

To: Public Safety and Health Committee

From: Paul Mozina

Re: CC File No. 200894 Communication from the Fire and Police Commission relating to its current staffing levels and ability to provide core services.

What are the core services that FPC must provide?

The duties and responsibilities of the FPC are defined in [Wis. Stat. 62.50](#), Milwaukee Code of Ordinances [Chapter 314](#) and the [FPC Rules](#):

[Wis. Stat. 62.50](#)

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. The board may prescribe general policies and standards for the departments. The board may inspect any property of the departments, including but not limited to books and records, required for a review under this section.

No person may be appointed to any position either on the police force or in the fire department of the city, except with the approval of the board.

The board may prescribe rules for the government of the members of each department and may delegate its rule-making authority to the chief of each department.

The board shall control all examinations and may designate suitable persons, either in the official service of the city or not, to conduct such examinations and may change such examiners at any time, as seems best.

If a vacancy exists in the office of chief of police or in the office of chief engineer of the fire department, the board by a majority vote shall appoint proper persons to fill such offices respectively.

The Board will conduct trials on appeal of discipline issued by the chief of the MPD or MFD to one of the agency's members.

[Chapter 314](#)

314-3. Duties. In accordance with the duties provided in s. 62.50, Wis. Stats., the board of fire and police commissioners shall:

1. Conduct a policy review of all aspects of the operations of the police and fire departments, may prescribe general policies and standards for the departments, and may inspect any property of the departments, including but not limited to books and records, required for such review.

2. Audit internal police and fire department investigations to ensure thorough, fair and credible results.
3. Monitor the citizen complaint process to ensure timely and objective resolutions.
4. Use oversight authority to identify systemic problems within the police and fire departments, identify opportunities for improvement through organizational change, and delegate authority for follow-up to the respective chief.

FPC Rules

Section 3.

- (a) The Board shall, on an ongoing basis, review all aspects of the operations of the Fire and Police Departments, including, but not limited to, a consideration of discipline, promotion, work rules, standard operating procedures, and other procedures relating to the conduct of employees of the Fire and Police Departments. The Commission, and Commission members or staff when authorized by the Commission, shall have full access to observe and review all department activities. (Rev. 10/4/01)
- (b) The Board may prescribe rules for the governance of each department. A Chief may not suspend any rule prescribed by the Board. (Rev. 7/26/01)
- (c) The Chief of each department may propose rules for the governance of the department. Any rule proposed by a Chief shall be subject to review and approval by the Board. Any rule proposed by a Chief shall not take effect until the rule is reviewed and approved by the Board. (Rev. 7/26/01)

Section 4.

The Chief of each department shall provide the Board with current standard operating procedures or other directives. Nothing in a standard operating procedure or other directive shall be used to circumvent a Board or department rule. (Rev. 7/26/01)

What are the duties of the FPC Executive Director?

Per Milwaukee Code of Ordinances [Chapter 314](#):

314-5. Executive Director. Pursuant to the authority granted to 1st class cities under s. 62.51, Wis. Stats., there is created a position of an executive director to comprise the role of executive secretary of the board. Under the direction of the board, the executive director shall act as the principal staff of the board in exercising the board's functions and powers provided in s. 62.50, Wis. Stats., and described under s. 314-3.

In addition, the executive director shall:

1. Review a complaint investigation when a citizen is dissatisfied with the outcome of an investigation that has been completed by the police or fire department.

2. Evaluate police and fire department policies, practices and patterns, including but not limited to deployment of staff, crime and fire prevention training, use of force, search, seizure, citizen interaction and communication.
3. Issue periodic public reports relating to the status and resolution of complaints, timeliness of complaint resolution, trends and patterns of concern pertaining to complaint investigations, nature and frequency of complaints and other performance indicators.

At its current staffing levels, is the FPC able to provide its core services?

No.

The FPC Executive Director and staff have failed to provide the rudimentary services the Board needs to conduct its business in a coherent, consistent and transparent manner. Resolutions under the Board's consideration are never even written down – they consist of an FPC File No. and Title only – the ED and staff never actually memorialize the intentions of the Board in proper resolution format including: Purpose, Whereas clauses, and Be It Resolved clauses. The Board is continually in the awkward position of making motions to amend resolutions that have no body. This has led to significant impediments to the Board's ability to accomplish its goals including:

- The effort to include Residency Preference Points as part of the promotion list rankings for the Sergeant, Detective and Lieutenant eligibility lists failed because the resolutions passed by the Board concerning this matter were never written down.
- The Board attempted to establish an appeals process for MPD and MFD candidates who failed their psychological exam and this failed, again because the resolution they passed regarding this was never written down and the Staffing Service Manager who could have expedited this was inexplicably terminated.
- Most recently, the Board defined a process that would be used to select a new MPD Chief. Again, the process was not written down and made part of the record. This led to confusion amongst the Board members and general frustration on the part of the public.

FPC is supposed to do an annual review of MPD and MFD operations and standard procedures yet they have never done this and don't even try. This is totally unacceptable, and with 50% of the staff positions vacant, the chances of this effort being initiated anytime soon are nil.

Examples of some of the current operations within the MPD in particular that warrant immediate review: no-knock search warrants, use/abuse of confidential informants, abusive suspect interrogations including denial of requests for attorney (Jordan Fricke), and abuse of asset forfeiture actions. The FPC Staff does not even have digital or hard copies of the MPD's Standard Operating Instruction nor the MFD's Standard Operating Guidelines in their offices and this information is not available online.

The FPC has not had a Research and Policy Analyst since February and much important work necessary for the Board to review the operations of the MPD and MFD is not getting done for example:

- The review of Police Use of Force policies across the country that was begun in 2019 has been abandoned.
- The review of lawsuits brought against the MPD begun in 2019 has been abandoned.
- No research is being done on the results of MPD's participation in the High Intensity Drug Trafficking Area Program (HIDTA) nor the collateral damage caused by the war on drugs despite repeated testimony from MPD leadership that we cannot arrest our way out of the problems caused by drug abuse.
- No research is being done on the nexus of the MPD's prosecution of the war on drugs and the skyrocketing incidences of overdose, gun violence and mobile drug dealing leading to high-speed chases.

Changes to MPD Standard Operating Procedures take forever, years in some cases, and even when changes are approved by the Board, they may go unpublished by the MPD for months. A recent example was SOP 130 related to Immigration Enforcement. Changes were approved by the Board on December 18, 2019 but not published by the MPD until April 21, 2020. In the meantime, the MPD submitted a grant application in March of 2020 for funding additional police members that was not based on approved SOP 130 changes, which caused the application to be denied (although this was ultimately resolved, the City has not accepted the grant.)

The FPC is a co-defendant, along with the MPD and City of Milwaukee, in the [ACLU Lawsuit](#) (executed on July 23, 2018) and under the Court Orders of the Settlement Agreement, it is mandated to accomplish certain goals. To date, the FPC has failed to even provide a project plan for how it will accomplish these goals. Despite the existence of a core audit team (Risk Manager, Risk Auditor and 3 Investigator/Auditors) in September 2019, the FPC has not conducted a single one of the MPD audits mandated by the Court Orders.

The FPC Staff does not respond to Open Records Requests in a timely manner. I am still waiting for ORR made in December 2019.

The FPC has only one investigator on staff. This is one of the reasons that Mr. Mel Johnson was hired to investigate the leak by the MPD of the interview of an alleged suspect in a sexual assault case. This may have also been a factor in the FPC's inability to complete the investigation of MPD officer Mattioli that resulted in the FPC ultimately returning control of this investigation back to the MPD.

There has been virtually no follow up by the FPC to findings and recommendations of the DOJ's Collaborative Reform Initiative in the last two years.

The FPC has had virtually no engagement with the Community Collaborative Committee/Commission in the past 2 years other than hearing their final report in committee.

Conclusion

It is imperative that the vacancies in the FPC staff be filled as soon as a new Executive Director is appointed so that the department can provide the core services the FPC Board needs to fulfill its legislatively mandated responsibilities. The primary responsibility, and the one most important to the community right now, is to provide oversight over the operations of the MPD and MFD via an annual review of the standard operating procedures, guidelines and instructions. The FPC has never done this and the community has suffered as a consequence.