From: Gregory Gelembiuk
To: Police Chief Search
Subject: Statement from CRT member Greg Gelembiuk
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Dear Commissioners,

Appended below is a copy of the statement I read at the PFC meeting Monday. Some of that material overlaps with an e-mail I sent a month ago, and some is new.

I thought I'd also add a more personal note, about my own sense of safety and lived experience with Madison police....

My spouse heard the events of the killing of Paulie Heenan by Officer Steve Heimsness. And since those events, there were two other (in my view, entirely avoidable) fatal officer involved shootings within three blocks of my apartment, resulting in the deaths of Tony Robinson Jr. and Michael Schumacher. I am a large white male, so am not from a vulnerable population. But I do have some real fear of Madison police. I'm a scientist at the UW and a night owl. I often work very late and walk home from the lab, to the near east side of Madison, in early AM hours. It's not rare for a squad car to circle around, to check me out, since often no-one else is on the streets when I'm walking home. I have long hair and sometimes a shaggy beard, so that probably makes me look a bit more suspicious. When police are around, I make a point of walking with my hands empty and out of my pockets, and somewhat away from my body, so I can't be mistakenly perceived as holding a weapon. After Paulie was shot, a lot of mothers in my neighborhood were saying that they would never again call the police, for fear of what might happen. And I'll never call the police myself. I'll also note that a young autistic man is an important part of my life (my spouse, who is an RN, took care of him as an infant, and he still spends every Sunday with us), and I've been concerned about what would happen to him in a police interaction. And when my stepson was younger, he would complain of harassment of young people by Madison police (including issuing citations for sitting on the edge of a planter, etc.). A few years ago, when my nephew had ingested a hallucinogen and was outside my stepson's apartment, acting erratically, my spouse was terrified that someone might call the police.

Most of my own interactions with Madison police have been uneventful and fine. But that hasn't been true in all cases. I'm politically involved and have on several occasions over the years engaged in classic civil disobedience actions. In that context, I have experienced police brutality. That occurred after a civil disobedience arrest, by an MPD officer, at the Truax Field National Guard base, many years ago. I and two others were subjected to a “rough ride” - a form of police brutality in which handcuffed individuals are placed in a police vehicle without seatbelts, and are thrown violently about as the vehicle is driven erratically. The officer did not agree with our politics and was angry that I had initially gone limp during the arrest. He drove

us out to the countryside (rather than immediately driving us downtown to be booked), swerving and hitting bumps as hard as possible, while laughing and joking that he was driving us to the Auschwitz gas chambers. He had maximally tightened my handcuffs, which cut into my wrists, causing excruciating pain and nerve damage. The nerve damage left me without any sensation in my thumb, but sensation gradually began to come back after a year. When I returned to the police station the day after the incident, to file a complaint, officers sought to dissuade me from doing so, saying that the officer responsible was nearing retirement. I did file a formal complaint, but I and the other two arrestees in the vehicle were never contacted for an investigation. I checked with MPD weeks later, but was told that these things take time. As far as I know, an investigation never occurred. Many years later, Cheri Maples told me that, because my arrest would have been an open case at the time (with no resolution on the charges), investigation might have been delayed, then fallen through the cracks. The attorney who represented me on the charges, Jeff Scott Olson, said that such incidents (with rough rides and severe tightening of handcuffs) were not rare. Since this occurred many years ago, one might argue that it has no relevance to the present - but I don't think that's entirely true.

I'll also note a much more minor incident. On May 13, 2015 I engaged in a civil disobedience action protesting the killing of Tony Robinson. 28 people, including myself, were arrested. Then I was given a harsher citation than all similarly situated arrestees - a $439 citation for “obstructing or resisting police” rather than a $124 citation for obstructing roadway - and was the last to be released from detainment. This occurred even though I was entirely polite and more cooperative than many others who were arrested. Then MPD subsequently refused to release to me video they had taken, that would exonerate me of “obstructing or resisting police” - video to which I was entitled under open records law. Ultimately, I was able to find bystander video and the charges were dropped. Of the people arrested that day, I had been by far the biggest pain in the butt for MPD in advocating for reform (writing letters to alders, publishing analyses of MPD officer involved shootings, etc.). I was the only one arrested that day who’d had the honor of being personally yelled at by Chief Koval (in his first community meeting), after I politely asked a question he did not like. And (via an open records request), I knew my police reform advocacy was an open topic of unhappy discussion within MPD Administration. It's hard not to conclude that the selectively harsher charge was in retaliation for my political advocacy.

I wish to be clear that I am not casting aspersions on MPD officers in total. Retired police officers (including former MPD Captain Cheri Maples and Willy St Neighborhood Officer Jean Papalia) were cofounders of the Community Response Team, and I count former MPD Chief David Couper and some other officers as friends. I appreciate retired MPD officer Captain Mary Schauf. My brother in law is actually a police officer in Pennsylvania, and we have a very good relationship. However, my lived experience with MPD has left me with a clear sense that change is needed.

Sincerely,

Dr. Gregory Gelembiuk

9/14/20 PFC statement:

Hello. I'm Dr. Greg Gelembiuk. I'm one of the cofounders of the Community Response Team. The Community Response Team is an organization devoted to police reform and public health approaches to public safety. It was founded following the death of my neighbor Paulie Heenan in 2012, at the hands of an MPD officer with a long troubled history. MPD and MPPOA shielded that officer from accountability over the years, and that ultimately led to Paulie's death. Other Community Response Team cofounders include Amelia and Nate Royko Maurer, former MPD Captain of Personnel &Training Cheri Maples, and former Willy St Neighborhood Offier Jean Papalia. I also served on the MPD Policy & Procedure Review Ad Hoc Committee and am currently serving on the Body-Worn Camera Feasibility Review Committee. And I'll mention that I've experienced police brutality at the hands of an MPD officer myself, a few decades ago.

Before proceeding further, I'd like to quickly note that for your process, it would be good to include one or more virtual meetings in which the community could ask questions of the candidates - at least of finalists. And I think the community very much appreciates the manner in which the PFC has been soliciting input for this hire.

I'd like to talk about what Madison needs in a new Chief. First I'll speak broadly, then I'll talk about some specific serious problems that they need to be able to rectify.

Madison needs a transformational leader as Chief. David Couper was a transformational Chief and Madison again needs that. We need someone who's an innovator and who's willing to change the department, including in the face of institutional resistance. And with a transformational Chief, resistance it to be expected. As you might recall, MPPOA went to extreme lengths to try to get Couper terminated. They fought the change he brought tooth and nail.

Among other traits, a suitable transformational leader would need to have empathy, particularly for those who are most marginalized in our city. They need to have moral authority because of what they represent, as Couper had. They need to have resolve. They need to have humility – that is essential and often is not sufficiently valued in choosing a Chief. They need to have honesty and integrity. They need to have a controlled temper - In the early 1800s Sir Robert Peel, often seen as the father of modern policing identified this character trait as crucial. They need to have a thirst for new knowledge. They need to have openness to change and reform. And they need to have a commitment to real accountability in MPD.

A transformational leader must foster collaboration. We need someone who is committed to genuinely working with the community and taking community input and guidance, including

from voices that are critical and particularly from communities most impacted by policing. Someone for whom "community policing" is about community control of policing and genuine neighborhood-oriented policing, as opposed to PR games. I'll add that, when David Couper was Chief, he reached out informally to some of MPD's strongest critics to assemble his kitchen cabinet of advisors, and was accused of catering to bomb-throwers. Years later he characterized that as one of the best decisions he ever made. It contributed to very positive changes in policing in Madison.

We need someone who will rectify the pattern of disparate negative treatment of people of color and particularly Black community members. We need someone with a commitment to racial equity and an understanding of oppression and institutional racism. Someone with prior experience successfully working with multicultural communities. Someone who demonstrates knowledge of social injustices and historical and contemporary race relations.

We need a Chief with a greater commitment to problem-oriented policing (in the sense of Herman Goldstein) as opposed to a predominantly law enforcement approach. And we really, really need someone who deeply believes in and will support a public health approach to violence. Who is open to substantial resources and responsibilities being re-allocated to other entities and mechanisms. For example, programs like CAHOOTS, a mobile crisis response program in which civilians with mental health expertise are dispatched to many incidents rather than police. Also, non-police street outreach violence interrupters, and programs for youth like Becoming A Man. We need a new Chief who will think holistically about what will produce the best outcomes for residents, especially those who are least well off. Research indicates that for crime control, public health approaches oriented at prevention can have far greater efficacy, and have a far greater return on investment, than law enforcement approaches.

We also need someone who would be committed to working cooperatively with the Independent Monitor and Civilian Oversight Board. Who would be committed to implementing all the recommendations of the Ad Hoc Committee, many of which MPD has resisted.

Ideally, you would want someone with an established track records on all the above so you know they're not just spouting pretty words.

An outside candidate should be strongly preferred. The new Chief shouldn't be an internal hire. An internal hire would very likely perpetuate many of the current problems with MPD.

It is also important to avoid candidates who are highly narcissistic. Research shows that all else equal, highly narcissistic individuals tend to be reliably chosen as leaders, given their extraversion, confidence, desire for dominance, and social skills. At first blush, they can often look really good, since they tend to be attuned to appearances. But narcissistic leaders are self-centered, exaggerate their talents and abilities, and lack empathy for others, and they bring a host of problems to organizations.

And you want to avoid candidates who reject the authority of elected officials and who would display insubordination, like former Chief Koval. Unlike Koval, you need someone who will serve as Chief for all the people of Madison, not someone who would posture as Champion of Police and widen the "us versus them" gap.

I'll now talk about some of the specific issues that need to be rectified in MPD.

Policing in Madison exemplifies structural racism and often overt racism. Current practices are deeply anti-Black. Black residents are arrested at over ten times the rate of white residents, and that disparity appears to be increasing over time. This is one of the highest arrest rate disparities in the nation. Cap Times Reporter Steve Elbow published an article this year entitled "'None of this has changed': Madison's racial disparities have gotten worse, despite decades of reports, task forces and funded programs". Excerpt: "Today, the disparities are as wide as ever. 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%." I'll add that the population at the Juvenile Detention Center is now 86% black. And strong prima facie evidence of disparate treatment is apparent in individual cases I've written you about, such as those involving Alize Carter, Toshiana Northington, Devonere Johnson, etc. A Black UW professor I knew left Madison for Northwestern, in part because he was so tired of being constantly pulled over for no good reason.

Another problem is lack of accountability at MPD. Currently, there is no accountability. As just one example of the laxity of accountability in MPD, the OIR Report noted:

> We learned about a current MPD officer with a 20-year history of discipline that included seven sustained cases for charges including false reporting, sexual harassment, misuse of communications system, and two incidents of inappropriate use of force. For these seven charges, he served a total of only nine suspension days... this current officer's history of misconduct coupled with minimal discipline suggests a legacy of leniency and a need for enhanced vigilance to the disciplinary process.

As the OIR Report also noted:

> In our review of founded discipline cases reported by MPD [i.e. sustained complaints], we noted that a very small percentage of them were initiated by the public. We also found that MPD's sanctions for proven misconduct are lower than we are accustomed to, even for some more serious offenses involving integrity and force.

The rate at which excessive force complaints are sustained is one metric frequently used to gauge whether internal affairs units are functioning properly and producing fair outcomes. In the U.S., across all law enforcement agencies with an internal affairs capacity, the average rate at which use of force complaints are sustained is 8% (per data from the U.S. Bureau of Justice Statistics). The sustain rate across all large U.S. law enforcement agencies is also 8%.

From 2008 through 2012 plus 2014 through 2017 (I lack data for 2013) there were 166 use of force complaints against MPD officers. MPD officers thus incur excessive force complaints at a rate comparable to other major city police departments.

But of the aforementioned 166 excessive force complaints, MPD in-house investigation sustained only 1. This is a shockingly, aberrantly low sustain rate - 13.3 times lower than the average sustain rate across U.S. police departments. Basically, if a Madison resident files a complaint of excessive force, MPD will clear the officer nearly 100% of the time. This is reminiscent of departments like Chicago, where a lack of accountability has prevailed.

An apparently flawed MPD complaint review process is also evident in data from individual cases – for example, one of the few MPD excessive force investigation reports that have been made public, via an open records request, was that of Jacob Bauer, who was beaten bloody by Officer Steve Heimsness. Multiple witnesses with no ties to Bauer reported seeing a shocking level of police violence. Witnesses described blood everywhere and Heimsness repeatedly kicking Bauer in the head. Witnesses stated it was Rodney King-esque. As one witness testified "the sound was kind of gruesome. It sounded like something being smashed like a pumpkin or something." Heimsness' claim that Bauer's head was covered while he was kicking it was flatly contradicted by all non-police witnesses asked. Bauer brought an excessive use of force lawsuit, and Madison paid out a $27,000 settlement. If you read through MPD's investigation of Heimsness' beating of Bauer it's impossible to honestly conclude that it wasn't supported by the preponderance of the evidence, yet MPD did not sustain the complaint, claiming that all the many kicks to Bauer's head may have been inadvertent.

Another example of lack of accountability…On May 30, MPD responded in a militarized manner to protesters. After a few protesters began trying to break windows at Goodman's Jewelers, MPD declared unlawful assembly and moved to clear all of State Street. MPD's use of force was grossly disproportionate and drastically escalated events, sparking rioting. The officers indiscriminately used pepper spray, tear gas, and impact projectiles (40mm rounds) against peaceful protesters, in a manner that was in flagrant violation of MPD policy. There's plenty of video of out of policy use of pepperspray against people who were engaged in only passive resistance or who weren't engaged in resistance of any kind, not even passive resistance. And there are accounts by reporters as well. And people were being shot in the face with impact projectiles. And yet there's been zero accountability for the policy violations. Under MPD policy, officers are supposed to report others who use force in violation of policy, but that didn't happen. The principle of police brotherhood trumped the MPD Code of Conduct.

In addition to anti-Black practices and a lack of accountability, yet another problem in MPD, as OIR noted, is drift away from the principles of problem-oriented and community policing. For example as the OIR report states, "MPD's pride in its longstanding commitment to community policing exists alongside recent signs of drift from those principles and their benefits."

Another excerpt:

> It is true that many residents are fullthroated admirers of MPD and praise their work with sincerity and enthusiasm. However, a number of other community members we spoke to, particularly those most impacted by police activity, were much less positive about their experiences with police in Madison. Whether it was members of the homeless community, persons in reentry programs, or mothers of black children, many of these people dismissed the notion that MPD had used a "community policing" approach in dealing with their issues. Many of these individuals took pains to acknowledge the specific "nice cops" whom they had encountered. Too many others, though, were perceived as disdainful, demeaning, and harsh – and almost none would agree that principles of "problem-oriented policing" comprised the defining feature of how MPD patrolled their districts.

Yet another OIR excerpt:

> MPD asserts in its response that drug and traffic enforcement constitutes community policing. They do not. MPD's belief that they do suggests a fundamental misconception of community policing philosophy. The recommendation holds. The Department's Community Policing teams should be dedicated to "community policing" in the classic sense, or their names should be changed to reflect the work they are assigned to do.

At this point MPD requires a sea change. And I believe change will not come easily. Recently retired MPD officer Steve Mackesey was interviewed by Isthmus a couple months ago:

> Mackesey says he witnessed a culture at MPD that was "incapable of living up to the standards the community expects from its police force. There are plenty of outstanding officers in Madison. But if MPD is so great, so much better than other departments, then why do these incidents keep happening? How is it that MPD is never, never, never at fault? And what is just as bad is that within the department, dissent isn't tolerated. You are called a traitor, maybe even harassed, unless you fall in line."

As the OIR Report noted:

> In contrast to the approach of many other leading agencies, the response of MPD has been to vigorously defend to the hilt each involved officer's decision to use deadly force, and speak to those who deign to ask questions with resentment, defensiveness, or even hostility. This is so even when officers and supervisors within MPD have expressed to us concerns about how a particular force incident went down. And even in cases in which MPD has internally found problems with police actions, it has refused to engage with the public, seek atonement, or simply listen to community concerns.... Unfortunately, we have also seen this defensiveness extend beyond a reluctance to be open about deadly force incidents. If a stakeholder questions the need for additional police resources over other resource demands, the immediate assumption seems to be a bothersome lack of support for law enforcement. If a stakeholder declines to

> attend a Department graduation ceremony, that is immediately considered an overt sign of non-support. And if a community member expresses concern about an incident, he or she is too easily considered to be – and marginalized as being –"anti-police."

Mike Gennaco of OIR told me that of the police departments OIR had worked with, MPD was one of the most defensive and resistant to the constructive input that OIR provided. MPD continues to resist fully implementing most of the OIR and Ad Hoc Committee recommendations.

So we need a Chief who can rectify the problems I've been describing and remake the department to meet community expectations, and a sufficient level of resolve to bring about transformational change in the face of resistance, much as Couper did.