	0 - 10	11 - 20	21 - 30	31 - 40	41 - 50	51 - 60	>=61	Total
January	Calls Answered Within Time Interval	26,282	1,991	837	676	546	348	1,243	31,923
	% Answered Within Time Interval	82.3%	6.2%	2.6%	2.1%	1.7%	1.1%	3.9%	
	% Answered Within Time Interval (Cumulative)	82.3%	88.6%	91.2%	93.3%	95.0%	96.1%	100.0%	
February	Calls Answered Within Time Interval	24,171	1,717	899	678	518	386	1,541	29,910
	% Answered Within Time Interval	80.8%	5.7%	3.0%	2.3%	1.7%	1.3%	5.2%	
	% Answered Within Time Interval (Cumulative)	80.8%	86.6%	89.6%	91.8%	93.6%	94.8%	100.0%	
March	Calls Answered Within Time Interval	29,128	1,487	575	458	362	239	856	33,105
	% Answered Within Time Interval	88.0%	4.5%	1.7%	1.4%	1.1%	0.7%	2.6%	
	% Answered Within Time Interval (Cumulative)	88.0%	92.5%	94.2%	95.6%	96.7%	97.4%	100.0%	



Fire and Police Commission

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MPD Abandoned Emergency Calls*									
	Wait Time in Seconds	0 - 10	11 - 20	21 - 30	31 - 40	41 - 50	51 - 60	>=61	Total
January	Calls Abandoned Within Time Interval	7,610	379	292	225	113	122	304	9,045
	% Abandoned Within Time Interval	84.1%	4.2%	3.2%	2.5%	1.2%	1.3%	3.4%	
	% Abandoned Within Time Interval (Cumulative)	84.1%	88.3%	91.6%	94.0%	95.3%	96.6%	100.0%	
February	Calls Abandoned Within Time Interval	7,608	447	346	241	125	149	345	9,261
	% Abandoned Within Time Interval	82.2%	4.8%	3.7%	2.6%	1.3%	1.6%	3.7%	
	% Abandoned Within Time Interval (Cumulative)	82.2%	87.0%	90.7%	93.3%	94.7%	96.3%	100.0%	
March	Calls Abandoned Within Time Interval	7,863	263	201	131	73	95	168	8,794
	% Abandoned Within Time Interval	89.4%	3.0%	2.3%	1.5%	0.8%	1.1%	1.9%	
	% Abandoned Within Time Interval (Cumulative)	89.4%	92.4%	94.7%	96.2%	97.0%	98.1%	100.0%	

All MFD Incoming Emergency Calls									
	Wait Time in Seconds	0 - 10	11 - 20	21 - 30	31 - 40	41 - 50	51 - 60	>=61	Total
January	Calls Ans./Aban. Within Time Interval	5,678	1,503	277	197	112	88	460	8,315
	% Ans./Aban. Within Time Interval	68.3%	18.1%	3.3%	2.4%	1.3%	1.1%	5.5%	
	% Ans./Aban. Within Time Interval (Cumulative)	68.0%	86.0%	90.0%	92.0%	93.0%	94.0%	100.0%	
February	Calls Ans./Aban. Within Time Interval	5,433	1,297	262	148	116	108	284	7,648
	% Ans./Aban. Within Time Interval	71.0%	17.0%	3.4%	1.9%	1.5%	1.4%	3.7%	
	% Ans./Aban. Within Time Interval (Cumulative)	71.0%	88.0%	91.0%	93.0%	95.0%	96.0%	100.0%	
March	Calls Ans./Aban. Within Time Interval	5,658	1,511	349	177	113	104	363	8,275
	% Ans./Aban. Within Time Interval	68.4%	18.3%	4.2%	2.1%	1.4%	1.3%	4.4%	
	% Ans./Aban. Within Time Interval (Cumulative)	68.0%	87.0%	91.0%	93.0%	94.0%	96.0%	100.0%	



Fire and Police Commission

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MFD Answered Emergency Calls									
	Wait Time in Seconds	0 - 10	11 - 20	21 - 30	31 - 40	41 - 50	51 - 60	>=61	Total
January	Calls Answered Within Time Interval	5,667	1,498	276	192	110	84	452	8,276
	% Answered Within Time Interval	68.5%	18.1%	3.3%	2.3%	1.3%	1.0%	5.5%	
	% Answered Within Time Interval (Cumulative)	68.5%	86.6%	89.9%	92.2%	93.5%	94.5%	100.0%	
February	Calls Answered Within Time Interval	5,417	1,297	261	145	113	107	261	7,621
	% Answered Within Time Interval	71.1%	17.0%	3.4%	1.9%	1.5%	1.4%	3.4%	
	% Answered Within Time Interval (Cumulative)	71.1%	88.1%	91.5%	93.4%	94.9%	96.3%	100.0%	
March	Calls Answered Within Time Interval	5,640	1,510	346	175	113	103	358	8,245
	% Answered Within Time Interval	68.4%	18.3%	4.2%	2.1%	1.4%	1.2%	4.3%	
	% Answered Within Time Interval (Cumulative)	68.4%	86.7%	90.9%	93.0%	94.4%	95.7%	100.0%	

MFD Abandoned Emergency Calls									
	Wait Time in Seconds	0 - 10	11 - 20	21 - 30	31 - 40	41 - 50	51 - 60	>=61	Total
January	Calls Abandoned Within Time Interval	11	5	4	5	2	4	8	39
	% Abandoned Within Time Interval	28.2%	12.8%	10.3%	12.8%	5.1%	10.3%	20.5%	
	% Abandoned Within Time Interval (Cumulative)	28.2%	41.0%	51.3%	64.1%	69.2%	79.5%	100.0%	
February	Calls Abandoned Within Time Interval	16	0	1	3	3	1	3	27
	% Abandoned Within Time Interval	59.3%	0.0%	3.7%	11.1%	11.1%	3.7%	11.1%	
	% Abandoned Within Time Interval (Cumulative)	59.3%	59.3%	63.0%	74.1%	85.2%	88.9%	100.0%	
March	Calls Abandoned Within Time Interval	18	1	3	2	0	1	5	30
	% Abandoned Within Time Interval	60.0%	3.3%	10.0%	6.7%	0.0%	3.3%	16.7%	
	% Abandoned Within Time Interval (Cumulative)	60.0%	63.3%	73.3%	80.0%	80.0%	83.3%	100.0%	



Fire and Police Commission

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Raymond Robakowski
Commissioners

Non-Emergency Call Data

Below are call statistics for non-emergency calls that we have tried to mirror after the statistics provided for emergency calls. Unfortunately, we are unable to provide the same level of detail nor do we have the same confidence in the accuracy of the data. For example, non-emergency calls may originate as direct inward calls from citizens or internal transfers from districts or other city departments. Additionally, we are unable to differentiate between unanswered calls for Fire and Police as the final destination of the call is not known until the call is answered.

Incoming MPD Non-Emergency Calls	January	February	March
Received*	x	x	x
Answered**	13,157	12,463	13,369
Unanswered*	x	x	x
MPD Answered Non-Emergency Calls	January	February	March
Average Non-Emergency Call Wait Time	00:00:44	00:00:42	00:00:22
Average Non-Emergency Caller Talk Time	00:02:30	00:02:32	00:02:40
Average Non-Emergency Total Call Time***	x	x	x
Percent Answered Within 10 sec	77%	77%	84%

Incoming MFD Non-Emergency Calls	January	February	March
Received*	x	x	x
Answered**	3,584	3,526	3,700
Unanswered*	x	x	x
MFD Answered Non-Emergency Calls	January	February	March
Average Non-Emergency Call Wait Time	00:00:07	00:00:07	00:00:07
Average Non-Emergency Caller Talk Time	00:00:45	00:00:46	00:00:49
Average Non-Emergency Total Call Time***	x	x	x
Percent Answered Within 10 sec	85%	84%	84%

*Unable to provide as calls are not defined as MPD or MFD calls until assigned to a console or phone.

**Non-Emergency Calls answered by MPD/MFD call-taker consoles at primary location only.

***System not currently configured to accurately provide this data.

EXHIBIT 6

MAY 27, 2020

**LETTER TO
COMMON COUNCIL**



Milwaukee Police Department
Police Administration Building
749 West State Street
Milwaukee, Wisconsin 53233
<http://www.milwaukee.gov/police>

Alfonso Morales
Chief of Police

(414) 935-7200

May 27, 2020

City of Milwaukee Common Council
City Hall
200 E. Wells, Room 205
Milwaukee, WI 53202

Re: Quarter 1, 2020: File No. 190001, Amendment 33: Insert a footnote directing the Executive Director of the Fire & Police Commission to provide quarterly reports to the Common Council on 9-1-1 call wait times, as well as activities, training, and initiatives to reduce 9-1-1 call wait times.

Honorable Council Members,

I am writing to clarify a statement in the attached memo written by the Fire & Police Commission Executive Director Griselda Aldrete dated May 21, 2020. On page 2, she writes, "Unfortunately, we did not receive the data for MPD for the months of January and February in time to include with this quarterly report."

My staff attempted to clarify the data request when it was initially made on April 14, 2020 and provided data it believed was responsive within *four days* of the initial request, which Director Aldrete acknowledged receiving. When Director Aldrete asked for additional data on May 12, 2020, MPD provided that data within 24 hours (and eight days before she submitted the update to the Common Council).

In addition, the data my staff provided for January and February (as well as March) 2020 is, in fact, included in pages 3 and 4 the report.

Sincerely,

ALFONSO MORALES
CHIEF OF POLICE

Attachment

c: Executive Director Griselda Aldrete
Fire & Police Commission

EXHIBIT 7

APRIL 22, 2020

LETTER FROM ED ANDRETE



OFFICE OF THE EXECUTIVE DIRECTOR
GRISelda ALDRETE
CITY OF MILWAUKEE
FIRE & POLICE COMMISSION

April 22, 2020

MEMORANDUM FOR

Police Chief Alfonso Morales

FROM

Griselda Aldrete, FPC Executive Director

Re: PSSI Terminated Positions in 2019; Emergency Communications Manager; Assistant Chief of Police

An official request by Raymond Robakowski, a Fire & Police Commissioner, was sent to the Office of the Executive Director (OED).

This request states the following information be disclosed to the Board of Commissioners:

- A copy of all names and personnel records for the terminated PSSI positions in 2019.
- A copy of all names, interview records, and timeline for the Emergency Communications Manager position.
- A copy of all names, interview records, and timeline for the Assistant Chief of Police position.

As Secretary to the Board and Executive Director of the Fire & Police Commission (FPC), I hereby send you this memorandum on their behalf which invokes Chapter 314-3-1 of the City of Milwaukee Code of Ordinances -- and stipulate the production of the above requested documentation no later than April 27, 2020.



Board of Commissioners

Steven Devougas, Chair
Nelson Soler, Vice Chair
Everett Cocroft
Fred Crouther, D. Min
Angela McKenzie
Raymond Robakowski
Ann Wilson

Milwaukee City Hall
Fire & Police Commission
200 E. Wells Street, Room 706A
Milwaukee, WI 53202
414-286-5000
fpc@milwaukee.gov
milwaukee.gov/fpc

EXHIBIT 8

JUNE 9, 2020

LETTER TO CHAIRMAN DEVOUGAS



Milwaukee Police Department
Police Administration Building
749 West State Street
Milwaukee, Wisconsin 53233
<http://www.milwaukee.gov/police>

Alfonso Morales
Chief of Police

(414) 935-7200

June 9, 2020

Fire and Police Commission
Chairman Steven DeVougas
200 East Wells Street, Room 706
Milwaukee, WI 53202

Chairman DeVougas,

In advance of the recently scheduled June 11, 2020 Fire & Police Commission "Regular Session," I am respectfully requesting the following positions and requests to be scheduled for that meeting. It is my understanding that the previous Regular Sessions have been cancelled due to COVID-19 precautions. As a result, there is a considerable backlog of appointments and promotions. That backlog has significantly limited our operational capabilities, particularly during the recent course of events.

I have broken down the requests by item, name, position and date submitted for each of the anticipated Regular Sessions. Most of the positions do not require an Executive Session interview. As you can see, this list includes individuals who have rescinded their acceptance of the position. Those individuals have expressed their withdrawal was a result of the delay in the hiring process.

FPC Meeting - Thursday, April 2, 2020			
FPC Item	Name	Position	Date Submitted
Appointments	April Nwandu	HR Specialist	3/19/2020
	Andra Williams	Emergency Communications Manager	3/19/2020
	Nancy Cole	Crime Analyst	3/25/2020
	Hannah Hoffman	Crime Analyst	3/25/2020
	Tasha Henry	Custodial Worker II	3/26/2020
Promotions	Paul Lough	Inspector of Police	3/25/2020
	Minerva Espinoza	Accounting & Grant Specialist	3/25/2020
	Tonia Lewis	Administrative Assistant IV	3/26/2020
	Christy Irvine-Bachmann	Administrative Assistant II	3/26/2020

FPC Meeting - Thursday, May 7, 2020			
FPC Item	Name	Position	Date Submitted
Appointments	Levent Cobin	Custodial Worker II	4/30/2020
	Paula Gilmore	Custodial Worker II (Previous candidate expressed no longer interested. FPC allowed and accepted a revised letter after deadline date)	5/1/2020
	Cherie Ray	Office Assistant III (candidate notified HR on 5/28/2020 - no longer interested)	4/30/2020
	Kelly Paquette	Office Assistant III (candidate notified HR on 5/29/2020 - no longer interested)	4/30/2020
	Raemaesha Beamon	Office Assistant III	4/30/2020
Promotions	Kue Xiong	IT Support Specialist Senior	4/30/2020
	Kelly Carr	Administrative Assistant II (was originally going to be promoted to OAIII to under for AAIII - after review of experience and qualifications, promotion changed to AAII)	4/30/2020
	Shaun Doyne	Captain of Police	4/30/2020
	David Feldmeier	Captain of Police	4/30/2020
	James Mac Gillis	Captain of Police	4/30/2020
	Shannon Seymer-Tabaska	Captain of Police	4/30/2020
	Gregory Geniesse	Police Sergeant	4/30/2020
	James Hall	PSSI	4/30/2020
Probation Extension			

FPC Meeting - Thursday, June 4, 2020			
FPC Item	Name	Position	Date Submitted
Appointments	Kimberly Beale Brey	Police District Admin. Assistant	5/21/2020
	Jessica Galloway	Police District Admin. Assistant	5/27/2020
Acting Command	Paul Formolo	Acting Assistant Chief of Police	5/4/2020
Promotion	Paul Formolo	Assistant Chief of Police	5/26/2020

I have cc'd Director Aldrete, Vice Chair Soler and Mayor Barrett. Thank you in advance for your attention to this matter. Please do not hesitate to contact me in the event you have any questions.

Fire and Police Commission
June 9, 2020

Regards,



ALEJONSO MORALES
CHIEF OF POLICE

cc: Griselda Aldrete, Fire & Police Commission Executive Director
Nelson Soler, Fire & Police Commission Vice Chair
Tom Barret, Mayor

EXHIBIT 9

MAY 30, 2020

LETTER FROM ED ALDRETE



Fire and Police Commission

Griselda Aldrete
Executive Director

Steven M. DeVougas
Chair

Nelson Soler
Vice-Chair

Ann Willson
Fred Crouther
Angela McKenzie
Everett Cocroft
Raymond Robakowski
Commissioners

May 30, 2020

Alfonso Morales, Chief
Milwaukee Police Department
749 W. State St.
Milwaukee, WI 53233

RE: Six-Month Review Information Request

Dear Chief Morales:

The Board of Fire and Police Commissioners is requesting the following information and reports as part of your six-month review.

- Milwaukee Police Department (MPD) statistics on crime data and arrest data to date
- Information as to how MPD is integrating community policing into their policies
- MPD's pursuit policy and how MPD uses technology to avoid the complaints voiced by the community at various meetings
- Reckless driving efforts that the MPD has in place
- 9-1-1 Center statistics related to turnover and response rates
- CAD and technology updates
- Officer deployment initiatives regarding dispatching, prevention and Differential Police Response
- Update on MPD retirements and the plans to replace staff, especially in key positions such as Assistant Chief, Inspector, Captain, etc.
- Address issues with policies that have been implemented during your tenure as Interim Chief and Chief (February 2018 to date) and report if they are working, not working and why they are or not working
- How is MPD managing overtime

Due to the sensitive nature of these documents, I request these to be hand delivered to my office no later than 5 p.m. on Friday, June 12, 2020 to have ample time to review and provide them to the Commissioners.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Griselda Aldrete
Executive Director

cc: Fire and Police Commissioners

EXHIBIT 10

APRIL 27, 2020

LETTER FROM CHIEF MORALES



Milwaukee Police Department
Police Administration Building
749 West State Street
Milwaukee, Wisconsin 53233
<http://www.milwaukee.gov/police>

Afonso Morales
Chief of Police

(414) 935-7200

April 27, 2020

Executive Director Griselda Aldrete
Fire & Police Commission
200 E. Wells Street, Room 706A
Milwaukee, WI 53202

Executive Director Aldrete,

I am in receipt of your letter, dated April 22, 2020, regarding "PSSI Terminated Positions in 2019; Emergency Communications Manager; Assistant Chief of Police." In your letter you asked for information regarding those three positions. Please find my responses below.

I. Police Services Specialist - Investigator Positions

The following Police Services Specialist – Investigators (PSSIs) were terminated in 2019:

- Jeffery Hadrian
- Efrain Herrera
- Richard Lesnewski
- Hattie Nichols
- Sandra Poniewaz

Per your request, I have made their personnel records available.

II. Emergency Communications Manager Position

The Emergency Communications Manager (ECM) position oversees the area with one of the greatest amount of citizen contacts: the Technical Communications Division. This area handles thousands of emergency and non-emergency calls for service. I have been attempting to fill the position with a civilian manager for over 15 months since the previous ECM resigned on January 5, 2019. This process was delayed, in part, due to a lack of qualified applicants and budgetary issues.

Once enough viable candidates were identified, there was a scored interview process resulting in an offer to the top candidate. That candidate, Mr. Andra Williams, declined due to the base salary being too low. I then extended an offer a second candidate, and she also declined due to the base salary being too low.

An offer was again extended to Mr. Williams and he accepted at the minimum base salary. I had requested that Mr. Williams' position be presented for approval at the April 2, 2020 Fire & Police Commission (FPC) meeting; however, that meeting was cancelled. When presented at the April 16, 2020 meeting as a temporary hire, that request was denied. At that meeting, my Executive Staff indicated it was still my preference to fill the ECM position as a permanent position, but given the limited scope of that meeting I had asked for a temporary hiring until the FPC would interview the candidate for a permanent position.

This is one of the most important civilian positions in MPD, which requires expertise and leadership skills. There also considerable risk management concerns about not having appropriate management for this area. I cannot stress enough how important it is to have an ECM in place, particularly during the COVID-19 epidemic. Below please find my Human Resource Division's timeline for the Emergency Communications Manager hiring process:

EMERGENCY COMMUNICATIONS MANAGER (EXEMPT):

1/5/2019	Current ECM (Robert M. Malasuk) resigned. Captain Jeffrey M. Point (assigned 3/25/2018 to present) and Lieutenant Rebecca L. Babich (assigned 10/08/2017 to 10/19/2019) was overseeing operations. Lt Babich was transferred to District 3 effective 10/20/2019. Captain Diana E. Rowe was assigned to TCD, effective 9/22/2019. Captain Rowe retired effective 3/19/2020.
2/4/2019	Finance and Personnel Committee approved authority to fill position.
3/14/2019	The executive command staff is reviewing list for potential new hires
4/8/2019	Per Administrator Williams the executive staff is reviewing the JD to ensure it aligns with the new direction the Department is looking to go in. The JD is needed to request re-exempt and recruitment.
5/2/2019	Requested & Received approval for position to be re-exempted and DER assist with recruitment.
6/20/2019	Job Announcement Bulletin (JAB) approved at FPC meeting
6/21/2019	JAB posted by DER
7/12/2019, 8/2/2019 & 8/16/2019	Application deadline. Extended to 8/2/19, extended once again to 8/16/19.
8/30/19	<i>Fourteen (14) applications were received and are ready to review. Once qualified individuals are identified the interview process can proceed. If a name is presented at the FPC meeting of 9/19/19 and approved at the 10/3/19 meeting, an anticipated start date would be 10/7/19</i>
9/10/19	<i>FILLING THE POSITION HAS BEEN PUT ON HOLD UNTIL FUTHER NOTICE. EMAILS AND LETTERS WERE SENT TO CANDIDATES. BASED ON BUDGET</i>
9/22/2019	Captain Diana E. Rowe was assigned to TCD to oversee operations.
1/30/2020	Budget Office (Bryan Rynders) approved extension of authority to fill through 8/4/2020.
2/11/2020	Interviews held with the top 6 candidates (Courtney Doberstein, Andra Williams, Paisley Davis, Marco Jaimez, John Whitman, Rebecca Andersen was a no show). Position was offered to Mr. Andra Williams. Interview panel members were AC Howard, Insp Ramirez & COS DeSiato.
2/13/2020	Mr. Andra Williams declined offer based on starting salary being too low.
2/17/2020	Former HR Administrator Williams offered the position to Ms.

	Doberstein and followed up with the attached email.
2/18/2020	Ms. Doberstein left a voice message with former HR Administrator Williams advising her that she was no longer interested in the ECM position based on the salary being too low. HR Administrator Williams responded via text message advising the salary was not negotiable.
2/19/2020	DER (Andrea Knickerbocker) is looking into reverting position into Captain.
3/12/2020	HR Administrator Pamela K. Roberts extended a contingent offer of employment to Mr. Andra Williams and he accepted at the recruitment rate.
4/2/2020	Appointment paperwork for Mr. Andra Williams scheduled to be presented to FPC for a start date of April 13, 2020; however, FPC meeting was cancelled.
4/16/2020	Department requested an Emergency Appointment for the ECM position; however, it was denied.
5/7/2020	Appointment paperwork for Mr. Andra Williams scheduled to be presented to FPC with a new start date of May 11, 2020.

III. Assistant Chief of Police

As you may be aware, the process for filling a vacancy for Assistant Chief of Police is governed by state statute:

If a vacancy exists in the office of assistant chief, the chief of police shall nominate and, with the approval of the board, shall appoint a person to a term of office coinciding with the term of the chief making the appointment, subject thereafter to reinstatement to a previously held position on the force in accordance with rules prescribed by the board. Removal of the assistant chief shall be pursuant to s. 17.12 (1) (c). The chief may summarily suspend the assistant chief whose removal is sought by the chief.

Wis. Stat. sec. 62.50(7)(a). This statute is referenced in FPC Rule XI, Sec. 12(d) ("If a vacancy exists in the office of Assistant Chief of Police, the Chief of Police shall, pursuant to Section 62.50 (7) Wis. Stats., nominate and, with the approval of the Board, shall appoint a person to a term of office coinciding with the term of the Chief making the appointment, subject thereafter to reinstatement to the last previously held non-exempt position in the Police Department.").

While neither the statute nor the FPC Rules require a process, I did conduct a process in making my nominations for Assistant Chief of Police. I reviewed the resumes of all members of the department who previously applied for Inspector of Police. I considered whether the candidate had a degree, was committed to the City of Milwaukee, had indicated he or she was actively searching for outside employment, was eligible for retirement in 2020 and whether the candidate had indicated he or she was unable or unwilling to work the night shift. I also evaluated their performance as a member of the department, particularly their performance in leadership positions.

While no one factor was dispositive, the combination of factors eliminated most, if not all, of the initial candidates I had reviewed. At that point, I expanded my search to include both current and former members who had not applied for Inspector of Police. After reviewing their resumes and conducting an interview, I ultimately

chose to nominate Regina Howard and Christopher Domagalski. Both candidates have been approved by the FPC.

Below please find my Human Resource Division's timeline for the Assistant Chief of Police positions:

6/29/2019	Assistant Chief of Police Caballero retired. Inspector Gordon assumed the duties of CIB.
7/28/2019	Inspector Gordon was not placed on order, but Payroll received a PN-2 assigning him to CIB effective 7/28/2019.
1/15/2020	Finance and Personnel approved authority to fill two Assistant Chief of Police positions (AC Steven A. Caballero & AC Raymond E. Banks). Authority to fill expires on 7/15/2020.
1/25/2020	AC Raymond E. Banks retired.
2/6/2020	Nominations and appointments to Assistant Chief of Police for Ms. Regina M. Howard (effective February 9, 2020) and Mr. Christopher D. Domagalski (effective March 9, 2020) were approved at the Fire and Police Commission meeting. Mr. Christopher D. Domagalski has not been sworn into office with the MPD.
2/10/2020	Special pay requests were submitted to Ms. Maria Monteagudo, Director of Department of Employee Relations (DER), for Mr. Christopher D. Domagalski and Ms. Regina M. Howard.
4/18/2020	Special pay requests for Mr. Christopher D. Domagalski and Ms. Regina M. Howard were denied by Director Monteagudo.

Regards,



ALFONSO MORALES
CHIEF OF POLICE

EXHIBIT 11

MEDIA RELEASE FROM ED ALDRETE



OFFICE OF THE EXECUTIVE DIRECTOR
GRISELDA ALDRETE
CITY OF MILWAUKEE
FIRE & POLICE COMMISSION

FOR IMMEDIATE RELEASE
MAY 19, 2020

**EXECUTIVE DIRECTOR ALDRETE SENDS MPD NOTICE STATING FIRE & POLICE COMMISSION SHALL TAKE
OVER OFFICER MATTIOLI INVESTIGATION, DEPARTMENT MUST TURN OVER ALL RELATED DOCUMENTS
IN THE CASE BY END OF BUSINESS TODAY**

Milwaukee, WI (May 19, 2020) –The Executive Director of the Fire & Police Commission (FPC), who provides operational leadership, guidance, and coordination as the chief administrator for the Board of Commissioners, has sent official notice on their behalf to the Milwaukee Police Department (MPD) stating the Departments' Internal Affairs Division (IAD) must immediately cease all investigations relative to Officer Mattioli, and turn over all documents in the case by today at 5:00pm.

"At the request of the Board of Commissioners, I have sent correspondence to the Milwaukee Police Department, specifically to Police Chief Morales, informing them to cease all current investigations regarding Officer Mattioli, and that my Office will be taking control of the investigation moving forward. A deadline was given to the Chief to turn over all materials by 5:00 PM today and the Board expects compliance with this directive" says Director Aldrete.

Under the direction of the Executive Director, FPC staff has a bilingual investigator that will be able to conduct a thorough and objective investigation while also being able to communicate with the victim's family if needed. Director Aldrete additionally says **"As I have stated before and I will repeat it again – the residents of the city are looking for transparency and trust in the process and I am committed to making sure this happens. I have complete faith in my investigator to gather all of the facts needed for the Board to review."**

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WHAT: Milwaukee Police Department to cease investigation of officer per FPC directive and turn over related documents

WHEN: By May 19, 2020 | 5:00 PM

WHERE: Hand-deliver documents (paper or electronically saved) to the Executive Director at City Hall

MEDIA CONTACT:
FPC Press Office
FPCPress@milwaukee.gov

****Please note that the general FPC office number will not be responding to media calls regarding this release as department staff are working remotely due to COVID-19****



Board of Commissioners

Steven Devougas, Chair
Nelson Soler, Vice Chair
Everett Cocroft
Fred Crouther, D. Min
Angela McKenzie
Raymond Robakowski
Ann Wilson

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