

..Number

251799

..Version

PROPOSED SUBSTITUTE BC

..Reference

..Sponsor

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..Title

A substitute motion modifying Milwaukee Police Department Standard Operating Procedures regarding the duty to intervene, ~~investigate~~, and report unreasonable uses of force.

..Analysis

This motion modifies Milwaukee Police Department Standard Operation Procedure (SOP) 460 – Use of Force. The existing SOP assigns a duty to intervene in situations where a department member personally observes another ~~officer~~~~department member~~ using force that is noncompliant with State law or which is beyond that which is objectively reasonable under the circumstances. This motion clarifies that the term this duty to intervene only applies to observations of other “another officers” as used in section 460.30 of SOP 460 includes “law enforcement officer” and “federal law enforcement officer” as defined under state laws subject to the jurisdiction of the State of Wisconsin. The motion then adds a similar duty to intervene when an officer not subject to the jurisdiction of the State of Wisconsin is observed using objectively unreasonable force.

~~The motion also changes the SOP to require members attempt to investigate and determine whether a violation of the law has occurred in these situations. The motion directs members to devote the same amount of time, effort and resources to these investigations as would be devoted to an investigation that does not involve another officer.~~

..Body

Whereas, There are credible reports that federal law enforcement members are physically assaulting members of the public while they are exercising their constitutionally protected rights to speak and assemble, without probable cause that the victims were engaged in any illegal activity; and

Whereas, A 2025 report from the State Democracy Research Initiative of the University of Wisconsin Law School highlights that, while Supremacy Clause immunity sometimes protects federal actors from state prosecution, it does not extend to conduct that federal law does not authorize or that is not necessary or proper to fulfilling lawful federal duties; and

Whereas, Milwaukee Police Department Standard Operating Procedure 460 – Use of Force currently requires that department members reasonably attempt to intervene if they personally observes another officer using force which the observing officer believes or knows to be that is beyond that which is objectively reasonable under the circumstances, and the observing officer is in a position to intervene and can do so without jeopardizing safety; and

Whereas, ~~It is not a modification to SOP 460 in Section 460.30 will clear if make clear that~~ the duty to intervene, ~~as it is currently written in policy,~~ applies to situations where objectively unreasonable force is observed being used by law enforcement officers not employed by the Milwaukee Police Department by providing that the term “another officer” includes “law enforcement officers” as defined in Wis. Stat. § 175.44(1)(b) and “federal law enforcement officers” as defined under Wis. Stat. § 175.40(7)(a)1.; and

~~Whereas, It is not clear if department members are required to investigate objectively unreasonable uses of force witnessed by department members if the force is used by law enforcement officers not employed by the Milwaukee Police Department; and~~

~~Whereas, Section 1.04 of the Milwaukee Police Department Code of Conduct communicates the expectation that all investigations be conducted, and reports prepared, in a prompt, thorough, impartial, and careful manner to ensure accountability and compliance with the law; and~~

Whereas, S. 62.50(3)(am), Wis. Stats., allows the Common Council to suspend or modify any policy established by the Chief of Police upon a two-thirds vote of all of the members of the Common Council; now, therefore

It is moved, By the Common Council of the City of Milwaukee, that Section 460.30(A) of Milwaukee Police Department Standard Operating Procedure 460 – Use of Force shall be modified as follows:

>>In this Section, the term “another officer” or “another law enforcement officer” includes not only MPD officers but additionally any “law enforcement officer” as defined in Wis. Stat. § 175.44(1)(b) and any “federal law enforcement officer” as defined in Wis. Stat. § 175.40(7)(a)1.<< Any officer who personally observes another officer ~~>>subject to the jurisdiction of the State of Wisconsin<<~~ using force (regardless of their rank), which the observing officer, based on their training, believes or knows to be beyond that which is objectively reasonable under the circumstances and/or does not conform with the standards under s. 175.44(2)(b) or (c) Wis. Stats., shall reasonably attempt to intervene to prevent the use of such excessive force, if the observing officer is in a position to do so, ideally before the situation escalates, and if any such intervention does not jeopardize safety. ~~>>Any officer who personally observes an officer not subject to the jurisdiction of the State of Wisconsin using force, which the observing officer, based on their training, believes or knows to be beyond that which is objectively reasonable under the circumstances, shall reasonably attempt to intervene to prevent the use of such excessive force, if the observing officer is in a position to do so, ideally before the situation escalates, and if any such intervention does not jeopardize safety.<<~~

Any such intervening officer shall ~~promptly~~ report their observations, along with his/her own intervening actions to a supervisor as soon as practicable after the occurrence of the use of force event. A failure to intervene in any unreasonable use of force, when there is an opportunity to do so, demonstrates a lack of

courage, and a violation of the Code of Conduct and of this SOP. Any supervisor to whom such intervention or failure to intervene is reported must comply with the reporting and investigation requirements of SOP 450.15.

; and

~~It is further moved, That Section 460.30(B) of Milwaukee Police Department Standard-Operating Procedure 460—Use of Force shall be modified as follows:~~

~~DUTY TO REPORT NONCOMPLIANT USE OF FORCE (s. 175.44(3), Wis. Stats.).~~

~~Members shall, while in the course of his or her law enforcement duties, report noncompliant uses of force as soon as is practicable after the occurrence of the use of such force to a supervisor if they witness another law enforcement officer use force that does not comply with the standards of s. 175.44(2)(b) or (c) Wis. Stats. >>If members personally observe another officer using force (regardless of their rank or the agency that employs the officer), which the observing officer, based on their training, believes or knows to be beyond that which is objectively reasonable under the circumstances, the member shall attempt to conduct an investigation to determine if a violation of the law occurred. The time, effort and resources devoted to an investigation of objectively unreasonable force by another officer shall be the same as would be devoted to an investigation that does not involve another officer.<<~~

..Requestor

..Drafter  
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Dave Gelting  
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