

Dear CCOC Subcommittee members,

3/20/17

I'm writing with some suggestion regarding your draft recommendations. A number of them express very worthwhile ideas (a valid starting point to work from), but require modification to have utility.

I believe it's essential that you extend your current deadline, to give yourselves more time to craft useful recommendations.

1. Some recommendations are attempting to address problems that genuinely need to be addressed, but as currently written are too vague to have utility (to bring about the desired outcomes).

That's true with some of the sub-recommendations in "Addressing mental health and substance abuse issues"

11 of the last 12 MPD officer involved shootings have been of people incapacitated by mental illness and/or chemically. It is indeed a very serious problem that needs to be addressed.

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

But what does this recommendation actually mean? What does it actually do? Will it actually improve the problem?

Note that the rate of MPD officer involved shootings of people who are mentally ill or chemically incapacitated has been increasing over the same period of time that MPD has been increasing/expanding Crisis Intervention Training (now required of all incoming recruits). Simply increasing the level of such training is not working.

The officer who engaged in excessive use of force in the Genele Laird case was actually an MPD Mental Health Liaison Officer – he'd received the highest level of Crisis Intervention Training.

Randomized controlled trials of Crisis Intervention Training have, so far, basically failed to show a reduction in use of force as a result of the training.

You need a recommendation that addresses the variables that matter for effective training – the type of training, the frequency, whether all officers receive training, etc. You need to find language that will actually make a difference.

I've been advocating incorporation of ProTraining (the Edmonton Model), since: 1. There's some evidence base for its efficacy in reducing use of force with people with mental health issues, 2. Unlike much standard crisis intervention training, it's specifically designed to change officer behavior (to reduce use of force and improve the quality of interactions). 3. It's time efficient – only requiring a very limited number of hours (so can be added on to conventional crisis intervention training). 4. It provides a generalized practical skill set for handling people in crisis, rather than emphasizing intellectual knowledge of mental illness.

I've documented ProTraining more in prior e-mails.

If you want more general language, rather than referring to ProTraining per se, you perhaps could ask for training that's evidence-based and specifically designed to modify officer behavior to reduce use of force on people with mental health issues.

The frequency of training is also key. In general crisis intervention training is given once. But the science shows that refresher training is critical. Some police departments are now having all officers do repeat crisis intervention training every three years. And ProTraining is designed to have a refresher every three years.

The last recommendation in the set under "Addressing mental health and substance abuse issues" is also very vague: "Recommendation 3: Establish policies for mental health teams."

What's really needed, to reduce the disastrous use of force outcomes that have been occurring, is policy specifically addressing handling of resistant people with mental health and substance abuse issues. MPD has policy for dealing with mentally ill subjects (e.g. to help guide officers in assessing whether someone needs treatment). But specific policy to prevent tragic use of force outcomes with resistant mentally ill subjects is completely lacking. It's crucial that policy gap be rectified.

Some language from an early policy draft Chris Taylor's office was working on a few months ago:

*"Emotional Disturbances: Treat the arrest of a subject exhibiting symptoms of a drug-induced psychosis or a psychotic episode as a medical emergency.<sup>1</sup> Adopt NYPD approach to these situations.<sup>2</sup> 1. Based on Dallas PD*

*language: <http://static1.squarespace.com/static/56996151cbced68b170389f4/t/569ad58a0e4c1148e6b1079b/1452987794280/Dallas+Use+of+Force+Policy.pdf> 2. <http://www.nyc.gov/html/ccrb/downloads/pdf/2016pg/pg221-13-mentally-ill-emotionally-disturbed-persons.pdf> "*

Here's some alternative draft language for "**Addressing mental health and substance abuse issues**"

**Issue: The vast majority of officer-involved shootings in the last decade 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. Specifically:**

**a. Increase training with mental health training systems that are evidence based and designed to alter behavior of officers to reduce use of force and improve the quality of interactions. [alternative language for this point: Incorporate use of the ProTraining mental health training system, given its evidence of efficacy in improving outcomes.]**

**b. Provide mental health training to all officers.**

**c. Provide periodic refresher training to all officers.**

**Recommendation 2: Hire social workers who have expertise in mental health and substance abuse issues to work with officers in every district on every shift.**

**Recommendation 3: Develop specific policy for responding to, and averting adverse outcomes with, resistant subjects with mental health or substance abuse issues. Adopt James Fyfe's Principles and NYPD's approach for such situations. Treat the arrest of a subject exhibiting symptoms of a drug-induced psychosis or a psychotic episode as a medical emergency.**

2. The "Use of Force" recommendations also need modification. It's not correct that MPD currently has none of these provisions in its policy. Moreover, the current draft language is too vague. Furthermore, the "backup" provision (currently recommendation 2 in this set) would be unrealistic in practice. 7 feet doesn't account for needed reaction time. There's a valid idea that officers should wait for backup before engaging. There's a valid idea that the threshold for use of deadly force should be "immediate threat" rather than the less restrictive "imminent threat" (which MPD currently uses). Though it's internally inconsistent, since both terms are used in the recommendation. It's not viable as written.

Here's alternative language for this section. I've removed language about waiting for backup – it can be addressed elsewhere.

**Use of Force Policies** "Issue: The Madison Police Department Use of Force Policies do not include precautionary principles which reduce the likelihood of adverse outcomes and which are contained in similar policies from other police departments. Recommendation: The Council will direct the Chief of Police to incorporate the following precautionary principles, as identified by Rep. Chris Taylor, into the MPD Use of Force and Use of Deadly Force policies: 1. **Duty to Preserve Life:** The primary duty of all members of the service is to preserve human life, including the lives of individuals being placed in police custody.

2. **Necessity:** Deadly force should only be used as a last resort. The necessity to use deadly force arises when all other available means of preventing immediate and grave danger to officers or other persons have failed or would be likely to fail.
3. **Proportionality:** It is this department's policy to accomplish the police mission with the cooperation of the public, with minimum reliance upon the use of physical force. When force is needed, the force used shall be in proportion to the threat posed.
4. **Reassessment:** Officers shall reassess the situation after each discharge of their firearm.
5. **Totality of officer conduct:** The reasonableness of an officer's use of force includes consideration of the officer's tactical conduct and decisions leading up to the use of force. Police officers shall ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions. It is often a tactically superior police procedure to withdraw, take cover or reposition, rather than the immediate use of force.
6. **Immediate threat:** Deadly force is only authorized if the threat is immediate. A threshold of "immediate threat" reflects language in United States Supreme Court decisions. The latest model use of force policy published by the International Association of Chiefs of Police eliminates the term "imminent". In addition, the following precautionary principles, which are addressed elsewhere in MPD policy, should be explicitly referenced in the MPD Use of Force and Use of Deadly

## **Force Policies.**

- 7. De-escalation: 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. 8. Duty to Intercede: Officers have a duty to intercede to stop other officers who are using excessive force and report them to a supervisor.**

3. "Safety in Numbers" states "MPD policy should state that two officers should be working together if at all possible." Though the motive behind this is good (and indeed I think it's important to wait for backup before approaching situations), mandating that everything (patrol, etc.) be done in pairs would decrease coverage and exponentially increase political pressure to hire many more officers (at the expense of other essential city services). Moreover, former Chief David Couper strongly sees such a practice as bad policy because if cops are always in pairs, they'll be talking to each other rather than to residents. One illustration of this problem can be seen in what's happening with MPD's "Community Policing Teams" – MPD converted most Neighborhood Officer positions into Community Policing Team positions, to the great detriment of its community policing efforts.

I am strongly opposed to this policy recommendation. However, the valid idea behind it is worth noting. Richmond CA greatly decreased its rate of officer involved shootings, and that department believes one key to this was a shift in training in policy to emphasize the need to wait for backups before engaging. MPD now has a policy provision that specifies that officers should wait for backup before engaging.

MPD implemented a policy requiring that officers wait for backup, but then subsequently weakened the policy (i.e. under the newest policy, you can't just disregard backup, but there's no longer language really requiring officers to wait for backup before physically approaching).

On Nov 16 the key passage in dispatch policy was changed from this:

*"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)."*

to this:

*"Officers shall not disregard backup, if so assigned by dispatch, prior to arrival at the scene and assessment of the situation."*

Simply verbally acknowledging the backup officer over radio (prior to arrival at the scene), then proceeding to physically approach the subject alone, would appear to satisfy the newest policy.

For the "Safety in Numbers" section, you may wish to recommend that MPD revert to its original (more restrictive) backup policy. Of course, some people may complain – why is a responding officer just standing around and not doing anything. But the benefit, in reducing adverse outcomes, may be substantial.

Potential alternative language for the "**Safety in Numbers**" section:

**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: Training and policy should strongly emphasize waiting for backup, rather than engaging alone. Policy should specify that officers shall wait for backup before physically approaching any involved subject(s), unless an officer reasonably believes there is a substantial risk of bodily injury to any person(s).**

4. I've previously noted other potential recommendations (e.g. implementing a predictive early intervention system, on top of the IAPro system, by collaborating with University of Chicago's Data Science for Social Good program). I sent you all a compilation of some potential recommendation on 3/1/2017.

One potential recommendation of particular merit that I'd like to again point out. The Police Executive Research Forum (the premier U.S. policing think tank) has developed a wonderful set of guidelines for reducing the number of deadly force incidents.

Last week, Herman Goldstein (the internationally famous originator of Problem Oriented Policing – a Professor Emeritus at UW Law School, who happens to live right here in Madison) and Cecelia Klingele (also of UW Law School) provided testimony to the Ad Hoc Police Review Committee. One point that was emphasized was, that if there's only one thing committee members should read in full, it should be PERF's 30 Guiding Principles on Use of Force. I've attached a copy to this e-mail.

A potential recommendation:

**Issue: The rate of officer involved shootings has been increasing in Madison over the last two decades. Very few of these incidents involve an active shooter. The Police Executive Research Forum has developed a set of 30 principles to provide officers with guidance and options, and to reduce unnecessary uses of force in situations that do not involve suspects armed with firearms. Recommendation: The Council will direct the Chief of Police to implement in full the Police Executive Research Forum's Guiding Principles on Use of Force.**

5. I don't have much to add at this point regarding the "Oversight of Internal Investigations" and "Communication with City Council" recommendations in your draft. They both seem appropriate. Perhaps you may wish to add a bit more detail to the "Oversight of Internal Investigations" recommendation.

Sincerely,

Gregory Gelembiuk  
Amelia Royko Maurer  
Nate Royko Maurer  
Marlene Pearson  
Rob Kennedy  
Angela Cleary  
Evelyn Gildrie-Voyles  
Stephanie Rearick

*Shonita Rorch*

Kristin Matthews  
Matthew Braunginn  
David Henzie Skogan  
Yannette Figueroa Cole  
Deb Rogers  
Gary Feest  
Sue Breckenridge  
Brenda Konkel