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A resolution by Supervisors Lipscomb, Sr., Moore Omokunde, West, Dimitrijevic, Cullen, Sartori, Staskunas, Sebring, and Mayo, Sr., establishing a policy to conduct external investigations of deaths that occur under certain circumstances at the Milwaukee County House of Correction and the Milwaukee County Jail, by recommending adoption of the following:

AN AMENDED RESOLUTION

WHEREAS, Section 175.47 of the Wisconsin State Statutes (State Statutes) outlines a procedure for the review of deaths involving law enforcement officers but not jail officers; and

WHEREAS, the Milwaukee County Jail (Jail) and House of Correction (HOC) are staffed by correctional officers who are defined as "jail officers" and not "law enforcement officers," therefore the State Statute does not apply to them; and

WHEREAS, though Jail and HOC staff are not governed by Section 175.47 of the State Statutes, neither are prohibited from following it as a best practice; and

WHEREAS, the HOC already informally models the State external investigation statute in these matters; and

WHEREAS, four deaths have occurred in the Jail this year in the months of April, July, August, and October; and

WHEREAS, the enactment of Section 175.47 of the State Statutes, is the result of 2013 Wisconsin Act 348, which establishes an external investigative procedure whenever an off-or-on duty officer is involved in a custodial death; and

WHEREAS, Section 175.47 of the State Statutes requires that all law enforcement agencies have a written policy on investigations of officer-involved deaths; and

WHEREAS, the policy requires that an investigation be conducted by at least two investigators, with one in the role of lead investigator, with neither investigator being employed by the agency that employs the involved officer; and

WHEREAS, such a policy may allow for an internal investigation, on the condition that it does not interfere with the external investigation; and

WHEREAS, such an external investigation must occur in an expeditious manner, culminating with a report to the District Attorney of the county in which the officer-involved death occurred; and

47 WHEREAS, if the District Attorney determines there is no basis for prosecution,
48 the investigators shall release the report, redacting any privileged information under the
49 public record law in Section 19.35(1)(a) of the State Statutes; and
50

51 WHEREAS, pursuant to Section 895.46 of the State Statutes, Milwaukee County
52 (the County) is liable for any judgments entered against public officials or government
53 employees for acts committed within the scope of employment; and
54

55 WHEREAS, pursuant to Section 59.52(12) of the State Statutes, the Milwaukee
56 County Board of Supervisors (County Board) is ultimately responsible for examining and
57 settling claims, demands, or causes of action against the County; and
58

59 WHEREAS, the County Board is therefore obligated as a policy matter to follow
60 best practices countywide, so as to limit liabilities; and
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62 WHEREAS, the County Board requires as a policy matter, and to formalize
63 current procedures that the HOC follow the statutory protocol for investigating deaths
64 that occur within that facility whenever deaths therein involve inmate-on-inmate
65 assaults, staff use-of-force or unexplained or suspicious circumstances; and
66

67 WHEREAS, the Milwaukee County Sheriff (Sheriff) is a constitutional and
68 statutory officer with distinct duties regarding Jail operations and taking charge of
69 prisoners; and
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71 WHEREAS, the County Board recommends that the Sheriff follow the statutory
72 procedure for investigating deaths that occur within the Jail, given the four deaths that
73 have occurred in the Jail over a six-month period between April and October 2016; and
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75 WHEREAS, the Committee on Judiciary, Safety, and General Services, at its
76 special meeting of December 15, 2016, recommended adoption of this amended
77 resolution (vote 4-1); now, therefore,
78

79 BE IT RESOLVED, it is the broad policy of Milwaukee County that the House of
80 Correction (HOC) and the Office of the Sheriff (Sheriff) follow the statutory procedure
81 outlined in Section 175.47 of the Wisconsin State Statutes (State Statutes) for external
82 investigations of deaths at the HOC and the Milwaukee County Jail whenever deaths
83 therein involve inmate-on-inmate assaults, staff use-of-force, or unexplained or
84 suspicious circumstances; and
85

86 BE IT FURTHER RESOLVED, the Office of Corporation Counsel shall provide an
87 informational report on implementation of this policy on a countywide basis, inclusive of
88 all County facilities, and relative to County law enforcement community interactions by
89 the January 2017 cycle; and

90 BE IT FURTHER RESOLVED, the HOC and the Sheriff, pursuant to Section
91 59.794(3)(b) of the State Statutes, provide an informational report on the
92 implementation of this policy to the Milwaukee County Board of Supervisors in the
93 January 2017 committee cycle.

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