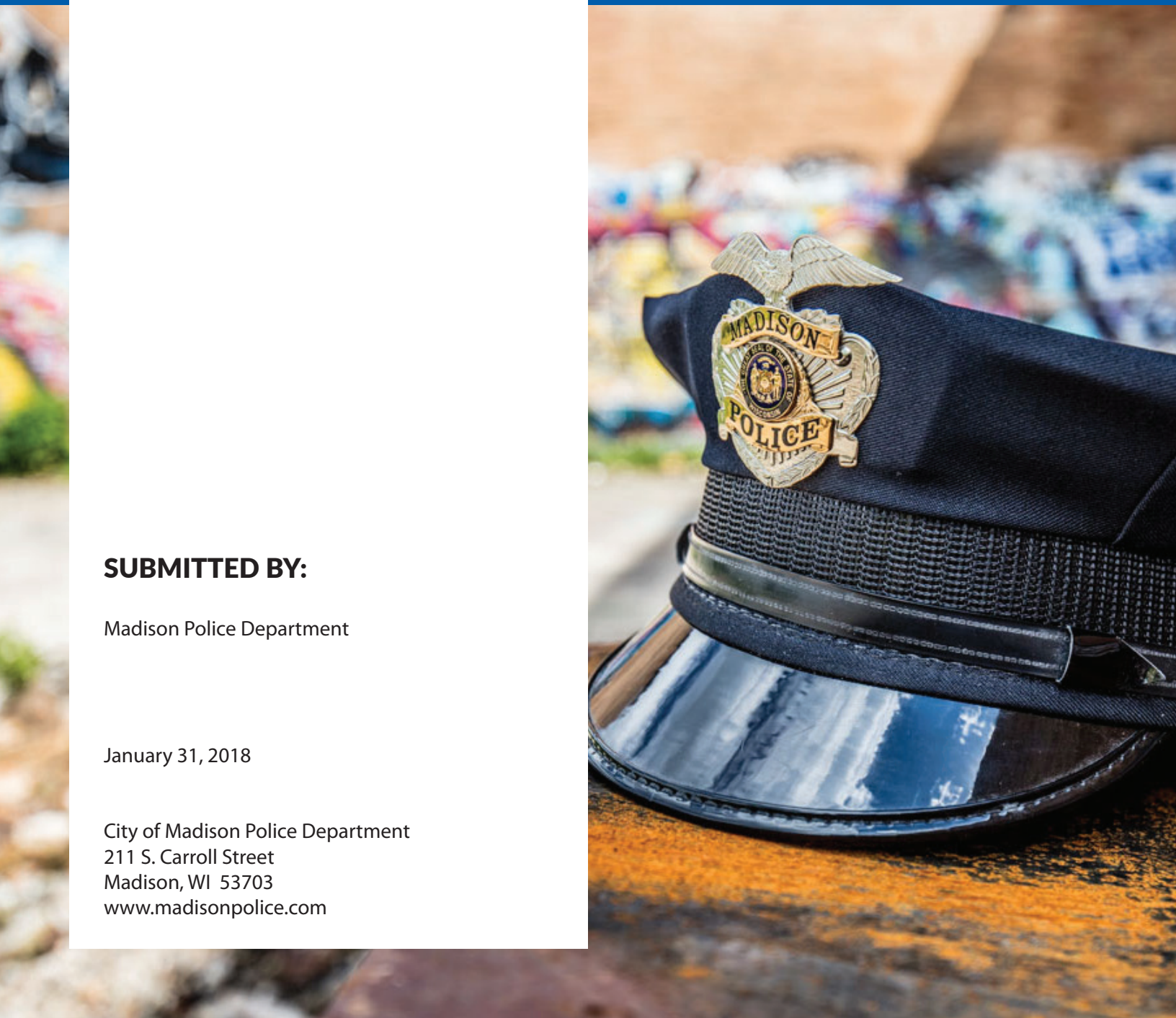
Madison Police Department

RESPONSE
To OIR Report



SUBMITTED BY:

Madison Police Department

January 31, 2018

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INTRODUCTION

One of the Madison Police Department's Core Values is "Proficiency & Continuous Improvement." That principle guided our effort over the last year, as the OIR Group researched the department. MPD was open and transparent, and worked diligently to facilitate OIR's efforts. Going into the process, the department's perspective was that MPD is an excellent department, with a strong culture, professional employees, a long history of progressive, community-oriented policing, and with strong internal processes. Yet we are always seeking to improve—not simply for our own sake, but to improve the service that we provide to the community. OIR's research has been viewed as another mechanism to assist in this effort.



Community Engagement Event.

Over the last year MPD personnel dedicated hundreds, if not thousands, of work hours to the OIR project. Department members met with OIR in person, spoke on the phone with OIR representatives, responded to OIR emails and researched specific questions or issues at the request of OIR. Tens of thousands of pages of documents were provided to OIR for review. OIR representatives were offered exposure to all aspects of MPD operations; no request for information, records, data or access was refused.

It was gratifying to see so much of the department's good work recognized in the final OIR report, submitted in December of 2017. The report recognized MPD's many strengths, including:

- MPD's recruitment and hiring philosophy
- The department's efforts to address racial disparities in the criminal justice system
- The way in which MPD addresses mental illness
- MPD's lead role in pushing for restorative justice programs in the community
- How the department focuses on officer health and wellness
- MPD's long-standing commitment to neighborhood and problem-oriented policing



MPD's Latino Youth Academy.

OIR's introduction summarized their perspective:

> We begin by stating that MPD is far from "a Department in crisis," in spite of the controversy and turmoil that ultimately led to our project. Instead, as detailed below, we found much to admire and commend. There are areas in which MPD is unusually progressive, effective and "ahead of the curve" when it comes to training and the evolution of best practices. Many of the Department's policies and organizational structures are solid and often innovative, and their efforts to connect with all aspects of the public they serve are conscientious and often laudable.

In addition, the report recognized that MPD's use of force is "limited in volume and primarily minor in nature," and that the department's internal investigation process is sound. These are all critical components of the policing function, and should rightly reassure the Madison community about the state of their police department.

The OIR report outlined 146 specific recommendations; to implement each of them would take years and cost hundreds of thousands of dollars. This document will respond to each recommendation individually, but we find much to agree with. Many of the recommendations call on MPD to simply continue or expand upon our current practices. There are others we agree with (fully or in part) and can implement quickly; others we may agree with but implementation will require funding (for either direct costs or additional staffing); and some that are directed to entities other than MPD. A few of the recommendations are best viewed as aspirational, reflecting performance beyond which any police departments are currently functioning. There are also some recommendations where we feel OIR misses the mark or where the report fails to provide adequate clarity or detail to be implemented. Since the report was released, MPD leadership has met with OIR and requested additional material on several topics. When received, this information may help the department as it considers or implements some of OIR's recommendations.



Fireside Five-Oh Livingroom Conversations.

We also noted a number of factual errors in the OIR report. While not all relate directly to a specific recommendation, each will be addressed either in the narrative or in a separate appendix. As we expect the OIR report to attract considerable community interest, it will serve as a guidebook to MPD for many. So, it is important to correct the record where needed.

The City Attorney's Office has also provided reaction to some of the recommendations. Their comments are incorporated below, clearly distinguished from the overall report. Those views reflect opinions of the City Attorney and not necessarily those of MPD. The Madison Professional Police Officers Association (MPPOA) has also provided a response to the report. This response is attached to this document as an appendix; it reflects the opinions of the MPPOA and not necessarily those of MPD.



MPD Mental Health Officers at NAMI Event.

OIR was faced with a challenging task, and we appreciate the thought and consideration they put into the project. We view the report and recommendations not as a roadmap to "fix" a troubled department, but as a resource to help move an outstanding agency to an even higher level.

RECOMMENDATION 1: In devising a strategic plan, MPD should consider the findings and recommendation in this report to the degree they suggest paths toward further improvement and seek input and assistance in its development from all MPD employees, city stakeholders, and the Madison community.

MPD has previously engaged in strategic planning processes, and found each of them to be extremely beneficial in guiding the department. When the OIR Group started its work, the department was in the early stages of a formal strategic planning process (City Purchasing had already received several responses to an RFP). At the request of several Common Council members, that effort was suspended pending completion of the OIR project.

The department's prior strategic planning processes have included extensive involvement and input from employees and the community. MPD anticipates seeking funding for a comprehensive strategic planning process that will incorporate this type of input (as well as information contained in the OIR report).



Members of MPD's Honor Guard.

For decades, MPD has prided itself on being a progressive, community focused police department. This is reflected in our Mission Statement and Core Values, and is demonstrated through how we police. From embracing problem-oriented policing and deploying neighborhood officers under Chief Couper to creating the Community Outreach and Resource Education (CORE) team, the Mental Health Unit and deploying neighborhood resource officers under Chief Koval, the department has a long record of focusing operations on what is best for the public.



MPD Helps with Spring Planting at the Salvation Army.

So, it was gratifying to see some of the department's good work recognized in OIR's report. This section of the report highlighted a number of efforts or initiatives that demonstrate MPD's progressivism and commitment to community policing. One thing that perhaps is not clear from the report, however, is the level of effort needed to bring some of these initiatives to reality. For example, the discussion of MPD's involvement in restorative justice efforts runs less than three pages. Lost is the initiative, commitment and effort on the part of MPD personnel to start and sustain these programs. Restorative justice initiatives (to use this example) don't just happen; individual employees need the creativity and desire to start them, command staff (and ultimately the Chief) must provide support and approval, programs need to be designed (involving disparate groups of external stakeholders and interests) and sustainable internal mechanisms must be created.

This is not a quarrel with the depth of the OIR report on these topics. Indeed, a full overview of MPD's work with restorative justice would itself be lengthy. However, it is important to recognize that initiatives like this do not just happen—they require a great deal of expertise, effort and time. The same is true of other innovative projects and efforts, whether summarized in the OIR report or not. MPD has finite resources, and the number of creative efforts the department can implement is not unlimited. However the work that has been done demonstrates the department's commitment to innovation and progressive policing practices.

It was also gratifying to see a recognition of MPD's "admirable work" in hosting and organizing community events. This has long been a staple of MPD's outreach efforts and will continue to be so.

Community policing and problem-oriented policing are ingrained in everything the department does. This philosophy won't change, and MPD is committed to remaining a national leader in innovative policing.

RECOMMENDATION 2: MPD should continue its active role in collaborative programs that address systemic inequity, like the "Unpaid Ticket Resolution Days," and set internal goals for accomplishing such events each year.

MPD is committed to examining racial disparities and, where appropriate, engaging in efforts to address them. The department has worked extensively on this issue. While the OIR report includes some noteworthy examples, a more comprehensive overview of the department's efforts can be found here:

www.cityofmadison.com/police/documents/trustBasedInitiatives.pdf

While we will continue to explore and implement programs and initiatives that address this issue, the "Unpaid Ticket Resolution" days likely will not be repeated on a regular basis. While the initiative reflected some creative thinking and a way to have a positive effect on communities of color, it also created some unintended consequences and adverse impacts for outside stakeholders. Other efforts towards the same end, however, will continue to be explored and pursued when appropriate.

CITY ATTORNEY RESPONSE: The City Attorney agrees that MPD should continue to take an active role in collaborative programs that address systemic inequity.

The City Attorney disagrees that the "Unpaid Ticket Resolution Days" should be an event that is held annually or even on a regular basis. It would be a self-defeating project. Once offenders know that all they have to do is wait a few months and their ticket will be forgiven, the deterrent effect of a citation is gone. A significant amount of staff time and resources were necessary to prepare and facilitate these events. The number of cases that were successfully resolved was not enough to justify the use of those resources. The City Attorney worked with individuals with unpaid forfeitures to drastically reduce the amounts owed and allow for payment plans and/or community service hours so that participants could successfully resolve their debts. Our data shows that only 39% of the participants actually paid the reduced amounts and/or completed the community service hours, resulting in less than half of the cases being closed. In the majority of the cases—61%—the Municipal Court has been required to continue efforts to collect forfeitures owed.

The City Attorney believes that if further "Unpaid Ticket Resolution Days" were offered regularly, individuals could circumvent the regular court process in the hopes of getting a more favorable resolution. This would result in more individuals failing to resolve their cases in a timely fashion and lead to the use of even more staff resources outside of regularly scheduled work time. The purpose of these days was to provide a one-time reduction in forfeiture amounts owed in an attempt to resolve outstanding debt and relieve financial hardships, but to do this regularly would undermine the regular court process.

In November, when the City Attorney became aware of the recommendation to have further Unpaid Ticket Resolution Days, we asked OIR to contact us so that we could provide our input and concerns. Mike Gennaco indicated to ACA Paulsen that she would be contacted by a member of his team to receive this input. OIR never contacted the City Attorney.



Unpaid Ticket Resolution Day.

RECOMMENDATION 3: MPD should commit to a re- energized Racial Disparity Impact Committee, and should provide both incentives for participation and continued organizational support for its efforts and specific initiatives.

MPD is committed to the goals of the Racial Disparity Impact Committee. The group is in the process of being re-organized to be more effective and reduce duplication of efforts. The group is also now designated as MPD's Equity Team, to be aligned with the effort across all City agencies. The MPD Equity Team is open to any interested employees, and is currently comprised of seventeen (17) members who meet regularly.

RECOMMENDATION 4: Through resources and other forms of messaging, MPD management should enhance its structural and philosophical commitment to the Judgment Under the Radar program as a means of reinforcing its important work.

MPD leadership has been strongly supportive of the "Judgment Under the Radar" effort. The group has presented to MPD's pre-service academy, and has presented to all MPD personnel at in-service training twice since the group was formed in 2011. The group has also been involved in outreach to the community and external stakeholders.

In addition to Judgment Under the Radar, MPD has also provided additional training on bias and related topics from a variety of training providers, including pre-service training from the City's Racial Equity Coordinator (to ensure alignment with other City agencies).

Currently the Judgment Under the Radar group is focusing its efforts on providing training and leading discussions on the topic of bias to community groups. MPD leadership remains supportive of these efforts and will continue to engage involved officers to ensure success moving forward.



MPD's Judgment Under the Radar group highlighting our Unconscious Bias Training.

RECOMMENDATION 5: Should future presentations by Judgment Under the Radar (or any other group) touching on bias be met with strongly negative reactions, MPD leadership should assess the underpinnings of the behavior.

MPD routinely seeks input/feedback on all training that employees attend, both internal and external. Adjustments in training occur as a result. This might involve improving an internally provided training, or no longer having officers attend an external training that does not meet our standards. This will continue. MPD leadership closely examines any training that receives negative feedback or causes a negative reaction. This practice will continue.

The OIR report refers to a negative response that the 2015 Judgment Under the Radar in-service training received. The reaction appears to have been directed to some specific components of the training and the style/technique in which it was presented—not to the overall principle of the training. Indeed, other bias-related training that MPD has offered has been reviewed favorably.



Officer Ward reads with children in our community.

RECOMMENDATION 6: The City should move apace to providing a translation function for its website so that MPD's information (as well as other City information) can be more facilely accessed and used by persons with limited English proficiency.

MPD strongly supports full accessibility to all of MPD's services, including the MPD website. The MPD website is managed by the City of Madison's Information Technology (IT) department, and incorporating translation functionality is dependent on IT resources and capacity.

The department previously worked with City IT to allow for the MPD website to be translated (using an automated process). However, the Common Council passed a resolution in 2016 prohibiting automated translation, and the process did not move forward. Website translation is incorporated into the Madison's Department of Civil Rights draft Language Access Plan, though exact timing for the project is outside of MPD's control.

Internally, the department is identifying critical information or process documents that need to be translated as outlined in the City's Language Access Plan. Once these documents have been translated, we fully intend to place them on our website. Many critical documents have already been translated into multiple languages and are already available.

RECOMMENDATION 7: The CORE Team should take advantage of its centralized role in sponsoring and monitoring MPD outreach, and should work to provide rigorous analysis of individual initiatives as to their relative impact and effectiveness.

MPD's Community Outreach and Resource Education team (CORE) is taking increased responsibility for oversight of the department's community policing efforts and initiatives. "Rigorous analysis" of effectiveness poses a challenge, however. Nationally, police departments struggle with how to quantify and evaluate community outreach efforts. This work simply defies easy analysis. MPD is committed to evaluating department efforts when feasible, but has limited internal capacity for complex social science analysis. We believe that additional funding for staff, software or external partnerships will be needed to accomplish this. We have also requested additional information from OIR on this point, to include any other agencies that are effectively doing this now and examples of how the effectiveness of these efforts can be measured in a meaningful way.

RECOMMENDATION 8: MPD should work to effectively support and incorporate officer-driven outreach efforts within specific communities, such as Amigos en Azul, into its larger community policing strategies.

MPD strongly supports officer-driven community outreach efforts (like Amigos en Azul), as these projects—initiated by the rank and file—are often some of the most effective. This support will continue. Many of the officers that participate in these outreach efforts do so in addition to their normal assignments, when staffing allows or through volunteered time. Efforts to expand these types of initiatives are staff intensive and may require additional resources.



CORE Officer Johnson engages with youth in our community.



CORE Officer Prado helping a young community member build a garden box as part of our engagement/community policing initiatives.



MPD participates in the annual Shop with a Cop event; Sergeant Alvarez is wrapping presents and getting ready for the fun positive engagement initiative with our community.

RECOMMENDATION 9: MPD and the City should discuss the most efficacious way to analyze the demographic data regularly being collected on arrests, summons, and use of force.

MPD supports this concept, and the department will evaluate ways to analyze internal data to evaluate actual or potential impacts on racial disparities. However, the Race to Equity data reflect a complex reality impacted by a multitude of factors (most well outside MPD's sphere of influence). Significant efforts in this area will require additional staffing or external assistance.

The department has already made efforts towards this end. In 2017, the City of Madison was awarded a technical assistance grant from the National League of Cities to complete an analysis of arrest data. The goal of this analysis is to identify areas where disparities might exist and to explore pre-arrest diversion options. MPD is part of the team (consisting of City and County members, along with a community partner) working with the National League of Cities on this effort. This work is continuing (the grant funding runs until 2019).

RECOMMENDATION 10: MPD should consider implementing the 21st Century Policing Task Force's Action Item to make all department policies available for public review.

For years, MPD has posted most department Standard Operating Procedures (SOPs) on the MPD website. A few SOPs are not posted; the department has determined that posting these SOPs would unduly publicize certain aspects of sensitive MPD operations, jeopardizing officer and community safety.

Some departments do post their policies/procedures on these topics; others do not. Some post redacted versions of sensitive policies and some don't post any policies at all. For context, MPD currently has more than 120 SOPs posted on the department website; fewer than 10 are not posted:

- Active Shooter Incidents
- Barricaded Person Incidents
- Bomb Threats
- Dignitary Protection
- Handling of Confidential Informants
- Hostage Situation Incidents
- Life Threat Emergency at Facility Public Windows
- Robberies in Progress and Silent Robbery Alarms

MPD will review these to determine if any should be posted (fully or redacted) to the website.

This recommendation, like several others, refers to President Obama's Task Force on 21st Century Policing. A full review of MPD's response to those recommendations can be seen here:

www.cityofmadison.com/police/documents/21stCenturyPolicing2016.pdf

RECOMMENDATION 11: As part of its ongoing and constructive support of an innovative program, MPD should dialogue with its criminal justice partners to consider whether restorative justice programs available for controversial high media profile incidents can be made available for similar incidents that do not rise to the same level of media attention.

MPD is continually reviewing the Community Restorative Court (CRC) project, and evaluating possible improvements. There are a number of other criminal justice stakeholders involved in the program, and any significant changes require their support.

While the majority of the MPD coordination for CRC occurs from the South District, each MPD district has officers trained in the current process, and candidates for the CRC are referred from all of Madison. MPD plans to provide additional training to all patrol officers in how direct referrals to the CRC can be made at the time of arrest and we anticipate that this will increase MPD referrals even more. While MPD has been the main referral source for the CRC during the initial three years, the program is focused on expanding throughout all of Dane County. Fitchburg and the Town of Madison currently participate; Sun Prairie, Middleton and the University of Wisconsin police departments plan to do so in 2018.

The program's growth has been deliberately slow to allow for thoughtful analysis as capacity increases. By design, the scale and scope have been kept small (though they are steadily increasing). The OIR report indicated that as of mid-2017 there were only twenty-five offenders actively participating. While this accurately describes the cases that were open and active at one moment, there have been well over 100 cases completed so far by the CRC (most referred by MPD). As of December 2017, there were close to fifty open and active cases (most also referred by MPD).

As a pilot program, participating agencies opted to accept some cases outside of the regular selection criteria. These cases challenged the program and will help shape it moving forward. All participating agencies—including MPD—are committed to equitable access to the CRC, and are working towards that end.



Midtown Station Groundbreaking.

RECOMMENDATION 12: MPD should continue to constructively engage with its community by increasing its emphasis on participating in community-initiated events.

Hosting and organizing community events has long been a staple of MPD's outreach efforts and will continue to be. The department also frequently receives invitations to have officers appear at or participate in community-initiated events. These include neighborhood association meetings, community meals, picnics, etc. These invitations are routinely accepted, and it is fairly uncommon for MPD not to participate in a community event upon request. Staffing limitations do, however, sometimes preclude MPD involvement. We anticipate that expansion of the District/Community Advisory Board concept might increase MPD participation in community events even further.



MPD participates in Friday Nights at the Y which we have put together with the YMCA for several years.

Department members also demonstrate great initiative and creativity in organizing events jointly with members of the community. These events run a wide spectrum, including a youth boxing program; shop with a cop; a partnership with Big Brothers/Big Sisters of Dane County; youth fishing; Friday night youth basketball, coffee with a cop; and Fireside Five-Oh.

MPD officers appear at or participate in countless community-initiated events every year. We will continue to do this when asked, explore ways to encourage community event planners to include MPD, and facilitate the involvement of all MPD personnel at community events.

RECOMMENDATION 13: MPD should conduct town halls and listening sessions after all critical incidents, including officer-involved shootings as follows:

- *In the first few days subsequent to an incident, MPD should be empathetic to any resulting death or serious injury, explain the investigative and review process, and listen to any expressions of upset or concern.*
- *After the conclusion of the investigation, MPD should provide a public debriefing of the incident, highlighting any performance issues that were identified for improvement and reform.*



Officer Grigg is one of our "Bigs" in our Big Brothers Big Sisters Bigs in Blue collaboration.

MPD supports these concepts. Navigating the aftermath of an officer involved critical incident (OICI) is extraordinarily challenging. Communicating with the public is one critical component, and MPD has previously held public meetings after OICIs or other significant incidents.

In 2014, Wisconsin enacted legislation requiring that an outside agency investigate officer-involved deaths. Since then, MPD has requested that the Wisconsin Department of Justice's Division of Criminal Investigation (DCI) investigate these incidents. This process has generally worked quite well, and the model has received a fair amount of favorable national attention. It has, however, also created some unintended consequences. Two post-OICI priorities come into conflict, limiting the capability of an agency involved in an OICI. On one hand, a critical priority—likely the most important—in the aftermath of an OICI is to conduct a thorough and independent investigation into the incident for review by the appropriate prosecuting entity. Wisconsin's law requiring outside agency involvement clearly furthers this goal. On the other hand, communicating with the public in the aftermath of an OICI is an important function of the involved agency. Yet furthering the first goal can conflict with the second. For example, sharing details of the incident at an early stage serves the goal of communicating with the public, but can adversely impact the integrity of the criminal investigation.



Officer Wipperfurth teaches a child about his radar detection equipment.

DCI has largely become the go-to agency for investigating OICIs across the state. DCI's practices and procedures have evolved since 2014, in an effort to emphasize the independence and depth of their investigation. As a result, the relationship between DCI and the involved agency is much more at arms-length than may have been the case previously; DCI is truly leading and conducting the investigation, with the involved agency providing minimal support. DCI—appropriately—has a limited mission: conduct a thorough investigation into the OICI and provide a report to the District Attorney. Community outreach is generally not part of their function (though once the prosecutor has ruled on the incident, DCI proactively posts their investigative reports on their website).

So, in the first few days after an OICI the department finds itself—as required by state law—largely a spectator to DCI's investigation. MPD leadership will know the broad strokes of the incident, but investigative details remain within the purview of DCI. And, the information provided by DCI to MPD is done so with the understanding that it not be released to the public (until the investigation has concluded and the prosecutor has ruled on the incident). This reflects an unintended consequence of the law: the appropriate focus on an independent criminal investigation limits the ability of an involved agency to communicate with the public about the incident. Some large agencies in other states—handling their own criminal investigation internally—have been (and can be) more proactive in releasing information after an OICI.

In the immediate aftermath of an OICI, MPD will certainly outline the particulars of the forthcoming investigative process. However, a public meeting or listening session at that time seems likely to create more community frustration or questions, as MPD is not able to release any facts about the incident at that time.

In the aftermath of recent OICIs, the Dane County District Attorney has typically provided a release and public statement covering his findings. This includes an overview of the relevant facts, investigative process, and legal conclusions. Once the internal administrative investigation has concluded, MPD has also released a statement (this practice will continue).

The department has previously held public listening sessions at the conclusion of OICI investigations. In fact, one request coming from such a meeting (in 2013) was that the department proactively release the contents of the internal investigation into the OICI; this has occurred in some instances and the department will consider making it a standard practice moving forward. The department will also continue to release the results of the internal investigation (when complete) and will evaluate whether it is appropriate to pair this with a public meeting.

RECOMMENDATION 14: MPD should seek to engage with its community regarding controversial events, including officer conduct that does not reflect its core values or best performance.

MPD agrees with this concept. For more than a decade, the department has proactively released information regarding internal complaints and dispositions, including disciplinary findings and outcomes. Other mechanisms have also been used to engage the public in these situations, including press conferences, public meetings and informal discussions with community members. Employees (and former employees) retain some privacy interests, and discussing serious disciplinary cases publicly can pose complex legal challenges. MPD remains committed to transparency and will continue to share disciplinary summaries with the public.

RECOMMENDATION 15: MPD should relax its uniform requirement permitting personnel to appear out of uniform on duty at appropriate community events.

MPD recognizes that a police uniform can be a barrier to creating relationships with some members of the community. So, the department does allow officers participating in certain events and activities to wear a modified (or "soft") uniform. This will continue and be evaluated on a case-by-case basis. It is important to recognize the complexity of this issue, however. Each of these officers is in the community, and may be called upon to take police action —even while at a community event. This has happened previously. Taking enforcement action while not in a standard uniform can create a variety of problematic issues (being identified as an officer, having the appropriate equipment, etc.). Also, officers are often attending these meetings and events in the middle of a shift, where they are fulfilling their primary duties and standard uniform is required. Finally, part of the benefit of this type of community outreach is to improve relations between the public and all police, not just specific officers (or those in alternate uniforms).



Kids are given an up-close and personal tour of an MPD squad with Officer Magyera.

RECOMMENDATION 16: MPD should devise additional ways to solicit and encourage feedback from all of its communities regarding the performance of the Department.

MPD is in full agreement with this recommendation and has been exploring ways to more directly receive feedback on individual officers and the department. In addition to the annual district surveys mentioned in the OIR report, other surveying efforts take place as needed, typically for a more focused geographic area or in response to a specific issue. There is also a mechanism on the MPD website for community members to provide feedback —positive or negative—on employees. This is used regularly; more than 200 submissions were received last year (with compliments outnumbering complaints roughly 3-1).

Ideally, the department would implement a mechanism where those individuals who have encountered MPD officers (as victims, witnesses, suspects, etc.) would receive a short survey (ideally delivered electronically) to provide feedback. This could go to all contacts, or to a random sample. Results would be reviewed by a variety of measures (individual employee, district, shift, etc.), and would provide the department with direct and meaningful feedback on officer performance. The Chicago Police Department has implemented such a model, terming it "RespectStat," a variation on the CompStat model of crime response. So, while MPD strongly supports this concept, implementing such a plan will require funding. We have also requested that OIR provide examples of agencies that do this or workable processes/ models to consider.

RECOMMENDATION 17: MPD should devise a feedback loop for its criminal justice partners regarding the performance of its officers and the Department as a whole including the District Attorney, Sheriff, Judges, Public Defenders, Juvenile Justice Administrators, Probation Officers, and Social Workers.

MPD regularly receives input and feedback from its criminal justice partners on employees' performance. Our experience has been that other parts of the criminal justice system generally have high regard for the professionalism and work product put forth by MPD officers. When adverse feedback has been received, it has been addressed appropriately. Formalizing a feedback process would be a challenging effort, requiring participation by outside agencies who are generally already overworked. MPD will continue to receive feedback from our criminal justice partners, and will proactively encourage them to provide such feedback when appropriate. Ideally, the implementation of a feedback process as outlined in the response to recommendation #16 would incorporate criminal justice partners as well.

RECOMMENDATION 18: MPD should revise policy discouraging the use of family, friends, or bystanders to serve as translators, except when MPD or City resources are not available and the situation is exigent. In cases in which civilians are used as translators, the non-availability of other MPD resources should be documented.

MPD is committed to providing quality police services to those with limited English proficiency. The department maintains and distributes (internally) a list of officers with bilingual capabilities, and provided department-wide training in 2017 on language interpretation topics.

In late 2017, Madison's Department of Civil Rights released a draft Language Access Plan for all City agencies. MPD has been working with the Department of Civil Rights to move forward with phase I of this plan, and will continue to work through the remainder of the plan. We will consult with Civil Rights as the plan progresses to ensure that departmental SOP is in alignment with the citywide plan.

RECOMMENDATION 19: MPD should devise policy instructing its officers not to request social workers to provide translation services unless there is a pre-existing understanding with the social services agency that they agree to do so.

MPD will review this recommendation in the context of the City's Language Access Plan, and in consultation with the appropriate social service agencies.

RECOMMENDATION 20: MPD should devise ways to incentivize its bilingual officers to assist in providing translation assistance in the field, including consideration of adopting a pay differential.

The City's Language Access Plan includes a provision to explore this for all City employees. This process will be the responsibility of the Departments of Civil Rights and Human Resources, and will ultimately be a bargaining issue for sworn MPD employees.

It bears noting that the ability to interpret is only one of many skills that might merit consideration for additional compensation. Many officers are instructors, have specialized training and expertise in a particular area (tactics, crisis intervention, etc.), or have relevant certifications (like being a Drug Recognition Expert). Incentivizing one capability over another may create perceptions of unfairness or other unintended consequences.

CITY ATTORNEY RESPONSE: This recommendation is subject to collective bargaining. Whether the City could bargain such a change, and the cost of doing so, is unknown.



MPD's Explorer Post 911 Members.

RECOMMENDATION 21: MPD should audit its officers' use of the City's telephonic translator program to gauge its level of effectiveness for police matters, and make suggestions for reform as needed.

The language line provides valuable back-up interpretation capability for the department. With the vast number of languages that officers can (and do) encounter, it seems unlikely that there will ever not be a need for some kind of remote/technical interpretation option. The language line is also available to and utilized by MPD civilian employees to provide customer service when needed. MPD will continue to explore ways to provide this service and evaluate its effectiveness, in conjunction with the Department of Civil Rights.



South District Advisory Board.

RECOMMENDATION 22: MPD should continue to expand its efforts to create local Captain's Advisory Groups.

In 2016, MPD applied for a federal grant to pilot a community advisory board in South Madison. This funding—awarded in 2017—has allowed MPD to work with three community partners (Centro Hispano, Nehemiah Center for Urban Leadership Development, and the Bayview Foundation) on this issue. The majority of the funding goes to increase the staff capacity of these partners and to assist MPD efforts to recruit community members to participate in the advisory group. The process is intended to involve community members of color in a discussion about public safety, policing and perceptions of fairness. The department hopes to leverage this increased public participation to improve problem-solving initiatives in South Madison neighborhoods and to receive input on MPD operations and practices.

This process has helped the department determine the best methods for successfully implementing advisory committees. The assistance of community partners (and the funding to support that assistance) has been critical to this effort. With current grant funding ending in early 2018, additional funding sources will need to be identified.

MPD supports the concept of district advisory groups, though a robust and inclusive process requires funding. The department will pursue expansion as resources and community interest permit.

RECOMMENDATION 23: MPD should continue to dialogue with the City's Rapid Response Team to further develop a productive working relationship, and to assist in the Team's overarching objective of enhancing trust and providing additional services to the community victimized by a major crime.

MPD recognizes that effective response to community problems—including violent crime—require a comprehensive approach that involves more than just the criminal justice system. The City's Rapid Response Team is still a relatively new entity seeking to contribute to the effort, and MPD remains committed to maintaining a positive and cooperative working relationship with them.

RECOMMENDATION 24: MPD should implement the Special Community/Police Task Force Recommendation to conduct random reviews of footage to evaluate officer performance.

MPD has implemented a number of audit processes to ensure compliance with the department's Code of Conduct and Standard Operating Procedures. Expanding this to include random reviews of video footage is a concept supported by MPD, though implementing it in a meaningful way will require additional supervisory staffing. We have requested that OIR provide examples of agencies engaging in this practice to obtain additional background.

RECOMMENDATION 25: MPD should implement the Special Community/Police Task Force Recommendation to train detectives and officers in the use of trauma-informed interviewing skills.

As the report points out, in 2017 MPD provided training to all sworn employees on the topic of trauma-informed care. MPD will explore the possibility of providing training on trauma-informed interviewing to sworn personnel. The ability to follow through on this will be dependent on the availability of qualified trainers, the cost of the training, and balancing competing training needs. This topic will be added to MPD's list of future training priorities.



MPD Officer Gillard reads to kids at a local school.

RECOMMENDATION 26: MPD should implement the Special Community/Police Task Force Recommendation to explore Scotland's de-escalation methods and the United Kingdom's national decision-making model for police, and adapt these concepts productively to its own policing challenges.

MPD Training Staff personnel are always exploring options to improve the quality and content of both pre-service and in-service training. This includes review of training provided by other agencies. An example, as highlighted in the report, was an officer traveling to Seattle to observe de-escalation training provided by the Seattle Police Department. This provided the foundation for MPD's training and SOP on de-escalation.

Training staff can review the Scotland and United Kingdom models and evaluate whether any individual aspects should be incorporated into MPD training. It is neither appropriate nor practical to consider full implementation of the models, however. As the report notes, police in the United Kingdom face a reality much different from those in the U.S.

RECOMMENDATION 27: MPD should continue to consider and review the Special Community/Police Task Force Recommendations to further integrate them into MPD culture, and to embrace the spirit and underlying rationale with which they were made.

MPD agrees; the department fully participated in the Special Community/Police Task Force process and report. Many of the key recommendations in the report are things that MPD has been doing for years and will continue to do.

RECOMMENDATION 28: MPD should continue to work with the City, County and its members to recognize crime as yet another danger to public health and to develop further strategies of prevention and remediation consistent with the model.

MPD agrees; the department has long recognized that an effective response to community problems must be comprehensive, and must include more than just a traditional criminal justice focused approach. Recognizing crime and violence as a danger to public health has long been a focus for MPD. An example of this began in 2009 and spanned over several years in Southwest Madison. This collaborative effort between Public Health nurses and MPD focused on violence prevention and community revitalization. Officers and command staff from the West District worked with nurses from Public Health to examine police data and survey data from residents, and sought to shift the focus in that area towards violence prevention through a variety of strategies (building social capital, increasing resident access to resources, improving mobility and employment opportunities, addressing safety concerns, etc.). This initiative strongly supported community driven events like community meals, the creation of a neighborhood farmer's market, community gardens and expanded youth programming. A link with more information to this initiative is available on the city's website:

www.cityofmadison.com/sites/default/files/city-of-madison/mayor/documents/PHViolencePresentation.pdf

This work in Southwest Madison was recognized by the California Endowment in 2011 through a grant award. This funding allowed MPD to further support a public health approach to violence prevention. The initiative included drop-in park programming for youth at Meadowood Park, efforts to improve youth employment opportunities through a program led by Youth Services of Southern Wisconsin, and a collaborative effort (between MPD and area pharmacies) to reduce prescription fraud. This work in Southwest Madison provides a good example of MPD's recognition that violence and crime impact public health, and where the department has collaborated with community members and partners over an extended period using an innovative approach.

The OIR report refers to a more recent example of this commitment: the Madison Addiction Recovery Initiative (MARI). Through MARI, low-level offenders whose crimes are driven by opiate addiction are diverted from the criminal justice system into treatment. Ideally, the offender will receive treatment and achieve recovery, likely saving his or her life and reducing opiate-related crime in the long term. The grant also includes a research component, to evaluate the effectiveness of the program and concept. MPD has played a critical role in the effort, dedicating significant resources to the grant.

There are many other examples where MPD has worked with external stakeholders to address crime and public safety issues. These efforts will continue.

RECOMMENDATION 29: Consistent with this Report, MPD should develop formal mechanisms whereby a broader group of community stakeholders are brought into the selection process for special assignment officers.

MPD is committed to involving community members in the selection processes for closed positions when appropriate. Indeed, the department has a long history of doing so; community members are regularly invited to participate in interview panels during these selection processes: neighborhood residents (for neighborhood officer selections); principals or other school district representatives (for educational resource officer selections); volunteer board members (for K9 handler or Mounted Patrol Officer positions); Journey mental health crisis workers (for mental health officer positions); etc. Community members are involved in the selection process for most MPD closed positions, and this has been the case for many years.

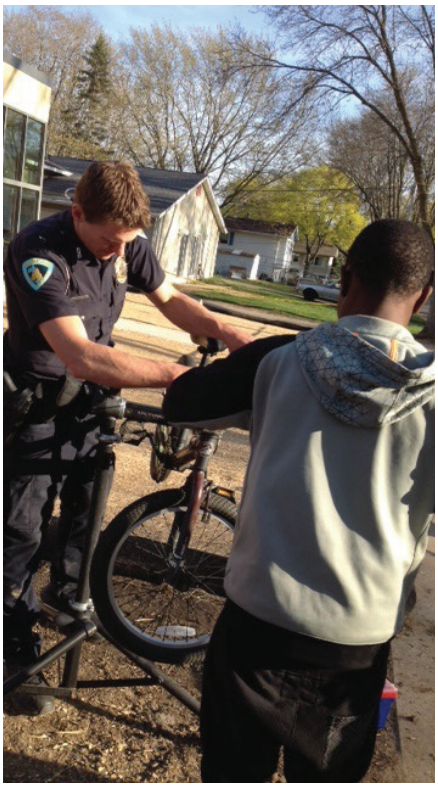
Formalizing this process—depending on what exactly that means—raises two issues. The first is the availability or applicability of community involvement. While for some positions it seems obvious where we might seek a community member to participate (like neighborhood officers with a geographically based assignment), for others it is less clear (traffic crash specialists? criminal intelligence officers?). And, for those positions with a clear constituency from which to draw, there is no guarantee that we can identify a member of the public interested and able to participate.

Also, the process for selecting closed position officers is incorporated into the MPPOA contract, and any formal change is a subject for bargaining. MPD is committed to the practice of involving community members in selections processes for closed positions and will continue to do so when appropriate.

CITY ATTORNEY RESPONSE: This recommendation is subject to collective bargaining. Whether the City could bargain such a change, and the cost of doing so, is unknown.

RECOMMENDATION 30: Consistent with this Report, MPD should routinely seek input from community stakeholders and professionals regarding the performance of officers assigned to specialized units.

MPD regularly receives input/feedback from external stakeholders on the performance of officers assigned to closed positions. When adverse feedback has been received, it has been addressed appropriately. Positive feedback is also shared with officers and documented as appropriate. Information received in this manner has been used to help the Chief determine whether to extend an officer's term or, in some instances, to remove an officer from their position.



Neighborhood Officer Caleb Johnson works on fixing bicycles for children in the neighborhood he worked in.

Formalizing this process—again, depending on what exactly that means—could be problematic. As described above, different positions will have different constituencies of stakeholders available to provide feedback. For some positions, this group would be easy to identify. For others it could be more challenging. And even for positions with an easily identified constituency, there is no guarantee that any members will be willing to provide input as part of a formalized process. This creates an issue of fundamental fairness: an officer doing excellent work might be evaluated adversely if those within his or her "constituency" decline to provide feedback.

The example provided in the report (educational resource officers) demonstrates some of the challenges of formalizing this process. It calls for soliciting feedback from school administrators, students, parents, faculty, juvenile justice coordinators, prosecutors and public defenders. For a single educational resource officer working in one of Madison's high schools, this list reflects thousands of people. Soliciting and analyzing feedback from all of them would be an onerous task, beyond MPD's current capabilities. And, most of these individuals likely have no contact with, or opinions of, the educational resource officer.

MPD is committed to hearing feedback from the community about officer performance. A robust mechanism established pursuant to recommendation #16 could be a mechanism to improve this communication in the future. The department will continue to accept and act on external feedback about officer performance, and will explore other reasonable ways to encourage such input.

RECOMMENDATION 31: With input from the community, each specialized MPD unit that has not already done so should devise a mission statement setting out the core objectives of the unit.

Most units/teams within MPD already have an existing mission statement or similar articulation of unit goals; many of them are posted on the department's website. MPD will explore this concept further, and will post specialized unit/assignment mission statements (or a similar articulation of goals/objectives) on the department website in the future (where lacking).

RECOMMENDATION 32: With community and City stakeholder input, MPD should devise a media release policy setting out objective parameters regarding when information about arrests of persons will be proactively publicly released.

Information releases from MPD typically come from the public information officer (PIO) or directly from a shift officer-in-charge (OIC). The department proactively releases a great deal of arrest and incident information. This can occur through an "incident report," a press release, or a full-fledged press conference. The department also provides the public with significant ability to review MPD data through the Community Crime Map. More recently, daily summaries of MPD activity are released through the Chief's blog.

The department has sought to be consistent in what is released and when the release occurs. MPD has an SOP on News Media Relations; however, we recognize that some additional language would improve consistency and the SOP will be updated accordingly.



Safety Town Program – presented by MPD, Madison Fire Department and the Safe Kids Coalition.

RECOMMENDATION 33: In publishing information about "shots fired" calls, MPD should include whether the call led to an arrest, revealed corroborating information, or had no further corroboration beyond the initial call.

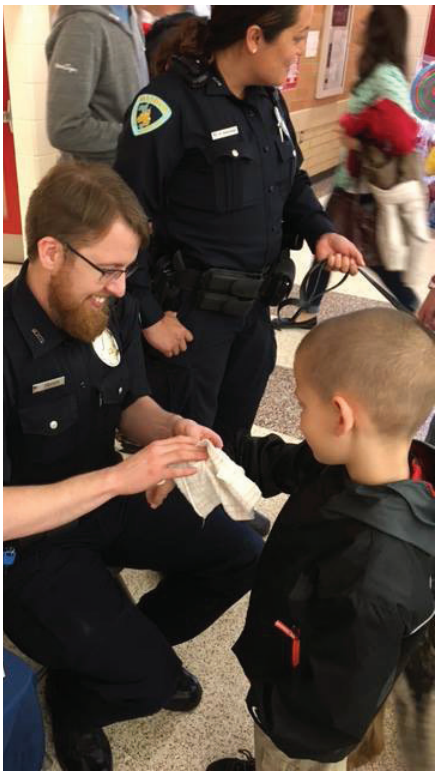
This section suggests that uncorroborated reports of shots fired are included in data released by MPD, providing an unrealistic (and inflated) number of incidents. This is not the case. In 2017, the department provided internal guidance to officers on criteria for when an incident should qualify as a "shots fired" case. This has been codified into an SOP that was recently approved and implemented. It sets forth several categories of incidents involving "shots fired" reports: where injury occurs, where property damage occurs, where shell casings are located, etc. This information has been included in information released to the public and Common Council, and this practice will continue.

RECOMMENDATION 34: MPD should consider resource neutral ways to supplement the staffing of their facilities so that they can be open for public access for longer hours.

MPD recognizes the drawbacks of the limited hours that district stations are open to the public, and fully supports expanded hours. However, there is no "resource neutral" way to accomplish this. Additional public hours require staffing the station window, currently staffed by civilian employees. Either additional civilian positions are added to the department to facilitate this, or existing civilian staff members are re-assigned to these positions (and no longer performing their current duties). Current civilian staff members are already overworked, and the department has been seeking additional civilian positions to accommodate existing workload (like processing public records requests) for years.

The department has also previously experimented with a district station officer position, where a sworn officer was assigned to a district station to handle walk-in citizen complaints or questions. This is another option to provide additional district station public hours, though it would be significantly more costly to implement.

We also note that the district station community rooms are available for public use, and can be reserved for meetings outside normal station hours.



Officer Frasier takes part in a school fun fair.

RECOMMENDATION 35: MPD should dialogue with the City and the University of Wisconsin Law School to identify ways that law students can be reintegrated into the Department's learning and problem-solving functions.

MPD certainly supports a positive and productive relationship with the UW Law School and the academic community in general. Each year, MPD hosts more than thirty interns from undergraduate programs, and more than a dozen current members of MPD have law degrees (many from UW). MPD commanders also maintain personal relationships with Professors Goldstein and Scott, with current UW Law School staff members, and with past MPD leadership. An Assistant Chief serves on the law school-based Wisconsin Innocence Project's advisory board, and the Chief is a regular guest lecturer at the Law School.

From 2002-2013, the U.S. Department of Justice's Office of Community Oriented Policing funded the Center for Problem-Oriented Policing. The center's director and founder—Mike Scott—was a former MPD officer and police chief in Florida. While director of the center, Professor Scott also served on the UW-Madison Law School faculty (his position funded in part by DOJ). Professor Scott carried on much of the strong work that Professor Goldstein had been doing, maintaining strong connections with MPD. In 2014, DOJ discontinued funding the Center for Problem-Oriented Policing; this also resulted in the end of his employment at UW. Any changes in MPD's relationship with the Law School seem tied to this series of events—and Professor Scott's ultimate move to Arizona State University—more than anything.

MPD supports any efforts to strengthen connections with the UW Law School or academic community in general.

RECOMMENDATION 36: In selecting neighborhood officers, MPD should broaden its selection process to include City stakeholders and representatives of the community.

This is also articulated above in recommendation #29. As indicated in the response to that recommendation, MPD is committed to this concept and regularly involves external stakeholders in the interview process for neighborhood officer positions.

RECOMMENDATION 37: MPD should ensure an effective transition between the outgoing and newly-assigned neighborhood officers.

Newly selected neighborhood officers engage in robust cross training with the outgoing officer, and this practice will continue. We recognize that the transition process could be formalized and will move forward with doing so.



MSCR Allied Learning Center's Summer Camp – MSCR Marlborough Park Program.

RECOMMENDATION 38: MPD should have its Neighborhood Officers (and all specialized officers) prepare daily activity logs of their performance.

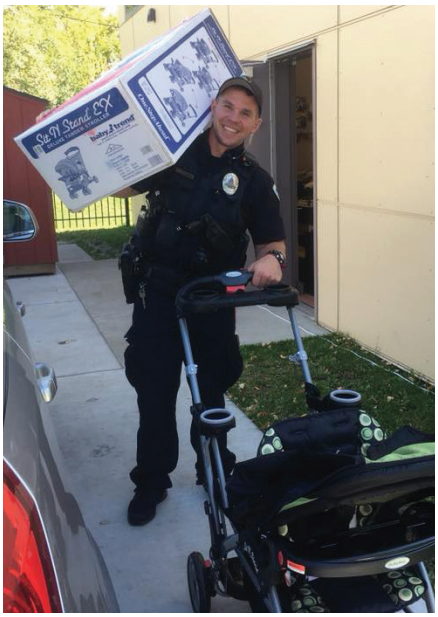
Measuring and evaluating the work of police is a challenge faced by departments across the nation. Traditional measures—like crime rates—are insufficient to effectively track officer activity or to evaluate effectiveness (individual, unit or agency). Most work performed by patrol officers is documented/tracked through the 911 Center's computer aided dispatch (CAD) system. However, much of the work done by non-patrol officers, or members of other ranks, is not captured by the CAD. Quantifying this work in an effective way is a challenge.

MPD has made efforts to quantify work done by some non-patrol units. As an example, the K9 unit maintains data on individual training and operational K9 deployments. This is captured in a stand-alone database (purchased with donated funds), and is a time-consuming effort. Unique aspects of the K9 function require this additional work, however, and the work lends itself to being quantified.

MPD has also sought to quantify the work done by the department's community policing teams (CPTs). This is not realized through individual daily logs, but through entering daily data for the entire team. This process has evolved over the years, and demonstrated the challenges with collecting this data in an effective way. The easiest things to count (arrests, citations, traffic stops, etc.) are not necessarily the most important things that officers do. And, choosing what

is tracked or counted will have the predictable outcome of encouraging officers to engage in that activity or perform those tasks. Literature on measuring police effectiveness reinforces MPD's experiences in this matter.

So, the department has expanded the categories of CPT activity that are captured. In addition to the traditional measures, other community policing activities are captured. These include foot patrol, community events, neighborhood meetings, etc. However, the utility of this is still quite limited. We can measure *outputs* (how many neighborhood meetings were attended or how much time was spent doing foot patrol) but not the *outcomes* of the activity (Were the encounters positive? Did the efforts improve community trust? Etc.). The report includes an example provided by an MPD neighborhood officer of community policing in action (encountering a resident driving with a suspended license). This example certainly reflects the benefit of neighborhood officers and the type of work they are expected to do. But it also demonstrates the limitations of a daily log. How would such an encounter be noted? How is the outcome captured in any meaningful way? Providing a narrative description of the encounter does not allow for the aggregation of data in any useful way. And a daily log—comprised of information self-entered by the neighborhood officer—might not be viewed as providing objective "evidence" of an officer's effectiveness or performance.



Neighborhood Officer Nelsen assisting set up for a baby shower for a community member in his neighborhood.

MPD did utilize—on a temporary basis—daily activity logs for detectives a number of years ago as part of a staffing analysis (performed by an external vendor). The logs proved to be cumbersome and time-consuming, and detracted from the detectives' primary duties. We have asked OIR to provide examples of agencies using daily logs in an effective way.

Effectively measuring work and outcomes by non-patrol units/functions is something that all departments struggle with. MPD is continually working to improve the data logged by CPTs, and is expanding the practice to the ERO function. MPD will continue to explore ways to capture work that other non-patrol units do, but requiring daily logs of all non-patrol officers is an ineffective and inefficient way to do so. MPD neighborhood officers typically report directly to district command staff, and meet with them regularly to discuss their work and initiatives. This will continue.

RECOMMENDATION 39: In order to be able to gain an evidenced-based understanding of patrol officers' problem-oriented policing activity, MPD should institute daily activity logs for patrol officers.

Contrary to the report's suggestion, there is a significant volume of data available regarding the daily activity of patrol officers. Most of the work that a patrol officer does is tracked in the CAD, and this information can be extracted and analyzed. The annual CAD output for MPD's patrol function contains millions of data fields; this allows for a great deal of analysis into patrol officers' work. Incident categories have been created over the years in an attempt to better track community-oriented policing activities. One example is foot patrol; the department can now track which officers are engaging in foot patrol, where it is occurring, and what time of day it occurs. The department has continued to make improvements in what data the CAD captures, and will take a fresh look to see if additional community policing related information can be tracked.

We are not aware of departments of our size or with our workload who have all officers complete daily logs. Nor are we aware of any evidence that daily logs lead to improved officer performance or public safety outcomes. We have asked OIR to provide additional information on this topic.

Requiring daily logs would, however, clearly require a massive expenditure of officer time. An analysis of MPD's 2016 patrol workload showed that the department needs to add twenty-three patrol officers to maintain an even balance between reactive and proactive workload. Requiring a daily log would have the inverse effect: adding to officers' required work and reducing the time available for proactive efforts. If it took officers an average of eight minutes to complete a daily log, for example, more than 4,500 officer hours would be spent yearly on completing daily logs. This is more than 12 officer hours per day. And this does not consider the time and staff needed to enter the logs into some sort of database (if applicable), the cost of software to store log data, or the time needed to review the log information.

Daily logs for patrol officers also have the same limitation as those for non-patrol officers: they can effectively (if inefficiently) capture *outputs* (what the officers are doing) but not *outcomes* (whether they are doing things well and whether those things are effective).

RECOMMENDATION 40: MPD should develop evaluative metrics consistent with the stated mission of neighborhood officers and prepare at least annual performance evaluations based on those metrics.

For years, MPD neighborhood officers have completed an annual report on their assigned neighborhood. A variety of data points are utilized in the reports, and the officers assess the status of their neighborhood (using a five-level scale addressing neighborhood wellness and need for MPD intervention). Clearly, assessing a neighborhood's wellness is an imprecise undertaking. A variety of measures speak to the condition of a neighborhood and to the quality of life experienced by residents. A number of factors influence this, and neither MPD nor an individual neighborhood officer can be expected to "fix" a challenged neighborhood.

MPD will continue to have neighborhood officers complete annual reports and to assess neighborhoods on an annual basis. We have also asked OIR to provide examples of agencies who have established these types of measures. The subject of performance evaluations for individual employees is discussed further below.

RECOMMENDATION 41: MPD should regularly seek input from City stakeholders and representatives of the community in evaluating the performance of its Neighborhood Officers on at least an annual basis.

This recommendation parallels #30; see that response.



MPD's Mounted Patrol connecting with community members at an event.



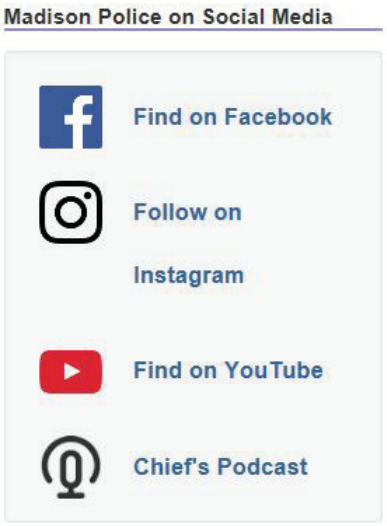
MPD hosts a community event to positively engage with neighbors.

RECOMMENDATION 42: MPD should devise ways to consistently publicize the community policing activities of its patrol officers as well as special assignment personnel.

MPD has made consistent efforts to do this, and the department recognizes the importance of publicizing this type of activity. MPD regularly posts information related to community policing efforts to the department's website, in a variety of ways (incident reports, media releases, district blotter's, Chief's blog, community outreach blotter, etc.). These entries are available to anyone visiting the MPD website, or community members can opt-in to receive email notices of specific postings. The website receives thousands of views (almost 250,000 a month).

MPD also has a robust social media presence. More than 10,000 people follow the MPD Facebook page and more than 25,000 people follow the MPD Twitter account. The department also is active on YouTube and Instagram, and the Chief does a regular podcast. A review of these sources shows a routine inclusion of community policing activities. MPD's public information officer also works with local media to highlight community-policing efforts.

Ideally MPD would be able to improve the quantity and depth of information released publicly, particularly through social media. Additional staffing is required for significant improvement, however, through either an additional public information officer (PIO) or social media coordinator (or both).



MPD's Social Media Apps.



MPD's Twitter Account.

RECOMMENDATION 43: MPD's executive leadership should pursue ways to utilize its neighborhood officers in developing, facilitating, and measuring specific problem-oriented policing projects.

MPD is committed to the problem-solving process, and to facilitating all officers in their problem-solving efforts. All department members have received training in problem-oriented policing, and MPD leadership encourages and fosters problem-solving by neighborhood officers. Tracking and documenting these efforts can be challenging (as noted above), and MPD will continue to explore ways to improve this.



MPD's Publications to Our Community Through Our Website.

RECOMMENDATION 44: MPD should commit to a newly robust and collaborative engagement with the City of Madison's Neighborhood Resource Teams in establishing new goals and performance measures for proactive problem solving.

The City's Neighborhood Resource Teams have gone through various formats and organizational models over the years. MPD's involvement and participation in the teams has been consistently robust through these changes, and will continue to be in the future.

RECOMMENDATION 45: With regard to field assignments MPD should find ways to take full advantage of officers identified as practicing problem-oriented policing, such as having them provide modeling opportunities, be involved in training community policing concepts and otherwise effectively export their policing strategies to other officers.

MPD is committed to this concept, and to the idea of having top performers share their developed expertise with others. For instance, actual MPD problem-solving initiatives are used to instruct new officers during the pre-service academy. In addition, with the Field Training process for the 2017-18 Academy, Field Training Officers (FTOs) are required to train their assigned probationary officer in their current strategies for community policing and problem solving. This field-based training demonstrates how these activities can be successfully integrated into the work of a patrol officer. This effort is also documented in the FTOs daily observation report. FTOs are encouraged to incorporate this in all phases of the Field Training process, and it is mandatory in the first phase. The department plans to evaluate the effectiveness of this approach and adapt if necessary before the May 2018 Academy.

The department also includes a problem-solving award as part of the annual MPD awards ceremony.

RECOMMENDATION 46: MPD should evaluate the substantive work of its individual Community Policing Teams, and consider changing the name of the team(s) as needed to better reflect their work.

MPD's community policing teams (CPTs) were formed in 2004. This reflected a fairly significant organizational re-structuring. At the time, the department fielded a fully-staffed AM and PM shift in the Traffic Enforcement Safety Team (TEST), as well as a sizable uniformed component (both AM and PM shifts) in the Dane County Narcotics Task Force (DCNTF). While issues and problems in the community were generally the responsibility of the districts (who received the complaints), the resources to respond to many of those complaints was centralized (not reporting directly to district commanders). And for those community issues not falling neatly into the traffic or drug/gang categories, there was no clear pool of resources—other than patrol officers—to use in response.

The CPTs were formed (initially three teams, later expanding to five) and the PM TEST unit and uniformed component of DCNTF were eliminated. The model for the newly formed CPTs contemplated their time as being allocated 40% for district problems, 35% for drug interdiction and 25% for traffic enforcement. Specific priorities and assignments were expected to fluctuate and vary by district. There was also discussion about how the new teams should be named. The original planning process used the term POP (problem oriented policing) team, though community policing team was the ultimate decision.

Since their formation, use of the teams has evolved somewhat. Today, more emphasis is generally placed on district problems and direct community policing efforts, and MPD's community policing teams demonstrate a great deal of initiative and creativity when engaging with the public. CPTs are also commonly utilized to staff protests and other special events requiring citywide resources, particularly those occurring spontaneously. CPT officers are also regularly used to fill other departmental needs (providing training, doing background investigations, etc.).

The OIR report outlines several examples of work done by district CPTs, suggesting that they cannot be construed as community policing. We disagree. Most of the work performed by the CPTs is in direct response to community complaints/concerns. An example (not listed) is resident complaints about drug activity at a specific residence. This type of call is routinely received by MPD district personnel, and responsibility for the follow-up typically rests with the CPT. This response generally utilizes a problem-solving approach, with the focus not on simply making a criminal arrest (though that is sometimes the ultimate outcome) but on reducing or eliminating the behavior adversely affecting the neighborhood. While this might seem to be a traditional type of policing—drug enforcement—we feel that it clearly reflects community policing. Drug activity at a residence can have a significantly adverse impact on a neighborhood, and on residents' quality of life. Responding effectively to these concerns strikes us as reflecting community policing at its best.

The same dynamic applies to traffic enforcement. While typically viewed as a traditional aspect of policing, most of the traffic enforcement engaged in by CPTs is in direct response to community input. This means responding to community complaints about traffic violations (speeding, etc.), monitoring school zones before and after school (a request and priority from both parents and the school district) or reacting to traffic crash patterns. All reflect being responsive to the public (at the neighborhood level), a cornerstone of community policing.

The work of each CPT is ultimately directed by the district Captain, who hears regularly from the community about their issues, problems and concerns. The CPTs respond directly to this public input, while still demonstrating great initiative and creativity in engaging the community. We feel that the work done by the CPTs is indeed community policing and is consistent with how the teams are named.



MPD protects individual rights during a protest–A Day Without Latinos.

RECOMMENDATION 47: MPD should have the CPT officers prepare daily logs of their activity.

MPD does collect data on CPT activity, and will continue to explore improved ways to do this. This parallels recommendations #38 and #39; see those responses for additional discussion.

RECOMMENDATION 48: MPD should regularly review the activity of its Educational Resource Officers to determine whether the appropriate balance between prevention, problem oriented policing, and enforcement is being achieved.

MPD does have a variety of mechanisms to ensure that educational resource officers (EROs) are balancing their work priorities appropriately. These include regular meetings between district commanders and school officials; regular meetings between district commanders and their EROs; citywide meetings with all four EROs and the MPD captain responsible for overall ERO coordination; and quarterly meetings with the EROs and Chief of Police. EROs also complete weekly logs outlining highlights of their work activities, and complete annual reports on their efforts. The department recognizes the importance of regularly reviewing ERO activity and will continue to do so.

RECOMMENDATION 49: MPD should work with school district administrators to ensure congruity of purpose with regard to mission and responsibility of EROs in the school setting.

MPD has worked closely with Madison Metropolitan School District (MMSD) leadership on the ERO function, providing clarity or revision as needed. The current contract between the City and MMSD calls for a working team of MPD and MMSD representatives to regularly review the ERO function. MPD and MMSD leadership also have regular meetings—formal and informal—to discuss the work of EROs. We support a shared understanding of the ERO role and consistency across the four high schools, and will continue to work with MMSD in furtherance of these objectives.

RECOMMENDATION 50: In selecting EROs, MPD should broaden its selection process to include faculty, juvenile justice partners, and student leaders.

MPD has always involved MMSD administrators in the selection process for EROs, and has experimented with expanding involvement to other school representatives (including students). We are willing to explore ways to expand participation in conjunction with MMSD. However, formal changes to the selection process are a subject for bargaining.

This parallels recommendation #29; see that response for additional detail.

RECOMMENDATION 51: MPD should regularly seek input from school stakeholders and juvenile justice partners in evaluating the performance of its EROs on at least an annual basis.

This parallels recommendation #30; see that response.

RECOMMENDATION 52: MPD should collaborate with the school district in better communicating to the public the range of services it provides in the individual high schools.

Each ERO completes an annual report—in conjunction with their school administration—outlining their activity for the year. MPD supports working with MMSD to proactively make these reports—or a consolidated version of them—available to the public. We also support exploring other ways to share ERO activities with the public. See the response to recommendation #42 for additional discussion.



Shop with a Cop.

RECOMMENDATION 53: MPD should closely review arrest and citations issued by EROs to ensure that officers appropriately use their discretion and do not unnecessarily enter juveniles into the criminal justice system.

MPD is committed to this, and department commanders do review ERO enforcement activity (through weekly data entry, annual reports, etc.) to monitor this issue. It is important to note that virtually every decision an ERO makes in the school is made in conjunction with the school principal or other administrator. The decision to resolve an incident with an arrest or citation is seldom that of the ERO alone.

RECOMMENDATION 54: MPD should develop a Field Training Officer program for its newly assigned EROs in order to foster transfer of skills and orientation of high functioning outgoing officers.

MPD does provide cross training for newly selected EROs to prepare them for their assignment. This includes time with the ERO they are replacing, as well as time with other EROs (to provide exposure to other styles, school environments, etc.). EROs also attend MMSD provided training every year, and generally attend external school resource officer training (though timing of that training can vary depending on availability and budget). We recognize that this process could be formalized somewhat and will move forward with doing so.

RECOMMENDATION 55: MPD should consider specialized training for its EROs in the arena of dealing with students who have identified behavioral/emotional issues.

MPD fully supports this type of training for EROs. MPD has a limited budget for external specialized training, and the ability to send EROs to this type of training is largely dependent on the availability of funding.

RECOMMENDATION 56: The City should dialogue with the Police Officers' Association in order to amend the current contractual agreement so that EROs (and other specialized officers who are focused on community policing such as Neighborhood Officers, Mental Health Officers, and Community Policing Teams) who have established effective working relationships in their specific assignments, as determined by input from Department supervisors, the officers themselves, and stakeholders at the respective campuses can remain beyond five years.

As indicated, this subject is governed by the MPPOA contract and any modification is a subject for bargaining. However, a brief discussion might provide helpful context.

From the perspective of an external stakeholder, it is easy to see the attractiveness of this recommendation. If you are, for example, a school principal and have a quality ERO assigned to your school, it just makes sense that you would want him or her to remain in their position.

The Chief, however, is responsible for MPD as a whole, and for the service the department delivers to all community members from all assignments. And there are, clearly, two perspectives to this issue. It is accurate to say that there are some drawbacks to a strict term limit for closed positions, and that high-performing officers have previously had to move out of a closed position purely due to their time in the assignment.

However, term limits also ensure turnover and create opportunity for all officers. For every position that is locked up with no term limit, there are potential high-performers in the patrol ranks who never have the opportunity to demonstrate their capabilities. In fact, in those instances where a quality officer has reached the end of his or her term limit in a position, our experience has been that the replacement officer typically performs at an equally high level—often with fresh energy and/or perspective. And patrol assigned officers without meaningful opportunities for variation in their work can become frustrated or cynical. An organizational setup that provides for regular changes in assignment can help reduce stress and improve job satisfaction. This can lead to healthier officers better able to serve the public.

Also, for a department that emphasizes the importance of community-policing, like MPD, relationships with key community members are assets that must be shared among various members of the department—not necessarily maintained by a handful of officers. Term limits on closed positions helps ensure that these critical contacts and relationships are shared broadly across the department.

CITY ATTORNEY RESPONSE: This recommendation is subject to collective bargaining. Whether the City could bargain such a change, and the cost of doing so, is unknown.

RECOMMENDATION 57: MPD should consider moving to a "soft" alternative uniform for EROs, as a means of reinforcing the unique mission of these officers in the school setting.

This parallels recommendation #15; see that response. However, it is important to note that EROs have routinely found themselves in the midst of significant disturbances and confrontations while in the schools. The "soft" uniform can adversely impact the EROs ability to respond effectively or be identified as an officer while doing so. The department will maintain the current practice of utilizing the standard MPD uniform for EROs, while allowing for a "soft" uniform to be approved for specific assignments.

RECOMMENDATION 58: The Mental Health Team should develop guidelines or protocols for periodically reviewing mental health safety bulletins and associated alerts to assess whether they should be amended or purged from the system.

These documents are considered public records under Wisconsin law, so they cannot be purged until a set number of years has elapsed (pursuant to the City's records retention schedule). The alert that notifies an officer of the existence of an alert does have an expiration date (typically ranging between one and five years). After the alert has expired the actual document remains in existence, but is not stored in a manner that line officers will see it or be alerted to its existence. The mental health team will review the process to ensure that the alert expirations are set appropriately.



St. Paul Police Department Visits MPD for a site visit regarding our mental health officer program.

RECOMMENDATION 59: MPD should consider promoting regular communication to the public about the activities of its Mental Health Team by, among other methods, including a sample narrative of the team's activities in the daily crime blog.

The Mental Health Officer program embodies the type of progressive policing that MPD is committed to, and we fully support the concept of communicating the team's good work to the public. The Mental Health Unit also completes an annual report that is posted on the MPD website. The 2017 report is not yet complete, but the 2016 report provides an overview of the unit's activities:

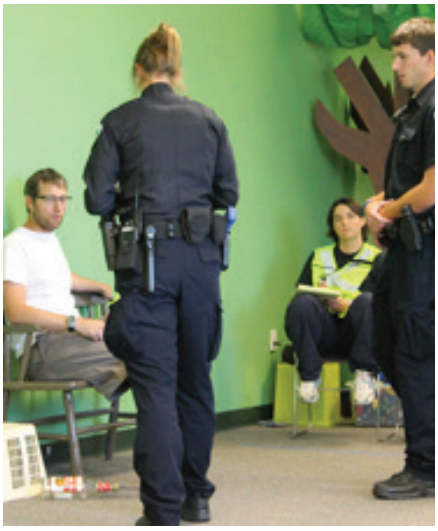
www.cityofmadison.com/police/documents/MHOYearEndRpt2016.pdf

RECOMMENDATION 60: MPD should devise methods to fully document the daily activity of MHOs, in part to facilitate a larger internal and external discussion about whether those activities are necessarily or best handled by police officers.

As indicated above, MPD is committed to reasonable efforts to capture data and demonstrate the work done by non-patrol personnel. We will continue to explore practical ways to do this.

RECOMMENDATION 61: MPD should quickly fill the position of Mental Health Team sergeant and should maintain funding for this position to ensure effective supervision of the team.

MPD has recognized this as a priority for several years, but previous attempts to secure funding through the budget process were unsuccessful. However, the department's 2018 budget includes partial-year funding for a new civilian position assigned to the MPD Training Center. Adding this position will allow for a restructuring, reassigning a sergeant position currently assigned to the Training Staff to the Mental Health Team. This change will take place mid-year in 2018.



MPD conducts training focused on responding to those having a mental health crisis.

RECOMMENDATION 62: MPD should continue to integrate use of force training scenarios with scenarios involving someone in a mental health crisis.

MPD is committed to providing this type of realistic training and will continue to do so.

RECOMMENDATION 63: MPD should cross-train patrol tactics and force instructors to also run and debrief mental health crisis scenarios to strengthen the Department's message around the importance of de-escalation in crisis situations, even in those scenarios when officers also need to consider force options.

MPD supports this concept and has made efforts to implement this structure already.



MPD conducts training focused on responding to those having a mental health crisis.

RECOMMENDATION 64: MPD should amend its SOP on Mental Health Incidents/Crises by breaking it into separate policies that would address separate topics, and would specifically include the tactical principles the Department trains and expects its officers to employ in addressing situations involving individuals in mental health crisis.

Responding to incidents involving mental health crises entails a wide variety of contexts and potential dispositions. The current SOP attempts to address those variations in a single document. One concern frequently raised by officers is that it can be difficult to find the appropriate SOP that applies to a particular situation. So, the department has consistently tried to organize the SOPs in a logical fashion, allowing officers (and members of the public) to find the appropriate SOP as easily as possible. Breaking down this SOP into separate SOPs runs contrary to that goal and seems unnecessary. The length of the SOP seems reasonable and is comparable to other agency SOPs on the same topic (by way of comparison, the Milwaukee Police Department policy on this subject runs fifteen pages; MPD's is five pages).

A separate SOP—Response to Persons with Altered State of Mind—addresses more tangible aspects of MPD response to incidents involving mental health crises. It is a stand-alone SOP because it applies in other contexts, primarily to those under the influence of alcohol or drugs.

The report suggests that the term "abnormal behavior" is inappropriate. It is intended to refer to behavior rather than a person, and is consistent with diagnostic terminology used by mental health professionals. However, we will re-word the SOP to remove the term.

RECOMMENDATION 65: MPD should look for innovative ways to fill the critical gaps in its efforts to collect data on mental health contacts with police.

MPD appreciates the utility of quality data and is committed to using data for evaluative and decision-making purposes. We will continue to evaluate data points relevant to mental health issues and ways to collect and capture them.



MPD K9 with his partner out in the community.

RECOMMENDATION 66: The MPD Mental Health Team should develop a set of clearly-defined performance measures that can be consistently tracked and monitored to provide benchmarks for how the Department and the community define success for the mental health program.

As with other contexts, the issue of mental health crises in our community goes far beyond something that the police can remedy. So, while it is appropriate to explore measures that evaluate the Mental Health Team, community progress on the overall issue requires effort from other stakeholders.

RECOMMENDATION 67: The MPD Mental Health Team should work to integrate its volunteer assistants with Department resources in a way that provides consistency in data gathering and analysis tasks.

MPD supports collecting and analyzing data to assist the Mental Health Team's work, and has already taken steps to improve front-end data collection. The mental health unit is currently receiving some volunteer statistical assistance with these efforts, and the department is open to additional volunteer support from researchers to assist with data analysis.

An example showing some of the work/analysis that has already been done:

www.cityofmadison.com/police/documents/MentalHealthProgramEvalRpt.pdf

MPD RESPONSE TO CRITICAL INCIDENTS

An officer involved critical incident (OICI) is the most challenging event a police department faces. The aftermath of an OICI requires an agency to successfully navigate a number of challenges: a criminal investigation; an internal administrative investigation; officer health/wellness; community outreach; public/media information management; etc. OICIs are fortunately infrequent, but when they occur they present the greatest test any police department is likely to face.

Prior to Wisconsin's law change in 2014, MPD handled both the criminal and administrative investigations of the department's OICIs. The department had formed an OICI investigation team, made up of experienced detectives and commanders, and team members attended external training to remain in step with national best practices in investigating these incidents. This structure allowed the department to acquire a fair amount of institutional experience and expertise on the subject.

This section of the OIR report highlights two issues related to OICI investigations: timing of the primary officer interview and whether to allow involved officers to view video (body camera video, squad video, etc.) prior to making a statement. Missing from the discussion, however, is some context that is critical to reaching an informed opinion on these topics. So, a brief overview follows.

In the immediate aftermath of an OICI, a lot needs to happen. As the report correctly states the initial priority is a criminal investigation of the event. This is properly viewed as the most important thing to get right after an OICI, and as the top priority in the eyes of the public. In cases of an OICI involving an MPD officer, current practice is that DCI will be requested to do the criminal investigation. DCI agents will conduct all aspects of the investigation: processing the scene, reviewing video and other forensic evidence, conducting a neighborhood canvass, and interviewing all involved parties (including the involved officer). This work will be documented in a comprehensive report, and the report will be presented to the Dane County District Attorney. The District Attorney will review the case and ultimately make a decision on whether to criminally charge the involved officer. The DCI report is typically posted to their website after the DA's ruling for public review. DCI does a very comprehensive and professional job, and maintaining the quality and integrity of this part of the process is obviously critical to maintaining public trust in the aftermath of an OICI.

A critical aspect of this process—directly relevant to the issues they raise—is a key aspect of constitutional law not addressed in the OIR report. This relates to the legal status of the involved officer's statement. A brief legal primer will help the reader adequately understand the issue.

If you have watched a police oriented television show or movie, at some point you've heard, "you have the right to remain silent." This, indeed, is true: the Fifth Amendment to the U.S. Constitution protects everyone from compelled self-incrimination. So if any member of the community is questioned by the police, he or she is under no obligation to answer questions. This is also true of police officers. When DCI conducts a criminal investigation into an OICI, the involved officer has no obligation—none—to provide them with a statement. This principle has been well-established by the U.S. Supreme Court for decades.

An employer can certainly conduct an internal investigation into the actions of an employee, and order that employee to provide a statement (or face termination). Where things get tricky is when the employer is also a law enforcement agency. The law has evolved so that if a public employer orders an employee to make a statement (and face termination if he or she refuses), that statement is viewed as being "compelled" and cannot be used in a criminal prosecution. In fact, nothing derived in any way from such a statement can be used in a criminal prosecution.

An officer involved in an OICI can choose to make a statement to DCI as part of the criminal investigation. This is a voluntary statement, and it is completely up to the officer. Clearly, an officer providing a voluntary statement as part of the criminal investigation results in a more thorough and comprehensive product for the DA (and ultimately the public)

to review. Most importantly, of course, the DA learns the officer's observations and reasoning in his or her own words. Things shared in the officer's statement can also improve the criminal investigation in other ways; identifying physical evidence that might otherwise not be located, for example.

If the officer declines to make a voluntary statement, then the criminal investigation proceeds with the information available. The DA will review the case without the benefit of knowing the officer's statement. A compelled statement—whenever it is obtained—is irrelevant to the criminal investigation. Public trust in the process is best served when the officer elects to make a voluntary statement. This allows for the statement to be included in the criminal investigation reviewed by the DA and can contribute to the quality and depth of the criminal investigation in many other ways.

In the aftermath of recent MPD OICIs, officers have consistently elected to make voluntary statements. This was not always the case, and a process that encourages voluntary statements on the part of involved officers is critical: to ensure a thorough investigation, to provide the District Attorney with a full understanding of what took place, and to provide greater transparency (ultimately) to the public. But a voluntary statement is just that—voluntary. The officer has the ultimate say on whether he or she provides a statement, and on when it happens.

RECOMMENDATION 68: MPD should clarify its officer- involved critical incident SOP to ensure that, absent extraordinary circumstances, investigators should obtain a statement from involved and witness officers prior to release from shift.

As the discussion above explains, the quality of the criminal investigation into an OICI—and the public's trust in the investigation—benefits significantly from the involved officer making a voluntary statement. The timing of that statement is ultimately up to the officer (with guidance from legal counsel). So, the timing of a statement—if a voluntary one is the objective—is not entirely up to MPD or DCI. Only allowing the involved officer the opportunity to make a voluntary statement before the end of his or her shift would unquestionably lead to far fewer (if any) voluntary statements, and an overall degradation in the quality of OICI criminal investigations.

Those involved in the aftermath of these incidents have worked to develop a standardized response, to ensure a quality investigation. One aspect of this standardization has been the timing of the involved officer interview. The 24-72 hour window has proven to be ideal for a variety of reasons. First, this time period allows the involved officer to be well-rested for the interview (typically after one or two sleep cycles). There is a variety of research suggesting that memory will be improved under these circumstances. While the OIR report seems dismissive of this research, the studies in question are academic, peer reviewed works.

Second, a delayed interview allows the investigators time to more fully understand the events surrounding the OICI, allowing for an informed interview. This can't help but improve the quality of the interview and the overall criminal investigation. For example, a delay allows the investigators time to review forensic evidence (video, 911 calls, etc.). Requiring an interview before the investigators have had a chance to begin to grasp the overall incident will result in missed opportunities and pertinent questions unasked.

We disagree that this time delay is not consistent with best investigative practices. As an example, the International Association of Chiefs of Police (IACP) Police Psychological Services Section's guidelines on OICI investigations reinforce this practice:

> "[W]henever feasible, officers should have some recovery time before providing a full formal statement…this can range from a few hours to several days. An officer's memory will often benefit from at least one sleep cycle prior to being interviewed leading to more coherent and accurate statements."

The OIR report suggests an inconsistency between OICI investigations and other criminal investigations with respect to a delayed interview. This, however, completely misses the issue of voluntary statements, and misses the critical differences between an OICI investigation and other types of investigations. In the aftermath of an OICI, investigators know who the officer is, how to contact them, and can count on the fact that the officer will be available if needed. While investigating other crimes, investigators often struggle to verify the identity of witnesses or involved subjects, and have no guarantee that any will make themselves available or can even be located in the future. And if a suspect in a homicide told investigators that he or she would provide a statement, but only in a day or two, those terms would be accepted every time (a delayed statement being better than no statement).

The report also asserts that leads or investigative guidance from the involved officer's version of events can be lost because of the delay. This is inaccurate. DCI's practice is to maintain the integrity of the scene until after the involved officer has been interviewed, in case the interview yields information demonstrating that additional processing or searching is needed. In fact, requiring a day-of interview would have the inverse effect to that asserted by OIR: officers would (in all likelihood) decline voluntary interviews, and the criminal investigation would derive no benefit from the officer's perspective.

Also not mentioned in the OIR report is another routine component of an OICI investigation: the public safety statement (PSS). This is a short statement provided by an involved officer in the immediate aftermath of the incident. It is not intended as a comprehensive overview of what occurred, but is designed to elicit certain specific facts to allow for a thorough investigation (identifying the crime scene; pointing out any witnesses; a brief summary of the incident; etc.). The PSS provides for a contemporaneous account of what took place, and ensures that investigators have enough information to guide their initial work.

Finally, a footnote suggests that MPD conduct an "administrative" interview with an officer involved in an OICI prior to the end of their shift if DCI is "intent on sending the officer home without a formal interview." For the reasons described above, this would need to be a compelled interview, and nothing derived from it could be utilized in the criminal investigation. The result of this practice seems both predictable and problematic: the involved officer would be forced to provide a statement before they have the opportunity to rest, and MPD's Professional Standards and Internal Affairs (PS&IA) personnel would be forced to perform an interview with a less than comprehensive understanding of the incident. The involved officer would in all likelihood decline to make a voluntary statement to DCI, given the stress caused by the interview process, and the quality of the criminal investigation would suffer. Ultimately, MPD might be accused of subverting the criminal investigation by causing (unintentionally, but predictably) the involved officer to refrain from making a voluntary statement.

CITY ATTORNEY RESPONSE: The City Attorney has several concerns regarding this recommendation due to the possibility it may have an adverse impact on any potential criminal investigation. Under Wis. Stats. Sec. 175.47, MPD is authorized to conduct an internal review of the critical incident and does so through its Professional Standards and Internal Affairs Department (PS&IA). However, MPD is not the "investigator" reviewing the incident to determine whether there are any potential criminal violations. Under current policy and State law requirements, an outside law enforcement agency, usually the Wisconsin Department of Justice's Division of Criminal Investigation (DCI) conducts the criminal investigation. Therefore, DCI agents determine the timing of officer statements and not MPD. MPD does take a voluntary Public Safety Statement from the involved officer(s) immediately after the incident which is a summary of the event in order to: determine injuries, determine the type of force used, determine location of witnesses and involved parties and determine the status of the scene to preserve relevant evidence.

Because officers involved in a critical incident can face criminal prosecution for their actions, it would be a violation of their Fifth Amendment right against self-incrimination to compel a statement after a critical incident. Therefore, any attempt by MPD to obtain an officer's statement prior to DCI arriving on the scene could adversely impact the District Attorney's ability to prosecute a criminal case against the officer(s).

Under the well-known case of Garrity v. New Jersey, 385 U.S. 493 (1967) an officer may be compelled to provide a statement during an internal affairs investigation. However, this compelled statement cannot be used in any subsequent criminal case if the District Attorney decides to bring charges. Currently, most MPD officers provide a voluntary statement to investigators and cooperate fully with DCI's investigation. If this recommendation were implemented officers would be more likely to invoke their Constitutional right under the Fifth Amendment against self-incrimination.

RECOMMENDATION 69: MPD should clarify its SOP on officer-involved deaths and other critical incidents to ensure that investigators obtain a statement from involved and witness officers prior to providing the officers opportunity to review any recording of the incident.

This topic is one that agencies across the country are grappling with, and MPD's view is largely in alignment with that of OIR. Opinions generally fall into three broad categories: officers involved on an OICI should *never* view any related video after they have provided a statement, *must* view any related video before making a statement, or should provide an initial statement, watch the video and then supplement their statement if necessary. There are a number of factors weighing in on the topic, and MPD's view has evolved in recent years.

Outside of the OICI context, it seems uncontroversial for an officer to review video footage of an incident before completing his or her report. In an OMVWI arrest, for example, an officer might review video to supplement his or her notes/recollection of the incident and ensure the accuracy of his or her report. MPD's position was previously that an OICI should be no different. This reflected what was, and generally still is, the most common view on this topic.

In the context of an OICI, however, the officer's statement (obtained through an interview rather than completing a report) is that of a participant to the incident. The appropriateness of the officer's actions are dependent on his or her perceptions at the time of the incident. So, an officer watching video—prior to making a statement—might see things that he or she was previously unaware of, and this could color their statement. There is also some emerging research that suggests that reviewing video prior to making a statement will strengthen recollection of those things reflected on the video, but will reduce recollection of things not reflected on the video (and those may be critically relevant to evaluating the officer's decisions).

So, in 2017 MPD modified the department SOP on this topic, to what seems like the best approach: officers involved in an OICI will be asked to provide an initial statement without viewing video, have an opportunity to view video (if any exists) and then the interview will continue to allow for additional discussion (with the benefit of having viewed the video). This process strikes the best balance of obtaining a clear statement (pre-video review) while allowing for video review and further questioning to elaborate on any details or recollections triggered by the video.

The SOP provides for deviation at the discretion of the OICI commander for one simple reason: these remain voluntary interviews. As discussed above, an officer is under no obligation to provide a statement as part of the criminal investigation into an OICI. If an involved officer (through legal counsel) took the position that he or she would only provide a voluntary statement if allowed to view video beforehand, this would have to be considered. And this is certainly no different than criminal investigations in non-OICI contexts: if investigators' only opportunity to interview someone is if that person is allowed to view video beforehand, those conditions would likely be accepted.

Of course, MPD officers involved in an OICI are not likely to be subject to MPD's SOP, and DCI's guidelines on this issue would be the relevant ones. In the event that an MPD officer involved in an OICI declined to make a voluntary statement to DCI and was only going to be subject to a compelled, internal interview by MPD, the process described in the SOP would be utilized.

CITY ATTORNEY RESPONSE: The City Attorney does not agree with this recommendation. As stated above, under State law, MPD does not control the investigation and has no authority to direct DCI, or any other agency, on their protocol for conducting officer-involved death investigations.

RECOMMENDATION 70: MPD should review DCI protocols regarding contact with family members after an officer-involved shooting and integrate them into its own officer-involved critical incident protocols.

DCI's language regarding post-OICI interaction with family members is solid, and MPD will evaluate how to incorporate this into our SOP.

RECOMMENDATION 71: The City and MPD should consider using the Rapid Response Team as a resource in the specific context of interacting with family members after an officer- involved shooting.

MPD recognizes the potential benefit of using the Rapid Response Team after certain OICIs, and is willing to explore this option. Moving forward with this is ultimately out of MPD's control and dependent on the Rapid Response Team's willingness and ability to expand its mission in this way.

RECOMMENDATION 72: MPD should create guidelines within its officer-involved critical incident SOP to address the concerns of witnesses to the incident.

MPD is unaware of the issues concerning witnesses suggested in the report. Handling witnesses in any serious incident can be a challenge for officers, and the department provides clear guidance in the Stop and Frisk SOP. Additional legal guidance was also provided to employees on this topic as recently as 2016 (Summer Legal Update).



MPD Hosts National Night Out.

RECOMMENDATION 73: MPD should automatically conduct an administrative investigation of all officer-involved shootings and other critical incidents separate from any criminal investigation, including, at a minimum, re-interviewing involved and witness officers.

As OIR correctly points out, the focus of the criminal investigation into an OICI is not identical to that of the internal investigation. While evaluation of the core deadly-force decision will be, related issues of internal policy may or may not be addressed in the criminal investigation. Prior to 2014, MPD investigators would make every effort to cover all related material (criminal and internal) during the involved officer interview. This served the objective of addressing all relevant topics while avoiding multiple interviews.

The DCI interview—focused narrowly on the criminal investigation—may or may not comprehensively address compliance with all relevant MPD SOPs. When it does not, PS&IA will interview the involved officer. If other interviews need to be conducted by PS&IA they will be. Requiring multiple interviews, however, seems unwise. If an independent agency has conducted an interview that addresses all necessary issues, re-interviewing the officer serves no purpose. Indeed, the fact that the interview was conducted by an outside agency should improve confidence in the integrity of the process. There is also a school of thought (widely held) that multiple interviews of officers involved in critical incidents should be avoided (this is articulated in MPD's SOP), and a hard-and-fast rule would run counter to that perspective.

RECOMMENDATION 74: If the criminal investigation has not obtained a full account of the observations of the on-scene emergency medical providers, MPD should interview them as part of the administrative investigation.

If this—or any other—information is not addressed in the DCI investigation PS&IA will conduct additional interviews or follow-up as needed. We note that in every OICI the department has been involved in, officers have immediately provided emergency medical care and requested paramedic response.

RECOMMENDATION 75: MPD should develop a robust review process after a critical incident such as an officer-involved shooting that examines the incident through the lenses of performance, training, supervision, equipment and accountability. The review process should consider pre-incident decision making and tactics, the use of force, and post-incident response, including the provision of medical care and communication with family members. The review process should include the development of a corrective remedial plan designed to identify and address any issues identified.

The general concept of a broad review process for major critical incidents is supported by MPD. It is consistent with the department's core values and desire for continued improvement. As the report indicates, implementing such a practice will be challenging. The suggested timing seems unworkable, as a few weeks after the incident DCI will not have completed their investigation and we will not be in a position for an in-depth analysis. A number of legal and process questions also need to be answered (what documents are created during this process and are they subject to requests for disclosure under public records law? What aspects of the process are discoverable during potential civil litigation? Etc.). MPD will explore this further internally and in conjunction with the City Attorney's Office.

CITY ATTORNEY RESPONSE: MPD's PS&IA conducts a comprehensive review of officer-involved shooting incidents and examines the topics OIR recommends in #75 above. In addition, PS&IA contacts subject matter experts when necessary to review specific actions the officer took to ensure compliance with policy and procedure (i.e., a Taser subject matter expert reviewing an officer's Taser deployment during an incident). MPD holds a critical incident debriefing after the incident. The Chief of Police reviews every PS&IA report involving a critical incident, with corrective action or additional training always an option that the Chief has. In addition, MPD's training department incorporates scenarios from particularly challenging calls into its training curriculum.

RECOMMENDATION 76: After a civil judgment or significant settlement involving MPD activity, the Department and its attorneys should convene a meeting intended to holistically review the incident and any insight learned from the litigation process itself, and should devise a public corrective action plan that addresses any policy, performance, training, supervision, investigative, and equipment issues identified during the course of the litigation.

MPD supports this concept. There are many parallels between this and recommendation #75, and implementing a post-incident review process might reduce the need for a post-judgment/settlement review process. However, many factors that result in a judgment or settlement will be more related to the litigation process itself than to the original incident (and well outside the sphere of MPD influence/control).

CITY ATTORNEY RESPONSE: The City Attorney's Office and MPD command staff work closely with litigation counsel during legal cases. If shortcomings are identified during or after litigation, the City Attorney's Office reviews them with MPD command staff. MPD has never hesitated to implement policy changes or additional training when they are warranted. Changes to MPD policies were made and publicized in the last couple of years. In addition, MPD policies and procedures are accessible to the public through MPD's website.

Just because a case settles before a trial or a jury reaches a verdict adverse to the City does not mean there needs to be a corrective action plan. Litigation cases settle for a plethora of reasons, many of which are not related to the merits of the case. Settling a case is not an indication or admission of fault or wrongdoing by the City or MPD.

The City Attorney currently provides a public announcement regarding any judgement or settlement in which the City or its employees are a party and will continue to do so. However, the City Attorney will not be convening a public meeting to discuss the specifics of any case. Discussions with City employees, discussions regarding settlement and discussions regarding litigation strategy are protected by attorney-client privilege. In order to effectively do our job, the City Attorney must be able to have open, honest, and confidential discussions with our clients.

RECOMMENDATION 77: The City should have regular dialogue with its police liability insurer to examine what risk management initiatives might result in lower premiums or could be funded by the insurer.

MPD supports this.

CITY ATTORNEY RESPONSE: The City currently meets regularly with its liability insurer. Both the City and its liability insurer regularly look at ways to reduce the City's and its other members' premiums and liability risks. As an example of this, the City and MPD personnel have attended presentations put on by its insurer to learn of different ways the City can achieve this goal. Specifically, the City has attended presentations on police policies and the litigation climate. Later this year, the City's insurer will be hosting a loss control training that will include a law enforcement track.

Much of the recent national narrative about policing in the United States has focused on use of force. No other aspect of the police function is as consequential. Ensuring that officers utilize force appropriately touches on virtually all core functions of police leadership (recruitment, hiring, training, policy, culture, etc.).

The OIR report recognized MPD's strength in this area. Two quotes stand out:

- "[T]he Department's force use is limited in volume and primarily minor in nature."
- "[T]he way in which MPD officers write their case reports is exceptional. The level of detail in the their descriptions of the circumstances justifying the force, their account of the type and manner of force used, and the organizational structure of their reports demonstrates a commitment to excellent report writing beyond what we see in other law enforcement agencies."

MPD has consistently communicated that our officers use force infrequently and appropriately. For example, in 2017 MPD officers used force in an extraordinarily small proportion of incidents (about .2%). The department is also confident in the professionalism and education of our workforce. This is reflected in appropriate use-of-force decision-making and quality report writing.

The department's efforts to emphasize de-escalation are also relevant. The 2016 formal training (for all commissioned personnel) on de-escalation emphasized concepts that had been incorporated into MPD training for years. The OIR report suggests a resistance on the part of officers to embrace these concepts, citing one figure from the officer climate survey (that two-fifths of officers did not believe the training assisted in using lower levels of force). The full survey results were not incorporated into the OIR report, but a broader review suggests a different perspective. Of those who responded to the survey (patrol assigned officers and sergeants), 76% found the training helpful; 63% indicated that the training had helped them avoid the use of force; and 54% indicated that the training had helped them use lower levels of force. This question appears to have been specifically focused on the 2016 in-service training and not to the larger concept of de-escalation, so these results should be viewed in that context.

RECOMMENDATION 78: MPD should make clear through policy and training that an officer who witnesses another officer use force is required to report it and document his or her observations in a supplemental report.

MPD's Code of Conduct requires an officer to intercede and report another officer's use of excessive force. Officers involved in applying any force are required to document their actions in a police report and through the internal MPD use-of-force database. Officers who are present during a use-of-force incident but who do not apply force often will complete reports regarding the incident, depending on a variety of factors (the level of force used, the depth/extent of their observations, other involvement in the incident, etc.). MPD will review whether additional SOP language or training guidance is needed on this point.

RECOMMENDATION 79: MPD should amend its force reporting protocols so that, for certain categories of force, supervisors are required to conduct a separate investigation meeting basic investigative standards sufficient for a thorough and complete review of the incident and the events leading up to it.

Anytime a citizen complains about an officer's use of force, the incident is thoroughly investigated by MPD's Professional Standards & Internal Affairs (PS&IA) unit. Other use-of-force incidents may also be subject to internal investigation or to an administrative review. Every MPD use-of-force incident is reviewed by the MPD use-of-force coordinator and

summarized for the Chief and Assistant Chiefs on a regular basis. Requiring a full-fledged, proactive investigation of each incident—where there is no complaint of improper behavior or other aggravating factor—would be a significant drain on limited MPD supervisory resources. Implementing such a requirement would necessitate additional supervisory staffing positions, as the responsibility for this work would fall to MPD patrol sergeants.

MPD does recognize, however, that certain use-of-force incidents might benefit from additional front-end work by a patrol sergeant. The department will explore additional SOP language or training guidance to address this.

RECOMMENDATION 80: MPD should adopt policy requiring a supervisor to evaluate whether each use of force was within policy, as well as compliance with any other policies implicated such as the foot pursuit or de-escalation policies, with a supporting analytical narrative that also demonstrates a holistic review of all the circumstances surrounding the use of force.

The MPD use-of-force coordinator (a supervisor) reviews every MPD force incident. The totality of each incident is considered, and opportunities for improvement are recognized. This could involve training, equipment, procedure or individual performance.

While front-line supervisors are involved in the initial force review and entry into the use-of-force database, responsibility for the review process should remain that of the centralized use-of-force coordinator. This ensures adequate expertise and consistency, and allows for the recognition of patterns or systems issues that might otherwise not be identified. Contrary to the report's assertion, remedial measures related to a specific use-of-force incident are documented by the use-of-force coordinator.

Requiring a narrative document reviewing each incident is not feasible, without additional staffing for this position. However, MPD recognizes that some standardization would be beneficial, and steps will be taken to fine-tune this process.

RECOMMENDATION 81: In evaluating force incidents, MPD should go beyond a determination of whether the use of force met a Constitutional standard or was in consistent with Department policy, to also identify any tactical or other performance issues, and determine whether additional remedial action—such as discipline, training, or debriefing—is appropriate.

This is currently part of the review completed by the MPD use-of-force coordinator, and this practice will continue.

RECOMMENDATION 82: On selected force incidents, MPD should convene a panel to roundtable the incident, to identify training, policy, supervision, and equipment issues, and to develop an appropriate after-action plan.

This recommendation largely parallels #75 above. And while there may be benefits from this type of process, many of the same complications could arise from implementation. MPD will consider this type of process when weighing the feasibility of recommendation #75.

RECOMMENDATION 83: MPD should identify and publicly commend officers who practice de-escalation techniques and problem oriented policing.

MPD is committed to this practice. We regularly release summaries of incidents where officers successfully de-escalated a situation or avoided the use of deadly force, however these occurrences typically do not attract media or public attention. MPD also has a long history of recognizing this type of work—as well as problem-oriented policing efforts—at the annual awards ceremony. These efforts will continue.

RECOMMENDATION 84: MPD should regularly evaluate its use of force training to make sure it continues to be consistent with best practices, maximizes its ability to meet the demands of the Madison community, and is considered by officers to be effective at preparing them for real-life encounters.

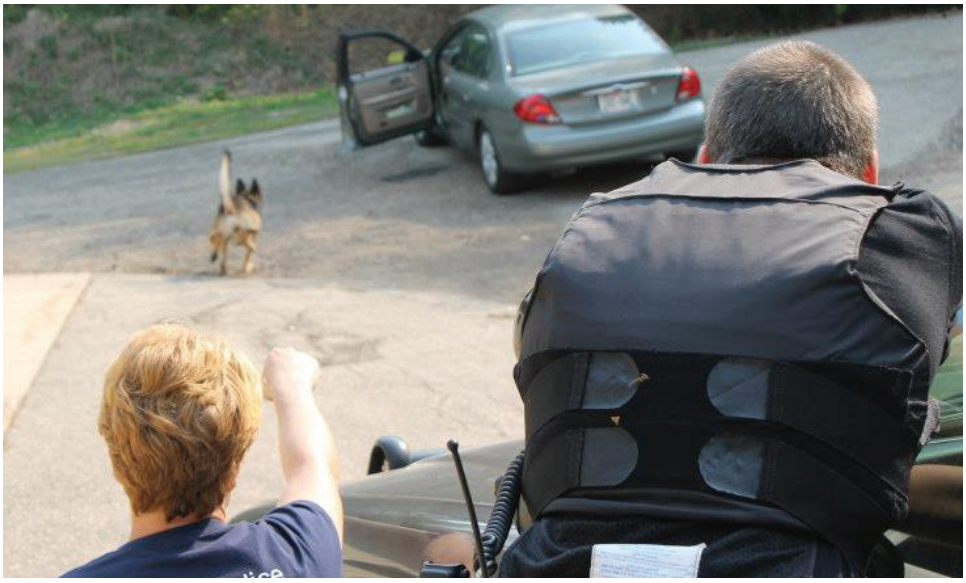
MPD is committed to this concept. The department's use of force trainers put forth considerable effort to provide realistic training that is consistent with national best practices. In addition to the example provided in the OIR report (an MPD training officer traveling to Seattle to observe their de-escalation training), MPD subject matter experts have traveled to discuss contemporary views on use-of-force. These efforts include a national symposium on police use-of-force sponsored by the Police Executive Research Foundation (PERF) in Washington D.C. and an additional training on de-escalation (Integrating Communications Assessment and Tactics) in New Orleans. Use-of-force training is continually evaluated and adjusted as necessary. These practices will continue.

RECOMMENDATION 85: MPD should reevaluate its training regarding the implications of the reactionary gap principle, focusing on principles of officer safety such as cover and distance to ensure that officer tactics and deployment minimizes the need to use deadly force.

As indicated, MPD regularly reviews and evaluates training provided to officers at both the pre-service and in-service levels. We will continue to do this, and the ongoing review will include examination of the reactionary gap principle.



MPD conducts training regarding a high-risk traffic stop.



MPD conducts training including a K9.

RECOMMENDATION 86: MPD should consider when it is appropriate to begin employing documented accountability measures for officers and sergeants who fail to comply with the requirement for entering force incidents into the use of force database.

The MPD use-of-force coordinator works to ensure that the use-of-force database is comprehensive. Officers are held accountable—formally when appropriate—when entries to the database are not made. The department will review the process and evaluate whether to incorporate it into the more formal audit process or otherwise standardize it.

RECOMMENDATION 87: MPD should further break down its published use of force data by district and shift to ensure that Department leaders are focused on where and when officers use force most frequently.

Use-of-force data published by MPD currently includes district information. Basic shift information will be added in 2018. This information is already reviewed internally by the Chiefs and use-of-force coordinator.

RECOMMENDATION 88: MPD should proactively seek input from City stakeholders and the public before completion and implementation of any new policies or changes to its existing policies.

MPD's standard operating procedures undergo regular revision. Changes can be a result of a change in department philosophy or a change in applicable law. More often, changes are not substantive, and reflect internal process adjustments that do not directly affect the community. In addition, each department SOP is reviewed on an annual basis to ensure it remains reflective of the department's position/practice. This also results in some changes.

Mechanisms do exist for community input into department SOPs. The MPD website invites comment or complaint on department policies (complaints go directly to Professional Standards & Internal Affairs). The department has held public meetings on high-profile policy issues (Electronic Control Devices), and sought input on specific SOPs from external stakeholders. Modifications to department SOPs are publicized through the Chief's quarterly updates to the Common Council.

Requiring an extensive public comment and input process for each minor SOP change would be cumbersome and delay needed updates. However, the department does recognize the benefit of enhancing opportunities for input into significant SOP changes, and will explore options to do so. Expanded District Advisory Groups (recommendation #22) might provide a mechanism for this.

RECOMMENDATION 89: MPD should modify its use of force policies to more clearly instruct officers on the duty to employ tactical alternatives to force, and to make clear the Department's expectation that officer follow tactical principles of officer safety.

These are laudable goals, consistent with MPD's philosophy and core values. They are fully incorporated into MPD use-of-force training at both the pre-service and in-service levels. The concepts are also addressed in MPD's De-Escalation SOP.

In 2017, the Common Council's "President's Work Group on Police and Community Relations" put forth a series of recommendations related to MPD policy and training. These recommendations—adopted by the Common Council—included directives to modify certain MPD SOPs, including the Use of Force and Use of Deadly Force SOPs. These recommendations were implemented in SOP in mid-2017, and speak to the same concepts.

CITY ATTORNEY RESPONSE: MPD's Standard Operating Procedure (SOP) on the Use of Deadly Force states that "deadly force is a measure of last resort, only to be employed when an officer reasonably believes all other options have been exhausted or would be ineffective." MPD employs a variety of tools and tactics to minimize the likelihood of a deadly force encounter.

RECOMMENDATION 90: MPD should publicize to its officers and its community its commitment and willingness to go beyond the Graham v. Connor standards when it further refines its policies relating to the use of force.

Public dialogue on this issue has perhaps been a bit confusing, so a brief discussion is in order. Graham v. Connor, decided in 1989, stands as the seminal case on police use-of-force in the United States. The OIR report seems strangely dismissive of Graham as "a 30-year old Supreme Court case." No one would view Miranda v. Arizona that way, but Graham has been every bit as impactful on American policing as Miranda has.

Graham v. Connor ruled that police use-of-force was to be evaluated under an objective reasonableness standard. The test must be viewed from the perspective of a reasonable officer, based on the information he or she had at the time of the incident (and not through 20/20 hindsight).

Whether a police department can provide additional guidance to officers beyond Graham's objective reasonableness test is not in dispute. To offer a simple example, most agencies will limit the type of firearms officers can carry while on duty. An officer involved in a shooting while carrying a firearm not approved by his or her agency would be in violation of policy, even if the shooting itself was appropriate under the objective reasonableness standard. Additional policy guidance/direction comes in many other contexts. MPD SOPs include many examples of this, including: provisions of the De-Escalation SOP, prohibitions on warning shots, restrictions on shooting at vehicles, limitations on electronic control device use, etc.

So while it is uncontroversial to provide officers with specific direction within the objective reasonableness framework, it is another matter entirely to consider replacing the overall objectiveness reasonableness standard with some other one. Some have advocated for an entirely new standard, unconnected to the Graham objective reasonableness framework. A more detailed discussion is beyond the scope of this response, but this would be unwise.

CITY ATTORNEY RESPONSE: Graham v. Connor is nearly 30 years old and is the Constitutional standard all officers must follow when deploying deadly force. The City attorney is aware of no police department in the United States who subjects its officers to a more stringent standard for using deadly force. As stated in #89 above, MPD trains its officers that deadly force is a last resort and already deploys less lethal force options such as bean bag rounds and Tasers. Moving away from the Graham v. Connor standard could mean the officers could only employ deadly force *after* they have been attacked, shot at or injured. An officer who is incapacitated is unable to protect himself or defend innocent citizens. The City Attorney cannot recommend abandoning Graham v. Connor for another standard. Employing a more stringent standard may have the unintended effect of making the City and its officers open to greater liability, as claims might be made that failure to meet the City's new self-imposed standard was actionable.

RECOMMENDATION 91: MPD should amend its Electronic Control Device Use SOP to limit ECD use to circumstances involving violent or assaultive subjects, or to prevent subjects from harming themselves or others.

MPD first deployed ECDs in 2003. The devices were not in widespread use at the time, and there was a learning curve—both locally and nationally—for agencies formulating policies on ECD use. The early years of MPD's ECD program saw a few tweaks to policy and training on ECD use, with the changes consistently reflecting a more conservative approach to ECD use by the department.

MPD's current SOP language on ECD use reflects these changes, and is indeed more restrictive than most agencies (and is more restrictive than that recommended by the State). The relevant section that is questioned by OIR:

> An ECD may only be used under the following circumstances:
>
> a. To overcome violent or assaultive behavior or its threat; if the officer reasonably believes that the subject poses an articulable threat of harm to an officer or to another person.
> b. To control persons in order to prevent them from harming themselves or others.

OIR misreads the SOP. It reflects two general circumstances where ECD use is appropriate. Paragraph (a) reflects two requirements: that there be violent/assaultive behavior or its threat, *and* that the subject pose an articulable threat of harm to an officer or another person. The second clause of section (a) is not an independent justification for ECD use; it limits the first clause.

The addition of this language was very intentional (the policy originally did not include the second clause), and was designed to specifically avoid problems that some agencies had in the early days of widespread ECD deployment (for example, a twelve year-old can be violent but not pose a threat to anyone). MPD training on ECD use thoroughly addresses this part of the SOP, and we feel that MPD officers fully understand the meaning of this language. This is consistent with OIR's recognition that MPD officers deploy ECDs appropriately. However, the department will evaluate whether to modify the SOP language to emphasize its meaning.

RECOMMENDATION 92: MPD should modify its ECD guidelines to prohibit ECD use on women obviously pregnant, elderly individuals, obvious juveniles, individuals on stairwells, rooftops, or other elevated positions, and bicyclists.

This topic is addressed in MPD's training on ECD use, and officers are already required to comply with it under section (1) of the SOP section on ECD use (requiring officers to only use ECDs in accordance with training). Training provides the appropriate context on these particular situations, stopping short of a complete prohibition, but articulating the increased risk potential when an ECD is used in these circumstances. A complete prohibition on ECD use in these contexts is unwise, as the alternative force options or outcomes that result from not using an ECD could be far worse than the potentially increased risk from using an ECD. MPD officers are trained to consider this increased risk when assessing whether to use an ECD in one of these contexts.

RECOMMENDATION 93: MPD should modify its ECD guidelines to require officers to re-assess the threat posed by an individual prior to any successive ECD application.

This applies to any use-of-force tool or technique, and is a cornerstone of MPD's use-of-force training. It is also specifically incorporated and reinforced in ECD training, and is addressed in the general language of MPD's Use of Non-Deadly Force SOP (applicable to all force options).

RECOMMENDATION 94: MPD should modify its ECD guidelines to preclude officers from deploying more than three ECD applications on an individual, or a prolonged single application lasting longer than five seconds

This would be an unwise policy decision. It is not difficult to envision a scenario where an ECD deployment is preventing a scenario from escalating, even from preventing an escalation to a deadly force situation. An example would be a subject holding or attempting to access a weapon. A fourth ECD cycle, or an ECD cycle beyond five seconds, could be the only thing preventing such a scenario from turning into a deadly force encounter. An absolute prohibition on ECD use under these circumstances could result in officers being forced to employ higher levels of force.

MPD's ECD training discusses these concepts and the potential for increased risk caused by repeated or prolonged ECD cycles. Officers are trained to incorporate this into their decision-making and are evaluated on their ability to do so. Officers are also specifically trained to—whenever possible—control a subject against whom an ECD has been deployed as quickly as possible, to avoid the need for repeated or prolonged ECD cycles.

Finally, MPD's SOP requires that individuals subject to an ECD deployment receive medical evaluation under certain circumstances. These include being exposed to more than three ECD cycles or one continuous cycle of more than fifteen seconds.

RECOMMENDATION 95: MPD should modify its ECD guidelines to preclude multiple officers from simultaneously deploying their ECDs on an individual.

Again, this would be an unwise policy decision. A particularly high-risk situation might call for multiple ECD deployments, or multiple ECD deployments may occur unintentionally in an unfolding and chaotic situation. An absolute prohibition could result in a single deployment failing to control a subject and in an escalation to a higher level of force, including—potentially—to a deadly force encounter. The potential increased risk from multiple simultaneous ECD deployments is incorporated into officer training and decision making. MPD's SOP also requires that an individual subject to multiple simultaneous ECD deployments receive medical evaluation.

RECOMMENDATION 96: MPD should modify its ECD guidelines to require medical clearance for all subjects on whom an ECD has been used, and to have ECD darts removed by medical personnel.

When MPD originally deployed ECDs in 2003, officers were required to convey all subjects to a hospital for probe removal. This was a conservative approach, given how new the technology was (the manufacturer did not suggest this, and actually incorporated techniques for probe removal into the user training for officers). After a relatively short time, it became apparent that this was unnecessary and wasteful. Medical staff simply pulled the probes out in the same manner that manufacturer training (for officers) suggested, and no additional medical treatment or evaluation was typically provided (unless other issues were present, in which case the subject would have been conveyed for medical treatment anyway). Department SOP was changed as a result.

Our experience is that most departments' policies on ECD probe removal is consistent with MPD's. This is also consistent with the International Association of Chiefs of Police (IACP) model policy on ECD use. Since 2003, MPD officers have deployed ECDs hundreds of times, with no adverse reactions to probes or issues with officers removing them.

RECOMMENDATION 97: MPD should amend its SOP on Foot Pursuits to fully address the safety concerns associated with chasing a suspect without communicating with dispatch, solo foot pursuits, pursuing in unfamiliar areas or after losing sight of the suspect, and chasing a suspect while not in full patrol uniform and gear.

These topics are all fully addressed in MPD foot pursuit training. The department will evaluate the SOP and determine if any adjustments are needed.

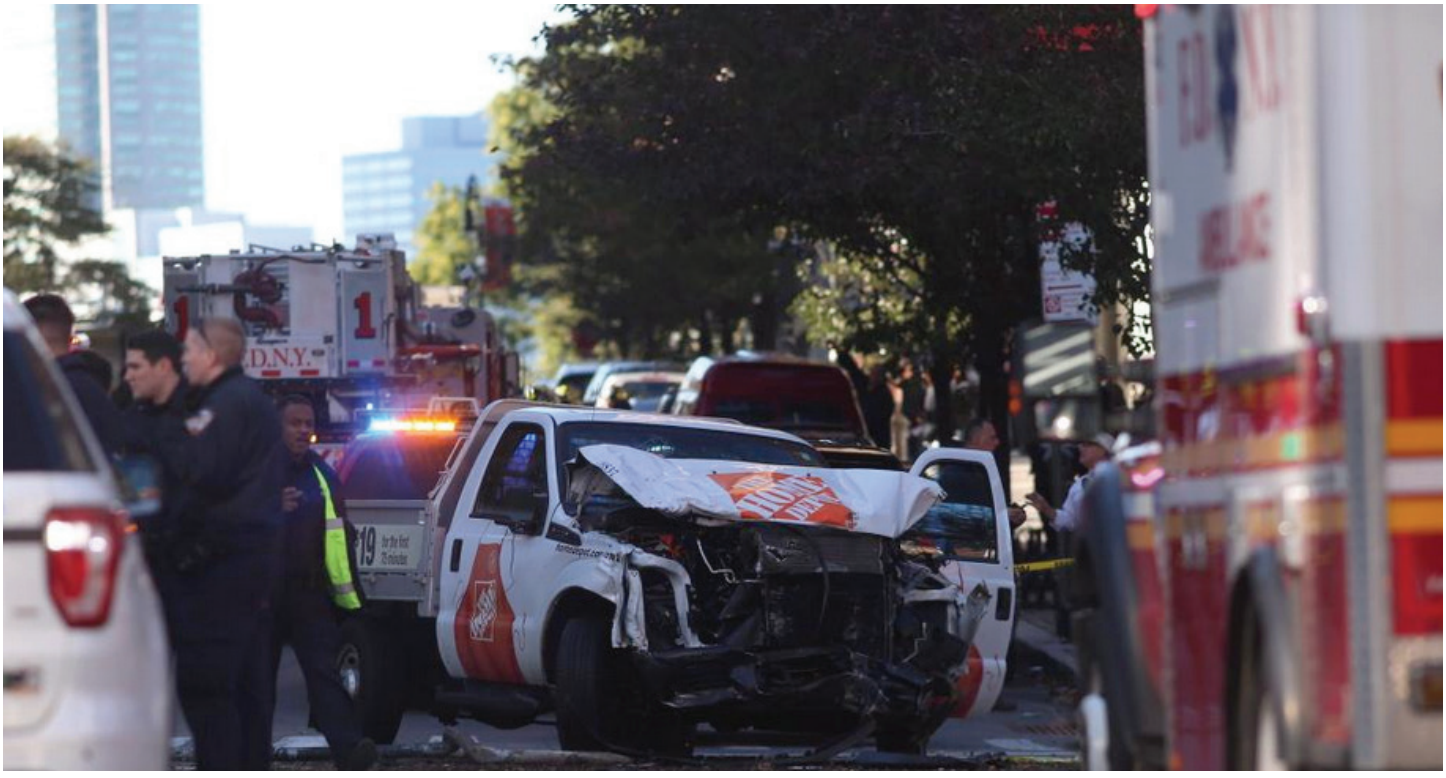
RECOMMENDATION 98: MPD should amend its use of deadly force policy to eliminate authorization for shooting to prevent escape, or in any situation that does not present an imminent threat of death or great bodily harm to identifiable officers or third parties.

MPD agrees that this language in the Use of Deadly Force SOP could be improved. We believe the best language to be adopted is similar to that in the National Consensus Policy on Use of Force. This is a model policy prepared by eleven of the most significant professional police organizations in the country. The specific language (articulating MPD's application of the fleeing felon justification for the use of deadly force):

> To prevent the escape of a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit a felony involving great bodily harm or death, and the officer reasonably believes that there is an imminent risk of great bodily harm or death to the officer or another if the subject is not immediately apprehended.

RECOMMENDATION 99: MPD should modify its prohibition on shooting at moving vehicles to make it clear that discharging a firearm at a moving vehicle is prohibited unless an individual in the car poses an immediate threat of death or serious bodily harm by means other than the vehicle, and that officers have a duty to move out of the path of a moving vehicle.

MPD agrees that this language in the Use of Deadly Force SOP could be improved. However, the change suggested by OIR would be unwise. OIR suggests an absolute prohibition on discharging a firearm at a vehicle unless the driver or occupant is posing a deadly force threat by means other than the vehicle. This ignores the potential for the intentional use of a vehicle as means of killing or as a terroristic tool. A number of instances, internationally and within the United States, have seen an attacker use a vehicle to intentionally run down pedestrians. An SOP preventing officers from taking action in these instances seems inappropriate, particularly given the number of events in Madison with high concentrations of pedestrians in small areas.



Aftermath of the 2017 terror attack in New York, where the attacker drove onto a bike path and intentionally ran over bicyclists and pedestrians. Eight people were killed and eleven were injured.

Instead, MPD will incorporate language similar to that in the National Consensus Policy on Use of Force, which provides clearer language than the current SOP language. The specific language:

> Firearms shall not be discharged at a moving vehicle unless:
>
> (1) A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or
> (2) The vehicle is operated in a manner that reasonably appears deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical).

RECOMMENDATION 100: The Use of Force Coordinator and executives assessing force should regularly reevaluate the SOPs governing uses of force in light of the facts and circumstances of the incidents they review, making amendments as necessary.

MPD does this now and will continue to do so.



MPD attends Coffee with a Cop event where on this specific date the topic was use of force.

INTERNAL CULTURE AND PROTOCOLS

The internal culture of a police department has a sizable impact on the quality of service it delivers to the community. The core public expectations of a police department—to operate with ethics and integrity; to use force appropriately; to respect constitutional rights; to be responsive to the community—all depend on a healthy internal culture. The problems found in many troubled agencies can be traced to internal culture problems as much as—if not more than—formally established policies or systems.

Understanding this, MPD has long worked to establish and maintain a healthy internal culture, in alignment with the department's articulated mission and core values. This starts before an officer ever hits the street, in how we recruit, who we hire, and the manner in which they are trained. MPD strives to include employees in decision-making when possible, and to encourage initiative and creativity on the part of individual employees. The department has a diverse and professional workforce and we feel that our internal culture is a strength.

RECOMMENDATION 101: MPD should engage in regular internal assessments (such as surveys) and other feedback opportunities, to ensure that issues relating to minority status within the Department are not adversely affecting individuals or groups, and to continue seeking potential remedies and reforms when such dynamics arise.

MPD leadership is committed to engaging employees in a variety of ways. A number of strategies have been used previously, including a pilot 360 input process for employees, a civilian climate survey, an organizational climate survey, electronic "comment boxes" at the district or unit level and peer input surveys for the promotional process and closed/specialized team selection processes. These efforts are ongoing; as an example, the MPD Equity Team is currently examining internal processes to determine if any are creating unintended barriers. MPD is committed to continuing these efforts and will review constructive ways to do so.

RECOMMENDATION 102: MPD should assess its recruit training programs and patrol deployment strategies with an eye toward supporting and taking positive advantage of the unique perspectives and life experiences of its officers of color.

MPD agrees with this, and this concept is fully integrated into the pre-service academy learning environment. Instructor discussion and active participation result in the sharing of various perspectives and experiences.

Standards for personnel assignments, whether the annual shift selection process by seniority, competitive processes for closed positions, or the promotional process are all administered fairly and consistently. MPD does take note of all officers' unique abilities and perspectives, and seeks to utilize employees' skills in the best way.



MPD Squad.



Captain Krueger Favour participates in India Day Celebration.

RECOMMENDATION 103: The Madison Professional Police Officers Association should make efforts to enlist greater participation by officers of color, including in leadership positions.

This recommendation is directed to the Madison Professional Police Officers Association (MPPOA).

RECOMMENDATION 104: The City should work to revise the current agreement with the Police Association in order to provide MPD more flexibility regarding shift and location assignment of officers.

As the report notes, the annual shift selection process is covered in the MPPOA contract, and any modification is a subject for bargaining. It is worth noting that the department does, in fact, have the ability to restrict seniority picks based on discipline or performance issues. While this is not common, it has happened.

While OIR correctly points out some of the limitations of the process, there are also advantages. Senior officers who have served their community for years have a say in their work assignments (district, shift, etc.). This provides a sense of fundamental fairness to employees, but also improves the quality of service received by the community (an officer forced to work a shift or district may not have the best approach to their work).

CITY ATTORNEY RESPONSE: This recommendation is subject to collective bargaining. Whether the City could bargain such a change, and the cost of doing so, is unknown.



The Madison Police Officers Association (MPPOA) and the Association of Madison Police Supervisors (AMPS) provide college scholarships to eligible applicants.

RECOMMENDATION 105: MPD should reinstitute an officer performance evaluation system that collects and incentivizes progressive policing activity.



MPD recruits conduct team building training/ exercises.

The value of traditional performance evaluations in the law enforcement profession is a topic of significant debate. Traditional performance evaluations are often based on measuring those things that are easy to count: stops, arrests, citations, etc. This can create unintended consequences and can incentivize officers to focus on activity that may not be a priority for the agency or community. In addition, capturing and measuring those activities that emphasize community policing, problem solving and citizen engagement is difficult.

Years ago, MPD did engage in a traditional employee performance evaluation process. Chief Couper discontinued the practice in the mid-80's. That decision aligned with the City's overall philosophy at the time, which incorporated the Total Quality Management (TQM) approach to leadership. Inherent to this method was the view that traditional performance evaluations were an outdated and ineffective way to manage employees. MPD was not alone in abandoning traditional employee performance evaluations. Other City agencies—like many private sector employers—did so as well. Instead, MPD instituted the TQM approach focusing on systems/processes and shared objectives and outcomes.

Since then, the department has tried to build on the progressive approach to engaging employees, assessing performance, providing employee feedback and aligning department goals with individual goals. Since the mid-90's, the department has tried a variety of approaches. Most significantly, various iterations of "goal setting" were utilized for a number of years. This process incorporated an evaluative (though non-numeric) component that included setting goals/objectives that were unique to each individual employee but aligned with the mission and core values of the department. Throughout the year supervisors and employees, both commissioned and civilian, were required to meet and review their individual unit objectives and expectations with a strong emphasis on identifying problems and incorporating a shared vision on how to solve them utilizing a systems approach. These meetings were also used to identify career aspirations, training needs and to assess employee performance. This approach to positively engaging employees and managing their work received national attention as an innovative approach and effective substitute for formal performance evaluations.

Currently, MPD continues to utilize a progressive approach to employee engagement and performance assessment through a process of "Management by Walking Around" (MBWA), where employees formally meet with their direct supervisor each quarter. These meetings are designed to continue the efforts of establishing a shared vision on department and individual goals while aligning the work of each individual employee with those goals.

Employee performance is also evaluated, recognized and addressed in other ways. The department utilizes a performance recognition process to highlight (and document) good work on the part of employees. These document a wide variety of outstanding employee activity that is in alignment with MPD philosophy: response to a particularly risky or challenging incident; a creative approach to a neighborhood problem; appreciation from a citizen about an officer's actions; etc. Hundreds of these are processed every year and are placed in employees' personnel files. Positive work is also recognized through MPD's annual awards process.

Below-standard performance is also addressed. The department strives to maintain an organizational structure so that any supervisor's span of control is between four and seven employees (though current supervisory staffing does not allow for this in many instances). So, supervisors generally have a small group of employees that they are responsible for. Informal coaching and mentoring takes place regularly, and more formal efforts are documented through work rules or performance improvement plans. Peer/supervisory input surveys are also part of the promotional process and selection

processes for closed positions/specialized teams. Among the metrics evaluated through these surveys is the employee's commitment to the MPD's core values.

Other City agencies also continue to recognize the limitations of traditional performance evaluations; it appears that few—if any—City agencies currently do traditional performance evaluations (though at least one has a formalized system of coaching/mentoring, not unlike goal-setting).

Having highlighted this history, the department recognizes that improving this process is appropriate. In 2016, MPD identified re-instituting some type of employee performance evaluation or more formalized feedback mechanism as a department goal (as part of the MPD's equitable workforce plan). Since then, the department has been taking incremental steps towards this end. Last year, the department worked to identify software to assist with the process. We anticipate establishing a work group in 2018 to iron out details of a more formalized process for employee feedback and coaching, with a goal of implementation in 2019.

The precise makeup of this process is yet to be defined. The OIR report highlights some of the many shortcomings of traditional performance evaluations, and MPD will strive to implement a process that is meaningful and productive. We have also asked OIR to provide examples of agencies with an effective performance evaluation process.

RECOMMENDATION 106: MPD should regularly audit performance evaluations to ensure that supervisors are uniformly documenting officer activity objectively and fairly.

This will be incorporated into the process described above.



A Day Without Latinos Protest.



A Day Without Latinos Protest.

RECOMMENDATION 107: MPD should change its current SOP to require presentation and signature of the consent to search forms prior to executing a voluntary search.

MPD has a comprehensive SOP addressing searches, that includes specific provisions related to consent searches. The SOP requires that officers possess an articulable reason for requesting consent to search, and requires that an officer document the reason in a report. Officers receive extensive training on constitutional law—including consent searches—in the pre-service academy. It is also a recurring topic in MPD's internal Legal Updates. The current SOP provides appropriate guidance to officers and respect for individual rights.

RECOMMENDATION 108: MPD should work with the City and the Professional Police Officers' Association to consider the feasibility of moving sergeants to the Association of Madison Police Supervisors.

This is a matter for bargaining or for the Wisconsin Employment Relations Commission (WERC) to address. It is worth noting that MPD has not experienced any adverse consequences of the current arrangement that OIR reported observing in other agencies with similar arrangements.

CITY ATTORNEY RESPONSE: This recommendation is subject to collective bargaining. Whether the City could bargain such a change, and the cost of doing so, is unknown.

RECOMMENDATION 109: MPD training staff should work with the Dane County Department of Public Safety Communications to establish a regular schedule for teaching at the quarterly communicators' in-service training at least once a year.

MPD is committed to working with the Dane County Public Safety Communications Center to ensure that a high quality of service is delivered to the public. The department is certainly willing to explore providing training to communicators as appropriate. Obstacles include the availability of training time (based on resources and competing training needs for the 911 Center) and the availability of MPD resources to prepare and present training.

RECOMMENDATION 110: MPD should work with Dane County 911 center to develop scenario-based interagency training to better integrate the functions of patrol officers and dispatchers, particularly with regard to calls for service involving persons in mental health crises.

MPD supports this concept, and planning is underway for this type of training to take place in 2018. Long-term implementation is dependent on willingness and availability of the 911 Center and on MPD staff time to prepare, present and attend.



Sergeant Weiss helps a youngster with scoring a basket.



2017 Swearing In Ceremony.

RECOMMENDATION 111: When MPD convenes a critical incident review, communications issues involving dispatch should be among the topics reviewed, and in cases where the effectiveness of communications is in issue, managers from the Dane County 911 center should be invited to participate.

MPD agrees that radio communication can be a critical component of critical incident response, and is committed to this concept.

RECOMMENDATION 112: MPD should continue to strive for a diverse recruitment and hiring program, and should regularly assess its criteria and any other hiring process to ensure there is no unnecessary exclusion of persons who otherwise might be excellent officers.

MPD regularly reviews all aspects of the hiring process and will continue to do so. Changes to the process are made when needed (one change was made as recently as 2017), with the approval of the Police and Fire Commission (PFC). The City of Madison's equitable hiring tool is also applied to the civilian hiring process.



MPD's Hiring Campaign.

RECOMMENDATION 113: MPD should regularly seek input from its contract psychologists about ways to improve the background investigation process, both with respect to particular individuals' applications and more broadly on a systemic basis.

The contract psychiatrists routinely provide input and feedback to MPD on individual applicant backgrounds. This process will continue. MPD supports the concept of soliciting additional input on the overall process, but this will require additional funding as this work is outside the current contractual agreement with the psychiatrists.

RECOMMENDATION 114: MPD should engage community members at the interview stage of its promotional process.

MPD is supportive of involving community members in selection processes, and routinely does so during the initial hiring process and during selection processes for closed competitive positions. Community members are typically involved during the interview portion of these processes.

The promotional process for the ranks of detective, investigator and sergeant is governed by memorandum of understanding (MOU) with the MPPOA and is a bit different than the processes used to fill specialized officer positions. It is also, ultimately, a subject for bargaining. The initial component is an assessment center. Unlike a traditional interview, the assessment center is an objectively scored evaluation of candidates' performance in a variety of tests/scenarios. It is designed to evaluate technical, job-related knowledge.

The assessment center is followed by a "portfolio presentation" with the Chief. The candidate, accompanied by his or her supervisory chain of command, presents to the Chief. The Chief will often interject questions, but the portfolio presentation is not a traditional panel interview. And while the promotional process contains other components (like peer input), there is no traditional panel interview. So, there currently is not an obvious place in the process for community member involvement (though it is worth noting that half of the assessment center evaluators are law enforcement professionals from outside agencies).

MPD will explore whether external evaluators (like mental health professionals, for example) could be incorporated into the promotional assessment center. Additional modifications to the promotional process are subject to bargaining.

CITY ATTORNEY RESPONSE: This recommendation is subject to collective bargaining. Whether the City could bargain such a change, and the cost of doing so, is unknown.



MPD Pride.

RECOMMENDATION 115: MPD should consider modifying its Academy in order to provide students with non-police social service work exposure in the City's diverse communities prior to graduation.

MPD is committed to incorporating cultural competence training into the pre-service academy, and has done so for many years. Prior academies have also experimented with creative ways to expose community members to the recruit class. For example, a previous class held the ECD portion of their academy in a public venue, with community members invited to attend and observe.

The suggested concept is one that MPD supports, though it would require extending the pre-service academy by two weeks (which will have a cost).

RECOMMENDATION 116: MPD should study whether the Academy class ranking system has a disparate impact on persons from diverse backgrounds.

MPD has worked to fine-tune the scoring mechanisms used to determine class ranking, in order to make the process as objective and fair as possible. This will continue in the future, and the department will task the MPD Equity Team with reviewing the academy class rank process and making recommendations for improvement if needed. MPD 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).

RECOMMENDATION 117: 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.

MPD has previously experimented with a non-competitive class ranking system, and found it to have significant adverse consequences (as it created no incentive for recruits to give maximum effort during the academy). The impact of class ranking on an officer's long-term career is not as significant as is suggested. After a year or two of service—and an additional recruit class or two with lower seniority—class ranking generally does not have a major impact on an officer's career options.

RECOMMENDATION 118: MPD should regularly solicit the Madison community for topics to be presented at the pre-service Academy or during in-service training.

MPD agrees with this concept, and will explore additional mechanisms to solicit this feedback from the community. The department already receives input from other stakeholders and community partners; this feedback has had a direct impact on training provided to MPD officers.



MPD's Black Youth Academy.



Following a full day of "use of force" training at a Boys and Girls Club, recruit officers were provided an opportunity to play basketball and other games with neighborhood youth.



Recruit Class Graduation.

RECOMMENDATION 119: MPD should consider more frequent and regular use of training bulletins as a mechanism for training staff to more regularly communicate with officers on timely topics relating to tactics, equipment, or other issues of concern.

MPD agrees with this concept, and has had previous discussions on providing additional training content (through video or written bulletins). However, current staffing levels in the Training Team do not allow for this to be accomplished. A robust and regular program of training bulletins/videos will require additional staffing.

RECOMMENDATION 120: MPD should continue to examine training protocols throughout the country and use that review to continue to improve its well-functioning training.

MPD does this now and will continue to do so. MPD lead trainers are members of the International Law Enforcement Educators and Trainers Association (ILLETA) and will be attending the 2018 conference. ILLEETA provides a mechanism for exposure to new concepts and national best practices in police training.

RECOMMENDATION 121: MPD should seek, encourage, and provide additional training opportunities outside the Department, particularly leadership training for first level supervisors.

MPD agrees with this concept, and has been exploring ways to improve training for first level supervisors. As an example, the State of Wisconsin's Department of Justice has started offering a first-level supervision course, and MPD has been sending new sergeants to the training for several years. Like any increase in training, however, this has a cost (direct cost of training and staff time to attend).



MPD Recruits conduct team building exercises during their academy.

The opening sentence in this section: "[a] police agency's handling of administrative discipline has significant implications for both operational effectiveness and public trust" is in complete harmony with MPD's philosophy. The department places an emphasis on a thorough and robust Professional Standards and Internal Affairs (PS&IA) function, and continually reviews all aspects of the PS&IA mission. Personnel assigned to PS&IA attend external specialized training to ensure that MPD is in alignment with national best practices, and the department has deployed software that allows for much more effective management of PS&IA records. In 2008, the department assigned an additional position to PS&IA, to help ensure the quality of PS&IA investigations and outcomes.

So it was satisfying to see that OIR recognized the quality and integrity of MPD's internal process. The depth of internal investigations, the strength of MPD's audit processes, the creativity of MPD's internal "restorative justice" program and proactive efforts to release PS&IA summaries to the public all reflect the department's ongoing commitment to a strong internal accountability system. The report also recognized several other factors—such as the regular willingness of officers to take responsibility for their actions—that demonstrate not only a strong system of accountability but also a healthy internal culture.

OIR's specific recommendations in this area are discussed below. However, a few aspects of this section are a bit misleading or simply incorrect, and might leave the reader with an inaccurate view of MPD or the internal discipline process. So, these are addressed individually here:

- The report discusses the practice of holding suspension days "in abeyance," and indicates that the outcome of disciplinary cases is the result of a "settlement" between the department, the officer and the MPPOA. This is incorrect. The decision to impose discipline on an employee (including suspension days and whether any suspension days are held in abeyance) is made by the Chief alone. The decision process includes discussion with the Chief, Assistant Chiefs, PS&IA and the employee's commanding officer. The employee has no involvement in this decision-making process, nor does the MPPOA. Suspensions (whether they include days held in abeyance or not) are imposed by the Chief, they are not a result of a settlement. The only discipline cases that involve any type of agreement or "settlement" are serious cases where the employee resigns or retires rather than face termination. These are infrequent, and the assertion that discipline cases outside of this context are bargained at the "settlement table" is simply incorrect.

  It is also worth noting that the practice of holding suspension days in abeyance (typically for a one-year period) has shown benefits. Outside the realm of serious misconduct, employees subject to discipline will remain employees, and the primary purpose of holding them accountable through the internal discipline process is to correct their behavior. Holding suspension days in abeyance provides incentive for employees to avoid future discipline (as a new violation will require them to serve the days held in abeyance in addition to any new sanctions), while still establishing an appropriate benchmark for progressive discipline (if needed). In most instances, employees with suspension days held in abeyance do not commit additional violations requiring the days to be served (demonstrating that this practice can aid in correcting employee behavior).

- The report correctly notes that different rules apply to the disciplinary process as it applies to civilian employees. These differences are significant. However, the narrative comingles civilian and sworn disciplinary cases/examples in several instances. For example, footnote 121 refers to the proportion of suspension cases involving days held in abeyance (while the footnote suggests this data is for the most recent quarter, it actually encompasses all suspensions dating back to January 1, 2016). However, five of those eleven suspension cases (and four of the cases where suspension days were held in abeyance) were civilian employees. And none of the outcomes in cases involving sworn employees involved all suspension days being held in abeyance.

The report also refers to a civilian employee suspended for untruthfulness, and references the zero-tolerance policy many agencies hold on this issue. Unsaid, however, is that this zero-tolerance viewpoint is focused on sworn employees, not civilians. The reasoning is outlined in footnote 123: the inability of a sworn officer with prior demonstrated untruthfulness to effectively testify. This is typically not an issue for most civilian employees (though certainly some may have assignments that regularly involve testifying). This is a critical nuance not addressed in the report.

- The report notes an investigation into an allegation of improper force use, and states that there was no attempt to conduct a more detailed interview of the complainant. The investigative document for this case clearly reflects that multiple attempts were made to contact the complainant (without success).

- Finally, footnote 125 provides a brief factual overview of a case that was concerning to OIR. This occurred in 2001; noting this would have provided the reader with helpful context. Also, the employee in question had been designated for promotion prior to the incident; that designation was rescinded as a result of the complaint/investigation, so there were significant consequences to the employee.

It is not clear what impact these errors had on OIR's impressions or specific recommendations.

RECOMMENDATION 122: MPD should provide accessible literature at its stations encouraging feedback regarding the performance of its officers, including blank complaint and commendation forms.

MPD supports this and has made every effort to make these forms available. Any previous unavailability of forms at district stations has been inadvertent and the relevant forms are now all available at MPD's district stations.

RECOMMENDATION 123: MPD should remove the 90- day limit from its SOP on investigation of complaints and investigate all complaints that allege a violation of rules.

As a matter of practice, complaints coming in outside of the 90-day limit have all been reviewed, and have been fully investigated when warranted. MPD recognizes the potential for this to discourage incoming complaints and will remove this language from the SOP.

RECOMMENDATION 124: MPD should expressly codify its current practice by indicating in its SOP that it is committed to investigating anonymous complaints.

MPD has always accepted and investigated anonymous complaints, and will add language to the SOP codifying this practice.

RECOMMENDATION 125: MPD's SOPs should be revised so that every complaint alleging a policy violation should receive a PSIA number.

MPD had already decided to make this change, and the SOP has been adjusted accordingly.

RECOMMENDATION 126: MPD should change its policy so that all interviews of victims, witnesses, or complainants to internal investigations that could result in discipline are recorded unless the situation proves impossible or if a civilian witness declines.

MPD's current SOP states that the decision to record interviews of victims, witnesses or complainants should be based on a variety of factors (severity of the allegation, complexity of the allegation, location of the interview, relevance of the interview to the allegation, etc.). The SOP also states that "interviews of key witnesses in significant investigations should be recorded when possible." In accordance with the SOP, many citizen interviews are indeed recorded.

Requiring every interview to be recorded is problematic for a variety of reasons. However, MPD recognizes that some minor changes to the SOP can provide additional guidance and clarity on this topic.

Staff time is relevant to this issue. Interview recordings are transcribed into a written format by another City agency, and this is an extremely time-consuming process (it typically takes four times the length of an interview to transcribe it; so a one-hour interview will take four hours to transcribe). This process takes time, and can delay an investigation (as the transcription is often critical to the investigative process or resolution). A significant increase in recording transcriptions will require additional City staff or utilization of an external vendor (which will have a cost).

RECOMMENDATION 127: MPD should ensure that violations of integrity are appropriately charged as such in the disciplinary process.

RECOMMENDATION 128: MPD should consider whether there is sufficient accountability in its disciplinary process regarding violations of integrity and force.

MPD is committed to a robust system of internal accountability. The Chief strives to reach a fair and equitable outcome in each case that appropriately address the underlying behavior. As indicated in the OIR report, the department implemented a disciplinary matrix in 2014. The matrix was developed by an internal workgroup, who reviewed and considered similar tools used by other agencies.

The outcome of each case is given careful deliberation, and a great deal of time and thought is put into the process. The ultimate disposition entails consideration of all the details and circumstances unique to the case, including the employee's overall work history (as required by Wisconsin Law).

RECOMMENDATION 129: MPD should expand its restorative justice disciplinary program to authorize and address courtesy violations or other low-level violations involving police/civilian contacts.

Department SOP outlines the restorative performance process and criteria for consideration. It is not limited to performance issues, as the OIR report suggests, and has already been utilized in a broad array of circumstances.

RECOMMENDATION 130: MPD and the City should devise and promote a mediation program to resolve civilian complaints outside of the traditional disciplinary process.

MPD supports the concept of utilizing mediation to resolve certain external complaints against officers. The department has utilized (or offered) mediation in some cases previously in an informal manner. A formal mediation process/option could improve outcomes in certain PS&IA cases. However, a formal process—using an external mediator—would require additional funding.

CITY ATTORNEY RESPONSE: MPD already does attempt to mediate civilian complaints when it is appropriate and when the citizen is willing to meet with MPD staff to discuss their complaint and the outcome of the internal investigation. The City Attorney encourages MPD to continue this process when appropriate.

However, the City Attorney believes there are serious practical difficulties in going beyond the current practice and accepting this recommendation. For this recommendation to be effective, both parties would have to sign numerous waivers. The citizen would have to sign a document waiving their right to bring an action against the officer with the PFC. The citizen would also have to sign a second document waiving their right to initiate a civil action based on the event that is in dispute. Further, the police officer would have to sign a waiver document agreeing to accept the results of the mediation and waiving his/her right to appeal the matter to the PFC. Even with all these waivers in place, the City Attorney has concerns with proceeding down this path. Either party could attempt to argue against the signed waiver, ignore the mediation outcome and proceed with the matter either before the PFC or in civil litigation (with potentially significant negative implications for the City). Finally, to be effective, a formal mediation project needs professional mediators. The cost of hiring outside mediators would be expensive, and would be a deterrent to establishing such a program.

RECOMMENDATION 131: PSIA should continue and build upon its current practice of post-investigation complainant outreach, including the evaluation of cases for possible informal discussion opportunities with involved parties.

MPD supports this practice and will continue to follow it when appropriate.

RECOMMENDATION 132: MPD should regularly evaluate serious disciplinary cases to determine whether, pursuant to Department policy, they should be subject to proactive release.

For many years, MPD has proactively released quarterly PS&IA discipline summaries to the public. This is not required by law, but reflects an effort to be transparent and maintain public confidence in MPD's internal discipline system. The department agrees that significant disciplinary or misconduct cases might call for individual public release. This has occurred previously, and the department will continue to do so when appropriate.

RECOMMENDATION 133: Rather than rely entirely on the computer to identify early intervention candidates, MPD's Early Intervention System should regularly request first-level supervisors to identify officers who might benefit from the remedial aspects of the program.

A key component of MPD's leadership/supervision philosophy has been an emphasis on coaching and mentoring employees. Supervisors are encouraged to engage those they supervise, be aware of any issues that might impact performance or the employee's health and wellness, and offer assistance or support to employees as needed. This will continue, and an aspect of the Early Intervention System (EIS) deployment/training will remind supervisors that the EIS is not a replacement for their day-to-day supervision and engagement.

RECOMMENDATION 134: MPD should press forward toward full implementation of its Early Intervention System.

MPD has been moving forward with implementing an Early Intervention System (EIS). It is anticipated that the system will be operational during the first part of this year.

RECOMMENDATION 135: Before a body-worn camera pilot project is implemented, MPD should seek the input of stakeholders—including City leaders, prosecutors and defense attorneys, civil rights litigators, privacy advocates, the community at large, and rank-and-file officers—to identify and prioritize, to the extent possible, the intended benefits and potential drawbacks of any body-worn camera adoption.

RECOMMENDATION 136: Before a body-worn camera pilot project is implemented, MPD should work with stakeholders to develop policies for that implementation consistent with the principles set out in this Report, and with intended benefits identified and prioritized in a manner consistent with the prior Recommendation.

RECOMMENDATION 137: If the pending Wisconsin legislation regarding body-worn cameras is enacted in its current form, Madison should delay implementation of any pilot program until the implications of the legislation on release of body camera footage can be assessed.

RECOMMENDATION 138: Assuming a reasonable consensus can be reached on policy, Madison stakeholders should remain open to funding a body-worn camera pilot project.

RECOMMENDATION 139: If MPD adopts body-worn cameras, it should commit to periodic evaluations (e.g., a one-year, three-year, and five-year review) to assess the qualitative and quantitative impact of the technology on the agency and stakeholders. Such periodic reviews should seek to identify whether the agency should continue its program and, if so, whether policy revisions are necessary to achieve or maximize the identified benefits.

MPD has taken a consistent position on the issue of Body Worn Cameras over the last few years. We recognize the value that body worn cameras can provide to both the department and community in a variety of contexts. These include assisting in a criminal prosecution, providing clarity in the aftermath of a critical incident, or resolving an allegation of improper officer behavior. The in-car squad video systems, in use by MPD for years, have been impactful in all of these areas.

Like the in-car video systems, body worn cameras have significant limitations, and can create unrealistic community expectations. The OIR report summarizes these nicely. In addition to the operational limitations of body worn cameras, the cost is significant. The initial equipment cost for a broad MPD deployment of body worn cameras would exceed $1 million, and additional staff positions would be necessary to process public records requests for video footage. The department's budget priority remains staffing, as additional commissioned personnel will have the most positive direct impact on the community.

So, while MPD will continue to deploy body worn cameras in limited circumstances (like SWAT operations), the decision to move forward with a broader deployment is that of the Mayor, Common Council and community. If the department is provided direction (and funding) to expand the use of body worn cameras we will implement the program as effectively and efficiently as possible. This process will include the development of a comprehensive SOP on body worn camera use, to reflect national best practices and community input.

CITY ATTORNEY RESPONSE: The report does not include a recommendation for the implementation of body cameras, and provides only a very minimal discussion on the potential civil liability impact of body cameras. The City Attorney supports body cameras for the simple reason that the cameras will assist the City in determining potential civil liability. The cameras provide an unbiased view of what occurred during an incident. With this camera view the City would have additional information, not now available, to determine whether the City has any potential liability. If there is significant potential civil liability for the City, the City and its insurer could settle civil lawsuits early on, without the City and its insurer incurring substantial costs of prolonged litigation. Therefore, the City Attorney recommends that Madison look very closely at the use of such cameras, with the goal of providing body cameras for all MPD officers.

For over 100 years, the State of Wisconsin has mandated the existence and authority of Police and Fire Commissions (PFCs). The PFC concept was introduced in an attempt to insulate public safety services from the political process. The form, structure and authority of PFCs in Wisconsin are spelled out in state law (Wis. Stat. Sec. 62.13), which provides a PFC with a number of specific roles directly affecting police and fire operations. This framework is relatively unique.

Madison's PFC plays a significant role in how MPD serves the community. The commission selects the Chief of Police, approves new hires, approves promotional decisions, and can accept complaints against MPD personnel. The commissioners take their role very seriously, and their involvement has been thoughtful and professional.

RECOMMENDATION 140: While retaining the ultimate determination on selecting the Chief, the PFC should consider ways to involve the Madison community in the selection process through community panels and interviews.

This recommendation is directed to the Police and Fire Commission.

RECOMMENDATION 141: The City should institute protocols calling for a performance evaluation process for the Chief of Police at fixed intervals, with the evaluation being a potential basis for a finding of "cause" should the Chief's performance fall significantly below community expectations.

This recommendation is directed to the Police and Fire Commission.

CITY ATTORNEY RESPONSE: The matter of performance evaluation is an administrative decision which may vary by mayoral administration. While the City Attorney sees benefit in allowing for public input, the manner of public input is to be determined by those making the evaluation. The use of that input or of any part of the performance evaluation, when applied to the Police or Fire Chief is also limited by state law.

The City Attorney does not, however, agree that there should or could be a finding of "cause" if someone believes the Chief's performance has fallen significantly below community expectations. Under Wis. Stats. Sec. 62.13(3) the Chief shall hold his officer "during good behavior, subject to suspension or removal by the board for cause." It would not be considered "cause" under the statute if someone believes the Chief's performance falls significantly below community expectations. "Community expectations" is a vague undefinable term and to subject the chief to removal from office for this reason would not be permissible under the statute.



Chief Koval attends one of our Friday Nights at the Y summer programs to engage with youth in our community.

RECOMMENDATION 142: The City should consider whether to consult with its state legislative representative to propose amending the PFC statute so that the Chief of Police serves a fixed term, subject to renewal by the PFC.

This recommendation is directed to the Police and Fire Commission.

CITY ATTORNEY RESPONSE: The City Attorney agrees with considering this recommendation.

RECOMMENDATION 143: MPD and the independent auditor should continue to review the MPD disciplinary decisions on significant discipline to determine to what degree the PFC post-disciplinary process is impacting those decisions.

MPD disagrees with many of the assertions related to this recommendation. The department does not have a "strong aversion" to taking a case to the PFC, and the time/burden/expense of a possible challenge before the PFC is never relevant to the Chief's decision on the outcome of a discipline case. The Chief does—as the law requires—consider whether a disciplinary outcome meets the seven standards of just cause (articulated in Wis. Stat. Sec. 62.13, and the basis for any PFC review of a complaint or disciplinary finding), but the decision is based on finding an appropriate and lawful outcome for the particular case—never to avoid the expense of a PFC hearing.

We also do not agree with the conclusion that a failure on the part of officers to challenge suspensions before the PFC reflects a flaw in MPD's internal process or PFC structure. Rather, this is reflective of a healthy organization: professional employees willing to accept responsibility for mistakes (as the report points out), a progressive labor organization (at both the local and state level), and a fair internal process resulting in fair outcomes (recognized as such by employees).

As discussed above, the only discipline cases that involve any kind of settlement are those serious cases involving the potential for termination. Reaching appropriate agreements in these cases serves the public interest: the involved employee leaves the department and is no longer a police officer, and the public is spared the expense of a possibly lengthy PFC process (where the employee remains on the City payroll). The report suggests that suspension cases are the result of settlements; this is incorrect.

RECOMMENDATION 144: The PFC should consider the routine use of hearing examiners for any complaints received by the community or MPD to conduct any hearings emanating from those complaints.

Madison's Police and Fire Commission has used hearing examiners previously, and the decision to use one in a particular case is at the discretion of the commissioners (there is a cost to do so). MPD supports the use of hearing examiners when appropriate.

RECOMMENDATION 145: When the PFC or MPD receives a complaint against the Chief of Police or high-ranking MPD command staff, it should consider retaining an outside investigator to conduct an independent investigation.

Any complaint that MPD receives against an employee is always investigated by an employee of higher rank. The department has also elected, on occasion, to request that an outside agency perform an investigation or review of a complaint. This is decided on a case-by-case basis, and this practice will continue.

RECOMMENDATION 146: Madison should enhance its civilian oversight by establishing an independent police auditor's office reporting to a civilian police review body.

Throughout the process of OIR's research, MPD's position has been one of complete openness and transparency. While always working to improve, the department is confident in the professionalism of its employees, in its progressive philosophy and in the integrity of its internal processes. OIR spent a year examining the department and, we feel, largely confirmed this view.

The recommendation to establish an independent auditor or otherwise expand civilian oversight of MPD beyond that provided by the PFC is ultimately, of course, a question for the Mayor, Common Council and community. A few points are worth noting, however. First, many of the jurisdictions with expansive civilian oversight mechanisms are larger agencies with a significant history of insufficient internal accountability. Many are also from states that do not have a statutory PFC equivalent. Neither of these apply to Madison.

Also, the cost for these oversight entities can be significant. Denver's Office of the Independent Monitor, suggested by OIR as a model, is an example. The office has fourteen employees and an annual budget that exceeds $1.5 million. And to the extent that an independent auditor would be requesting significant data, documents or analysis from the department, additional internal staffing may be necessary.

To be effective, a civilian oversight entity must be insulated from the political process, and be staffed by those with significant relevant expertise. Striking the proper balance between knowledge and public credibility is difficult.

The OIR Group is a clear and consistent advocate for civilian oversight of police. Indeed, during our discussions with OIR about this concept, it was clear that a recommendation for an independent auditor was not in response to inadequacies in MPD's internal investigative process or use of force practices. To illustrate: in 2015, OIR reviewed the internal affairs process of the Denver Sheriff Department (one of the agencies falling under the oversight of Denver's Office of the Independent Monitor). A review of that report clearly illustrates the stark differences between that agency and MPD in terms of culture, professionalism, documentation and force use. So proposing that the same model be applied in Madison suggests that this particular recommendation says more about OIR's philosophy than about anything they learned about MPD.

MPD does not take a position opposing the concept of an independent auditor. In the event that the City implements an office of independent auditor or other oversight mechanism beyond the PFC, MPD will approach the effort with the same view as the OIR process: with openness and transparency, and with the objective of developing a workable structure.

CITY ATTORNEY RESPONSE: The City Attorney may support this recommendation. Before doing so we would want to know specifics on how this would function. The report is lacking any specific details on the auditor. Further inquiry is needed on how the auditor's office would be set up, who would be in the office, who would supervise this position, the cost of the auditor and how to have assurances that the auditor would be a truly independent office not subject to political will and not in violation of the statutory duties and obligations of the PFC. That being said, the City Attorney believes that there may be a lot to gain in terms of public trust in the MPD if a truly independent and professional auditor could provide some outside review of incidents.

CONCLUSION

The Madison Police Department has viewed OIR's work as a constructive effort that can help the department improve. As this report indicates, most of OIR's recommendations are those that we find at least some agreement with; indeed many simply recommend that we continue what we are already doing. MPD will move forward with implementing recommendations that we are able to as indicated above. Movement on others, however, will require further community discussion or additional funding.

APPENDIX A – ERRORS

During our early meetings with OIR representatives, they explained that their normal process would entail providing us with a draft of their report, with an opportunity to provide feedback or identify mistakes before the final report was released. Several months later, OIR advised that they no longer thought that would be an option, given the nature of their contract with the City and responsibility to report directly to the Ad Hoc Committee. As a result, no one from MPD had an opportunity to review any of OIR's report until it was finalized and released to the public. It seems likely that following their standard process would have allowed for these errors to be identified and corrected.

Page 21 – The executive summary asserts that the department resolves (or "settles") serious suspension cases through some type of bargaining process. This is repeated elsewhere in the report. As discussed above, this is simply incorrect. The only discipline cases involving any type of settlement are serious misconduct cases that result in an employee resigning or retiring in lieu of being terminated. These cases are infrequent, and the report is incorrect to assert that other disciplinary outcomes are the result of any type of settlement.

Page 41 – Footnote 9 incorrectly defines "beat integrity." This actually refers to the expectation that a patrol officer will take responsibility for handling all incidents occurring within his or her geographic area of responsibility, or beat.

Page 62/63 – The report lists a number of positions classified as specialized, highlighting that they are "closed" positions (selections are competitive rather than based on seniority). The list incorrectly includes community-policing teams; those positions are seniority selections and are not "closed" positions.

Page 70 – The report states that each district has two to four neighborhood police officers. This is incorrect: two of the districts only have one neighborhood police officer.

Page 70 – Footnote 27 indicates that some districts also have a neighborhood resource officer. This is incorrect: each district has an assigned neighborhood resource officer.

Page 98 – The report indicates that the department is "currently" interviewing sergeants for the Mental Health Unit. The mental health sergeant position will not be filled until mid-2018 at the earliest, and interviews will not take place until then.

Page 102 – The report indicates that MPD's records management system (LERMS) only tracks calls that generate a report. This is incorrect: any work an officer does that is tracked on the CAD is captured in LERMS.

Page 126 – The report indicates that "an officer's supervisor" is responsible for reviewing each use of force. While each use of force is reviewed by a supervisor (and entered into the use of force database), it is not required that the officer's direct supervisor be the one who does the review.

Page 132 – The report states that remedial measures undertaken by the use-of-force coordinator are not documented. This is incorrect; remediation is documented within the use-of-force database.

Page 134 – MPD does not employ deputies.

Page 149 – OIR misstates the department's criteria for when an ECD may be deployed. This is discussed in more depth above.

Page 159 – This group is actually the Officers Advisory Committee (OAC), and it does not have a fixed number of members.

Page 180 – The report refers to contract psychologists as part of the hiring/selection process. MPD utilizes psychiatrists for this function.

Page 192 – Footnote 113 states that only two of the twenty-three cases resulting in formal discipline since the start of 2016 were the result of external complaints. This is incorrect; three of the cases were external.

Page 197 – The report references a complaint by an arrestee that he was improperly kneed in the back by officers, and states, "there was no attempt to conduct a more detailed interview with the complainant." The investigative document for this case—which was provided to OIR—clearly shows that multiple attempts were made to contact the complainant.

Page 199 – Footnote 119 makes the same assertion as footnote 113; this figure is incorrect.

Page 200 – The report repeats the discussion about settlements being part of a disciplinary case's outcome. As discussed above, this is incorrect.

Page 224 – Footnote 139 outlines a prior settlement case but does not accurately describe what occurred. In that case, the Chief had filed a complaint with the PFC to terminate an officer. The City subsequently reached an agreement with the officer where he agreed to leave the department several months later. As a result, the City withdrew the PFC complaint and the PFC dismissed the PFC case. A private citizen had also filed a complaint against the same officer before the PFC (the City was not involved). The officer filed a motion in circuit court to prevent the PFC from hearing the complaint due to the settlement. That case was eventually dismissed when the officer retired from MPD.

CITY ATTORNEY RESPONSE: There are several facts that are inaccurately stated in the report. The City Attorney has reviewed MPD's corrections on these facts and is in agreement with those items they have outlined. However, there is one specific factual inaccuracy that involves the City Attorney and must be noted:

> "Footnote 139: The settlement allowed the officer to be employed for an additional sixty days and then allowed him to retire. The PFC challenged the settlement on the basis that they retained jurisdiction, since the officer was still a City employee. Before the court ruled on the challenge, the sixty days elapsed and the matter ended up being moot."

OIR did not ask for input or clarification on this specific issue from the City Attorney. Had they done so, the City Attorney would have provided some clarification of the specifics of this case. What OIR cites in this footnote is not an accurate statement of what occurred in the case. On June 21, 2013, the City did file a complaint with the PFC against an officer. However, on June 28, 2013, the City reached a settlement agreement with the officer whereby he agreed to either retire or resign by November 23, 2013. Therefore, the City withdrew its complaint and on July 8, 2013, the PFC granted the City's motion and dismissed the case. At that point in time, the City was no longer a party to any action before the PFC involving said officer. There was however, a second complaint that had been filed by a private citizen that was still pending against this officer in front of the PFC, but as indicated the City was not a party to this action. The officer filed a motion, in circuit court, to enjoin the PFC from hearing that complaint because the officer believed the case was moot due to his plan to separate from service within five months, not sixty days. The circuit court scheduled various motions and hearings on the issue but as stated in the OIR complaint the case was dismissed when the officer did retire from MPD.

APPENDIX B – MPPOA RESPONSE

The following response was submitted by the Madison Professional Police Officers Association (MPPOA). It reflects the opinions and positions of the MPPOA.

When the decision was announced that the Madison City Council would seek an outside firm to conduct a review of the Madison Police Department and its policies and procedures, the perspective of the Madison Professional Police Officers Association (MPPOA) and its members was that we welcomed the review. We welcomed the review not only because we were and are confident that our organization is a very good one that delivers a high level of quality service to the citizens of Madison, but also because we believe in the principle of constantly trying to improve. After the OIR group completed their review, we were gratified to see that the report reflects our belief in the quality of our department and the men and women who work for the Madison Police Department. Our members are justifiably proud that many of the recommendations reflect that the OIR group believes that the department should continue practices and procedures already in place. Many of these came about because of grass roots efforts on the part of our officers and the willingness of the department administration to support those efforts and provide the atmosphere where officers below command level can follow their passion and develop groups and efforts such as Amigos en Azul and Judgement Under the radar. We were also gratified to see the OIR group recognize our procedures for officer aftercare and wellness after critical incidents, and we would like to point out that those procedures reflect the department administration and the MPPOA working hand in hand to develop best practices; this occurs very often in our department. When representatives of the MPPOA met with one of the OIR group that individual even commented favorably on the very positive relationship between labor and management that exists here in Madison and how that is often not the norm in other departments they have reviewed. We believe that relationship exists because of the historical approach of both management and union here to be open to new ideas, being willing to compromise to reach the best outcome, and to be constantly in search of improvement to best serve the citizens of our community. We believe that approach is carried out in everything we do.

With that in mind we approached the OIR review and the recommendations contained therein with an open mind and with the spirit we believe it is intended in, to help us be the best department that we can be. While we might not completely agree with every recommendation we value the input and the opportunity to get an outside view of our department. We would like to offer our thoughts and reactions to some of the recommendations contained in the report but will not address each and every one as we are aware the department administration will address each recommendation in depth. We have had an opportunity to review the department's official response and are in general agreement. We will tend to focus primarily on those recommendations that most directly involve union related issues but will also add our thoughts on such issues as body worn video and evaluations.

In reviewing the report we did find one area that raised concerns for us that we have not been able to resolve and that is in the area of the methodology used in the study. Our concerns with the methodology initially came about when we began to express our disappointment with the amount of time that the OIR group spent with MPPOA representatives. During the course of a yearlong study of the department, its policies and its internal culture, the OIR group only met with MPPOA representatives one single time for two hours, very early on in the process. In a study that eventually reflected 8-10 recommendations that directly or indirectly concern MPPOA itself or bargaining issues, we felt that was very little time to spend with us. Many of the issues that were ultimately contained in the recommendations related to the union or bargaining issues were either not addressed in the one meeting or were brought up very superficially. We were under the impression based on comments from that meeting that it was the first of several where the issues raised could be explored in more depth but unfortunately that never occurred.

We were also made aware of concerns from our members who were a part of the Officer's Advisory Committee (OAC), which is an innovative practice at MPD where line officers representing various groups and demographics within the department meet directly with the Chief to explore issues. Officers who were part of this group expressed concerns that

OIR representatives met once with that group but there did not seem (to the officers who raised the concerns to the MPPOA) to be much effort beyond that one meeting to speak with line officers. We did inquire with OIR representatives as to the actual number of hours they spent with line officers, number of ride-alongs they did, and the amount of time they spent with MPD staff in total. Unfortunately our inquires only produced generalities such as "We met members at all ranks, did at least one ride-along in each of the Districts, separately visited each District—sometimes more than once—to meet with officers about some aspect of the Department."

Our concerns were further raised when the OIR group distributed via email an occupational climate survey to a portion of our membership in late November 2017. The timing of the survey seemed odd to us in that OIR had already presented their preliminary findings to the City's Ad Hoc Committee. It raised questions in our minds that an occupational climate survey would be sent out this late in the process. Especially since surveys such as this are often starting points to further "dig" into questions that come out of the survey results. Quite a few of our members also raised questions and concerns directly to the MPPOA and the researcher who had sent out the survey. We felt that several of the questions in the survey were significantly flawed in that they were open to wide variance in interpretation which effected the possible answer. One example of many was a question about de-escalation training put on by the department. The question was phrased in such a way that if you had been exposed to the theories and techniques of de-escalation prior to more recent trainings put on by the department (our department was teaching the principles contained within what is now referred to as de-escalation long before that term was being formally used), then you might very well answer the question in a way that seemed to indicate that you did not find the training to be worthwhile or you didn't have confidence in it. Quite the opposite might be true if someone was actually trying to convey that this was not a new concept but one that they have used for numerous years.

We also had questions about what, if any, controls were put into place during the review to guard against any type of confirmation or other type of bias. We know from trainings put on by our own Judgement under the Radar group that almost everyone has the potential for some type of bias, conscious or unconscious. Our experiences shape us and our perceptions of things. Typically scientific studies will put into place controls to guard against bias on the part of those conducting the research, not because the researchers have some type of nefarious agenda but because they want to guard against the researchers "driving" the findings. Certainly the OIR group has met with numerous departments around the country likely functioning at different levels. Even comments from our one meeting with them suggested that their experience with union officials has been quite different than they found here in Madison. The selection process for the vendor to be used for the review also laid the grounds to question the potential for confirmation bias. At a public meeting with the finalist companies competing for the lucrative contract, one of the companies was publically criticized for being too complimentary of the MPD by the committee making the selection. That company was ultimately not selected.

The final aspect of the methodology that raised some questions for us had to do with what seemed at times to be a heavy reliance on single anecdotal evidence. In the body of the report and in the various footnotes there seemed to be more than a few recommendations that seemed (based on what was written) to be based on conversations with or the opinions of just one or two people. In a report that speaks pretty heavily to the importance of data, it was somewhat concerning to see what seemed to be a reliance on individual datum versus data. Without more information regarding some of the recommendations we were left to rely on what was written in the report which seemed to indicate some recommendations were based primarily on conversations with small numbers of people instead of a broad sampling of individuals.

To be completely clear, we are not questioning the motives of the OIR group or anyone else in the review process, but we did have questions about the methodology they used that formed the basis of their recommendations that we were not able to answer. Our questions came about in an effort to more fully understand the recommendations offered in the report, the thinking and reasoning behind the recommendations, and how they arrived at them, so that we could better understand them.

With that one caveat in mind we will offer our thoughts on the recommendations that most directly involve either MPPOA or the bargaining process:

Collective Bargaining

We strongly believe in the collective bargaining process and appreciate that the City of Madison and the administration of the Madison Police Department share that strong belief. Earlier in the introduction we spoke about our belief that when labor and management work together to address their different needs and make the effort to better understand each other's viewpoint that this produces the best outcomes. The spirit of compromise is inherent to police work. A meeting between two groups that involves both "sides" working together to find a solution that both can accept is at some level one the cornerstones of community style policing. Identifying shared beliefs and areas of disagreement and then committing to working together to address those areas is one of the concepts that all new MPD officers learn and embrace. We are fortunate that in the context of labor relations here at the MPD that we are able to use those same concepts when we address issues such as wages and working conditions. The current and previous labor contracts between the City of Madison, the MPD, and the MPPOA reflect many hours of meetings and compromise over decades and we believe that those contracts are one of the reasons that we can attract the diverse and high quality applicants that we do. Our employees are what allow the MPD to be the high quality organization that we are. We wanted to make this general statement about the value of the collective bargaining process here in support of the fact that the current labor contract does reflect years of working together and input from the union membership and the administration of the department. While the OIR report contains some good recommendations in regards to various aspects of our contract, we did not have the opportunity to discuss in any detail with the OIR group the reasons and history behind many of the articles of our contract that they made recommendations about. It's possible that with benefit of that history or greater depth of knowledge of the process that led to the current practice that the recommendation might have been altered somewhat.

RECOMMENDATION 20: MPD should devise ways to incentivize its bilingual officers to assist in providing translation assistance in the field, including consideration of adopting a pay differential.

This is a topic that has been brought up in the collective bargaining process in the past and one that we support, however we feel the need to point out that in times of difficult budget processes both sides in the bargaining process are often forced to "pare down" their offers to operate within these tight financial boundaries. Our membership has long supported the concept of bargaining for across the board issues instead of focusing on vital but smaller groups within our membership. It has also been correctly pointed out during the bargaining process that officers with language skills often are able to highlight those skills in the initial hiring competition and there are times when those language skills have given an applicant an "edge" over other highly qualified applicants. There is also the issue of "qualifying" the language skills. There are various standards such as conversational, fluent, all the way to court certified in a particular language and these various standards present challenges in developing incentives (at what level do you begin to apply the incentive). Nevertheless, we do support the concept of pay incentives for officers with language skills and plan to continue to address this through the bargaining process.

RECOMMENDATION 29: Consistent with this report, MPD should develop formal mechanisms whereby a broader group of community stakeholders are brought into the selection process for special assignment officers.

We have a long history of agreement with the idea behind this recommendation and our agreed upon process for selection of special assignment officers includes having a community representative as a part of the selection process where applicable. As the department response points out it can be difficult finding community members who are able to devote the time sometimes necessary to participate in interviews of multiple officers given the nature of police shift and day off rotations.

RECOMMENDATION 38 and 39: MPD should have its Neighborhood Officers (and all specialized officers) prepare daily activity logs of their performance. MPD should institute daily activity logs for patrol officers.

The response of the department contains many good points that we agree with. In addition we would also point out that any and all efforts at documentation of activities takes time away from other activities so we believe there should be a balance between wanting to know what officers are doing and allowing them time to do what they are supposed to do. As call loads, complexity of investigations, and violence increase so does workload. Add in logistical issues such as increased drive times associated with conveyances to out of county mental health facilities. If at the same time staffing doesn't keep pace with these added demands on officer's time then it becomes even more difficult to carve out time for officers to do proactive, community based work. We believe that good supervision is one good solution although we acknowledge that it doesn't provide the measurable data that is being sought.

RECOMMENDATION 56: The City should dialogue with the Police Officers' Association in order to amend the current contractual agreement so that EROs (and other specialized officers who are focused on community policing such as Neighborhood Officers, Mental Health Officers, and Community Policing Teams) who have established effective working relationships in their specific assignments, as determined by input from Department supervisors, the officers themselves, and stakeholders at the respective campuses can remain beyond five years.

This is an area where the Department administration and the MPPOA have had numerous discussions and see the logic of both sides of the issue. Our members who fill these specialized positions are extremely talented and do a tremendous job of carrying out the mission of the department. It is very understandable to want to keep them in those assignments as long as possible. However, as the report acknowledges, there is benefit in allowing more officers to have an opportunity to work in these types of assignments. We would point out that for every current or past high performing ERO, Neighborhood Officer, or MHO, there was the potential for them to have replaced a high performing officer. If the current high performer never had the chance to show what they could do because the previous officer did not have to give up the position we would miss out on a lot of talent. We feel that the Department and the City are in the enviable position of having a wealth of very talented officers to fill a finite number of these specialized positions and to limit the turnover at these positions, is not necessarily in the best interests of the Department, the career development of the officers, or the various entities we partner with. As always we are open to continuing to dialogue with the Department on this issue as we have done in the past.

RECOMMENDATION 103: The Madison Professional Police Officers Association should make efforts to enlist greater participation by officers of color, including in leadership positions.

It is difficult to respond to this recommendation without some frustration since the recommendation makes several assumptions here with no discussion with us to determine what if any efforts have already been taken. As we pointed out in the introduction, the OIR group spent very little time speaking to us and did not address this issue at all with us. In the current climate in general and in Wisconsin specifically it can be difficult to energize workers in the union movement. This is understandable when you consider that being a part of the MPPOA board is something that is done outside of work hours for the most part. Officers struggle with the work and home life balance as it is with the challenges of shift work, weekends and holidays, and to ask them to take even more time away from their families is difficult. The board has struggled with ways to increase member involvement in general and interest in running for the board specifically. There have been, and continue to be, efforts at encouraging a diverse representation on the board so that we might best serve our members. To assume we haven't is not fair in our opinion.

RECOMMENDATION 104: The City should work to revise the current agreement with the Police Association in order to provide MPD with more flexibility regarding shift and location assignment of officers.

As stated above, the current and past labor agreements between the City, the Department, and the MPPOA reflect the efforts of the collective bargaining process. Our membership strongly supports the ability to be able to choose their assignment (for non-specialized positions) on a yearly basis. There are many benefits to this such as increasing familiarity with various parts of the city, having some variety in assignments, being able to work with close friends, being able to work closer to where officers live, and being able to choose day off rotations. We have never heard strong reservations on the part of the Department during the bargaining process and other than some assumptions that simply don't conform to reality, the report offers few compelling arguments against our current practice. The recommendation contains some factual errors that we feel we should point out. The report states that as a result of the seniority shift pick practice, "MPD has no managerial ability to influence patrol shifts based on officer performance and experience, patrol district or community needs, or any other rationale." It also states "for MPD, the seniority shift rule makes any effort of management to achieve such a balance impossible." Both of these statements are simply not correct. The contract contains at least four references to management's rights to influence the seniority selection of an officer and although rare (we believe due to the high level of performance of our officers) there have been instances where management has exercised these rights under the contract and limited an officer's ability to select based on seniority. The idea that "easier" shifts and assignments would be dominated by more senior officers not only doesn't conform to reality (the second highest concentration of senior officers is on the night shift in some of the busiest areas of the city) but it is insulting to the work ethic of our officers.

RECOMMENDATION 105 and 106: MPD should reinstitute an officer performance evaluation system that collects and incentivizes progressive policing activity. MPD should regularly audit performance evaluations to ensure that supervisors are uniformly documenting officer activity objectively and fairly.

We support the concept of officer evaluations. Our members believe in accountability and in the pursuit of continuous improvement. The difficulty, which the report does a good job of describing in some detail, is finding an evaluation system that does what you want it to. The report lays out many of the challenges in finding or developing an evaluation system that is fair, objective, consistent, that measures what you want it to, and does not lead to negative outcomes. Many departments that we are aware of use evaluation systems that rely heavily on easily measurable metrics such as the number of citations and arrests. As the report mentions, these types of metrics can lead to a "hard policing" style that is not consistent with the principles of progressive policing and especially not consistent with the principles of MPD. Some of the metrics that the report mentions, such as using de-escalation strategies and practicing problem solving in daily activities, are laudable but very hard to actually measure and document in a consistent way since every call has the potential for officers to demonstrate these but a supervisor cannot be on every call. As the OIR group has obviously had the ability to see and review many different departments around the country we would have hoped that they would have suggested some evaluation systems that they have found that meet the challenges they listed. We are aware that the Department is looking into some type of evaluation system and we support the concept and will work with the Department to make sure that it meets the needs of the Department and of our members.

We do reject the notion that being without a formal evaluation system means that supervisors are not aware of both exemplary and substandard performance and are not actively taking steps to make sure that officers are meeting the expectations of the Department. The current management by walking around method emphasizes supervisors being present and aware of all aspects of the officers under their supervision and when being done correctly likely results in supervisors being much more aware of not only how their employees are performing but also knowing who those employees are in a way that traditional measurement tools do not.

RECOMMENDATION 108: MPD should work with the City and the Professional Police Officers' Association to consider the feasibility of moving sergeants to the Association of Madison Police Supervisors."

This is yet another recommendation that was never even brought up in our discussion with OIR. Our membership feels strongly that the rank of Sergeant is best represented under the MPPOA association. The discussion in the report that contains the recommendation starts with an assumption that one of the fundamental responsibilities of a police labor association is to "do their best to minimize (or even undo) accountability and discipline." We challenge the OIR group to support this generalization here in Madison. Elsewhere in the report they mention how they were surprised at how often MPD officers took accountability for their actions in disciplinary proceedings and how seldom the disciplinary recommendations of the Department were challenged by the MPPOA. It seems likely that instead of being open to the idea that MPD and the MPPOA is different than what they are used to, they are relying on past experience in making these statements. We do not see one of our fundamental responsibilities to "minimize accountability or discipline." In fact, one the of the first things we talk to recruit officers about is how MPD is different in that we, and the management of the Department, acknowledge that as humans we will make mistakes and it is how we respond to those that defines us and determines how we will be treated. That said, we do stand up for officers to make sure that they are treated fairly and with due process. The same way we stand up for citizens for the same reasons.

We firmly believe (and again we challenge OIR to support their statements with more than generalities) that having Sergeants in our association has never interfered with Sergeants doing their jobs as supervisors and holding officers accountable. The report does somewhat grudgingly acknowledge that in the current labor environment in Wisconsin that there are good reasons why our Sergeants would not want to move to the Association of Madison Police Supervisors (AMPS). The City of Madison has, since the passage of Act 10, attempted to classify AMPS in such a way as to potentially limit their ability to even lawfully bargain under Act 10. This has not been successful but also has not been litigated. Being part of the MPPOA allows Sergeants to more fully participate in the bargaining process in a way that they could not as a part of AMPS.

RECOMMENDATION 127: MPD should ensure that violations of integrity are appropriately charged as such in the disciplinary process.

Our comments under this recommendation actually are meant to address the discussion portion of the report that proceeds this recommendation. In regards to the actual recommendation we agree that violations of integrity are serious and should be dealt with appropriately.

The text that precedes this recommendation includes some information that is just incorrect and we are not sure how OIR representatives would have arrived at their beliefs. The text mentions several times that disciplinary findings and resolutions "come about through an agreement with MPD and the officer and his or her Association representative involved in the settlement." It goes on to talk about when suspension days are held in abeyance that the "usual consequences that follow a suspension are mitigated or eliminated by the settlement agreement."

The suggestion that the finding of a sustained policy violation and the resulting sanctions imposed come about through some sort of "agreement" between the Department and the MPPOA is completely false. Any disciplinary sanction that is imposed comes from the Chief and is not subject to any sort of negotiation or agreement except in the rare case where an officer might agree to resign and even then the agreement in those rare cases is primarily concerned with various benefits that the employee has a right to such as remaining leave time. The authors of the report seem to have made assumptions, perhaps based on their experiences with other departments, that the most likely explanation for suspension days being held in abeyance must be an agreement. They seem to ignore other information that they reference in the same section, that the "underlying goal is not punishment but correction-a vehicle for constructively influencing future behavior." They also seem to discount their own observations, "lastly, the Department also seems to place significant weight on acceptance of responsibility. In cases we reviewed, we were struck by the number of

instances, far more than average in our experience, in which officers straightforwardly acknowledged the misconduct at issue." Instead of accepting that MPD is in fact different than the departments that they have reviewed and that due to officers taking responsibility for their actions and the Chief wishing to focus more on correction than punishment, they seem to have made these assumptions. We know that the OIR representatives spent some time with the PSIA section and certainly with the Chief and certainly could have asked questions about this topic so we are at a loss as to how they could have come to these false conclusions.

We felt that it was important to address this as we feel that factually incorrect assertions such as these only serve to undermine the trust that we work so hard to build in an internal disciplinary system that is as transparent as it can be.

RECOMMENDATION 134: MPD should press forward toward full implementation of it's early warning system.

We are generally supportive of this recommendation and the only reason for the qualified endorsement is the difficulty in finding an early warning system that meets the stated goals of such a program and does not end up with an over-reliance on computerized metrics but takes into account human elements. We strongly support the concepts of management by walking around and we feel that supervisors who correctly practice this already possess the knowledge that an effective early warning system depend on.

RECOMMENDATION 138: Assuming a reasonable consensus can be reached on policy, Madison stakeholders should remain open to funding a body-worn camera pilot project.

Much of the narrative concerning body-worn cameras (BWC's) centers on concepts of trust. Initial proponents of BWC's advanced the notion that in a time where police departments were facing a crisis of trust with some segments of the public, implementation of BWC's would help build trust with those segments. When the idea of implementing a BWC program here in Madison was discussed it was rejected at that time in large part because members of our community did not feel that BWC's would be the answer to trust issues. There were also concerns that BWC's could have a negative impact on relations with the Hispanic community.

We would like to offer a different perspective on the issue of BWC's here in Madison. No piece of technology can build trust. Trust is built by and between humans who take the time to get to know each other, who discuss issues of mutual concern, and who buy into the idea that a community is better when all concerned take an active role in shaping that community. Buy in doesn't always mean agreement but it means there is a commitment to working on issues together. Our officers believe this and are fully committed to the work that it takes to do this.

So BWC's will not build trust that is up to all of us. But BWC's can and do provide a level of transparency that can't be achieved in other ways. That transparency can help MAINTAIN trust that can otherwise be lost especially during high profile critical incidents. Trust is built during times of low stress when emotions are low, however all that has been built can be lost in a very short time period during the highly charged atmosphere of a high profile critical incident. When used correctly BWC's can be used to answer questions in the immediate aftermath of a critical incident that can limit the erosion of trust.

In addition, as the report states, "cameras can potentially provide unparalleled evidence, and an inside perspective on police-civilian interactions that police reports and witness testimony simply cannot provide." The information and data that BWC's can provide "may be put to use in a variety of contexts, including officer supervision and accountability, criminal investigations, prosecutions and defenses; civil litigation; officer training" and so on.

The report discusses community concerns here in Madison that adopting BWC's would be seen as "the answer" to the issue of lack of or lowered levels of trust of the police and would therefore lead to an end to any other steps to deal with this issue. We do not see BWC's as an endpoint to anything related to the issue of trust. We see BWC's as one tool that

can be useful in providing answers that might prevent the erosion of trust. We recognize that there is still much work to be done and our members and our Department are fully committed to doing everything within our power to continue to work on the trust relationship with all segments of our community and the addition of a BWC program would do nothing to change our feelings on that.

There has also been quite a bit of discussion about possible legislation related to access to BWC footage. It is our hope that legislative efforts will be able to find a balance between addressing and protecting the privacy interests of citizens so that their private moments and struggles as well as the interior of their homes are not used for entertainment or less than legitimate purposes, and addressing the legitimate concerns of the community who seek transparency in the operations and actions of their police departments.

We strongly support the implementation of a body worn camera pilot program and commit to working with the Department and the community on policy development so that the use of BWC's can meet all of our needs.