



Date: 12/9/20_____

CITY OF MADISON

Registration Statement - Police and Fire Commission COMMITTEE

Please Print

Agenda No. 1 _____

PLEASE PRINT NAME CLEARLY

Name Gregory Gelembiuk
Address 1207 Jenifer St. Apt 2
Madison, WI 53703

Please check one:

AND

Please check one:

- ☐ **Support**
☐ **Oppose**
☒ **Neither Support Nor Oppose**

- ☒ (yes) ☐ **Wish to Speak**
☐ **Do not wish to speak**
☐ **Available to Answer Questions**

At this meeting are you representing an organization or a person other than yourself: ☐ Yes ☒ No
(If you answered "no," **STOP**; you need not complete the rest of this form. If you answered "yes," provide the name of who you represent and go on to the next question.)

Name, address and telephone number of each person or organization you are representing:

Are you being paid for your representation? ☐ Yes ☐ No

Are you appearing as part of your other paid duties for this person or organization? ☐ Yes ☐ No
(If you answered "no," **STOP**; you need not complete the rest of this form. If you answered "yes," go on to the next question.)

Speaking Limits: Public Hearing (Common Council) 5 minutes
Information Hearing..... 3 minutes
Other Items..... 3 minutes

(SEE BACK)

REGISTRATION STATEMENT - PAGE 2

Are you an elected official or employee who is appearing solely on behalf of your office or for your municipality or other governmental body? ☐ Yes ☐ No

*(If you answered "yes" to the question, **STOP**. You need not complete the rest of this form, except that you must sign this form. If you answered "no" to the question, go on to the next question.)*

If you are being paid for your representation, or if your appearance is part of other paid duties, please be advised that:

1. Before you engage in lobbying as a lobbyist, you or your principal must file an authorization with the City Clerk.
2. Your principal is not permitted to authorize you to lobby unless you are registered with the City Clerk.
3. Your principal must file expense statements with the City Clerk for the remainder of the calendar year regardless of the amount spent on lobbying.

(Please go to the City Clerk's website www.cityofmadison.com/clerk/index.html or go to the Clerk's Office at Room 103 of the City-County Building, Madison, for more information.)

Date _____

Signature Gregory Gelembiuk

Print Name _____

From: [Gregory Gelembiuk](#)
To: [Jenna Rousseau](#); [Police Chief Search](#)
Subject: Re: registering to provide oral public comment
Date: Tuesday, December 8, 2020 9:42:40 AM
Attachments: [Outlook-StrangPatt.png](#)
[Outlook-StrangPatt.png](#)

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Atty Rousseau,

Please see my comments below and please ensure that a copy of this correspondence is sent to all PFC members and brought to their attention.

1. The PFC is choosing to ignore the recommendation of OIR and the Madison Police Department Policy & Procedure Review Ad Hoc Committee.

Recommendations #140 of the OIR Report and #5 of the MPD Policy & Procedure Review Ad Hoc Committee Report state: *"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.**"*

I can speak pretty authoritatively to that recommendation, since I served on the Ad Hoc Committee, was present for the committee deliberations on this recommendation, and wrote the text for that segment of the Ad Hoc Committee report. The intent of both OIR and the Ad Hoc Committee was that there be an opportunity for community exchange with the finalists. OIR and the MPD Policy & Procedure Review Ad Hoc Committee envisioned that the community would have an opportunity to engage with the finalists and provide input to the PFC.

As the OIR report notes of interviews: *"In past cycles, **the process has operated behind closed doors, with interviews between PFC members and the candidates but no opportunity for community input or engagement.**"*

The OIR Report notes, and the MPD Policy & Procedure Review Ad Hoc Committee Report specifically quotes, *"**A number of jurisdictions have recently included a public component to the Chief selection process in which community panels are provided the opportunity to ask questions and engage with the final set of candidates.**"* The inclusion of such a component, in which community members directly ask questions of finalists, appears quite common in U.S. cities. As OIR pointed out, this is all the more important in Wisconsin cities since, unlike cities in most states, police chiefs here basically can have lifetime tenure (and can only be removed for cause), rather than serving fixed terms.

When the Ad Hoc Committee was deliberating this recommendation, our co-chair, who was simultaneously serving on the PFC, said he discussed it with the PFC and there was no opposition to it.

Again, the intent, as reflected both in the language of the recommendation and the discussion text of the report, was to allow community interviews of the finalists. Broadly speaking, more community input was being called for - but a more specific element (of community panels/community interviews) was a clear part of the recommendation.

Of course, the PFC was under no legal obligation to follow the recommendation and has apparently chosen to ignore it.

2. Indeed, in contrast to the recommendation, it would appear clear that the PFC has chosen to try to minimize community input at this stage.

The PFC is releasing a 35 minute video excerpt of each interview on the same day that it will deliberate on a decision and potentially make a decision - with the PFC meeting starting 5:30 PM on December 9. Obviously, community members will have almost no time before that meeting to review the videos and provide input.

And it appears you've chosen to make public comment on the 9th extra hard. The PFC webpage says you need to e-mail or call the PFC attorney, before a meeting begins, to register for the meeting. Until now, from what I recall, e-mailing you, that one wished to provide public comment, was sufficient.

When I wrote you yesterday, you informed me that:

Members of the public who wish to offer comment during the public comment period must register in advance using the City of Madison's Registration Statement Form available on the PFC's webpage: www.cityofmadison.com/PFC. Once completed, the Form must be submitted to the following e-mail address: policechiefsearch@cityofmadison.com.

That form requires a signature. Almost no-one will register since adding that signature is difficult - people would either have to print, sign, and scan that form, or use some kind of other method to add a facsimile signature.

Indeed, people I've relayed your instructions to are asking in social media how to add a signature.

Is it your intent to stifle public comment in this manner?

Sincerely,

Dr. Gregory Gelembiuk

From: Jenna Rousseau <JRousseau@strangpatteson.com>

Sent: Tuesday, December 8, 2020 7:10 AM

To: Gregory Gelembiuk <gwgelemb@wisc.edu>

Subject: RE: registering to provide oral public comment

Dear Dr. Gelembiuk:

The PFC, which consists of five (5) citizens from the Madison community, remains committed to receiving community input regarding the police chief appointment process. As you know, the PFC has spent the last year carefully working on this process, including designing various methods for community members to provide input. The PFC committed to listening to all residents in the City of Madison, including those who have the greatest challenges to providing feedback. For instance, the PFC received oral comments over the course of multiple meetings from various groups and individuals. The PFC also received numerous written feedback through its community survey, via e-mail, and U.S. Mail. The PFC worked with Local Voices Network (LVN) to facilitate small group discussions and received helpful summaries and suggested questions from LVN. Further, the PFC conducted virtual town hall meetings and participated in several radio programs.

The PFC has spent a considerable amount of time developing questions for the candidates based directly on the community input that it has received to date (both for the initial interviews and for the final interviews) to ensure that it selects the best candidate for the City of Madison. The community input has contributed to all stages of this process. The PFC is also committed to ensuring a fair hiring process for all candidates.

A component of the final interview process will include a 35-minute recorded Q&A session with each candidate based directly on the community input that the PFC received during this process. The videos will be published on December 9, 2020.

The PFC will be holding a Special Meeting on December 9, 2020, at 5:30 P.M., which will include a public comment period. In addition, the next regular meeting of the PFC is scheduled for December 14, 2020, at 5:30 P.M., and will include a public comment period. If there is insufficient time available on December 14, 2020, to hear oral comments from those members of the public who have registered, the PFC will likely set aside additional time after December 14, 2020, so that any member of the public who wishes to offer public comment regarding this process can do so. The PFC is also receiving written feedback at policechiefsearch@cityofmadison.com.

The PFC is an independent body created pursuant to state law, Wis. Stat. § 62.13. State law does not require governmental bodies to include public comment periods during public meetings. Rather, under the Wisconsin Open Meetings Law, a governmental body may set aside a portion of an open meeting as a public comment period, in which case the period must be included on the meeting notice. In addition, the Rules of the PFC do not require a public comment period. It is a standard practice of the PFC to include a public comment period for its regular meetings. For special meetings/working sessions, the PFC may or may not include a public comment period in its meeting notice. As a creature of state law, the PFC has long taken the position that the ordinance you cited below is not clearly applicable to the PFC. Indeed, the Wisconsin Supreme Court has stated that "one of the primary purposes for the legislative act providing for the creation of the board was to remove the administration of fire and police departments from city politics and to place it in the hands of impartial and nonpolitical citizen boards."

I hope this information is helpful.

Jenna Rousseau

Legal Counsel to the Board of Police and Fire Commissioners of the City of Madison

Attorney Jenna E. Rousseau

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STRANG, PATTESON
RENNING, LEWIS & LACY

From: Gregory Gelembiuk [mailto:gwgelemb@wisc.edu]
Sent: Monday, December 7, 2020 2:23 PM
To: Jenna Rousseau <JRousseau@strangpatteson.com>
Subject: Re: registering to provide oral public comment

Dear Jenna Rousseau,

Madison ordinances require that all committees, boards and commissions allow public comment at or near the beginning of each meeting outside of a few specified exceptions, and the PFC meeting on December 8 doesn't appear to fall into one of those exceptions (see [Madison General Ordinances 33.01\(9\)\(e\)](#)). It's not a quasi-judicial hearing on a contested matter, nor a deliberation on such a quasi-judicial hearing, nor an Ethic Board closed session held for the purpose of hearing and deliberating confidential requests for advisory opinions.

Is it your position that the Madison ordinance does not apply to PFC meetings?

Sincerely,

Dr. Gregory Gelembiuk

From: Jenna Rousseau <JRousseau@strangpatteson.com>
Sent: Monday, December 7, 2020 2:06 PM
To: Gregory Gelembiuk <gwgelemb@wisc.edu>
Subject: RE: registering to provide oral public comment

Dear Mr. Gelembiuk:

The Board of Police and Fire Commissioners of the City of Madison will hold a Special Meeting on December 9, 2020, at 5:30 P.M. The Board will receive oral comments from members of the public regarding any matter within the statutory authority of the Board. Each

speaker will be limited to a maximum of three (3) minutes. Members of the public who wish to offer comment during the public comment period must register in advance using the City of Madison's Registration Statement Form available on the PFC's webpage: www.cityofmadison.com/PFC. Once completed, the Form must be submitted to the following e-mail address: policechiefsearch@cityofmadison.com. The order of speakers will be based on the order of submission of the completed Registration Form.

Attached is the meeting notice/agenda for December 8, 2020 (it does not include a public comment period).

Thank you,
Jenna Rousseau

Attorney Jenna E. Rousseau
Strang, Patteson, Renning, Lewis & Lacy, s.c.
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STRANG, PATTESON
RENNING, LEWIS & LACY

From: Gregory Gelembiuk [<mailto:gwegelemb@wisc.edu>]
Sent: Monday, December 7, 2020 11:57 AM
To: Jenna Rousseau <JRousseau@strangpatteson.com>
Subject: registering to provide oral public comment

Dear Jenna Rousseau,

I am writing to register to provide oral public comment before agenda item 1 of Tuesday's (Dec 8, 8:30 AM) PFC meeting, as allowed for in Madison ordinances.

Thank you,

Gregory Gelembiuk

From: [Gregory Gelembiuk](#)
To: [Police Chief Search](#)
Cc: [Jenna Rousseau](#)
Subject: Deficiencies in Chief search process
Date: Tuesday, December 8, 2020 10:30:30 PM

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Dear PFC Commissioners,

In case you might find it of interest, I thought I would forward you an e-mail I received from the Deputy Director of the ACLU of Wisconsin, regarding the Madison Chief search (see below). She happened to write me today, asking about the Madison search, and I brought her up to speed.

Regards,

Dr. Gregory Gelembiuk

Thanks for bringing me up to speed with the process - I completely missed the lack of public input and participation in the finalist process (in comparison, I've watched all six + hours of police chief finalist interviews in Milwaukee and was even able to ask a question during them). I just thought I had missed something when the finalist names came out on Friday.

Your letter is super comprehensive, and I hope it gets the results you're looking for!

Meanwhile, I'm kind of flabbergasted that the PFC attorney said that it isn't clear they have to abide by Madison ordinances. If the Madison Alder who is thinking about suing doesn't, I wonder if bringing that statement to the attention of the Wisconsin Freedom of Information Council could put some pressure on them to come to a different conclusion. (If you aren't already connected with them, I'd be happy to connect you.)

Molly

From: [Gregory Gelembiuk](#)
To: [Police Chief Search](#)
Cc: [Jenna Rousseau](#)
Subject: Feedback on two finalists
Date: Tuesday, December 8, 2020 11:43:37 PM
Attachments: [Feedback on Two Finalists.docx](#)

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Dear Police & Fire Commissioners,

Please see attached letter with feedback on two of the finalists.

Sincerely,

Dr. Gregory Gelembiuk

Dear Police @ Fire Commissioners,

I am writing with feedback regarding two of the finalists for Madison Chief.

1. I have strong concerns about Portland Deputy Police Chief Christopher A. Davis. He seems highly unsuitable for Madison and multiple aspects of his history appear troubling. I believe he would never be accepted by much of the Madison community. Madison has experienced considerable civil unrest this year, and I believe that could be greatly exacerbated if Davis became Chief.

I'll start with Davis' involvement in a controversial officer-involved shooting. In 2002, Portland Officers Christopher Davis and Jeffry Bell fatally shot an epileptic Mexican immigrant, Jose Santos Victor Mejia Poot, in a Southeast Portland psychiatric facility. Mejia Poot was suffering from uncontrolled epileptic seizures, and was arrested, misdiagnosed as schizophrenic, and placed in the psych facility. After threatening staff with pencils, he was placed in a seclusion room. When he broke out of the seclusion room and allegedly knocked a staff member down, police were called. He pulled a metal bar off a hospital door. When officers arrived they peppersprayed him, then Davis shot him with three beanbag rounds, then Bell shot him with his handgun, killing him. Then Davis and Bell were cleared by a grand jury (the customary outcome of such incidents), then they were awarded medals by the Portland Police Bureau. Police handling of Mejia Poot was heavily criticized in local media. There were major protests led by Latinx and civil rights community leaders, regarding Davis and Bell. There was further community criticism regarding this death when Davis was promoted to Deputy Chief in 2017.

Here are some articles about all of this:

["Hispanics Angry About Officers' Awards"](#)

["Police Chief Mark Kroeker Has Got To Go"](#)

["Witnesses fault arrest tactics in Mejia Poot case"](#)

["More groups want action over medals incident"](#)

["On My Soapbox. Watchdog Broken"](#)

["AMA Continues Call for More Diversity in PPB"](#)

Subsequently, Davis ended up heading the Portland Police Bureau Internal Affairs Division. Excerpt from a [news article](#) providing an example of a case Davis oversaw:



In 2014, a Multnomah County jury awarded \$562,000 to Jason Cox after Portland police knocked him face-down to the ground and repeatedly pummeled and zapped him with a Taser on June 28, 2011. Bruders struck Cox in the face multiple times with a closed fist once Cox was already down, a surveillance video showed....

Cox, who was 37 at the time, testified that he thought he was going to be beaten to death when police took him into custody in a Southeast Portland parking lot on suspicion of drunken driving....

Before the case went to trial, Cox had filed a complaint against the officers with the Independent Police Review, the city intake office for complaints against Portland police. The matter was referred to the bureau's Internal Affairs Division, which did a preliminary inquiry, reviewed the video and determined that Bruders' punches were within policy and the law.

Chris Davis, internal affairs lieutenant at the time and now the bureau's deputy chief, wrote that Bruders and other officers present noted that Cox looked as if he was going to resist arrest by "furlrowing his brow " and "assuming a fighting stance." Officers didn't know if he had a weapon once he was taken to the ground because his right hand was under his body and they hadn't searched him, Davis wrote.

Bruders explained that a fellow officer's Taser didn't succeed in getting Cox to comply and using pepper spray would impact the other officers present so he found that striking Cox in the face with a closed fist was the "most appropriate" alternative. Davis found Bruder's decision "reasonable," considering all the circumstances and declined to call for a more in-depth inquiry, Davis wrote [in a memo to the district attorney](#) in October 2011.

From a [press release](#) of an attorney handling this and a related case:

"For Internal Affairs, covering up police misconduct is like breathing in and breathing out. Bruders and the other officers were captured on video inflicting a savage beating on a helpless man. A jury awarded all that was asked for. In a letter signed by Chris Davis, IA declined to even conduct a formal investigation. Davis was then head of IA. He is now Portland's Deputy Police Chief," said attorney Jason Kafoury.

In 2014, Portland Police Lieutenant Rachel Andrew filed a \$300,000 civil rights lawsuit against Davis, Chief Reese, and the Portland Police Bureau for retaliation after she investigated Davis for misconduct.

Excerpt from [news article](#):

Last Wednesday, April 23, a lieutenant with 20 years at the bureau filed a scathing federal lawsuit accusing Chief Mike Reese and North Precinct Captain Chris Davis of unjustly punishing her over a misconduct investigation she led against Davis several years ago.

The lieutenant, Rachel Andrew, is seeking \$300,000 in damages for lost pay and emotional distress—citing claims she was unfairly suspended by Reese at Davis' behest and then denied a promotion. She says Reese has been angry with her at least since 2008—after she first investigated Davis over his use of an informant and recommended he face discipline.

Her lawsuit follows a separate Oregon Bureau of Labor and Industries (BOLI) complaint that included those same claims

Here's a [Portland Mercury news article](#), a copy of the [federal lawsuit filing](#), and a copy of the [Oregon Bureau of Labor and Industries complaint](#).

Ultimately, Davis was promoted to Deputy Chief, and was actually Acting Chief of the Portland Police Bureau for a time.

Under the leadership of Deputy Chief Davis, Portland became a poster child for brutal handling of protesters and was found to be in direct violation of a federal restraining order regarding the use of force against protestors.

Some articles:

Portland Mercury news article: "[Judge Finds Portland Police's Use of Munitions Against Protesters Defied Court Order](#)". Excerpt:

A federal judge ruled Monday that the City of Portland had violated a court order barring Portland police from shooting impact munitions at nonviolent protesters.

In his evening ruling, US District Judge Marco Hernandez wrote that the city—by way of the Portland Police Bureau (PPB)—defied the June 26 temporary restraining order at least three times during a June 30 demonstration. This violation places the city in contempt of court—a finding with undetermined consequences. Hernandez wrote that the penalty for violating the restraining order will be determined at a later date.

The ruling validates arguments raised by Don't Shoot Portland, a racial justice group whose June 5 class action lawsuit against the city spurred Hernandez's restraining order.

"[Portland police fail to document, review officers' use of force at protests or maintain crowd-control training, report finds](#)". Excerpt:

Portland police have failed to identify, document, review or manage officer use of force during protests that have gripped the city since late May, an outside consultant has found....

Because of the significant gaps in use of force reporting and training, the Police Bureau is no longer in "substantial compliance" with mandated reforms under the city's settlement agreement with the U.S. Department of Justice, Rosenbaum concluded.

"[Portland Police Under Scrutiny For Dangerous Crowd Control Munitions](#)"

"[Police Declare Portland Protests A Riot But This Definition Could Be Rooted In Racism](#)"

The Intercept: "[Portland Reckons with Police Attacks on Protesters after Months of Unrest. Witness testimony and a video reconstruction detail deliberate violence by police against peaceful protesters.](#)"

Excerpt:

Days into the nationwide protest movement sparked by the police killing of George Floyd, the Black-led, police accountability group Don't Shoot Portland sued the city of Portland, Oregon, over use of tear gas against protesters. The lawsuit led to a temporary restraining order prohibiting the Portland Police Bureau from using tear gas, except in narrow circumstances. But officers quickly switched gears, and in response to growing protests, they ramped up the deployment of OC spray, rubber bullets, pepper balls, flash bangs, and other impact munitions known as "nonlethal" or "less-lethal" weapons. Don't Shoot Portland again sought and obtained a court order to limit police's use of those weapons.

Then on June 30, just four days after a federal judge had sided with protesters and issued a restraining order on the use by police of less-lethal weapons, Portland officers meeting protesters outside the local police union building again fired smoke grenades, rubber bullets, and other impact munitions into the crowd, injuring several people. They then declared the protest a riot and deployed tear gas despite the court order restricting its use.

"They blatantly ignored the order," Tai Carpenter, Don't Shoot Portland's board president, told The Intercept. "What happened on June 30 was just an all-out attack on civilians. That night just really stands out for the vast amount of violence that was being inflicted on the street."

Physicians for Human Right report. October 8, 2020. ["Now they seem to just want to hurt us": Dangerous Use of Crowd-control Weapons against Protestors and Medics in Portland, Oregon"](#)
Excerpt providing some background:

Before the 2020 protests, the Portland Police Bureau (PPB) had been found to engage in a pattern of excessive use of force. In the 2012 case U.S. v. City of Portland, the U.S. District Court for the District of Oregon found that the Portland police had deployed unconstitutional and improper use of force against people experiencing a mental health crisis. This case resulted in a 2014 Settlement Agreement on necessary police reforms, including, but not limited to, use of force, training, crisis intervention, officer accountability, and communication and transparency. In 2015 and 2016, the U.S. Department of Justice found that the PPB was only partially compliant with nearly every provision of the agreement.

The Physicians for Human Rights report provides a detailed account of grossly excessive use of force by the Portland Police and injuries sustained by civilians, including many medics.

While Davis was under consideration as a candidate in the Madison Chief search, he was also under consideration by the Milwaukee Fire & Police Commission for their Chief search. He was one of three finalists there, but ultimately ended up with zero votes from commissioners. In Milwaukee, it appears that he said that some mistakes were made in Portland with protesters. However, in all the online materials I was able to find from Portland, he appeared to defend Portland police practices with protesters to the hilt.

Davis has advocated practices like police in riot gear charging at crowds of protester to scare and disperse them, use of a wide variety of nonlethal munitions against protesters, puncturing the tires of protester's cars, etc.

Here's a video posted by the Portland Police. ["Deputy Chief talks about crowd management"](#)

A video: "[Deputy Chief Chris Davis on vandalism to Portland police headquarters](#)"

[Here's video](#) in which Davis justifies police slashing the tires of protesters' cars, asserting that it's a safety measure.

Here's a news article quoting Davis: "[Portland police deputy chief appeals to community to decry violence by what he called 'well-organized agitator core'](#)". His general perspective and mantra is that bad people are using protests as "cover for criminal activity".

All of this is the direct opposite of the mentality that former MPD Chief Couper had, and the approach he took, when he was hired and arrived in Madison. Violent Vietnam War protests were ongoing, with ample property destruction, police using lots of tear gas, etc. Couper instead reached out, attended protests, talked directly with protesters, brought in police critics for his "kitchen cabinet" of advisors, and was dramatically successful in calming the waters. A mentality and approach like that of Davis just precipitates increased unrest and rioting, and loss of legitimacy of police.

2. In sharp contrast, Ramon Batista might be an excellent Police Chief for Madison. It appears that of all the finalists, he might be most likely to re-establish trust and legitimacy for Madison police, especially among alienated communities. Without trust and legitimacy, policing becomes very difficult.

As I've previously written, former MPD Chief David Couper noted to me *"My question [to the candidates] would be what is their specific plan to renew trust between the MPD and community. It's the #1 problem PERF members identified that is facing police leaders today!"* He also indicated he would ask when each candidate *"led a major controversial change in your agency"*.

A police executive I know and trust, City of Columbia SC Deputy Chief Melron Kelly, informed us that he highly recommends Ramon Batista.... that Batista would be excellent as Chief and that he's a really good person. Melron understands the current situation in Madison and what many community members and community groups here are looking for. He knows about the Independent Monitor and Police Civilian Oversight Board and that many in Madison are looking for someone who would welcome this work and cooperate. He knows that we want someone who isn't afraid to make important reforms, who will prioritize officer mental-wellness and who also will hold officers accountable. So I give much weight to Melron's recommendation.

I appreciate Batista's philosophy of "Do No Harm" (articulated in his book and an accompanying [pledge](#)). I think his view, that a shift in culture and emphasis on shared values with the community are key to long-term change in law enforcement, is entirely correct. This reminds me a great deal of David Couper's philosophy.

I appreciate that Batista introduced ICAT (Integrating Communications, Assessment, and Tactics) training to Mesa. ICAT is an innovative training program, developed by PERF, that provides first responding police officers with the tools, skills, and options they need to successfully and safely defuse a range of incidents, to avoid officer-involved fatalities and other adverse outcomes. Implementation of ICAT

training in Madison is one of the recommendations of the MPD Policy & Procedure Review Ad Hoc Committee.

I appreciate Batista's willingness to implement necessary changes to use-of-force practices and oversight of use-of-force. This is congruent with the recommendations of OIR and the Ad Hoc Committee.

I appreciate Batista's willingness to seek truly independent investigation of controversial incidents. In Mesa, this led to a review by PERF that generated 66 recommendations that are being implemented.

I appreciate Batista's commitment to community policing. A revival of core aspects of community policing constitute additional key recommendations of the Ad Hoc Committee.

I appreciate his commitment to officer wellness. The Community Response Team has been advocating for additional supports for officer wellness for years, and this gave rise to some of the Ad Hoc Committee's recommendations.

Community leaders in Mesa talk about how Batista opened a door of transparency that was needed – and this is something that I also appreciate. MPD has an unfortunate history of concealing information that citizens have a right to know (e.g., see the article "[Shielded](#)" in the Isthmus – *"Isthmus sought records on the incident in an open records request on Dec. 7, 2016. The department delayed producing the requested documents for more than a year. Only after the paper filed a lawsuit did the department turn over 729 pages of documents."*).

I also appreciate that Batista has sought to address homelessness and drug addiction in a more effective and life changing manner, including use of community courts to help break homeless residents out of the criminal justice cycle.

I appreciate that both in Tucson and Mesa, Batista has a history of community outreach and establishing strong relationships with the community. And that includes strong relationships with marginalized segments of the community. He has held Latino Town Halls and is a Spanish speaker himself. He is sensitive to the fear of deportation among undocumented community residents. Looking online, I see particular praise of Batista from Black community leaders. It appears clear that community leaders and city officials in Tucson and Mesa loved him.

Batista's perspective and approach remind me very much of David Couper. Though there was strong resistance to Couper's reforms from the Madison police union early-on, he ended up beloved in Madison, and transforming the department in very beneficial ways. And given the groundwork laid by Chief Couper in Madison, and the aspirations of the Madison Police Department toward progressive values, I believe the Madison Police Department would be suitably receptive to Batista's style and reforms.

A constant refrain in the OIR Report, concerning MPD, was the question "Are we who we say we are?" I believe Ramon Batista is a transformative leader who could ensure that the answer to that question ends up being in the affirmative.

Sincerely,

Dr. Gregory Gelembiuk

From: [Gregory Gelembiuk](#)
To: [Police Chief Search](#)
Cc: [Jenna Rousseau](#)
Subject: Feedback on finalists
Date: Wednesday, December 9, 2020 3:45:19 PM

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Dear Police & Fire Commissioners,

I'll start with a brief synopsis. Since Friday I've been trying to track down all information I can about each finalist. That included looking extensively online for articles, videos, etc. The Community Response Team also received some input from trusted sources (with law enforcement background) on two of the finalists. And I've now watched all four interview clips posted by the PFC.

Here is my current personal numeric ranking, on a scale of 0-10, for each candidate, given the information I have currently reviewed (10 being best).

Ramon Batista 10
Shon Barnes 7
Larry Sciroto 3
Chris Davis 0

Below are miscellaneous additional thoughts, from watching the interview clips. The order of my comments is somewhat random and I apologize for that – I don't have much time and wanted the PFC to receive this before deliberations on a selection.

Ramon Batista seems very good. I think he would be most like David Couper. He embraces the things many progressives would like to see (including non-police violence interrupters, etc. as recommended in the MPD Policy & Procedure Review Ad Hoc Committee Report). He has also clearly done his homework with respect to Madison – listening to the Madison Police Department podcasts, visiting our city and its police stations, etc. This level of diligence and effort in seeking the position here bodes well.

Ramon Batista and Shon Barnes appear much better than the remaining two finalists. Both of them show human sensitivity and cultural competence (much moreso than the other two candidates). Both appear to have a heart (which is really needed in policing here). In general, their thinking seemed more original and outside the box. Batista's fluency in Spanish would be a major asset in outreach to the Latinx community here. As I've noted before, Chris Davis would be a terrible choice for Madison.

I've written you before about positive feedback we received about Ramon Batista from Melron Kelly. We also asked Seth Stoughton (an Associate Professor at South Carolina School of Law, who specializes in regulation of policing and is a former police officer himself) his thoughts on the candidates. Seth is a professional in the world of policing with whom we have a longstanding relationship. Seth said he hasn't met any of the finalists but heard from a trusted source that "Shon is one of our LEADS scholars and a very smart, evidence-based guy. I have known him for a long time and think he would make an excellent Chief. He was a deputy chief in NC for a long time."

Some of the candidates touted their success in reducing crime. For example, one said "We were able

to reduce our crime to a 20 year low". However, there's a major problem with such claims. They ignore the fact that crime has been declining in cities nationwide over the last two decades. And that's true not just in the U.S., but in Canada and most European Union countries. It's been occurring regardless of the policing and criminal justice approach taken in any given country or city and clearly reflects larger societal trends. Canada, for example, has not had the large increase in police staffing found in most U.S. cities, and incarcerates a fraction the number of people that U.S. jurisdictions do, but has seen the exact same pattern. Crime has been steadily falling, but most Americans don't realize it. Here's [one article](#) touching on the topic. Though there has been an increase in aggravated assaults and homicides this year in cities across the nation, given the psychological and financial conditions created by the pandemic. I'll also add that in any given city, there's a stochastic element to crime rates over the short run, especially for crimes that are less common (e.g., homicides), so one should be careful about making any major conclusions from a change over a few years in a given city.

As the esteemed criminal justice scholar David Bayley noted [Bayley, D., 1994, "Policing for the Future", Oxford University Press]:

The police do not prevent crime. This is one of the best kept secrets of modern life. Experts know it, the police know it, but the public does not know it. Yet the police pretend that they are society's best defense against crime and continually argue that if they are given more resources, especially personnel, they will be able to protect communities against crime. This is a myth.... Changes in the number of police within any practicable range will have no effect on crime....

Crime experts generally accept that the best predictors of crime are factors such as employment status, income, education levels, gender, age, ethnic mix, and family composition. A precise figure can't be put on it, but most - perhaps as much as 90% - of the differences in crime rates among communities can be explained by differences in such factors....To give only one example from a voluminous literature, Cohen, Felson, and Land (1983) found that between 1947 and 1977 such factors could account for 96.5% of the differences in robbery rates, 99% of the differences in burglary rates, and 99.3% of the differences in auto-theft rates throughout the United States. It is not really surprising, then, that finding evidence that police prevent crime is so difficult. Police shouldn't be expected to prevent crime: They are outgunned by circumstances....

Honest law enforcement saves the police from promising something they cannot deliver. Police often say – correctly – that they should not be blamed for increases in crime because the causes of crime are beyond their control. Honest law enforcement solves this public relations dilemma by narrowing the police mission to a set of actions they can demonstrably perform well. As Peter Manning (1977, p 18) has thoughtfully pointed out, the police “have tied themselves to a socially determined process [that is, crime] over which they have no control. They have thus achieved success in focusing public attention upon an activity which can be seen as explosive and self-defeating.” Honest law enforcement cuts this Gordian knot....

The fundamental problem with dishonest law enforcement, beyond its potential for embarrassing the police, is that it prevents communities from facing what really needs to be

done. As long as people believe that police can prevent crime, communities will not insist that something else be done (Shearing 1991). The police know – or are rapidly discovering – that successful crime prevention requires multifaceted programs involving all agents, informal as well as formal, of societal control and social amelioration (Clinard 1978, Anderson 1979).... What modern societies lack is an institution apart from the police with responsibility for formulating and implementing crime-prevention programs ((Shearing 1992).

The above isn't entirely correct – implying that police “do not prevent crime” at all is too extreme. Strategies such as problem-oriented policing, hotspot policing, etc. can have a modest crime reduction effect. I'm a particular fan of problem-oriented policing. But it's too easy to misinterpret shifts in crime rates – and especially longterm trends in crime - as being driven by policing, in a way that the data doesn't bear out. So if you really want to reduce crime and maximize public safety, you have to think more broadly.

That's part of why I was particularly impressed by Batista's response to the last question in the posted video clips. He honestly acknowledged the reality, noting “it would be unfair to go to a hospital and to say ‘solve this pandemic’, because they can't... You have to look at it as a holistic approach where you have to look at the coopting of different social services to come to bear to help in this issue. It is impossible to say that we are going to put a police officer on every corner and have law enforcement as the sole driver of a reduction in crime.” In his response he noted the value of innovative data driven policing approaches, but also said things like “you have to be thinking of use of violence interrupters”, job opportunities for youth, programs for at-risk youth to form foundations for them to be successful, etc. The use of street-level non-police violence interrupters has a great deal of empirical evidence of efficacy and a great monetary return on investment. This is all congruent with the recommendations of the Ad Hoc Committee, which call for increased use of a public health approach to crime. There were similar things stated by other candidates (calling for partnerships, etc.), but this is an area I've been looking into for years, and Batista's statements appeared to show more advanced thinking on this. To really deeply minimize crime, you need a really deeply holistic approach, and Batista seems to be thinking most in these terms.

I also like Batista's reference to being surrounded by determined women, and valuing and being shaped by that. Honestly, in law enforcement, on average, women officers kill fewer people and tend, on average, toward a better approach. Plus, one of the problems with law enforcement, even in MPD, is that the culture tends to be too macho – leading to problems. So Batista's perspective is refreshing.

I also really appreciated Batista's statement that he “believes that policing is going through a transformation; entering new era.” That he “wants to be part of the solution to move policing forward and believes it so much I wrote a book about it” (the Do No Harm book). Policing really does appear to be going through a transformation in this way, and it appears to be accelerating. MPD has kind of coasted on the reputation that David Couper generated, but as the OIR report noted, has been regressing in important ways. It would be really great to again see Madison at the forefront of the progressive transformation in policing.

The perspectives (overtones in language) of Davis and Scirotto appeared overly judgmental to me. Davis in particular seems to too often divide the world into good versus bad people. That's not a perspective that's helpful. I also noticed the contrast between the statements Davis was making in

this interview (potentially playing to his audience), and video clips I've watched of his statements in Portland. In Portland, most everything I watched him say appeared to show a command-and-control policing attitude that would be very unhelpful here.

Davis commented that Portland was a progressive policing agency. But many (perhaps most) residents of Portland would beg to differ. I am not saying that Portland policing has no progressive aspects, but in many ways it has a reputation for the opposite.

Davis also indicated that he ran the day to day operations of the Police Bureau in Portland – which directly implicates him in their disastrous handling of protests, including multiple violations of federal court orders.

Sincerely,

Dr. Gregory Gelembiuk