

Cindy Kilkenny

From: Tushaus@ci.brookfield.wi.us
Sent: Monday, January 10, 2005 9:00 AM
To: Cindy Kilkenny
Subject: Re: Police reports with my name on them

Follow Up Flag: Follow up
Flag Status: Red

Alderman:

I assigned Assistant Chief Collins to this task. He will be contacting you. dkt

"Cindy Kilkenny"
<aldermankilkenny@wi.rr.com>

To: <Tushaus@ci.brookfield.wi.us>
cc:
Subject: Police reports with my name on

them

01/09/2005 11:42
PM

I'd like a copy of everything you have. I know they all have something to do with my favorite grocery store at Capitol and Calhoun.

I had no idea where to ask for the info, so I thought I'd start at the top! I'd like a copy of anything that anyone else could use against me. (Because you know they will.) In particular is one pre-coffee event where I believe an office described me as "belligerent" when I suggested he ticket me.

Hope you had a pleasant holiday.

Cindy

Alderman Cindy Kilkenny
2nd District, City of Brookfield
262-783-9824
aldermankilkenny@wi.rr.com



CITY OF BROOKFIELD POLICE DEPARTMENT

REPORT:

June 27, 2003

In The Matter Of: 03-6140/Complaint from Alderwoman Cynthia L. KILKENNY regarding a noise nuisance behind the Pick N' Save Food Store located at 17295 W. Capitol Dr.

TO: Daniel K. Tishaus
Chief Of Police

BROOKFIELD POLICE DEPT.

OPEN RECORDS RELEASE

**ASSISTANT
CHIEF
OF POLICE**

JUL - 7 2003

SIR:

DATE _____

Received

Sean Collins

Referred


Chief Tushaw

On Tuesday 06-24-03 at approximately 0616 hours, I was dispatched to 17295 W. Capitol Drive to meet the complainant, identified as Alderwoman Cynthia L. KILKENNY, F/W, DOB 07-30-62, regarding what she stated was an ongoing problem with trucks unloading merchandise at the rear of the Pick N' Save Food Store and disturbing the neighborhood. It should be noted that KILKENNY dialed 911 to make this complaint.

Upon my arrival to the Pick N' Save Food Store, I observed KILKENNY seated in her brown minivan blocking the egress of all the semi-tractor trailers parked at the rear of Pick N' Save Food Store.

I made contact with KILKENNY and she told me that this problem had been going on for approximately nine and a half years and that it had to stop. She advised me that she is the alderwoman for the area and that she received numerous phone calls from her constituents regarding the loading and unloading of merchandise in the early morning hours. KILKENNY asked if me if the ordinance stated that no loading could occur prior to 7:00 a.m. At the time that she asked me, I believed this to be true and advised her that I would speak to the store manager, as well as the truck drivers. KILKENNY went on to state that because the police have the "power of discretion", it would be nice if in this instance, we would use it to cite all the truck drivers for their violation of the ordinance.

I then asked KILKENNY why she felt it necessary to use the 911 emergency number


to contact our department regarding this type of complaint. KILKENNY then stated that she did that because she wanted an immediate response and in the past, has had to wait up to 40 minutes for squads to arrive after she has placed a call. I researched this claim of Ms. KILKENNY's and found that from 06-30-98 until the present, she has made nine calls to the Police Department, with the average response time for all of those calls being seven minutes. 

The longest response time being fourteen minutes and the shortest response time being one minute. I advised KILKENNY that if the truck drivers were going to get citations for violation of the noise ordinance, than she too would be receiving a citation for misuse of 911.

I went and spoke to the Store Manager, identified as Zachary L. KUETHER. KUETHER advised me that he does not allow any deliveries to begin prior to 6:30 a.m. and that he believes he was well within the ordinance time frames. I then asked KUETHER if it would be possible to advise the delivery companies not to deliver prior to 7:00 a.m., to which he stated he would do.

I then spoke to the three drivers who were on the scene when I arrived. They represented the Miller Brewery, the Brownberry Bread Company and the Pepsi Cola Company and explained to them what the complaint from Ms. KILKENNY was and advised them that in the future, it may be beneficial for them to wait until 7:00 a.m. before they made their deliveries, to which they stated they would make their best efforts, however their trucks were packed in such an order that it necessitated deliveries made in a certain order. They stated they would attempt to make the arrangements to have the vehicles packed in an order that would allow them to not deliver to the Pick N' Save in that area until well after 7:00 a.m.

I then left my name with the shipping and receiving manager, Zachary KEITHER and advised him to have the store owner contact me so that we could sit down together with Mrs. KILKENNY and mediate some type of an agreement between the store, the delivery companies and Mrs. KILKENNY and her constituents that would be suitable to all people.

I then proceeded back to Mrs. KILKENNY's vehicle and advised her that Pick N' Save was talked to regarding the issue and that the truck drivers had also been advised. I asked Mrs. KILKENNY if she thought it would be possible to lobby the city to possibly place a sign in the parking lot forbidding delivery before a certain time, to which she stated that could take up to two and a half years. I then explained to Mrs. KILKENNY that I would 

be contacting the store manager and attempting to rectify the problem with them.

Officer Christopher GARCIA was also on the scene and again reiterated to Mrs. KILKENNY that she placed us in a predicament by calling 911 for a mere noise nuisance complaint. GARCIA advised her that if we did issue citations to the drivers of the vehicles and they proceeded to court, if the question arose as to how the call came in, that it would be an obvious misuse of 911 violation. At this time, Mrs. KILKENNY stated she no longer wanted the truck drivers cited for the noise nuisance and stated that if she was to get a citation, then she was going to stand by her decision for calling 911.

At this time, Mrs. KILKENNY will not be receiving a citation for misuse of 911. A closer review of the ordinance 9.08.080, noise emissions, shows that the actual time restrictions are from 11:00 p.m. to 6:00 a.m. During these times, there will be no loading of merchandise at any stores.

Enclosed with this matter of is a copy of that ordinance. Mrs. KILKENNY has been advised of the time restrictions and that Pick N' Save has been gracious enough prior to this complaint to even forbid deliveries for approximately 30 minutes after the 6:00 a.m. start time for the consideration of the neighborhood.

It should also be noted that the store shipping manager was also willing to change his hours of operation from 7:00 a.m. until approximately 4:30 p.m. just on the request of the Police Department. He however was advised that this was not necessary after clarification of the ordinance was made.


At this time, no plans remain in effect to have a meeting with the Pick N' Save Owner, as well as with Mrs. KILKENNY in an effort to mediate the problem, due to the fact that the ordinance clearly states that the times for no deliveries are from 11:00 p.m. to 6:00 a.m. and that Pick N' Save does not accept deliveries until 6:30 a.m., they are well within the guidelines of the ordinance.

BROOKFIELD POLICE DEPT.

OPEN RECORDS RELEASE

DATE JAN 10 2005

Respectfully Submitted,

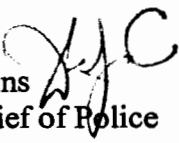


Officer David Droster, #1215

MEMO

TO: Chief Daniel K. Tushaus
Chief of Police

BROOKFIELD POLICE DEPT.

FROM: Dean J. Collins 
Assistant Chief of Police

OPEN RECORDS RELEASE

DATE JAN 10 2005

DATE: June 24, 2003


RE: Incident Involving Alderwoman Cynthia L. Kilkenny


SIR:

On Tuesday, June 24, 2003 upon arriving for duty, I was apprised by Capt. Adlam of an incident involving Alderwoman Kilkenny at the Pick and Save store located at N. Calhoun and W. Capitol Drive at about 6:22 a.m. this date.

The Captain and I then met in my office with P.O. David Droster who related the following:

On June 24, 2003 at 6:16 a.m. Alderwoman Kilkenny called in to 911 to report that trucks were unloading at the Pick and Save and disturbing the peace. Officer Droster arrived at the scene at 6:22 a.m. with Officer Garcia arriving as backup. Upon arrival, Officer Droster observed that Ms. Kilkenny had parked her van so as to obstruct the free passage of the following trucks who were trying to unload at Pick and Save: Roundy's, Brownberry Ovens, Pepsi, and Miller Beer. It was obvious that Ms. Kilkenny was blocking the trucks pending the arrival of the squads.

Ms. Kilkenny asserted her right to call 911 for a noise complaint alleging that when she has calling in the past squads did not respond for 40 minutes. (Officer Droster confirmed that of all the noise complaints phoned in by Ald. Kilkenny since June 30, 1998, squads responded within seven minutes.) Ms. Kilkenny became argumentative with officers and stated that since we exercise our discretion not to cite the truck drivers for noise we should similarly not cite her for a misuse of the 911 system. (No citation was issued to Ms. Kilkenny.) 

Ms. Kilkenny was under the mistaken impression that trucks cannot legally unload prior to 7:00 am. However, City Ord. 9.08.080 prohibits the "unnecessary or unreasonably loud or harsh sound by means of the loading or unloading of merchandise at stores between the hours of eleven p.m. and six a.m. . . ." Her 911 call did not come in until 6:16 a.m., well after the 6:00 am deadline. 

Officer Droster will attempt to set up a meeting with the Pick and Save management and Ms. Kilkenny to arrive at a mutually satisfactory resolution. Capt. Adlam is aware of this plan. We agreed to let Officer Droster handle the matter without involving any supervisors. Nonetheless, it appears that there was no violation of the noise ordinance in this instance. Further, delivery trucks must unload their merchandise at various locations in sufficient time to permit early morning shoppers access to their foodstuffs.

Officer Droster is to file a Matter Of concerning this incident. [CR is 03-6340.]

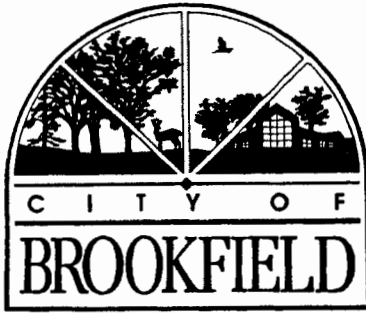
BROOKFIELD POLICE DEPT.
OPEN RECORDS RELEASE
DATE JAN 10 2005

9.08.080 Noise emissions.

A. Air Conditioning Equipment. No person shall cause, suffer or allow any air moving, conditioning or cooling equipment of any nature or kind to be so operated or maintained as to cause any unusual or excessive noise which disturbs the comfort, quiet or repose of persons in the vicinity thereof and, to this end, all available and reasonable sound deadening and muffling devices and practices shall be employed.

B. Loading Merchandise at Stores. No person shall cause, suffer or allow any unnecessary or unreasonably loud or harsh sound by means of the loading or unloading of merchandise at stores between the hours of eleven p.m. and six a.m. which shall disturb the comfort, quiet or repose of persons in the vicinity thereof.





POLICE DEPARTMENT

2100 North Calhoun Road
Brookfield, Wisconsin 53005-5054
(262) 787-3566 24-Hour Fax (262) 782-8757
Administrative Fax (262) 796-6701

Daniel K. Tushaus, Chief of Police



January 10, 2005

BROOKFIELD POLICE DEPT.
OPEN RECORDS RELEASE
DATE JAN 13 2005

Ms. Cindy Kilkenny
3840 Charter Point Ct.
Brookfield, WI 53045

Dear Ms. Kilkenny:

Pursuant to your Open Records request dated January 9, 2005, I am enclosing some of the materials you requested. By our phone conversation of January 10, 2005, you amended your request to include only the following items: early truck deliveries at 17295 W. Capitol Drive and a Suspicious Fire on April 24, 2003, at 18665 Pleasant Street.

The following reports are enclosed:

Dispatch sheet (IVR) 03-6340 dated June 24, 2003 regarding noise complaint at 17295 W. Capitol Drive.

Report of Assist. Chief Collins to Chief Tushaus dated June 24, 2003, re above matter.

Report of Officer David Droster to Chief Tushaus dated June 27, 2003, re above matter.

Dispatch sheet (IVR) 04-11856 dated October 16, 2004, regarding noise complaint at 17295 W. Capitol Drive.

E-mail from Chief Tushaus to you dated Sept. 15, 2004 re Waste Management citation for garbage pickup.

The following reports are not being released since they are part of a prosecutor's case file pursuant to the Wisconsin Court of Appeals decision of *State ex rel. Richards v. Foust*, 165 Wis.2d 429:

Report 03-03925 dated April 24, 2003, for Suspicious Fire at 18665 Pleasant Street.

Report 03-10362 dated September 23, 2003, for Noise Violation at 17295 W. Capitol Dr.

Report 03-12645 dated Nov. 19, 2003, for Early Delivery Ord. at 17295 W. Capitol Dr.

Report 04-10556 dated Sept. 14, 2004, for Noise Violation at 17295 W. Capitol Dr.



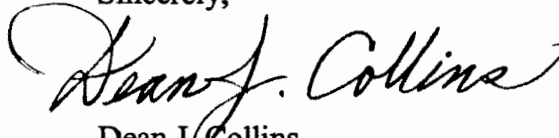
Page 2
Open Records Request
Ms. Kilkenny

BROOKFIELD POLICE DEPT.
OPEN RECORDS RELEASE
DATE JAN 13 2005

If you wish to do so, you may request the reports denied above by contacting the appropriate prosecutor: District Attorney for 03-03925. All other denied reports may be requested through the City's municipal prosecutor.

Please be advised that this determination is subject to review by mandamus under s. 19.37 (1) or upon application to the attorney general or a district attorney.

Sincerely,



Dean J. Collins
Assistant Chief of Police

c: City Prosecutor