

Recommendation xx: MPD should study whether the Academy class ranking system has a disparate impact on persons from diverse backgrounds. [OIR Report #116]

Discussion: Each MPD Academy graduate is ranked on a set of objective criteria that is largely based on performance on academic tests. This class ranking assigned to new officers determines seniority rank in the class, which has potentially long-term impacts on the officer's career. For example, the choice of patrol and shift assignments are largely based on seniority.

As OIR noted:

There is concern that the Academy ranking system may give unfair advantage to those who come to the Department with a strong educational background and history of success in academic settings. Historically, students of color and from other diverse backgrounds, or those who have followed less traditional paths into law enforcement, have not always performed best on the objective tests. Though these students bring life experience the Department values, and indeed sought out in recruitment, they feel that diversity of experience is undervalued as they begin their careers because of the weight given to class rank.

Mike Gennaco of OIR further explained the reason for the recommendation:

This ... recommendation came from conversations we had with line officers at the police department, particularly the newer line officers, and for those who ended up with a lower rank coming out of the Academy, they felt that that unfairly caused them to not have as much flexibility in shift assignment, etc., based on what they thought was fairly arbitrary criterion in the academy. And then there was a perception among some minority officers we talked to that ranking had a disparate impact.

OIR advised that MPD "examine its class ranking system to determine whether empirical evidence confirms the view that the Academy class ranking system disproportionately impacts students from diverse backgrounds." MPD noted in its response to the OIR report that it would task the MPD Equity Team with reviewing the academy class rank process and making recommendations for improvement if needed.

MPD subsequently provided the Committee with a short MPD Equity Team analysis that used Madison's Racial Equity and Social Justice Initiative (RESJI) Fast Track Tool, but there was no demographic data attached and no actual analysis of demographic data appears to have been done. The RESJI analysis stated that "those who are better at taking written tests have a greater advantage of scoring higher," much as OIR pointed out in making this recommendation. But the disparate impact was never measured. The MPD Equity Team concluded that, apparently because the MPD tests are facially neutral, the current system does not create any disproportionate impact on recruits from communities of color or low-income communities. The MPD Equity Team also noted that one minor aspect of the scoring system (awarding merit points to recruit officers) provided room for subjectivity, introducing the potential for bias, and MPD stated that this component of the system would be reviewed and improved.

But it is important to note that whether a system is facially neutral does not address empirical questions of disparate impact. The key question appears to remain unanswered. MPD stated that it "supports additional analysis of the system from an equity perspective, though a rigorous, data-driven analysis

would require external professional assistance (with a resulting cost).” It is the position of the Ad Hoc Committee that a proper, data-based analysis must be done. It is also worth noting that if funding were not available, simple statistical analyses of the demographics of class/seniority rank would be trivial to perform, with no associated monetary cost.

Recommendation xx: MPD will evaluate whether using Academy class rank for purposes of seniority places outsized importance on such criteria, or whether there are alternatives for determining the “seniority” of students in the same class. MPD will report to the Common Council and to the Independent Monitor at the end of each academy the demographics of each class, including race, ethnicity, gender, and socioeconomic background and a demographic comparison of those who received seniority based on class rank. MPD will work with the Common Council to develop the reporting process. [OIR 117]

As articulated in recommendation xx [OIR 116], there is a concern that the current MPD seniority ranking system has a disparate impact, disadvantaging officers from diverse backgrounds. There is a need to actually analyze demographic data to determine whether the perception of a disparate impact is valid and its extent.

If the concerns about disparate impact are supported by the data, and to the extent the Department needs to rank students to create an order by which officers express preference for job assignments, the Department should evaluate whether using class rank for seniority places too much importance on this criterion and whether it should use other ways to determine “seniority” of students from the same class. There are many possible options. As OIR noted, MPD could use an officer’s application date or the date he or she accepted the preliminary offer of employment, or it could use a random lottery system. Alternatively, it could use metrics based on factors tied to lived experience and relevant skills (cultural competency, languages known, etc.), or a weighted combination of such metrics with class rank.

The initial OIR recommendation stated: “MPD should consider whether using Academy class rank for purposes of seniority places outsized importance on such criteria, or whether there are alternatives for determining the ‘seniority’ of students from the same class.” The Committee changed this item from a suggestion (“MPD should consider whether”) to a directive (“MPD will evaluate whether”). It also added a requirement that demographic data, including race, ethnicity, gender, and socioeconomic background for class/seniority rank be provided to the Common Council and Independent Monitor at the end of each Academy class.

MPD Assistant Chief Wahl indicated that years ago, MPD had experimented with assigning new recruits seniority randomly, and that this had adverse effects (e.g., undercutting incentives for students to give maximum effort during the academy). However, as noted above, one option could be some combination of class rank and other factors, retaining a degree of reward and incentivization for academy performance but ameliorating disparate impacts. MPD also argued that the effect of class rank on the career of an officer is diminished over years of service, as additional recruit classes with lower seniority enter the department. But OIR noted in response, “officers and former officers of color that we talked to did indicate to us their ‘perception’ that Academy class rank was important and impactful on their subsequent career.”

Assistant Chief Wahl also noted that MPD does not currently collect information on recruits' economic backgrounds. However, the Committee believes that socioeconomic diversity is of importance and often overlooked, that disparate impacts on recruits from low-income communities should be examined, and that there is no intrinsic barrier to collecting such data (as many institutions do). Assistant Chief Wahl also expressed concern that making data on demographics and class rank available to the Council could potentially be embarrassing to some individuals if they could be identified (e.g., if there's only one person in a class with a certain gender and ethnic background in a class and they were last in class rank). However, Wahl also acknowledged that this was probably public information, available through an open records request, and committee members expressed confidence in MPD's ability to provide data to the Council in a manner that would not identify individuals in an embarrassing fashion. For example, MPD could report data aggregated over two years (lumping together a larger number of recruits, making it harder to identify individuals) or MPD could report the demographics of the top 50% of the class relative to the class as a whole.

The Ad Hoc Committee thus believes that, to the extent that disparities exist, MPD should evaluate alternatives for ameliorating them, and that data on race, ethnicity, gender, and socioeconomic background should be regularly provided to the Council and Independent Monitor to keep them apprised of the situation.