

MILWAUKEE POLICE DEPARTMENT MEMORANDUM

Date: October 14, 2014

TO: Edward A. Flynn

FR: Christopher Manney

RE: Response to Charge



14 OCT 14 AM 10:10

RECEIVED

Sir, this memo is in response to a charge that I failed to adhere to training and procedures regarding Use of Force approach considerations in relation to Dontre Hamilton. The charge also states that I provoked a combat situation with an Emotionally Disturbed Person (EDP), Hamilton, which ultimately resulted in having to use deadly force and led to Hamilton's death.

I vehemently dispute this charge, as I do the first charge.

I would like to start off by stating that this charge is completely contrary to the other charge that the Department has charged me with. Essentially, the first charge (no reasonable suspicion to conduct a pat-down search) states that Hamilton posed no potential threat to my safety and therefore, I had no reason to conduct a pat-down search of him. In other words, the Department's stance on the first charge is that Hamilton was so *non-dangerous*, that there was no justification to even pat him down.

Now, the Department has elected to charge me with a new charge, in addition to the initial charge, which essentially states the Department's position that Hamilton was so *dangerous* that I should have called for backup before even approaching him and that I caused officer-created jeopardy.

Speaking from a common-sense perspective, the Department has clearly contradicted its own stance between the two charges and appears desperate to create charges against me that are unwarranted and unjustified. It's contrary to reason for the Department to attempt to justify both charges, as the Department's position on the level of danger Hamilton posed in each is completely opposite of each other. Because the Department can only have one true stance, it's impossible to give credibility to either charge, as I don't know which charge to pick as the Department's true position.

This charge, like the first, is also unprecedented, as I don't believe either charge has been issued against another member of the Department in its history, which in and of itself is disconcerting. If I'm incorrect in my belief that both charges are unprecedented, please correct me with documentation of such.

There is no logical explanation for the Department's actions in charging me with these contradictory charges. On one hand, the Department states that Hamilton posed no threat, and on the other, the Department states that he was too much of a threat to even approach. I am confounded by the addition of the second charge, which is clearly arbitrary and contrary to not only reason, but the first charge as well.

After reviewing the new charging document, as well as further reviewing the initial charging document, I noticed the obvious lack of any *expert* review regarding the incident and my usage of DAAT and Department training during the encounter with Hamilton. I contend that neither IAD Captain Timothy Heier (signed the charging document) or you sir are MPD training or DAAT experts that are recognized as such within the Department or by the state. If I am incorrect in any of these assessments, please correct me. Until proven otherwise, I assume that no MPD training or DAAT expert has been utilized by the Department prior to issuing these charges against me. Had an expert opinion been sought for these issues, I don't believe I would be charged with anything, as my actions that day were not only within Department training, but in accordance with past practice in the Department's normal course of business.

If indeed no *expert* review was conducted, as it appears, it's very troubling to believe that the Department wouldn't consult with its own training and DAAT experts, prior to charging me with these two charges, yet still be convinced that I violated these protocols. A person of common sense and basic investigatory skill and experience would believe that this would be a critical and necessary step prior to charging any member with such violations. The mere fact that there is no *expert* report or opinion utilized is not only irresponsible, but a violation of the Department's own policy that all investigations must be thorough and complete, a violation of Core Value 1.00 - Competence. I question which authority determined that I violated MPD training and DAAT standards.

The lack of *expert* review in this case is inexplicable to any reasonable person and clearly demonstrates the Department's lack of a thorough and credible DAAT and MPD training review of my incident. To believe that the Department, in an incident of this profile within the community and for what's at stake for myself, wouldn't have any *expert* review my actions for appropriateness relative to my MPD training and DAAT, yet charge me with these alleged violations, is unfair, appears to be predetermined and biased, and gives rise to questionable motives.

I respectfully request an *expert* review of this incident relative to MPD training and DAAT and my usage of the same. I request a full, written report with the results, as soon as possible.

Regarding the merits of this new charge, IAD's investigation states that other officers were dispatched to the "same complaint involving Mr. Hamilton," prior to me, and a comparison was made between how they handled the situation and how I handled mine. To put it simply, the facts of both encounters with Hamilton were *quite* different, including Hamilton's actions, which warranted a much different response. Some of those facts include that the other officers were a two-man squad and I was one-man squad, which is a major contributable factor in how officers may handle a situation, may change officers' perceptions, and may change how the subject in question may behave. Also, Hamilton's own behavior was very *different* when I encountered him than when the other officers encountered him. In my encounter with Hamilton, he exhibited the 1,000 yard stare, a twitching leg while lying in the way of the public, and bulges in his clothing. I don't know, and don't believe, that the other officers made any of those observations of Hamilton during their own encounter with him. To compare the facts of our encounters and claim that they were the *same*, as the Department has, is irresponsible, a gross exaggeration, and ignoring of the facts.

Regarding Hamilton and the Department's stance that he was too dangerous to approach, therefore my approaching him violated my Department training and DAAT and placed myself in officer-created jeopardy, I again vehemently dispute such an incredulous allegation. It appears as if the Department is trying to liken my conducting an FI stop of a homeless man lying on the ground, with no *known* or absolute threat, to that of me running onto the freeway, jumping in front of a moving vehicle, and shooting at the vehicle because it was going to run me over. I submit that any allegation of officer-created jeopardy in this case is irrational and a far-fetched attempt to justify this unjust charge.

As stated in IAD's own investigation where Det. Erik Gulbrandson's report is cited, I initially intended to walk past Hamilton, who had his eyes closed, and go speak with the caller at Starbucks. As I got within approximately 3 ½ feet or less of Hamilton's head, Hamilton's eyes opened abruptly, very widely, and I immediately observed the 1,000 yard stare at me, with no blinking. Because I was so close in proximity to Hamilton and that his 1,000 yard stare provided me with quite a bit more information about what I was dealing with than before he opened his eyes, I was forced to take immediate action, as opposed to running away and cowering behind cover as I wait for backup officers to arrive and assist me with an FI stop.

It appeared that Hamilton was indeed an EDP, but that didn't mean he was *guaranteed* to be violent towards me. After all, the DAAT manual states that *most EDP's with mental illness are not violent*, but that an officer should always *consider* them dangerous anyways, as they can *potentially* be violent. Due to me being so close in proximity to Hamilton and his behaviors, I, along with any reasonable police officer in the same situation, felt that I was now forced to deal with Hamilton right away and conduct the FI stop without further delay. That being said, Hamilton's behaviors, although a *possible* significant threat, didn't rise to the level of requiring backup prior to approaching him, as Hamilton presented no *known* threat and actually *appeared to be cooperating when he stood up and put his arms out*, which made me slightly more comfortable in moving in for a pat-down search. At that point, Hamilton was just a *potential* threat, which is commonplace in any FI stop and commonplace of attempting an FI of any EDP, but it seemed as if he was going to cooperate with me.

Regarding tactical approaches and EDP's, I, along with most, if not all, other officers on this department have dealt extensively with FI stops of *potentially* dangerous EDP's, sometimes exhibiting similar behaviors as Hamilton did, while working as a one-man squad, and the overwhelming majority of these subjects ended up not being violent and were cooperative. So, Hamilton's behaviors, while a significant *potential* threat like nearly all EDP's (per the DAAT manual), didn't warrant taking cover and waiting for backup prior to conducting the FI stop. At no point, prior to Hamilton attacking me, did my tactical evaluation conclude that the situation was *too* dangerous for me to approach Hamilton. There was *potential* danger, yes, but there is *potential* danger in *every* FI stop and citizen contact for all police officers. The bottom line is that there was no way for me to *know* that Hamilton would attack me and attempt to kill me. Had I *known* that Hamilton was certain to attack me, I would have called for appropriate backup prior to approaching him.

Furthermore, it's not commonplace for one-man squads in similar situations as the one I found myself in with Hamilton to call for backup prior to conducting FI stops, even when 1,000 yard stares, odd behavior, and bulges in clothing may be present. Unfortunately, these factors are present in many FI stops and by themselves do not automatically warrant calling for backup. These factors can be common amongst EDP's during FI stops. In fact, it's commonplace and standard practice for one-man squads to approach EDP's, such as Hamilton, in similar circumstances. To state otherwise is simply incorrect.

I find it offensive and incredulous for the Department to allege that I should have run away from Hamilton and taken cover when he opened his eyes and stared at me, instead of conducting the FI stop. That just sounds ridiculous, as it would to anybody when put in those plain terms. Imagine, a police officer running away and taking cover from an FI stop because he was a *potential* threat, not a *known* threat, as the Department seems to be claiming. Again, *all* FI's and citizen contacts are *potential* threats to law enforcement (it's the nature of police work), but not necessarily *known* threats. Just because a person is a *potential* threat doesn't mean an officer can't approach and conduct an FI stop. It would have taken more factors than Hamilton exhibited during my initial assessment of the situation to warrant calling for backup prior to approaching for an FI stop.

If, as the Department has indicated, one-man squads are supposed to leave situations such as this one and take cover and wait for backup before conducting an FI stop just because there's reasonable suspicion that a person may pose a danger to the officer, I submit that hardly any FI's would be conducted or even feasible to be conducted by one-man squads calling for backup each instance due to our daily interactions with countless EDP's and the *possibility* that the subjects of the FI stops *may* attempt to harm an officer.

One-man squads in this city deal with EDP's daily on assignments and conduct FI's of EDP's routinely, as a part of the everyday normal course of business. It's unreasonable to believe that a one-man squad can't approach an EDP and conduct an FI stop where a pat-down search is warranted without calling for backup, as even the DAAT manual states that most EDP's are not violent. Simply put, officers on this department, including myself, have dealt with much more dangerous FI stops than Hamilton's, while one-man, and it takes more than the behaviors exhibited by Hamilton that day to make me or most other officers feel that the situation was *too* dangerous and uncontrollable. Calling for backup to FI an EDP with the behaviors that Hamilton displayed is not the typical practice of most officers on the Milwaukee Police Department, nor is it a violation of any DAAT or MPD standard operating procedures. To state otherwise would be incorrect.

There is a huge difference between *potential* threats like Hamilton and *known* threats, like the Department seems to be making Hamilton out to be. I submit that it's not like I observed Hamilton to be lying on the ground with a knife in his hand and then asked him to stand up so I could put my hands on him for a pat-down search. *That* would not only be foolhardy, but a clear-cut case of officer-created jeopardy by approaching that subject. It would have been unreasonable for any officer to approach a known-armed Hamilton in that scenario and *create* jeopardy for both. This case was not even in the same realm of that same scenario. In fact, one-man squads conduct thousands of these similar FI stops with pat-down searches, many of which actually appear to officers as *much more* dangerous than that of what Hamilton posed, in Milwaukee annually. Furthermore, officers are even *dispatched* and respond to much more dangerous situations and expected to confront potential and known threats while working one-man, regularly (countless examples of such can be found on the CAD system). I submit that one-man squads conduct much more dangerous FI stops than Hamilton's daily and the Department not only knows it, but expects their officers to do them.

If the Department feels that one-man squads should not and cannot approach and conduct an FI stop of an EDP where a pat-down search is warranted without placing themselves in too much danger (and consequently in alleged violation of DAAT approach considerations, per the Department's allegation), then why isn't there a policy prohibiting such conduct? Also, why isn't the same policy in the DAAT manual?

The fact is, a significant number of all subjects that officers deal with in Milwaukee are EDP's of some sort and all officers with a significant number of years on the streets have typically conducted thousands of FI's on them over their careers, while working as one-man squads. Most reasonable officers would attest that just because a subject is an EDP and a pat-down search is warranted doesn't mean that a one-man squad can't and shouldn't approach and conduct an FI stop. This is not a violation of the DAAT manual or MPD training. It would be unreasonable to treat all EDP's as *known* violent threats because most are not violent, per the DAAT manual, even though they may exhibit signs of a *potential* threat.

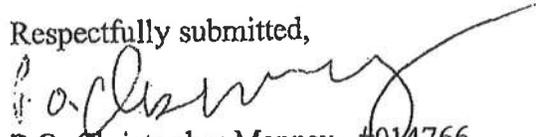
Being a Milwaukee police officer is an inherently dangerous job and officers are expected to use courage to confront dangerous situations and also place their lives on the line each day. In fact, according to the Department's own Code of Conduct, it says: "**COURAGE – We place the safety of others before our own and accept our moral responsibility to take action against injustice and wrongdoing. Police members are expected to take prudent risks on behalf of the public.**" It is unreasonable to have expected me to run away from Hamilton and call for backup before conducting the FI stop. Not only would it have been contrary to my training and experience as an officer on the Milwaukee Police Department, but it would have been a cowardly act. In a scenario similar to this, I've never seen any Milwaukee police officer go take cover and wait for backup in order to conduct an FI stop and allow the apparent EDP, who had the police called on him (numerous times it turned out), to simply wander around and potentially be a threat to the public, or continue on with whatever disturbance he was creating to force the caller to call the police in the first place.

My encounter with Hamilton was an FI stop where I had reasonable suspicion to conduct a pat-down search. Upon attempting to pat him down after he initially appeared to be cooperative, *he* created the dangerous combat situation that the Department cites, when he attacked me, not the other way around. Any assertion that I created a combat situation is incorrect and misguided. To state that I somehow invited or provoked an attack on my person for doing my job by attempting to conduct an FI stop is completely ridiculous and insulting to all officers.

During my encounter with Hamilton, I did my job appropriately and within training. I adamantly dispute both charges and request the Department's own training and DAAT expert to review my case, which, inexplicably, doesn't appear to have been done.

Due to my suffering from and diagnosis of severe Post Traumatic Stress Disorder due to this incident, I required and received assistance to complete this memorandum. I attest that the information contained in this document is true and correct.

Respectfully submitted,


P.O. Christopher Manney - #014766
District 6 – Early Power Shift