



City of Madison
MINUTES - DRAFT
CCOC Subcommittee on
Police & Community Relations

City of Madison
Madison, WI 53703
www.cityofmadison.com

Saturday, April 1, 2017

2:00 p.m.

Madison Water Utility
119 E. Olin Avenue
Conference Rooms A & B

[Website](#) | [Handouts at Meetings](#) | [Meeting Minutes](#)

Members Present: Ald. Marsha Rummel (chair), Ald. Shiva Bidar-Sielaff (vice-chair), Ald. Denise DeMarb and Ald. Rebecca Kemble

Members Absent: Ald. Sheri Carter

Staff Present: Capt James Wheeler, MPD Representative and Heather Allen, Council Legislative Analyst

Others Present: Greg Gelembiuk, Thomas Rehman, Kathleen Fullin

Call to Order

Chair, Ald. Marsha Rummel, called the meeting to order at 2:03 p.m.

Public Comment

Greg Gelembiuk, Community Response Team Spoke

Mr. Gelembiuk provided comments on:

- Early intervention and root cause analysis
- Addressing mental health and substances abuse issues
- Use of evidence based training such as [ProTraining](#) (Edmonton Model, Fyfe's principles) vs. Crisis Intervention Training
- Suggested language on addressing mental health and substance abuse issues, incorporating Rep. Chris Taylor's policy draft language
- Incorporate mental health training systems that are evidence based and designed to alter behavior of officers to reduce use of force.

(See [attachments](#) with 4/1/17 date of Mr. Gelembiuk's comments and documents)

Disclosures & Recusals

There were no disclosures or recusals from members of the subcommittee present.

Discussion and Drafting Report and Recommendations of the CCOC Subcommittee on Police & Community Relations

There was discussion on the report contents, categories and recommendations.

Categories that were discussed:

- Addressing mental health and substance abuse issues
- Use of Force issue and suggested
- Waiting for backup issue
- Communication issue
- Evaluate role of PSRC
- Mental health issues (officers)

New recommendation – implement PERF 30 Guiding Principles on Use of Force

New recommendation – Early intervention

New recommendation – Root cause analysis (NYPD and Richmond)

New recommendation - Add duty to intercede and de-escalation (cross-reference/integrate) into existing MPD UOF Policies

Thomas Raymond Spoke

Mr. Raymond stated that he supported the city working with the University of Chicago Data Science for Social Good program.

Ald. Kemble suggested that the subcommittee look at the use of lawful orders in their recommendations.

Categories for the MPD Policy & Procedure Review Ad Hoc Committee

- Oversight of internal investigations - whole investigation should be conducted externally
- Create a process to do a root cause analysis for critical incidents
- Data and examining trends - create a process to do this analysis root cause analysis

Data: Council wants reporting on adoption and implementation on IA Pro data collection.

For example: An officer graduating from the academy (if we look at people with 3 years experience vs. those with 3 years of experience)... analysis of that data may allow new policies and programs.

See draft report and recommendation that was developed from this meeting and was referred for discussion at the 4/12/17 subcommittee meeting ([4/12/17 DRAFT Report](#))

Discussion: Scheduling Upcoming Meetings & Agenda Items (if needed)

Wednesday, April 12, 2017

7:00 p.m.

Room 201, City-County Building

Adjournment

Meeting adjourned at 4:20 p.m.

From: Yasmeeen Krameddine <krameddi@ualberta.ca>
Sent: Thursday, February 18, 2016 12:42 PM
To: Gregory Gelembiuk
Cc: Peter Silverstone
Subject: Re: a question about police training

Gregory,

Thank you very much for your email and for your involvement in your community's police reform.

You ask very excellent questions and I am happy to answer them for you.

What differentiates the training you've developed from typical U.S. CIT training (CIT training that includes role playing)?

<u>Typical Crisis Intervention Team (CIT)</u>	<u>Our program (ProTraining)</u>
<p>Training is a one-time 40-hour program that focuses on training officers about signs and symptoms of mental health. Each CIT program usually focuses on the same premise, however each CIT session can be different depending on which organization is offering it. E.g. the topics covered in the lectures can be different. But overall it focuses on 3 things:</p> <p>1) Power Point lectures to increase <u>knowledge</u> about mental health</p> <p>(e.g. Clinical Issues Related to Mental Illnesses Medications and Side Effects Alcohol and Drug Assessment Co-Occurring Disorders Developmental Disabilities Family/Consumer Perspective Suicide Prevention and Practicum Aspects Rights/Civil Commitment Mental Health Diversity Policies and Procedures Personality Disorders Post Traumatic Stress Disorders (PTSD) Legal Aspects of Officer Liability Community Resources</p>	<p>Depending on the level of training needed, our program offers 3 units, to be taken in sequential order. It is recommended that officers take unit 1 and 2.</p> <p>Unit 1. On-line training stage (90 minutes) using a very novel and interactive approach where learners interact through video based e-learning scenarios and assessment opportunities. There are 4 modules, each portraying a different mental illness. What is unique about our training is that we want to make it as interactive as possible, and we use first-person video where the learner, gets to choose what you want to do. Depending on what you choose, determines how the interaction turns out, so it incorporates gamification into the training.</p> <p>Unit 2. 4-hour in-person session designed to allow experiential practice of skills learned in the eLearning Unit 1 where you will be taught how to properly engage individuals with mental illness.</p> <p>Unit 3. 40-hour intensive unit is designed for police officers that have frequent interactions with those suffering from mental</p>

<p>2) Onsite visits and exposure 3) De-escalation training and techniques (4 hrs) and role-play training (4hrs)</p>	<p>illness and crisis negotiators. This is a more advanced course focusing again, on behaviours. (Not all officers will need to take this. We recommend police and crisis teams as well as crisis negotiators).</p>
<p>Length: One – 40 hour training session – taken once</p> <p>All information components are taught in a class room using power point slides.</p>	<p>Length: 3 units – based on training need with the option for a refresher every 3 years (online and in person)</p> <p>Unit 1 – (information component) offers the ability to learn the basic behavioural/verbal skills needed in an interaction on your own time, and at your own pace (online). A print out of the specific techniques that should be used in every interaction can be printed out after completion of training.</p> <p>Although our training uses learning slides at some points, we have reinforced our learning by including video’s and learner interaction – keeping in engaging and interactive.</p> <p>E.g. In our beginning scenario, learners get to see the worst-case scenario and what could happen if they incorrectly interact (seen from the eyes of the officer) through a 2-3 minute video. Allowing the officer to see how quickly something can go wrong.</p> <p>The officers will have the opportunity to interact with the mentally ill individual at the end of the eLearning session again, to see if they can end with a positive outcome. This final scenario is shown through the eyes of the individual in crisis. This scenario shows some video and allows the officer to choose what they want to do/say. There is a meter on the screen that shows if you have made a correct choice (The correct choice will show the meter on the screen to go down (de-escalation) or the incorrect choice will show the meter going up (escalation).</p>

<p>Refresher training: Most CIT organizations do not do refresher. Since CIT is 40 hours, it takes lots of time to just get all officers through it once, and putting them through a refresher can be very difficult.</p>	<p>Refresher training: Our online component makes widespread use easier and allows regular updates to training (including refreshers every 3 years) making it easier to distribute to all police members and associated civilians in a cost - effective manner.</p> <p>We offer refreshers to Unit 1 (online) & Unit 2 (hands-on).</p>
<p>Information is taught to increase knowledge about mental health (focusing on memorization of signs and symptoms of mental illness). Training is taught with the belief that changing attitudes creates a change in behaviour. This is not as true as it sounds (see below)</p>	<p>Information and practical experience is trained to improve behaviours of officers, and increase the recognition of behaviours in others. We do not want to train police officers to be psychiatrists. Police officers have to know so much information in their day-to-day, so we feel they only need to know the bare minimum of information that will improve their interactions that will keep both them and those they interact with safe. This is why our training does not focus on teaching all of the symptoms for each mental illness (like CIT does). We only focus on the behaviours that are seen most frequently in police and mental health interactions - and we teach a step by step "how-to" interact, when individuals display certain behaviours. Thus training is taught with the belief that we must focus on behaviours to change behaviours.</p> <p>E.g.</p> <ul style="list-style-type: none"> - De-escalation, verbal and nonverbal communication strategies, empathy techniques to build rapport in mental health interactions, and what to do if someone is threatening, uncooperative or unresponsive. - Information on exact steps that need to be taken during and after an interaction (with practical implementation) - What would make the interaction worse and what would make it better.

	<ul style="list-style-type: none"> - Depending on the severity, where should the individual should be taken? - If this individual needs to go to the hospital, how do you fill in a mental health form so that this individual will be accepted into the hospital? <p>All of the training units focus extensively on improving officer behaviour, and understanding and practicing how to interact with certain behaviours other exhibit.</p>
--	---

Although training tends to focus on increasing knowledge (through lecture based training), there is evidence to show that **increasing knowledge and changing attitudes does not necessarily lead to a change in behaviours** (e.g. If someone knows smoking is bad for their health, they do not necessarily quit smoking)
 * see attached article (Krameddine & Silverstone, 2015) about attitudes and behaviours.

The best way to change behaviours is to focus directly on changing behaviours, instead of training to improve attitudes and hoping that it leads to behavioural change.

Training Creation:
 Members of each department usually create the training materials, some in collaboration with NAMI, some without collaboration and not based on evidence-based research.

Training Creation:
 Our training has been created with the help of an International Advisory Board of police officers, police educators, mental health professionals, academic researchers, adult educators, eLearning experts and individuals with lived experiences of mental illness from the UK, the Netherlands, Sweden, Australia, New Zealand, USA and Canada.

Evidence based evaluation:
 Although CIT has been around for many years (since 1988 in Memphis Tennessee), it only recently is becoming properly evaluated. In a recent (properly evaluated) evaluation by (Compton, 2014) it was found that CIT training does increase the use of de-escalation skill and referral decisions in interactions (which is great!) however, it does not show any differences between those officers who are trained and not trained in use of force, number of arrests and time per call. (I attached the Compton article.)

Evidence based evaluation:
 Our units are based on my PhD research where we trained over 650 Edmonton Police officers in mental health at the University of Alberta with a new program, similar to medical student simulations. We analyzed our program and we found evidence based success 6 months after training:
 41% decrease in physical use-of-force
 26% decrease in weapon force
 19% increase in efficiency
 41% increase in mental health awareness
 23% increase in officer confidence

	Improved empathy, communication and de-escalation in officers after training. (Krameddine, 2013)
<p>Continued evaluation: Does not exist to my knowledge, however, external groups may evaluate.</p>	<p>Continued evaluation: We offer evaluation of our program before and after organizations participate in any level of our course.</p>
<p>Role play component:</p> <p>From my research, the role-play in <u>most</u> CIT programs consists of 2-5 minutes of role-play per person (over a 4 hour period)</p> <p>E.g. There are 20-40 members in CIT for the week. For the 4 hour session, all members are watching one individual that is in the middle of the room, role-playing with an veteran officer for 2-5 minutes. After, all other members give feedback to this individual.</p> <p>It takes time for members to go through the role-play, thus in the 4 hour time it takes all members to go through the role-play training, each will only be role-playing (usually with a veteran officer) for 2-5 minutes.</p> <p>I am not sure if this is true for your organization, but this is the case for most others.</p>	<p>Role play component:</p> <p>Our unit 2 is our role-play training. Officers will go through 4 scenarios (10 minutes of role-play in each) – allowing 40 minutes of role-play in 4 hours. (All 4 scenarios are taking place at the same time and they switch from one to the other).</p> <ul style="list-style-type: none"> - After they complete their scenario they will be given 3 questions to think about. These questions focus on the 3 main learning points of every scenario (on top of how to talk to them, they learn these points). - No other officers are “watching” them role-play (alleviating stress, and producing realistic responses, and a realistic atmosphere.) <p>E.g. In our scenario training, groups of 2 go through a minimum of 10 minutes of scenario role-play every hour, interacting with an actor portraying mental illness. After the role play is over, there is a debrief and feedback portion of the scenario where officers are given feedback from the Supervising facilitator, a mental health facilitator and the actors in the scenario.</p> <p>We focus on behaviour by:</p> <ul style="list-style-type: none"> - Actors modifying their responses depending on how the officer treats them. E.g. If an actor feels they are not being treated with respect they will not give the officer any information. However, if the officer is sincere then the actor will tell the officer everything they need to know.

	<p>There are some scenarios that end in the actor pulling out a knife (if they are treated poorly) – but the exact same scenario can end with the actor going willingly with the officer and allowing them to be handcuffed, if they are treated with the respect that they need.</p> <p>- Our actors are trained to give feedback to officers (in the debrief) in terms of how the officer made them feel when they acted certain ways:</p> <p>Example of Actor feedback: When you stood over me it made me feel very afraid of you. Perhaps next time, if you come down to my level and spoke to me, I would have answered all of your questions because you would have been less of a threat. Or: When you asked me “how long have you been drunk?” – I got very offended by the word “drunk”. Perhaps next time you can ask “When did you start drinking” etc.</p>
<p>Role-play: usually veteran officers are acting – this can be difficult, as sometimes officers do not take the training seriously.</p>	<p>Role-play: done with trained actors, usually ones that have mental illness themselves, so they can speak towards how individuals with mental illness feel when officers interact with them.</p>
<p>Onsite mental health exposure</p>	<p>We do not have onsite visits however we have actors that are living with mental illness themselves as well as mental health professionals in every scenario facilitating the interaction.</p>

In your publications, I see that your training is designed to alter officer behavior, not just attitudes or knowledge. How exactly is this done, in a way that might differ from standard U.S. CIT training?

Yes, this is true. As mentioned above the focus on behaviours is done in all Units of our training.

E.g. You enter a scene where an aggressive individual is believing that someone is watching him and going to kill him. He acts aggressive towards you.

Our approach: focus on his behaviours: he is acting in a way that shows he is afraid. Therefore what can I do to:

- make him feel less afraid?
- let him know I am here to help?
- let him know I care about his safety?

Once you de-escalate this individual, then you can focus on next steps:

- What to write on the mental health form, if you do end up taking them to the hospital
- Techniques you can use to approach the scene in a calm manner
- Words to speak and to avoid when speaking to someone who is afraid

CIT approach:

This person is having hallucinations & delusions and is suffering from schizophrenia. I know that since he has schizophrenia he needs to be taken to the hospital so my main goal is to get him to come with me to the hospital.

We do not talk about labeling a specific mental illness, we speak of behaviours others are exhibiting.

I'm wondering if there's something that's available (and ideally evidence-based) that might be more effective than the training approach currently being used with Madison police officers.

It sounds like the Madison police officers are doing constant training, which is a very good thing. Evidence suggests that training must happen every 3 years at minimum, so the more training the better - ideally with a focus on behaviours and not on memorization of signs and symptoms.

In regards to evidence based practices, currently we are evaluating our Unit 1 – online training (since it is very new), however as mentioned it has been created with international advisory board input of experts around the world. The benefit of our Unit 1 - online, interactive training is that it can be taken any time, in any place, as long as a computer is available. The easy access is valuable in the sense that no one has to wait to take training. As well it can be taken at low cost - \$20 - \$34.95 (depending how many units are purchased).

Our Unit 2 – hands on scenario learning using professional actors is evidence based and we travel to all parts of Canada and USA, implementing our training in police organizations. We are traveling to Chicago on August 22 & 23, 2016 to deliver our Unit 2.

With everything being said, I would strongly recommend our Unit 1-3 training programs. I have been working passionately on this project for 5 years and have

complete confidence in it. I know they can improve the relationship and interactions between police and those they interact with.

After informing you of how our program differs from CIT, I am wondering how we can best help you achieve your goals with the Madison Police?

What are your next steps, and how can we help you get there?

I am able to give you access to our Unit 1 - online training, if you wanted to experience it.

I look forward to your response, and hope I have answered your questions.

Sincerely,

Yasmeen Krameddine



PATROL GUIDE

Section: Tactical Operations		Procedure No: 221-01	
FORCE GUIDELINES			
DATE ISSUED: 06/01/16	DATE EFFECTIVE: 06/01/16	REVISION NUMBER:	PAGE: 1 of 4

SCOPE

The primary duty of all members of the service (MOS) is to protect human life, including the lives of individuals being placed in police custody. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of Department policy.

When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In situations in which this is not safe and/or appropriate, MOS will use only the reasonable force necessary to gain control or custody of a subject. The use of deadly physical force against a person can only be used to protect MOS and/or the public from imminent serious physical injury or death.

In determining whether the use of force is reasonable, members of the service should consider the following:

- a. The nature and severity of the crime/circumstances
- b. Actions taken by the subject
- c. Duration of the action
- d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the number of MOS
- h. Size, age, and condition of the subject in comparison to the MOS
- i. Subject's violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

All MOS are responsible and accountable for the proper use of force. The application of force must be consistent with existing law and with the New York City Police Department's policies, even when Department policy is more restrictive than state or federal law. Depending upon the circumstances, both federal and state laws provide for criminal sanctions and civil liability against MOS when force is deemed excessive, wrongful, or improperly applied.

Excessive force will not be tolerated. MOS who use excessive force will be subject to Department discipline, up to and including dismissal.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-01	06/01/16		2 of 4

SCOPE (continued)

Failure to intervene in the use of excessive force, or report excessive force, or failure to request or to ensure timely medical treatment for an individual is serious misconduct that may result in criminal and civil liability and will result in Department discipline, up to and including dismissal. If a member of the service becomes aware of the use of excessive force or failure to request or to ensure timely medical treatment for an individual, the member must report such misconduct to the Internal Affairs Bureau Command Center. This report can be made anonymously.

NOTE

Obtaining a Confidential Identification Number from the Command Center investigator will satisfy the member's reporting responsibility, if the information is accurate and complete. Subsequent or ongoing reporting is encouraged to ensure the information is timely and complete and may be made by referencing the Confidential Identification Number.

DEFINITIONS

DE-ESCALATION - Taking action in order to stabilize a situation and reduce the immediacy of the threat so that more time, options, and/or resources become available (e.g., tactical communication, requesting a supervisor, additional MOS and/or resources such as Emergency Service Unit or Hostage Negotiation Team, etc.). The goal is to gain the voluntary compliance of the subject, when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force.

OBJECTIVELY REASONABLE STANDARD - The reasonableness of the use of force is based upon the totality of the circumstances known by the MOS at the time of the use of force. The Department examines the reasonableness of force viewed from the perspective of a member with similar training and experience placed into the same circumstances as the incident under investigation.

EXCESSIVE FORCE - Use of force deemed by the investigating supervisor as greater than that which a reasonable officer, in the same situation, would use under the circumstances that existed and were known to the MOS at the time force was used.

CHOKEHOLD - A chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air.

PROCEDURE

To provide members of the service with the Department's force/restraint and firearm prohibitions:

PROHIBITIONS

UNIFORMED MEMBER OF THE SERVICE

1. Uniformed members of the service are authorized under New York State law to discharge a firearm to prevent or terminate the unlawful use of force that may cause death or serious physical injury, taking into account the below prohibitions imposed by the Department.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-01	06/01/16		3 of 4

UNIFORMED MEMBER OF THE SERVICE (continued)

Members of the service **SHALL NOT**:

- a. Discharge a firearm when, in the professional judgment of a reasonable member of the service, doing so will unnecessarily endanger innocent persons
- b. Discharge firearms in defense of property
- c. Discharge firearms to subdue a fleeing felon who presents no threat of imminent death or serious physical injury to the MOS or another person present
- d. Fire warning shots
- e. Discharge firearm to summon assistance, except in emergency situations when someone's personal safety is endangered and no other reasonable means to obtain assistance is available
- f. Discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the member of the service or another person present, by means other than a moving vehicle
- g. Discharge firearm at a dog or other animal, except to protect a member of the service or another person present from imminent physical injury and there is no opportunity to retreat or other reasonable means to eliminate the threat
- h. Cock a firearm. Firearms must be fired double action at all times.

NOTE

Drawing a firearm prematurely or unnecessarily limits a uniformed member's options in controlling a situation and may result in an unwarranted or accidental discharge of the firearm. The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable.

2. Members of the service **SHALL NOT**:

- a. Use a chokehold
- b. Use any level of force to punish, retaliate or coerce a subject to make statements
- c. Use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault
- d. Connect or tie rear-cuffed hands to cuffed or restrained ankles or legs
- e. Transport a subject facedown
- f. Use force to prevent a subject from swallowing alleged controlled substance or other substance, once a subject has placed suspected controlled substance in his or her mouth, or forcibly attempt to remove substance from subject's mouth or other body cavity.

NOTE

Any violations of the above force prohibitions may be reviewed on a case-by-case basis by the Use of Force Review Board to determine whether, under the circumstance, the actions were reasonable and justified. The review may find that, under exigent or exceptional circumstances, the use of the prohibited action may have been justified and within guidelines.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-01	06/01/16		4 of 4

NOTE
(continued)

Members who are subject to investigation, the subject of disciplinary action, civil action, or a civilian complaint related to a violation of the above prohibitions may submit a request for review of the circumstances to the Use of Force Review Board. The Use of Force Review Board will review the facts and circumstances and make a final determination of whether the force used was reasonable under the circumstances and within guidelines.

*When a uniformed member of the service observes or suspects that a prisoner has ingested a narcotic or other dangerous substance, the prisoner will be transported from the place of arrest **DIRECTLY** to the nearest hospital facility.*



PATROL GUIDE

Section: Tactical Operations		Procedure No: 221-02	
USE OF FORCE			
DATE ISSUED: 06/01/16	DATE EFFECTIVE: 06/01/16	REVISION NUMBER:	PAGE: 1 of 4

PURPOSE

To provide guidelines for members of the service (MOS) regarding the use of force, and ensure that each use of force is properly reported and documented.

DEFINITIONS

DE-ESCALATION – Taking action to stabilize the situation and reduce the immediacy of the threat so that more time, options, and/or resources become available (e.g., tactical communication, requesting a supervisor, additional MOS and/or resources such as Emergency Service Unit or Hostage Negotiation Team, etc.). The goal is to gain the voluntary compliance of the subject, when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force.

ACTIVE RESISTING – Includes physically evasive movements to defeat a member of the service’s attempt at control, including bracing, tensing, pushing, or verbally signalling an intention to avoid or prevent being taken into or retained in custody.

ACTIVE AGGRESSION – Threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.

PASSIVE RESISTANCE – Minimal physical action to prevent a member from performing their lawful duty. For example, a subject failing to comply with a lawful command and stands motionless and/or a subject going limp when being taken into custody.

RESISTING ARREST (NYS PENAL LAW) - A person is guilty of resisting arrest when he intentionally prevents or attempts to prevent a police officer or peace officer from effecting an authorized arrest of himself or another person.

PROCEDURE

When a member of the service must gain compliance, control, or custody of an uncooperative subject, the member should comply with *P.G. 221-01, "Force Guidelines"* and:

UNIFORMED MEMBER OF THE SERVICE

1. Take necessary action to protect life and personal safety of all persons present, including subjects being placed into custody.
2. Utilize de-escalation techniques when appropriate and consistent with personal safety, which may reduce or eliminate the need to use force, and increase the likelihood of gaining the subject’s voluntary compliance.
3. Isolate and contain the subject, if appropriate.
4. Immediately request a supervisor to respond, as soon as appropriate and safety permits.
5. Request additional members, as necessary, to control situation.
6. Request the response of the Emergency Service Unit, if appropriate.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-02	06/01/16		2 of 4

NOTE *MOS should consider whether a subject's lack of compliance is a deliberate attempt to resist, or alternatively, an inability to comply, resulting from factors including, but not limited to, medical condition, mental impairment, developmental disability, physical limitation, language barrier, and/or drug interaction.*

UNIFORMED MEMBER OF THE SERVICE (continued) 7. Comply with P.G. 221-13, "Mentally Ill or Emotionally Disturbed Persons," if the subject is acting in a manner that would lead the member of service to believe that the subject is emotionally disturbed or under the influence of a mind-altering substance.

SUPERVISOR ON SCENE 8. Assume command of the incident and coordinate the use of de-escalation techniques, if appropriate and consistent with officer safety.
9. Direct tactics to minimize the possibility of injury to members of the service, the subject, or bystanders.

UNIFORMED MEMBER OF THE SERVICE/ SUPERVISOR ON SCENE 10. If the use of de-escalation and conflict negotiation techniques fail to persuade an uncooperative subject to cooperate, the supervisor/members of the service present should, if appropriate and consistent with officer safety:
a. Advise the offender that he/she will be charged with the additional offense of resisting arrest
b. Devise a tactical plan with members present to restrain the subject while minimizing the possibility of injury to members of the service, the subject, and bystanders
c. Advise the offender that physical force or other devices (e.g., O.C. pepper spray, shield, baton/asp, etc.) will be used to handcuff/restrain him/her before applying such force, if appropriate.

NOTE *Members of the service should not use O.C. Pepper Spray, Conducted Electrical Weapon, or impact weapons on persons who are passively resisting.*

- 11. Apply no more than the reasonable force necessary to gain control.
 - a. Avoid actions which may result in chest compression, such as sitting, kneeling, or standing on a subject's chest or back, thereby reducing the subject's ability to breathe.
- 12. Assess the situation continually and adjust the use of force as necessary.

NOTE *All members of the service must intervene to stop another member of the service from using excessive force. Failure to intervene in the use of excessive force, or report excessive force, or failure to request or to ensure timely medical treatment for an individual is serious misconduct that may result in criminal and civil liability and will result in Department discipline, up to and including dismissal. If a member of the service becomes aware of the use of excessive force or failure to request or to ensure timely medical treatment for an individual, the member must report such misconduct to the Internal Affairs Bureau Command Center. This report can be made anonymously.*

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-02	06/01/16		3 of 4

NOTE
(continued)

Obtaining a Confidential Identification Number from the Command Center investigator will satisfy the member's reporting responsibility, if the information is accurate and complete. Subsequent or ongoing reporting is encouraged to ensure the information is timely and complete and may be made by referencing the Confidential Identification Number.

**UNIFORMED
MEMBER OF
THE SERVICE**

13. Rear-cuff the subject, when practical.
 - a. If it is safer for the member of the service and the subject, the member of the service may front-cuff the subject initially, and then rear-cuff as soon as it is practical and safety allows.
 - b. If members of the service are having difficulty rear-cuffing a subject, Department issued leg restraints or Velcro straps to immobilize the legs of a subject may be used as an effective tactic to gain control, limit the subject's ability to flee or harm other individuals, and allow the subject to be safely rear-cuffed with minimal force.

NOTE

If available, Department issued alternative restraining devices should be used to restrain, or further restrain, subjects whose actions may cause injury to themselves or others.

14. Position the subject to promote free breathing, as soon as safety permits, by sitting the person up or turning the person onto his/her side.
15. Observe the subject closely for injuries, signs of serious illness, or difficulty breathing.
16. Whenever any level of force is used, inquire if subject requires medical attention and document response to inquiry in **ACTIVITY LOG (PD112-145)**.
17. If the subject is injured or ill, ensure subject receives proper medical attention.
18. Ensure subject receives immediate medical attention and provide first aid, if appropriate and properly trained, if subject is having difficulty breathing or demonstrates any potentially life-threatening symptoms or injuries.
19. If the location of the police action is poorly lit, use a flashlight or other source of illumination to maintain a clear view of the subject at all times.
20. Notify immediate supervisor regarding the type of force used, the reason force was used, and injury to any person involved.
21. Document use of force in **ACTIVITY LOG**.

**IMMEDIATE
SUPERVISOR**

22. Perform duties of the "immediate supervisor" as per *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action,"* when notified or after becoming aware of any use of force incident.

**RELATED
PROCEDURES**

Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)
Force Guidelines (P.G. 221-01)
Mentally Ill or Emotionally Disturbed Persons (P.G. 221-13)
Member of the Service Subjected to Force While Performing Lawful Duty (P.G. 221-06)

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-02	06/01/16		4 of 4

**FORMS AND
REPORTS**

ACTIVITY LOG (PD112-145)
STOP, QUESTION AND FRISK REPORT (PD344-151A)
ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
MEDICAL TREATMENT OF PRISONER (PD244-150)
AIDED REPORT WORKSHEET (PD304-152b)



PATROL GUIDE

Section: Tactical Operations		Procedure No: 221-13	
MENTALLY ILL OR EMOTIONALLY DISTURBED PERSONS			
DATE ISSUED: 06/01/16	DATE EFFECTIVE: 06/01/16	REVISION NUMBER:	PAGE: 1 of 5

PURPOSE

To safeguard a mentally ill or emotionally disturbed person who does not voluntarily seek medical assistance.

SCOPE

The primary duty of all members of the service is to preserve human life. The safety of ALL persons involved is paramount in cases involving emotionally disturbed persons. If such person is dangerous to himself or others, necessary force may be used to prevent serious physical injury or death. Physical force will be used ONLY to the extent necessary to restrain the subject until delivered to a hospital or detention facility. Deadly physical force will be used ONLY as a last resort to protect the life of the uniformed member of the service assigned or any other person present. If the emotionally disturbed person is armed or violent, no attempt will be made to take the EDP into custody without the specific direction of a supervisor unless there is an immediate threat of physical harm to the EDP or others are present. If an EDP is not immediately dangerous, the person should be contained until assistance arrives. If the EDP is unarmed, not violent and willing to leave voluntarily, a uniformed member of the service may take such person into custody. When there is time to negotiate, all the time necessary to ensure the safety of all individuals will be used.

DEFINITIONS

EMOTIONALLY DISTURBED PERSON (EDP) - A person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others.

ZONE OF SAFETY - The distance to be maintained between the EDP and the responding member(s) of the service. This distance should be greater than the effective range of the weapon (other than a firearm), and it may vary with each situation (e.g., type of weapon possessed, condition of EDP, surrounding area, etc.). A minimum distance of twenty feet is recommended. An attempt will be made to maintain the “zone of safety” if the EDP does not remain stationary.

PROCEDURE

When a uniformed member of the service reasonably believes that a person who is apparently mentally ill or emotionally disturbed, must be taken into protective custody because the person is conducting himself in a manner likely to result in a serious injury to himself or others:

UNIFORMED MEMBER OF THE SERVICE

1. Upon arrival at scene, assess situation as to threat of immediate serious physical injury to EDP, other persons present, or members of the service. Take cover, utilize protective shield if available and request additional personnel, if necessary.
 - a. If emotionally disturbed person’s actions constitute immediate threat of serious physical injury or death to himself or others:
 - (1) Take reasonable measures to terminate or prevent such behavior. Deadly physical force will be used only as a last resort to protect the life of persons or officers present.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-13	06/01/16		2 of 5

NOTE *Damaging of property would not necessarily constitute an immediate threat of serious physical injury or death.*

**UNIFORMED
MEMBER OF
THE SERVICE
(continued)**

- b. If EDP is unarmed, not violent and is willing to leave voluntarily:
 - (1) EDP may be taken into custody without the specific direction of a supervisor.
 - c. In all other cases, if EDP's actions do not constitute an immediate threat of serious physical injury or death to himself or others:
 - (1) Attempt to isolate and contain the EDP while maintaining a zone of safety until arrival of patrol supervisor and Emergency Service Unit personnel.
 - (2) Do not attempt to take EDP into custody without the specific direction of a supervisor.
2. Request ambulance, if one has not already been dispatched.
 - a. Ascertain if patrol supervisor is responding, and, if not, request response.

NOTE *Communications Section will automatically direct the patrol supervisor and Emergency Service Unit to respond to scene in such cases. Patrol supervisors' vehicles are equipped with non-lethal devices to assist in the containment and control of EDP's, and will be used at the supervisor's direction, if necessary.*

3. Establish police lines.
 4. Take EDP into custody if EDP is unarmed, not violent and willing to leave voluntarily.
- PATROL SUPERVISOR**
5. Verify that Emergency Service Unit is responding, if required.
 - a. Cancel response of Emergency Service Unit if services not required.
 6. Direct uniformed members of the service to take EDP into custody if unarmed, not violent, and willing to leave voluntarily.

NOTE *When aided is safeguarded and restrained comply with steps 25 to 32 inclusive.*

WHEN AIDED IS ISOLATED/CONTAINED BUT WILL NOT LEAVE VOLUNTARILY:

**PATROL
SUPERVISOR**

7. Establish firearms control.
 - a. Direct members concerned not to use their firearms or use any other deadly physical force unless their lives or the life of another is in imminent danger.
8. Deploy protective devices (shields, etc.).
 - a. Employ non-lethal devices to ensure the safety of all present (see "ADDITIONAL DATA" statement).
9. Comply with provisions of P.G. 221-14, "Hostage/Barricaded Person(s)," where appropriate.
10. Establish police lines if not already done.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-13	06/01/16		3 of 5

**PATROL
SUPERVISOR
(continued)**

11. Request response of hostage negotiation team and coordinator through Communications Section.
12. Notify desk officer that hostage negotiation team and coordinator have been notified and request response of precinct commander/duty captain.
13. Request Emergency Service Unit on scene to have supervisor respond.
14. If necessary, request assistance of:
 - a. Interpreter, if language barrier
 - b. Subject's family or friends
 - c. Local clergyman
 - d. Prominent local citizen
 - e. Any public or private agency deemed appropriate for possible assistance.

NOTE

The highest ranking uniformed police supervisor at the scene is in command and will coordinate police operations. If the mentally ill or EDP is contained and is believed to be armed or violent but due to containment poses no immediate threat of danger to any person, no additional action will be taken without the authorization of the commanding officer or duty captain at the scene.

**EMERGENCY
SERVICE UNIT
SUPERVISOR**

15. Report to and confer with ranking patrol supervisor on scene.
 - a. If there is no patrol supervisor present, request response forthwith, and perform duties of patrol supervisor pending his/her arrival.

NOTE

The presence of a supervisor from any other police agency does not preclude the required response of the patrol supervisor.

16. Evaluate the need and ensure that sufficient Emergency Service Unit personnel and equipment are present at the scene to deal with the situation.
17. Verify that hostage negotiation team and coordinator are responding, when necessary.
18. Devise plans and tactics to deal with the situation, after conferral with ranking patrol supervisor on scene.

DESK OFFICER

19. Verify that precinct commander/duty captain has been notified and is responding.
20. Notify Operations Unit and patrol borough command of facts.

**COMMANDING
OFFICER/
DUTY CAPTAIN**

21. Assume command, including firearms control.
22. Confer with ranking Emergency Service Unit supervisor on scene and develop plans and tactics to be utilized.
23. Direct whatever further action is necessary, including use of negotiators.
24. Direct use of alternate means of restraint, if appropriate, according to circumstances.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-13	06/01/16		4 of 5

WHEN PERSON HAS BEEN RESTRAINED:

- UNIFORMED MEMBER OF THE SERVICE**
25. Remove property that is dangerous to life or will aid escape.
 26. Have person removed to hospital in ambulance.
 - a. Restraining equipment including handcuffs may be used if patient is violent, resists, or upon direction of a physician examiner.
 - b. If unable to transport with reasonable restraint, ambulance attendant or doctor will request special ambulance.
 - c. When possible, a female patient being transported should be accompanied by another female or by an adult member of her immediate family.
 27. Ride in body of ambulance with patient.
 - a. At least two uniformed members of the service will safeguard if more than one patient is being transported.

NOTE

*If an ambulance is NOT available and the situation warrants, transport the EDP to the hospital by RMP if able to do so with reasonable restraint, at the direction of a supervisor. **UNDER NO CIRCUMSTANCES WILL AN EDP BE TRANSPORTED TO A POLICE FACILITY.***

28. Inform examining physician, upon arrival at hospital, of use of non-lethal restraining devices, if applicable.
29. Safeguard patient at hospital until examined by psychiatrist.
 - a. When entering psychiatric ward of hospital, unload revolver at Firearm Safety Station, if available (see P.G. 216-07, "Firearms Safety Stations at Psychiatric Wards and Admitting Areas").
30. Inform psychiatrist of circumstances which brought patient into police custody:
 - a. Inform relieving uniformed member of circumstances if safeguarding extends beyond expiration of tour.
 - b. Relieving uniformed member will inform psychiatrist of details.
31. Enter details in **ACTIVITY LOG (PD112-145)** and prepare **AIDED REPORT WORKSHEET (PD304-152b)**.
 - a. Indicate on **AIDED REPORT WORKSHEET**, name of psychiatrist.
32. Deliver **AIDED REPORT WORKSHEET** to desk officer.

ADDITIONAL DATA

Refer persons who voluntarily seek psychiatric treatment to proper facility.

Prior to interviewing a patient confined to a facility of the NYC Health and Hospitals Corporation, a uniformed member of the service must obtain permission from the hospital administrator who will ascertain if the patient is mentally competent to give a statement.

Upon receipt of a request from a qualified psychiatrist, or from a director of a general hospital or his/her designee, uniformed members of the service shall take into custody and transport an apparently mentally ill or emotionally disturbed person from a facility licensed or operated by the NYS Office of Mental Health which does not have an inpatient psychiatric service, or from a general hospital which does not have an inpatient psychiatric service, to a hospital approved under Section 9.39 of the Mental Hygiene Law.

PATROL GUIDE

PROCEDURE NUMBER:	DATE EFFECTIVE:	REVISION NUMBER:	PAGE:
221-13	06/01/16		5 of 5

**ADDITIONAL
DATA
(continued)**

Uniformed members of the service will also comply with the above procedure upon direction of the Commissioner of Mental Health, Mental Retardation and Alcoholism Services or his/her designee.

USE OF NON-LETHAL DEVICES TO ASSIST IN RESTRAINING EMOTIONALLY DISTURBED PERSONS

Authorized uniformed members of the service may use a conducted energy weapon (CEW) to assist in restraining emotionally disturbed persons, if necessary.

Authorized uniformed members of the service will be guided by Patrol Guide 221-08, 'Use of Conducted Electrical Weapons (CEW),' when a CEW has been utilized.

THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
will be prepared whenever a less lethal device is used by a uniformed member of the service in the performance of duty.

**RELATED
PROCEDURES**

*Unusual Occurrence Reports (P.G. 212-09)
Hostage/Barricaded Person(s) (P.G. 221-14)
Unlawful Evictions (P.G. 214-12)
Aided Cases General Procedure (P.G. 216-01)
Mental Health Removal Orders (P.G. 216-06)
Use of Conducted Electrical Weapons (CEW) (P.G. 221-08)*

**FORMS AND
REPORTS**

***ACTIVITY LOG (PD112-145)
AIDED REPORT WORKSHEET (PD304-152b)
THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
UNUSUAL OCCURRENCE REPORT (PD370-152)***

Policing the Emotionally Disturbed

James J. Fyfe, PhD

J Am Acad Psychiatry Law 28:345-7, 2000

In New York City from 1971 to 1975, only 1.6 percent of all police firearms discharges involved the class of people police have since come to call emotionally disturbed persons (EDPs). Still, because police were comparatively unrestrained in those years, the number of such incidents was quite large: 46, or better than 9 per year.¹ In the years since then, police shootings have declined dramatically; fatal shootings by New York police have decreased from 93 in 1971 to 11 in 1999. There, as in most big cities, police apparently have become much more sophisticated in helping officers to avoid shootings of all kinds, including those involving EDPs.

If the lawyers who call me, in my capacity as a police practices expert, to request a consultation in their cases are any indication, however, the decrease in EDP shootings may not hold true in many smaller and midsized U.S. police jurisdictions. With great regularity, I hear variants of the same story: my client's decedent, the lawyer will tell me, was a troubled young man who had just undergone a great emotional shock. He ran out onto the street with a knife, shouting and frightening people, but never really attacked anyone. The police were called; they saw him, drew their guns, and closed in on him, warning him to drop his knife. He backed up until he was against a wall, then tried to run. Because the police had cut off all his escape routes, he was then running in a police officer's direction with a knife in his hand; consequently, the police shot and killed him to defend their colleague. With only minor differences, I have worked on such cases in suburban, rural, and small city police agencies from Texas, Florida, and

New Mexico to Maine and Michigan; from California and Oregon to New Jersey and New York. They are terrible tragedies that victimize police officers as well as EDPs and their families, that strain the relationship between police and community, and that have cost police chiefs and elected officials their careers. Certainly, unlike the not-too-distant past, they no longer go unnoticed or written off as unavoidable "nut-with-a-knife" cases.

The major reason that the big cities have become more sophisticated than smaller jurisdictions in resolving EDP situations is a simple matter of numbers and exposure. The New York City Police Department (NYPD) responds to about 18,000 EDP calls every year, and even the small number that have gone wrong and resulted in tragedy have been enough to embarrass the organization and prompt it to action designed to help officers avoid hurting others and being hurt themselves. The 1985 Bronx police shooting of Elinor Bumpurs, a mentally disturbed 67-year-old, 270-pound grandmother who attacked police with a knife, for example, led to a reexamination and overhaul of the NYPD's policies related to EDPs, which has no doubt saved other lives. Not so in smaller jurisdictions, where volatile street people and deranged seniors are not a part of the routine of policing. Instead, they often come as a surprise to young officers who have been given no relevant training or, even worse, have participated in training likely to lead to overly aggressive police responses.

Consider officers untrained for their work with EDPs. They have been trained to get rational offenders to submit to their authority by approaching them forcefully and making it plain that resistance is only likely to make things worse. This intimidating approach almost always succeeds in gaining criminal

Dr. Fyfe is Professor, Department of Criminal Justice, Temple University, Philadelphia. Address correspondence to: James Fyfe, PhD, Temple University Dept. of Criminal Justice, 512 Gladfelter Hall, Philadelphia, PA 19122. E-mail: jamesjfyfe@aol.com

suspects' compliance. The survival instinct rules among all rational people, and most offenders are in the crime business because they are interested in making themselves comfortable with as little effort as possible. Not so with EDPs; the police are called to handle them precisely because, for reasons that might not affect more stable individuals, they have become frightened and potentially dangerous to themselves and others. In such cases, the forceful police approaches that work so well with rational offenders—threats, intimidation, closing in on personal space—are liable to force unnecessary confrontations and to put officers into perilous circumstances from which they can extricate themselves only by resorting to the most extreme types of force, that is, by shooting. Almost universally, police recognize and act upon this distinction between rational offenders and EDPs in situations in which barricaded subjects and hostage takers are concerned, and they react accordingly. Too often, however, this distinction is overlooked in street-level encounters, and tragedy ensues.

After the fact, police have recently been prone to write off such tragedies as "suicide by cop," a classification that, in my experience, is far more often a *post hoc* justification for sloppy police work than a valid explanation of why and how somebody died. The term "suicide by cop" should describe only situations in which even officers who adhere closely to the industry standard for dealing with EDPs are given no choice but to kill them. Unfortunately, it has become a catchy descriptor for a far larger number of cases in which officers put themselves unnecessarily into harm's way and must then shoot their way out of it.

Worse yet are some of the EDP shootings by usually young and impressionable officers who have been trained to believe that every street encounter leaves them at the mercy of homicidal maniacs and that they must therefore be constantly alert and ready to shoot at an instant's notice. A longtime leader in the business of providing training to officers whose agencies are not sufficiently large or expert to develop their own is the Calibre Press, whose widely distributed videotape, "Surviving Edged Weapons,"² is illustrative. It begins with a dramatization of cavemen killing each other with "edged weapons" and proceeds through explanations and demonstrations of how psychopaths armed with swords and multiple knives can easily ambush and kill police officers, moving to a dissertation on an alleged "knife culture"

that is purportedly populated by persons of Hispanic distraction. According to former San Diego Police Chief Robert Burgreen, the tape led two of his officers to engage in inappropriate shootings.³ Burgreen is not alone in his suspicion that there may be a link between training of this nature and officers' propensity to shoot; within weeks after viewing this videotape, two officers in another police department with which I consulted shot and killed EDPs who were carrying edged weapons. One was a butter knife, held by a man who had been sitting at his table eating breakfast when police came into his house to investigate an hours-old domestic complaint. The other was a pen knife, carried by a young man whose girlfriend had broken off with him and who was shot and killed in his front yard in front of his whole family. Both had made the fatal mistake of coming within a 21-foot "zone of safety" prescribed by the Calibre Press video.

There is a message here: some police training on this subject may actually be worse than none. Any police organization or government officials or medical professionals concerned with seeing that police do their work with the least violence necessary should not content themselves with knowing that officers are being trained to interact with EDPs; they must carefully examine such training to assure that it is not sending the wrong message.

Training designed to help officers deal with EDPs should teach that there is a difference between rational offenders and EDPs and that they will be held accountable for treating these situations with the same concern for life that was demonstrated by the Los Angeles Police Department in the nationally televised low speed chase involving O. J. Simpson, a revolver, and a white Bronco. In that case, the police did all they could to avoid forcing a confrontation, even tying up one of the busiest metropolitan areas in the world during the evening rush hour. This approach worked; Simpson was taken into custody, and nobody was hurt. It also stands in sharp contrast to the testimony of the Illinois police trainer who said, after one of his officers had shot and killed a female EDP, that he would cut off negotiations after a half-hour because nothing in the world was worth more than a half-hour of police time.*

The dangers and unpredictability of police encounters with EDPs are significant, but they can be

* Readers interested in the citation for this testimony may contact Professor Fyfe directly.

reduced greatly by adherence to a few simple principles:

1. Officers should keep a safe distance away from EDPs and otherwise avoid putting themselves in harm's way when handling EDPs.

2. Officers should avoid unnecessary and provocative displays or threats of force.

3. An officer should try to avoid confronting an EDP while alone and should always make sure that back-up assistance is called so that the EDP can be contained at the same time that bystanders are cleared away.

4. One officer (the talker) should be designated to talk to the EDP, and everybody else on the scene should "shut up and listen."

5. Officers should make sure that the talker is in charge of the scene and that nobody takes unplanned action unless life is in immediate danger.

6. Officers should make sure that the talker does not threaten the EDP, but instead makes it plain that the police want to help him or her and that the way to accomplish this is for the EDP to put down any weapons and to come with the police for help.

7. Officers should take as much time as necessary to talk EDPs into custody, even if this runs into hours or days.

These principles, which can be taught and absorbed in no more than a couple of days, considerably increase the chances of resolving EDP confrontations without bloodshed; they simply equate to good, street-level police work. Learning these techniques does not guarantee success, but if the police

do all of these things and still have to shoot an EDP, the fault does not lie with the police. As doctors know, operations can be successful even though patients die; both the police and doctors can do no better than to act in the ways most likely to succeed, knowing all the while that they cannot absolutely control their clients' fates.

Because the techniques and strategies for resolving EDP situations are relatively simple, all police patrol officers, who are almost invariably the first police responders to such situations, should be trained in them and held accountable for following them. This approach would minimize the need for special units charged with particular responsibility for dealing with EDPs, reducing division within policing, and following the principle, well-known in both policing and medicine, that no specialty should be created unless its members can perform their task significantly better than can generalists. In policing as in medicine, the key to assuring that most cases conclude happily is to enhance the diagnostic and early treatment skills of the general practitioner, the profession's first contact with the great majority of people in need of help.

References

1. Fyfe JJ: Shots fired: an analysis of New York City police firearms discharges. Unpublished doctoral dissertation, State University of New York at Albany, 1978, p 679
2. Anderson D, Remsberg C: *Surviving Edged Weapons* (videotape). Northbrook, IL: Calibre Press, 1989
3. Geller WA, Scott MS: *Deadly Force: What We Know*. Washington, DC: Police Executive Research Forum, 1992, pp 336-7

Fyfe's Principles in relation to Normal Accident Theory

The rules formulated by James Fyfe for how police should deal with resistant emotionally disturbed persons (including those who might be armed) fit well with recommendations from normal accident theory (a theory - with considerable empirical support - of factors underlying risk of disasters).

Under normal accident theory, the risk of accidents is tied to 1. the interactive complexity of a system (more parts or more people interacting = higher risk) and 2. the degree of coupling in the system (tight coupling, with little capacity to accommodate things going wrong = higher risk). Normal accident theory was first applied to officer involved shootings by [David Klinger \(2005\)](#) and recently more formally by [Bryan Vila et al.](#)

Fyfe's rules:

1. Officers should keep a safe distance away from EDPs (emotionally disturbed persons) and otherwise avoid putting themselves in harm's way when handling EDPs.

[more distance = looser coupling. Better able to accommodate errors/unexpected actions]

2. Officers should avoid unnecessary and provocative displays or threats of force.

3. An officer should try to avoid confronting an EDP while alone and should always make sure that back-up assistance is called so that the EDP can be contained at the same time that bystanders are cleared away.

[clearing bystanders reduces complexity of the system, though backup officers increase complexity]

4. One officer (the talker) should be designated to talk to the EDP, and everybody else on the scene should "shut up and listen."

[reduction in complexity]

5. Officers should make sure that the talker is in charge of the scene and that nobody takes unplanned action unless life is in immediate danger.

[reduction in complexity. retain the benefit of backup officers while ameliorating the additional risk created by having more officers present]

6. Officers should make sure that the talker does not threaten the EDP, but instead makes it plain that the police want to help him or her and that the way to accomplish this is for the EDP to put down any weapons and to come with the police for help.

7. Officers should take as much time as necessary to talk EDPs into custody, even if this runs into hours or days.

[allowing as much time as needed = more slack/less pressure/looser coupling]

NYPD policy appears to largely be based on Fyfe's rules, with some additional elements. One key addition - the officer in charge is required to "Establish firearms control.

a. Direct members concerned not to use their firearms or use any other deadly physical force unless their lives or the life of another is in imminent danger."

REPORT OF: CCOC Subcommittee on Police and Community Relations

TITLE: Recommendations on police policies and procedures

DATE: March 9, 2017

Introduction

The Common Council Organizational Committee Subcommittee on Police and Community Relations (the Subcommittee) held its first meeting on September 14, 2016 and confirmed the following objectives:

- a) Provide a forum for residents and members of the Council to discuss police and community goals, priorities and interactions. Build a deeper understanding of policing for elected officials and members of the public; and,
- b) Explore models and options from other communities related to policing and other police policies; and,
- c) Provide a forum for information sharing regarding police training, policies, data and trends including detailed presentations from the MPD related to policing; and,
- d) Make recommendations to the Council on short-term policy, procedure and training while waiting for the results of the Ad Hoc Review of Police Policies and Procedures.

Ald. Marsha Rummel chairs the Subcommittee and Ald. Shiva Bidar-Sielaff serves as vice chair. Ald. Rebecca Kemble, Ald. Sheri Carter and Ald. Denise DeMarb are members of the Subcommittee.

Overview of Activities

The PCR Subcommittee has received several presentations from experts on policing including the following:

- o A presentation from Capt. James Wheeler and Sgt. Erik Fuhreman on the City of Madison Police Department (MPD) investigation and discipline process, and
- o A presentation from City Attorney Michael May and Assistant City Attorney Marci Paulson on the division of legal authority between the Police Chief, the Mayor and the Council in the operation of the police department, and
- o A presentation from Capt. James Wheeler and Capt. Kristen Roman on the 2016 Special Community/Police Task Force Recommendations Regarding Police 'Use of Force'. The Report was issued jointly by the United Way of Dane County, the Dane County Chiefs of Police Association and the Dane County Branch of the NAACP. The City of Madison and MPD had also contributed to the development of the Report and recommendations, and
- o A presentation from State Representative Chris Taylor regarding statewide use of force proposals as well as best practices from other communities, and

- o A presentation from Freedom Inc, regarding community control of the police, and
- o A presentation from the ACLU regarding surveillance technologies.
- o A presentation from Collen Clark, Equity and Criminal Justice Council Coordinator regarding the efforts of the Dane County Criminal Justice Council to expand collaboration, data driven justices and innovation.
- o A presentation from Sgt. Kimba Tieu on the MPD's Use of Force policies and procedures.

The PCR Subcommittee has also reached out to neighborhood associations directly with a short survey. The goal of the survey is to understand the types of cooperative activities neighborhood associations have with MPD and to learn more about existing neighborhood watch programs as well as perceptions of public safety.

Madison Police Oversight Committees

Madison Police and Fire Commission	Public Safety Review Committee	Madison Police Department Policy and Procedure Review Ad Hoc Committee	Common Council Organizational Committee Subcommittee on Police and Community Relations
Permanent, established by WI Statute	Permanent, established by Common Council	Temporary, established by Common Council	Temporary, established by Common Council
Madison General Ordinance Sec. 33.06 and State Statutes 62.13 - Appoints the chief of each department; approves or disapproves promotions and supervision of the hiring process, with certification of an eligibility list and approval of those who are finally hired; holds hearings on disciplinary matters brought to its attention either directly or through appeal and imposes discipline if appropriate.	Madison General Ordinance Sec. 33.22 - The board shall be advisory to the mayor and Common Council to assist them in the performance of their statutory duties. The board may review and make recommendations concerning departmental budgets; review service priorities and capital budget priorities of the Police and Fire Departments; serve as liaison between the community and the city on public safety issues; and review annually and make recommendations to the Common Council regarding the annual work plans and long-range goals of the departments.	The Committee's objective is to complete a thorough review of the Madison Police Department's policies, procedures, culture and training using the report, other resources and testimony. Creating resolution RES-15-00477, File ID# 37863; effective 5/21/2015	The Subcommittee's objective is to provide a forum for residents, to share information on Madison policies and procedures, to explore police policies and procedures from other communities, and to make short-term policy recommendations while waiting for the results of the Madison Police Department Policy and Procedure Review Ad Hoc Committee. Established 9/14/2016.

Recommendations

The following is the list of indentified issues, findings and recommendations:

Addressing mental health and substance abuse issues

Issue: The majority of officer-involved shootings in the last 3 years in the City of Madison have involved a person with a mental health issue or intoxication.

Recommendation 1: Increase the level of training for officers to interact with people experiencing a mental health crisis or intoxication.

Recommendation 2: Hire social workers to work with officers in every district on every shift.

Recommendation 3: Establish policies for mental health teams.

Use of Force Policies

Issue: The Madison Police Department Use of Force Policies do not include the following precautions which are contained in similar policies from other police departments: a duty to preserve life, use of deadly force only as a last resort, the principle of proportionality, the duty to intervene with another officer, nor the duty to de-escalate a situation.

Recommendation 1: The Council will direct the Chief of Police to incorporate these precautionary principles, as identified by Rep. Chris Taylor into the MPD Use of Force policy.

Recommendation 2: Policies will also include a clear requirement that officers will wait for backup if alone, unless there is an immediate threat to an officer and they are facing imminent fatal threat within 7'.

Oversight of Internal Investigations

Issue: Internal review may be perceived as biased, especially in cases of officer-involved deaths.

Recommendation 1: Every MPD internal investigation of an officer-involved death will be audited by an external reviewer.

Safety in numbers

Issue: Officers are at higher risk when working alone, and may be more likely to use deadly force because of that risk.

Recommendation: MPD policy should state that two officers should be working together if at all possible.

Communication with City Council:

Issue: The MPD and Council could work together more closely if communication was enhanced.

Recommendation: Chief of Police will provide quarterly written and verbal updates to City Council (verbal as a standing quarterly agenda item at either Council or the Common Council Organizational Committee) to include the following information; 1) any changes to Code of conduct and SOP, 2) any changes in training, 3) any new initiatives, 4) MPD arrest data by reason for arrest and race/ethnicity, and 5) use of force incidents.

Conclusion

The Subcommittee achieved the objectives established in September 2016 and has created a suite of recommendations for the Common Council. A resolution and full report will be introduced to the Council along with this Executive Summary.

REPORT OF: CCOC Subcommittee on Police and Community Relations

TITLE: Recommendations on police policies and procedures

DATE: April 10, 2017

Introduction

The Common Council Organizational Committee Subcommittee on Police and Community Relations (the Subcommittee) held its first meeting on September 14, 2016 and confirmed the following objectives:

- a) Provide a forum for residents and members of the Council to discuss police and community goals, priorities and interactions. Build a deeper understanding of policing for elected officials and members of the public; and,
- b) Explore models and options from other communities related to policing and other police policies; and,
- c) Provide a forum for information sharing regarding police training, policies, data and trends including detailed presentations from the MPD related to policing; and,
- d) Make recommendations to the Council on short-term policy, procedure and training while waiting for the results of the Ad Hoc Review of Police Policies and Procedures.

Ald. Marsha Rummel chairs the Subcommittee and Ald. Shiva Bidar-Sielaff serves as vice chair. Ald. Rebecca Kemble, Ald. Sheri Carter and Ald. Denise DeMarb are members of the Subcommittee.

Overview of Activities

The Subcommittee has received several presentations from experts on policing, including the following:

Internal Investigations and Discipline

On Monday October 17, 2016, Capt. James Wheeler and Sgt. Erik Fuhreman presented information on the City of Madison Police Department (MPD) investigation and discipline process. The officers detailed the process MPD uses to conduct investigations of police misconduct. The vast majority of investigations are handled internally under the leadership of Professional Standards/Internal Affairs (PS/IA). PS/IA is staffed with two officers who rotate into that position for a period of two years.

On occasion, special investigations may be conducted by other departments as ordered by the Chief. All officer involved deaths are investigated by the State Department of Criminal Investigation. MPD compiles summary information regarding sustained complaints that resulted in discipline in a quarterly report to the Police and Fire Commission. The reports include a final

disposition of complaints. However, other information, such as the number of complaints deemed 'non-sustained,' is not readily available to the public.

Legal Authority of the Council Related to the Madison Police Department

On Wednesday November 9, 2016, City Attorney Michael May and Assistant City Attorney Marci Paulson presented information regarding the division of legal authority between the Police Chief, the Mayor and the Council in the operation of the police department. The City Attorney referenced a report concerning the legal authority of the Council to prevent MPD from utilizing tasers. The report to the Mayor and the Common Council dated April 7, 2005 explains that “[t]here is nothing in the law that prohibits the Mayor and Common Council, by means of an adopted resolution, from requesting that the Police Department cease engaging in a particular practice. The Police Chief is then free to consider such request and exercise his discretion to accept or reject it based upon his assessment of its wisdom, usefulness, practicality, hazard and other such relevant criteria.” The memo goes on to explain that these are not simple questions.

The memo concluded with the statement that Common Council likely has the authority to adopt a resolution prohibiting the use of tasers, however there are legal reservations. “Having the Council interject itself into areas which call for technical law enforcement expertise ... may not ultimately be the most prudent and safest course of action for officers and citizens alike. However, the Council’s authority is not limited merely to those actions which outsiders might believe are wise or correct – otherwise its jurisdiction would be unnaturally narrowed indeed.”

Implementation of the United Way/MPD Task Force Report on Use of Force

On November 21, 2016, Capt. Kristen Roman presented information about the 2016 Special Community/Police Task Force Recommendations Regarding Police ‘Use of Force.’ The United Way of Dane County, the Dane County Chiefs of Police Association and the Dane County Branch of the NAACP issued the report. The City of Madison and MPD contributed to the development of the Report and recommendations.

Since the publication in February of 2016, MPD has implemented some of the recommendations of the report including creating a new Use of Force Coordinator position to track all use of force incidents and provide regular reporting to the Chief on these incidents. Sgt. Kimba Tieu is the new Coordinator and he presented to the Subcommittee at a later date. The Department acquired new software, IA Pro, which provides data management for internal investigations. The Department also developed a new foot pursuit policy and a new Standard Operating Procedure (SOP) on de-escalation.

Use of Force Policies from Other Communities

On December 13, 2016, State Representative Chris Taylor presented her research regarding best practices from other communities and her planned legislative proposals to change use of force policies across WI. She highlighted several principles found in policies and procedures in other communities that she deemed important for Wisconsin communities. Representative Taylor highlighted the following principles:

- *A duty to preserve life* is included as part of NYPD policy. The MPD policy recognizes the “value of life” but does not affirm a duty to preserve life.
- *Deadly force as a last resort* is part of the Department of Justice guidelines. The U.S. DOJ guidelines say that deadly force is reasonable when all other means have failed or would

be likely to fail. Madison’s deadly force policy says that such force is authorized when “an officer reasonably believes a lesser degree of force would be insufficient.”

- *The principle of proportionality* is the requirement to only respond at the level of threat. This principle is not included in MPD’s use of force policies.
- *Tailored guidelines for managing resistant subjects who may be mentally ill or intoxicated.* NYPD has an extensive policy related to “emotionally disturbed persons” or EDPs. The NYPD policy provide guidelines for officers to assess, de-escalate, create safety zones, and “if the emotionally disturbed person is armed or violent, no attempt will be made to take the EDP into custody without the specific direction of a supervisor unless there is an immediate threat of physical harm to the EDP or others present.”¹

A Proposal for Community Control of the Police

On Monday January 18, 2016, representatives of Freedom Inc, provided a presentation of their proposal regarding community control of the police. The proposal would restructure policing districts to reflect “existing social cohesion of neighborhoods and communities therein.” The residents of those districts would then vote on whether they would like to retain the existing police department or replace the department with a force controlled by district residents. New forces would be run by a Community Police Control Board with the power to establish policies and priorities. Members of the Control Board would be chosen randomly from the districts rather than elected or appointed. Freedom Inc. stated that this proposal is legally plausible under existing state statute § 62.13(2e) which “allows cities to forgo the traditional police department and accompanying board in favor of a Combined Protective Services department.”²

Surveillance Technologies and Policies

Also on January 18, 2016, representatives from the ACLU provided a presentation on surveillance technologies and related policies. The ACLU shared information about new technologies related to video and audio surveillance as well as GPS and drones now in use by some police departments. The ACLU provided a proposal for the City of Madison to consider clarifying rules related to the acquisition, purchase, and use of technology, as well as the management of surveillance technology and data.

Dane County’s Efforts to Reduce Disparities in Arrests

On Thursday February 16, 2017, Colleen Clark-Bernhard, Equity and Criminal Justice Council Coordinator presented information on the initiatives from the Dane County Criminal Justice Council (CJC) to expand collaboration, data driven justice, and innovation. The CJC has focused on improving data management and capabilities as the foundation of their work and in 2016 hired a research analyst in the County Board Office to add analytical capacity to address issues of equity and transparency. Also in 2016 the CJC announced their partnership with the White House Data Driven Justice Initiative to use data to divert people with mental illness away from the criminal justice system and into community based treatment. Additionally, Dane County is expanding the Community Restorative Court to all of Dane County. This is an existing area of collaboration with Madison and Dane County which may have opportunity to grow as the CRC serves more local residents.

¹ NYPD Patrol Guide Tactical Operations Procedure No: 221-12 Mentally Ill or Emotionally Disturbed Persons. Issued 06/01/2016.

² Freedom Inc. Community Control Over the Police Brochure.

<https://madison.legistar.com/View.ashx?M=F&ID=4970445&GUID=892D6EDB-7B83-4727-90AF-D35A1B70B570>

Weapons and Use of Force and Use of Deadly Force Policies at MPD

On March 2, 2016 at a special meeting of the Common Council (not a meeting of the Subcommittee), Sgt. Kimba Tieu presented a demonstration of the tools in an officers' belt including a taser, baton, hobble restraints, pepper spray, shotguns with non-lethal rounds and hand guns. Sgt. Kimba Tieu also presented the SOPs and answered questions regarding MPD's Use of Force policies and procedures. Sgt. Tieu explained that MPD believes that policing is done in partnership with the community. All use of force data is now available on the MPD website and that Sgt. Tieu is responsible for these data as the Use of Force Coordinator. He is watching for trends in these tactics and seeking to determine whether officers are getting hurt using a particular type of force or whether one type of force is more or less effective. When asked about specific scenarios and use of force Sgt. Kimba reiterated that officers are authorized to use force if they are acting "reasonably" given the totality of circumstances.

IA Pro Software (internal investigations software)

On Monday March 20, 2017 Lt. Amy Chamberlin and Assistant Chief Vic Wahl presented detailed information on the implementation of IA Pro Software and the plan to implement an Early Warning System utilizing the IA Pro Software to support internal investigations and personnel management. The program has been in place for one year and all complaints and all use of force data have been entered into the system since 1/1/2016. The data is reviewed daily and the Chief is briefed every Monday on the data. Some of the other data entered into the system include information related to pursuits, squad crashes, use of force, as well as audit results related to squad cars, email and messages. IA Pro allows PS/IA the ability to monitor officers who are on probation or "work rules". IA Pro has a great deal more capability than is currently in use. PSIA is looking at how best to utilize IA Pro to implement an Early Warning System.

Neighborhood Associations Weigh In

The Subcommittee has also reached out to neighborhood associations directly with a short survey. The goal of the survey is to understand the types of cooperative activities neighborhood associations have with MPD and to learn more about existing neighborhood watch programs as well as perceptions of public safety. Over 26 neighborhood associations responded. The most frequent public safety concerns cited were pedestrian safety and traffic/speeding issues as well as petty theft from autos/garages at night. Other public safety concerns cited by more than one neighborhood included gun violence, vagrancy, home burglaries, vandalism, and drug violence/activity. Many neighborhood associations noted that they have frequent positive interactions with MPD though few have certified neighborhood watch programs.

Recommendations

The Subcommittee reviewed a wide range of subjects relating to community and police relations throughout the course of their work. As a result, the Subcommittee noted that some of the issues are most appropriate for consideration by the Madison Police Department Policy and Procedure Review Ad Hoc Committee, while other issues could be addressed to the Common Council of the City of Madison.

The first set of recommendations are intended to be presented to the Common Council of the City of Madison. These recommendations are within the purview of the Common Council to implement in the short-term. The second set of recommendations is intended to be provided to the MPD Policy and Procedure Review Ad Hoc Committee for possible inclusion in their final report and recommendations. These latter recommendations require a more in-depth understanding and familiarity with police policies and procedures to evaluate and refine the recommendations.

Recommendations for the City of Madison Common Council

1. Surveillance Policies

Issue: Surveillance technologies are rapidly expanding governmental capabilities to gather data on individuals. The City of Madison values the principles of transparency, oversight and accountability and seeks to ensure that residents' civil rights and civil liberties are protected even as the city utilizes surveillance technology to protect public safety. A comprehensive policy governing the purchase and use of surveillance technology is required to ensure these protections.

MPD does have a policy governing use of audio and video surveillance. However, the City of Madison does not yet have citywide surveillance policies. Departments outside of MPD may purchase their own surveillance equipment or utilize equipment borrowed from other departments; this usage is not governed by any existing framework. The proposed policies would address all city employees' and departments' purchase and use of surveillance equipment.

Recommendation: The Subcommittee recommends the Common Council develop a policy governing the purchase and use of all surveillance equipment employed by all City Agencies including MPD. The policies will also address data management and storage.

2. Safeguarding People Exhibiting Signs of Mental Illness or Intoxication Who Are Resistant to Medical Assistance or Arrest

Issue: The majority of officer-involved shootings in the last 3 years in the City of Madison have involved a person with a mental health issue or an intoxicated person. The Subcommittee would appreciate further clarification of policies relating to people exhibiting signs of mental illness or intoxication who are resistant to medical assistance or arrest.

The MPD SOP on Mental Health Incidents/Crises (12/22/2016) provides some degree of guidance related to this issue. The SOP describes the value in de-escalating crisis situations, the role of Mental Health Officers and the process to assess a person in crisis. However, the SOP does not detail tactics or procedures to de-escalate the situation or establish safety for all persons affected by the situation. A specific protocol is needed to clarify how an officer should interact with resistant people in crisis.

Recommendation: The Common Council of the City of Madison will request that MPD issue a SOP that explicitly details the goals, tactics, policies, and procedures to deal with a person in crisis who is resistant to medical assistance or arrest. The Subcommittee would request that MPD consider incorporating Fyfe's principles for interacting with resistant incapacitated subjects. Those principles include 1) keeping a safe distance, 2) avoiding unnecessary and provocative displays of force, 3) working with back-up, 4) one officer should interact with the subject, others should remain quiet, 5) the officer interacting with the subject is in charge, no one else should take unplanned action, 6) make it clear officers are there to help not threaten, and finally 7) officers should take as much time as necessary for an arrest, even hours or days if that is that is what is required.³

3. Use of Force Policies

Issue: The Subcommittee found that the principles of de-escalation and the duty to intercede are included in certain MPD policies but are not incorporated into the MPD Use of Force and Use of Deadly Force policies. Incorporation of these principles into the Use of Force policies would clarify the duties of officers to put these principles into action especially in scenarios that may require force.

De-escalation tactics and techniques are actions used by officers which seek to minimize the likelihood of the need to use force during an incident. Officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution. The duty to intercede is the principle that Officers have a duty to stop other officers who are using excessive force and report them to a supervisor.

Recommendation: The Common Council of the City of Madison will request that the MPD issue updated MPD Use of Force and the Use of Deadly Force policies that explicitly incorporate the duty to intercede and de-escalate.

4. Waiting for Back-Up

Issue: Officers are at higher risk, and may be more likely to use deadly force because of that risk, when they engage alone in a situation in which there may potentially be a resistant subject.

Recommendation: The Subcommittee requests MPD to reinstate a back-up policy most recently utilized in November 2016. That policy required officers to wait for backup before physically

³ Fyfe, James J. PhD. Policing the Emotionally Disturbed. Journal of American Academy of Psychiatry and the Law. 28:345-7, 2000

approaching any involved subject(s), unless an officer reasonably believes there is a substantial risk of bodily injury to any person(s).⁴

"Officers shall not disregard backup, if so assigned by dispatch. Additionally, officers shall wait for backup before physically approaching any involved subject(s), unless an officer reasonably believes there is a significant risk of bodily injury to any person(s)."

5. Communication with City Council

Issue: MPD and the Council could work together more closely if communication was enhanced. The Subcommittee found great value in the presentations from MPD relating to internal investigations, use of force, data analysis with IA Pro software and implementation of the community task force recommendations on use of force. The Council recognizes that MPD is a department that generates a high level of interest for members of the public and hopes that increased reporting will allow for greater understanding and transparency of the work of MPD.

Recommendation: Chief of Police will provide quarterly written and verbal updates to City Council (verbal as a standing quarterly agenda item at either Council or the Common Council Organizational Committee) to include the following information: 1) any changes to Code of conduct and SOP, 2) any changes in training, 3) any new initiatives, 4) MPD arrest data by reason for arrest and race/ethnicity, 4) parking enforcement revenues, and 5) use of force incidents.

⁴ The current MPD policy related to back-up states, *"Officers shall not disregard backup, if so assigned by dispatch, prior to arrival at the scene and assessment of the situation."*

AD HOC COMMITTEE RECOMMENDATIONS

Oversight of Internal Investigations

Oversight of internal investigations may take many forms. Two ideas presented here include an audit mechanism of internal investigations and external investigations of complaints.

Investigations into police misconduct are traditionally handled internally, however all officer-involved deaths are investigated independently by the State Department of Criminal Investigation. The majority of Madison cases are handled internally in the City of Madison by the MPD PS/IA. The City of Madison PS/IA Office is staffed by officers who serve on two-year rotations before returning to other posts.

Cities such as Portland, Los Angeles and Tucson utilize auditors outside of the police departments⁵ to provide reviews and reports of the investigation process by their police departments and to provide recommendations on a regular basis. Such a system provides the benefits of external accountability at a minimal cost. The auditor would regularly review the process for submitting complaints, investigating and disposing of complaints. Such an auditor can help provide the public and elected officials with an impartial analysis of the department's handling of complaints.

Alternatively the City may consider external investigations. Given the public interest surrounding policing and the public's frequent demand for independent investigations into misconduct, a policy which directs an external investigator to investigate certain complaints may enhance community trust. There is also a benefit to innocent officers when they are investigated externally. Officers declared innocent of the complaint charge by an external body are more likely to be considered innocent by the public, rather than those officers declared innocent by their own departments. External investigations may "help reassure a skeptical public that the department already investigates citizen complaints thoroughly and fairly."⁶ The City may consider hiring an investigator to investigate complaints submitted to the PFC so that an external report on the facts of a complaint case may be provided to the Police and Fire Commissioners for review.

Early Intervention Warning System

Early Warning Systems, also called Early Intervention Systems, are tools to monitor officers who are frequently the subject of citizen complaints or demonstrate behavioral issues. Early Warning Systems are becoming increasingly popular, as of 1999 the most recent survey on early warning

⁵ The Portland Auditor is tasked with reviewing investigations of police conduct as well as managing reviews for other city agencies. The Portland Auditor Mary Caballero is elected to her position and has a background in auditing performance management. <https://www.portlandoregon.gov/auditor/27392>. This is not staffed by former law enforcement.

The Tucson Independent Police Auditor is managed by a long-time city employee who previously investigated equal opportunity claims and has an investigator on staff. This is not staffed by former law enforcement.

<https://www.tucsonaz.gov/manager/independent-police-auditor-civilian-investigator>

The Los Angeles Audit Division was established in 2001 as a result of the Consent Decree and is now staffed by over 30 sworn officers and civilian professionals including CPAs, fraud examiners, an professional auditors.

http://www.lapdonline.org/inside_the_lapd/content_basic_view/8772

⁶ Peter Finn. Citizen Review of Police: Approaches and Implementation. U.S. Department of Justice. National Institute of Justice March 2001. NCJ 184430.

systems, 39% of all police forces serving communities of more than 50,000 have a system in place or are planning to implement one.⁷ The City of Madison Police Department has purchased police data tracking system called IA Pro, which includes the capabilities of an Early Intervention Warning System. As the Department prepares to implement the early intervention program within IA Pro, it will be valuable to monitor the use of the tool.

The Ad Hoc Committee may consider working with MPD to further explore the IA Pro capabilities in this regard. In addition, the Ad Hoc Committee may be interested in speaking with the University of Chicago Data Science for Social Good statisticians to better understand the opportunity to collaborate on developing a predictive early warning system.

Root Cause Analysis

The National Transportation Safety Board and many hospitals utilize root cause analysis processes to determine the factors that may have contributed to an adverse event such as a plane crash or an outbreak of disease. The purpose of root cause analysis is not to assign blame but to enable complex organizations to identify opportunities for improvement. The Subcommittee encourages the Ad Hoc Committee to consider the value of a root cause analysis process and protocol for MPD to examine critical incidents and broader trends. Such a system would require robust data analytics, which may be available through expansion of the IA Pro system or other data systems.

Use of Force Policies

Use of Force policies are of particular interest to the Subcommittee. In the near term, the Subcommittee will encourage the Council to request that MPD to incorporate de-escalation and the duty to intervene into the MPD Use of Force Policies (see previous section). These concepts are present in other MPD SOPs. Similarly, the Subcommittee will encourage the Council to request that MPD develop a new policy specifically for interactions with resistant subjects in crisis (see previous section).

In addition, the Subcommittee wanted to make note of the research provided by Representative Chris Taylor. Rep. Taylor highlighted the principles of the a duty to preserve life, use of deadly force only as a last resort, and the principle of proportionality. The Dallas Police have focused on de-escalation, proportionality and preserving life and have seen a drop in excessive force complaints and officer involved shootings from 2010. These principles may prove useful in the evaluation and recommendations of the Ad Hoc Committee.

Increasing Supports for MPD Officers Interacting with Incapacitated Individuals

The Subcommittee identified other possible supports for MPD officers interacting with incapacitated people. The Subcommittee would encourage further investigation into the types of training and on-going training strategies that will improve interactions with intoxicated people or those experiencing a mental health crisis. The ProTraining (Edmonton Model) has been presented to the committee as an effective training model. The Subcommittee would also like to learn more about the opportunities to hire social workers to work with officers to support interactions with incapacitated people.

⁷ Shultz, Ashley. Early Warning Systems: What's New? What's Working. CNA Analysis & Solutions. December 2015. https://www.cna.org/cna_files/pdf/CRM-2015-U-012182.pdf

Conclusion

The Subcommittee achieved the objectives established in September 2016 and has created five recommendations for the Common Council. Those recommendations include calling for;

1. a new city-wide surveillance technology and data policy,
2. a policy for interactions with resistant subjects incapacitated by drugs or alcohol or experiencing a mental health crisis,
3. clarifying use of force policies,
4. reinstating a recent back-up policy, and
5. enhancing and regularizing communication with the Common Council.

These recommendations are short-term policy recommendations which are designed for consideration before the completion of the work of the Ad Hoc Committee. The Subcommittee also evaluated several other areas of interest and hopes that this report will serve as a resource. The Subcommittee learned a great deal through its work and wishes to express its gratitude residents of Madison, the Madison Police Department, the Ad Hoc Committee and the Common Council for their participation and support of this effort.

APPENDIX

Madison Police Oversight Committees

Madison Police and Fire Commission	Public Safety Review Committee	Madison Police Department Policy and Procedure Review Ad Hoc Committee	Common Council Organizational Committee Subcommittee on Police and Community Relations
Permanent, established by WI Statute	Permanent, established by Common Council	Temporary, established by Common Council	Temporary, established by Common Council
Madison General Ordinance Sec. 33.06 and State Statutes 62.13 - Appoints the chief of each department; approves or disapproves promotions and supervision of the hiring process, with certification of an eligibility list and approval of those who are finally hired; holds hearings on disciplinary matters brought to its attention either directly or through appeal and imposes discipline if appropriate.	Madison General Ordinance Sec. 33.22 - The board shall be advisory to the mayor and Common Council to assist them in the performance of their statutory duties. The board may review and make recommendations concerning departmental budgets; review service priorities and capital budget priorities of the Police and Fire Departments; serve as liaison between the community and the city on public safety issues; and review annually and make recommendations to the Common Council regarding the annual work plans and long-range goals of the departments.	The Committee's objective is to complete a thorough review of the Madison Police Department's policies, procedures, culture and training using the consultant report, other resources and testimony. Creating resolution RES-15-00477, File ID# 37863; effective 5/21/2015	The Subcommittee's objective is to provide a forum for residents, to share information on Madison policies and procedures, to explore police policies and procedures from other communities, and to make short-term policy recommendations while waiting for the results of the Madison Police Department Policy and Procedure Review Ad Hoc Committee. Established 9/14/2016.