

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

Discussion: The Madison Professional Police Officers Association (MPPOA) is the union that represents approximately 500 law enforcement professionals who serve the city of Madison as either police officers, detectives, investigators, or sergeants. In addition to advocating to improve MPD officers' working conditions, MPPOA helps its members navigate the discipline process and files grievances on their behalf as needed. Historically, MPPOA leadership roles have been filled by white men, and there are currently no officers of color in leadership positions.

MPD values diversity and inclusion, but to fully realize those values, it is important that the leadership of the union representing MPD officers reflect the diversity of its membership. Greater participation by officers of color in MPPOA will increase the likelihood that their voices are heard by MPD. MPPOA notes there are ongoing efforts to have diverse representation in leadership positions.

Recommendation xx: 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. [OIR 104]

Discussion: The needs of the community and the goal of providing it the best service possible should be the primary considerations when making shift and patrol assignments. Ideally, every shift and station should contain a mix of officers of varying levels of experience and diversity. Under the current agreement with MPPOA, patrol officers, community policing team members, and detectives are able to choose their shift and patrol assignments based on seniority, thus limiting the ability of MPD management to base shift decisions on factors such as officer performance, experience, and patrol district and community needs. There are several drawbacks to the current approach:

- The rule prevents MPD from reassigning an officer who has an antagonistic relationship with members of the community s/he patrols, thus limiting the ability of MPD to use its resources to most effectively serve the community.
- Those with seniority can choose their shifts so there may not be a balance of officers of varying levels of experience and diversity on each shift in each district.
- Officers can switch to another shift with a new supervisor who may not be aware of performance issues.
- The seniority shift rule, with its annual rotations, is potentially distracting in the weeks and months leading up to the change because officers strategize to find an assignment, shift, and supervisor that works best for them.

MPD and the City Attorney do not oppose this recommendation but note it is subject to collective bargaining. MPD also asserts that allowing officers to choose their shifts based entirely on seniority provides a sense of “fairness.” But OIR notes, “If MPD takes back managerial discretion in how to deploy officers most efficiently, uses that discretion fairly, and communicates those decisions effectively to its officers, we believe that officers will recognize that the deployment decisions are ‘fair’ and appropriate and will result in a deployment that will better serve the communities of Madison.”

MPD further notes it has the ability to restrict seniority picks based on discipline or performance issues, and has done so, albeit rarely. MPPOA likewise notes the current contract contains at least four references to management’s ability to influence the seniority selection of an officer and there have been rare instances in which MPD management has limited an officer’s ability to select an assignment based on seniority.

The Ad Hoc Committee recognizes this recommendation is subject to collective bargaining and recommends MPD work with the City and MPPOA in future collective bargaining negotiations to implement this recommendation.

Recommendation xx: 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. [OIR 108]

Discussion: Currently, the MPPOA is the union that represents all MPD personnel below the rank of Lieutenant. A separate union, the Association of Madison Police Supervisors (AMPS), represents all personnel in the position classifications of Lieutenant, Captain, Assistant Chief and Deputy Chief. Accordingly, personnel at the rank of sergeant are currently represented by the MPPOA, not the AMPS.

A law enforcement officer who is promoted to the rank of sergeant assumes new responsibilities, including the duties to lead and supervise their former peers, ensuring compliance with the agency’s SOPs, and holding former peers accountable for violating the SOPs. In Madison, MPPOA represents both officers and sergeants. Therefore, the potentially competing interests of sergeants and officers are represented for all labor purposes by the same union. When sergeants and officers are in the same union, there is a risk that sergeants who recommend disciplinary action against an officer will be shunned by the membership, thus creating an impediment to sergeants performing their supervisory duties. Also, the union can be in the position of advancing a grievance against a sergeant, who they are then required to represent, thus creating real and potential conflicts of interest.

MPD and the City Attorney note this recommendation is subject to collective bargaining. MPD further states it has not experienced problems with the current arrangement. MPPOA’s position is that the rank of sergeant is best represented by MPPOA and that having sergeants in

the union has never interfered with sergeants performing their jobs as supervisors and holding officers accountable.

The Ad Hoc Committee agrees with OIR that sergeants should be moved to AMPS given inherent conflicts of interest and impediments to supervisors intent on ensuring accountability under the current system. The Committee recognizes this recommendation is subject to collective bargaining and recommends MPD work with the City and MPPOA in future collective bargaining negotiations to implement this recommendation.

Recommendation xx: MPD should engage community members at the interview stage of its promotional process. [OIR 114]

Discussion: Engaging the community on how it wants to be policed and by whom is essential to building trust between the community and police. Involving community members in the interview stage of the promotional process is one way to build trust and garner community support. And as OIR notes, “As civilians outside MPD’s culture, community members could provide insight and a fresh perspective on candidates [whom] the MPD interviewers likely already know. Moreover, during the interviews, community representatives will likely focus on issues such as the candidate’s ability to productively engage with the community.”

MPD currently includes “a civilian (preferably from within the department),” in the oral interview board for closed competitive positions, and also includes a civilian in the oral interview board for the initial hiring process. Community members (and civilian members of the department) are not involved in the promotional process, other than that the Police and Fire Commission must review and approve the list of people recommended for promotion by MPD. OIR notes, “While we appreciate the value of that process, it occurs at the back end when MPD’s tentative decisions have already been made. Having a representative of the community involved in the selection process itself could result in a changed dynamic.”

MPD and the City Attorney do not oppose this recommendation but note the process is subject to collective bargaining. MPD specifically notes that the promotional process for detectives, investigators, and sergeants is covered by the MPPOA contract and does not involve a traditional interview, but instead uses an assessment center (essentially a series of tests and exercises) that provides an objectively scored evaluation of the candidates’ performance designed to evaluate technical, job-related knowledge, followed by a portfolio presentation to the Chief of Police. Though this creates a structural barrier, OIR notes that these protocols could be reconfigured if community input is highly valued.

In its November 2018 updated response to the OIR report, MPD states that it is currently working with MPPOA to incorporate civilians “with subject matter expertise in relevant areas” into the existing assessment center process. It also notes that the promotional process for

command ranks is at the discretion of the Chief and currently does not include a traditional panel interview, but that “the promotional process for the rank of Captain in 2018 involved a scored scenario with four community members serving as participants and evaluators.”

The Ad Hoc Committee believes that engaging community members – particularly individuals truly representative of the community – in an interview stage could be of great value during the promotional process, and recommends that MPD work with the City and MPPOA in future collective bargaining negotiations to implement this recommendation.

Recommendation xx: 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. [OIR 126]

Discussion: It is critically important that the public have confidence that MPD will thoroughly investigate and properly resolve complaints made against it. Essential to engendering confidence is to have a policy requiring the recording of all interviews made during an internal investigation that could result in discipline. The only exceptions to the recording policy should be when it is impossible to record the interview or when a civilian witness declines to have the interview recorded. At the time of the OIR review, the MPD SOP on Professional Standards and Internal Affairs Complaint Investigation did not require every interview to be recorded. The SOP provided that audio recording was discretionary, and that the decision on whether to record should consider the severity and complexity of the allegation, the location and relevance of the interview, and the willingness of the interviewee to have the interview recorded. That policy is not consistent with best investigative practices.

In response to this OIR recommendation, MPD noted that transcribing these interviews may lead to increased costs. However, the reality is that recordings are only transcribed if an issue arises, so a policy change will likely not lead to greatly increased costs. Most interviews will never be transcribed. If real disputes arise, then the ability to transcribe the interviews will be essential to fair and transparent resolution of the issues. Further, lack of resources should not be a reason to not implement policy changes that are consistent with best practices.

In May, 2019, MPD moved toward adoption of this OIR recommendation. The SOP retained the original list of factors to consider in making a decision whether to audio record an interview, but added the clause, “When the allegations, if proven true, would likely result in discipline, complainant interviews should be recorded unless it is impractical to do so or the complainant declines to have the interview recorded.” This policy change does move MPD toward best practices, but it is worth noting that the current MPD SOP language is somewhat less stringent than OIR’s (e.g., “would likely result in discipline” would appear to set a more restrictive threshold for mandatory recording than “could result in discipline”).