



Presentation to the Madison Police Department Policy and Procedure Review Ad Hoc Committee:

INDEPENDENT REVIEW OF THE MADISON POLICE DEPARTMENT'S POLICY AND PROCEDURE

October 6, 2016

By initiating this comprehensive and progressive assessment of the Madison Police Department, the City of Madison has turned a period of critical introspection into a journey toward substantive reform. The Ad Hoc Committee has already done much to advance the goals of this project that will continue a dialogue within the Madison community about police uses of force, real community policing, procedural justice, disparate racial impacts, and accountability. Enlisting an outside, independent team to develop evidence-based recommendations will enhance that dialogue and move the City closer to its objective of making the Police Department more responsive and accountable to the communities it serves.

Ideally, the City's ambitious and forward-thinking review project will unfold in rigorous and productive ways in the coming months. Much more importantly, though, the final report and recommendations must provide a foundation for changes and improvements that will not only be meaningfully implemented but also sustainable. Our recommendations will emphasize the creation of permanent mechanisms for doing so. OIR is uniquely well-situated to conduct this review. With assistance and input from the Ad Hoc Committee and the communities they serve, our work will provide a road map to substantive and lasting reform.

The OIR Group Team

OIR Group's core team for this project is comprised of experienced professionals for whom the civilian oversight of law enforcement has been a full-time and exclusive occupation for a minimum of five years and as many as fifteen. As a result, we have been steeped in progressive law enforcement practices, both substantive and procedural. Throughout, our overarching goal has been to ensure that law enforcement is practicing Constitutionally based and community responsive policing. The review of police practices through that prism of civil rights is a defining and distinctive feature of OIR Group. Working to make law enforcement agencies more responsive to the public they serve is what we do – and all that we do – and we bring a range of relevant credentials and accomplishments to this project for the City of Madison.

Additionally, OIR Group has assembled a notably strong team of affiliates and advisors. Beyond the accomplished core group that will be running the project, we have received commitments from numerous distinguished experts in relevant fields of academia, law enforcement best practices, and community engagement. Notably, several OIR Group team members were closely involved in President Obama's Task Force on 21st Century

Policing, with two individuals who served as part of the Task Force itself, and two others who submitted testimony at the Task Force's request. We look forward to enhancing our core strengths with the insights of these respected individuals.

OIR Group has provided meaningful and influential independent oversight to a range of law enforcement agencies in a variety of contexts – short and long term, investigative and analytical, large jurisdictions and small, accountability-focused and reformative. From the start of our work in this field in 2001, transparency, public reporting and an effort to “stand in the shoes” of the community have been focal points of our approach. We bring the public's perspective to bear on previously insulated and confidential processes, and in doing so have made law enforcement more accountable to its communities in a number of cities and counties.

Coincidentally, last week was the annual conference for the National Association of Civilian Oversight of Law Enforcement (“NACOLE”). We have attended for many years, and members of our team have frequently served as speakers, moderators, and panelists on a variety of topics as we did again this year. Last week, OIR Group member Walter Katz was elected to the NACOLE Board of Directors, two other team members have served as past Presidents of the organization, and in 2012 Michael Gennaco won the association's Flame Award, recognizing significant, long-term contributions to the field of police oversight.

Our involvement in the organization has provided an important perspective on the way that oversight has evolved and expanded in exciting ways. It also has made us part of a national network of practitioners and experts in fields such as bias-based policing, dealing with the mentally ill, procedural and restorative justice, and police accountability – some of whom we intend to utilize as a resource for Madison. These relationships and educational opportunities have familiarized us with national best practices and trends in progressive policing, and we're proud of the opportunities we've had over the years to contribute to the discussion based on our own experiences.

The annual NACOLE conference is also a real window into grassroots public sentiments. It is a distilled chance to survey the national dialogue regarding law enforcement and the community: How issues of deadly force are addressed and resolved – or not. How public concern and pressure can bring about real reform – and the obstacles that sometimes prevent that reform. How particular communities bear the brunt of inequities in our history – and how encounters with the police can reflect and reinforce those dynamics.

An awareness of those perceptions and realities has always informed and improved our work product. As we do with every jurisdiction in which we work, we will bring fresh eyes and ears to the specific circumstances in Madison. We want to learn and take guidance from Madison's communities on what's working, what isn't, and how the City and the Police Department can move forward most constructively, both procedurally and substantively. And we have the experience and demonstrated commitment to meeting that goal through a variety of formal and less formal means.

At the same time, we have confidence in our ability to interact in productive ways with the Police Department. We have established an ability to push past the defensiveness and resentment that agencies sometimes feel, particularly when they have limited or no experience dealing with outside voices. In our years of oversight experience, we've developed knowledge not only of police policy, training and tactics but also of workable means to change police cultures and facilitate reform. This background – combined with a willingness to listen – has given credibility to the hundreds of substantive and procedural recommendations and case analyses that we have produced over the years for numerous jurisdictions. In turn, that dynamic has facilitated the implementation and lasting impact of reforms that have made these agencies better and more responsive to the public they serve.

We have attached a table laying out the area of specialized expertise of each member of our team and where that expertise fits within the scope of the project.

Additional Team Members

Since we provided our written response to the RFP, we have added three additional advisors to our team:

Sue Rahr, Executive Director, Washington State Criminal Justice Training Commission. Currently, Director Rahr is responsible for charting the course for peace officer training for the State of California, incorporating her philosophy of promoting a guardian culture among law enforcement. Moreover, Rahr served on President Obama's Task Force on 21st Century Policing and is the past Sheriff for the King County Sheriff's Office.

Dr. Robert Crutchfield, Professor in the Department of Sociology, University of Washington. Dr. Crutchfield's research focuses on ethnicity and the criminal justice system. He is currently collaborating on a project studying racial differences in criminal justice experience outcomes from early experiences. He has also written articles and given presentations regarding racial disparities in the criminal justice system.

Chris Magnus is currently Chief of the Tucson Police Department. Chief Magnus is a leader in progressive policing. The Civil Rights Division of the United States Department of Justice has enlisted his help with conducting pattern and practice investigations of the Ferguson, Baltimore, and Chicago Police Departments, and he has assisted the federal monitor of the Seattle Police Department.

Responses to the Committee's Written Questions

1. Please describe / introduce each person who will be specifically assigned to work on the City of Madison's project.
 - A. Will each person in your proposal actually work on the City's project? If not, explain who will.
 - B. Who will be the designated project manager or team leader?
 - C. Will that person be assigned to our project full-time?
 - D. If less than full time, explain why? How much time? Please explain how that person's schedule will be determined.

We intend to utilize the skills and expertise of every person listed within our proposal. In fact, we recruited several of them with the express purpose of meeting the unique requirements of the Madison project, and were gratified by their interest, availability, and enthusiasm about joining with OIR Group's core team.

As stated earlier, our plan is to implement a "tiered approach" that will match practical considerations (such as cost and availability) with an ability to draw upon the designated specialties of team members in targeted and efficient ways.

Michael Gennaco will be project manager of the Madison proposal, and this review will take highest priority at OIR Group. Julie Ruhlin will assume the role of general manager and team leader, and her schedule will be adjustable for full-time devotion to the project when called for. As a deputy team leader, Stephen Connolly will also have the flexibility to work on the Madison project full-time and to the extent necessary for successful completion. As they have on past projects, the trio of Gennaco, Ruhlin, and Connolly will interact on a regular and seamless basis. They will share responsibility for

coordinating the work of other team members, ensuring that the project remains on track, and maintaining regular and responsive interaction with the Ad Hoc Committee, the communities of Madison, and other key stakeholders.

2. Describe your approach for soliciting and utilizing input from community members. To what extent does your approach allow **collaborative** input from both Committee and community members? For example, do you plan to utilize suggestions from both the Committee and community members in formulating your recommendations?

We recognize the extent to which this project stems directly from the public's desire for meaningful assessment of and engagement with the Madison Police Department. We also know from our experience with numerous and varied jurisdictions that fundamental principles and universal best practices must be tailored to the unique circumstances of the relevant community. Accordingly, we very much anticipate benefiting from the ideas and priorities of the Ad Hoc Committee and community members.

In preparing both our initial response to the RFP and our further presentation as a finalist, we have familiarized ourselves with the public biographies of Ad Hoc Committee members and with the work the Committee has already accomplished on behalf of Madison. In fact, the detailed Request for Proposal designed by the Committee provides an excellent road map on issues identified for examination and analysis. Moreover, other stakeholders have also produced helpful insights. An important example is "The Race to Equity Report ('A Baseline Report on the State of Racial Disparities in Dane County') that will be incorporated into our work. We also expect to draw upon the range of perspectives and connections to the larger community that are reflected within the Committee's diverse membership.

Our work plan already contemplates a meeting with each Committee member in the initial days of our time in Madison. We will use those sessions as a starting point for further outreach, input, collaboration, and insight.

From there, we foresee utilizing our initial impressions as a foundation for designing additional means – both formal and informal – to continue obtaining and incorporating community input as we move forward into findings and recommendations. From past experience, we recognize the value and importance of these sources of guidance. Accordingly, we appreciate the significant groundwork already laid by the Committee,

and intend to draw upon it extensively. We also understand that the recommendations for reform should incorporate the insights from the Madison communities regarding what needs to get better and how best to get there.

For this assessment to gain the critical support it needs for lasting impact and support, OIR Group's recommendations must be infused with and guided by Committee and community input. At the inception of our work, we will design a working paradigm designed to do just that.

3. Has anyone on your team recommended or advocated **substantive** justice reforms rather than merely procedural/tactical reforms? If so, please provide specific examples of such substantive justice reforms.

Though procedural reforms are important “nuts and bolts” means by which reform principles shape daily police interactions, we recognize and have devoted ourselves to the broader philosophies and cultural change that individual policy reforms help manifest. For that reason, we have repeatedly advanced substantive recommendations that provide the underpinning for that type of reform:

- **Preventing Uses of Force.** Well before “de-escalation” was popularized as a concept, OIR Group was advocating for fundamental changes in police orientation toward force. We worked to emphasize new paradigms that shifted from what was legally allowable to what was most appropriate and effective for public and officer safety. Such “force prevention” disciplines are intended to address and eliminate the “lawful but awful” force incidents by instilling a different mindset that contemplates alternatives to force. This revisiting of police force culture has necessarily resulted in OIR Group recommending substantive changes in law enforcement’s use of force policies.

Accordingly, we have advocated for policies that raise expectations and analysis of officer conduct beyond the thresholds of reasonableness and a narrow focus on legal justification alone. Instead, we have recommended policy, training, and accountability changes in police tactics commensurate with principles of officer safety and requiring police agencies to evaluate officer decision-making and tactics that are not consistent with these principles. By advocating this

substantive reconsideration of mindset and devising mechanisms designed to hold officers accountable, police officers are directed to conduct their duties more safely and reduce the likelihood of deadly force incidents. In short, we have pushed Departments to consider use of force policies that go beyond the Constitutional standards of what is allowable to those that raise the bar on when force is to be used.

We have also introduced substantive recommendations designed to reorient officers from a “catch at all costs” mentality that pushes encounters in avoidably dangerous directions.

- **Emphasizing Procedural Justice.** Instead of merely reeducating officers on the Constitutional limits of stop and frisk, we have advocated for a philosophical shift in how police executives and officers should promote public safety. In a move away from intrinsic and extrinsic incentives based on the number of stops and searches a police officer makes, we have recommended a wholesale reconsideration of a patrol officer’s duties and measures of effectiveness. Consistent with principles of procedural justice, we have emphasized programs that reward problem solving and community-oriented policing rather than traditional enforcement through arrests. In tandem with this recommendation, we have advocated for introspective reconsideration of how law enforcement resources might be more effectively used by reprioritizing its mission of keeping the peace. These substantive changes necessarily require revamped procedural changes to the supervisor and officer evaluation and promotional process, demonstrating the nexus between substance and procedure.
- **Confronting Mental Health Crises.** In the mental health arena, we have been troubled by officer-involved shootings characterized as “suicide by cop” in which persons in mental health crisis take actions that could provoke the use of deadly force. We have advocated for a substantive shift in orientation that combats the shrugging acceptance of certain incidents as “dictated” by the actions of the suspect and therefore unavoidable. Instead, we have introduced strategies designed to increase outcomes that bring resolution without resort to deadly force.

4. Provide one or more examples of policies and practices ***outside the U.S.*** that might produce superior outcomes for any of the objectives listed in the RFP.

As long-term oversight practitioners, we are well aware of policies and practices outside the United States that have been used to good effect, particularly in the use of force arena. There are, for example, stark contrasts in the use of deadly force by police in European countries compared to the United States. While some of the disparity can be explained by differences in gun availability, mental health services, and racial inequity, it is informative to recognize how much of European law enforcement is held to an “absolutely necessary” standard as opposed to the “reasonable standard” set out by American law. As noted above, in part based on our recognition of the potential benefit to a stricter use of force standard, we have pushed American law enforcement to develop stricter standards for use of force in keeping with elements of the European approach.

Additionally, there are potential lessons to learn from the training regimen in Europe for law enforcement, which is demonstrably more rigorous in some respects than its American counterparts. Multiple years of training are often the norm, as opposed to the multiple week training academies in the United States. Finally, the longer focus and attention on de-escalation techniques in several European countries is evidence of the need to devote more time and attention to this discipline in American policing.

Another area in which several countries in Europe have progressed beyond America is in their commitment to transparency and oversight. Data about citizen complaints, uses of force, and internal investigations is often more readily accessible by the public. Moreover, many European countries have a greater institutional legacy in the field of robust and effective oversight, contrasted to the nascent or nonexistent oversight mechanisms in the United States. We believe there is demonstrated value to this approach, and would seek to apply it in workable ways to Madison.

5. What **specific** recommendations will you make for the City of Madison, based on what you currently know about the City and the Madison Police Department? The committee is interested in an answer that is not just relying on past work or past recommendations in other jurisdictions.

As noted above, our work and recommendations will be animated by the recognition and understanding of Madison’s distinct history, circumstances, and priorities, and by a commitment to input and feedback from a range of local stakeholders. For those reasons, we will not impose “boilerplate” recommendations from past assignments. To the extent we rely on our experience at all, it will be to inform our understanding of Madison’s own dynamics, and to comprise the “tool kit” from which we select appropriate responsive measures. We will take advantage of our unique qualifications as oversight practitioners of long-standing and diverse accomplishments – civilian experts oriented toward the protection and enforcement of civil rights.

While our ultimate recommendations will necessarily be informed by community input and our review of data and evidence, we can provide insights into the framework with which hope to move forward.

- **Implementation and Sustainability.** OIR Group will provide recommendations designed to ensure fair consideration and effective implementation. We have learned that recommendations must be sufficiently detailed and measurable so that both the Department and the public can know whether and when there has been effective implementation. In addition to the recommendations, the report must conceptualize both an implementation strategy that includes discernible benchmarks for the Department and public, and an external mechanism to ensure sustained follow-through over time.
- **Transparency and Accountability.** During its review, OIR Group will closely examine the way in which MPD provides the public with meaningful information about its work, particularly in the areas of accountability, force, complaints, training, and policy development. There will be recommendations in OIR Group’s report designed to increase MPD’s level of transparency and accountability to the communities it serves.

- **Identification and Intervention.** OIR Group will also devise recommendations designed to create a robust and effective Employee Intervention System. While EIS systems have been successful to varying degrees, OIR Group will use its past experience to help achieve their underlying goal: the effective identification and remediation of troublesome indicators. OIR Group has been involved recently in offering recommendations for improvement of these systems. We are intimately familiar with recent academic advances and practices designed to make those systems more predictive of potentially concerning patterns of conduct.
- **Mediation and Restorative Justice.** Consistent with principles of restorative justice, OIR Group will be examining the degree to which the police department has an effective mediation process for some citizen complaints. Our experience is that mediation, if practiced effectively and fairly, can provide a mechanism through which aggrieved community members can participate in a transparent process whereby their complaints are taken seriously.
- **Civilian Oversight.** Finally, and consistent with a key recommendation of the President's 21st Century Task Force, OIR Group will be recommending the development of effective and robust civilian oversight as a core recommendation of its report. Based on our experience and orientation towards civilian oversight, OIR Group will advance recommendations designed to ensure a permanent mechanism that will ensure continued independent involvement and an effective with regard to MPD's policies, training, review systems, and accountability mechanisms.