



Madison-Area DSA

Democratic Socialists of America

MADSA Police & Fire Commission (PFC) Testimony

Introduction -

Hi everyone, my name is Micah Lê. Thank you for hearing my testimony today. Today I'm representing the Madison chapter of the Democratic Socialists of America. DSA is providing the following testimonial to express our criticisms of the state of policing in Madison and outline some demands that must be enacted by the new police chief to move Madison towards becoming a more equitable city.

Demands

We have three demands of the new police chief.

- 1) Completely demilitarize the Madison police force
- 2) Improve police accountability: this means, among other things, firing Matt Kenny, the police officer responsible for murdering Tony Robinson
- 3) Forbid local police officers to work with Immigrations and Customs Enforcement in any capacity

History and State of Policing in Madison

Firstly, I'd like to ground us in some recent history and numerical data which will help illustrate why these demands are being made.

Madison's policing is racially discriminatory. MPD is ten times more likely to arrest a Black person than a white person, despite the fact that Black people constitute less than 7% of our city's population as of 2015. While many people would like to claim that Madison is a bastion of Midwest progressivism, these data show the arrest rate of Black people in this city is actually three times higher than the national average.

In Madison schools, a Black child is about 7.5 times more likely to be arrested than a white student. Last month, the Madison School Board voted to remove police officers from our schools for the safety of the student body, finally recognizing the severe emotional, psychological, physical, and societal harm which is caused by policing children. We commend the School Board and City Council members who took this important first step, and will continue to hold them accountable for protecting children from police in places of learning.

In the last two decades, Madison's police department has been extremely and increasingly brutal.

In 2006, Victor Montero-Diaz, who was suffering from a mental health crisis, made a phone call to 911 for help. Upon arriving at the scene, responding Officer Kip Kellogg shot Montero-Diaz three times, injuring a bystander in the process. Victor was a man who called for help, and in return, he was killed. The department ruled that Kellogg did not violate any of its policies.

In 2007, Officer Matt Kenny killed Ronald Brandon. Brandon had made a 9-11 call while intoxicated and wielding a pellet gun; Brandon's wife had called the police before they arrived to convey this information and prevent an incident. In spite of this, Officer Matt Kenny shot Brandon in the head and received the Madison Police Department's Medal of Valor for his actions.

In 2012, Paul Heenan was returning home intoxicated from a night out when he mistakenly entered a neighbors house. Heenan's neighbor, Kevin O'Malley, recognized him and attempted to walk him home. Heenan was resistant, and in response O'Malley's wife called 911.

When Officer Stephen Heimsness arrived on the scene with his gun drawn, O'Malley yelled "He's a neighbor!". Heimsness then shot Heenan three times in the chest, killing him. The Madison Police Department stated that Heimsness did not violate any of its policies. Prior to killing Heenan, Heimsness had seven complaints against him for excessive use of force.

In 2014, Officers Justin Bailey and Gary [pee-le-ha] Pihlaja shot and killed 26 year old Ashley DiPiazza, a former military veteran, who had been having a mental health crisis. The officers spent thirty minutes talking to DiPiazza during a suicidal episode, then shot her 11 times in her apartment. MPD stated that the officers did not violate any of its policies. Her family was awarded \$7 million by a jury, and the city settled for \$4.25 million.

In 2015, police received reports that a young Black man was behaving erratically and yelling on the 1100 block of Williamson Street. The original calls to 911 expressed that this young man was unarmed, and expressed concern for his well-being. Responding to this "welfare-check" Kenny entered the building by himself, weapon drawn, and shot Tony Robinson seven times in the stairwell. Though he was responsible for killing a 19-year-old, unarmed Black man, MPD stated that Kenny did not violate any of its policies. The City settled with Robinson's family for \$3.35 million dollars.

This continues in 2016 with Michael William Schumacher, 41, shot by Officer Hector Rivera amidst a mental health crisis though the department was aware of Schumacher's condition. This prompted District Attorney Ozanne to comment in 2016, "this is the 15th officer-involved shooting which I have had to make a decision in over the past six years."

What we see here establishes a pattern

- : police respond to a situation, often called in by those who would become the police's victims
- ; neighbors and community members attempt to prevent the police from using violence
- ; police use lethal force regardless, which is cleared by its own department

; the ensuing civil cases get settled for millions of dollars while upholding the broken system of policing.

A common theme between these cases is that MPD officers are rarely held accountable for their actions. The only avenue where families of the deceased have been able to find justice is in civil cases, and even then, no civil case can ever resurrect a loved one. MPD's violence continues.

Demilitarize the Police Demand

Our first demand is that the new police chief be tasked with demilitarizing the Madison Police Department. The Madison public is *not* an army, we are *civilians*, so why does MPD require tools of war?

Tear gas has been banned from use since the Geneva Protocol of 1925, and yet, just a few weeks ago, MPD used tear gas on civilian protesters here in Madison. We should not be using weapons that are banned in war on protesters for any reason, especially considering that it is patently untrue that tear gas is "more humane" or "less harmful". According to the CDC, tear gas can result in blindness, "immediate death due to severe chemical burns to the throat and lungs", and "respiratory failure possibly resulting in death." The use of tear gas does nothing but instill fear in our communities and harm residents. The police should not be doing harm to protesters through any means.

Long Range Acoustic Devices, or LRADs, are sonic weapons developed in the early 2000's for use by the U.S. military. LRADs are *not* a safe means of crowd control. Sonic weapons can tear eardrums and destroy hair cells in the cochlea, which causes permanent hearing loss. Those injured by these weapons have reported migraines, dizziness, and in some cases nerve damage. Yet, proposals have been made that sound cannons be brought into our streets for use on civilians. These military weapons do not belong in the hands of police.

Lastly, MPD should not be carrying guns. They themselves have proven that carrying a lethal weapon immediately and needlessly escalates situations and amplifies an officer's fear and bias into deadly consequences. Police especially do not need a weapon to respond to someone experiencing a suicidal episode or a mental health crisis. As the jury decided in Ashley DiPiazza's civil case, she did not pose an imminent threat to the officers. If police had not been armed, maybe Ashley would still be alive today. When Tony Robinson's friends called 911 to help him, they did not expect that Tony would die as a result, but the lethal force granted to our law enforcement resulted in his execution. In all of these situations, a cop -- armed or otherwise -- was not the proper respondent to these community members' call for help. Regardless of de-escalation training, cops are not mental health experts, and further training has not resulted in a decrease in police violence.

Since its inception more than 20 years ago, the 1033 Program has allowed the U.S. military to exchange military-grade weapons with American police departments. Since then, police have increasingly acquired military weapons and used them on civilians, graduating into a domestic occupying force. With that equipment comes a certain mentality. Though perhaps cliché, it bears repeating: "when you're holding a hammer, everything looks like a nail". If MPD wants any chance of the Madison public believing they are

here to “protect and serve”, use of these weapons must be discontinued in order to prevent more death, injury, social and psychological harm.

Police Accountability and Firing Matt Kenny Demand

DSA’s second demand is for adequate police accountability for MPD in their profiling, mistreatment, harassment, and murdering of Madison residents. These police offenses are most committed against people of color and Black people in particular.

4 statistics to illustrate this:

- In Madison and Dane County, police are 7.46 times more likely to arrest a Black child than a white child.
- 7% of Madison’s population is Black but 43% of MPD’s arrestees are Black.
- 46% of the inmates in Dane county jail are Black, again in a city that is 7% Black.

Matt Kenny murdered two Madison residents. If he was taken off the police force after his first killing he would not have murdered Tony Robinson. If officer Heimsness was taken off the force due to his 6 excessive force complaints, Paul Heenan would likely still be alive today.

Following the police killing of Paul Heenan, then-MPD Chief Noble Wray moved to get Heimsness fired. Records showed that Heimsness had a long history of complaints filed against him since he was hired to MPD in 1997. Chief Wray’s actions did not go far enough: Heimsness kept his job until 2013 when he agreed to retire on state disability, citing PTSD in the aftermath of Heenan's death. The new MPD Chief should go further than Wray and ensure that Kenny is fired.

After the murder of Tony Robinson and a 3.35 million dollar settlement, an attorney representing the Robinson estate asserted that “the story that Kenny told is false, and, in fact, something very different happened in that stairwell.” Former MPD officer Steve Mackesey said that MPD had created “an unbelievable explanation to justify the murder” of Tony Robinson. Every day that Kenny remains on the force is an insult to justice and the progressive values that Madison claims to uphold.

That Kenny remains in the police department is unfortunately unsurprising. As OIR illustrated in their 2017 Madison Police Department Policy and Procedure Review, MPD regularly avoids disciplinary action from the PFC by arranging punishments the police chief and the offending officer can agree to and are therefore unchallenged. Through abeyance, MPD is able to completely circumvent the intentions of the PFC and avoid the current form of community oversight that Madison has. The OIC report goes on to state that the MPD not having any disciplinary challenges “would be akin to a criminal justice system in which every defendant pleaded guilty”.

MPD officers are not accountable for their actions. They are not accountable to the public, by their superiors, or by their peers. According to former MPD officer Steve Mackesey, who spoke out against the department stating “dissent isn’t tolerated. You are called a traitor, maybe even harassed, unless you fall in line.”

The new police chief must fire Matt Kenny and also hold every Madison police officer accountability for all of their actions.

ICE Demand

DSA’s third and final demand is that the new Madison police chief will not allow Madison police officers to work with ICE in any capacity.

Former Police Chief, Mike Koval, repeatedly stated that MPD was *not* going to target undocumented residents and even stated “That’s not who we are” and “That’s not who we’re ever going to be” when discussing the use of MPD to contact individuals on the basis of a suspected immigration issue. However, Police Chief Koval later changed his stance during his time as police chief, and began connecting with ICE on the immigration status of Madison residents. He even went as far as to defend ICE agents, stating that “they’re doing a difficult job and everything else.”

Madison is supposed to be a sanctuary city. If the police go behind the backs of public demand to be a sanctuary city, and instead help ICE, they are neither serving nor protecting our Madison community.

The new police chief must embrace former Chief Koval’s initial stance that MPD should not be connecting with or assisting ICE *in any way*. Anytime that MPD assists ICE, they are deliberately creating more fear within our communities, undocumented and documented alike. Police Chief Koval posturing with one stance and enacting another creates a sense of confusion for undocumented residents about the role of MPD in immigration policing. MPD must stop working with ICE in any capacity.

Concluding Remarks

All of the things we are asking are beyond the power of this board and within the power of the new police chief.

Again, our three demands for the new police chief hire are:

Completely demilitarize the Madison police force:

Weapons of war, like tear gas and guns, do not belong in the hands of the Madison Police. If Kenny did not have a gun, maybe Tony Robinson would still be alive today.

Improve police accountability and fire Matt Kenny:

The new police chief must immediately terminate Matt Kenny’s employment and ensure that every Madison police officer is accountable for their actions.

Forbid local police officers to work with Immigrations and Customs Enforcement (ICE):

MPD must not work with ICE in any capacity. Anytime that MPD assists ICE it is creating more fear within our communities, particularly in marginalized communities such as immigrants and the Latinx community.

That’s all I have, thank you for your time. I do plan on supplying a written copy of my comments to the provided email