

GRIEVANCE REVIEW BOARD MINUTES
August 24, 2012

Present: Joe Hotynski, LeRoy Dahms, Jeff Brandt

Excused: John Nichols

Also present: Ron Montgomery, Jim Godlewski

Meeting called to order at 8:35 by Joe Hotynski

Approval of the minutes of the 7-24-12 meeting

Motion by Joe Hotynski

Seconded by Jeff Brandt

Carried 3-0

Discussion

Jim Godlewski gave a handout “Grievance Review Board Rules, Purposes & Procedures”. He stated his intent to go over procedures and concepts of due process. He also said the Board could not discuss the pending case at all today.

The Grievance Review Board is charged with the responsibility of reviewing the Sheriff’s (or designee) recommendations regarding demotion, suspension or discharge of deputy sheriffs. It is similar to Police & Fire Commissions in Cities and Villages. There are specific procedures for notifying an accused deputy of the charges and his or her rights. The Board’s proceedings are quasi-judicial and may look similar to a court trial – complete with opening statements, direct and cross-examination and closing arguments. Jim Godlewski serves as legal adviser to the Board. An accused deputy has due process rights, so the Board must follow standards given in Wisconsin Statutes. Members are allowed to ask questions of the Sheriff or the accused, but must make decisions based only on information developed during a hearing. The Board or its Members may not conduct their own investigations or seek facts outside of official proceedings. The Sheriff, usually represented by the Corporation Counsel, has the burden of proof. The accused may be defended by counsel, a union representative or by him or herself. In a full hearing, testimony must be recorded by a Court Reporter in order to create an admissible record, should the accused opt to appeal an adverse finding to Circuit Court. The County and/or Sheriff has no such recourse. At the option of the accused, or in his/her absence, evidence and discussion are conducted in Closed Session. In order to preserve rights, an accused deputy must file a notice of appeal within 10 days after the Board’s order is filed. The Board must then certify the hearing record to the court within 5 days after the notice of appeal is filed. This could be extended if the transcript is not done yet. The court is to give preference to the appeal, meaning that the court is statutorily required to hear such appeals ahead of other pending matters..

LeRoy Dahms asked about possible sanctions available to the County. Jim Godlweski explained that sanctions may range from demotion to suspension without pay to termination of employment. The Sheriff has other options, such as altering duty or shift assignments, which do not need to be ratified by the Board.

Separately, and without the need for Board involvement, the Sheriff may suspend an employee under investigation *with* pay. In response to a Leroy Dahms question, Jim Godlewski said an accused deputy is presumed innocent unless found otherwise, that’s why suspensions with pay are possible during investigations.

Should the Board ultimately find that the County has proven its case against the accused, the County does not recover money paid to the accused during a paid suspension. Jeff Brandt asked about timelines and deadline-extension requests by either party. Ron Montgomery said typically the Chairman would be asked for and decide whether to grant an extension rather than the full Board.

The Board may go into closed session for deliberation and announce its finding in the open. It also may issue a written ruling in the form of an Order. Jeff Brandt asked if they could do that in open session and Jim said yes, but it is typically done in closed session, citing the statutory provision regarding certain personnel matters.

Jeff Brandt asked about contract rules, how long disciplinary documents remain in a personnel file and how far back can the County reach to determine an employee's disciplinary history. Ron Montgomery said written documentation of disciplinary acts generally cannot be used as 'fresh' evidence after 12 months, though it may be used to establish an accused employee's overall employment record. Other rules may be found in the Collective Bargaining Agreement between the County and the Deputies' Association. Disciplinary documents usually are not kept in an employee's Personnel File. Jeff Brandt asked when disciplines are removed from a Personnel File and shredded. Ron Montgomery reminded the Board that depositing disciplinary actions in an employee's Personnel File is extremely rare and usually limited to egregious infractions.

The Board does not have jurisdiction over disciplinary actions that do not include termination, demotion or suspension without pay. In other words, Oral and Written disciplines don't come before the board. The Sheriff cannot appeal, only the accused deputy. LeRoy Dahms asked if news media publish articles about GRB cases. Ron Montgomery said the Hearing notices are mailed and posted in County buildings just like notices about other government meetings. Such public notice is required by Wisconsin statutes.

Motion to adjourn at 9:25 by Jeff Brandt

Seconded by LeRoy Dahms

Carried 3-0

Submitted by Kathy Rumlow, Human Resources Confidential Secretary