

Dear Members of the Madison Police and Fire Commission,

We are writing with grave concerns over the state of the Madison Police Department under Chief Vic Wahl, the culture of the department and the Mayor's clear disregard for community input in her 90-day deadline to hire a new chief. We reject this timeframe and support you in your statutory role as politically independent commissioners. We support your plan for a deliberate, thoughtful process in the selection of a new chief — one that includes extensive community input, including virtual town halls where community and organizations may ask questions and interact with applicants. When all is said and done, we urge you to select a police chief who prioritizes the health and safety of Black residents over property. Sadly, this is not a given with Chief Wahl.

The permanent police chief you select will be the head and face of the Madison police department, they will be where orders begin and the buck stops. In conjunction with, or in spite of civilian oversight, they will shape the organization's culture. The department, and its employees, are under the chief's watch and care. The next chief hire is an opportunity we should not neglect for Madison to demonstrate its commitment to ending police terrorization of Black communities. Protests around the country have driven recognition of a much needed shift in the types of attention and resources to improve overall public health. In his role as Chief and the guidance he has offered to the City, Wahl has failed to reflect on this larger motivation behind the MPD Policy and Procedure Ad Hoc Committee review process and Report.

Over the past three months there have been several cases where Chief Wahl's department has treated Black residents **with very recognizable attributes of anti-Blackness**. By anti-Black we mean something akin to how Northwestern University African-American Studies professor Kihana Ross defines it:

*"Anti-blackness describes the inability to recognize black humanity. It captures the reality that the kind of violence that saturates black life is not based on any specific thing a black person — better described as "a person who has been racialized black" — did. The violence we experience isn't tied to any particular transgression. It's gratuitous and unrelenting."*¹

We see the recent events as part of a larger pattern of arrest and citation disparity that has plagued Madison and Dane County for years. For instance:

¹<https://www.nytimes.com/2020/06/04/opinion/george-floyd-anti-blackness.html>

“In 2004, blacks, who made up 6% of the city’s population, accounted for about 15% of traffic citations and 29% of arrests. Last year, at 7% of the population, blacks were issued a quarter of city traffic citations, and in 2018 constituted 43% of arrests. In the same time frame, the proportion of black juveniles arrested went from 49% to 66%. In 2010, blacks made up 44% of inmates at the Dane County Jail; in 2018, it was 46%.”²

Alarming, these local disparities are especially stark when compared with national averages.

*“Madison is far from the only city in which African-Americans make up a disproportionate share of those arrested. **The difference here, however, is just how large the gap is between black and white arrest rates.** According to the Bureau of Justice Statistics, African-Americans nationally were arrested at a rate of 7.9 arrests per 100 people in 2012, the most recent year for which data were available, compared to a white rate of 3.4 arrests per 100 people. The data the State Journal analyzed — which covered every Madison Police Department arrest from 2013 and 2014 — showed the city’s black arrest rate was more than three times higher than it is nationally.”³*

The MPD and Mayor’s responses to recent protest events are consistent with findings that reveal racial bias in the policing of protests⁴, as well as for crime.

Ironically, despite the Black Lives Matter movement’s message against police violence and for measures that increase overall public health, Chief Wahl’s department has repeatedly placed Black residents at significant physical risk. Recent examples include an unmasked officer addressing a Black youth, followed by the accosting of an observer at close range in violation of his department’s COVID-19 safety policy, and attacking unarmed, peaceful protestors with rubber projectiles, CS canisters, and pepper spray. These tactics are of a nature to provoke conflict.

Chief Wahl has prioritized buildings over Black bodies and responded with violence against those peacefully protesting that reality. Police did not escalate white right-wing protests against the Governor’s Stay-at-Home order that took place

²https://madison.com/ct/news/local/govt-and-politics/none-of-this-has-changed-madisons-racial-disparities-have-gotten-worse-despite-decades-of-reports/article_0490a398-46f5-54ea-af5c-66ff1a32dfac.html

³https://madison.com/wsj/news/local/crime-and-courts/analysis-blacks-in-madison-arrested-at-more-than-10-times-rate-of-whites/article_fd52f630-9647-5541-8114-a2541b8a8924.html

⁴ <https://journals.sagepub.com/doi/10.1177/0003122410395370>

while the order was in effect. MPD's response and lack of response to these two separate protests is indicative of a disregard for life and public health in both cases. The only way to account for this shocking inconsistency with professed values is an overriding, though perhaps unacknowledged, anti-Blackness and fear of recognizing our country's role in centuries of oppression.

We, the undersigned organizations, insist that MPD discontinue their disparate treatment of Black lives.

MPD's priorities for who and what deserves protection and justice have been made clear. The disparate treatment of Black lives can be observed in the apparent vigor and prioritization of Chief Wahl's approach to arresting Black people in Madison, including individuals associated with the recent protests⁵ — charging them aggressively to dramatically increase bail amounts, using minor parole violations to apprehend them, quickly feeding these individuals to the press, and being antagonistic during stops and arrests. This forms a familiar pattern one can trace back through the Civil Rights movement. History tells us these are disruption and intimidation tactics designed to discredit visible protest participants, to fracture cohesiveness and demoralize white allies with the taint of criminality. Regardless of the stated reasons for the arrests, an unspoken but clear aim is to signal to Black Lives Matter supporters that resistance to the status quo will invoke retaliation, and that certain highly visible participants will be singled out, based on officer discretion.

In stark contrast, MPD's and the judicial system's response to white people has been tepid and in some cases non-existent, whether the activity in question was part of protests or hate crimes directed against Black people.

In recent weeks, we have seen the following events:

- An intentional hit-and-run, resulting in serious injuries;
- Reckless driving as cars and trucks were piloted through the middle of protest crowds, making contact with protestors (all include some video evidence);
- The case of an older white man physically attacking and beating a mother and her children at the Woodman's east grocery store while yelling racist insults;
- The case of four white men allegedly hurling racist insults while setting a young Biracial woman on fire in her car.

⁵<https://medium.com/@masonmuerhoff/fourth-predatory-surveillance-arrest-made-by-mpd-last-night-5ee388b271ca>

In each of these instances there is little evidence of the same departmental zeal and resourcefulness applied to the former situations. The arrests have either not occurred, have required begging on the part of the victim, or they have been peaceful encounters. Accountability, if there was any, amounted to minimal charge recommendations and trivial bail amounts.

Without entertaining the issue of actual guilt or innocence, which is beyond the scope of our argument, we observe an obvious difference in how, for example, the white hit-and-run driver Brendon O’Neil and David Lythjohan, who carried out a racist, hateful attack against a Black woman and her children, were dealt with as compared to Black Lives Matter protester Yeshua Musa (Devonere Johnson) after he loudly entered a restaurant on the Capitol Square with a bullhorn and a baseball bat. Specific details follow for each of these cases.

O’Neil Case

Brendan O’Neil accelerated into a crowd of mostly Black people standing in the street and ran over Alize Carter, a young Black woman. After dragging her, breaking bones, and causing obvious injury, he fled the scene. Compounding the injury to Alize, officers responding to the scene pepper-sprayed her, the victim, even though she had severe skin abrasions from being dragged under the front wheel of the truck. From police radio transcripts of that evening, it has been determined O’Neil’s name was known to police less than 1.5 hours after the incident. Yet he was not immediately arrested, and he walked free for four days. O’Neil was eventually allowed to surrender through an attorney, rather than face actual arrest. He was tentatively charged with Misdemeanor Hit and Run and allowed to post a \$350 bail within hours of being booked. According to Chief Wahl⁶, COVID-19 risks delayed the arrest and charging of O’Neil. Somehow, this concern never factors in the cases of the Black Black Lives Matter protestors who still sit in jail.

Musa Case

In the case of Black Lives Matter activist Yeshua Musa, no one was injured, except Musa during the arrest, and no property destroyed, but the scale and scope of the arrest and recommended charges are vastly more serious, holding the potential for decades in prison. The charges appear to be the result of

⁶https://madison.com/ct/news/local/govt-and-politics/dane-county-d-a-madison-police-chief-offer-differing-takes-on-hit-and-run-case/article_c99399e9-7a1b-59fb-ae1b-38edc836d5f4.html

allegations of a white, failed alder candidate from Sun Prairie, the white owner of Coopers Tavern, and the sympathetic ear of Chief Wahl's department.⁷ The extreme federal extortion charges against Yeshua, and the "intent to injure" charges brought against the two men who were with him, are in perfect alignment with President Trump's racist national effort to treat Black Lives Matter as a "symbol of hate,"⁸ to shut down protests and prosecute protestors aggressively. Yeshua's arrest, in contrast to O'Neil's, was a violent affair, taking place after he had peacefully vacated Coopers Tavern restaurant where the incidents in question occurred. The *Wisconsin State Journal* reported that videos of the arrest "show as many as five officers taking Johnson to the sidewalk and carrying him to a police squad car after Johnson initially resisted arrest." Even patrons of Coopers Tavern said they asked the police to let him go and that he wasn't doing anything violent or all that wrong.⁹ To date, Yeshua Musa has been charged with Threats to Injure (Felony H), Disorderly Conduct (Misdemeanor B), Resisting or Obstructing an Officer (Misdemeanor A), Escape-Criminal Arrest (Felony H), and two federal extortion charges (with up to a 40 year sentence on the federal charges alone). He is being held without bail.

Multiple Vehicular Assaults

In addition to O'Neil's assault of Alize Carter, there have been multiple incidents of assault by Reckless Driving and Hit and Run. On May 30, 2020, a person drove through protestors on Williamson St. for which there appeared to be no arrest or MPD press release¹⁰. A protest in response to Yeshua's arrest was interrupted by an angry white man who drove his truck into a crowd of protestors barricading the road in front of the Dane County Jail. Soon after, officers escorted the man safely from his vehicle and drove him away. They didn't arrest him. They **escorted** him.

This was but one of at least four separate incidents on June 23rd alone¹¹ where motorists drove recklessly through crowds of protestors, in several cases injuring them before speeding away. Little in the way of media coverage shows any obvious police response to these drivers' actions, and it has never been

⁷https://madison.com/ws/news/local/crime-and-courts/more-charges-filed-against-man-accused-of-extorting-threatening-madison-businesses/article_5192d641-338b-5f86-b05a-1fe33c4ee851.html

⁸https://www.vice.com/en_us/article/dydzdv/trumps-justice-department-is-targeting-black-lives-matter-demonstrators-as-domestic-terrorists

⁹<https://www.nbc15.com/2020/06/23/groups-rally-outside-dane-co-jail-following-capitol-square-arrest/>

¹⁰<https://youtu.be/15erlcrVLAw>

¹¹https://madison.com/ws/news/local/crime-and-courts/dont-drive-into-people-clashes-between-madison-protesters-drivers-result-in-injuries/article_7bb28be4-bff8-5614-a760-5021669386f9.html

made evident that they were arrested or questioned about their actions. Somehow, despite the obvious physical violence, risk to life and limb, and video evidence in many cases, police pressure appears to remain focused on the actions of Black people associated with the protests themselves.

Attempted Murder by Arson/Hate Crime Case

In another recent example that raises the question of what actually counts as a priority for MPD, Dane County non-emergency dispatch received a call from a young Biracial woman who reported *being set on fire* in her vehicle by four white men yelling racist slurs at her. Despite the serious nature of this allegation, MPD couldn't have an officer or detective talk to her right away because, according to dispatch, they were busy on "priority calls" preparing for protests¹². Had an officer been subject to such an assault, it's very likely all officers would have been warned to be on the lookout. But MPD did not try to warn the Black residents in the area of the assault. They did not warn the protestors.

Given the prevalence of city and private surveillance cameras in the downtown area, it's odd that, by comparison to the fire bombing, no photos or videos have been released. If it weren't for a pattern of MPD protecting property over Black bodies, this would seem an oddly unfortunate coincidence.

Sire GQ Case

MPD did, however, find the time to stake out a memorial service for a young man who died while being pursued by Monona police to arrest protest leader Sire GQ (Marquon Clark) who is named as a person of interest for the City County Building arson attempt. Witnesses and video of the arrest indicate MPD pulled him over for speeding, though his passenger claims he was definitely not. Police proceeded to arrest him. As of the writing of this letter, Sire GQ has sat in jail on a PO hold for over two weeks with no public announcement of charges being brought. The lack of transparency, or apparent progress, leads many to wonder again if this is an attempt to intimidate protestors and sideline a high-profile protest organizer.

Officer Nora Adams Escalation/Health Risk

¹²<http://fox47.com/news/local/it-happened-really-fast-audio-of-call-to-dispatch-details-womans-report-of-being-set-o>

Another illustration of MPD's tendency to mistreat Black people in general, as well as allies who try bear witness, was the blatant disregard for MPD's own mask rule by officer Nora Adams who was filmed aggressively yelling in the face of a woman observing her unmasked interaction with a Black youth¹³.

Toshiana Northington: Hate Crime At Woodmans

On Thursday, July 9th, Toshiana Northington and her children were arriving at Woodman's East during a downpour. Witnesses and the victims describe a white man named David Lythjohan who attacked and assaulted Toshiana and her children. He rushed to her car, opened her door and punched her twice in the face. He grabbed her by the neck and called her and her family n****s multiple times. Lythjohan punched Toshiana's 11 year old son, and grabbed him by his neck. He pushed her 4 year old daughter to the ground.

Toshiana sustained bruising on her ribs, a sprained right ankle, and full- body aches. The pain in her foot made it unbearable to walk, and she was outfitted with a brace. Toshiana and her children are traumatized due to this event.

According to Toshiana, Madison Police Officers arrived, heard her story and failed to immediately arrest David Lythjohan. It took an hour of Toshiana and her mom begging the officers to watch the surveillance video before they did, and once they did, they arrested Lythjohan on misdemeanor charges. To be clear, Lythjohan has a record of felonious violence, he beat Toshiana and her children while calling them the "N" word, she had to beg officers to watch the video evidence, and even after they watched the video, there were minimal charges with no hate crime indication.

Far too often, the Madison Police Department requires video to believe the stories of Black people. But, time and time again, we find even with video evidence of racist, hateful brutality, MPD disproportionately protects white people and property over Black bodies.

Escalation with Compliant Woman and Observer

On July 12th, a Black woman was pulled over on E Washington in what MPD thought was a stolen car when it was actually her car. Her car once had been reported stolen, but when it was returned, she reported it to her local police department. Unfortunately, they failed to update their records system.

¹³<https://madison365.com/she-found-her-stolen-car-and-tried-to-drive-it-home-police-held-her-at-gunpoint-and-handcuffed-her/>

According to a witness filming the incident, MPD officers surrounded her with guns drawn. The woman followed commands and stepped out of her vehicle without resisting, was hand-cuffed, and as officers searched her vehicle, continued to be held at gunpoint. They eventually put her into a squad car where, she later explained to the witness, her driver's license photo, identifying her as the owner of the vehicle, was already up on the squad computer. This fact would suggest a serious failure to de-escalate in a situation for which the rationale to do so was already present at the time police were continuing to treat the situation as a felony traffic stop.

According to the witness, eight to ten police cars showed up. According to this same witness, MPD Sergeant Gonzalez attempted to arrest her for filming. The driver was eventually released from the squad and handcuffs but was not legally able to drive to the DMV to reinstate her expired license. This meant, if she didn't have someone to help her, she was at the mercy of complete strangers or the police who just minutes before had their many loaded guns pointed directly at her. Regardless of the standard operating procedure for felony stolen car arrests, the fact is, she didn't resist and was known, at some point in the middle of the ordeal, to be the owner of the car. Yet she was still held one anxious trigger-pull away from dying, as if her life meant little compared to that car.

Racist Verbal Assault of Black Youth Artists

On July 19th, 2020, Randall Abendroth of EMS Industrial and the Slimey Crud Motorcycle Gang stopped his truck in the middle of traffic to yell at Black youth artists that were painting a commissioned mural.¹⁴ He proceeded to verbally assault them, told them that they did not belong in the neighborhood (in which they lived) and that their art would be destroyed by morning. A white man treating Black people in this way and telling them they don't belong in a particular place is white supremacist racism, willful intimidation and it should be dealt with as both verbal assault and a hate crime. A white man doing this to children after they repeatedly ask him to leave should be charged with verbal assault of a minor.

Yes, the youth artists repeatedly asked Randall to leave but he instead parked his car at his apartment building and walked up closer to them to verbally assault

¹⁴<https://www.facebook.com/groups/1709951672589807/permalink/2582984218619877/>

them again. A few community members stopped to defend the youth while they all waited for the Madison Police Department to arrive.

According to the youth artists and witnesses, the Madison police officers talked, laughed, and joked with Randall and let him walk home. No drug or alcohol test, no detainment, no arrest, no apologies. When the kids asked, "What if he comes back?", they were told, "Oh he won't come back, don't worry."

The officer in charge explained how the police take a "neutral stance" in such cases to ensure that they are protecting each party's right to free speech.

That's right. Under the watch of MPD, a white supremecist is allowed to verbally assault children, from his car, on foot, even after being repeatedly asked to stop. He is allowed to intimidate them and swear at them calling their work "shit" as Randall did in reference to the artistic renderings of a Black child, Elijah McClain who was murdered by racist police out of Colorado and Oluwatoyin Salau, a Black activist and rape/murder victim killed in Tallahassee, FL. There was also a pop-art rendering of a beautiful Black Woman. Randall referred to this art as "racist" and that it made him "feel like a racist". He threatened to destroy their work. The young artists feared for their lives and Madison police protected Randall's rights to make them feel that way. If only Yeshua Musa had been granted such leeway when addressing the patrons of Coopers Tavern.

Is it any wonder why the top contributor to poor health in Black people is the stress of racism?¹⁵

But, you, members of the PFC, all know this. You have, by now, likely seen the video of George Floyd being murdered¹⁶. You know he is one of countless Black Americans who have suffered similar fates in a timeline of targeted acts of systemic racism for which most officers are able to "avoid discipline".

Concluding Remarks

Members of the Madison Police and Fire Commission, you know the statistics cited earlier on racial disparities that plague the city of Madison and that "discretion" used by Madison Police officers feeds those statistics. You also know that the Madison Police Department fails to sufficiently screen their cadets and ensure the mental health of their officers. Chief Wahl understands this and yet he consciously militarized the response to the protest for Black Lives and dramatically escalated events. He

¹⁵<https://www.theatlantic.com/health/archive/2020/06/fighting-the-machine/612649/>

¹⁶<https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>

authorized the use of pepper spray, tear gas, and impact projectiles (40mm rounds) against peaceful protestors as if he were at war with an “enemy”. Rather than acknowledge police *do* make mistakes, Chief Wahl directed his department to go on the offensive and, together with former Deputy Mayor and MPD Capt Cam McLay, valorized this decision to the media. MPD’s use of pepper spray against people not engaged in active resistance and the manner of use of impact projectiles was in blatant violation of his departmental policy. Officers shot people in the face with impact projectiles which is considered use of deadly force, yet there has been no attempt on his part to impose accountability on any of the many officers taking these actions.

For the past three months, Chief Wahl has engaged in measures that appear as efforts to pacify protestors for Black Lives, such as kneeling with city leaders for a photo op and talking to protestors downtown while showing no actual evidence of acting on their concerns. He has allegedly had cars towed that were placed to protect protestors from vehicular and officer-involved assault.

Even when Black people are victims, several of the above cases suggest “officer discretion” typically treats the words and lives of Black victims with less regard than the words and lives of white people. Officers initially favor statements in implicit support of white supremacy. Under Chief Wahl’s direction, MPD often delays or ignores examination of video evidence and/or statements. The tendency to delay or ignore video evidence and statements is also observed in the arrests of Black protestors when that evidence differs from the police narrative. Stops and arrests are more likely to be threatening and violent if the person is Black. Another obvious example of disparity occurs in the matter of bail and release. White people who caused actual bodily harm and destroyed property have been released to our streets, whereas Black protestors remain behind bars.

Like former Chief Mike Koval, Chief Wahl touts his department as one that embraces accountability and polices with integrity, that honors human dignity and diversity, serves in an unbiased manner, values trust within the community and is continually seeking to improve. Both claimed to embrace these tenets and yet both have fought the community and Ad Hoc’s recommendations for meaningful civilian oversight for nearly a decade. Chief Wahl has done so using means that are anything but transparent. Along with Cam McLay, Chief Wahl attempted to eviscerate the role of the Independent Monitor by removing powers critical to its integrity and ability to be objective, such as removing the provision that would keep a former officer from taking the role. Doing better on their part is not supposed to be a choice. In fact, it is outlined clearly in their Code of Conduct:

MPD Mission:

"We, the members of the Madison Police Department, are committed to providing high quality police services that are accessible to all members of the community. We believe in the dignity of all people and respect individual and constitutional rights in fulfilling this mission"

MPD Core Values:

"INTEGRITY *We are committed to performing our work with the highest degree of honesty, integrity and professionalism.*

HUMAN DIGNITY *We acknowledge the value of all people and carry out our duties with dignity, respect, and fairness to all. Furthermore, the Department recognizes and respects the value of all human life.*

SERVICE *We strive to deliver exceptional service in an unbiased manner.*

COMMUNITY PARTNERSHIP *We believe that the police can only be successful in improving safety and the quality of life the community enjoys when police and community members work collaboratively to address issues of mutual concern.*

PROFICIENCY AND CONTINUOUS IMPROVEMENT *We are accountable to the public and ourselves for the quality of our service. We strive for proficiency in all facets of our work. We seek to continually improve ourselves and those systems in our midst and those in the community where the police can affect meaningful change for better outcomes.*

DIVERSITY *We engage in continuous learning about different cultures, values and people. We promote mutual acceptance and inclusion of all."*

Chief Wahl's department has an attitude of suspicion and enmity toward the community it is ostensibly serving, resisting all input from the communities they interact with most, and opting to guard officers against threats that often do not objectively exist. The expectations that put the overwhelming wall of faceless, unreasoning militarized force to meet peaceful protesters on State Street reflect the same misunderstanding of who the community is, and what kind of response might be called for from police when there is a disturbance of any kind. They aren't seeing the public clearly, they keep mistaking us for a threat to their lives and wellbeing, and far

too much of their presence in the community is aggressive, closed, and hair-trigger dangerous to the people who live in these communities. When calling 911 is unthinkable because it's likely to summon unreasoning, uncontrolled violence to a situation, the policing function has gone appallingly wrong.

Based on the clear differences in the above cases that demonstrate a pattern of anti-Blackness, we declare a vote of non-confidence in Chief Wahl and the department as a whole. Variables indicative of disparate treatment and anti-Blackness include the manner of arrest, investigative attention/priority, bias in what is considered evidence, the strength of the evidence, release/non-release on bond/bail, and the severity of the charges. The protests tell a vivid tale of two Madison police departments: the one for white people, and the one for Black people. Due process, respect, assumptions of innocence, and trusted community partnership are out the window if you are Black. This is just one of the latest in the now practically infinite collective memory of these types of interactions.

Moving forward, we urge you to recognize the progress made due to sustained protests. There was no safe space for Black youth to express themselves on State St. until there were protests with broken windows. Honoring radical, justice-centered politician Vel Phillips with a statue on the Capitol grounds would not be up for discussion if not for the protests that dismantled other statues. Multiple businesses and institutions have taken a stand for Black lives and the Ad Hoc recommendation for civilian oversight of the police has been restored because of the protests. The hiring of the next chief is an opportunity to demonstrate commitment to this progress. Chief Wahl's department has shown no such commitment to progress even in recent weeks of intense public observation. This while the Madison Professional Police Officers Association continued its typical hard swing between excusing the reckless behavior of their members, to repeated overtures for useless conversations with Madison's communities most brutalized by police.

Given the clear pattern of anti-Black policing established in the department under Chief Koval and carried on by Chief Wahl, we demand Madison's next police chief be hired from outside MPD and, for the many reasons indicated above, we demand Madison's next police chief demonstrate support for an external, public-health approach to violence-prevention, a strong history of anti-racist leadership, respectful partnerships with the community organizations that hold them accountable, and the wisdom to be guided by this simple truth:

communities that have their needs met need little policing and good officers work to render themselves obsolete.

Sincerely,

Urban Triage
The Community Response Team
Groundwork
OutReach LGBTQI Community Center
Disability Pride
Cultural Recovery Options for Families

Kevin O'Malley
Matthew Braunginn
Dianne Greenley
Lynn McDonald
Joann Pritchett
Karen Sage
Carol Ziesemer
Gisela Wilson
Amelia Royko Maurer
Nathan Royko Maurer
Heather Colburn
Alexandra Hendrick
David Henzie-Skogen
Heather Driscoll
Gil Halsted
Andrea Collins
Claire Swora
Kailea Saplin
Eleanor Terry-Walsh
Louka Patenaude
Lisa Hansen
Shawn T Matson

