

MINUTES OF THE PUBLIC PROTECTION & JUDICIARY COMMITTEE
OF THE DANE COUNTY BOARD OF SUPERVISORS
Meeting of June 4, 2007

The Public Protection & Judiciary Committee of the Dane County Board of Supervisors met in Room 321 of the City-County Building in Madison, Wisconsin, on Monday, June 4, 2007 at 5:30 p.m.

MEMBERS PRESENT: Bayrd, Brown, Hanson (late), Matano (late), Rusk, Salov.

EXCUSED: Kumar.

ABSENT:

OTHERS PRESENT: Krusiec, Blanchard, Beaudoin, Tadych, Esqueda, Mahoney, Boylan, Ritter, Theune (MPD), MacKenzie.

1. Call to Order. Meeting called to order at 5:30 p.m.
2. Public Comment. None.
3. Approval of Minutes. Brown moved, seconded by Salov, to recommend approval of the minutes of May 14, 2007. *Motion carried, 4-0.

(Matano arrived)

4. Special Briefing on the Len Bias law in Dane County. Blanchard presented. Section 940.02, Wis. Stats., is the statute (First Degree Reckless Homicide) that specifically anticipates these situations. We do not charge a person under this law if it is a "close call." We charge only where medical test establishes person died due to ingestion of controlled substances. Examples of cases we have charged are where there are young and vulnerable people who get substances from people who make their living selling drugs. We have had cases where people brag after a death about the "quality" of their drugs.

There are cases where bodies are dumped rather than calling 9-1-1, maybe for fear of prosecution. That is a concern.

(Hanson arrived)

These prosecutions are roughly analogous to OWI prosecutions where both are drunk. In such cases, the legislature instructs that we prosecute. We weigh many factors in the prosecutions. In some "Len Bias" cases with co-user scenarios,

defendants have not been sentenced to prison. We seek prison only for hard core cases. I don't know why Dane County has had more of these cases than others.

Jurisdiction – we need to look at statistics. Around 2001-2002 there was heightened attention to these cases by police and our office. Our experience in court has been good. We have had few trials all of which have resulted in reasonable dispositions.

Tadych: We have two types of cases: one where parents have made efforts to get kids into treatment then the child overdoses, and those who had no idea whatsoever that their kids were ever into drugs. We have dealt with other loved ones, such as spouses or children. This is a special group of people. It is important to know how this affects the community.

Beaudoin: These deaths involve kids from all walks of life, some without experience or knowledge and some who have been struggling with addiction. By prosecuting, we are sending a message to the community that we are committed to helping the drug problem.

Ritter: One case in 1999 was a young boy just out of treatment. We prosecuted two individuals who were not sent to prison. Our second case was 2004 – a young girl who overdosed on Oxycontin. The defendant was a source to many kids at Middleton High School and he was sentenced to prison. We had only one overdose death in 1993, and the number rose to 19 in 2005. There were 12 in 2006 and there have been 5 already this year. These families look to us for help. They are very vocal in their quest for justice. We try to help, by using whatever assets we have at our disposal. Often the families take it upon themselves to inform other kids in the community about the perils of drug use.

Theune: We are the drug task force. We don't take the lead in prosecutions, but we provide help. In regard to numbers, the victims' ages range from 15 to 55; at least half are young adults in their teens or 20s. We have seen an increase in availability and use of heroin as a party drug. It is much more potent now than in the 70s and 80s. There is an intent by dealers to have a potent product, which leads to addiction after one or two uses. Last spring there was a trend in Chicago of more overdoses because an ingredient was added that increased potency by 50 times. These people sell potent drugs as a marketing scheme to make kids who only intend to "party" into addicts. Another trend is: Chicago used to supply Madison's drugs, but now Madison is becoming a source city, especially in heroin. Here in Dane County there are different trends in different communities. We have seen an increase in drugs other than meth, such as heroin and crack cocaine.

Bayrd: Questions: I want to separate "war on drugs" from the Len Bias issue. We know the DA is low on resources. Why do we lead the State in prosecuting Len Bias cases in light of this? Do you have statistics?

Blanchard: (Refers to Spring, '06 WSJ article) The WSJ reporter's research is accurate as to statistics. As our attorney ranks shrink and the county grows, we are forced to do less. We cut from the bottom level of crimes – not the top. These drug cases are at the top. The largest amount of resources spent are at the law enforcement end, not prosecution.

Bayrd: Can we get statistics? What are race factors of the victims and defendants? Can't we go after these people on drug charges rather than homicide? If there is no death, do we still prosecute?

Blanchard: If there exists a body and enough facts, we will charge. There are many other drug cases we charge under different circumstances.

Bayrd: If you know the person is a dealer, can't you use other drug laws against them?

Blanchard: The Legislature instructed us what to do where there is a death, by passing this law. We charge some cases and not others due to proof issues.

Bayrd: What is the sentencing difference between cases?

Blanchard: The sentence is prison in the more aggravated, but strength of evidence is a factor. Stakes are automatically higher where there is a death. No one ever gets the maximum penalty under the statutes; the maximums are simply not relevant. I don't have an average sentence. It depends on the case and the person's history. By contrast, if you get prosecuted by the Feds you will get real prison time. In State court, the judges give far less. It is a sensitive issue in my office.

Mahoney: In the Federal system "life is life" for Len Bias.

Blanchard: But the Feds don't typically charge those cases.

Mahoney: We had a Len Bias case that was Federal and the person got life. We are not talking about friends of the victims. They are mostly very dangerous people who kill. I am not proud that Dane County leads the state in Len Bias cases, but I am proud that we investigate those cases. In my eight years of working narcotics, we targeted based on priorities and distribution of drugs: certainly heroin and oxycontin.

Brown: Do you see a correlation between increased gang activity and drug use?

Theune: There is certainly an affiliation. Gangs used to sell crack and cocaine. Now Mexico supplies most cocaine so Chicago gangs have shifted to selling heroin. In fact, that relates to my earlier comments about Chicago labs increasing potency.

Brown: Do you know local gang names? Tags?

Theune: It is more complicated now. There are many because of numerous offshoots.

Foley: It is not just gangs, but crime in general. Bank robbers are often hooked on heroin or oxycontin. If we are looking at the issue, this is a community-wide problem.

Bayrd: Is Len Bias law helping against gangs or drugs?

Theune: Yes, in fact the intel we are getting back at the Task Force where we deal with mid-upper level, many are hesitant to come here because of the reputation that in Madison we will go after you. There will always be folks coming into this market, but we are making "a difference."

Brown: What can we do in the budget to help?

Blanchard: We will get back to you.

Rusk: Please do get back to us.

5. Res. 41, 2007-2008, National Association of County and City Health Officials Planning Grant. Krusiec presented. Salov moved, seconded by Brown, to recommend approval. *Motion carried, 6-0.
6. Res. 38, 2007-2008, Authorizing A Contract to Accept Highway Safety Grant Funds for a Community Traffic Safety Project. Boylan presented. Matano moved, seconded by Hanson, to recommend approval. *Motion carried, 6-0.
7. Res. 39, 2007-2008, Authorization Of Travel Outside The Continental United States. Matano moved, seconded by Hanson, to recommend approval. *Motion carried, 6-0.
8. Res. 40, 2007-2008, Authorization To Increase Sheriff's Office Petty Cash Revolving Fund. Brown moved, seconded by Matano, to recommend approval. *Motion carried, 6-0.
9. Transfer of Funds Request – District Attorney's Office. Brown moved, seconded by Hanson, to recommend approval of the transfer of \$2,262 from the CIRP – Personnel Account (Acc't. #DA Vict Wit 10009) into the CIRP – POS Account (Acc't. #DA Vict Wit 30840). *Motion carried, 6-0.
10. Transfer of Funds Request – Child Support Agency. Matano moved, seconded by Bayrd, to recommend approval of the transfer of \$17,161 from the Special

Improvement Revenue Account (Acc't. #CRPCCHLD 80490) and \$33,312 from the Federal Reimbursement Account (Acc't. #CRPCCHLD 80397) totaling \$50,473 into the Special Improvement Account (Acc't. #CRPCCHLD 22467). *Motion carried, 6-0.

11. Update by Dane County Sheriff's Department Regarding Minority Hiring. Mahoney presented. The Sheriff's Office is moving forward with their diversity effort. In the recruitment field, most large agencies are experiencing ferocious competition. We are making good progress in the promotional area. In December of last year, we had our first Community Recruitment program with NAACP, Urban league and others. The Job Center is working with folks, as are faith based programs. We are also working with Centro Hispano. In addition, others have come to us who are willing to work with us.

On May 29th, we met with Isadore Knox and Al Cooper to discuss difficulties with these processes. On the 29th we learned that Dane County Employee Relations will no longer place ads in the newspapers. This is a problem. Also, in the prior (1/15/07) recruitment, 32% of the applicants did not show up for the initial test. 152 candidates. The six candidates selected for alternative testing agreed to show up and did not. We asked the Office of Equal Opportunity (OEO) to contact them and find out why.

We also asked OEO to look at our written test to help us cast a wider net. In January there were 152 applicants, 32 of which were people of color; 50 did not show up; 102 got through review and 22 were below cut off. We had 70 eligible candidates, 11 of whom are people of color. They will be in the "eligibles" pool after clearing background checks.

June 1st was the next deadline. June 22nd will be the deadline for alternate selection. July will be written exams, and August – September oral interviews.

Events: Career fairs; weekly work with the Job Center; UW-Madison career fair; Michigan, Minnesota Marquette, MATC career fair. I have been on the radio and made two personal contacts with potential candidates. We have inquired of traditional black colleges and attended Fiesta Hispana, Mexican Indian Day event, Safety Saturday, Womens Expo, and some other events.

"Brava" magazine featured one of our female deputies. We are reaching out to other community members and are working with a local "Explorer" post that has a number of students of color.

On June 19th our Impact consultants will meet with us to review and assess resources, direct focus groups and help with the program.

Hanson: (1) How much does the Employee Relations Department spend on ads? And (2) Is there an effort to address length of time deputies must serve in the jail?

Mahoney: (1) I don't know how much is spent on ads by Employee Relations, and (2) No. I believe there are many benefits to starting service at the jail. That community is very vocal about what they need, and deputies learn a lot from the experience.

Bayrd: Do you have any recommendation on the ad problem?

Mahoney: We just recently became aware of it.

Boylan: They are going to cut back on ethnic papers, and that is a community where we have put in lots of work and we need to make more efforts. I am sure those organizations will help us with press, but there is some *quid pro quo*.

Mahoney: There is a benefit to advertising, for example in Spanish to the Spanish community.

Rusk: Sentmanat can help us with this.

Boylan: If only one person responds to those targeted ads, it could make a difference.

Brown: You are making good increase in efforts. Will you be at Juneteenth?

Answer: Yes.

Brown: Have you contacted David Simlin of the African/American Council?

Answer: Yes.

Mahoney: We will follow through on our commitment. For the January list, everyone in the process got an interview no matter what their test score. This was new. We imposed no barriers.

12. Brown moved, seconded by Hanson, to go into closed session for the purpose of conferring with legal counsel with respect to legal claims asserted against the County, pursuant to sec. 19.85(1)(g), Stats., and with respect to such claims, to conduct discussions of settlement demands and offers which for bargaining reasons require a closed session, pursuant to s. 19.85(1)(e), Stats. *Motion carried on roll call vote, 6-0, Bayrd, Brown, Hanson, Matano, Rusk and Salov, all voting Aye.
 - a. Claim of Hernandez-Natera. Hanson moved, seconded by Brown, to recommend denial. *Motion for denial carried, 6-0 (Bayrd abstained).Salov moved, seconded by Matano, to return to open session. Motion carried on roll call vote, 6-0, Bayrd, Brown, Hanson, Matano, Rusk and Salov, all voting Aye.

RETURN TO OPEN SESSION

13. Chairperson's Report. None.
14. Other Business. Hanson indicated that his attendance at meetings will be sporadic after Father's Day. Brown asked if the committee can get an update on the sexual harassment lawsuit in the jail.
15. Adjournment. Matano moved, seconded by Hanson, to adjourn. *Motion carried, 6-0. The committee adjourned at 6:45 p.m.