

CRT 1. MPD should take all steps necessary to ensure that any data released to alders or to the public (for example, in annual reports) is fully accurate. All data releases should be accompanied by rigorous definitions and descriptions of methodology, sufficient to enable completely unambiguous interpretation of all data provided. Misleading data practices should be avoided.

For elected officials and the public to draw valid conclusions, it is critical that all data releases be free of errors and unambiguous. In existing MPD data releases, terms are sometimes not adequately defined and methodology not explicitly stated. In the absence of this information, it is not possible to correctly understand the data (i.e. since multiple different interpretations are possible). Moreover, it is important that graphics not distort data (e.g. via truncation of axes). The representation of numbers, as physically measured on the surface of the graphic itself, should be directly proportional to the quantities represented.

MPD notes that it is committed to locating, producing and releasing data that is accurate and meaningful to the public, and that previous questions about data releases (format, description, etc.) have resulted in adjusted practices.

CRT 2. MPD should consider deploying additional protective equipment in squad cars, including but not limited to transparent acrylic personal protection shields and Kevlar stainless steel gloves, and provide training in their use.

As one of its guidelines for reducing use of deadly force, the Police Executive Research Forum (PERF) recommends that patrol officers have access to acrylic personal protection shields and training in their use. PERF notes: "Personal protection shields enhance officer safety and may support de-escalation efforts during critical incidents, including situations involving persons with knives, baseball bats, or other improvised weapons that are not firearms." Acrylic personal protection shields are a cornerstone of handling resistant persons with mental health issues for NYPD and across Europe. Likewise, Kevlar stainless steel gloves provide protection from bladed weapons. MPD notes that it would welcome funding for additional protective equipment, particularly ballistic shields for squad cars.

CRT 3. MPD should consider acquisition and training in additional well-developed, less-lethal tools, such as newer options for chemical sprays and better/safer kinetic weapons. An example of the former is the Piexon JPX4. An example of the latter is the 40 mm platform with appropriate less-lethal ammunition.

Appropriate less-lethal weapons can be used to handle situations where deadly force might otherwise be used. One of PERF's recommendations for avoiding use of deadly force is that agencies should consider new options for chemical sprays. In the United Kingdom, some agencies now use PAVA spray, which provides a concentrated stream that can be targeted more accurately than traditional OC spray. PERF notes: "While PAVA is not currently available in the United States, agencies should research and evaluate products that provide some of the same features and benefits." One such option is the Piexon JPX4, designed to deliver a confined, high velocity splat of OC to the face at a range of 23 feet. This is a relatively small device, carried on an officer's belt, and allows up to four successive shots without reloading.

Better/safer kinetic weapons are also available. A 40 mm platform with 40 mm ammo has longer range, greater accuracy, and greater safety (reduced risk of penetrating injury) than beanbag rounds. MPD notes that it “currently has a small number of 40mm launchers, but wider deployment would be beneficial.” In addition, MPD continues to look at new technologies that might provide additional use of force options, and is currently testing the Bolawrap 100 (a weapon that entangles subjects). Purchase of new less-lethal weapons, and training in their use, would require funding.

CRT 4. MPD should train the Police Executive Research Forum recommendation that an ECW deployment that is not effective does not mean that officers should automatically move to their firearms.

PERF notes that: *“Accounts of fatal police shootings often state that ‘the officer tried an ECW [electronic control weapon], it had no effect, and so the officer then used a firearm.’ This is an inappropriate way to view force options. ECWs often do not work because the subject is wearing heavy clothing or for many other reasons. An ECW deployment that is not effective does not mean that officers should automatically move to their firearms. Under the Critical Decision-Making Model, an ineffective ECW deployment should prompt officers to re-assess the situation and the current status of the threat, and to take appropriate, proportional actions. In some cases, that may mean tactically repositioning, getting together as a team, and assessing different options.”* MPD states that this is consistent with current MPD training.

Studies show that successive iterations of Taser shots greatly reduce the frequency of failure to incapacitate. MPD currently uses the X26P model, which requires cartridge reloading between shots. MPD notes that it *“would welcome additional funding to support a transition to either the Taser X2 or Taser 7... Both offer the ability for rapid multiple shots if needed. Ineffective Taser deployments are not uncommon, and the immediate ability to deploy a second shot would be beneficial and likely avoid the need for additional force use in some instances.”*

CRT 6. MPD should reach out to NYPD administration to gain a detailed understanding of NYPD’s schema of “firearms control,” to determine if NYPD’s approach, or elements of it, could be useful in reducing the frequency of officer involved shootings in Madison. If the answer is affirmative, MPD should consider incorporating this approach.

NYPD has a substantially lower rate of officer-involved shootings than MPD. NYPD’s success in reducing officer-involved shootings in part revolves around its implementation of the concept of “firearms control.” The basic concept is that avoidable officer-involved shootings result from loss of firearms control — officers might lose focus, get startled or frightened, and begin shooting unnecessarily; or they may continue shooting when it’s no longer required; or they may begin shooting contagiously; etc. The concept is one of continuous restraint and careful and deliberate decision-making regarding firearms use. NYPD’s strong departmental commitment to this idea is apparent in its heavy emphasis in NYPD policy and training materials. In addition, NYPD publishes a firearms discharge report annually (analyzing circumstances and patterns across all discharges) and officers who exhibit firearms control in difficult situations are provided public recognition. A similar concept appears to be emphasized in many European police departments. For example, “Don’t Shoot” is both the title and main goal of a typical police firearms training course in Germany. MPD has indicated that it is not opposed to exploring this concept further.

CRT 7. MPD should reach out to the Police of Finland, particularly the Police University College, and send at least one command officer to Finland, to learn about Finnish Police methods (training, tactics, etc.) that may be useful for reducing the frequency of fatal officer involved shootings.

U.S. policing has much to learn from policing models used in other countries, and particularly Finland. Key cultural factors are similar between Finland and the U.S., with high rates of violence and high per capita gun ownership in both countries. In addition, Finnish police officers routinely carry guns, like police in the U.S. and unlike police in a number of other E.U. countries. Yet the per capita rate of fatal officer-involved shootings is about one hundred fold lower than in the U.S., and the rate of injuries to Finnish police officers is also much lower than in the U.S. PERF has recently noted the importance of examining policing models in other countries and has begun incorporating lessons learned from the Scottish policing model. The Finnish policing model might be even more relevant. MPD is not opposed to exploring Finnish police training/operations. Contact with police training instructors at Finland's police education facility might be especially useful.

CRT 8. MPD should modify in the near future its training or SOPs to tighten up discretion that officers have about engaging in foot pursuits and, in considering those revisions, it should consider adopting the recommendations of the CRT about foot pursuits, including:

a. A provision that directs officers to maintain a safe distance, rather than overtaking the suspect, until sufficient cover (e.g. backup officers, etc.) is available to take the suspect into custody. This provision may include a list of techniques to consider (e.g. paralleling the suspect, etc.; see Portland OR policy for an example of such a list).

b. A provision to the effect of "No sworn member shall be criticized for deciding against initiating or discontinuing his/her involvement in or terminating a foot pursuit."

c. A provision specifying safety-enhancing explicit restrictions on engaging/continuing foot pursuit (see Portland OR policy for an example of such a list). Among other restriction, foot pursuit of armed suspects should be prohibited unless, in extreme circumstances, no other alternative strategy is feasible and a delay in the apprehension of the suspect would present a threat of death or serious physical injury to others.

d. A provision directing officers to consider factors related to the suspect's behavior when deciding whether to initiate or continue pursuit (see Portland OR policy for an example).

e. Language requiring the officer to continually assess whether to continue the pursuit.

f. A provision specifying that, whenever possible, the first officer to reach the suspect should not go "hand on" with them, but, instead should wait for backup to take that role.

National data shows that foot pursuits are one of the circumstances most likely to lead to police shootings. For example, the MPD officer-involved shooting on September 1, 2018, followed a foot pursuit. Departments, including MPD, have adopted policies to reduce this risk. However, many large city police departments have foot pursuit policies that are more detailed and restrictive, offering more

guidance to officers, than MPD's. This remains true even though MPD recently added provisions to its foot pursuit policy, given pertinent concerns raised by OIR (see OIR recommendation 97). The Portland OR Police Department foot pursuit policy is a good example of a model policy containing important provisions, absent in Madison policy, that reduce the risk of harm to the officer, the suspect, and the public. Incorporating such provisions from Portland (or from analogous policies in other cities) into MPD policy would reduce the risk of adverse outcomes.

In addition, data analysis by the Center for Policing Equity (CPE), a research think tank that consults with police departments on equity issues, found that complaints of excessive force disproportionately occur after foot pursuits. This appears to be a consequence of officers being highly escalated following a chase. Moreover, the bulk of foot pursuits stop when the suspect realizes he or she is surrounded and gives up. CPE thus recommends that departments adopt policies specifying that, whenever possible, the first officer to reach a suspect should not be the first person to “go hands on” with them, leaving it to those who arrive later. Implementation of such a policy in Las Vegas resulted in a 30% reduction in use of force.

These concepts would be useful in policy or training. We thus adopted this CRT proposal, though we amended the language, which had originally stated “*MPD should modify its foot pursuit policy to decrease risk of adverse events. Specifically, the following should be included.*” This language was modified to recommend that training or policy should be modified in the near future to tighten up officer discretion, and that the listed specific provisions should be “considered” for use in those revisions. The Committee amended the recommendation for a number of reasons: 1. MPD had only recently modified its foot pursuit policy in response to the OIR report and wished to avoid having to immediately change and train on new policy again. 2. MPD believed that some of the requisite changes could be better addressed in training rather than policy. 3. We wished to avoid fully dictating all the specifics of the changes, given that some details were seen as requiring expert judgment. Although the Committee recommendation gives the MPD latitude when addressing the underlying concerns related to the recommendation, Committee members also suggested that the Independent Monitor should ultimately review the changes made by MPD.

CRT 9. MPD should seek a collaboration with statisticians from University of Wisconsin – Madison, or highly-qualified statisticians elsewhere who have researched policing and racial bias, to determine if communities of color in Madison are incurring differential policing. Specifically, analysis should be conducted to determine (a) if rates of stops, arrests, and citations by MPD are correlated with neighborhood racial composition after controlling for crime rates, and (b) if the proportion of stops resulting in arrests or citations (hit rates) differs across racial and ethnic groups. If analyses do evince differential policing, MPD should consider measures such as reallocation of policing resources across neighborhoods and corrective training.

Dane County and Madison have among the highest racial disparities in arrest rates in the nation. As a 2015 Wisconsin State Journal article noted “*A black person in Madison is over 10 times more likely than a white person to be arrested, according to data analyzed by the State Journal that showed African-Americans — who make up about 7 percent of the city’s population — account for 45 percent of arrests.*”

In addition, the ratio of black people to white people arrested has been steadily increasing over the last several years.

Various potential factors may be contributing to this disparity. But studies of such disparities elsewhere in the U.S. have found differential policing to be one important factor. This can include overpolicing of neighborhoods with a high proportion of residents of color (e.g. greater allocation of patrols to such neighborhoods, etc.) — a pattern that's evident even after other relevant variables are controlled for. It can also include a higher likelihood that, all else equal, police will stop, conduct searches, etc., with individuals who are non-white.

Appropriate analyses for differential policing have not been conducted in Madison to objectively determine the extent to which this is an issue here. Solving a problem such as the racial disparity in arrest rates in Madison requires understanding all the causes. MPD stated of this recommendation that it *“supports using data to help guide operations, and is not opposed to this concept. Ideally, the City would provide funding for this effort to ensure quality and commitment on the part of research partners.”* Properly conducting such analyses requires a high level of expertise in statistics. Fortuitously, UW-Madison has one of the top statistics departments in the nation.

CRT 10. MPD should utilize ICAT as part of its training curriculum.

Almost all MPD officer involved shootings involve people in an altered mental state, incapacitated by mental illness and/or intoxication. Moreover, most MPD officer involved shootings involve people without firearms. PERF recently developed the innovative *Integrating Communications, Assessment, and Tactics*, or ICAT, training program, using best practices to safely defuse exactly these types of situations. If provided to all MPD officers, ICAT training has high potential to save lives.

ICAT fills a critical gap in training police officers in how to respond to volatile situations in which subjects are behaving erratically and often dangerously but do not possess a firearm. ICAT provides an integrated de-escalation strategy and emphasizes preservation of life. It includes lessons in the key areas of decision-making, crisis recognition and response, tactical communications and negotiations, and operational safety tactics. ICAT integrates these skills and provides opportunities to practice them through video case studies and realistic and challenging scenario-based training. Examples of some of the approaches taught include tactical repositioning (not drawing a line in the sand), tactical mambo (team ebb and flow), containment of subjects (e.g. using rope to tie off doors), avoiding unwinnable situations, communication tactics with people in crisis, etc. MPD notes that some of its personnel have attended ICAT training and have found it consistent with current MPD training, and that MPD is *“not opposed to formally incorporating ICAT into future MPD training, though there would be a significant cost (money and staff time) to do so.”*

CRT 11. MPD should encourage officers to use approaches such as verbal warnings, problem-oriented policing methods, dispute mediation, etc., in lieu of arrests or citations, for minor offenses, particularly in communities most impacted by policing (such as communities of color, communities of lower socioeconomic status, etc.).

Communities of color, and particularly adolescents and young adults in those communities, often report being overpoliced for minor infractions. Extensive use of arrests and citations for minor offenses

corrodes trust and lessens cooperation with police. Moreover, it is now well established that among juveniles, for all but the most serious crimes, formal criminal processing leads to worse outcomes than diversion or simply doing nothing.

The work of Los Angeles civil rights attorney Connie Rice illustrates an alternative. LAPD put Rice in charge of 50 officers patrolling high-crime housing projects, implementing the Community Safety Partnership Program. In a Wisconsin Public Radio interview discussing the reforms she instituted in Los Angeles, Rice said: *“I told these cops that you are not in the arrest business. You are a specialized unit that is in the trust-building business.... I said, in fact, if you make any arrests for minor infractions, including drug infractions that don’t harm anybody else and involve no violence, you’re going to get dinged for that. You’re going to get demerits for that. I’m not interested in you dragging in black teenagers for selling a little bit of marijuana. I don’t care who’s getting high. And I said I don’t care if they’re doing small things. You are not to focus on that. That is not what we’re about, because that destroys trust. When you throw people on the ground and slap handcuffs on them for selling a couple of hand-rolled cigarettes, like Mr. [Eric] Garner [who died after NYPD used choke holds and put him face down], that just totally destroys trust in the police.”* This initiative was very successful. Arrests fell 50%, cooperation with police rose, and crime rates fell sharply (with a 90% reduction in violent crime and a 66% reduction in property crime).

MPD states that it *“is committed to these principles. The department has been the driving force behind a number of initiatives (such as the Community Restorative Court) to address racial disparities in the criminal justice system, and will continue to pursue these goals.”*

CRT 12. “The Madison Common Council should pass a resolution asking Dane County to provide access to opioid agonist therapy (treatment utilizing Suboxone and methadone) and Vivitrol (a one-time injection on the day of release) for incarcerated individuals and those under community supervision.

Madison and Dane County have not been spared the opioid crisis and associated mortality. Efficacious responses are required. Opioid agonist therapy, using Suboxone or methadone, has been shown to greatly reduce mortality among opioid addicts. Among medical professionals, it is universally recognized as first-line therapy for opioid addiction, given its high efficacy and low cost. US Department of Veterans Affairs guidelines currently recommend medication-assisted therapy (MAT) using either Suboxone or methadone rather than depot intramuscular naltrexone (Vivitrol), oral naltrexone, or abstinence-based treatment. College of Obstetricians and Gynecologists guidelines specify Suboxone as the treatment of choice for opioid-dependent women in pregnancy. Moreover, the consensus among addiction experts is that multiple MAT drugs (i.e. Suboxone, methadone, Vivitrol) should be made available and chosen according to physician judgment and patient need.

Yet, inconsistent with medical consensus, incarcerated individuals in the Dane County Jail are not allowed access to opioid agonist therapy. Any opioid addict stably receiving opioid agonist therapy is forced to go through withdrawal upon entering the Dane County Jail, inflicting unnecessary pain and distress. Moreover, this practice jeopardizes long-term wellbeing – released inmates who have been forced to withdraw from opioid agonist therapy are at greatly elevated risk of an opioid overdose when re-entering the community, given loss of tolerance. Upon leaving the Dane County Jail, addicts are offered a one-time shot of Vivitrol. But Vivitrol must be given as monthly injections, and is far more expensive than Suboxone or methadone treatment, with Vivitrol’s expense and related insurance coverage issues contributing to a high rate of discontinuation of the treatment among released inmates.

An increasing number of jails and prisons are providing opioid agonist therapy (e.g. see "Jail-Based MAT: Promising Practices, Guidelines and Resources" from the National Commission on Correctional Health Care and the National Sheriff's Association). Moreover, courts, including the U.S. Court of Appeals for the First Circuit, are starting to mandate access to opioid agonist therapy for incarcerated individuals (both on the basis of the Americans with Disabilities Act and on the basis of the prohibition against cruel and unusual punishment in the Eighth Amendment to the U.S. Constitution).

The Committee recognizes that the MPD does not control the Dane County Jail, and therefore this recommendation is not directed at the MPD. But because this recommendation has a significant impact on policing and the way the criminal justice system treats drug-addicted individuals in Madison, the Committee is including this recommendation in this Report. The Committee amended the original CRT recommendation on this matter, which merely stated "The City of Madison should advocate access", to specify a concrete form of advocacy (i.e. that the City of Madison should pass a resolution requesting opioid agonist therapy access). The Committee also amended the CRT recommendation to include mention of Vivitrol as one of the three treatment options that should be provided (i.e. in addition to Suboxone and methadone).

CRT 14. The Madison Metropolitan School District should be encouraged to consider implementing the Becoming a Man program, a cognitive behavioral therapy program for at-risk youth, to improve academic outcomes for at-risk youth and reduce juvenile crime. MMSD should also explore including girls in the program.

The Becoming A Man (BAM) program is a school-based program for at-risk youth that reduces rates of criminal behavior and school dropout. It provides mentoring and peer-support, and specifically utilizes cognitive behavior therapy to change decision making, teaching elements such as reduction of automaticity (thinking before acting), positive anger expression, and visionary goal-setting. Its efficacy in reducing crime and improving academic outcomes is well established, meeting the evidentiary gold standard (the randomized controlled trials supporting its efficacy were the largest ever conducted with urban youth populations). Moreover, its effect size is large — among program participants, total arrests were reduced by 28-35% and violent-crime arrests by 45-50%. In addition, there is evidence of a treatment dosage effect (i.e. benefits appears to increase as duration of program involvement increases). The cost of BAM in its initial Chicago trials was \$1,100 per student. Depending on how one monetizes crime cost, the calculated societal benefit:cost ratio from crime reduction alone (not counting improved educational outcomes) was up to 30:1. The Ad Hoc Committee amended the CRT proposal to state that MMSD should also explore providing this service to girls.