

Chief's response leaves one feeling blue

Attacking judge and columnist doesn't change misgivings over video incident

Last week, I wrote a column about a Waukesha County judge who threw out a case involving local cops because she said shoddy police testimony led her to believe that The Sha's finest destroyed evidence that likely made them look bad.

Police Chief Russell Jack responded the next day. His words were angry; his message disappointing. He painted the department's questionable actions as "human error."

Judge Kathleen Stilling could not buy that reasoning. I'm not sure that I can, either.

This story has two parts that ultimately dovetail. The first is an allegation that amounts to questionable use of police force against a Wauwatosa man at the scene of a fairly routine accident.

The second is the cops' mishandling and disappearance of a digital video of the incident.

The two parts melded recently in Stilling's court, where she dismissed charges against the man, Mark Schroeder, because she doubted the validity of police testimony about the manner in which they deleted a video recording of the incident taken with a camera in a squad car.

The background is this:

Early last summer a friend, Christine McLaughlin, was involved in an accident at Sunset Drive and Highway 164. The collision was not her fault. Her car was totaled.

I picked Chris up from Elder's towing on Arcadian Avenue. We went to my house, where Chris told me a horrific tale about police throwing Schroeder to the ground and working him over at the accident scene. He had to heal in the hospital.

Chris was more upset by the use of police force than the accident itself. I didn't think too



**DARRYL
ENRIQUEZ**

much of it at the time because I know civilians can be startled when they see the physical aggressiveness used by police to subdue people.

Schroeder arrived at the scene because he was called by his young daughter who had just hit Chris's car. Officer Ryan LaFavor told an emotional father to stay away from his distraught daughter - a questionable course of action. I wasn't there, but I understand how the situation spun out of control.

LaFavor should have known the dynamics of father-daughter relationships and addressed the father's concerns. When Schroeder was not following LaFavor's orders to stay away from his daughter, the young officer would have been best served by talking the man down.

Instead, LaFavor chose to become physical, a decision that put his department on a collision course with the legal system.

Jack and his cops would do well to understand that their strongest weapons are powers of persuasion and goodwill, not take-down techniques and harsh words.

The bear that's now wrestling with the department is the legal system, which includes Schroeder's defense lawyer, Craig Mastantuono of Milwaukee.

Stilling constantly questioned at the hearing on Schroeder's charges: How could police delete evidence that should have exonerated them of any wrongdoing?

Jack wrote that the video was passed around his department

and used as a training video on how to properly subdue a subject. Then why didn't someone in the stars and bars ranks think of saving it as evidence and passing it along to the district attorney?

Stilling didn't fault the prosecutor, who supposedly was not aware of the video until Mastantuono told him about it.

Stilling's conclusion was that the video was deleted because it contained damaging information to the Police Department's case against Schroeder. That ruling greatly helped Schroeder's case against the Police Department and likely sent Jack looking for a couple of aspirin.

The taxpayers likely will have to foot the bill.

Back to Jack's response:

First off, I called Jack and offered him an opportunity to explain what happened prior to running my column. His response was "no comment due to pending litigation."

Jack really didn't need to go there. He's the most powerful person in Waukesha. Since there's no leadership in the mayor's office or the city attorney's office, no one is about to take him to task.

Second, what I wrote was not an editorial, as Jack claims. An editorial is an opinion piece. I wrote a column backed by an unimpeachable source - a transcript of court proceedings.

The only personal opinion I expressed in the column was I found it hard to believe that police would knowingly destroy evidence. I still don't see what they had to gain by doing it.

But now the Police Department has the appearance of a scandal, and residents are wondering what's next. Bad things happen in threes.

Third, it was a cheap shot to say I was biased because my

friend Chris was involved. If this incident hadn't become a court fiasco, I would have forgotten about it.

Jack attacked Stilling, saying she had approached the Police Department seeking support prior to her election loss. His statement implies that Stilling was trying to get even with the department.

I visited Jack when I ran for mayor to get a measure of the man and let him know that I am approachable.

The day after the column ran, "pending litigation" was no longer a justification to remain quiet. Jack released an 800-word response and sent along, what he says, was the internal investigation report about the election video.

As for the missing video, Jack wrote "as soon as the administration of the Police Department became aware of the Schroeder case with the missing squad video, an internal investigation was immediately launched to determine how the video was lost. We recognized the seriousness of the issue and its potential impact on the case and the department. If our officers were negligent or intentionally destroyed evidence, we wanted to know so that they could be held accountable. ...

"It was an honest mistake - a human error. Corrective actions have been taken, officers were held accountable and new procedures are now in place to ensure this does not happen again," he wrote.

"If there were a cover-up, the video would have been immediately deleted and no one would have been told of its existence," Jack said.

Not true. That's why God invented defense lawyers who know where cops keep the candy.

(Darryl Enriquez is a longtime Waukesha resident and journalist in southeast Wisconsin. His column runs Wednesdays in The Freeman. He can be reached at Darrylenriquez19@gmail.com)

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