From: Luke Schieve
To: Kapusta-Pofahl, Karen
Subject: RE: Recommendation Findley #42 and frequency of MPD use of force
Date: Wednesday, January 13, 2021 3:43:06 PM

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Hi Karen,

I have some questions regarding Greg's input below, would it be possible to respond to include the whole team on these questions? I'm not sure what's most appropriate, and I don't want to break any rules about walking quorum, so I'll leave it to your discretion.

Greg,

Some questions on what you provided below.

1. Alpert & MacDonald study (2001)
    a. **The data from this study is from 1996, while the data from the MPD is from 2018. That's over two decades between sample size.** Are you confident that the data this far apart in time is comparable? If so, would you agree that other studies that compare similar data across such a long gap would be applicable?
    b. You noted that **the study found a median of 76 incidents of force per 100,000 residents**, while the MPD report found 132 incidents per 100,000 residents. The MPD provided two numbers for their use of force in 2018; The number of incidents (217) and the number of incidents by type (324). The number of incidents by type essentially counts some incidents twice because multiple types of force can be used. For example, a takedown and a taser may be deployed, which here would be counted as two separate uses of force. The Alpert & MacDonald study did not make this distinction, and collected data on the number of incidents where use of force was used. As such, it seems more appropriate to take the MPD number of incidents number for comparison, as opposed to the incidents by type, the latter of which can count the same incident multiple times. This would mean the 2018 rate of use of force is 217 for a population of 252,086 (Madison pop. In 2018), or a **median rate of ~85 per 100,000 residents**. Still above average in 2018, but much less significantly.
        i. For example, comparing Milwaukee's use of force number of 682 with a population of 596,886 in 2018, or a median rate of ~114 per 100,000 residents.

2. International Associated of Chief of Police (IACP) (2001)
    a. Again, **this data is from 1991-2000, almost two decades old compared to the MPD report**. Is there not a more recent source to compare?

b. The study notes that another way to express their findings is that police do not use force 99.9639% of the time. According to the MPD report, Madison police do not use force 99.8486% of the time.
c. Maybe I'm misunderstanding the data, but from the data collected in this study, they found 171,215 total use of force incidents out of 45,913,161 calls for service. **This translates to 38.59 uses of force for every 10,000 calls for service, well higher than the MPD's 22.7 uses of force per 10,000 calls for service**. **The data you quote is *only* for 1999**, a single year where the average is indeed lower than other years. Why use this year for comparison as opposed to all of the data collected in the study?

3. Pate & Fridell (1991)
   a. Again**, this study uses data from nearly *3* decades back**, the oldest yet. Is there not a more recent source to compare?
   b. **Please explain your math around the assertion of 698 instances of major force used by the MPD per 1000 officers**. Today, the MPD has ~461 officers, and in 2018, there were 217 individuals who experienced use of force by MPD officers. The MPD accountability report did not distinguish between major use of force vs non-major use of force. Even at a rate of per 1000 officers, the rate would be closer to 4 instances out of 10 as opposed to 7 out of 10 that you cite.
   c. There were multiple breakdowns of use of force within the study, including by scope of size (County, City, and State), among others, that showed very different rates than the ones you quoted. **Which page are you getting those numbers from, and why did you choose that set of data to compare**?

Overall, **I would strongly question the validity of using this data to assert that MPD use of force is above average**. At best, I could potentially see this data showing that the MPD use of force is higher than the average *in the past*, but even then my questions about the data above indicate that in some regards, MPD is *below* average in use of force incidents (International Associated Chief of Police report). I'd be more comfortable interpreting the data this way if there was a more recent comparison to the use of force around the nation. Anecdotal review, such as what I found with Milwaukee, could at least give some picture as to how MPD compares cities of similar size (though I realize Milwaukee is 2x as large as Madison) in the modern era.

-Luke

From: Kapusta-Pofahl, Karen <KKapusta-Pofahl@cityofmadison.com>
Sent: Monday, January 4, 2021 12:43 PM
Subject: Fw: Recommendation Findley #42 and frequency of MPD use of force

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[BCC BWC]
There was a request that more information from Greg regarding MPD use of force be provided to the committee. I am forwarding that information here and will be attaching it to Legistar.

From: Gregory Gelembiuk <gwgelemb@wisc.edu>
Sent: Monday, January 4, 2021 3:18:52 AM
To: Kapusta-Pofahl, Karen
Subject: Fw: Recommendation Findley #42 and frequency of MPD use of force

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Here's the info you requested.

Greg

From: Gregory Gelembiuk
Sent: Thursday, May 2, 2019 4:01 PM
To: jacquelyn.hunt@gmail.com <jacquelyn.hunt@gmail.com>; christian.albouras@gmail.com <christian.albouras@gmail.com>; jbvang1@gmail.com <jbvang1@gmail.com>; Keith Findley <keith.findley@wisc.edu>; linda@emum.org <linda@emum.org>; marios.sierra@gmail.com <marios.sierra@gmail.com>; braunginn@gmail.com <braunginn@gmail.com>; sasaiz@uwalumni.com <sasaiz@uwalumni.com>; suekp93@charter.net <suekp93@charter.net>; tbrown@ulgm.org <tbrown@ulgm.org>; veronicaf@unidoswi.org <veronicaf@unidoswi.org>; lyudice23@gmail.com <lyudice23@gmail.com>; dokithia@gmail.com <dokithia@gmail.com>
Subject: Recommendation Findley #42 and frequency of MPD use of force

Dear Committee Members,

Since Keith Findley's proposed recommendation on distraction blows (Findley #42) is on the agenda for today, I thought I'd write with a bit of information on MPD use of force.
Findley #42 states: *"MPD should reconsider its training protocols and policy regarding the use of "distraction blow." If such blows are authorized, officers should be provided more guidance on the allowable uses of such blows. Any distraction blows policy should prohibit strikes to the head or strikes to individuals already in handcuffs."*

MPD recently released its "Accountability Report", asserting a low rate of use of force.

http://www.cityofmadison.com/police/documents/AccountabilityRpt2018.pdf
I'd previously pointed out major issues with some of MPD's assertions in the report.

Here, I'll add something further. A major deficiency in the report was the lack of any kind of comparison between MPD's rate of use of major force and that of other departments.

A small number of administrative surveys of law enforcement departments have been conducted to study patterns of use of force nationally. Three of the four published surveys contain data that provide some basis for comparison. For any legitimate comparison, the definitions (for use of force) used in a survey must be sufficiently similar to those used by MPD.

Overall, it appears that the rate of use of major force by MPD might be somewhat higher than average.

A study by Alpert & MacDonald (2001) provides one point of comparison.
https://drive.google.com/file/d/1UiBtkvVfuX_ahV9MTCbjgIOVJxDuyXmu/view?usp=sharing
Data was obtained from 265 law enforcement agencies (the majority were municipal police department, but sheriff's departments were also included) in 1996. Force was defined as "the use of physical force, a chemical agent, or a weapon to control a suspect" - this matches up adequately to MPD's "recordable force" categories to provide a legitimate comparison. Data on the rate of use of force was presented normalized to city population (some kind of normalization is required for any sensible analysis). The study found a median rate of 76 use of force instances annually per 100,000 residents.

MPD provided data on the number of citizen contacts in 2017 and 2018 that involved use of recordable (major) force, and also delineated the types of force used, noting that some cases involved application of more than one type of force. I'll term the latter the number of use of force instances, which will be higher than the number of contacts in which force was used.

MPD had an annual rate of 132 major force instances per 100,000 residents and 90.7 contacts where major force was used per 100,000 residents.

Another survey providing a basis of comparison was conducted by the International Associated of Chief of Police (IACP).
https://www.theiacp.org/sites/default/files/2018-08/2001useofforce.pdf
Their survey, basically conducted from 1994 through 1999, included the following types of force: "Physical Force (the use of fists, feet, hands, etc.)", "Chemical Force (the discharge of MACE, CAPSTUN, OC, CS, and CN devices)", "Electronic Force (the discharge of TASER, Stun Gun, or other electronic weapons)", "Impact Force (the use of a baton, other impact weapons)", and "Firearm (lethal) Force (the discharge of any kind of firearm)". These

definitions should capture all the same cases as MPD's "recordable force". IACP provides data on rate of use of force normalized to number of calls for service. They found a national average rate, among departments surveyed, of ~4 instances of major use of force per 10,000 calls for service.

MPD's numbers showed an annual rate of 22.7 instances of major force per 10,000 calls for service and 15.6 contacts where major force was used per 10,000 calls for service.

Finally, I'll note a survey of 529 agencies conducted in 1991 by Pate & Fridell.
https://www.ncjrs.gov/pdffiles1/Digitization/146825NCJRS.pdf
They surveyed a wider range of categories of use of force, but numbers for comparison with MPD can be obtained by restricting consideration to the categories "shot", "electrical devices", "chemical agents", "batons", "other impact devices", "bodily force", and "dog attacks". They provided data normalized to number of officers. Across all municipal police departments, they found an annual rate of 362.8 major force instances per 1000 officers. Across municipal police departments with 250 or more officers, they found an annual rate of 205.5 major force instances per 1000 officers.

MPD had an annual rate of 698 major force instances per 1000 officers and 479 contacts where major force was used per 1000 officers.

For departments with 250 or more sworn officers, the annual rates of use of specific types of force per 1000 officers:
bodily force 106.3
chemical 41.8
electrical 4.9
other impact 3.9
baton 28.0

MPD's rates per 1000 officers:
bodily force [i.e. includes "takedowns" and "active counter measures"] 536
chemical 30
electrical 52
other impact 6.4
baton 2.1

The differences in rates of use of batons and electrical devices might largely reflect the fact that the Pate and Fridell survey was conducted in 1991. Since that time, there's been a decline in baton use nationally, while Taser use has greatly increased.

Sincerely,

Dr. Gregory Gelembiuk

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