QUATTRONE CENTER
for the Fair Administration of Justice

Madison Police Department Sentinel Event Review (SER)

of the Department's Responses to 2020 Protests of Police

November 16, 2021

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Introduction

Beginning on May 30, 2020, the city of Madison, Wisconsin was rocked by months of significant community protests that occurred throughout the city on a daily basis. These protests, galvanized by the murder of George Floyd in Minneapolis, expressed deep and long-standing trauma experienced by many in Madison and elsewhere as a result of police brutality; disparate impacts of police behavior against people of color; and systemic, institutional, and ongoing racism in Madison and elsewhere. While many – indeed, most – of the individuals who protested did so peacefully, in many instances, the protests escalated into riots, violence, looting, injuries to protesters and police, and widespread property damage.

The Madison Police Department (MPD) has historically been proud of its ability to manage group protests and crowd events, supporting the full expression of First Amendment freedoms while protecting community members from violence and damage to public or private property. In fact, over the years MPD had popularized a model for effective facilitation of group protests and crowd events known as the "Madison Method," which prioritizes protecting the constitutional rights of citizens to assemble, maintaining open dialogue with citizens and the news media before, during and after demonstrations, and balancing the rights of demonstrators with the rights of the community at large, protecting people first and property second.[1]

MPD had used the Madison Method to facilitate many protests in the past. In the wake of George Floyd's murder, however, MPD found its very legitimacy questioned by large subsets of the Madison community. Protests of a scale that had not previously been seen in Madison, coupled with an active refusal of protesters to engage in dialogue with, or even consent to the presence of MPD at protests challenged MPD's ability to achieve the goals of peaceful self-expression balanced with protection of people and property that the Madison Method was created to support. As a result, protests escalated into violence and property destruction on multiple occasions.

An additional tenet of the Madison Method expresses MPD's dedication to continuous improvement. This dedication formed the impetus for MPD's decision in June 2020 to conduct a Sentinel Event Review (SER) of the violence that erupted on May 30 -June 1, 2020 and again on additional dates where protests escalated into violence in late June and late August, 2020.

SER is a quality improvement initiative that seeks to learn from undesirable outcomes by identifying the confluence of root causes that enabled them to occur, and addressing those root causes to prevent future undesirable outcomes. SERs exist to learn from "Sentinel Events," significant undesirable outcomes that result in substantial harm to one or more people. After defining the Sentinel Event, SER seeks to understand the various factors that came together to enable the Sentinel Event to occur. Reviewers then analyze these "Contributing Factors" and design changes to the system intended to interfere with the Contributing Factors and prevent them from recurring.

MPD engaged the Quattrone Center for the Fair Administration of Justice ("Quattrone Center") at the University of Pennsylvania Carey Law School to facilitate the SER.[2] MPD provided the Quattrone Center with more than 1600 pages of MPD documents related to the protests as well as more than 625 hours of closed-circuit television (CCTV) video, more than 30 hours of radio transmissions, and the ability to interview MPD officers who participated in the protests at all levels of the organization, from patrol officers to the Interim Chief of Police.

MPD invited a highly diverse group of community and law enforcement stakeholders (the Stakeholder Group) to conduct the SER, identifying Contributing Factors and generating specific Recommendations for reform. These individuals came from a wide variety of backgrounds and experiences, several of them participated in the protests, and indeed, some of them may have designed or organized protests. Also participating were high-level leaders within MPD who participated in the Department's

1 https://www.cityofmadison.com/police/field/specialevents.cfm, accessed July 11, 2021.

2 The Quattrone Center's participation was made possible in part by a grant received from the United States Department of Justice Bureau of Justice Assistance (BJA). Additional information can be found at https://bja.ojp.gov/program/sentinel-events-initiative/research.

responses to the protests and who will be instrumental in implementing the Stakeholder Group's recommendations.

Each Stakeholder provided a unique personal perspective on policing in Madison and elsewhere, ensuring that the SER benefitted from a wide variety of observations and interpretations of the events that occurred during the protests before the group made consensus recommendations for change. The inclusion of high-level managers within MPD in the Stakeholder Group was important to ensure that each recommendation was implementable by MPD.

The Stakeholders sought to understand the protests as they evolved over the course of the summer, and to review specific critical incidents that would generate specific and constructive recommendations for change. The majority of the protests that occurred consistently throughout the summer were peaceful expressions of civil disobedience and First Amendment freedoms that neither endangered people nor damaged property. The Stakeholders and MPD decided to focus on dates throughout the summer where protests escalated into violence and widespread unrest: the first weekend of the protests after the murder of George Floyd, from May 30 – June 1; the events of June 23 – 24 after the highly publicized arrest of Devonere Johnson; and the events of August 23 – 24 after the shooting of Jacob Blake by the Kenosha (WI) Police Department.

This report sets forth the analysis conducted by the Stakeholder Group of the protests as a whole and of the selected Critical Incidents specifically. It lists 133 factors that contributed to the undesirable outcomes of violence and property damage amid otherwise peaceful protests, and makes 69 concrete recommendations for change that are designed to ensure greater potential for peaceful, non-violent protests in the future.

These consensus recommendations reflect a tremendous amount of work from the Stakeholder Group, and MPD thanks them for their passion, diligence, and dedication to improving MPD and the City of Madison for all of its inhabitants. Their willingness to help MPD in its pursuit of continuous improvement, and establishing a new ability to learn from undesirable outcomes and implement improvements going forward, will yield benefits for all in the months and years to come.

Executive Summary

The murder of George Floyd unleashed an extended wave of emotion and protest throughout the country as millions of Americans, outraged by the compound effect of centuries of injustices and structural racism, took to the streets and challenged the legitimacy of governments and police departments around the country.

The City of Madison, Wisconsin experienced several months of continuous demonstrations, protests, and marches seeking social justice and a rethinking of the role of police in the community throughout the summer of 2020. Most of these events – but not all – occurred peacefully and without violence, injury or damage to property. In several instances, however, protests escalated into significant violence between protesters and the Madison Police Department (MPD), resulting in injuries to people and/or damage to property, and deepening community rifts.

These escalations to violence were viewed by MPD as significant undesirable outcomes. MPD has historically been a thought leader in facilitating and supporting community protests, including in instances such as the killing of Tony Robinson in 2015 where the protests are focused on the legitimacy of police in general and the legitimacy of MPD specifically. Over the years, the Department's approach to protests, known nationally as the "Madison Method," has been used successfully in Madison and elsewhere to facilitate thousands of events by police departments across the country. When supporting crowd events, the Madison Method pledges MPD to:

1. Protect a citizen's constitutional rights to assemble, petition the government and engage in free speech.
2. Be impartial and remain neutral regardless of the issue;
3. Maintain open dialogue with citizens and the news media before, during and after demonstrations;
4. Monitor demonstrations and marches to protect individual rights and ensure public safety;
5. Balance the rights of demonstrators with the rights of the community at large;
6. Be restrained in MPD's use of force, protecting people first and property second; and
7. Pursue continuous improvements of MPD's methods.[3]

Despite its utility in the past, the Madison Method did not prevent protests in Madison after the murder of George Floyd from escalating into violence and widespread damage to property. After each significant outbreak of violence, MPD evaluated and modified its approach to the ongoing protests. Even so, violence continued to erupt in Madison streets, beginning on the weekend of May 30 just days after George Floyd's murder, continuing in late June after the highly publicized arrest of a community activist, and extending into late August after the shooting of Jacob Blake by officers of the Kenosha, WI Police Department.

While MPD is experienced in the tensions that can arise when protesters exercising the freedom to protest contained within the First Amendment act in ways that threaten the safety or property of others, those tensions become particularly challenging when the legitimacy of police is the subject that is animating the protests, as was the case here.

The entire concept of civil disobedience is to disrupt community activity as a way of forcing attention on issues that a subset of people within the community care deeply about. MPD, like other departments across the country, was placed in the difficult situation of deciding when and how to engage with crowds who had gathered expressly to protest the legitimacy of MPD to limit community behaviors. Under these circumstances, the lines between acceptable protest activity and dangerous conduct that requires police intervention became even more challenging, as MPD leadership factored in the reality that any police intervention might agitate the crowd and change isolated agitating activity into widespread rioting.

It is not surprising that in this context, MPD was often criticized from both sides – from protesters incensed at uses of force and chemical munitions, and from community members who felt that mass arrests were appropriate for any protester on the streets during a curfew, for example.

3 https://www.cityofmadison.com/police/field/specialevents.cfm, accessed July 11, 2021.

The Madison Method drove MPD's approach to these protests throughout the summer, leading it to try to facilitate protests rather than quash them as it sought the right balance between supporting political speech and quickly and efficiently interceding against instigators committing intentional acts of violence and property destruction. As the protests evolved, MPD and instigators changed tactics, and while MPD's actions in dynamic, high-stakes environments achieved better outcomes as the summer progressed, the Department resolved to review and learn from these events to achieve better results in the future.

In keeping with the final tenet of the Madison Method – continuous quality improvement – MPD commissioned the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Carey Law School to conduct a Sentinel Event Review (SER) of the protests and generate recommendations for MPD that are intended to prevent the escalations of protests into violence and property damage that occurred throughout the summer of 2020.

The Quattrone Center gathered and analyzed a huge amount of information provided by MPD and members of the community, augmented by information available through public media and social media sources. This information was used to facilitate a series of meetings of a Stakeholder Group that included a diverse set of individuals from the community as well as representatives from MPD and several other law enforcement organizations.

The Stakeholder Group identified a set of fourteen (14) Critical Incidents that it found particularly disturbing and undesirable, and therefore good opportunities for quality improvement and learning. The Group performed a detailed analysis of each Critical Incident, seeking a consensus view of the various factors that came together to enable the undesired outcome of violence or property damage. Once those 133 Contributing Factors were identified, the Stakeholder Group made 69 recommendations for change, designed to prevent those factors from reoccurring and interrupt the escalation of future protests into violence and property destruction. A detailed description of each Critical Incident, as well as the Analysis, Contributing Factors and Recommendations of the Stakeholder Group for that Critical Incident, are set forth in this report.

None of the protests throughout the summer occurred in isolation. Each protest was influenced by the actions and events that came before, and each influenced the actions and events to come as MPD and protesters changed tactics and modified behaviors over the course of the summer.

May 30 - June 1, 2020

On May 30, as the protests began, MPD found itself operating from a substantial information deficit and not properly staffed to respond effectively to the size and anger of the protests. MPD began the day with 20 SET officers, 9 traffic officers, and 13 SWAT officers, in addition to commanders and other Command Post (CP) personnel. This was too few to effectively engage with the community, and MPD was calling in officers throughout the day, utilizing the first "all call" (requiring every available officer to assist the Department) that any MPD officer had ever experienced.

While MPD was prepared for anti-police sentiment from the crowd, it was surprised by the degree of anger directed specifically at MPD officers observing the protests. In the face of aggressive anti-police protesters, MPD made multiple attempts to de-escalate tensions, often by removing themselves from the scene. Such tactics had been successful in the past, but did not achieve their goal on May 30.

On May 30, as with virtually every other day reviewed by the Stakeholder Group, the actual escalation to violence was performed by a small group of instigators within the larger crowd. MPD's response to the initiation of vandalism and property destruction on State St. was the standard response taught in crowd control classes across the country – the mobilization of a fixed line (sometimes referred to as a "skirmish line") officers with special training as the Special Events Team (SET). The officers, whose arrival on the scene was delayed by a number of logistical and operational challenges, arrived in protective gear (including plastic chest, shin, and forearm pads, helmets, and gas masks) in an effort to disperse the looters and gathered crowd. While this was the response that MPD had

been trained to provide, and it had been effective during the only previous large group unrest experienced on State St. (an unruly Halloween block party several years before), it backfired under these circumstances.

First, by the time the SET officers arrived on the scene, the small group of instigators had moved on, leaving a furious crowd primed for conflict to face an understaffed group of police officers. Second, the arrival of the officers in protective gear led to a stand-off with previously peaceful protesters, who formed a line to prevent the SET officers from moving through the streets. The protesters stated they were bringing "allies to the front," a tactic designed to prevent MPD from arresting Black protesters who were viewed by the crowd as more likely to be targeted for police violence and arrest. Whether or not this was the sole true intent, it had the effect of preventing MPD from moving to arrest the vandals and looters, and creating a static line of increasing agitation between the crowd and MPD.

Making matters worse, the officers lacked the ability to communicate with the crowd, as their audiovisual communication tools were not sufficiently strong to communicate with the crowd as a whole. As increasingly angry protesters began to throw projectiles at the line of officers, MPD attempted to use OC spray (commonly known as "pepper spray") and CS gas ("tear gas") to disperse the crowd. This enraged an already angry crowd primed for a fight with police, subjecting community members and MPD officers alike to hours of violent clashes and property damage throughout the downtown area.

The violence between protesters and MPD on May 30 contributed to heightened tensions and anger towards MPD and other police officers in the city on May 31. Once again, a small number of instigators moving within a larger crowd targeted a group of police officers who were observing protest activities near the Capitol. The protesters outnumbered the police and became increasingly angry and violent, causing MPD to use chemical munitions in an effort to de-escalate the situation. While the officers were removed safely, some protesters remained and continued throwing projectiles at officers. This caused MPD to deploy additional canisters of CS gas, causing further escalation. As protesters began throwing projectiles at officers on the scene, a group of MPD SET officers in protective gear arrived, and for the second night in a row, officers and community faced each other, with MPD demanding the individuals leave and the individuals refusing to do so.

MPD's tactics were largely the same, and so was the result – protesters defying MPD orders to disperse, throwing projectiles at officers, backing away as MPD used OC Spray and CS Gas to clear the streets, and returning as the chemicals cleared. Dumpsters were lit on fire and pushed at officers, and more buildings were vandalized and looted.[4]

June 2 – June 25, 2020

Both MPD and community activists changed their tactics in subsequent days, with MPD working to minimize its presence and many activists within the community working to calm their constituencies and avoid violence in the streets. MPD began to move away from the "fixed line" tactics it had used on May 30 and 31, focusing instead on "mobile SET" units that could identify and rapidly engage with the small number of instigators who were responsible for initiating the violence, in the hopes of preventing their escalation to widespread violence.

For most of June, these activities brought relative calm – protests continued, but uses of police force and acts of community violence decreased. That changed on June 23, when a well-known protester named Devonere Johnson was arrested outside a Capitol Square restaurant. Mr. Johnson walked into the restaurant with a megaphone and a bat and causing a substantial disturbance. Video of his arrest, showing five or more MPD officers struggling to handcuff him while he yelled "I can't breathe," "Black Lives Matter" and other charged expressions, were widely viewed on social media and led to immediate calls for protest and demonstrations to free him from jail.

Protesters blocked the City-County Building (CCB), preventing people from entering and exiting the building, and refused to negotiate with MPD requests

4 Property damage and looting was occurring in many areas of the City simultaneously on this night, including shopping areas miles to the East and West of the downtown area. See, e.g., https://wkow.com/2020/05/31/75-business-damaged-on-state-street-during-protests-1-officer-hurt/. The SER focused exclusively on events downtown, but it should be acknowledged that MPD and officers in the Command Post did not have this luxury and were forced to attempt to respond to all instances of unrest.

that the building be opened for the safety of the building occupants. The protesters moved from the CCB to the Capitol. MPD and Capitol Police had previously decided that they would minimize the police presence at the Capitol, and would engage with protesters only as needed to prevent damage or a break-in to the Capitol building itself. Protesters seized upon the moment to pull down two statues on the Capitol grounds that were viewed as "fake symbols" of Madison's progressive values.

Emboldened by these acts, some protesters returned to the CCB. While protesters gathered in front of the building, a security camera was disabled on one side of the building. This limited the ability of the Command Post (CP) to maintain a complete view of the building's perimeter, and allowed an instigator to break a second-floor window and throw an incendiary device into the CCB, starting a fire inside the occupied building.

While quickly extinguished, this fire moved the acts of the protest beyond isolated property damage and jeopardized the lives of people in the CCB. It also changed the nature of the protests for MPD, who once again turned to SET officers in protective gear. The officers' arrival caused the crowd to relocate again to the Capitol Square, where another standoff ensued. In this instance, however, police tried a different approach and despite the fixed line, protective gear, helmets, and gas masks, a different result was obtained. The lead MPD officer on the scene removed his gas masks and carefully approached the protesters, explaining MPD's willingness to de-escalate and offering to depart the scene if protesters would do the same. The protesters agreed, and a larger crisis was avoided.

August 23 – 25, 2021

The months of July and August saw protests on a virtually daily bases, including protests that were conducted at the homes of elected officials and others. For the most part, MPD supported these protests as political speech and allowed them to continue, rerouting traffic and ensuring that no one was injured by the protests, including the protesters themselves. Aware of the potential for more violence, however, MPD continued to reach out to community leaders and searching for new methods and tools that could be used in future protests to help keep the peace and protect the people of Madison.

Those tools were needed in late August, as yet another controversial police shooting of a young Black man – this time the shooting of Jacob Blake on August 23, 2020 by an officer in nearby Kenosha, WI – gave new energy to protesters once again. Here the new tactics of both MPD and protesters and instigators were on display. MPD used CCTV cameras in the downtown area and mobile SET officers to follow demonstrators from a distance, interceding only if the demonstrators began to destroy property or threaten individuals. In one instance, a group of mounted officers supported by a squad of MPD SET officers on foot interrupted a small number of instigators breaking into Badger Liquors on State Street. The officers disrupted the looting, avoided using CS gas, and departed the scene – and while Badger Liquors did sustain property damage, a larger altercation between MPD and a large crowd of otherwise peaceful protesters was avoided.

The protesters continued around the Capitol and marched out East Washington Ave. unimpeded by MPD. However, when three instigators broke from the group and attempted to start a fire in the lobby of the Wisconsin Manufacturers' building, and then ran across the street and attempted to start a fire in Chalmers Jewelers – a building with residential apartments on upper floors – MPD arrived within minutes and was able to prevent further damage and move the crowd back towards the Capitol. Once again, some damage was sustained, but a larger, more prolonged violent engagement was avoided, and the lack of significant violent engagement with MPD created emotional space that allowed the anger of the community to gradually dissipate.

On August 25, more protests were held. For the first time, however, the outreach that MPD had made in the community in the previous weeks resulted in a group of community members interspersed throughout the crowd who were working to keep the crowd peaceful and who had the ability to communicate directly with the MPD command post. These "community dialogue representatives" helped to defuse altercations among protesters and acts of agitation or violence by individuals in the crowd. They had MPD support, but did not require MPD's presence in the crowd. As a result, while property damage did occur at the County Court House and in the University Avenue area, the presence of these community leaders and their coordination with MPD appears to have reduced its incidence, scope and duration.

The Use of Sentinel Event Review (SER)

The SER sought to learn from these undesired events and create recommendations for MPD that would improve its response to future protests. SER is a tool for looking backwards to look forwards. Unlike other forms of event review, which review an event to determine which parties are to blame for the undesirable outcome and how they should be punished ("backward-looking accountability"), SER looks backwards to understand why the event occurred and what could be done differently to improve the future performance of the organization ("forward-looking accountability"), so a more desirable outcome occurs in the future. While accountability is always an important response to human error or misconduct, the SER process is not designed to find individuals to hold accountable. Rather, its focus is on a non-blaming inquiry to learn from failure so that systems and institutions can be reformed to minimize the risks of such errors in the future. While greater accountability for individuals may be one outcome of the process, the non-blaming focus facilitates greater honesty and deeper learning about systemic weaknesses. In this instance, MPD's goal is to learn how to improve its response to large-scale protests, particularly when the police themselves are the focus of the protest, so that peaceful protesters can be supported in the exercise of their First Amendment freedoms while instigators or other individuals are prevented from committing violent or destructive acts that could endanger themselves, other protesters, bystanders, or MPD officers.

It is important to note that many of the contributing factors to these Critical Incidents come from protesters and instigators (i.e., individuals deliberately seeking to foment unrest or to cause violence or property damage). The Stakeholder Group does not condone these behaviors – but neither is it within the Group's ability to prevent others from engaging in such behaviors in the future. It is the nature of the task that MPD has agreed to accept that those in the community expect MPD to prevent the actions of instigators while facilitating the actions of peaceful protesters, even as those protesters engage in acts of civil disobedience. While this task is challenging, it nonetheless remains the task.

The Stakeholder Group looked at the protests both as a whole and as a series of connected Critical Incidents. It generated 69 recommendations that could work alone but would be even more effective in combination to reduce the likelihood that protests escalate into violence or property damage.

Important themes that emerged from the review and that are seen in the recommendations include:

1. **MPD should emphasize a "less is more" approach to protest events, particularly when police themselves are the focus of the protest.**

The protests that occurred after the murder of George Floyd were focused on decades of continuing illegitimate police behavior. In that setting, the mere presence of MPD officers exacerbated tension and contributed to the escalation of protests into violence. While there may be a tradeoff between MPD's presence and its ability to prevent violence or property damage, a reduced physical presence coupled with a targeted and rapid response to activity by instigators can isolate and prevent violent activity while minimizing the escalation of emotion caused by a physical police presence when police are the focus on the protest. Techniques such as the mobile SET squads and the presence of Community Dialogue Representatives that allow MPD to maintain public safety while minimizing its physical presence are important to keeping the peace during periods of heightened anti-police sentiment.

2. MPD must communicate more effectively with community before, during and after protest events.

In order to prevent future protests from escalating into violence, MPD must improve its communication with the community in a variety of ways.

a. MPD should work constantly and diligently during periods of time when no protests are occurring to build bridges to the community.

While MPD has always sought to communicate effectively with the community, it was unprepared for the scope and emotion of the May 30 protests, in large part because of a lack of communication between MPD and community activists. In part this was a function of a larger gap between community and MPD, as many community organizers refuse to engage with MPD. Communication gaps continued throughout the summer of 2020 and persist today.

Building trust and effective lines of communication between MPD and various parts of the community cannot be done immediately prior to a protest. Rather, those lines of communication must exist before the protests are planned. Stakeholders strongly felt that in order for MPD to be prepared to support the next protests in Madison, MPD must rededicate itself to expanded community engagement and community policing initiatives, and in particular to connecting with and rebuilding trust with those members of the greater Madison community who are the least willing to speak with MPD today. Sincerity, patience and persistence will be needed to ensure that MPD understands the goals of future protesters and can facilitate those goals. Stakeholders suggested that MPD look to newer community organizations designed to promote MPD transparency and accountability, such as the Civilian Oversight Board, to assist with this work.

b. MPD should regularly educate the community about its strategy and tactics for supporting protests.

By the end of the summer, MPD was operating between two polarized viewpoints, each of which had vocal adherents in Madison. In simplified form, one side viewed MPD's tactics as unacceptable uses of force against community members protesting against a corrupt and racist system. The other viewed MPD's tactics as unacceptable coddling of riotous lawbreakers and anarchists, all of whom should have been arrested and charged with crimes.

One result of the combined law enforcement/community member makeup of the Stakeholder Group was an increased awareness that MPD's tactics for facilitating protests (a) are all designed with public safety as their first goal, and (b) prioritize preventing injury to individuals before preventing damage to property. The Stakeholder Group supported these priorities and believed that they strike the right balance between supporting First Amendment freedoms and protecting the community.

MPD would be well served to provide increased education before, during and after protests to all parts of the community about the practical implications of these policies. They help to explain why mass arrests are rarely either practically feasible or tactically desirable, and why MPD and the Capitol Police elected not to physically intervene in the crowd toppling statues on the Capitol grounds. They also help community organizers keep the peace within their protests by agreeing in advance with participants on conduct that will facilitate the messages of the protest without clouding those messages in violence or MPD interactions. And they will help protesters understand potentially unknown risks in some of their actions – for example, instigators who damage properties on State St. may think that they are only hurting businesses that are insured – but as MPD and the Madison Fire Department pointed out, there are community members who live in apartments above those businesses, and damage to those buildings may put those innocent community members in danger.

3. MPD should improve its ability to engage with community leaders before individual protests to facilitate protest objectives with minimal MPD engagement, while prioritizing public safety for protesters and others.

A measure of success in the community and trust-building described above will be the ability of MPD – directly or indirectly – to engage with protest organizers and establish safety guidelines that will allow the protesters to achieve their goals with minimal MPD engagement, limited only by the requirement that the community – including protesters – be protected from harm.

As noted above, the mere presence of police near the crowd can be a focal point for escalation from anger to violence at protests where policing is the focus. On the other hand, the absence of a police presence gives room to instigators[5] or others in the crowd to act in ways that pose a significant threat to public safety (e.g., throwing incendiary devices into buildings). The difficulty of striking the right balance, which may vary from protest to protest, and even from moment to moment within a protest, must be acknowledged. In addition, the Stakeholder Group heard several instances of violence committed by protesters against other protesters – something that is difficult for MPD to address in situations where it is outside the crowd. Improved communication with protesters in advance to ensure that these topics are discussed and planned for, perhaps with the Community Dialogue Representatives discussed elsewhere in this report or in other ways, will allow MPD to engage less with the crowd while ensuring the safety of all.

4. MPD should provide additional crowd control training to all MPD officers, and Incident Command training to all senior MPD officers.

While it is difficult to quantify, there is little doubt that one of the contributing factors to the escalation of protests into police uses of force is the toll that multiple days of protests took on MPD officers. While all officers receive basic crowd control training during their time in the police academy, crowd events have typically been facilitated by MPD's SET team, a group of officers who volunteer for extra training above and beyond their regular duties. Several weaknesses in this structure were revealed last summer. SET staffing was not sufficient to engage productively with the crowd that gathered on May 30. Non-SET officers who had not refreshed their crowd control training were pressed into continuous service monitoring crowds who were furious at the presence of police and acted accordingly. Moreover, as protests extended for days, weeks and months on end, MPD officers were placed on lengthy periods of 12-hour shifts at protests in which they were subjected to anger, criticism, and insults.

It is important that MPD work to minimize the negative impact of protests on officers. Requiring every officer to receive more regular crowd control training will expand MPD's abilities to facilitate large protests and will expand the pool of potential officers who can assist as protests continue for multiple days.[6]

In addition, the Stakeholder Group recommends that every officer at the rank of Sergeant or above should receive Incident Command training, to ensure that officers are trained in the specific skills of leading SET officers during a protest, including specifically the communications skills, logistics skills, and negotiation skills that may confront officers on the ground during a protest.

5 Throughout this Report, the word "instigator" is used to describe a person who is bringing about or initiating acts of violence against individuals or property during a protest, or actively and deliberately helping others to do so.

6 It was noted by MPD that expanded training would have a cost, and that MPD's budget is part of an ongoing community conversation. The Stakeholder Group felt that it lacked the expertise to know what its recommendations might cost, and lacked the ability to weigh those costs against other uses of City, County, State or Federal funds. Its recommendations are designed to help change MPD practices in ways that will promote peaceful protests, and debates about the costs of implementation can be taken up at a later date.

5. **MPD should work with community leaders to create Community Dialogue Representatives (CDR) who can improve communication on behalf of protesters while protests are occurring.**

One challenge faced by MPD throughout the summer was a lack of information about protesters as protests were occurring. The city's CCTV cameras lack audio, and officers stayed back, away from the protests to avoid becoming focal points for escalation. As a result, MPD lacked necessary context to understand when it might be necessary to intercede, and when the crowd could self-regulate and ensure continued calm.

Other jurisdictions in the U.S. and internationally have created "dialogue officers" to address this challenge. The officers have specific training and are part of the crowd. They have a direct line to the police command post and can express the goals of the protesters as they may change during a protest, enabling MPD to respond in real time and articulate potential public safety concerns. They can also explain the crowd's mood to MPD, and can help allay concerns that might otherwise cause a large police engagement with protesters that may be an unnecessary escalation.

MPD has some familiarity with this concept, and has had officers walking with protesters in the past. The Capitol Police also have embraced this concept with sworn officers. Given the changing dynamics and hostility to police last summer, however, using dialogue officers who are part of the police may be untenable, and the Stakeholder Group suggests considering community-based Dialogue Representatives as an alternative.

6. **MPD should focus on proportional reactions to intercede against instigators of violence, and where it can be done without increasing the risk of harm to individuals, against instigators of property damage. In crowd settings, MPD should avoid using CS gas or other methods of group dispersal whenever possible, using them only when MPD is unable to safely de-escalate a situation through targeted arrests or interventions and the use of such materials is necessary to prevent imminent injury to individuals.**

In virtually every Critical Incident reviewed by the Stakeholder Group, the actual acts of violence against people or property were caused by a small number of instigators within the crowd. These acts of comparatively few people had substantial "ripple effects" on the escalation of protests, particularly in the early days of the protests, as MPD's uses of force impacted the entire crowd, and not just violent instigators. This increased the anger and outrage of the entire group and led to increased uses of CS gas and OC spray, placing both protesters and MPD officers in greater danger and causing greater damage to public and private property. By targeting the individuals causing the most damage, MPD can protect other protesters and its own officers, minimize the use of chemical munitions and react more effectively to the individuals who were causing the damage, while reducing the outrage of protesters who understand the rationale for MPD's use of force.

7. **MPD should continue to refine its tactics for responding to protest events, including emphasizing mobility, proportional reaction focused on instigators only, and real-time, plain language communication with observers explaining the public safety rationale that is causing MPD's actions.**

Over the summer, MPD moved away from "fixed line" dispersal tactics – which contributed to the significant negative outcomes throughout the first weekend of protests – and towards mobile SET units that could respond rapidly to intercede with small groups of people who were performing or instigating acts of violence or property damage. These tactics yielded improved (though not perfect) results over the course of the summer, reducing instances where CS gas was deemed necessary and improving response time to looting, attempted arson and other dangerous activities.

One of the potential risks of using the mobile SET units is that officers will often wait to conduct arrests until the individual in question has left the main part of the protest. Thus, the arrest may occur a considerable amount of time after the events that caused the arrest, and the instigator who is being arrested may be surrounded by people who are unaware of his past actions. In a world with cell phones, videos are taken and posted online, with community voiceovers that express outrage at the police appearing out of nowhere and engaging in a substantial use of force. It is essential that MPD officers have the ability to communicate clearly to observers the rationale behind mobile SET actions so that observers in the crowd hear a clear public safety rationale that justifies MPD's actions.

8. **MPD should track uses of force carefully and review them promptly. Immediately after protests are over, MPD should engage in internal reviews with participating officers to continually reinforce, improve and refine its tactics. These processes and the outcomes they generate should be made public to rebuild trust and legitimacy with the community.**

MPD's commitment to quality improvement is evidenced by its voluntary participation in this SER. Still, MPD lacks some important processes and tools that would help it engage more officers, particularly more junior officers, in its quality improvement process while helping to rebuild trust and legitimacy with parts of the community that remain skeptical. MPD should improve its processes for the issuance and return of chemical and "less lethal" munitions, and ensure that thorough reports on any use of force are submitted immediately after those events. The MPD SET team should also prioritize tactical reviews of crowd events in which uses of force occur, and use those reviews not only to train officers, but to learn from officers about MPD tactics that may not be generating the intended outcomes.

9. To ensure transparency during crowd events and to permit appropriate reviews of MPD behavior, the City of Madison should consider requiring MPD officers to wear BWCs during crowd events.[7]

One substantial challenge of conducting the SER was the prohibition of body-worn cameras (BWC) for the vast majority of MPD officers. The Stakeholder Group is aware that the topic of BWC is one that has been discussed in Madison, and that BWC is disfavored by some for a variety of reasons. From the perspective of reviewers trying to understand the protests and be clear on how MPD actions may have affected tensions during specific events, BWC would be a very useful tool. They could provide additional detail on moment-to-moment interactions between police and protesters that escalated, and it would have allowed the Stakeholder Group to better evaluate MPD uses of force that occurred during the protests to verify community complaints about police behavior, and for educational purposes to reduce uses of force in the future. The Stakeholder Group is aware of privacy concerns related to the use of this technology, and is confident that appropriate guidelines could be put in place to address these concerns, as has been done elsewhere across the country, and as has been recommended by the City's Body Worn Camera Feasibility Review Committee.

At several moments during the SER, Stakeholder Group members reflected on the magnitude of the challenges that confront our communities with regard to structural racism and policing. In the face of such obstacles, a quality improvement initiative focused on improving the police response to crowd protest events can feel like moving a few grains of sand from one part of a beach to another part of the beach. On the other hand, the community and law enforcement members of the Stakeholder Group were able to come together in an area of mutual respect to discuss these emotional and important issues. They developed the ability to disagree – often sharply – on issues without damaging that respect or the ability to continue listening and learning from one another.

The recommendations generated in that atmosphere represent small changes that the Stakeholder Group feels can have great impact on the community, increasing the mutual understanding between the diverse views held throughout Madison and a Police Department committed to facilitating the expression of those views in ways that ensure the safety of all.

7 While some might think that MPD officers themselves do not wish to appear on video, every MPD officer asked by the Quattrone Center about BWC indicated a desire to have BWC technology, as something that would provide transparency and accuracy and promote officer behavior in line with MPD policies and procedures.

Table of Recommendations

Improving Communication

Rec No.	Contributing Factor Nos.	Critical Incident	Recommendation
Before Protests Occur			
1	2, 3, 6	All	MPD should work consistently and proactively to increase trust between the Department and the community regarding MPD's commitment to supporting protests, and in particular protests against police behavior. This work should be done in tandem with the Civilian Oversight Board (COB) and others who can assist in improving relationships with other community groups and activists who do not currently communicate with MPD. MPD should regularly engage with community activists and representatives and provide clear expectations on what acts taken by protesters might generate a response from MPD officers. MPD should provide metrics for success in improving these relationships, and this information should be available to the public online and through regular and social media.
2	2, 6, 7	All	MPD should provide written materials (available online and on social media) and regular education sessions for the community, including media and journalists, that explain when and how MPD officers will intervene with protesters. Such materials should provide examples of public safety risks that would cause MPD to intervene in demonstrations, and how MPD would be likely to intervene. MPD should consider whether these materials and sessions could be provided in conjunction with one or more community partners (e.g., ACLU, Lawyers Guild, etc.)
3	2, 3, 6, 7	All	In advance of demonstrations that are anticipated to need a police response, and especially where police or policing are expected to be the focus of a protest, MPD should continue the practice of generating an event plan in coordination with protest organizers. MPD should be prepared to explain to protesters before and during the event specific safety concerns that MPD has and how MPD plans to intervene if safety becomes an issue. MPD's crowd management principles should be posted on social media.
11	14, 15	Showdown with Protesters at CCB, May 30	MPD should issue precise and thorough directives to officers about "no parking" zones for MPD vehicles near CCB or other areas that may be targeted during a protest. This should be part of pre-event planning, event briefings, and situational awareness updates provided during events. Additionally, this should be a training topic when providing all officers with crowd control training.

39	68 – 73	Arrest of Man Dancing on Car	During community engagements prior to and after protests, MPD should explain the rationale behind its policies and practices involving uses of force at crowd events. For example, MPD uses multiple officers to overwhelm a target for arrest so that less physical force is actually exerted by MPD. This safety rationale should be understood by community, as it often appears that MPD is "ganging up" on a single community member. Video reviews and community discussions of videos from these protests may be useful as dialogue and education tools for MPD and community alike.
46	81, 83	Mobile Squad Arrest on State St.	MPD should publish and publicize its procedures for handcuffing, and officers should avoid placing their knees on the head, neck or C-spine of individuals they are stabilizing on the ground.
50	84, 85	Arrest of Devonere Johnson	As part of its community policing and community engagement initiatives, MPD should provide education regarding acts that it will permit as protected political speech in a protest, and acts that it will consider to harm or threaten to harm others and therefore trigger a police intervention or arrest. Video reviews and community discussions of videos from these protests may be useful as dialogue and education tools.
51		Protesters Blocking CCB	MPD should conduct scenario planning for protests that are designed to disable predictable targets such as government buildings, police precincts, or other locations that MPD reasonably believes might be targeted by protesters for crowd events.
52	93	Protesters Blocking CCB	During periods when protests are not occurring, MPD and community organizations should engage in community dialogues that explain the safety concerns related to protest activity that targets various types of buildings, including but not limited to government buildings, commercial buildings, residences, and mixed use commercial/residential buildings, and the obligations of MPD and the Madison Fire Department (MFD) to take various actions to protect each of those types of buildings to ensure that protest activity does not create dangers to others.
60		Arson at CCB	MPD should ensure that it has sufficient designated Communications Officers present at protests who are authorized to communicate protester requests to the CP and communicate MPD public safety requirements to the protesters. Selection of these officers should include preferences for multilingual communication skills. These officers should receive specific training on how to communicate with protesters to facilitate protester objectives while underscoring public safety needs.

62	115, 116	Looting at Badger Liquors	The City of Madison should educate community members, including business owners on how to protect themselves and their properties during civil unrest as part of its community engagement efforts.
While Protests Are Occurring			
27	45, 46	MPD Patrol Vehicle Set on Fire	When "officer down" calls are issued, they should provide as much context as possible regarding the nature of the situation. Any follow-up communications should provide additional context promptly and alert officers when the needed assistance is being provided, and whether there is additional risk to other officers in the vicinity.
30		Altercation on Pinckney St., Dispersal on Wisconsin Ave. May 31	For crowd events that will be facilitated by MPD in partnership with other agencies or organizations, MPD should purchase a sufficient number of spare radios to ensure that all participating agencies can communicate with each other and the Command Post via encrypted methods.
32	59	Altercation on Pinckney St., Dispersal on Wisconsin Ave. May 31	MPD should obtain voice amplification equipment for all SET members who wear gas masks, to allow them to speak clearly with each other and with community members who are within voice range.
33		Altercation on Pinckney St., Dispersal on Wisconsin Ave. May 31	MPD should develop a SOP for the issuance of unlawful assembly warnings and train officers in its application. Warnings and calls to disperse should be in everyday language easily understood by the general public, and should emphasize a clear and specific public safety rationale for the limitations being placed on the assembly. MPD should consider accessibility issues (e.g., non-English speakers) to optimize communication for all.
49	89 – 91	Arrest of Devonere Johnson	MPD officers should recognize that a sole justification of "resisting arrest" to explain a police use of force may lack legitimacy in the eyes of community observers, and explain more specifically what acts an arrestee committed that caused MPD to arrest him.
53	95	Protesters Blocking CCB	MPD should identify and train a group of Community Dialogue Representatives, individuals outside MPD who can be briefed on protester and MPD expectations for the protest and who can identify the changing needs of the protesters to MPD in ways that will maximize the ability of MPD to facilitate peaceful protests and prioritize life over property while striving to protect both. These individuals should have direct access to mobile SET and medical units who are on call and can respond immediately in the event of an altercation within the crowd.

After Protests Have Occurred			
37		Altercation on Pinckney St., Dispersal on Wisconsin Ave. May 31	MPD leadership and supervisors should provide clear briefings to MPD officers prior to crowd events, including MPD's rationale for crowd facilitation tactics at the event, and debrief after events, allowing officers to provide feedback on MPD tactics. The debriefings should be held as soon after the events as is practically possible.
66	120	Looting at Badger Liquors	Incident commanders and officers involved in crowd events should conduct after-event reviews promptly after crowd events, in which officers describe challenges to the event and incident commanders explain their strategic and tactical rationales, leading to opportunities for mutual learning and modification of policies, procedures and actions.

Improving Tactics and Training

Rec No.	Contributing Factor Nos.	Critical Incident	Recommendation
Before Protests Occur			
4	6, 7	All	MPD should re-examine current community policing and community engagement models throughout the U.S. and internationally for models and techniques that can help it better understand and communicate with groups that are marginalized and/or not currently supportive of police departments.
5	2, 3, 6, 7	All	MPD should collaborate with community representatives to identify and train a group of Community Dialogue Representatives, individuals outside MPD who can be briefed on protester and MPD expectations for the protest and who can identify the changing needs of the protesters to MPD in ways that will maximize the ability of MPD to facilitate peaceful protests and prioritize life over property while striving to protect both.
7	7	All	Regularly, and at least every four (4) years, MPD should provide continuing and ongoing training to all of its officers on the latest crowd control techniques for event facilitation.
15	19, 22, 26, 29, 34	Goodman's Jewelers and State Street Looting	MPD should use the events of May 30 as a training exercise, modeling • The number of officers, their location and all necessary equipment to allow anti-police protests to remain peaceful • Appropriate audio/visual equipment to provide effective communication between MPD and protesters • Radio or other communication technology that would allow officers from multiple departments in protective gear to communicate effectively with the Command Post efficiently.
19		Goodman's Jewelers and State Street Looting	All MPD officers and appropriate City of Madison staff should be trained on an emergency preparedness infrastructure that would allow for routinized and rapid scaling of the Incident Command System (ICS) and the National Incident Management System for prolonged and/or large-scale emergencies. MPD should require that all command personnel placed are placed in actual roles (Command, Operations, Planning, Logistics, Administration) during protests to gain experience.

45	82	Mobile Squad Arrest on State St.	MPD should be aware that a suspicion of racial bias will be part of the public response in any arrest of a non-White suspect, and should be ready to proactively address that concern when explaining the Department's actions.
63	115, 116	Looting at Badger Liquors	The City of Madison should coordinate safety sweeps of areas where protests are expected. The sweeps would seek to remove any moveable property, especially trash receptacles and construction materials which could be used by protesters to start fires.
While Protests Are Occurring			
6	7	All	Particularly when police are the focus of a protest event, MPD and the City of Madison should continue to prioritize event facilitation and public safety, as opposed to crowd control or law enforcement. MPD should improve its ability to partner with protesters to allow the community (community members, activists, ACLU, human relations personnel, etc.) to self-manage protests while MPD is present, unless and until a legitimate public safety rationale requires MPD intervention. Less visible or intrusive tactics are more productive with protesters at such events.
8	11	Showdown with Protesters at CCB, May 30	In instances where police are the focus of protest activity, MPD and other departments facilitating protests in Madison should instruct officers to depart from protests via routes likely to avoid remaining protest activity by several blocks. These routes should be established in pre-event planning, event briefings, and situational awareness updates provided during and after events.
10	14, 15	Showdown with Protesters at CCB, May 30	In advance of protests and where possible during protests, MPD and the City of Madison should conduct periodic sweeps of locations likely to be targets of protesters to reduce the chances of property damage by removing moveable property (e.g., law enforcement vehicles and equipment).
12	18, 19	Goodman's Jewelers and State Street Looting	MPD should stage SET officers in protective gear in locations near where crowd escalations or confrontations are anticipated to allow for faster response when significant injury to individuals is imminent.
13	18, 19	Goodman's Jewelers and State Street Looting	MPD should establish a system for locating protective gear that allows officers to transition from regular uniforms efficiently and arrive at protest sites rapidly.

14	25	Goodman's Jewelers and State Street Looting	MPD should obtain vehicles suitable to transport the entire contingent of SET officers in full equipment at the same time, so that response time and officer stamina are optimized at crowd events.
16	24, 25	Goodman's Jewelers and State Street Looting	MPD should continue to develop, equip and train mobile units on bicycles or in cars that can identify and interrupt vandals or others committing criminal acts during protests while minimizing interactions or interference that is undesired by protesters.
17	26	Goodman's Jewelers and State Street Looting	MPD should procure and use suitable audio equipment to ensure that declarations of unlawful assembly can be heard by crowds as large as the ones that were present on May 30 and 31, and that is rapidly transportable to unexpected locations.
18	26	Goodman's Jewelers and State Street Looting	MPD's declaration of an unlawful assembly should be delivered in a manner that is audible to everyone within the assembly. It should state the public safety rationale for the dispersal and using words that are clear to laypeople. Announcements should also provide a safe route for dispersal that the crowd can take. These requirements should be included in written Standard Operating Procedures (SOPs) for MPD.
22	39	MPD Patrol Vehicle Set on Fire	MPD should state in its Standard Operating Procedures (SOPs) for crowd events that officers should not leave vehicles unattended in areas of known civil unrest.
28	49, 50, 51	MPD Patrol Car Set on Fire	MPD and MFD should develop protocols for responding to fires during civil unrest, including specifically gaining rapid access to fires set within or near angry crowds, and should train together to practice those protocols.
29	49	MPD Patrol Car Set on Fire	MPD should create mobile units capable of identifying instigators and vandalizers in a crowd, separating them from other protesters, and removing them from the scene. These units should also be able to locate and access any MPD officer or vehicle at any time to provide rapid assistance.
34	57, 59, 62, 63	Altercation on Pinckney St., Dispersal on Wisconsin Ave. May 31	MPD SET should increase its usage of mobile field force tactics, including but not limited to bicycle squads, to enable officers to rapidly and efficiently engage with individuals whose acts create a physical danger to others in ways that minimize their impact on peaceful protesters.

35	59, 62	Altercation on Pinckney St., Dispersal on Wisconsin Ave. May 31	MPD SET should minimize the use of fixed formations of officers as a crowd dispersal tactic, using them only when useful to stabilize an incident and recognizing that when police are the focus of the protest their presence may escalate, rather than stabilize a situation.
36	55	Altercation on Pinckney St., Dispersal on Wisconsin Ave. May 31	Particularly in instances where the legitimacy of a governmental agency is the subject of a protest, the City of Madison should consider whether the declaration of a curfew serves the intended purpose of reducing participation in protests or will increase participation (and unlawful behavior) in a show of defiance. The City of Madison should reserve the imposition of curfews for those instances where a curfew is truly needed to ensure public safety, where it will not inflame tensions further, where its objectives are clear, and where police have the capacity to enforce it effectively.
38	70	Arrest of Man Dancing on Car	The definition of "active resistance" used in the Wisconsin state training and standards curriculum is very broad, and could be interpreted to justify uses of force against individuals whose actions are defiant and disrespectful of police but not physically threatening. In such situations, MPD should train its officers to consider the difference between what may be desirable and what may be justifiable in considering what level of force or control is proportional to resolve a situation that is creating a danger for others.
40	71-73	Arrest of Man Dancing on Car	MPD should not deploy OC Spray against passive resisters or people who are merely observing MPD activities.
42	76	Mobile Squad Arrest on State St.	MPD should continue the practice of using mobile squads to interrupt activity by instigators within a protest or crowd event that could cause physical harm or damage to public or private property, using techniques that are minimally invasive to peaceful protesters under the circumstances.
43	76	Mobile Squad Arrest on State St.	When MPD mobile units are observed making arrests, MPD should immediately be able to articulate to observers the specific activities that created the need for the arrest.
44	76, 82	Mobile Squad Arrest on State St.	MPD mobile units must act in accordance with MPD"s Equal Protection policy, ensuring that their acts are not "based solely upon an individual's membership, association, identification or protected class" as they work to support crowd events and ensure neutrality in their assessments of probable cause and their selection of whom to arrest.
48	89 – 91	Arrest of Devonere Johnson	When responding to the scene of an arrest, MPD officers should be aware that they are likely to be filmed, and after a scene is stabilized should be prepared to clearly articulate the public safety rationale for police actions, to clarify events and reduce tensions.

54	98, 99	Destruction of Statues, Attack on State Senator	When determining the appropriate intervention or use of force during a crowd event, MPD should prioritize life safety, protection of property, and constitutional rights with an emphasis on life safety.
61		Arson at CCB	When crowds are protesting, and particularly when there is reason to believe that instigators will attempt to incite violence, MPD SET should be nearby and ready to deploy at levels that can provide a substantial police presence in the face of vandalism or looting.
65	119	Looting at Badger Liquors	The Stakeholders recognize the intrusiveness and undesirability of CS gas and other similar chemical munitions. At the same time, the Stakeholders understand the potential need for MPD to disperse a crowd in ways that avoid the use of more dangerous or potentially lethal weapons. Therefore, the Stakeholders recommend that MPD should deploy CS gas as a crowd dispersal tactic cautiously, using it only when people are at risk of imminent physical harm or to prevent substantial property damage.
68	130 – 135	De-escalation at State Capitol, August 25, 2020	To the degree that it can be done safely, it is preferred that crowd participants self-regulate and manage their own events, particularly when policing is the subject of the protests.
69	130 – 135	De-escalation at State Capitol, August 25, 2020	MPD should enhance its collaboration with community leaders to develop a group of individuals who will facilitate productive public safety interactions and communications at demonstrations where the police are the subjects of the protest. Potential structures might include: a. Collaboration with Madison's Civilian Oversight Board to ensure a community-driven group to achieve this objective; b. Ensuring that the facilitators are serving as apolitical protectors of the community, with a formal role that need not be a part of MPD; c. Ensuring that the facilitators are chosen through a joint MPD and community-led process that prioritizes neutrality, maturity, balance, serenity, credibility, and time and relationships with community and law enforcement; and/or d. Leveraging existing anti-violence organizations in Madison, including (but not limited to) the Community Safety Worker pilot program being introduced by Focus Interruption; and/or e. Other approaches that are being utilized in other communities across the U.S. or internationally, such as Philadelphia's Civil Response Unit, the "protest marshal" approach being used in Phoenix, the Sweden and UK Dialogue Officer model, or other approaches. A significant effort must be made to include grassroots leaders as well as those attached to large organizations. Additionally, young people should be included in these processes in some capacity.

After Protests Have Occurred			
20		Goodman's Jewelers and State Street Looting	MPD should track all distributions of chemical or "less lethal" munitions to officers and audit the use or return of such munitions after field deployment.
21		Goodman's Jewelers and State Street Looting	After protest events where MPD officers employ crowd control strategies, MPD should require officers and commanders to meet with and debrief SET officers to review, understand, and learn from these events. These reviews should occur in addition to existing internal or external administrative and accountability reviews.
41		Arrest of Man Dancing on Car	All Use of Force statements submitted by MPD officers should be carefully reviewed by MPD supervisors and/or investigators, as required by MPD policy. When a use of force is reported that deviates from MPD policies or procedures, MPD should ensure appropriate accountability and corrective actions measures are taken.

Improving Equipment and Environments

Rec No.	Contributing Factor Nos.	Critical Incident	Recommendation
Before Protests Have Occurred			
9	14	Showdown with Protesters at CCB, May 30	To ensure transparency during crowd events and to permit appropriate reviews of MPD behavior, the City of Madison should consider requiring MPD officers to wear BWCs during crowd events.
26		MPD Patrol Vehicle Set on Fire	MPD should acquire GPS tracking technology that will enable all officers' locations to be known when it is activated.
55	104	Arson at CCB	The City of Madison should install additional CCTV cameras in and around the CCB and other City facilities (and police stations) to increase coverage and create redundancy. Care should be given to protecting these cameras from destruction by protesters or others.
56	108	Arson at CCB	Government buildings that are likely to be targets of protesters during periods of civil unrest should have a protective film added to their windows on the first three stories to reduce the potential breach of the building via windows.
57	109, 110	Arson at CCB	MPD should provide a standardized communication platform to all officers participating in a crowd event, whether or not they are MPD officers, and should brief all participants on how to access a shared, encrypted communication channel as necessary.
67	125, 126	Vandalism/ Arson at WMCB, Chalmer's Jewelers	MPD and the City of Madison should review the placement of CCTV cameras to ensure the ability of MPD to respond appropriately to acts of vandalism and arson throughout Madison.
While Protests Are Occurring			
23	41, 42	MPD Patrol Vehicle Set on Fire	During protests, the CP should have the ability to locate any officer or vehicle participating in protest response, including officers or vehicles from other departments.

24	37, 38	MPD Patrol Vehicle Set on Fire	MPD should ensure that experienced dispatchers are in the Command Post to ensure that the deployment of officers and vehicles during a protest takes the movements of protesters into account, and provides additional context to officers being deployed near crowd events.
25		MPD Patrol Vehicle Set on Fire	MPD should limit the presence of rifles at protests to instances and personnel needed to prevent mass shooting events. Other officers should not bring rifles to protests. If rifles are brought to protests as standard issue equipment in squad cars, they must be locked in their secure cabinets. Any rifle that cannot be secured in a locked cabinet should be left at a secure MPD location.
31	64	Altercation on Pinckney St., Dispersal on Wisconsin Ave. May 31	Madison Fire Department (MFD) should coordinate with City waste management organizations and residential buildings to empty dumpsters and remove flammable trash during the day in locations where civil protests are anticipated. MPD and local businesses in likely protest areas should coordinate to minimize the availability of dumpsters to be used as barriers or weapons in civil unrest, by securing them in place or other methods.
47	83	Mobile Squad Arrest on State St.	The City of Madison should reconsider whether the benefits of body-worn camera technology in allowing for the review of arrest techniques outweigh the privacy concerns of having community members on video.
58	109, 110	Arson at CCB	MPD should evaluate communication technologies to find a technology that is encrypted, works with officer cell phones across platforms, can be voice-operated and audible, and is usable in protective gear without interfering with officers' responses to people in need. If necessary, MPD should evaluate its protective gear to see if there is protective gear that offers both superior protection and superior ability to communicate in real time to others present without radios and in place of or using radios.
59	107	Arson at CCB	MPD should consider the use of technology that would permit remote verification of requests for MPD assistance when "false alarms" are a reasonable possibility. The technology would be used to determine whether reported protester or instigator activity is factually accurate and therefore to determine where to deploy SET resources efficiently.
64	117, 118	Looting at Badger Liquors	MPD mounted officers deployed to protest situations should be equipped with appropriate protective gear.

Methodology and Participants

This section sets forth the process established by MPD and the Quattrone Center to conduct a Sentinel Event Review ("SER") of the protests that occurred in Madison throughout the summer of 2020.

What is a Sentinel Event Review?

Sentinel Event Review (SER) is a process for quality improvement used in complex human systems. As the name suggests, it is a process for reviewing a Sentinel Event (SE), a serious and undesired outcome in the system.

In healthcare, for example, which uses SER as a regular part of quality improvement, a SE is an "event that . . . results in any of the following: death; permanent harm; severe temporary harm and intervention required to sustain life. . . . Such events are called 'sentinel' because they signal the need for immediate investigation and response."[8] In criminal justice, SEs "can include episodes that are within policy but disastrous in terms of community, whether or not everyone agrees that the event should be classified as an 'error' . . . In fact, anything that stakeholders can agree should not happen again could be considered a sentinel event."[9]

The purpose of a SER is to learn from the SE and make changes to the system to prevent it from occurring again in the future. To do this, reviewers work with the organizations that participated in the SE – and where possible, the specific individuals who participated in the SE – to understand how events came together in expected or unexpected ways that allowed the SE to occur. The reviewers seek to identify the various factors that contributed to the occurrence of the SE ("Contributing Factors"). Once the Contributing Factors have been identified, the reviewers seek to design recommendations for change that will prevent the Contributing Factors from happening again and therefore prevent a future SE.

SERs and root cause analysis have been used to improve safety for decades in manufacturing, aviation, healthcare, and elsewhere.[10] Increasingly, SER has been applied to the review of undesirable outcomes in the criminal justice system, including in policing. In 2018, the U.S. Department of Justice Bureau of Justice Assistance (BJA) provided funding to the Quattrone Center for the Fair Administration of Justice at the University of Pennsylvania Carey Law School (Quattrone Center) to conduct a series of SERs reviewing undesired outcomes in criminal justice in jurisdictions across the country.[11]

The Madison Police Department (MPD) voluntarily approached the Quattrone Center in August 2020 and asked whether SER could be used to review MPD's responses to the protests that had occurred in Madison throughout the summer of 2020. MPD defined the outcomes of those protests as "undesired outcomes" and therefore as "sentinel events" because:

- Protesters were unable to give full voice to their First Amendment rights through community protest and other exercises of political speech;
- Any individual – community member or police officer – was injured during the protests;
- Force was used against community members by MPD officers or officers of other departments acting under MPD's leadership; and/or
- Public or private property was damaged during the protests.

8 Sentinel Event Policy and Procedures, the Joint Commission, accessed July 25, 2021 at https://www.jointcommission.org/resources/patient-safety-topics/sentinel-event/sentinel-event-policy-and-procedures/.

9 Doyle, J. M. (2014). Learning from error in the criminal justice system: Sentinel event reviews. *Mending Justice: Sentinel Event Reviews* (NCJ 247141), 3-19, at 4. Retrieved from National Institute of Justice: https://www.ncjrs.gov/pdffiles1/nij/247141.pdf.

10 See, e.g., Doyle, J., "Precursors from Medicine and Aviation," https://www.ojp.gov/pdffiles1/nij/247141-precursors.pdf.

11 Additional information about BJA's Sentinel Events Initiative, and discussions and reviews of past SERs in criminal justice, can be found at https://bja.ojp.gov/program/sentinel-events-initiative/overview#:~:text=The%20Sentinel%20Events%20Initiative%20(SEI,goal%20of%20mitigating%20future%20risk.

Key Principles of Sentinel Event Review

SERs differ from other established processes for reviewing police behavior. Key distinct principles of SER include "forward looking accountability," a "non-blaming" focus, and an "all-stakeholders" approach.[12] Each of these is discussed in turn.

SER represents a different mechanism for reviewing an undesired outcome in criminal justice than other "after-event" reviews. Currently, many police departments engage in administrative reviews (i.e., Internal Affairs reviews) that evaluate whether individual officers participating in the event acted consistent with department policy and training, and whether those officers should be held accountable in some way for their actions. Other reviews seeking to impose appropriate accountability for the SE, as well as some sort of compensation for individuals who may have been injured in the SE, include a review of the SE for possible criminal charges by a local prosecutor, and civil litigation filed by individuals alleging injury. Other reviews may be performed by civilian review boards or other groups that act as external reviewers of police behavior to ensure objectivity and compliance with community values.

What these reviews all have in common is the application of "backwards-looking" accountability to the SE. In other words, each of these review processes looks backwards at the SE to see who should be held accountable and how any person injured by the SE can be compensated for the harm they suffered. These are essential parts of a responsible system.

SER adds to these quality initiatives by taking a "forward-looking" accountability approach. In SER, the goal is to help people and organizations learn from the SER and make responsible and specific changes to their policies, procedures, training, equipment, etc. so that the undesired outcome(s) do not happen again. In this case, MPD sought to learn from its experiences in responding to the protests in the summer of 2020 so that in the future, it can better satisfy its responsibility to facilitate protests, in particular protests that express dissatisfaction with policing in our communities, in ways that give full voice to those protests without resulting in uses of force, injury, or destruction of property.

Because the goal of the SER is to improve the system going forward, its focus is on helping good-faith participants in the system achieve their goals, rather than on assigning blame to participants in the SE for instances in which they may have contributed to the occurrence or the escalation of the event. Such blame and accountability can be appropriate identified using the other existing "backwards-looking" approaches. For this reason, SER has a "non-blaming" focus. It is important to note that a "non-blaming" focus does not mean that the SER will not identify moments where people have acted inappropriately or in ways that may warrant punishment or some other action. It simply means that other procedures will provide that accountability, while the SER's recommendations are focused on ensuring that the next protests in Madison are conducted differently, and in ways that will lead to the intended outcomes.

Finally, SER strives for an "all-stakeholders" approach to event review. Sentinel Events are rarely, if ever caused by a single Contributing Factor. "In an organizational accident, the correct answer to the question, "Who is responsible?" is almost invariably "Everyone involved, to one degree or another."[13] It is important to remember the "non-blaming" emphasis of SER here. For example, the protesters provided a significant Contributing Factor to the SE, in the sense that it would not be possible to have a Sentinel Event of violent protests if there were not the Contributing Factor of protests and protesters. The acts of protesters intermingled with, responding to, and flowing from the acts of MPD officers, the causes of the protests, the environment of Madison, the history of policing in Madison and the history of race in America – all of these and other factors came together in the summer of 2020 to cause the events of this review. Each of the participants in the protests contributed to their outcomes.

A review that seeks to change these outcomes in the future should understand the motivations, intentions and reasoning of the actors in the protests so that at crucial

12 See generally Doyle, J. M. (2014). Learning from error in the criminal justice system: Sentinel event reviews. *Mending Justice: Sentinel Event Reviews* (NCJ 247141), 3-19. Retrieved from National Institute of Justice: https://www.ncjrs.gov/pdffiles1/nij/247141.pdf.
13 Doyle, J. M. (2014). Learning from error in the criminal justice system: Sentinel event reviews. *Mending Justice: Sentinel Event Reviews* (NCJ

moments, different decisions can be made and escalating situations can be avoided. Because those decisions did not happen in a vacuum – protesters interacting with MPD caused reactions from officers that caused reactions from protesters, etc. – SER seeks to have representatives from all of the groups that participated in the SE. These groups are called "Stakeholders" and the goal of SER is to have as many of the participating Stakeholders around the table, so that each of their actions can be accurately understood, analyzed, and addressed by the SER's recommendations.

A list of the participating Stakeholders is set forth in Appendix A and the process by which those Stakeholders were selected is set forth below.

A Unique Process for the Madison Protest SER

Typically, SERs are conducted for individual, discreet Sentinel Events – a single officer-involved shooting, for example, or an individual death in state custody or a specific wrongful conviction.[14] The MPD responses to protests that occurred in Madison throughout the summer of 2020 presented a unique challenge to this type of review, with tens of thousands of interactions per day among hundreds of police officers and thousands of protesters across roughly 90 days, from the murder of George Floyd on May 25 through the end of August, 2020. In order to truly identify Contributing Factors that led to the protests escalating into riots, police uses of force, community uses of force, injuries and property damage, the reviewers would need to review both high-level trends and events and "street-level" incidents that particularly inflamed the protests and caused them to escalate into violence rather than de-escalating to peaceful protests.

The Quattrone Center began the process with a request to MPD to provide any and all documentation in its possession, in any format, that would assist in a comprehensive, data-driven understanding of the protests. In conjunction with MPD, the parties agreed to focus on three key time frames: the first weekend of protests, starting on May 30 and continuing through June 2; the day of June 23 into the early morning of June 24, when protests again escalated into violence after the highly publicized arrest of a community protester, and the dates of August 24 and 25, when protests again escalated to violence after the shooting of Jacob Blake in Kenosha, WI.

MPD responded by providing digital information in the form of emails, police reports, public and private videos, audio recordings, statements and other supporting document types. Ultimately, the SER analyzed more than 1,600 documents, more than 625 hours of video footage, and more than 30 hours of audio recordings. This data was supplemented by a review of information available on the Internet from various sources, and from publicly available social media profiles.

Categorizing, reviewing and analyzing this amount of data in a way that would allow the Stakeholder Group to analyze the events in question required a particularized skill set. To conduct this analysis, the Quattrone Center engaged the law firm of Morgan, Lewis & Bockius, and in particular its Litigation and eData practice groups. Morgan Lewis provided a dedicated team of 16 attorneys and 18 technologists; these professionals have experience in organizing and analyzing large data sets in various formats and types, and in conducting interviews and investigations using that material to provide insights into not just who acted when and where during the protests, but into why people acted the way they did. This knowledge was crucial to the discussions of the Stakeholder Group – in order for recommendations for change to be useful, they must be responsive to the causative factors that led to the undesirable outcomes.

Figure 1 on the next page provides a graphic description of the process used to analyze the data provided.

247141), 3-19, at 4. Retrieved from National Institute of Justice: https://www.ncjrs.gov/pdffiles1/nij/247141.pdf.
14 See, e.g., https://www.tucsonaz.gov/files/police/SERB/In_Custody_SERB_Final_Report_Sept_2020_Redacted.pdf.

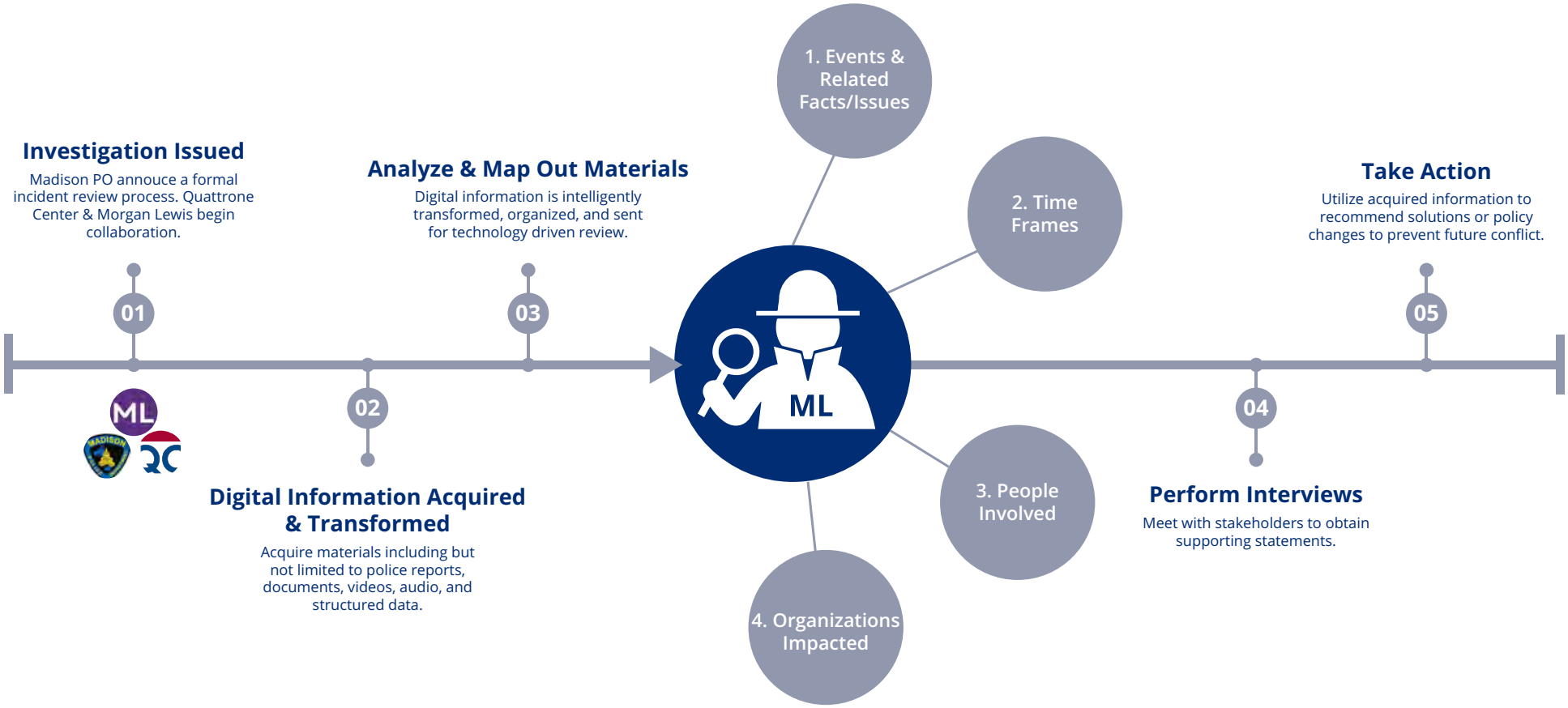
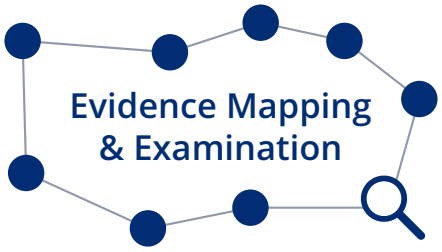


Figure 1. Process for Analysis of MPD and Publicly Available Information Regarding Protests in Madison, Summer of 2020

- Acquired relevant materials including police reports, documents, audio & video and publicly available information
  - Documents: 1,630 files
  - Video: 625+ hours
  - Audio: 57+ hours
  - Body Camera/Drone: 36+ hours
  - Public Survey Data: 183 responses
- Case materials were transformed into usable evidence and loaded into a dynamic document management system designed to seek out interconnections between data.



- Case materials were intelligently organized and examined by legal team members
- Key events, facts, issues, time frames, impacted organizations and people were mapped out and chronologies are developed

- More than 50 interviews were conducted with Madison PD personnel, expert consultants and civilians
- Key events & supporting materials evaluated, prioritized for further discussions

- Created the Madison Stakeholder Group, a diverse group of 17 individuals engaged in open dialogue related to 14 identified critical incidents
- 13 stakeholder presentations were held over six months
- These engagements allowed stakeholders to examine the who, what, when, where and WHY
- This was a non-disciplinary assessment of the contributing factors that lead to the civil unrest in Madison, WI in the summer of 2020

- The SER approach has applied an interdisciplinary, data-driven, "systems approach" to identifying and analyzing the most crucial triggers and events that lead to the multiple days of unrest
- The combined research, analysis and stakeholder feedback has tried to be independent and unbiased, engaging representatives from throughout the Madison community with representatives from governmental organizations that participated in the protests
- The discussions have resulted in 133 factors contributing to undesirable protest outcomes and 69 consensus recommendations for change designed to help prevent future conflicts through the analysis of institutional, cultural, and policy-level barriers

External Expertise

The Quattrone Center recruited three experts in policing to assist the Stakeholder Group, providing insight into how other police departments around the country or world might handle protests and responding to questions about "best practices" and potential recommendations. These experts were:

Nola Joyce

Nola Joyce is the former Deputy Commissioner and Chief Administrative Officer for the Philadelphia Police Department. She has previously been the Chief Administrative Officer for the Metropolitan Police Department in Washington, D.C. and the Deputy Director of Research and Development for the Chicago Police Department.

Ms. Joyce has served in a number of positions focused on improving the quality of policing. She was appointed to the National Academy of Science's panel on Modernizing the Nation's Criminal Statistics and was invited to testify in front of President Obama's Task Force on 21st Century Policing. She is a reviewer for grant submissions to the National Institute of Justice and a member of the Bureau of Justice Assistance's Police Forecasting Work Group. She has worked with the Office for the Security and Co-operation in Europe on gender issues in the security sector and providing support for the implementation of the UN Security Council Resolution (UNSCR 1325). In Philadelphia, Ms. Joyce helped manage and direct the change in policy, process, and procedures for Commissioner Charles H. Ramsey. She directed the department's support services, including training, personnel, technology, administration, policy, research and planning, analysis and mapping, grants, and strategic planning. She also guided the establishment of the Real Time Crime Center and the Delaware Valley Intelligence Center. With the Metropolitan Police Department in Washington, D.C. from 1998 to 2007, she guided the expansion of the community policing model, the alignment of the budget with strategic initiatives, and the implementation of significant changes in the department's organizational structure. She restructured the department's budget into a performance-based budget. In her six years as the Deputy Director of the Research and Development Division for the Chicago Police Department, Ms. Joyce helped develop and implement the Chicago Alternative Policing Strategy (CAPS). CAPS was one of the most studied community policing initiatives in the country and was a nationally recognized community policing model. Her career has also included serving as a faculty member of the Center for Homeland Defense and Security, Naval Postgraduate School, Monterey, California, and as a contractor for New Orleans, providing assessments and developing strategies for the police department, homeland security, emergency management services, human services, sheriff, district attorney, and courts.

Ms. Joyce has three master's degrees and is currently a doctoral degree candidate in criminal justice at Temple University. Her master's degrees are in Homeland Defense and Security from the Naval Postgraduate School, in Urban Affairs and Public Policy from Southern Illinois University, and in Sociology, with a specialization in research methodology and statistics, from Southern Illinois University.

Maureen McGough

Maureen currently serves as the Chief of Staff for the Policing Project at the New York University School of Law. She joined the Policing Project from the National Police Foundation, where she oversaw the non-profit's research, training, and technical assistance efforts as Director of National Programs. Prior to joining the NPF, Maureen spent a decade with the federal government in various roles with the US Department of Justice and US Department of State. She served as Senior Policy Advisor to the Director of the National Institute of Justice – the USDOJ's research, development and evaluation agency – where she led agency efforts to advance evidence-based policing, improve the representation of women in policing, and implement systems-level criminal justice reform initiatives. Additional federal experience includes serving as counsel on terrorism prevention to the Deputy Attorney General, Special Assistant U.S. Attorney for the District of Columbia, and coordinator for federal AIDS relief efforts through the US Embassy in Kigali, Rwanda. Maureen is a member of the FBI's Law Enforcement Education and Training Council, an executive board member for the American Society of Evidence-Based Policing, and is a recent public leadership executive fellow with the Brookings Institution.

Maureen is an attorney and earned her J.D. from the George Washington University Law School.

William Murphy

Bill retired from the Los Angeles Police Department (LAPD) as a Deputy Chief in 2017 after thirty (30) years of service, holding a wide variety of roles including Commanding Officer of Police Sciences and Training Bureau; Assistant-Chair-Use of Force Review Board (UOFRB), in which he adjudicated Categorical Use of Force (UOF) incidents; Assistant Commanding Officer of Personnel and Training Bureau. In charge of all training and personnel; Area Captain; Commanding Officer of the Police Academy; and other roles from Patrol Captain to Recruit Officer. During his time as CO of the Police Academy the entire 1060 hours of Academy instruction was re-written to improve critical thinking skills using adult learning theory methods. Bill has served on several California, Peace Officer Standards and Training (POST) committees for developing curriculum on topics such as Police Academy, leadership, and racial profiling. He was a two-time Board member of the Tactics Training Review Committee, including serving as its Chair for three years, and conducted the LAPD's internal review of all officers uses of force (UOF) and Officer Involved Shootings (OIS) from 2013-14.

Bill has assisted the United States Department of Justice (US-DOJ), Civil Rights Division, in working with the Chicago and Baltimore Police Departments in developing innovative training programs as they enter state and federal consent decrees, and he has served as a Federal Consent Decree Monitor and Police Practice Expert for the USDOJ in several additional cities across the country.

He holds a BA an Economics from the University of Massachusetts (Boston) and an MPA in Public Administration from California State University (CSU) Long Beach.

Selection of Stakeholder Group

Two important goals of the SER were to design recommendations that would be (a) useful in leading to improved outcomes in the future and (b) implementable by MPD and other police organizations in the Madison area. To achieve these goals, MPD and the Quattrone Center sought to understand the real-time perspective of individuals who participated in the protests, both from the perspective of the protesters and of the police. As a result, the Stakeholder Group was comprised of a diverse set of community participants as well as representatives of each of the law enforcement organizations that assisted MPD in its efforts to manage the protests over the course of the summer. In addition, while the individuals from governmental organizations that participated in the Stakeholder Group did not have ability to commit to policy or other changes on behalf of their organizations, they were able to express opinions on the viability of various recommendation ideas generated by the Group and whether such recommendations were desirable and able to be implemented.

Law enforcement agencies participating in the Stakeholder Group included:

- Two representatives from MPD leadership, each of whom were involved in protest response throughout the summer of 2020;
- Representatives from the following police departments providing assistance to MPD under "mutual aid" agreements:
    - The Dane County Sheriff's Office;
    - The University of Wisconsin-Madison Police Department;
    - The Wisconsin National Guard;
    - The Wisconsin State Police; and
    - The Wisconsin State Capitol Police; and
- The Madison Fire Department.

In addition, MPD and the Quattrone Center sought to include representation from some of the more influential leaders in both the Black and Latinx Community. The Boys and Girls Club and Urban League both nominated participants, as did the Nehemiah Community Development Corporation. MPD sought participation from Centro Hispano[15] and the United Way. A professor from UW Law School with deep experience in police accountability reform, including development of Madison's Civilian Oversight Board agreed to participate,

15 A representative from Centro Hispano participated in the first several Stakeholder Group meetings before withdrawing for personal reasons.

and additional grassroots participants were invited to participate. The selection of these community Stakeholders was ultimately determined by Acting Chief Wahl.

Meeting Schedule and Format

Beginning in February, the Stakeholder Group met regularly to identify and discuss the protests and specific Critical Incidents within the protests, and to identify contributing factors and design recommendations for change. To accommodate the schedules of Stakeholder Group members, the group met bi-weekly for four (4) hours at a time; COVID-19 protocols required the group to meet via Zoom. Efforts were made to move to a weekly meeting schedule later in the process to accelerate the production of this report and final recommendations.

Sentinel Events are by definition significant events with negative consequences and connotations for everyone involved in them.[16] When individuals who participated in the Sentinel Event are asked to participate in the SER, either to tell their stories or to conduct the review, it can be a difficult and emotional experience. Conducting the review can also be difficult for reviewers who were not personally involved in the issues – the Stakeholder Group reviewed a great deal of video involving violence, uses of force, and property damage that can be very upsetting to watch.[17] In addition, the topic of the role of policing in our society has been polarizing, complex and challenging even for family members to discuss – and the Stakeholder Group was made up of many people who did not know each other well, including both community activists protesting police behavior and police officers from a number of different departments. It was important to address these emotional issues in order to create an environment that allowed calm, respectful, thoughtful review of the issues and that allowed the various Stakeholders to listen to one another, to hear one another's perspectives, and to share their own perspectives in ways that would lead to consensus recommendations for improvement. To address these concerns, the Stakeholder Group spent time at the outset with a structured "positive introduction" exercise[18] in which each individual shared a personal moment in which they were the best version of themselves. Other stakeholders listened intently, and commented on the strengths of the storyteller, asking additional clarifying questions. In this way, each Stakeholder learned of the strong, positive, human qualities of the others in a way that established trust and respect, and reminded the group that our different roles in society do not rob us of a shared humanity or love of the community.

The group also established ground rules for communication, and would take time at the start and end of each meeting to share feelings and emotions related to the material that had been reviewed. In this way, open and honest communications were facilitated that welcomed different perceptions and opinions as tools for learning rather than statements of dissension or contempt.

Once this foundation had been established, the Stakeholder Group selected Critical Incidents for review.

Selection of Critical Incidents for Review

As mentioned above, one of the challenges of conducting a thorough, yet timely review of MPD's responses to the protests that occurred in the summer of 2020 is the sheer volume of interactions between MPD and other law enforcement departments and community members in Madison between May 25 and the end of August 2020. Once the Quattrone Center and Morgan, Lewis had analyzed the data provided by MPD, they agreed to focus on three key moments within the summer, each of which led to particular escalations of both the size and the tenor of protests in Madison. These three areas were:

- May 30 – June 2, 2020, the first weekend of protests after the murder of George Floyd, in which protests escalated each night into numerous police uses of force, numerous acts of violence between police and protesters, and numerous instances of property damage, looting, vandalism, and other undesired outcomes;
- June 23-24, 2020, when protests occurred after the public arrest of a known Madison activist by MPD

16 Hollway, J. (2018). Legal optimism: Restoring trust in the criminal justice system through procedural justice, positive psychology and just culture event reviews, accessible at https://repository.upenn.edu/mapp_capstone/151/.
17 Despite the efforts made to address these emotional challenges, one community member withdrew from the group after several meetings, citing the emotional toll of reviewing the events.
18 One version of this exercise is described at http://www.renewalcounselingcoaching.com/2011/09/a-new-way-to-introduce-yourself/.

due to the activist's disruption of city businesses with a perceived threat of violence. These protests resulted in arson being committed at the City-County Building, the toppling of statutes on the grounds of the State Capitol, and other undesired outcomes; and

- August 24 – 25, 2020, days after the shooting of Jacob Blake by officers of the Kenosha, WI Police Department, yet another instance in which a Black man was shot at the hands of police during that summer. These protests resulted in additional police and community uses of force and property damage, including some intentional acts of attempted arson, etc.

The Quattrone Center and Morgan Lewis provided the Stakeholder Group with a chronology of these events of each of these dates, and the Stakeholder Group received a presentation on the high-level plans, daily objectives, actions, and perceptions of MPD on each date, including from the Command Post (CP) that was overseeing MPD's efforts to manage the protests.

In addition, the Quattrone Center and Morgan Lewis identified a number of potential "Critical Incidents" that occurred within each time period and which may have acted as "inflection points" that particularly inflamed tensions, escalated the emotions of the protest, or otherwise led to the undesired outcomes.

While each Critical Incident described was viewed as important by the Stakeholder Group, time constraints for the SER meant that not all of these Critical Incidents could be reviewed in detail. The Quattrone Center and Morgan Lewis provided a high-level synopsis of the potential Critical Incidents for each time period, and the Stakeholder Group voted on those Critical Incidents on which it wanted to focus. This Report contains the analysis of each of those Critical Incidents as well as recommendations designed specifically to prevent those Critical Incidents from occurring again. If such events can be prevented in the future, the Stakeholder Group feels that the escalation of tensions in future days of protests can largely be avoided.

Critical Incidents Proposed for Potential Review (Incidents selected by the Stakeholder Group are in **bold**):

<u>May 30 – June 2</u>

1. **Confrontations between MPD and protesters, night of May 30**
2. **Looting on State St., night of May 30**
3. **Arrest of looter on State St., June 2**
4. Two men beaten by protesters after confrontation of female looter
5. Dumpsters on fire pushed at officers, May 31 – June 1[19]

<u>June 23 – June 24</u>

1. **Arson at the City-County Building (CCB)**
2. **Assault of State Senator within crowd**
3. **Arrest of protester outside Coopers Tavern**
4. **Capitol statues damaged**
5. **Police line outside Capitol, night of June 24**
6. Red Camaro surrounded, hit and run alleged
7. Civilian car downtown hitting protester

<u>August 24 – August 25</u>

1. **Destruction and looting at Chalmers Jewelers**
2. **Looting at Badger Liquors**
3. **Destruction and looting at Wisconsin Manufacturers & Commerce Building**
4. Protesters repelling police presence at Wisconsin Veterans' Museum
5. Violence between protesters and police at Walgreens near Capitol
6. Dumpster fires and Madison Fire Department response[20]
7. Arrest of armed protester

19 This Incident was discussed within the group's review of the dispersal of the crowd on Wisconsin Ave. on the night of May 31 and early morning of June 1, 2020.

20 This Incident was discussed as part of the review of the dates in question leading up to the looting at Badger Liquors, Wisconsin Manufacturers' & Commerce Building, and Chalmers Jewelers.

Limitations of the Review

MPD provided a great deal of data to the Stakeholder Group, and made many of its officers available for interviews to the Quattrone Center and Morgan Lewis. Each member of the Stakeholder Group had access to the video, audio, and other information provided by MPD; this information was provided to Stakeholders via a secure web access maintained by Morgan Lewis. The information was then discussed in great detail, giving each Stakeholder the ability to ask questions. MPD, the Quattrone Center and Morgan Lewis attempted to provide answers to any question asked by any Stakeholder prior to the discussion of Contributing Factors and Recommendations. Nonetheless, the research done on the protests, and on specific Critical Incidents, did have limitations, including the following:

- Given the hundreds of hours and multiple locations of police/community interactions over the summer, it was impossible to identify every possible undesirable interaction. Potential Critical Incidents were identified by the Quattrone Center using MPD officer-reported Use of Force reports. Accordingly, some interactions that might have qualified as Critical Incidents may have gone unreviewed.
- The Stakeholder Group elected to focus on unrest in the downtown Madison area, despite the known occurrence of undesirable occurrences in other parts of Madison on the dates in question.
- The Quattrone Center and the Stakeholder group were only able to review CCTV video from existing cameras throughout downtown Madison. These cameras were controlled by MPD officers in the Command Post, and their ability to capture all facets of an event are limited. In addition, the CCTV video lacks audio footage, making a complete review of the incident impossible and depriving the Stakeholder Group of some context within each Critical Incident.
- MPD officers, with the exception of a very small number of SWAT officers, do not have Body-Worn Cameras (BWCs). Thus, the Stakeholder Group could not review individual officer BWC footage that would likely have provided valuable additional information for the review.
- While the report references the individual perspectives of a number of community Stakeholders, these Stakeholders were present in their personal capacities and not as representatives of any particular group or subset of the community. Their views also may not be entirely representative of all diverse community views on many issues.
- Similarly, the law enforcement officers and public safety officers who participated as Stakeholders provided their personal views as informed by their knowledge of MPD or other agency policies and procedures, and did not speak as official representatives or policymakers for their respective departments.
- Chronologies of Critical Incidents were informed by officer-provided Use of Force reports and supplemented with voluntary interviews of willing MPD officers. These reports and interviews may have been affected by the duration of time between the events themselves and the writing of the report or the conduct of the interviews.

Community voices: the web site summary

Community participants and law enforcement participants found the conversations challenging for different reasons. Several community participants reflected an awareness of the different realities that have been experienced by the various members of the Stakeholder Group, and the need for the conversations to permit space for people to express their perceptions of systemic racism, including perceptions of structures of oppression and the interplay between racism, gender and economics that influenced the willingness of community members not only to protest, but to vandalize and, in many instances steal from businesses in Madison that were perceived to be part of, and benefitting from, a system that perpetuated racism in Madison. Additional information is provided in Additional Community Voices: Website Comments below and Appendix B. Comments Received at www.madisonprotestreview.com.

Events and Incidents Reviewed

May 25-29, 2020: Prelude to Protests

George Floyd was murdered by officers from the Minneapolis Police Department during an attempted arrest on Monday, May 25, 2020. The next day, video of the murder was posted on social media, leading to widespread expressions of outrage, disgust, and anger across the country, and from a diverse set of sources. Within hours, community members gathered in protest in Minneapolis and elsewhere. Activists, law enforcement officers and communities of all races and ethnicities across the country all joined in a chorus of voices condemning the act and calling for improvements in policing.

As the week progressed, protests were organized in communities across the country to protest not just police brutality and improper uses of force (particularly against Black people), but to protest a racially inequitable and unjust system of policing and government that existed across the country. In Minneapolis, where the protests began, an unusual but understandable amount of anger was directed at the Minneapolis Police Department, and a precinct building was attacked and set on fire by protesters on May 28.

On May 29, then-Minneapolis Police Officer Derek Chauvin was charged with second-degree murder and third-degree murder for his role in the killing of Mr. Floyd, while protests in Minneapolis, Milwaukee, and other cities continued to become more violent and destructive. On Saturday May 30, cities across the country, including Madison, saw the largest protests yet in connection with Mr. Floyd's murder.

In Madison, the Madison Police Department (MPD) was preparing for protests expected to occur at the State Capitol over the weekend of May 30-31. Interim Chief Victor Wahl and the Dane County Chiefs of Police Association released a statement "condemning the actions of the officers in Minneapolis and highlighting the efforts made by law enforcement here in Dane County to build trust." (The full statement is attached in Appendix D below.)

MPD and the Wisconsin State Capitol Police (Capitol Police) were experienced in overseeing crowd events at the Capitol, and in fact had developed what was nationally known as the "Madison Method" of supporting the First Amendment rights of protesters while ensuring that the protests could be conducted safely and without damage to public or private property. The Madison Method involved pre-planning for the event with protest organizers, and often included having MPD officers walking in the crowd in regular uniforms (known as "soft gear," as opposed to the protective gear of protective plastic padding that an officer might wear during a riot) with protesters, providing a police presence intended to signify police support for the right to protest and to deter inappropriate or illegal activity within the protest that might endanger others.

While MPD obviously had nothing to do with the murder of George Floyd, the Department has had a complex relationship with the City's Black community, and the distrust of the MPD felt by many in Madison is broad. Many members of the Madison community – across ethnicity and race – felt that the MPD was no different or better than the Minneapolis Police Department. Even so, previous protests in Madison had not escalated to violence, even when the protests had focused on improper officer uses of force. Most recently, events organized to protest the killing of Tony Robinson by an MPD officer in 2015 were overseen by MPD and were conducted peacefully. In part because of this, MPD did not expect the protests in Madison galvanized by George Floyd's murder to be substantially different from past events, and MPD trusted in its relationship with community activists to allow it to manage the event without violence or further incident.

On May 29, 2020 – the day after a Minneapolis Police building had been lit on fire by angry protesters – MPD spoke with the local organizer of a Madison protest to mourn George Floyd's death. At the time of the conversation, 266 people had said "yes" to attending the protest on Facebook, with another 789 indicating an interest in participating. (See Figure 2 on the next page).

Figure 2. "Justice for George" Facebook posting, May 28, 2021.

MPD planned to manage this protest with two platoons[21] from its Special Events Team (SET), a group of officers with special training in crowd management and crowd control.[22] The SET would be supported by a small contingent of SWAT officers, who would watch the protests from strategic locations and protect protesters against the possibility of a mass casualty scenario (e.g., the Las Vegas Hotel sniper who fired into a music festival in 2017).[23] An additional team of officers was designated for traffic control in case the protest moved to City streets. These officers would be coordinated from a Command Post (CP) with access to city-wide CCTV cameras and connected to all participating officers by radio. The CP would be staffed by high-ranking officers of MPD, the Capitol Police, the Madison Fire Department, and others.

As the morning began on Saturday, May 30, officers in the CP began to realize that the tone of the protests might be different than what was anticipated. The Facebook page for the event had changed from "Justice for George" to "Demand Justice for George Floyd," and included a call to "Stop Racist Police Terror." It had also grown considerably, with almost 3,000 people indicating they were going to attend and 5,500 additional people indicating an interest in attending (see Figure 3 below). This number continued to increase throughout the afternoon.

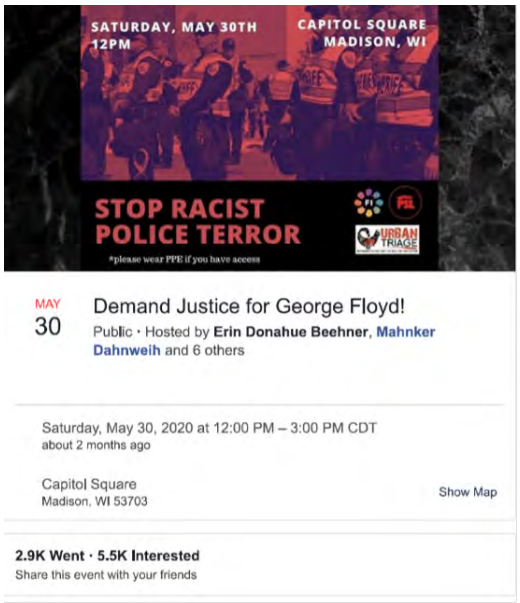


Figure 3. Facebook post for "Demand Justice for George Floyd" Protest, image captured May 30, 2020.

As people streamed into downtown Madison to join the protest, it became clear that the number of people attending was far greater than anticipated, and too large for MPD officers to staff appropriately even if the entire Department was working. MPD asked all SET members to respond and report for duty, bringing the total number of MPD officers at the protests to 42 (one (1) Operations Chief, one (1) CP SET Commander, one (1) Field SET Commander, two (2) Lieutenants, five (5) Sergeants, three (3) Medics, and twenty-nine (29) other SET officers). As the day continued and crowds continued to grow, MPD issued an "all call" at approximately 2:00 p.m. to bring any additional MPD officers on duty who were not currently working. The "all call" was expanded to nearby police departments with whom MPD had a Mutual Aid Agreement,[24] including the University of Wisconsin-

21 A typical MPD SET platoon is 22 officers, including two (2) supervisors.

22 The MPD SET team participated in all aspects of the protests throughout the summer; at different times, MPD offices who were not part of SET and had not received specific crowd or event training were also called into service to assist in the response to these protests. A subset of SET, and one that receives additional training, is the grenadiers. Grenadiers are the only officers authorized to use chemical or "less lethal" munitions (e.g., 40MM foam bullets) during protests. The Quattrone Center and Morgan Lewis did not identify any instances in which an individual without Grenadier training used these munitions during the events that the Stakeholder Group reviewed.

23 https://en.wikipedia.org/wiki/2017_Las_Vegas_shooting.

24 Mutual aid agreements are agreements between police departments "in which units from neighboring jurisdictions are automatically dispatched to

Madison Police, the Dane County Sheriff's Office, and the Wisconsin State Police.

One factor that distinguished these protests from others in Madison's past was the COVID-19 global pandemic, and the "shelter in place" orders in place in Wisconsin at the time. Technically, protesters were assembling in violation of Wisconsin health guidelines that prohibited such close interactions. Under the circumstances, however, MPD decided not to use these guidelines as a pretext for interfering with or limiting the ability of community members to protest. To do otherwise would have put the MPD in the position of being a police department that was physically interfering with First Amendment rights.[25]

The COVID-19 global pandemic may have had an impact on the protests in other ways. Many who might not have been able to protest due to work or other commitments were available to attend the protests due to closed workplaces and public spaces or unemployment.[26] Wide swaths of the country were under stay-at-home orders, and more Americans were inside, watching TV and consuming social media, increasing people's outrage at Mr. Floyd's murder.

In addition, the frustration expressed by many protesters may have been enhanced by the financial and social impact of the pandemic, as individuals whose finances were hurt by the public health crisis were substantially more likely to attend a protest or post positively about the moment on social media[27] and COVID-19 was having a disproportionate clinical impact on the Black population in many jurisdictions.[28]

As the day unfolded, it became increasingly clear to MPD and the CP that the tenor of the crowd was not conducive to productive engagement with MPD officers, or with police officers in general. MPD officers were the recipients of a great deal of hostility and anger from people in the crowd. Nonetheless, MPD stayed committed to the "Madison Method," and MPD officers walked amidst the protesters, attempting to ensure the continued safety and progress of the protesters and engage productively with community members.

According to MPD's Demonstrations and Assemblies Standard Operating Procedure, the Madison Method can be summarized in the following statements (taken from MPD SET's training materials):

1. [MPD] protects citizen's constitutional rights to assemble, petition the government and engage in free speech.
2. We are impartial and remain neutral, regardless of the issue.
3. We maintain open dialogue with citizens and the news media before, during and after demonstrations.
4. We monitor demonstrations and marches to protect individual rights and ensure public safety.
5. We balance the rights of demonstrators with the rights of the community at large.
6. We use restraint in the use of force. We protect people first and property second.
7. We, as peace officers, pursue continuous improvement of our method.[29]

Despite the enormous crowd and heightened tension against police officers due to the nature of the protests, the protests remained overwhelmingly peaceful throughout the afternoon. At approximately 4:00 p.m., the organized protests largely dispersed, leaving a few hundred people in Madison's Capitol Square. Officers from MPD were asked to return to their district buildings and await further instructions, and some officers from other departments were dismissed for the day.

incident scenes. These are interlocal agreements that are usually basic contracts or even informal agreements . . . and are designed to provide a wide range of services and resources to afflicted jurisdictions over longer periods." Bureau of Justice Assistance, "Mutual Aid: Multijurisdictional Partnerships for Meeting Regional Threats," September 2005 at 1, accessed at https://www.ojp.gov/pdffiles1/bja/210679.pdf.

25 MPD had made a similar decision not to enforce the shelter in place order at a protest a month earlier that was focused on excessive quarantine rules. https://www.nytimes.com/2020/04/24/us/politics/coronavirus-protests-madison-wisconsin.html

26 Maneesh Arora, *How the coronavirus pandemic helped the Floyd protests become the biggest in U.S. history*, Wash. Post (Aug. 5, 2020, 6:00 AM), https://www.washingtonpost.com/politics/2020/08/05/how-coronavirus-pandemic-helped-floyd-protests-become-biggest-us-history/.

27 Id.

28 See, e.g., Andrasfay, T., & Goldman, N. (2021). Reductions in 2020 US life expectancy due to COVID-19 and the disproportionate impact on the Black and Latino populations. *Proceedings of the National Academy of Sciences, 118*(5).

29 FOOTNOTE IS MISSING FROM WORD DOC

Analysis and Pre-existing Contributing Factors 1 – 7

The Stakeholder Group evaluated MPD's preparation for the May 30 protests and discussed various factors that came together to create the protest environment that unfolded throughout the day on May 30.

Figure 4. Fishbone Diagram for General Contributing Factors, May 30, 2020.

Contributing Factor 1. It is difficult to overstate the impact of the murder of George Floyd, and the national catharsis generated by his murder as the latest casualty in a multi-generational history of violence, imposed particularly but not only on Black people, by police officers across the country, including in Madison. The fact that many MPD officers shared the view that Derek Chauvin's acts were abhorrent did nothing to minimize these emotions on May 30.

Contributing Factor 2. The protests were in part an expression of pent-up anger at decades of excessive force and systemic racial bias by the police. This anger, directed specifically at the institution of policing, permeated all interactions between protesters and MPD officers present to manage the crowd, making these protests different and more challenging for MPD than others it had successfully managed in the past.

The fact that protesters were focused on illegitimate police behavior and the role of police in general, as well as the role that MPD has played in illegitimate police behavior in Madison, caused many in the community to be unwilling to communicate with MPD before or during the protests. In addition, MPD's presence at the protests served to inflame anger and pain caused by the events leading up to the protests and even officers who were only observing the protests became flash points for community pain and anger.

Contributing Factor 3. The history of MPD within the community, particularly with Black, Indigenous and People of Color (BIPOC) community activists, has caused a number of groups within and around Madison to cut off communications with MPD. As a result, MPD lacked the ability to fully prepare for protest activity, and it could not accurately predict crowd size, intended routes, anticipated activities, etc. The information that MPD received did not provide sufficient detail about protests to enable sufficient response.

Contributing Factor 4. People throughout Madison were already frustrated and worn down by COVID, which only added to the social injustices that were fueling the protests. For many, turning out en masse for the protests was a way of signaling dissatisfaction with social distancing orders – and thus almost a challenge to MPD's authority.

Contributing Factor 5. COVID-19 also interfered with the ability of MPD's Special Events Team to train in the months leading up to the protests. While this might not have changed the outcome, several officers indicated that staying current on SET tactics and procedures might have helped a number of officers of various levels within MPD react more proactively and more productively on May 30.

Contributing Factor 6. Social media allowed the rapid dissemination of information in the days following the murder of George Floyd, adding to an already tense atmosphere with small clips of negative interactions between protesters and police that inflamed, rather than calmed tensions. It also enabled rapid communication among protesters, causing less predictable and more challenging behaviors for MPD as MPD sought to protect protesters from harm from, e.g., vehicle traffic near the protest.

Contributing Factor 7. MPD, like departments in other cities, reacted to vandalism and property damage on State Street by using standard techniques (the "Madison Method") of crowd control and crowd dispersal for large-scale protests that had been effective in the past, including during past protests related to MPD uses of force.

Recommendations 1 – 7

Based upon the Contributing Factors listed above, the Stakeholder Group recommends that:

Recommendation 1. MPD should work consistently and proactively to increase trust between the Department and the community regarding MPD's commitment to supporting protests, and in particular protests against police behavior. This work should be done in tandem with the Civilian Oversight Board (COB) and others who can assist in improving relationships with other community groups and activists who do not currently communicate with MPD. MPD should regularly engage with community activists and representatives and provide clear expectations on what acts taken by protesters might generate a response from MPD officers. MPD should provide metrics for success in improving these relationships, and this information should be available to the public online and through regular and social media.[30]

Recommendation 2. MPD should provide written materials (available online and on social media) and regular education sessions for the community, including media and journalists, that explain when and how MPD officers will intervene with protesters. Such materials should provide examples of public safety risks that would cause MPD to intervene in demonstrations, and how MPD would be likely to intervene. MPD should consider whether these materials and sessions could be provided in conjunction with one or more community partners (e.g., ACLU, Lawyers Guild, etc.)

Recommendation 3. In advance of demonstrations that are anticipated to need a police response, and especially where police or policing are expected to be the focus of a protest, MPD should continue the practice of generating an event plan in coordination with protest organizers. MPD should be prepared to explain to protesters before and during the event specific safety concerns that MPD has and how MPD plans to intervene if safety becomes an issue. MPD's crowd management principles should be posted on social media.

Recommendation 4. MPD should re-examine current community policing and community engagement models throughout the U.S. and internationally for models and techniques that can help it better understand and communicate with groups that are marginalized and/or not currently supportive of police departments.

Recommendation 5. MPD should collaborate with community representatives to identify and train a group of Community Dialogue Representatives, individuals outside MPD who can be briefed on protester and MPD expectations for the protest and who can identify the changing needs of the protesters to MPD in ways that will maximize the ability of MPD to facilitate peaceful protests and prioritize life over property while striving to protect both.

Recommendation 6. Particularly when police are the focus of a protest event, MPD and the City of Madison should continue to prioritize event facilitation and public safety, as opposed to crowd control or law enforcement. MPD should improve its ability to partner with protesters to allow the community (community members, activists, ACLU, human relations personnel, etc.) to self-manage protests while MPD is present, unless and until a legitimate public safety rationale requires MPD intervention. Less visible or intrusive tactics are more productive with protesters at such events.

Recommendation 7. Regularly, and at least every four (4) years, MPD should provide continuing and ongoing training to all of its officers on the latest crowd control techniques for event facilitation.

30 A number of potential ways to implement this recommendation have been set forth in the Madison Police Department Policy and Procedure Review City of Madison Independent Police Oversight and Review group.

Critical Incident #1: Showdown with Protesters at City-County Building (4 pm, May 30)

By 4:00 pm on May 30 the crowd, which had included thousands of people, had mostly dispersed, and approximately 100 – 150 protesters remained in the Capitol Square area.

While most of the protesters were dispersing, a woman approached two MPD officers at the intersection of King St. and Capitol Square, where an MPD patrol car was positioned to prevent vehicle traffic from entering the Square and disrupting the protests. The woman became extremely agitated, confronting the officers as a crowd began to gather around her. Rather than remaining and risking a greater escalation of anger with the remaining protesters, the CP instructed the officers to leave the scene, which they did.

The woman returned to the Square and joined another group of protesters, who were listening to a demonstrator with a bullhorn. The demonstrator was criticizing the crowd for a failure to hold police accountable for their actions, and suggested that Madison was letting its Black community members down by not being more assertive or aggressive with the police. As the demonstrator spoke, he noticed a group of approximately 30 MPD SET officers on Pinckney St. that was observing the remaining protesters. One of the officers was Black, and the man walked over to the MPD officers and began to engage aggressively with them, giving special attention and invective to the Black officer for his continued affiliation with MPD as the crowd looked on with increasing agitation. Realizing that the visible police presence had become a focal point for the protesters and wanting to minimize friction, the CP instructed the SET officers to return to the City-County Building ("CCB") on Doty St. between Martin Luther King Blvd. and S. Carroll St. (See Figure 5 below).

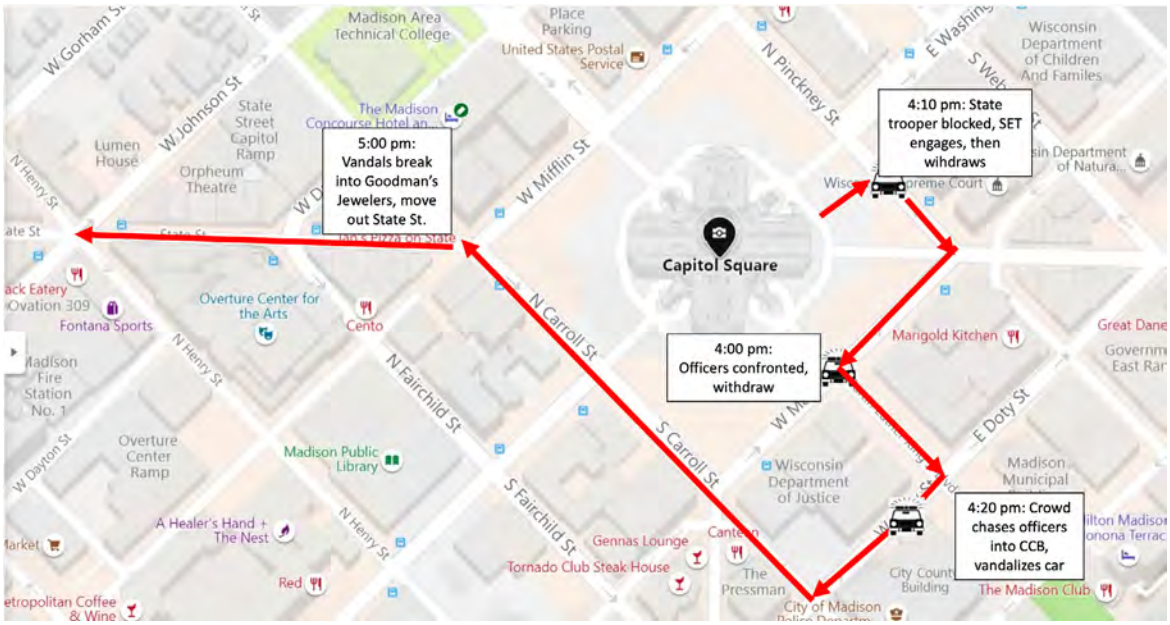


Figure 5. Crowd movements and interactions with MPD, late afternoon May 30, 2020.

As the officers walked away from the crowd, a Wisconsin State Patrol car operated by a state trooper who had finished his duties for the day turned on to Pinckney St., intending to leave the scene by driving out East Washington Avenue. The car was surrounded by the group of protesters, who prevented it from moving forward. As the crowd became increasingly agitated, one protester climbed on top of the police car while it was being operated.

Concerned for the welfare of the State Trooper, the MPD SET officers returned to the crowd, and physically surrounded the State Police car to create a barrier between the protesters and the vehicle. They then escorted the squad car through the protester group, slowly pushing forward through the crowd to create space for the car to move forward. Eventually, the State Trooper and the car made its way free from the crowd and guided safely out on East Washington Avenue – but not before it further agitated the protesters. Protesters directed various insults and threats to the SET members as the individual with the bullhorn called for "payback" against the officers. Other protesters threatened to harm the officers and began to throw things (mostly water bottles) at them. Knowing that the SET officers were outnumbered by an increasingly hostile crowd and that they were wearing only their normal uniforms, the CP again sought to de-escalate the situation and instructed the SET officers to return to the CCB. The officers hastily made their way back toward the CCB, followed closely by the angry protesters.

The officers entered the CCB via a locked side entrance on Carroll St. that required a key fob for entry. While all officers entered the CCB safely, it was a close call, as officers had to wrestle with the crowd to close and lock the door behind them. The anger of the crowd began to boil over, and protesters began kicking and throwing projectiles at the door. The individual with the bullhorn led the crowd across the street, but circled back toward the CCB moments later. He climbed up on an unmarked MPD vehicle parked on Carrol St. and began speaking to the crowd. As he did so, other protesters began to damage the vehicle, breaking its windows, puncturing its tires with a knife, removing its side mirrors, and denting its hood and roof. After a few minutes, the protester with the bullhorn ushered the crowd down Carroll St. toward State St., leaving the damaged car in their wake.

Analysis

The protests that occurred during the day on May 30 revealed several things that made these protests different from anything that MPD had confronted in recent memory. First, the sheer numbers of protesters during the day revealed a passion and frustration with law enforcement that was beyond the capacity of MPD to address, and a strategy focused on "crowd management" or "crowd control" was doomed to failure. (This would be revealed even more powerfully as the night went on.)

Second, while the Minneapolis Police Department's actions may have been a catalyst for this, the Madison Police Department were included by many in the crowd as having direct responsibility for the broader social issues that were fueling the protests.

Third, while the Madison Method had been successful in the past with a strategy of MPD officers walking in the crowd in partnership with protesters, virtually any appearance of MPD officers could be used to escalate and agitate protesters under these conditions. Despite MPD's repeated efforts to de-escalate by leaving the scene, protesters continued to grab on to any appearance by MPD to escalate tensions and agitate the crowd to action.

The Stakeholder Group identified the man with the bullhorn as an intentional instigator. He initiated the engagement with the MPD SET officers, continued to exhort the crowd to aggressive action as the crowd interfered with the State Police car and chased the MPD officers to the CCB, and he set the example by standing on the unattended MPD car outside the CCB.

Despite MPD's best efforts to de-escalate by leaving the scene, they provided fuel to the instigator's rhetoric. First, the unfortunate appearance of the State Police car was used to escalate the crowd's emotions, and the resulting MPD escort to extricate the car brought the officers into close proximity with the angry crowd in a way that was contrary to the crowd's emotions, agitating the crowd further and subjected the officers to potential injury.

The CP's instruction to the SET officers to leave the scene prevented any further physical altercation between officers and the crowd, but left the crowd unsatisfied with the interaction. Needing an outlet for its emotions, the crowd

continued to follow the man with the bullhorn, who turned the unattended MPD car into a target for the crowd's anger.

MPD had actually tried to avoid having cars out on the street near the areas where protests were anticipated that day, but were unsuccessful in securing the car that the protesters damaged for several reasons. First, there were insufficient secure parking spaces underneath the CCB for all officers to park their cars in the garage. Second, MPD had issued an order intended to keep cars off the street, but the order was worded imprecisely. The order instructed officers not to park their cars at 211 S. Carroll St. (the street address of the CCB) rather than saying not to leave their cars unattended near the CCB. Finally, given all of the activity of the crowds throughout the day, MPD did not conduct a sweep of the CCB area to move cars that could become targets to angry protesters.

All of these factors – the crowd's mood, the additional anger directed towards officers even if the officers were merely observing the crowd at a distance, and the appearance of both the State Police car and the unattended MPD car – enabled the man with the bullhorn to exhort the crowd into an environment with a very real concern for violence against MPD officers and the destruction of the unattended car – including with the appearance of weapons in the crowd that were used to damage the MPD car. As the crowd left for State St., the CP moved into a reactive mode of escalation, ordering officers to don their protective gear, prepare for a confrontation with violent protesters, and follow the crowd to State St., where initial reports were being received that vandals were breaking into Goodman's Jewelers.

Contributing Factors 8 – 15

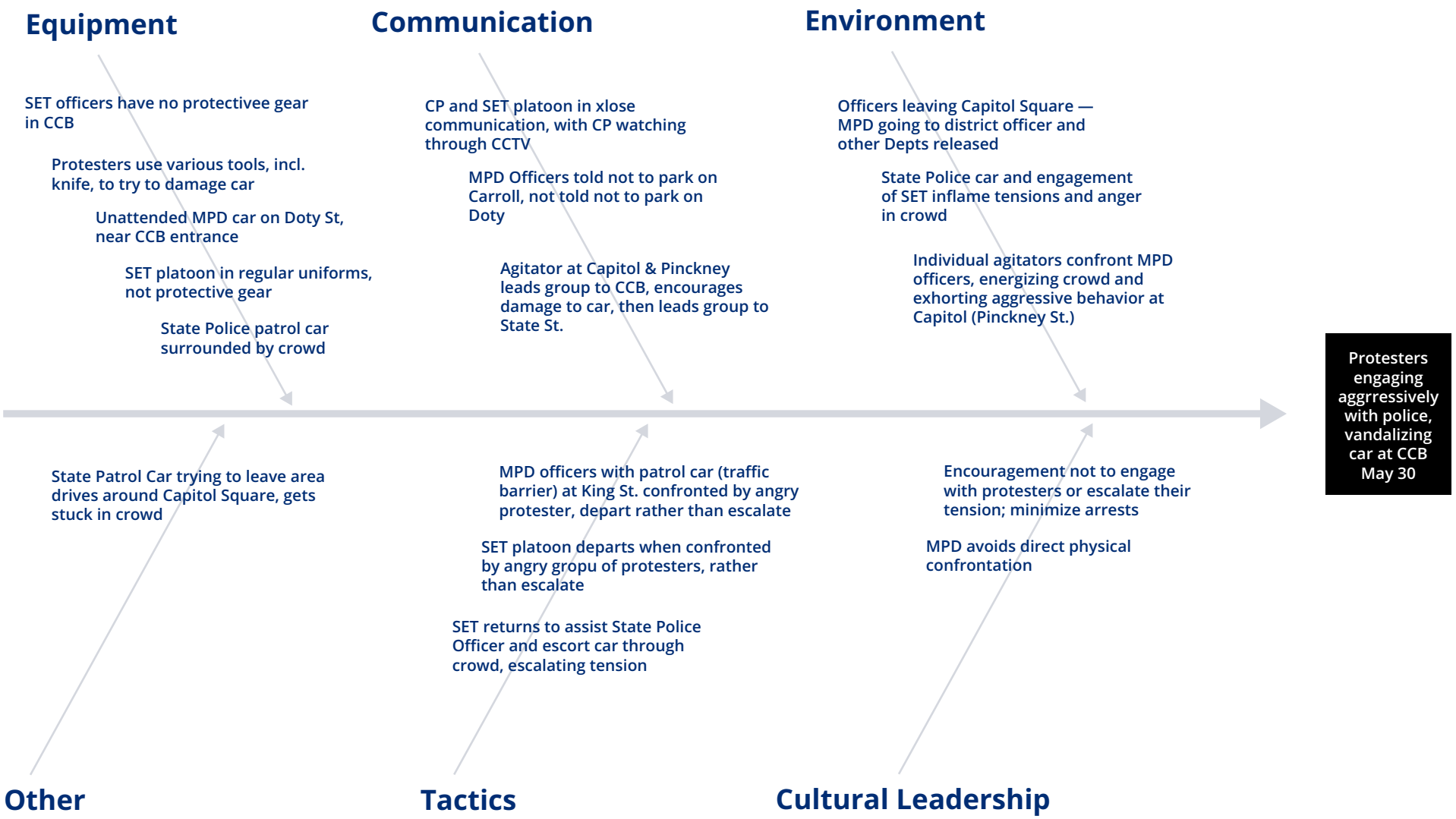


Figure 6. Fishbone Diagram of Factors Contributing to Aggression Against MPD Officers and Damage to Unattended MPD Vehicle

The Stakeholder Group felt that factors contributing to the undesirable outcome of a crowd of angry protesters chasing MPD officers and vandalizing an unattended MPD vehicle included:

Contributing Factor 8. As peaceful demonstrations protesting police brutality and the murder of George Floyd were winding down, a group of more aggressive protesters remained on the Capitol Square, while many MPD officers were moved to district stations. Some officers from other departments were dismissed from duty.

Contributing Factor 9. An individual near the Capitol became aggressive with a parked MPD patrol car that was preventing vehicle traffic from interfering with protests and demonstrations on at the Capitol. Attempting to de-escalate the situation, the Command Post (CP) had MPD officers and patrol car withdrew from the confrontation.

Contributing Factor 10. An individual in a crowd on Capitol Hill (Pinckney St.) used a bullhorn to exhort a group of protesters to become more aggressive against police in response to the murder of George Floyd. In an effort to de-escalate the situation, the CP again had MPD officers withdraw from the situation.

Contributing Factor 11. A State Police officer trying to leave downtown Madison turned his patrol car onto Pinckney St. and became surrounded by the group of protesters. Protesters interrupted his progress, refused to move and began climbing on his car.

Contributing Factor 12. Departing MPD officers, in normal "soft gear," returned to assist the State Police car in moving northbound on Pinckney, through the crowd of protesters. They formed a human barrier around the vehicle and slowly escorted it through the group of protesters, who became increasingly agitated by the police presence.

Contributing Factor 13. After escorting the car through the crowd, the MPD officers immediately returned to the City and County Building (CCB), pursued aggressively by the agitated crowd. The officers entered the CCB and locked the door behind them to prevent any further altercations.

Contributing Factor 14. An unmarked and unattended police car was parked outside the CCB on Doty St. Individuals in the crowd displayed various types of weapons (pipes, knives, etc.) and used them to shatter the car's windshield and inflict substantial additional damage to the car.

Contributing Factor 15. MPD had previously informed officers not to park on S. Carroll St. to avoid MPD vehicles becoming targets for the anger of the crowd, but had not stated that officers should not park on Doty St.

Recommendations 8 – 11

Based upon the Contributing Factors listed above, the Stakeholder Group recommends that:

Recommendation 8. In instances where police are the focus of protest activity, MPD and other departments facilitating protests in Madison should instruct officers to depart from protests via routes likely to avoid remaining protest activity by several blocks. These routes should be established in pre-event planning, event briefings, and situational awareness updates provided during and after events.

Recommendation 9. To ensure transparency during crowd events and to permit appropriate reviews of MPD behavior, the City of Madison should consider requiring MPD officers to wear BWCs during crowd events.

Recommendation 10. In advance of protests and where possible during protests, MPD and the City of Madison should conduct periodic sweeps of locations likely to be targets of protesters to reduce the chances of property damage by removing moveable property (e.g., law enforcement vehicles and equipment).

Recommendation 11. MPD should issue precise and thorough directives to officers about "no parking" zones for MPD vehicles near CCB or other areas that may be targeted during a protest. This should be part of pre-event planning, event briefings, and situational awareness updates provided during events. Additionally, this should be a training topic when providing all officers with crowd control training.

Critical Incident #2: Goodman's Jewelers and the Looting of State Street (5 pm, May 30)

Around 5:15 pm, after vandalizing the MPD vehicle outside of the CCB, the crowd that had gathered near the CCB moved toward the 200 block of State St. Still being guided by the individual with the bullhorn, the crowd occupied the intersection and disrupted traffic.

MPD watched these protesters from the CP as MPD SET members regrouped within the CCB. May 30 was a hot, sunny day in Madison, and officers were re-hydrating after spending much of the day outside monitoring and securing protests without relief or rest. In addition, the recent aggression shown by the crowd, and the display of weapons among some in the crowd who had vandalized the MPD vehicle, caused MPD incident command to shift from "crowd management" into "crowd control." Its main objective now was not protest facilitation. Instead, it was crowd dispersal and the prevention of further damage to property.

Given the demonstrated use of implements and weapons (e.g., a knife) to commit violent acts outside the CCB and on State St., MPD officers were ordered to put on protective gear (e.g., shin, elbow, and forearm guards, chest protector, and gas mask). This created an operational challenge for the officers, as their protective gear was not stored in the CCB. Instead, lacking a convenient location for the storage of protective gear, officers had been instructed to leave their protective gear in a nearby parking garage. While normally the gear would have been easily accessible in this location, the presence of angry and violent protesters outside the CCB forced officers to devise a plan to safely leave the CCB and walk to the location where the protective gear was stored without attracting the attention and the anger of the crowd. SET arrived at the location where the protective gear was stored and began to "gear up" around 5:30 p.m. Once the officers had donned their protective gear, they had to move from the storage location to the 200 block of State St., which took additional time.

As this was occurring, a small group of people began throwing objects at windows of businesses on State St. Using sticks and clubs, this group broke windows at Goodman's Jewelers, then moved west on State St., continuing to break windows at other locations as they walked.

A recurring theme, particularly from the community members of the Stakeholder Group, was that it would be a mistake to consider "the crowd" during these protests as a single-minded, uniform entity. Instead, just as many police officers had diverse views of the protests, so did many protesters. This was shown clearly in a video published on YouTube taken on State St. during these moments, as a Madison resident tried to stop others in the crowd from entering Goodman's Jewelers. The man put himself between the crowd and the entrance to the store, saying "Don't do this bro. Don't do this here. What is this gonna do? This doesn't help us."

One protester responded, "Chill bro. Goodman, do you know who Goodman is? Goodman is a bunch of rich white men that are part of capitalism." Another said, "You're telling him not to do this but you're not giving him an alternative of what to do." Ultimately, others in the crowd told the man trying to prevent the looting that the others would not listen to him, and convinced him to move out of the way and prevent a fight from breaking out within the crowd. While some in the crowd began looting, others were shocked, saddened and dismayed. And the individuals who had broken the windows to Goodman's in the first place had left the scene to create more chaos elsewhere on State St.

Once the MPD officers had appropriate safety equipment on, they still had to get to State St. MPD lacked a vehicle that could transport all of the officers to State St., and so a portion of SET travelled by van, while the others walked to the location. SET officers began arriving at State St. at 5:45 pm and formed a line at the intersection of State and Dayton Sts. in their protective gear. Additional SET members arrived around 5:48 pm.

The crowd was sufficiently large that SET was unable either to arrest or to disperse the protesters themselves, and so the officers formed a fixed line across State St. opposite the protesters, who had formed a line across State St. that blocked the progress of officers toward the vandals. With their protective gear and helmets on and holding their batons in front of them, the SET officers stood in place and waited for the crowd to disperse.

Instead, the appearance of the SET officers energized the crowd, which formed a corresponding line, with people in the crowd yelling "white allies to the front!" MPD officers perceived this as a tactic designed to protect Black protesters and looters by putting White protesters at the front of the crowd. Individuals who were in the crowd, however, suggested that placing White people at the front of the line was not an offensive tactic designed to slow the progression of MPD, but rather a defensive tactic necessary to protect the Black protesters in the crowd from unlawful or inappropriate uses of force by MPD officers.

The presence of the MPD officers and their static position in protective gear and with batons seemed to anger many of the protesters, as some began to throw water bottles, rocks and other projectiles at the line of officers, causing minor injuries to some officers. Once additional SET officers arrived and took up positions on the line, the CP decided to attempt to disperse the crowd. Officers used the loudspeakers in a MPD SUV to inform the crowd that the protest had been declared unlawful, the crowd must disperse, and failure to disperse could result in the use of chemical munitions or other uses of force against the crowd.[31] Given the size of the crowd and the capacity of the SUV loudspeaker, it is unclear how many protesters were able to hear the declaration of the assembly as unlawful. (It is also unclear whether the protesters would have obeyed it even if it were audible.)[32] In any event, very few people left the scene. Shortly after the announcement was made, the line of MPD SET officers advanced toward the crowd, using OC spray to disperse the crowd down State St.

MPD hoped that a slow-moving line of officers across State St. would gradually encourage the crowd to disperse without having to physically touch protesters. Because the already agitated protesters were throwing projectiles at the oncoming officers, however, the situation was a danger both to MPD officers and to other individuals in the crowd, and the command post authorized the use of OC spray (e.g., "pepper spray"). When that did not succeed in dispersing the crowd, the CP authorized the use of CS gas (e.g., "tear gas") to disperse the crowd. The idea was that using these munitions would force the crowd to disperse and the SET officers moving forward would continue their exit from the scene without further escalation.

The tactic of using a slow-moving line of officers to push the crowd out and away from State St. had been used effectively during a Halloween street party where partygoers were unruly, and MPD hoped that it would cause people to leave State St. and disperse. However, for many reasons the situation on this night was quite different and this tactic further escalated tensions. Because the officers were on foot and staying in formation, many individuals in the back of the crowd could remain out of reach of the line while continuing to throw projectiles at the officers. Others would exit State St. via cross streets, only to return behind the officers and resume protesting the officers. Running low on chemical munitions and at risk of being surrounded, the SET squads returned to the base of State St. to await further equipment, assistance and instructions.

In the meantime, the group that had started the property damage by shattering windows at Goodman's Jewelers had proceeded to shatter more store windows across several blocks of State St., and others in the crowd were proceeding to enter and loot many of these stores. Some of the looting was visible to officers in the MPD line, which lacked the resources or equipment to move forward and engage with the looters.

Over the next several hours, a back-and-forth game played out between protesters and MPD officers. MPD would use CS gas and OC spray to move the protesters down State St. and away from the Capitol. Protesters overturned concrete planters, pulling rocks from the planters and throwing them at officers. SET Grenadiers, officers trained in the use of chemical and "less lethal" munitions, would use 40mm foam pellets to deter individuals who were

31 The Stakeholder Group was unable to confirm exactly what message was communicated, as no audio files of the announcement were available for review.

32 The Stakeholder Group discussed various technologies to address this issue, but did not arrive at a recommendation. Some jurisdictions in the United States have purchased a Long-Range Acoustic Device (LRAD) to address this issue. The LRAD, sometimes described as a "sound cannon," has the capacity to communicate with significant crowds, but there are concerns from some that it can damage the hearing of people who are close to it and that it can be used intentionally to injure people. Given these concerns, MPD has thus far elected not to purchase an LRAD. The Stakeholder Group discussed using drones or helicopters to deliver information to the crowd, but many Stakeholders were concerned that such an approach would be viewed as aggressive or authoritarian by people in the crowd.

throwing, or about to throw such projectiles at the police. When protesters would circle back around the SET line, the officers would turn and return to 100 State St.

Gradually, additional officers responding to the "all call" from the afternoon arrived on State St. to assist the SET team. These officers, all of whom had received basic crowd control training but many of whom had not received SET training, were deployed across streets that intersected with State St. to prevent the crowd from re-entering the protest area. This allowed the SET team to finally succeed in dispersing the crowd, and the protests wound down in the early hours of the morning of May 31st – but not without substantial damage to State St. (and elsewhere in Madison and surrounding communities) and injuries to many civilians and MPD officers alike.

Ultimately, approximately seventy-five (75) businesses suffered property damage during the events of May 30, 2020. More than 300 officers from MPD and other departments around the area participated in the events. They reported three hundred and two (302) unique uses of force (UOF), of which nine (9) resulted from acts of arresting individuals. One hundred ninety (190) UOFs were associated with maintaining order; and 103 were associated with officers protecting themselves or others.

MPD arrested ten (10) people and filed twelve (12) criminal charges. One citizen reported an injury at the hands of MPD, while eight (8) MPD officers reported injuries related to the protests. None of these injuries required a hospital visit.

Analysis

The events on State St. illustrated for MPD how much the situation had changed from other crowd events that had occurred in Madison in the past – including events like the death of Tony Robinson a few years before at the hands of an MPD officer. Here, a small number of instigators damaging property outside the CCB and on State St. helped an already angry and frustrated crowd reach a boiling point – and just at that moment, the MPD SET team appeared and struck an aggressive posture, causing the crowd to escalate into greater violence. SET was slow to respond and responded in insufficient numbers to exert much control over the crowd. In recognition of this, and still trying to stay restrained and de-escalate tensions without getting violent, MPD attempted to disperse the crowd slowly and calmly. Unfortunately, because the legitimacy of the police was what was causing the protests, an assertion of MPD force had exactly the opposite effect.

The Stakeholder Group realized that MPD's response suffered from a lack of mobility and speed. First, the ability of SET officers to transition from soft gear in the CCB to protective gear on State St. was slower and more complicated than was needed. A faster response and appearance on State St. before windows were broken and looting commenced could potentially have interrupted much of the looting and vandalism before it got started.

Instead of having SET officers in protective gear ready to deploy, the officers had to go to another location to access their protective gear and then they lacked any vehicles that could transport them efficiently to the needed location. The small number of instigators in the crowd took full advantage of this delay to break windows and leave the scene, escalating the crowd's emotions and leaving angry protesters to engage in looting and other crimes.

The Stakeholder Group discussed different approaches within the protesters to looting. Many felt that the looting undermined the larger messages of social justice, and that violence and looting were not a means to successful societal change. At the same time, there was a substantial perspective within the Stakeholder Group that the people who were looting were members of the community who felt perpetually ignored, injured, and prevented from participating equally in society. Under such conditions, the looting was viewed as a desperate attempt to be heard by people who had been ignored repeatedly despite decades, if not centuries of other forms of protest. Viewed in that context, acts of looting were more understandable – not desirable by any means, but necessary to get the attention of the larger Madison community to the scope of the injustice that continued to be imposed on Madison's people of color.

This was powerfully explained by a video that the Stakeholder Group watched of the man trying to prevent the looting of Goodman's Jewelers.[33] In a section at the end of the video, the man reflected on the looting and the protests. He expressed his belief that violence was

33 This video was available on social media but has since been removed from social media by its owner.

not the answer to resolving systemic racism, but also acknowledged the frustration, rage, fury, and sorrow that he and others feel every time another Black man is killed by the police in what seems like an unchanging cycle of racism, and the disenfranchisement from the protections of society and the prevention of economic tools that might lead to change. This added to the Stakeholders' understanding of the diversity of thought in the Madison community and its underpinning.

For many, it was this economic disenfranchisement that caused them to believe that looting was an acceptable reaction. As one man explained to the Stakeholder Group, "I can be summarily executed in the street while people are filming, so why on earth would I care if people are going to get in trouble for property crime?" The man noted both that the violence was unacceptable and that the violence had, to some extent, achieved what it sought: "There has to be a different pathway to these spaces. [The Stakeholder Group] wouldn't be here if not for the violence – [but] that is not a trusted avenue."

Members of the Stakeholder Group pointed out that there are very few (if any) black-owned businesses on State St., and that the MPD presence at Black group events is perceived to be dramatically higher, observations that are commonly held throughout the community. As a result, when a Black member in the crowd says about the owners of Goodman's Jewelers, "do you know who these people are? They do a lot for the community," the answer is "why you trying to protect a bunch of rich white people?"

Once the window-breaking and looting had begun, it was an impossible task for SET to control or de-escalate events. But SET's lack of mobility and reliance on conventional fixed-line tactics (a standard form of crowd control)[34] did not help the situation. The Stakeholder Group agreed with the CP's desire not to attempt a mass arrest of protesters. Given the size and emotion of the crowd, engaging physically with the protesters would have led to a horrible riot, and allowing storefronts to be damaged was the lesser of two evils compared to widespread physical injuries to protesters and officers. This greatly frustrated MPD officers who wanted to protect the community and prevent crimes from being committed, but SET lacked the capability to conduct mass arrests safely or productively.

Instead, the Stakeholder Group discussed how to help MPD identify and apprehend the small group of individuals who started breaking windows and then left the scene to do more damage. Had those people been quickly apprehended without further agitation of the crowd, the SET team might have avoided its fixed line maneuvers with batons, protective gear, and chemical munitions. The vast majority of peaceful protesters could have continued protesting, and perhaps the escalation into widespread violence and uses of force – which simply led to more violence and more uses of force – could have been avoided entirely.

The Stakeholder Group noted that the inability of MPD to communicate with people in the crowd, and its misinterpretation of crowd tactics – contributed to the escalation. The hostility displayed towards MPD officers throughout the day prevented them from having officers in the crowd, as had been the norm at other crowd events. MPD's attempts to de-escalate the situation and disperse the crowd with statements communicated via a car loudspeaker was ineffective, leaving many in the crowd unprepared for MPD's uses of force. Once officers donned gas masks, additional conversation became almost impossible – and given the uses of force, likely ineffective in any event. By then, the opportunity to de-escalate was lost.

The Stakeholder Group also discussed the mindset that allowed MPD officers to misunderstand the purpose of the "Allies to the front!" tactic. Community members described the tactic as a defensive act, placing Black protesters farther back in the crowd to prevent MPD from targeting them for arrest or physical force. In this way, it reflects a community sentiment that protesting is a more dangerous activity for Black people, who are likely to be prioritized for arrest or physical confrontation. MPD officers on the scene perceived the tactic as offensive and aggressive, bringing "allies" to the front to delay the ability of MPD to reach the individuals who were breaking windows and looting stores. Community members

34 See, e.g., "Field Force Operations," U.S. Department of Homeland Security Center for Domestic Preparedness, at 27, accessed at https://www.nlg.org/wp-content/uploads/2017/01/MFF-Manual.pdf.

explained this as a defensive tactic to prevent Blacks in the crowd from being targeted for arrest rather than an effort to impede MPD officers from arresting looters in the crowd.

Whether the intent of the crowd was to protect Black individuals in the crowd or to protect the instigators and looters and prevent their arrests, the practical outcome was the same. MPD's ability to move forward was interrupted, allowing the vandals to continue their actions as they walked out State St.

The gaps in perception and the intentions ascribed to protesters by MPD and vice versa are indicative of the need for additional communication between MPD and community members when there are no protests. This dialogue will be vital to building deeper understandings of how police behavior is interpreted by those who are most regularly interacting with police in Madison, and will be essential to reducing tensions at the next protest focused on police behavior. It will also be necessary if MPD is to improve its ability to understand how the goals of protesters can be facilitated while ensuring public safety and the protection of property.

Contributing Factors 16 – 35

Figure 7. Fishbone Diagram of Factor Contributing to Vandalism and Looting on State St. May 30, 2020.

Contributing Factor 16. Protesters gathered at the 200 block of State Street, near Goodman's Jewelers.

Contributing Factor 17. The violent acts of the crowd outside of the CCB, along with reports of property damage at Goodman's Jewelers, prompted MPD to deploy officers in protective gear (i.e., protective gear for violent disturbances).

Contributing Factor 18. MPD's ability to respond to reports of vandalism and looting on State St. was slowed because many MPD officers were in the CCB, while their protective gear was stored in a different location. Officers had to find a route to this location that avoided angry protesters, and then had to "gear up" before they could report to State Street.

Contributing Factor 19. MPD's ability to respond to reports of vandalism and looting on State St. was slowed because once officers had the appropriate equipment, there was only one vehicle available to transport SET officers to State Street. As a result, half of the officers were driven to the location and half progressed more slowly on foot.

Contributing Factor 20. Before the MPD arrived on the scene, a small group of protesters began using objects to break into Goodman's Jewelers and other locations. The individuals continued moving west on State Street and had left the scene by the time the first MPD officers arrived, though they could be seen by MPD officers who reported to Goodman's Jewelers. This behavior continued down the street after officers arrived at Goodman's.

Contributing Factor 21. Other individuals from the crowd, ignoring pleas from peaceful protesters, engaged in looting and additional destruction, citing structural racism as a justification.

Contributing Factor 22. MPD's staffing at the start of the day was insufficient to manage the crowd that assembled downtown, or that escalated into violence in the evening. While an "all call" for reinforcements was issued in the early afternoon, responding officers took time to assemble and were a challenge to deploy in a unified way.

Contributing Factor 23. As MPD arrived at State St., protesters formed a line that disrupted MPD's forward progress. They called for "Allies in the front," which MPD officers interpreted as a deliberate (and successful) tactic to slow the progress of MPD.

Contributing Factor 24. MPD officers assumed a fixed line due to a lack of MPD personnel and a desire not to physically engage with the line of protesters between MPD and the vandals.

Contributing Factor 25. All MPD officers deployed on State Street were on foot, and lacked the mobility to influence the crowd's movements from any position other than the established line on State Street.

Contributing Factor 26. MPD used loudspeakers in an MPD van to issue announcements that the gathering was an unlawful gathering and orders to disperse. Because of the size of the crowd, and the lack of MPD officers beyond the line of MPD officers, it is unclear whether these announcements could be heard throughout the crowd.

Contributing Factor 27. The ability of the Command Post to have a complete view of the protests (including the vandalism and looting) was limited because the CCTV cameras providing the ability to view the area do not capture audio, a crucial component to perceiving the emotion and psychology of a protest.

Contributing Factor 28. The ability of the Command Post to have a complete view of the protests (including the vandalism and looting) was limited because the CCTV cameras were the only real-time source of video available to the CP, as most MPD officers are not equipped with body-worn cameras (BWCs).

Contributing Factor 29. Many officers from other departments who responded to MPD's request for assistance had radio equipment that was not compatible with MPD's radio equipment. As a result, all radio communications were on a public channel, complicating communications to officers and potentially allowing the communications to be monitored by individuals in the crowd.

Contributing Factor 30. MPD pursued a strategy of crowd dispersal rather than a mass arrest of protesters, and deployed "less lethal" munitions for that purpose, including OC spray, CS gas, and 40MM sponge shells for specific protestors identified as posing a threat to MPD officers by, e.g., throwing projectiles at officers.

Contributing Factor 31. Once gas was deployed, officers wore gas masks, limiting their ability to communicate with protesters or to de-escalate the situation.

Contributing Factor 32. Protesters overturned concrete planters and garbage cans in an effort to impede MPD progress, and threw (among other things) rocks from the concrete planters at MPD officers.

Contributing Factor 33. MPD had insufficient officers on State Street to prevent the crowd from circling behind officers and causing damage on blocks that had already been cleared of people. As a result, the officers remained at the 100 block of State Street, where they were the continuing target for projectiles and crowd aggression.

Contributing Factor 34. MPD officers lacked sufficient equipment to be able to disperse the crowd effectively, and the ability to resupply was limited to one SUV.

Contributing Factor 35. As officers reported in to the "all call" throughout the evening, more officers were deployed to State Street and the ability to "close off" side streets allowed SET officers with CS gas and OC spray to disperse the crowd.

Recommendations 12 – 21

Based upon the Contributing Factors listed above, the Stakeholder Group recommends that:

Recommendation 12. MPD should stage SET officers in protective gear in locations near where crowd escalations or confrontations are anticipated to allow for faster response when significant injury to individuals is imminent.

Recommendation 13. MPD should establish a system for locating protective gear that allows officers to transition from regular uniforms efficiently and arrive at protest sites rapidly.

Recommendation 14. MPD should obtain vehicles suitable to transport the entire contingent of SET officers in full equipment at the same time, so that response time and officer stamina are optimized at crowd events

Recommendation 15. MPD should use the events of May 30 as a training exercise, modeling

- The number of officers, their location and all necessary equipment to allow anti-police protests to remain peaceful
- Appropriate audio/visual equipment to provide effective communication between MPD and protesters
- Radio or other communication technology that would allow officers from multiple departments in protective gear to communicate effectively with the Command Post efficiently.

Recommendation 16. MPD should continue to develop, equip and train mobile units on bicycles or in cars that can identify and interrupt vandals or others committing criminal acts during protests while minimizing interactions or interference that is undesired by protesters.

Recommendation 17. MPD should procure and use suitable audio equipment to ensure that declarations of unlawful assembly can be heard by crowds as large as the ones that were present on May 30 and 31, and that is rapidly transportable to unexpected locations.

Recommendation 18. MPD's declaration of an unlawful assembly should be delivered in a manner that is audible to everyone within the assembly. It should state the public safety rationale for the dispersal and using words that are clear to laypeople. Announcements should also provide a safe route for dispersal that the crowd can take. These requirements should be included in written Standard Operating Procedures (SOPs) for MPD.

Recommendation 19. All MPD officers and appropriate City of Madison staff should be trained on an emergency preparedness infrastructure that would allow for routinized and rapid scaling of the Incident Command System (ICS) and the National Incident Management System for

prolonged and/or large-scale emergencies. MPD should require that all command personnel placed are placed in actual roles (Command, Operations, Planning, Logistics, Administration) during protests to gain experience.[35]

Recommendation 20. MPD should track all distributions of chemical or "less lethal" munitions to officers and audit the use or return of such munitions after field deployment.

Recommendation 21. After protest events where MPD officers employ crowd control strategies, MPD should require officers and commanders to meet with and debrief SET officers to review, understand, and learn from these events. These reviews should occur in addition to existing internal or external administrative and accountability reviews.

35 Representatives of MPD informed the Stakeholder Group that the Department does not have sufficient resources to implement this recommendation at this time. The Stakeholder Group lacks the ability to evaluate the accuracy of this assertion.

Critical Incident #3: MPD Patrol Car Set on Fire, Rifles Taken (9:30 pm, May 30)

As the day progressed on May 30, MPD issued an "all call" asking all officers to report to downtown Madison and assist in managing the protests. As a result, many officers without Special Events Team (SET) training were deployed for activities related to the protests.

At approximately 9 p.m., two MPD patrol officers who had been addressing other needs for police in Madison throughout the day were sent into the downtown area in response to a 911 call from an elderly person attending the protests who needed medical assistance in Peace Park (on the 400 block of State St. near Gilman St.). The officers, each of whom brought their Department-issued protective gear and rifle, drove to the location in a single squad car. MPD squad cars are typically used to transport one officer. Each car has a gun security rack used to store the officer's issued rifle in a locked and secure way. Because the rack in this vehicle was large enough to secure only one rifle, the other rifle was unsecured in the back of the vehicle.

For protest-related matters, officers were being dispatched from the Command Post (CP). The CP directed the officers to State and Gorham but did not provide additional information about the location of protesters, or where the officers should park their car. As the officers neared Peace Park, they decided to park the squad car just south of State St. on Gorham, which at the time was not an active protest site, as the MPD SET officers had moved their line farther out on State St. towards Frances St.

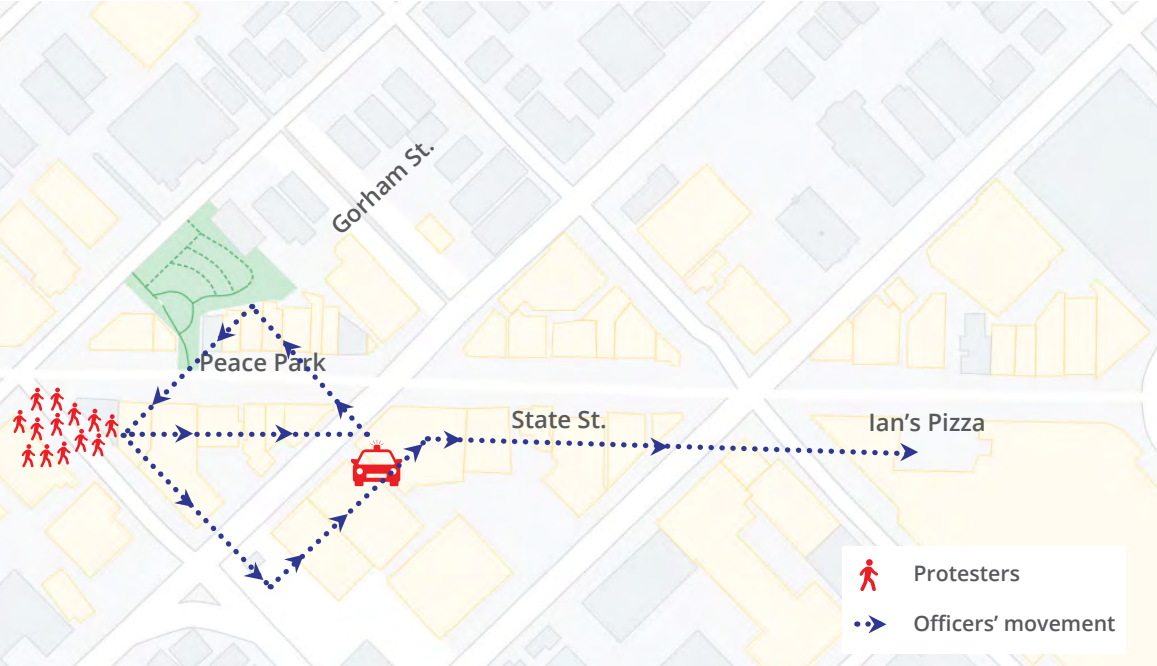


Figure 8. Route of officers leaving MPD vehicle unattended @ State and Gorham Sts., May 30, 2020.

The officers continued to Peace Park on foot, leaving their protective gear and the rifles in the car. The car was left with its lights on and the engine running, but the doors locked, a standard act when a patrol car is left in an unusual location for a brief period of time.

The officers found the individual in need of assistance, and coordinated with emergency response personnel to assist the individual, getting the person into an ambulance and safely removed from the protests. This took roughly 25 minutes.

As the officers returned to their car, they realized the line of protesters had shifted. The SET officers had changed direction and were now dispersing the crowd back towards the Capitol. As a result, there were many protesters on State St. between the officers and their car.

The officers walked around the protesters, south on Broom St. and then back up on Gorham, in an effort to return to the car without engaging the protesters. By the time they arrived, however, a crowd was beginning to gather around the car. The officers did not feel they could safely approach the car in their regular uniforms, and did not think that they could put their protective gear on in time to avoid a dangerous altercation with protesters. They decided to leave the vehicle where it was, connect with other officers on the scene, and return when the car could be retrieved safely.

As the officers began moving towards the Capitol, an "officer down" call came over the radio. The call, which did not specify the nature of the injury, stated that the officer was near Ian's Pizza at the east end of State St. The dispatcher did not specify who should respond to the "officer down" call, so the two officers hurried to Ian's Pizza to assist, moving quickly and trying to minimize interactions with angry protesters, who were still out in force on State St.

When the officers reached Ian's Pizza, they learned that the "officer down" call was related to an officer who had briefly been overcome with dehydration, and that the officer was receiving appropriate assistance. They went behind the fixed line of SET officers at the 100 block of State St., where they informed a supervising officer about the location of their vehicle and that it had been left unattended.

Without protective gear, the officers were not able to return to the car. In fact, due to projectiles being thrown at the officers in this area, the officers had to wait inside a squad car to avoid injury. The officers waited while SET received new supplies that would allow them to again move out on State St. in an effort to disperse the crowd. Once resupplied, the group began to walk out State St. to disperse the crowd and return the officers to their vehicle.

In the meantime, the unattended car with its lights flashing had drawn the attention and the anger of protesters. Two protesters in particular circled around the car, gradually becoming more aggressive. One of the protesters had a skateboard and the other a backpack, and they spray painted graffiti on the windows and walls of a store on the corner of State and Gorham Sts. before turning their attention to the car. Using the skateboard and other tools, they broke the windows on the car, opened the doors, and set the interior of the car on fire. The unsecured rifle in the back was removed from the car as it burned.

The CP, which included both MPD and senior leadership of the Madison Fire Department (MFD), was monitoring the fire closely and with great concern. Given the continued presence of angry protesters, it was deemed unsafe for MPD or MFD to approach the car safely to put the fire out. At the same time, the car was parked closely enough to the building that the building could catch fire, endangering residents of the upstairs apartments.

Fortunately, the dilemma was solved by a good Samaritan. Eddit Long, who was riding through the protest area with his son, noticed the blaze as he rode his bike down Gorham St. Mr. Long stopped, located a fire extinguisher, and tried to put the fire out. When that did not work, he got into the (still burning) car and drove it into the middle of the intersection of Gorham and Broom Sts., where it could burn without endangering nearby residences and buildings. MFD, monitoring this from the CP, evaluated the significantly reduced danger of the fire in this location and allowed the fire to burn until firefighters could approach the area without concern for their safety from the crowd.

MPD and MFD were able to clear the area around 10 pm and extinguished the fire. While damage was limited to the car itself, this was largely due to the good luck of having a brave community member appear and assist in moving the car.

Images of the burning car were vivid symbols of the scope of the disorder on State St. and were used by angry protest organizers throughout the summer. In addition, both of the rifles that had been in the back of the vehicle were stolen, creating a potential danger to the community. While the rifle that had been locked in the rack had been rendered inoperable by efforts to open the rack, the other rifle was operable. Thankfully, MPD located each of the rifles without further incident.

Analysis

The Stakeholder Group's analysis of the burning police vehicle on the night of May 30 focused on the many gaps in communication and coordination among MPD that permitted a dangerous situation in which the vehicle, with two rifles inside, was left unattended in an area of considerable unrest.

A number of factors were identified that contributed to this event, beginning with the dispatch of two relatively novice officers who lacked SET training into a protest zone. The officers were not trained on crowd tactics and were not given instructions about where to park their car. As a result, they decided to park their car in the middle of the protest zone, instead of parking it a safer distance away from the crowd.

It was the perception of the officers that being dispatched by officers in the CP, rather than the MPD's normal dispatchers, contributed to this. The officers felt that the "regular" dispatchers are more accustomed to keeping track of where all of the MPD officers on shift at a given time are, and how to efficiently deploy them. By contrast, the CP dispatch seemed overwhelmed, sending the officers to address the medical call and not providing additional context about where to go or what the situation was. As a result, the officers felt that they lacked necessary "situational awareness" that could have helped them make better decisions about where to park the vehicle without reducing their ability to help the elderly person in Peace Park.

The Stakeholder Group also discussed the officers' decision to leave the car unattended with its lights on. In general, this is done for safety reasons, to create some distance between where officers are engaged and bystanders. In this instance, it served to alert the protesters to the car, and may have led instigators in the crowd to focus on it when they otherwise might not have (though it should be pointed out that the car vandalized outside the CCB earlier in the evening was unmarked and parked without its lights on).

The Stakeholder Group observed that, much like the Goodman's Jewelers incident, the actual vandalism was conducted by only two people while a considerable crowd watched and filmed the event. This is further evidence for the need for MPD to be able to identify and intercept specific instigators, and the potential for such incisive interactions to prevent many of the highly visible "flash points" that escalate the danger and violence within an otherwise peaceful – if angry – protest.

The Stakeholder Group sympathized with the decision of the officers not to risk a physical altercation by trying to remove the car after it had attracted a crowd. As the officers were deciding what do to, however, the "officer down" call contributed to their decision to leave the car and move several blocks away. The call lacked any context or clarity about the officer's situation or about which officers should respond and assist.

An "officer down" call is a significant announcement on the radio, and can be expected to attract any officer in the vicinity, each of whom will be considering worst-case scenarios, particularly during a period such as these protests. If the call had provided the context of dehydration and asked for officers in the immediate vicinity to assist the officer, a more appropriate level of resources would have been redirected, and these officers might have been able to remain in place, quickly return to the car and drive it away. Instead, many officers who were needed elsewhere responded to the call. The call also greatly increased the anxiety of officers throughout the city, who were left wondering whether protesters were engaging in gunfire or other life-threatening violence against MPD officers

One issue that the Stakeholder Group found concerning was the decision of the officers to bring assault rifles in the car to the protest area. The number of situations where such rifles are needed seemed quite small to the Stakeholder Group.

MPD provided a rationale for the presence of such rifles in vehicles. MPD noted the disproportionately negative impact that only a few instigators had in this instance, and pointed out the need to be ready if one of those instigators was a mass shooter, instead of just two people vandalizing a car. Seconds matter in responding to such a mass shooter event, and providing officers with those rifles in such a situation could save many lives.

The Stakeholder Group understood this logic. At the same time, the group discussed whether the obvious danger of having an unlocked rifle in an unattended car was justified by the potential benefit of its presence in the event of a mass shooter scenario – an event that there was no evidence to suggest was happening. MPD routinely plans for such events prior to protests, and SWAT officers were placed throughout the downtown area to monitor such events. Asking patrol officers to engage in a specific medical call would not have assisted in planning for or responding to a mass shooter event, and having only the one rifle in its locked rack would have provided the same response time with less danger to the community. As it happened, the unsecured rifle in the hands of protesters seemed to the Group to be much more predictable, and much more dangerous, than a vague concern of a mass shooter scenario.

Contributing Factors 36 – 51

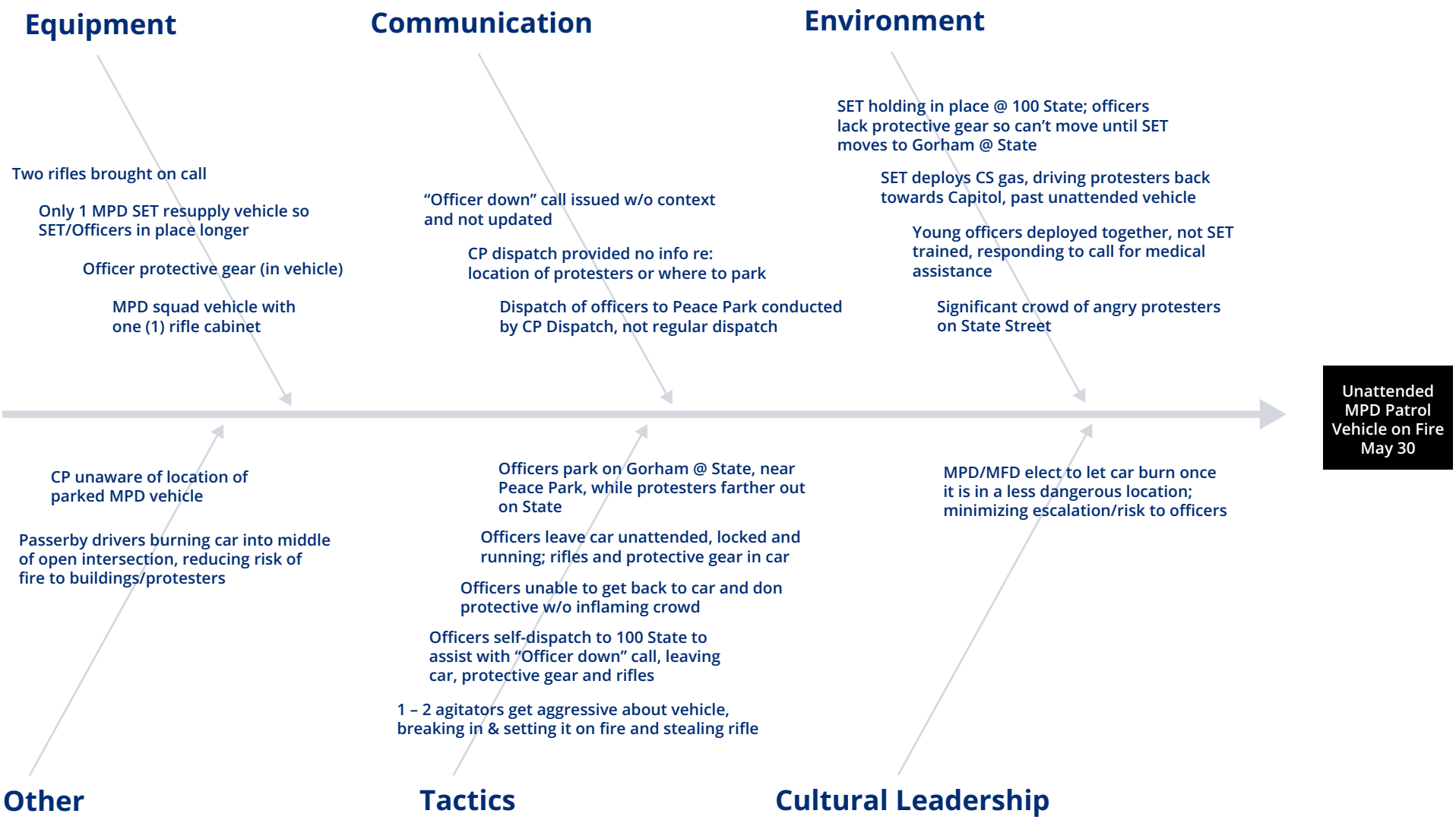


Figure 9. Fishbone Diagram of Contributing Factors: Unattended MPD Vehicle Set on Fire, Rifles Stolen, May 30, 2020.

Contributing Factor 36. Two inexperienced officers without SET training were deployed to State St. to assist with a protester who had a medical issue at Peace Park.

Contributing Factor 37. The officers were dispatched by the CP, and not the regular MPD dispatch system.

Contributing Factor 38. The CP dispatcher did not provide the officers with detail on the location of protesters or other MPD SET officers, or provide an appropriate location to park the vehicle while they answered the medical call.

Contributing Factor 39. The officers, prioritizing the medical call, left their vehicle unattended near an area where SET was deploying chemical munitions.

Contributing Factor 40. The unattended vehicle contained each officer's protective gear and each officer's rifle. Only one rifle was properly secured in a locked cabinet in the vehicle.

Contributing Factor 41. The CP was not aware of the location of the unattended MPD vehicle.

Contributing Factor 42. At the time the officers parked, the crowd and the MPD line of officers dispersing the crowd was to the west. As the officers performed the medical call, however, MPD deployed CS gas that was designed to, and succeeded in driving the protesters east, back towards the Capitol and past the unattended MPD vehicle.

Contributing Factor 43. The officers, still in their "soft gear," were unable to return to their car without attracting the attention of the crowd, which was quite hostile.

Contributing Factor 44. An "officer down" statement was broadcast on the single radio channel without additional context regarding the officer's situation or who should respond.

Contributing Factor 45. The officers self-reported to the stated site of the "officer down" call rather than remaining near the unattended MPD vehicle.

Contributing Factor 46. Given their lack of protective gear and the constant projectiles being thrown, the officers were unable to return to the vehicle without a SET escort.

Contributing Factor 47. SET required a resupply of crowd control munitions to disperse the crowd and return to the vehicle, and only one resupply vehicle was in use, delaying the ability of MPD to return to the unattended vehicle.

Contributing Factor 48. While the car was unattended, a small number of individuals surrounded by a much larger crowd vandalized the car, setting it on fire and removing the unlocked rifle from the car.

Contributing Factor 49. The size and aggressiveness of the crowd made it difficult for MPD and MFD to approach the car and extinguish the fire.

Contributing Factor 50. An individual tried unsuccessfully to extinguish the flames, then drove the (still burning) vehicle away from State Street and into the middle of the intersection of Gorham and Broom Sts., where it could burn without immediate risk to nearby buildings.

Contributing Factor 51. Because the burning vehicle was in a safer area that did not threaten buildings or residents, MPD and MFD elected to allow the car to burn until MFD personnel could be safely deployed to extinguish the fire.

Recommendations 22 – 29

Based on the contributing factors identified above, the Stakeholder Group recommends that:

Recommendation 22. MPD should state in its Standard Operating Procedures (SOPs) for crowd events that officers should not leave vehicles unattended in areas of known civil unrest.

Recommendation 23. During protests, the CP should have the ability to locate any officer or vehicle participating in protest response, including officers or vehicles from other departments.

Recommendation 24. MPD should ensure that experienced dispatchers are in the Command Post to ensure that the deployment of officers and vehicles during a protest takes the movements of protesters into account, and provides additional context to officers being deployed near crowd events.

Recommendation 25. MPD should limit the presence of rifles at protests to instances and personnel needed to prevent mass shooting events. Other officers should not bring rifles to protests. If rifles are brought to protests as standard issue equipment in squad cars, they must be locked in their secure cabinets. Any rifle that cannot be secured in a locked cabinet should be left at a secure MPD location.

Recommendation 26. MPD should acquire GPS tracking technology that will enable all officers' locations to be known when it is activated.

Recommendation 27. When "officer down" calls are issued, they should provide as much context as possible regarding the nature of the situation. Any follow-up communications should provide additional context promptly and alert officers when the needed assistance is being provided, and whether there is additional risk to other officers in the vicinity.

Recommendation 28. MPD and MFD should develop protocols for responding to fires during civil unrest, including specifically gaining rapid access to fires set within or near angry crowds, and should train together to practice those protocols.

Recommendation 29. MPD should create mobile units capable of identifying instigators and vandalizers in a crowd, separating them from other protesters, and removing them from the scene. These units should also be able to locate and access any MPD officer or vehicle at any time to provide rapid assistance.

May 31, 2020: Police and Protesters Re-engage

On the morning of May 31, Madison tried to recover from the violence of the night before. The community came together in the morning to clean up State St., while Madison Mayor Satya Rhodes-Conway and MPD Interim Chief Victor Wahl held a press conference. They publicly supported the protests, while condemning the violence and property damage of the night before.

To deter people from gathering late at night, the Mayor issued a curfew downtown between the hours of 9:30 p.m. and 5:00 a.m. for the nights of May 31, 2020 through June 3, 2020. While the curfew was in place,[36] MPD had the legal authority to arrest any individuals in the downtown area.

Dismayed by the events of the night before, MPD made several adjustments to its planning on May 31. All SET officers were called in, as opposed to the smaller group of volunteers that had been assigned to the protests on May 30. As a result, MPD was able to dedicate to the protests:

- 70 SET officers
- 36 traffic and team officers
- 13 SWAT officers
- 10 detectives (used for arrest processing)

for a total of 129 total officers to facilitate the protests a minimize unrest. An additional ~15 commanders and staff were in the Command Post.

Those MPD officers were supplemented by:

- 120 National Guard soldiers (unarmed)
- 50 Dane County Sheriff's Office deputies
- 20 University of Wisconsin Madison Police Department officers
- 26 Wisconsin State Troopers
- 83 officers from other outside agencies that came via the EPS request

These additional 299 individuals literally tripled the ability of MPD to attempt to facilitate the protests while being responsive to other legitimate needs for police throughout Madison.

MPD also extended the mutual aid requests from other departments, including the Dane County Sheriff's Office (DCSO), the Wisconsin State Police (WSP), the University of Madison-Wisconsin Police (UMWP) and the National Guard (who responded by sending 120 unarmed soldiers in a support capacity only).

Under the terms of the mutual aid agreements, MPD retained operational command of the situation and of all of the officers being deployed. At the same time, each participating police department retained its chain of command, and an operational commander for that department was in the CP with MPD event commanders. Orders for deployment of non-MPD officers would be conveyed by MPD to these commanders, who would then communicate the orders to their officers.

The overall strategy used by MPD was similar to the prior day. MPD intended to provide a visible police presence to deter illegal activity, but was also focused on de-escalation strategies, including repositioning officers away from protesters when safety would not be compromised. Unlike the day before, however, where officers were deployed in soft gear and had to change into protective gear, on May 31 MPD deployed two platoons of SET officers already dressed in their protective gear to stand by out of sight in a location near State St. close to the areas of violence during the night before. These officers were available for rapid deployment if protests escalated again; MPD hoped that a faster MPD response would prevent further escalation.

MPD's Incident Objectives for the day included:

- Provide for the safety of all response personnel assigned to the incident.
- Provide for emergency response capabilities with the incident area(s).
- Provide a safe and secure environment, whenever possible, for protesters, spectators, and the public.

36 The curfew order was placed for a vote on June 2, 2020 before the Madison City Council. Support for the curfew was divided (nine in favor, nine against, with one member abstaining). Because there was not a majority vote to continue the curfew, it expired on June 3, 2020. *See* https://www.jsonline.com/story/news/2020/06/02/live-protest-coverage-milwaukee-and-madison/5316216002/.

- Monitor crowds for any disruptive or damaging type behaviors.
- Take appropriate safety and security measures as necessary.
- Maintain public communications to the protesters, bystanders, and the community to keep them informed as to any known hazard areas related to the protest environment(s).
- Utilize mutual aid resources as necessary to maintain order or response capability within the community.
- Continue to be responsive to changing conditions and resource needs that could impact the delivery of public safety services within the community.

Throughout the day, law enforcement was visibly present on State Street and near the Capitol Square. Small groups of officers in soft gear stood at the periphery of the protests, trying to maintain a supportive presence while deterring criminal activity. Protestors marched up and down State St., gathering occasionally for speeches at locations such as the Library Mall and the Capitol Square. There were some reports of hostilities, but the protests remained largely peaceful throughout the day.

The curfew went into effect at 9:30 pm, and a group of protestors (estimated to be 300 – 500 people by an MPD officer in the CP) gathered near the Capitol, at the corner of State, Carroll and Mifflin Sts. While the protests were focused on the murder of George Floyd, police brutality and racial inequities, one motivation behind these protests was also to defy the curfew as an act of civil disobedience. Protesters made speeches about civil disobedience, allyship, and the precedent for peaceful protests. Chants including "Hands Up, Don't Shoot," "I can't breathe," "This is not a riot, this is a revolution," "White silence is violence," and "George Floyd – no justice, no peace," among other things, filled the Square.[37]

At approximately 9:45 p.m. the crowd began walking counterclockwise around the Capitol square. (See Figure 10 below). Law enforcement personnel accompanied the protesters from a distance, but did not engage with the crowd.

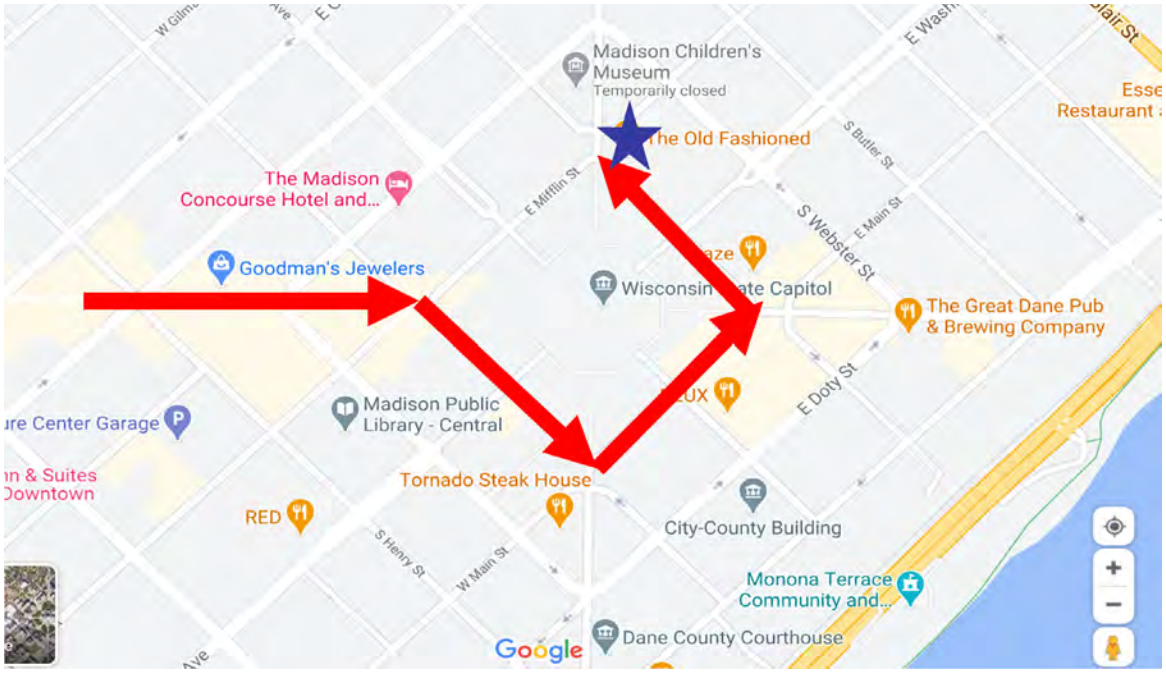


Figure 10. Map of crowd movements, evening of May 31, 2020.

37 https://isthmus.com/news/news/this-is-not-a-riot/

Critical Incident #4: Altercation on Pinckney St. and Dispersal on Wisconsin Ave. (9:55 pm May 31 – 2 am June 1, 2020)

A group of about ten officers from the Dane County Sheriff's Office (DCSO) was observing the protesters from the north side of Pinckney St., across the street from the Capitol Square. A group of protesters noticed the officers. The group approached and engaged with the officers in an increasingly hostile fashion. The aggression appeared to be initiated by the protesters, who appeared to be enraged merely by the presence of the officers.[38]

Videos published on social media show the officers with their backs against buildings as roughly twenty people surround them and yell at them in front of the Old Fashioned restaurant at 23 N. Pinckney St. (See Figure 10 above). As the crowd got closer and became more threatening, the officers held batons in front of their bodies in a blocking stance. A few protestors began pushing officers, and the officers pushed the protesters away. As tensions escalated, a man in a grey hooded sweatshirt approached an officer aggressively. The officer, with both hands on his baton, used the baton to push the man backwards into the crowd. The man re-emerged and tried to punch the officer while another officer again used a baton to push him back. Several protestors attempted to separate this person and prevent further violence.

The DCSO officers called out on the radio for immediate assistance, reporting that they were surrounded by the hostile crowd, had been hit by rocks and/or other objects, and one officer had been punched in the face. Two members of the MPD SET team, who were in an SUV and able to arrive quickly, immediately assessed the situation as one where the safety of the officers was at risk from substantial force. They deployed two CS canisters to disperse the angry crowd and create a safe space for the officers to leave the scene.

Two MPD vehicles arrived at the intersection of Pinckney, N. Hamilton and Mifflin Sts., while others arrived at the intersection of Pinckney St. and E. Washington Ave., behind the crowd. These officers, who had not confirmed that the DCSO officers were out of danger, threw three canisters of CS gas to disperse the crowd. Officers also reported using 40mm impact rounds directed at individuals attempting to pick up the canisters[39] or throwing rocks at MPD officers.

These efforts had two effects. First, they succeeded in their immediate goal of dispersing the majority of the crowd and allowing the DCSO officers to move to safety, behind the line of a group of MPD officers. MPD and WSP officers took a position at the intersection of Pinckney, Hamilton and Mifflin Sts. facing south.

But the uses of force had an unintended consequence as well. Some protesters remained in the area. Particularly due to the uses of CS gas, many of these protesters were incensed and their aggression was increased. CCTV showed several protesters holding signs and standing in place, but others who appeared to be throwing objects at the officers. This led MPD SWAT officers in their discretion[40] to deploy additional chemical munitions and 40mm impact rounds against protesters who were still standing in the area.

Given this escalation of protests into violence, the CP called upon the MPD SET officers who had been staged on Gilman St. These officers, clad in protective gear, made their way to the scene by walking east on State St. They arrived and formed a line north of State St., preventing access to State St. in an effort to prevent a repeat of the prior night's violence and looting. [See Figure 11 on the next page]

38 The Stakeholder Group did not have access to video leading up to this altercation, and was limited to publicly available video posted online of a portion of the altercation. Again, the absence of body-worn cameras limited the Stakeholder Group's ability to fully assess the situation. Other information was obtained from police reports and interviews with participating officers.

39 Many protesters would pick up the canisters to throw them back at the MPD officers, and the projectiles were intended to prevent this reciprocal use of force against MPD.

40 Current MPD policy allows appropriately trained officers to deploy CS gas under certain exigent circumstances. See City of Madison Police

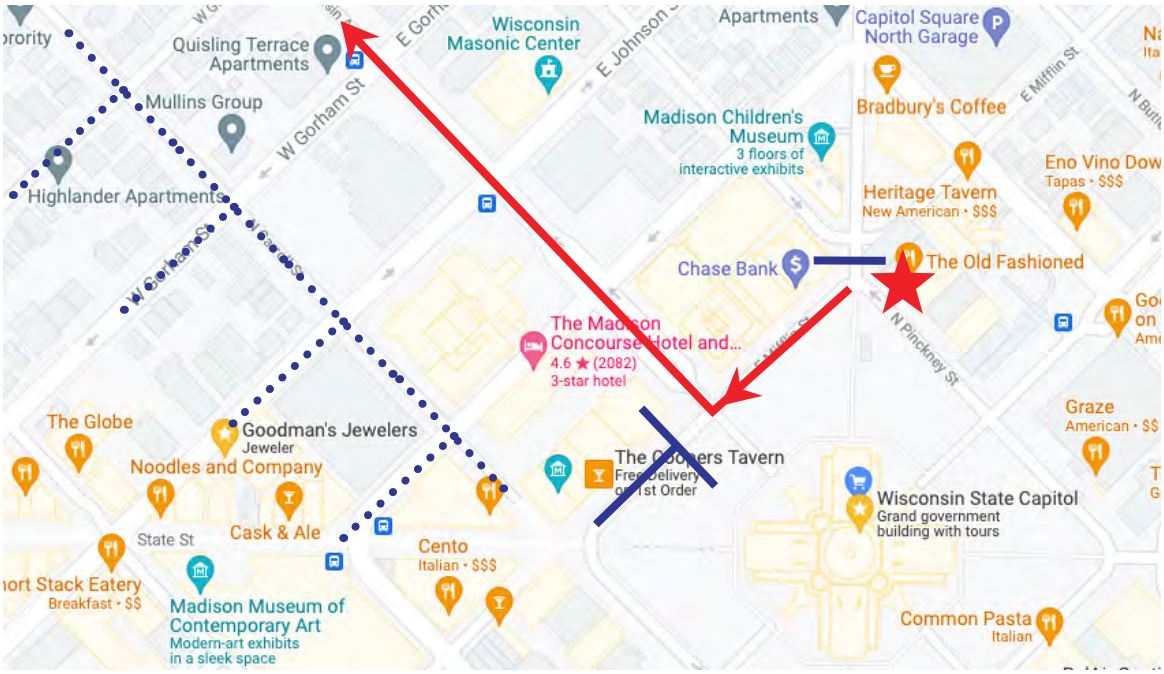


Figure 11. Map of Protest Activity, May 31, 2020.

Officers and protestors remained in place facing one another for roughly 20 minutes as traffic continued to drive by on Mifflin St. The CP, with officers established on the north and south sides of the Capitol, wanted to declare an unlawful assembly and calmly disperse the crowd. To do this, MPD needed a vehicle with a loudspeaker to communicate with the crowd. This took longer than expected to arrive due to confusion about where the vehicle was needed. In the meantime, the presence of the fixed line of officers in protective gear angered the crowd, and people in the crowd threw projectiles at the officers.[41]

Eventually, the CP instructed the officers to disperse the crowd away from both the Capitol and State St.by moving its fixed line slowly westbound on Wisconsin Ave. MPD and personnel from other departments and the National Guard slowly advanced, and the crowd retreated.

As on the night before, the fixed line of MPD officers moved forward in formation in an attempt to disperse the crowd gradually. These efforts were complicated by several factors. The width of Wisconsin Ave. made it difficult for the SET officers to stretch fully across the area, allowing protesters to "outflank" the line of officers and remain in the area. The officers could not move forward quickly without breaking the formation, which could separate the officers from the line and expose them to danger. The crowd could move more quickly and creatively. Thus, as officers used gas canisters to disperse the crowd and 40mm impact rounds to prevent people from throwing additional objects at officers, protesters could fall back out of range, only to return and throw projectiles before retreating again out of the range of officers.

Protesters began setting fires near Wisconsin Ave. & Langdon St., using trash in dumpsters and furniture near the street (May 31 was a scheduled "large item pickup day," so considerable amounts of trash were near the curbside). Once the dumpsters were on fire, protesters pushed them towards MPD officers (these dumpsters were on wheels and could roll down Wisconsin Ave. once set in motion).

Department Standard Operating Procedure, Non-Deadly Force – Use Of, at 2-3, accessed at https://www.cityofmadison.com/police/documents/sop/NonDeadlyForceUseof.pdf.

41 Several officers interviewed in the SER mentioned the belief that protesters might be more inclined to throw projectiles at officers in hard gear, both because the protective gear communicates a more aggressive stance by the police and because protesters might believe that they could not actually harm the officers due to the protection offered by the clothing. While the hard gear does provide some protection, many officers reported injuries from projectiles throughout the protests.

This back and forth continued for several hours, with MPD personnel using OC gas and 40mm impact rounds in an effort to protect themselves and disperse the crowd, while the crowd would fall out of range and set additional fires. In addition, MPD efforts to prevent the crowd from coming near State St. were unsuccessful, and additional damage was done to multiple State St. businesses for the second consecutive night.

Analysis

The Stakeholder Group viewed May 31 as evidence of a number of important factors. First, the aggressiveness of the group of protesters that confronted the DCSO officers in front of the Old Fashioned revealed the depth of passion on the part of the protesters. Second, the Group was troubled by the tactics used by MPD in response to the confrontation and felt that those tactics unnecessarily escalated the events. Third, despite some tactical changes, May 31 was the second night in a row in which MPD's response was slow and inflexible, likely contributing to the escalation. And finally, the Stakeholder Group reflected upon gaps in its ability to review the events, and ways to address those gaps for transparency with the community and to allow the community to know if and when law enforcement officers in Madison are deviating from policy.

Turning first to the altercation at the Old Fashioned, the Stakeholder Group was unable to ascertain any acts by the DCSO officers that provoked an angry reaction from the crowd. The video reviewed by the Stakeholder Group, which was created and posted by protesters, showed a group of officers surrounded and backed into a corner by angry protesters, and the crowd was definitely becoming hostile. Under the circumstances, the measured use of chemical munitions to separate the officers from the crowd without further use of force likely prevented a physical altercation between protesters and officers in which people would have been more seriously hurt.

The Stakeholder Group had a different reaction to the MPD uses of force that followed after the altercation had ended. CCTV video available to the Stakeholder Group offered a limited vantage point, but did allow a view of the MPD officers who responded from multiple directions. Deploying chemical munitions can escalate anger in a crowd – particularly when (as it appeared to the Stakeholder Group) those munitions are deployed somewhat indiscriminately and not targeted to actively aggressive behavior. While some of the SWAT officers were the target of projectiles from the crowd, the CS gas affected a broader group of people than just those who were throwing projectiles. Thus, these uses of force likely contributed to the escalation of tensions with a larger group of protesters, well beyond the small group on Pinckney St, without an offsetting benefit to public safety or officer safety. While the Stakeholder Group understood that officer discretion is important in such moments, the Group thought it was reasonable to question what the result would have been if the SWAT officers and the officers rescued from the Old Fashioned had fallen back rather than trading projectiles and munitions.

After the officers were extricated from the Old Fashioned, there was no further threat of person-to-person violence from anyone in the crowd, and the projectiles that were thrown seemed to the Stakeholder Group to be few and far between, without additional danger to the officers.[42] The Group noted again that these protests were by definition about the repeated, historical inappropriate use of force by police in Madison and elsewhere. In such a situation, as tensions are escalating, it is a confirmation of the need for the protests for MPD or other departments to use force, and it is predictable that any use of force, and certainly an undifferentiated one that does not target individuals who are actively creating a danger to officers or others, will underscore an "us vs. them" mentality and increase the willingness of the protesters to retaliate.

Once these events had excited and agitated the crowd, MPD was faced again with the challenge of how to disperse them. MPD's intention to disperse the crowd slowly and calmly was laudable, but the Stakeholder Group felt that its tactics exacerbated the standoff and the crowd's hostility. First, there was no constructive communication between MPD and the crowd, and MPD

42 The Stakeholder Group did note that MPD's deployment of CS gas was responsive to projectiles that had been thrown at MPD officers, and did not initiate the incident. In addition, the Stakeholder Group's view of the area was limited, as the CCTV video available to the Stakeholder Group lacked audio and the gas canisters were thrown by people off camera before landing within the camera's view. Thus, it is possible that more projectiles were thrown at officers, and it is possible that the canisters were thrown at specific individuals launching those projectiles, though that information was not apparent to the Stakeholder Group.

made no apparent effort to communicate with protesters on an individual level to de-escalate tensions. Instead, MPD used CS gas at the Capitol Square, and when that was unsuccessful, the SET group was called in wearing protective gear, batons and gas masks. The presence of officers in riot gear with batons and shields enhanced tension within the crowd; community members pointed out that gas masks are particularly troublesome in such situations, as they both escalate tensions (by indicating the imminent deployment of CS gas) and eliminate the ability of individuals in the crowd to communicate with individuals in MPD.

Neither MPD nor protesters had any designated communication representatives. Thus, even if they had been willing, the MPD officers had no ability to speak to anyone in the crowd. As a result, the officers simply stood in place, neither side willing to stand down. This escalated the tension (and the risk of injury) for roughly 20 minutes as protesters anticipating CS gas throw projectiles from a distance rather than coming close enough for any communication. In addition, a combination of human error (the AV van got lost and took extra time to arrive at Wisconsin and Mifflin Sts.) and bad luck (the availability of flammable material on the streets because it was "large item trash day") added to the anger of the crowd and its ability to disrupt MPD tactics.

The fixed line tactics were once again ineffective, and the Stakeholder Group reflected on the need for MPD to increase its mobile capabilities, either with bicycle officers (commonly used for crowd events in many other jurisdictions), cars, or other options.

The Stakeholder Group discussed the pros and cons of the curfew issued by the Mayor. Many people felt that the curfew put MPD in a challenging position. First, it was not clear to many in the community that the Mayor, and not MPD, declared the curfew. As a result, many in the community felt that the curfew was a retaliation from MPD for the protests, an act that caused them to be more likely to participate in protests on the 31st. In addition, the protests gave MPD the legal right to arrest, but not the practical ability to arrest, and therefore made MPD appear weak in the eyes of the protesters, further encouraging more aggressive behavior. For these reasons, many Stakeholders felt that the curfew declaration did more harm than good, and a simple message from the Mayor asking community members not to come downtown for their own safety and to de-escalate tensions might have been a more useful act.

Finally, the Stakeholder Group expressed some frustration with the limits of its ability to evaluate and understand these events in greater detail, and made the following observations:

- The Stakeholder Group understands that the City of Madison has had many discussions of the pros and cons of allowing MPD officers to wear body-worn video cameras (BWC). While there may be legitimate reasons to prevent BWC, in this instance the lack of BWC prevented the Stakeholder Group from being able to review officer activity throughout the events of May 31, starting with the events leading up to the altercation in front of the Old Fashioned and continuing throughout the uses of force by and against MPD on Wisconsin Ave. As a result, the Group was left only with officer accounts of the events, which may have been incomplete or inaccurate. It would benefit MPD and the people of Madison to be able to review such events in greater detail and with video verification of the events, rather than relying almost completely on accounts provided by the officers who were present and involved in the incidents.
- The Group reviewed written accounts of uses of force by MPD officers, and interviewed many of the officers who had submitted these reports.[43] The intensity and duration of the protests, as well as the difficulties of experiencing and describing shifts in which multiple uses of force occurred over a series of hours in a single shift, created delays in the submission of reports. When submitted, many reports included admissions of the potential for inaccuracy and confusion about which events

43 The Quattrone Center attempted to gather as many first-person perspectives of the protests as possible through the creation of a confidential website allowing for protester input. Additional information on the submissions received at this website is set forth in Appendix B. Comments Received at www.madisonprotestreview.com.

occurred on which day, etc. As participants in the incidents, their memories were no doubt unavoidably incomplete, and their accounts reflected only their own perspectives.

- MPD officers (appropriately) receive instruction on how to complete reports, and the reports often appear to be written in a way that seeks to provide a legitimate legal justification for the use of force. This can lead to standardized language as the officers repeat the legal standard justifying their use of force. As a result, readers of the reports can get the feeling that the reports are simply post hoc justifications of police uses of force rather than truly proportional acts by officers designed to prevent harm to others. While the Stakeholder Group had no reason to doubt the accuracy of the officer accounts, many were nonetheless skeptical of them and would have appreciated the ability to see the accounts in greater detail. BWC footage could have provided some of this clarity – and in so doing, can help build trust in MPD's accurate reporting of events rather than having others in the community fear the worst.
- Officers were submitting Use of Force reports to comply with department policy. On the days of May 30 and 31, however, the Department's audit and review procedures regarding chemical and less lethal munitions were overwhelmed and therefore inefficient and sometimes imprecise. MPD could not provide a document indicating what munitions were distributed to which officers at the start of May 31, nor which munitions were returned at the end of the day. Accordingly, it is possible that officers may have deployed munitions and not filed reports, or that officers lacking sufficient training deployed munitions incorrectly, or other irregularities occurred. It is important to acknowledge that these were incredibly chaotic days and not the norm for MPD – but it is particularly in such situations where keeping track of events is most important. Improved audit tracking of these munitions is an important quality improvement step to reassure the community that such munitions are only deployed within agreed-upon policies, protocols and procedures.
- More rapid submission and review of such reports can also contribute to officer well-being initiatives. The information contained in these reports can give MPD supervisors and leadership information needed for debriefing of officers, and for identifying officers who might be particularly emotionally impacted by the stressful, demanding and emotionally exhausting events of these protests. The demands placed on MPD officers on this evening – a second straight day of hours of engaging with angry protesters who were angrily questioning the very existence of the MPD, and violent engagements with members of the community, including having to defend themselves from projectiles and flaming dumpsters – were substantial and increased real-time attention to officer well-being is an important focus for the future.

Overall, the events of May 31 continued to create a polarized community and underscored the need for MPD to modify its tactics, as the use of the fixed line and chemical munitions likely served to make things worse, not better.

Contributing Factors 52 – 64

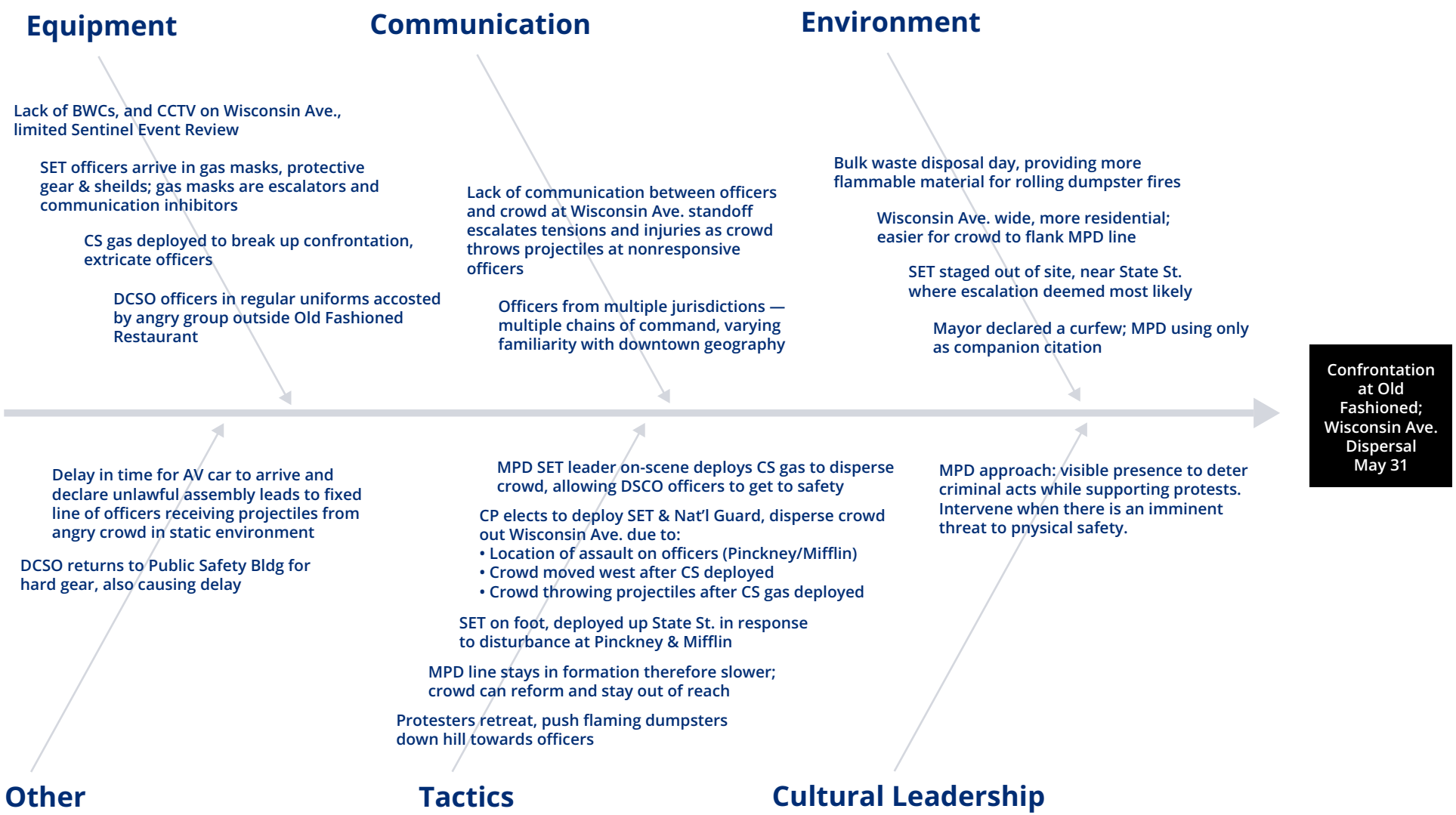


Figure 12. Contributing Factors to Assault of Officers at Old Fashioned Restaurant and Rioting on Wisconsin Ave., May 31, 2020

Contributing Factor 52. On May 31, protests resumed in downtown Wisconsin. Because policing was the focus of the protests, any police presence was inflammatory and undesirable for many protesters.

Contributing Factor 53. MPD's general strategy for managing these protests was to maintain a visible but nonconfrontational presence and to provide safety and security rather than focusing on law enforcement activities (e.g., mass arrests) .

Contributing Factor 54. The curfew declared by the Mayor may have had the unintended consequence of increasing attendance at the Capitol in a show of civil disobedience.

Contributing Factor 55. Officers from another jurisdiction assaulted by group of protesters on Pinckney St. An on-scene decision was made by MPD officers to deploy CS gas to disperse the group. This succeeded in dispersing the group, but additional deployments of CS gas and OC spray further agitated the crowd. **NOTE:** The Stakeholder Group could not analyze the appropriateness of these uses of force as officers did not have BWCs and the uses of force appeared out of range of CCTV cameras near the Capitol.

Contributing Factor 56. The CP directed SET officers who had been staged out of sight on Gilman St. to proceed to the Capitol via State St. so that the looting and damage that occurred on May 30 would not be repeated. Their arrival at the Capitol Square was slowed as they were on foot in protective gear.

Contributing Factor 57. Based on the location of the crowd, its agitation and the use of projectiles against MPD officers, MPD incident commanders decided to push the crowd out Wisconsin Avenue in the hopes that it would gradually disperse without further incident

Contributing Factor 58. The MPD SET officers met protesters in a fixed line formation, wearing protective gear and gas masks, and with officers holding batons and shields. This equipment could be perceived by protesters as an escalation by MPD.

Contributing Factor 59. MPD did not immediately clear the streets of vehicular traffic, creating potential risks for officers and protesters.

Contributing Factor 60. MPD used a patrol vehicle to issue orders to disperse. Due to the unexpected location of the crowd and geographic confusion by the driver, the vehicle was delayed in arriving at the proper location, causing MPD officers to remain in place in the fixed line formation and continue to receive projectiles from protesters who were increasingly agitated by the standoff

Contributing Factor 61. MPD pushed the crowd out on Wisconsin Ave., whose width presented challenges for the fixed line formation. The officers were on foot and could not move as quickly as protesters or instigators.

Contributing Factor 62. Protesters were able to flank the line and hide behind trees, and could move quickly out of range of CS gas, returning to engage with MPD after the gas had cleared.

Contributing Factor 63. May 31 happened to be a day for large item trash collection, leading to additional material on the streets. Protesters used this material to light fires, including lighting dumpsters on fire and pushing them downhill towards the MPD officers.

Contributing Factor 64. MPD did not maintain tracking or audit sheets for the use of chemical or less lethal munitions, and use of force forms were often submitted days or weeks after the events described.

Recommendations 30 – 37

Based upon the contributing factors identified, the Stakeholders recommend that:

Recommendation 30. For crowd events that will be facilitated by MPD in partnership with other agencies or organizations, MPD should purchase a sufficient number of spare radios to ensure that all participating agencies can communicate with each other and the Command Post via encrypted methods.[44]

Recommendation 31. Madison Fire Department (MFD) should coordinate with City waste management organizations and residential buildings to empty dumpsters and remove flammable trash during the day in locations where civil protests are anticipated. MPD and local businesses in likely protest areas should coordinate to minimize the availability of dumpsters to be used as barriers or weapons in civil unrest, by securing them in place or other methods.

Recommendation 32. MPD should obtain voice amplification equipment for all SET members who wear gas masks, to allow them to speak clearly with each other and with community members who are within voice range.

Recommendation 33. MPD should develop a SOP for the issuance of unlawful assembly warnings and train officers in its application. Warnings and calls to disperse should be in everyday language easily understood by the general public, and should emphasize a clear and specific public safety rationale for the limitations being placed on the assembly. MPD should consider accessibility issues (e.g., non-English speakers) to optimize communication for all.[45]

Recommendation 34. MPD SET should increase its usage of mobile field force tactics, including but not limited to bicycle squads, to enable officers to rapidly and efficiently engage with individuals whose acts create a physical danger to others in ways that minimize their impact on peaceful protesters.

Recommendation 35. MPD SET should minimize the use of fixed formations of officers as a crowd dispersal tactic, using them only when useful to stabilize an incident and recognizing that when police are the focus of the protest their presence may escalate, rather than stabilize a situation.

Recommendation 36. Particularly in instances where the legitimacy of a governmental agency is the subject of a protest, the City of Madison should consider whether the declaration of a curfew serves the intended purpose of reducing participation in protests or will increase participation (and unlawful behavior) in a show of defiance. The City of Madison should reserve the imposition of curfews for those instances where a curfew is truly needed to ensure public safety, where it will not inflame tensions further, where its objectives are clear, and where police have the capacity to enforce it effectively.

Recommendation 37. MPD leadership and supervisors should provide clear briefings to MPD officers prior to crowd events, including MPD's rationale for crowd facilitation tactics at the event, and debrief after events, allowing officers to provide feedback on MPD tactics. The debriefings should be held as soon after the events as is practically possible.

44 "Encrypted channels" means only that members of the general public cannot receive or interpret the communications in real time. It is not intended to suggest that such communications would not be reviewable in after-event reviews or for other quality or transparency purposes.
45 Stakeholders expressed a desire to have an American Sign Language (ASL) interpreter at crowd events; MPD indicated a willingness to explore this although it is not known what such a process would entail.

Critical Incident #5: Arrest of Man Dancing on Car (12:05 am, June 1, 2020)

The crowd on Wisconsin Ave. on May 31 had largely dispersed by 11 p.m. Some MPD officers remained downtown, and one group of MPD officers was positioned across the east side of State St. at Dayton St. Dayton St. remained open to vehicular traffic and cars were using the one-way southbound street.

Just after midnight, a Black man driving a red car northbound on Dayton St. – against the flow of traffic – stopped in a driving lane in front of the line of MPD officers, who were wearing protective gear. The man got out of his car, climbed onto its roof and began dancing. Officers reported that the man was screaming obscenities at the officers, ignoring multiple orders (including several commands to leave issued over a squad's public announcement system) from the officers to get off the car and leave the scene.[46]

The car, facing the wrong way on an active one-way street, presented a danger both to oncoming motorists and to the driver himself. The man's failure to comply with MPD's verbal orders of MPD to get down from the roof and drive away, coupled with his shouting obscenities at the officers, led to a coordinated response from MPD, with one officer deploying OC spray at the man while he was on top of the car. The OC spray and approaching officers caused the man to jump down and get into the car through the driver's side door. As he got in the car, a group of four MPD officers reached the driver's side door, and a fifth officer leaned in and deployed OC spray at the man from the passenger side window. Officers pulled the man out of the car, brought him behind his vehicle, took him to the ground and held him on the ground while handcuffs were placed on him. The man was then moved behind the line of officers, where he was placed under arrest.

While the driver was on the ground and surrounded by MPD officers, a van drove by on Dayton St. and pulled over just past the intersection with State St. While the van itself was outside the view of the CCTV camera used by the Stakeholder Group, CCTV cameras show a line of officers at the corner facing the van. An MPD officer observing both the arrest and the van that had pulled over walked towards the van and fired a burst of OC spray in its direction. It was unknown whether the spray affected the van, but the officer reported that the van quickly drove off.[47]

Analysis

This Incident provided an example of a situation in which different members of the Stakeholder Group viewing the same video reported very different reactions. As such, it was a very instructive Incident, providing an example for MPD officers of how their acts may be perceived and felt by different groups within the community. Understanding this diversity of perspectives will be crucial to MPD's ability to improve its communications with different groups within the community, and particularly those who are currently hostile to MPD.

From the perspective of the MPD officer in charge at the scene, a community member had created a safety risk to himself and others, refused to obey MPD requests for him to get down from his car and drive away, and was aggressively disrespectful to the officers when ordered to get down from his car and leave. In an effort to minimize a physical altercation, a group of MPD officers initiated a group arrest. Seeking to minimize the need for physical force, the officers used OC spray to disable the man. Once the man had been affected by the spray, the officers could not let him drive away, as this would have created additional risk. Therefore, the officers apprehended him in the enclosed space of his car, again using OC spray to subdue him with minimal physical force.

Many non-law enforcement Stakeholders saw the event quite differently. To them, a Black man who was essentially harmless, dancing on his car during an evening full of protests, was approached by four MPD officers – far more than would be necessary if one were trying to de-escalate the situation. The man made no overtly threatening move towards the officers, and his profanity created no additional danger, as it was only words, and not actions. In response, one of the officers used OC spray, which not

46 The Stakeholder Group was unable to verify these reports as there is no audio available on the CCTV cameras and the MPD officers were not issued BWC.

47 The van was outside the view of the CCTV camera providing video to the Stakeholder Group. This description of the van was provided in the officer's use of force report.

only seemed unnecessary (as the dancing man was not creating any obvious risk of harm to himself or others) but actually created a hazard by sending the man into his car impaired by the OC spray. The five officers then compounded the issue by ganging up on the man inside the car and using OC spray again, this time in an enclosed space that the man could not have escaped in any event. In short, many Stakeholders saw a substantial use of unnecessary force against a single Black man without any provocation other than not obeying the officers. These Stakeholders were concerned about justifying overly aggressive MPD behavior being based on a definition of "active resistance" when that resistance is characterized as the use of profanity without any overt physically threatening actions. They also expressed skepticism about whether this arrest would have been carried out the same way against a White man engaged in the same activities.

The skepticism of these Stakeholders about MPD motivations and tactics was underscored by the behavior of the single MPD officer who shot OC spray at the van that had pulled over to observe. Given the events earlier that day and the day before, Stakeholders understood how an officer might be sufficiently tired and frustrated that he or she would deploy OC spray more aggressively than normal – but the deployment of OC spray against bystanders who did not pose a risk to the officers was troubling, and allowing the man in the van to drive off while possibly feeling the effects of OC spray created a new risk unaddressed by MPD.[48]

The MPD officer who had overseen the arrest provided a potentially race-neutral perspective of the officer's acts as within existing MPD policies. Under current MPD policy, OC spray can be used by an officer when there is active resistance[49] or the threat of active resistance. According to MPD leadership, the man's response to orders to get down from the car coupled with aggressive profanity directed at the officers could constitute active resistance, putting the use of OC spray within MPD policy. Thus, despite the absence of any real or physically threatened assault against the police, the MPD policy could permit the use of OC spray based on the officers' stated belief of a threat of active resistance.

MPD further explained that the large number of officers was actually intended to rapidly de-escalate events by deterring any physical resistance by the man, thereby reducing the likelihood of violence and allowing MPD to subdue the man rapidly with less violence. While members of the Stakeholder Group noted that the man was Black and asked if this influenced officer behavior, MPD explained that these tactics would have been used regardless of the race of the individual in question.

The MPD participants in the Stakeholder Group acknowledged that the footage of OC spray being deployed against the van that had been pulled over was troubling. Observing a police act is not illegal, and the driver of the 2nd vehicle, even if he was shouting obscenities at the officer, was unlikely to be seen as active resistance or the threat of active resistance towards the officer.

The three uses of OC spray – outside the car, inside the car and directed at the second car – were documented and self-reported by the officers in question, but did not appear to have been thoroughly reviewed by the officers' superiors. The final use of OC spray toward the observing car, for example, had not been known to MPD leadership prior to the Stakeholder Group's presentation of the video. This deprived MPD and the officers in question of an opportunity for learning and improvement.

The Stakeholder Group ended with two additional observations. First, the Group wished again that MPD officers were wearing BWC cameras. Without them, the Group lacked audio and proof of what the officers claimed they had said to the man while he was on the car, and could not provide additional evaluation of the Incident to the community.

48 The officer indicated in his report that he did not believe that the OC spray affected the driver of the minivan. This could not be verified by the Stakeholder Group. Even if the statement was truthful and accurate, it was viewed by many Stakeholders as largely beside the point of whether the officer should have acted the way he did.

49 MPD policies define active resistance as "behavior which physically counteracts an officer's control efforts and which creates a risk of bodily harm to the officer, subject, and/or other persons."

Second, it is important that MPD officers understand how their actions in different situations are interpreted by the community. When what appears to MPD to be an active resistance requiring a use of force looks to the community like a big group of White cops cracking down on a harmless Black man, something more is needed. Increasing awareness within the community of the "why" behind MPD tactics is needed – but MPD should change its tactics as well, minimizing any uses of force to show the community that a use of force is not always the right reaction from a Department that exists to protect and serve. MPD should also consider whether describing the mere failure to respond to an MPD directive, without more, as "active resistance," as this definition does not have widespread community support.

The difference between "substantive legitimacy" (the legitimacy conferred upon MPD by the laws) and "perceived legitimacy" (the legitimacy that the community gives to MPD based on its actions)[50] is an important one: the protests on May 30, May 31 and beyond show that MPD cannot rely solely on substantive legitimacy but also must be able to satisfy the community's perceptions of legitimacy. Failure to do so will escalate tensions between community and MPD and make de-escalation and trust-building initiatives less likely to succeed.

50 For more on this distinction see, e.g., Tankebe, J. (2014). Police legitimacy. *The Oxford handbook of police and policing*, 238-259; Tankebe, J. (2013). Viewing things differently: The dimensions of public perceptions of police legitimacy. *Criminology*, 51(1), 103-135.

Contributing Factors 65 – 74

Figure 13. Fishbone Diagram with Contributing Factors for Man Dancing on Car on Dayton St., May 31, 2020.

Contributing Factor 65. After midnight on night with lots of violence, MPD was in a fixed line across State St. at Dayton St. to prevent vehicles and people from moving to the Capitol for additional protests.

Contributing Factor 66. Dayton St. was not blocked to vehicle traffic and vehicles were moving along Dayton.

Contributing Factor 67. A man parked his car on Dayton St. at State St. facing the wrong way, and began standing and dancing on the hood of his car, insulting and threatening officers and filming himself on his phone.

Contributing Factor 68. The man ignored orders to get back in his car and leave.

Contributing Factor 69. The failure of the man to comply with a stated order, coupled with obscenities directed at the officers, was interpreted by officers as active resistance (or the threat of active resistance) under MPD policy, giving the officers the authority to deploy OC spray.

Contributing Factor 70. MPD conducted a coordinated group arrest, using OC spray to force the man off the car, and then using multiple officers and more OC spray to subdue the man inside the car, even though the man had not done anything violent.

Contributing Factor 71. As the arrest was being conducted, a second car pulled over, with the driver opening his door and blowing on the car's horn.

Contributing Factor 72. An MPD officer deployed a single burst of OC spray in the direction of the car, causing the car to drive away. Officer was unsure if the OC spray had affected the driver.

Contributing Factor 73. The use of OC spray toward a car observing an arrest was reported by the officer, but not followed up by MPD supervisors despite being a questionable use of force under MPD policy.

Contributing Factor 74. Community and law enforcement stakeholders reviewed the same material and came to different conclusions on many of these issues.

Recommendations 38 – 41

Based on the contributing factors identified above, the Stakeholder Group recommends that:

Recommendation 38. The definition of "active resistance" used in the Wisconsin state training and standards curriculum is very broad, and could be interpreted to justify uses of force against individuals whose actions are defiant and disrespectful of police but not physically threatening. In such situations, MPD should train its officers to consider the difference between what may be desirable and what may be justifiable in considering what level of force or control is proportional to resolve a situation that is creating a danger for others.

Recommendation 39. During community engagements prior to and after protests, MPD should explain the rationale behind its policies and practices involving uses of force at crowd events. For example, MPD uses multiple officers to overwhelm a target for arrest so that less physical force is actually exerted by MPD. This safety rationale should be understood by the community, as it often appears that MPD is "ganging up" on a single community member. Video reviews and community discussions of videos from these protests may be useful as dialogue and education tools for MPD and community alike.

Recommendation 40. MPD should not deploy OC Spray against passive resisters or people who are merely observing MPD activities.

Recommendation 41. All Use of Force statements submitted by MPD officers should be carefully reviewed by MPD supervisors and/or investigators, as required by MPD policy. When a use of force is reported that deviates from MPD policies or procedures, MPD should ensure appropriate accountability and corrective actions measures are taken.

June 1, 2020: More violence, different tactics

By the start of the day on June 1, 2020, MPD was determined to modify its tactics and avoid the escalating violence that had occurred over the weekend in Madison. MPD leadership adjusted its operational plan for law enforcement, recognizing that even police who had been assigned to ostensibly non-confrontational roles (e.g., limited to observing protesters while wearing only "soft gear") had been a catalyst for aggressive protester behavior on the previous nights.

As on prior days, peaceful protests occurred throughout the day of Monday June 1, 2020. Protesters organized a march through downtown, from the CCB to Terrace Tunnel and John Nolen Dr. Protesters blocked John Nolen Dr. for several hours, closing the road to traffic in both directions. MPD did not engage with protesters directly, and limited its involvement with the protests to re-routing traffic to ensure the safety of protesters, pedestrians and vehicles.

MPD recognized the potential for additional violence after dark, and kept its SET team out of sight but on standby to respond to violence or serious property damage. Unlike on prior nights, however, MPD decided to modify its "fixed line" response with SET squads on foot and in protective gear, which had proved to be slow and inflexible and had potentially escalated tensions while subjecting officers and protesters to increased acts of violence and uses of force.

To meet its goals of protecting people and property without escalating tensions, MPD created mobile SET squads designed to provide a rapid and efficient targeted response to vandals and instigators with minimal impact on peaceful protesters. These groups of six to eight SET officers would be deployed in vans near protest areas, where they could observe protest activity without being seen by (and therefore agitating) the crowd. The vans would allow the squads to quickly adjust with the crowd if violence emerged in an unexpected location, and the squads could quickly intervene and arrest the instigators only, avoiding larger initiatives against the entire crowd (e.g., fixed lines or CS gas) that would escalate tensions more broadly.

MPD borrowed vans and sent out a small number of mobile SET teams on June 1 to test this new approach.

Critical Incident #6: Mobile Squad Arrest of Man on State St. (1 am, June 2, 2020)

The potential benefits and risks of MPD's more mobile approach to targeting instigators were quickly displayed by an arrest made on State St. that night.

At 12:15 AM on June 2, while a large group of protesters congregated on the Capitol Square, a small group of instigators was observed on CCTV cameras making and attempting to use Molotov cocktails near the Veteran's Museum, across Mifflin St. from the State Capitol building. Officers in the CP at the time later said that this moment was the most stressful for them of any moment throughout the summer, as it was clear from CCTV cameras[51] that the instigators sought to create a Molotov cocktail in a location that was not accessible to MPD without creating a larger and more dangerous confrontation with the crowd.

The instigators were located behind a group of peaceful protesters who were facing the Capitol, and any effort to arrest them at that moment would have required MPD officers to forcibly push through the crowd of protesters without time for explanation. MPD commanders knew that this would likely be perceived as an aggressive act by people in the crowd, which seemed unaware of the instigator activity behind them. Thus, efforts to apprehend the instigators were unlikely to be successful and would only succeed in provoking a significant (and reciprocal) use of force.

Ultimately, the efforts of the instigators were unsuccessful, as the device failed to ignite. While MPD commanders breathed a sigh of relief, the potential catastrophe was avoided more by good luck than by good management of the situation. More importantly, the efforts to create flammable devices was unsuccessful, and the instigators – one of whom was a Black man in the red hooded sweatshirt – blended back into the crowd.

At 12:55 a.m., MPD received reports of windows being broken on State Street. As on prior evenings, the damage was being done by a small number of individuals and was not a widespread crowd behavior. The individuals had broken away from the protests at the Capitol, crossing Carroll St. and moving down State St., damaging property as they went. Reports of damage and looting mounted quickly, and the CP decided to test its new mobile SET teams, with support from SET officers on foot, not to arrest individuals but to provide a more visible presence given the heightened activity. MPD also sent additional mobile SET teams further down the street, near Fontana Sports Specialties (just south of State St. on N. Henry St.) in the hope that their presence would deter looting. CCTV from State and Johnson at the time of the mobile team deployment showed small groups of people carrying clothing and other items away from the area of Fontana Sports, where there had been reports of looting. Immediately after this, three young men entered the Short Stack, ducking down to enter through the broken front door. One of them had approached on a bike and was wearing blue latex gloves and carrying a large shoulder bag. All three exited the restaurant the way they had entered shortly after and left the area seen on camera.

The SET officers on foot passed through the intersection of State and Johnson at 1:30 a.m. They stopped for some time further down State and elements of the crowd filtered back after they had passed.

At approximately 2 a.m., CCTV at State and Johnson Sts. showed more people running towards the area of Fontana Sports and then walking back carrying piles of clothing and other items, while a group of people stood around the intersection of State and Johnson, outside the Short Stack restaurant. Among the latter group was a young Black man wearing a red sweatshirt and carrying a pole with a metal hook-like implement at one end. He then disappeared up the street, towards Fontana Sports. He returned with another group of young White men, who minutes earlier were on video spray painting the walls of a building across the street from the Short Stack. The man in the red sweatshirt appeared to use the pole/hook to try to open or break into the front door of the Short Stack. Two of the young White men threw what appeared to be small red cylinders of varying widths with black lettering through the Short Stack door and windows, causing more damage.[52]

The one that appeared to be the main instigator in the group, who was wearing a bright blue t-shirt and goggles

51 This footage was not available to the Stakeholder Group.

52 A closer review of the video suggested these were camping stove fuel canisters, likely stolen from Fontana Sports nearby as they do not appear

atop his head, kicked at the door, trying to break it open.

Officers in the CP fixated on the Black man in the red sweatshirt, believing that he was one of the instigators who had attempted to light the incendiary device at the Capitol. Given that background, and viewing the pole he was holding as a weapon, MPD directed two mobile SET teams to the intersection with orders to arrest the man.

The mobile SET teams, each consisting of five officers, converged upon the intersection, one from the north of State St. and one from the south. As they arrived at the intersection, the White man in the blue T-shirt was standing with two other White men, at least one of whom can be seen drinking from what appeared to be a liquor bottle. Two SET team members were standing near them on the corner as the officers looked around for the Black man in the red sweatshirt carrying a long pole with a metal hook on the end.

When spotted, the man in the red sweatshirt dropped the pole and began to run, and officers chased him into the intersection of State and Johnson Sts. One MPD officer deployed OC spray in an attempt to subdue the man. The OC spray missed, but the man stumbled and fell to the ground, where several officers converged and arrested him.

Other people were in the intersection as this occurred, including the White individuals noted above, who had been seen on CCTV vandalizing Fontana Sports and throwing items into the Short Stack, and others who were openly drinking alcohol on the street in violation of the law. The MPD officers paid no attention to these individuals, and were focused solely on the Black man in the red sweatshirt with the pole with the metal hook.

Once the man was on the ground, four officers worked together to handcuff him, while other officers moved to secure the immediate area of the arrest. Using a prone handcuffing technique that all police in Wisconsin are trained on, one of the officers placed their knee and shin across the man's shoulder blades to minimize the man's ability to resist and make it easier to put handcuffs on the man's wrists. Immediately after placing the man in handcuffs, police lifted the man to a standing position and escorted him to a waiting SUV, where he was searched and then transported to an MPD facility for booking.

Analysis

The video of the arrest of the Black man in the red sweatshirt was an emotional and divisive issue for the Stakeholder Group. The Stakeholders were supportive of MPD's mobile SET strategy, but were concerned with its implementation.

From an MPD perspective there were aspects of this Incident that were successful. A suspect was identified who was performing a criminal activity, and he was apprehended and removed from the scene, without injury or serious incident, in roughly eight minutes without escalating tensions in the larger crowd. As a result, the new tactics showed promise for future events.

From the perspective of community Stakeholders, however, the video showed a group of officers focusing on arresting a Black man and paying no attention to White men who had committed the same, and arguably more serious crimes in the vicinity. In addition, the method of arresting the man involved a large number of officers who appeared to be possibly putting their knee on the man's neck to handcuff him – an act that was obviously quite inflammatory in a post-George Floyd environment.

MPD noted that one of the challenges of arresting looters in any protest is establishing probable cause to justify the arrest. While the CCTV cameras provide some degree of clarity, typically officers need to find a "standout" characteristic that can be communicated to officers on the scene to ensure that the individual who is arrested can be identified quickly and easily by the mobile unit. In this instance, the red sweatshirt, which officers believed they had seen earlier in the evening, coupled with the pole/weapon that the man was carrying, provided those characteristics and caused MPD to target that man rather than the White men who were also on the scene.

MPD officers in the CP at the time provided two additional rationales for focusing on the man in the red sweatshirt to the exclusion of other vandals in the area. First, it was the first deployment of the mobile SET squads, and commanders were hesitant to deploy the squads for

until after the individuals moved in that direction off camera and then returned. This was not clear to the CP at the time.

multiple people at once as they were gaining experience about these tactics. Second, the concern about the Molotov cocktail earlier in the evening – and the good fortune that event had not been much more destructive – loomed large in the mind of the incident commander, who acknowledged that he was so focused on catching the man in the red sweatshirt that he was less focused on the criminal activity of others around him.

These rationales were not convincing to many of the Stakeholders, who had little difficulty identifying the other White men as looters and vandals as well. Despite this, the CP did not instruct the mobile teams to arrest more than one person, and did not engage the mobile teams to arrest anyone until the pole and hook were used at the Short Stack, despite other items being thrown into the store and other acts of violence and looting taking place.

Stakeholders inquired about the method of the arrest as well, with multiple people converging on the man in the red sweatshirt. MPD again explained this as an effort to minimize force, but again the appearance to community Stakeholders watching the video was that this was a disproportionate use of force against a Black man whose criminal activity was minimal, while ignoring the criminal acts of White men in the same time place and time.

Ultimately, decisions about which individuals in the crowd the mobile SET squads should pursue were made by the CP. Because the mobile teams were in vans awaiting instructions, the mobile SET officers lacked awareness of what the CP has seen or of other activities that were going on. They received instructions from the CP on who to arrest and where. Once they arrived at the site, they had limited discretion on whom to arrest. Officers were permitted to deviate from the assigned arrestee if the deviation was necessary to prevent harm or the threat of imminent harm against someone else – but the mere existence of other criminal activity was not something that the mobile unit was evaluating when they arrived on the scene.

The Stakeholders acknowledged these realities, but community Stakeholders in particular were very angry that a Black man was targeted while multiple White men were on the scene doing what appeared to be more destructive acts.[53] They also noted the risk that mobile SET teams would be identified in the community for engaging in tactics that were seen during the summer in Portland, where video of unmarked vans driving up and grabbing people who were seemingly just walking on the street led to widespread suspicion of "hit squads" that were unfairly targeting Black community members.

Community members were also troubled by the prone handcuffing procedure, which raised substantial concerns about whether officers were placing their knees on the arrested man's neck. An MPD trainer came to one of the Stakeholder Group meetings to demonstrate the proper technique for prone handcuffing, which is taught as part of a centralized statewide training to all Wisconsin police officers. The training forbids officers from placing any weight on the neck or head. By placing weight on the arrestee's shoulder blades or lower on the back, the arrestee can be safely incapacitated until handcuffs can be applied. All pressure should immediately be discontinued once the subject is handcuffed, and the individual should be returned to a seated or standing position.

Upon a further review of the event using CCTV footage, it appeared that the officers conducted this procedure accurately and in line with their training, without contacting the neck. Stakeholders pointed out (again) that without BWC video, the ability to review the arrest technique was limited to the distance view of a CCTV camera and not the "up close" view that a BWC could have provided to ensure that proper techniques were used. In addition, Stakeholders explained that given the heightened emotions generated by such a technique after the murder of George Floyd, MPD will receive greatly heightened scrutiny of such a maneuver from the community. MPD should be aware that people will react very emotionally and aggressively to this particular tactic in the future.

Ultimately, this incident left community stakeholders feeling that while they understood how and why MPD and the mobile SET teams had acted, this arrest was troubling on a number of levels. The community needs to better understand these procedures, and MPD needs to go to greater lengths to ensure that the basis for targeting individuals for intervention by the mobile SET team has a race-neutral basis.

53 In addition, while the man who was arrested did attempt to break into the Short Stack Restaurant, subsequent investigation concluded that he was not the same man who had attempted to light the incendiary device near the Veterans' Museum.

Contributing Factors 75 – 82

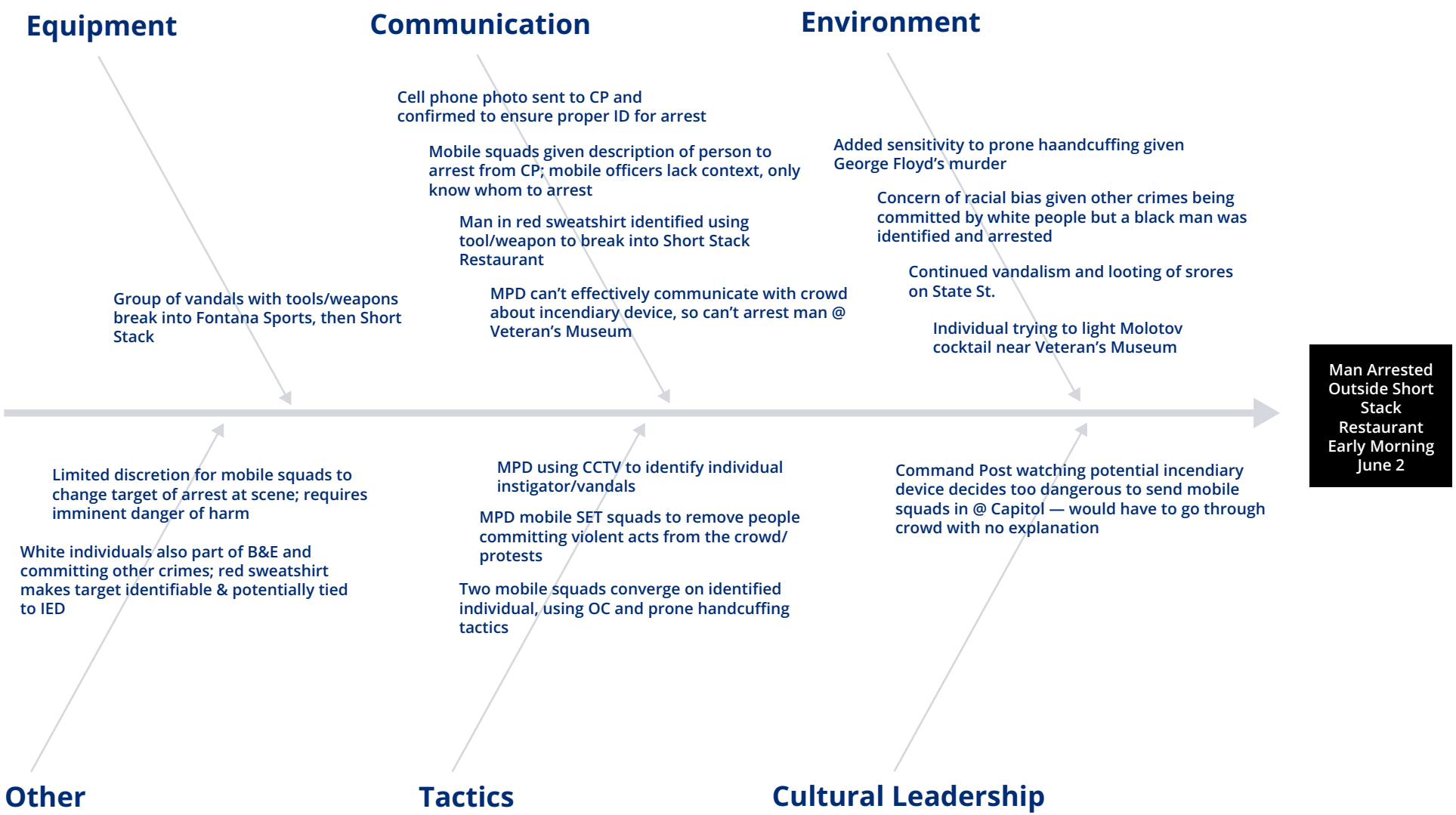


Figure 14. Fishbone Diagram of Contributing Factors to Arrest of Black Man Outside Short Stack Restaurant, June 2, 2020.

Contributing Factor 75. MPD tactics were modified to enable mobile SET squads so that MPD could use targeted arrests coordinated from the Command Post to identify and arrest individuals who were causing damage to people or property, deterring and preventing violent behavior while minimizing impact to peaceful/legitimate protesters.

Contributing Factor 76. The awareness of mobile SET officers is limited to what is communicated by the CP, and they have limited discretion to depart from their assigned task.

Contributing Factor 77. The CP identified a man in a red sweatshirt attempting to light an incendiary device on the Capitol lawn, but took no action in order to avoid an undue escalation of anger in the crowd.

Contributing Factor 78. A group of vandals broke into Fontana Sports and the Short Stack Restaurant, as well as a nearby liquor store. The CP identified one of the vandals as the man in the red sweatshirt who had previously had the incendiary device, now with a weapon and attempting to break into the Short Stack.

Contributing Factor 79. Two mobile SET squads deployed to State & Henry, where they confirmed the individual to arrest by cell phone photo ID to the CP.

Contributing Factor 80. Mobile SET officers converged upon the targeted individual, who was Black, using OC spray and prone handcuffing to subdue him.

Contributing Factor 81. The officers did not intervene with other vandals seen on CCTV who were White, including one openly drinking from a liquor bottle on the street, as they pursued the black man in the red sweatshirt, raising questions about racial disparity in law enforcement.

Contributing Factor 82. The officers used a prone handcuffing procedure that raised perception questions given George Floyd murder.

Recommendations 42 – 47

Based on the contributing factors identified above, the Stakeholder Group recommends that:

Recommendation 42. MPD should continue the practice of using mobile squads to interrupt activity by instigators within a protest or crowd event that could cause physical harm or damage to public or private property, using techniques that are minimally invasive to peaceful protesters under the circumstances.

Recommendation 43. When MPD mobile units are observed making arrests, MPD should immediately be able to articulate to observers the specific activities that created the need for the arrest.

Recommendation 44. MPD mobile units must act in accordance with MPD"s Equal Protection policy, ensuring that their acts are not "based solely upon an individual's membership, association, identification or protected class" as they work to support crowd events and ensure neutrality in their assessments of probable cause and their selection of whom to arrest.

Recommendation 45. MPD should be aware that a suspicion of racial bias will be part of the public response in any arrest of a non-White suspect, and should be ready to proactively address that concern when explaining the Department's actions.

Recommendation 46. MPD should publish and publicize its procedures for handcuffing, and officers should avoid placing their knees on the head, neck or C-spine of individuals they are stabilizing on the ground.

Recommendation 47. The City of Madison should reconsider whether the benefits of body-worn camera technology in allowing for the review of arrest techniques outweigh the privacy concerns of having community members on video.

June 23 - 24, 2020: Arrest of Protester Catalyzes Increased Protest Activity

From June 2 to June 22, 2020, Madison had daily gatherings, protests, and marches. MPD maintained an active Command Post to manage ongoing daily crowd events, but the protests were (for the most part) peaceful and non-destructive.

MPD viewed these events as political speech, and therefore not only permitted, but facilitated marches in the downtown area during this period despite the inconvenience they caused. Officers sought to minimize their intervention with protest activities, being visible to deter criminal activity and providing traffic management to protect the protesters. In general, protestors did not want to engage with the police or coordinate their protests with the police, and MPD did not require advance notice of the protests to provide traffic management or other physical protections, despite the disruption of traffic flow and general inconvenience caused to commuters in Madison, which caused some to complain that MPD was too tolerant of the protest activity.

The community anger that had erupted in late May re-emerged on June 23, when a frequent protester named Devonere Johnson[54] was arrested outside a restaurant on the Capitol Square. The arrest set in motion a chain of events that would return Madison to significantly more agitated protests, property damage, an act of arson committed at the City County Building, and an assault against a Wisconsin State Senator, among other undesirable outcomes.

Critical Incident #7: Arrest of Devonere Johnson (12 pm, June 23, 2020)

Mr. Johnson had been an active participant in protests and other disturbances over the course of the past month, and MPD was aware of many of his protest activities. On June 6, Mr. Johnson laid down in the middle of the intersection of Johnson and State Sts. with a child. MPD allowed this protest to occur without interference, blocking traffic for Mr. Johnson and approximately 20 others for about 20 minutes, when the protesters left. This type of protest occurred again the next day, as Mr. Johnson laid down in the busy intersection of U.S. Routes 51 and 151. This led to his arrest, which then influenced a larger demonstration on June 13, in which approximately 25 people in vehicles blocked the same intersection for roughly four (4) hours.

Not long after, Mr. Johnson's tactics shifted to creating disturbances in restaurants in the State St. and Capitol Square area. Mr. Johnson and another individual would roam around the area with a megaphone, creating discomfort among patrons, to communicate the discomfort that Black people often feel while engaging in ordinary activities.

On June 22, Mr. Johnson caused several disturbances on State St., threatening to vandalize businesses that would not donate money to him through a Venmo link. He entered Mackesey's Irish Pub with his boombox playing loud music, threatened the owner, and was escorted out by MPD, who declined to arrest him at this time. Mr. Johnson repeated this at Coopers Tavern later in the day.

On the morning of June 23, Mr. Johnson returned to Mackesey's Irish Pub with a megaphone and demanded free food and beer. As before, he threatened to vandalize the business and threatened the owner if the demands were not met. Mr. Johnson left Mackesey's and returned to Coopers Tavern just before noon with a megaphone and baseball bat, shouting into the megaphone and disturbing employees and patrons.

A bystander captured the events on a cell phone.[55] In the video, Mr. Johnson can be seen in a verbal altercation with a patron, calling him racist, and watching the manager

54 Mr. Johnson is also known as Yeshua Musa; this Report uses the name of Devonere Johnson that is used in legal proceedings related to the incidents described herein.

55 The video that was reviewed by the Stakeholder Group has subsequently been removed from YouTube, and cannot be linked from this report.

as he calls MPD to request assistance. Based on the manager's call, MPD decided that an arrest should be made. (While MPD was maintaining the CP on a daily basis, its hours of operation were from noon to 2 a.m. As a result, the decisions about Mr. Johnson's arrest were made by MPD officers who lacked SET's perspective of how this might affect protest activity in Madison.)

MPD officers responding to the call approached Mr. Johnson on the sidewalk outside of Coopers Tavern. They asked him to relinquish the bat, which Mr. Johnson did not do. In response, five MPD officers engaged physically with Mr. Johnson. The officers moved him to the ground without throwing punches or otherwise injuring Mr. Johnson, who was moving his body and limbs in ways designed to frustrate their attempts to handcuff him, and was loudly complaining about the arrest.

Two officers broke away from the interaction to ensure that bystanders did not physically intervene while three others worked to handcuff Mr. Johnson while he was on the ground. Mr. Johnson continued to resist, and despite only placing one handcuff on Mr. Johnson, the officers lifted him from the ground and carried him to a waiting patrol vehicle.

The arrest, which took several minutes, created a scene on the sidewalk, and multiple observers recorded the incident on their cell phones. They yelled at the officers to let Mr. Johnson go, and objected to his arrest. Others asked the officers to explain why he was being arrested. In the meantime, Mr. Johnson yelled "I can't breathe" and "they're trying to kill me" to the crowd of people gathering around him.

After some struggle, Mr. Johnson was placed in a squad car. He promptly exited through the other side of the squad car, and ran into the street. He was tackled, properly handcuffed, and placed into an MPD patrol vehicle, as more officers arrived on the scene.

The arrest sparked an almost immediate call to action and protests for his release. MPD posted its own version of the event on its YouTube Channel[56] within two hours of the arrest, and began preparing for an increase in protest activity and heightened tensions.

Analysis

The Stakeholder group discussed MPD's strategy to the protests that happened throughout June and its strategy for handling demonstrators like Mr. Johnson, who was a known disruptor. In general, the Stakeholder Group approved of MPD's strategy of minimizing opportunities for interactions between MPD and the community that would escalate the protests into the violence or property damage that was seen during the last weekend in May.

It seemed clear to the Stakeholders that Mr. Johnson's activities were designed to provoke an MPD response. Notwithstanding multiple opportunities to do so, MPD had declined to arrest him until his disruptions included threats of violence at Coopers Tavern.

Given this, community Stakeholders focused on the need for MPD to communicate in advance to key community activists when and how it would be necessary for MPD to engage with Mr. Johnson. As one said, "if the community had been engaged at the time he was arrested, you might have gotten a different response from the community. Also, he was violating his probation – so if the arrest had been made by Probation and Parole instead of MPD, you might have avoided protests because people would not have been able to co-opt that as easily."

It is possible that activists would not have seized on Mr. Johnson's arrest in way they did if MPD had informed them of the situation ahead of time. On the other hand, Mr. Johnson's actions were deliberate and provocative. While an education about what protest activities will result in police intervention may help many people conduct peaceful protests, there will also be individuals who seek to provoke that response, and individuals who seek to capitalize on it. MPD will have to continue to plan for that in the future.

MPD was aware of the potentially aggravating impact that interactions with Mr. Johnson could have on the community, and the responding officers appeared to act accordingly. They waited to approach Mr. Johnson until after he had left Coopers, and was away from the crowd, other protestors, and restaurant patrons. And while again community observers wondered why there were so many

56 https://www.youtube.com/watch?v=LhtbCnLXlhc&t=8s.

officers arresting him, MPD's goal was to remove him from the scene with as little force and as quickly as possible before a crowd formed.

It may well be that Mr. Johnson was seeking to create precisely the ripple effect that occurred, staging an arrest that other activists or instigators could seize upon to fuel additional unrest. MPD seemed sufficiently aware of his activities to be aware of that risk, but was unable to control the messaging that occurred after the arrest, and thus unable to prevent the protests that followed.

The officers were aware they were being filmed, and a review of the video makes clear that the officers treated Mr. Johnson carefully and he was not physically harmed during the incident. But Stakeholders questioned whether some of the other officers who were engaging with protesters could have handled the situation better in terms of responding to observer queries.

Stakeholders were particularly concerned with an officer who responded to an observer's inquiry about why Mr. Johnson was being arrested. The officer simply said, "because he is resisting arrest."

The response that Mr. Johnson was being arrested for "resisting" struck an unpleasant emotional chord with many in the Stakeholder Group, and others in the community.

Wisconsin state law 946.41(1) states that anyone who "knowingly resists or obstructs an officer while such officer is doing any act while in his official capacity and with lawful authority is guilty of a misdemeanor."[57] This confers wide authority on MPD officers, and could easily be used to create pretextual arrests. Community Stakeholders felt strongly that this has been an historical issue between MPD and Black communities in particular. As a result, the officer's statement that Mr. Johnson was being arrested for "resisting" was particularly inflammatory, and made the arrest feel like retaliation for protesting rather than a legitimate exercise of public safety. A better response would have been a clear and specific explanation of the physical acts Mr. Johnson had committed that led to the arrest: "because he brought a bullhorn and a bat into a restaurant and was threatening the people inside, and when we asked him to come with us calmly, he refused to give us the bat."

Stakeholders agreed that policing is already a very difficult job, and it is a lot to ask for officers trying to protect themselves and their colleagues during an arrest to also take on the burden of public communications. At the same time, the heightened tensions between police everywhere and Black communities persist, and officers need to account for that in their daily interactions with these communities. MPD is attempting to improve in this regard, and Stakeholders noted that MPD placed its own version of the incident on social media quickly. But it is likely that many of the people who are the most likely to protest are not looking at MPD's social media feeds at all, or believing them if they do see them. There is a large difference between MPD's voice on a video posted by a protester and an MPD rebuttal on its own video.

In instances where MPD is responding to a known activist and instigator, officers should be equipped to address this reality, and put MPD and its de-escalation strategies front and center in the conversation. Without clear, real-time communication about the legitimate public safety reasons for an arrest – as opposed to arresting people simply for not doing what officers say – instigators can create situations like this one and the Department will not be able to regain its perceived legitimacy.

57 Wisc. S.L. 946.1(1), accessed at https://docs.legis.wisconsin.gov/statutes/statutes/946/iv/41/1#:~:text=946.41%20Resisting%20or%20obstructing%20officer,of%20a%20Class%20A%20misdemeanor.

Contributing Factors 83 – 88

Figure 15. Fishbone Diagram of Contributing Factors: Arrest of Devonere Johnson, June 23, 2020.

Contributing Factor 83. A known community activist and demonstrator walked into a restaurant with a bat and bullhorn, causing a disruption and threatening physical harm.

Contributing Factor 84. MPD, which had declined to arrest the protester previously, decided to arrest him given the threat of physical harm.

Contributing Factor 85. Five MPD officers arrested the demonstrator, while other officers stood by, creating an image of substantial force.

Contributing Factor 86. The man resisted arrest and used a number of provocative expressions during the arrest, including "I can't breathe," "Get off my back" and "They're trying to kill me."

Contributing Factor 87. A crowd gathered during the arrest, filming the acts and engaging with officers. Several people asked why the demonstrator is being arrested; one officer states that the altercation was occurring "because he was resisting arrest."

Contributing Factor 88. Social media allows rapid coordination of a "Free DJ" protest at the CCB, where the man was taken to jail.

Recommendations 48 – 50

In light of the contributing factors outlined above, the Stakeholder Group recommends that:

Recommendation 48. When responding to the scene of an arrest, MPD officers should be aware that they are likely to be filmed, and after a scene is stabilized should be prepared to clearly articulate the public safety rationale for police actions, to clarify events and reduce tensions.

Recommendation 49. MPD officers should recognize that a sole justification of "resisting arrest" to explain a police use of force may lack legitimacy in the eyes of community observers, and explain more specifically what acts an arrestee committed that caused MPD to arrest him.

Recommendation 50. As part of its community policing and community engagement initiatives, MPD should provide education regarding acts that it will permit as protected political speech in a protest, and acts that it will consider to harm or threaten to harm others and therefore trigger a police intervention or arrest. Video reviews and community discussions of videos from these protests may be useful as dialogue and education tools.

Critical Incident #8: Protesters Blocking CCB/Tow Truck (5 pm, June 23, 2020)

Calls to action in response to Mr. Johnson's arrest were put out on social media almost immediately after the arrest, including a post on Facebook live from the CCB calling for people to respond and "shut it down."

At 5:11 PM, protestors seeking Mr. Johnson's release blocked the entrance of the CCB parking garage with two vehicles (perhaps because there is a section of the Dane County Jail in the building).[58] The blockage prevented necessary public safety activities from being carried out, including limiting the flow of people into and out of the jail, interfering with (among others) the Commissioner of Public Health's ability to conduct business during the pandemic, and creating a potential fire hazard for all of the people and employees in the building.

When the cars had not moved after about two hours, the MPD CP called tow trucks to remove them. At 7:29 PM, two tow trucks began to tow the cars. One tow truck successfully towed one car away, but the second tow truck was surrounded and stopped by protesters as it attempted to drive away with the second car. MPD representatives spoke to organizers in the crowd in an attempt to resolve the situation. The protesters agreed to disperse and allow the tow truck to depart if the car being towed was released from the truck. After this was done, however, organizers returned to their insistence that Mr. Johnson be released before they would allow the tow truck to leave. With the cars moved, ingress and egress were restored to the CCP, and MPD left the area with the tow truck driver, who took the keys to the truck but did not lock the doors, allowing the protesters to cause slight damage to the cabin and hood of the truck.

Given that the group had become hostile toward police and enveloped the tow truck, two SET platoons in protective gear were called to the location, though they did not ultimately engage with the crowd. The crowd gradually moved to the Capitol, allowing the tow truck to be retrieved slightly before 10 p.m.[59]

Analysis

The Stakeholder Group reviewed the protest that was rapidly organized in response to Mr. Johnson's arrest. MPD did not attempt to limit the actions of individual protesters, but was forced to act once the cars were parked in a way that prevented ingress/egress to the CCB, which houses a number of city and county government offices and was occupied by over 250 people on this night, including 182 adults and juveniles being held in the jail.

Stakeholders noted that the protesters were doing what protesters do – they were disrupting things – but agreed that MPD needs to be able to address issues that move beyond mere inconvenience and create potential risks to others (e.g., the ability to get emergency vehicles into the CCB if an inmate in the jail had had a heart attack).

Community stakeholders were of the view that MPD's efforts to negotiate for the removal of the tow trucks was likely doomed to fail, in part because the protesters were trying to create challenges for MPD, and in part because MPD was conducting the negotiations. They suggested that in the future, MPD use Community Dialogue Representatives to identify legitimate public safety reasons why certain protest activities should be stopped. It would be very difficult for a Madison community activist to walk a protest back after a public interaction with MPD. It would be far easier to explain the rationale for ending or relocating a protest if that same activist were informed of the public safety concern by someone from the community.

58 Mr. Johnson was not being kept in this part of the jail.

59 The Stakeholder Group was not able to ascertain why the crowd moved. A protester with a megaphone did stand on the blocked tow truck and address the crowd, but the CCTV footage available to the Stakeholder Group had no audio, and so further analysis was not possible.

Contributing Factors 89 – 93

Figure 16. Fishbone Diagram with Contributing Factors to Protesters Blocking Access to CCB, June 23, 2020.

Contributing Factor 89. The protester arrested earlier in the day was taken to jail, causing protesters to gather at the CCB and call for his release.

Contributing Factor 90. Protesters parked cars in illegal spots that prevented ingress to or egress from the CCB. This presented a safety issue for people present in the CCB, including the jail.

Contributing Factor 91. MPD sought to remove the cars without escalating tensions with the protesters, and avoiding uses of force or arrests. One tow truck was surrounded and stopped by protesters.

Contributing Factor 92. MPD representatives entered the crowd and unsuccessfully attempted to negotiate a resolution to the protest.

Contributing Factor 93. The tow truck driver took the keys but did not lock the truck, and protesters caused some damage to the truck.

Recommendations 51 – 53

Based on the contributing factors identified above, the Stakeholder group recommends that:

Recommendation 51. MPD should conduct scenario planning for protests that are designed to disable predictable targets such as government buildings, police precincts, or other locations that MPD reasonably believes might be targeted by protesters for crowd events.

Recommendation 52. During periods when protests are not occurring, MPD and community organizations should engage in community dialogues that explain the safety concerns related to protest activity that targets various types of buildings, including but not limited to government buildings, commercial buildings, residences, and mixed use commercial/residential buildings, and the obligations of MPD and the Madison Fire Department (MFD) to take various actions to protect each of those types of buildings to ensure that protest activity does not create dangers to others.

Recommendation 53. MPD should identify and train a group of Community Dialogue Representatives, individuals outside MPD who can be briefed on protester and MPD expectations for the protest and who can identify the changing needs of the protesters to MPD in ways that will maximize the ability of MPD to facilitate peaceful protests and prioritize life over property while striving to protect both. These individuals should have direct access to mobile SET and medical units who are on call and can respond immediately in the event of an altercation within the crowd.

Critical Incidents #9 - 10: Protester Activity with Statues and State Senator (10:30 pm – Midnight, June 23, 2020)

The protesters moved from the CCB to the Capitol, where they were joined by others in an organized effort to take down two statues on the Capitol Square, the Lady Forward statue and the statue of Colonel Hans Christian Heg. While Mr. Johnson had on previous occasions implied to Capitol Police officers that the statues might get defaced, the statues were not obvious targets for protest activity, as they were considered "symbols of Wisconsin's progressive history." Heg was an abolitionist, and the Forward statue has been described as "an allegory of devotion and progress." However, protestors seized on the statues as "symbols of this sort of fake liberalism that we have. This idea of our city being so progressive, so positive, yet it has some of the worst inequalities in the country."[60]

Beginning at about 10:30 p.m., both statues were pulled down by a group of about 150 – 200 protesters.[61] The Heg statue was torn down with the help of a car and cable, and was beheaded before being dragged into nearby Lake Monona. The Forward statue was dragged and left lying in the middle of the road at the intersection of Mifflin and Carrol Sts.[62]

Protesters stayed around the Capitol after the statues were torn down. Perhaps because they had committed criminal acts and were planning others, tensions were high within the crowd. At around midnight on June 24, Wisconsin State Senator Tim Carpenter was attacked and beaten by protestors outside the Capitol for filming them on his cell phone. CCTV footage reviewed by the Stakeholder group showed two protestors darting from the crowd towards the Senator, but did not capture any actual physical blows. However, on a video that the Senator posted on Twitter from his cell phone just before he was battered, protestors can be heard saying "he's recording." A struggle ensued as the individuals attacking him tried to take his cell phone, telling him to delete the footage. Describing the video, he tweeted: "I took this pic - it got me assaulted & beat up. Punched/kicked in the head, neck, ribs. Maybe concussion, socked in left eye is little blurry, sore neck and ribs. 8-10 people attacked me. Innocent people are going to get killed. Capitol locked – stuck inside office.Stop violence nowPlz!" [Sic].

A reporter who was on the scene posted an audio file of protesters talking to Senator Carpenter after the attack. It was common for protestors to tell each other to turn off their cell phones due to a concern that the phones could be geolocated, and to prohibit video recordings that could capture illegal activity. The protesters were concerned that such videos would be used by MPD to investigate the crimes, and traced back to specific protesters via GPS or facial recognition (a technology that MPD does not currently use).[63]

As the attack was occurring, Senator Carpenter asked his attackers, "do you know who I am?" While the Senator was asking this literally – he repeatedly described his relationships in the reform community and his history of supporting their causes, describing himself as "an ally" – his attackers took this as an expression of White privilege and power, and it may have further aggravated the attack.

After the attack, the Senator was surrounded by a group of protesters who tried to explain to him why he had been attacked. In the audio file reviewed by the Stakeholder Group, protesters explained to the Senator that they had not known his identity and that tensions were extremely high within the group. Multiple protesters said that they had been shot at and that people had tried to hit them with cars earlier in the day.[64] The Senator, who was highly agitated, explained to these protesters repeatedly that he was "an ally" of the protesters and their cause. The group made sure that the Senator was calm and left him in the company of a woman who identified herself as an ICU

60 https://urbanmilwaukee.com/2020/06/29/op-ed-madison-protests-targeted-fake-liberalism/.
61 MPD Event Log
62 Both statues were recovered around 3:00 AM on June 24.
63 MPD records indicate that the Department made 53 arrests throughout the course of the summer for protest-related actions. This number includes people arrested during a protest, and does not include subsequent arrests for looting, vandalism, or other crimes of property damage or violence conducted during a protest. Twenty-two (22, 41%) of these individuals were Black. Twenty-three (23, 44%) were White, with the remainder being Native American or Unknown.
64 The Quattrone Center was unable to verify the accuracy of these statements. There were two incidents on this day involving drivers of cars who were accused of making contact with protesters. The Stakeholder Group did not discuss these incidents in detail. MPD did not receive any reports of shots

nurse, as the protesters were moving to another location. Senator Carpenter was ultimately assisted by Capitol Police, who had been responding to reports of broken glass nearby.

Analysis

The Stakeholder Group reviewed these incidents to better understand the perspective of protesters between the arrest of Mr. Johnson and the more aggressive interactions between protesters and MPD that were to come later in the night. Both the toppling of the statues and the attack on Senator Carpenter were more notable for the absence of MPD than for its actions, and the question that the Stakeholders reflected on was whether MPD should have been more present. The Stakeholder Group decided that on balance, MPD's level of engagement was largely appropriate.

As an official matter, the statues are in the jurisdiction of the Capitol Police, and their protection was viewed by the Capitol Police as secondary to other safety concerns. While the Capitol Police and MPD had received some advance warning that attempts to pull the statues down might occur, the departments concluded that because the statues were in open areas, efforts to topple them were unlikely to lead to more substantial risks to protesters or other property. On the other hand, efforts to protect the statues ran the risk of agitating the crowd, which could lead to injuries to protesters or to police officers. Other alternatives, such as putting up plywood walls to protect the statues, were deemed potentially more harmful than helpful, as protester activity was likely to be destructive and unpredictable. (Lighting the plywood boxes on fire, for example, might create a larger hazard and greater damage.) Given these factors, MPD and Capitol Police decided that they would engage only if the crowd sought to enter the Capitol, and did not interfere with the protesters' activities on the Capitol grounds.

Ultimately, MPD's philosophy of prioritizing physical safety of individuals over damage to property led it to permit a significant symbolic gesture on the part of the crowd that was destructive and potentially offensive to many in the larger Madison community, but avoided – for the time being – a confrontation between the crowd and MPD/Capitol Police that could have been far more destructive and damaging.

With regard to the attack on Senator Carpenter, the Stakeholder Group noted that he had not notified the Capitol Police of his presence at the protests or requested a security detail, and these might have provided some additional protection for him. But this should not be required for anyone to be safe at a crowd event. The larger question asked by the Stakeholder Group was what responsibility MPD has to prevent fights from breaking out within protests, and how to guarantee safety to protesters if the strategy of MPD is to remain some distance away.

Given past protests and the anger of the crowd, MPD and the Capitol Police had elected not to place officers in the crowd, as it would have been inflammatory to protesters and quite dangerous for the officers. While both MPD and Capitol Police were closely observing the protests, they were not close enough to be able to intercede before Senator Carpenter (or any protester) could be injured in a fight among protesters.

Community Stakeholders understood and largely accepted this tradeoff, and were of the view that MPD was striking the right balance between intervention and apathy to the safety needs of the group. They felt that the crowd, to some extent, needed to self-regulate and minimize the outbreaks of fights among protesters, and pointed to the acts of others in the crowd who stopped the fight, tended to the Senator, and left him in the care of a medical professional before moving on as evidence that was occurring.

This event provided additional support for the concept of Community Dialogue Representatives, who could potentially have prevented or further mitigated these events.

being fired earlier in the day.

Contributing Factors 94 – 100

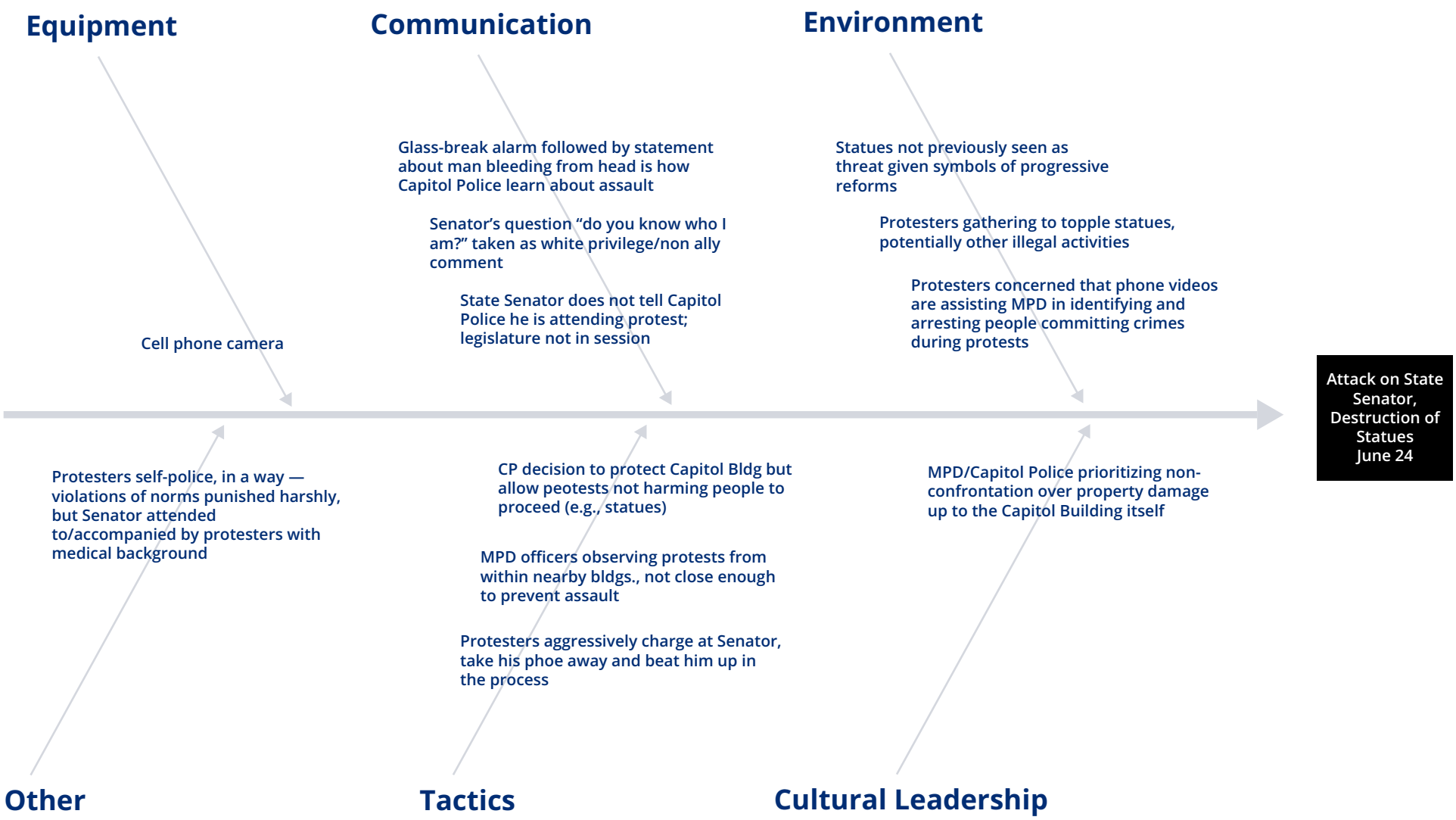


Figure 17. Fishbone Diagram of Contributing Factors to Attack on State Senator Tim Carpenter, early morning of June 24.

Contributing Factor 94. Protesters gathered near Capitol Square in coordinated fashion to tear down statues that showed "fake progressiveness" of Madison.

Contributing Factor 95. MPD and Capitol Police decided to protect the Capitol building itself, but to allow protesters on the grounds to roam freely.

Contributing Factor 96. MPD and Capitol Police kept a distance from the protesters to avoid escalating or creating a showdown.

Contributing Factor 97. MPD had made arrests of people who were filmed looting stores in previous days of the protests, leading to a concern that Facebook and other social media posts contributed to these arrests. Citing these arrests, protesters had a strict "no filming" stance.

Contributing Factor 98. A State Senator, apparently unaware of the protesters' no-filming stance, filmed the protests from a nearby sidewalk.

Contributing Factor 99. Protesters charged the Senator and attacked him to take his phone.

Contributing Factor 100. The Senator asked, "do you know who I am?" during the attack, which may have been interpreted by the assailants as an assertion of white privilege therefore exacerbated the situation.

Recommendations 54

Based on the contributing factors set forth above, the Stakeholder Group recommends that:

Recommendation 54. When determining the appropriate intervention or use of force during a crowd event, MPD should prioritize life safety, protection of property, and constitutional rights with an emphasis on life safety.

Critical Incident #11: Arson at the CCB, Confrontation at the Capitol (Early morning, June 24, 2020)

In the early morning of June 24, the crowd that had assembled near the Capitol turned its attention back to the CCB. By 12:15 a.m. on June 24, a crowd of roughly 200 protestors had gathered at the intersection of S. Fairchild and W. Doty Streets. Perhaps energized by the toppling of the statues, the crowd was more aggressive than before, and individuals damaged external security cameras and lit fires outside of the CCB.

Throughout the evening, the MPD CP received reports of protester activity and requests for assistance that proved to be false. For example, one call reporting protest activity and vandalism from an alleged resident in a downtown condominium complex caused MPD to send officers to investigate, only to find that there was no property damage, and no protestors had entered the building. In each instance, the calls pertained to locations where CCTV did not provide coverage and therefore where the CP could not confirm the situation without sending officers.

At around 12:30 a.m., an individual approached the closed CCB garage door and informed officers on the inside that a group of protestors was threatening to start fires on the Carroll St. side of the CCB. MPD commanders in the CP consulted CCTV cameras providing a view of that side of the CCB. These cameras did not reveal any concerning activity – but a single security camera had been disabled, preventing the CP from seeing an alcove on the side of the building. The CP asked officers and dispatch inside the CCB whether they could see any evidence of these fires. They replied they could not, however, they reported hearing rocks, bricks, and other heavy items being thrown against the building. Given the past false reports and lacking the ability to visually confirm reports, the CP was reluctant to send officers to the CCB site, both because it could be a false alarm and because of potential dangers to the officers.

At around 12:40 a.m., protestors attempted to break ground floor windows of the MPD offices in the CCB along Carroll St. These windows had a protective film on them, and the protesters were unsuccessful in breaking the glass. They then broke second-story windows of the CCB and threw incendiary materials into the City Engineering Offices, causing a fire. The Dane County 911 Center, located in the CCB, reported to the CP that they could hear the sound of glass breaking next to their offices. This confirmation of a physical breach of the CCB caused the CP to deploy SET officers to the CCB.

At the same time, the CP instructed SET to switch to an encrypted radio channel for further instructions. For many officers the switch was ineffective, in part because of physical challenges to switching channels on the radio while wearing protective gear and moving into a deployment. Both the channel change during deployment and the radio silence afterward contributed to lack of communication between SET and the CP. The CP also used WhatsApp as a backup communication platform to connect officers via their cell phones. Checking cell phones while in hard gear can be difficult, and it caused officers to have to stop and read the phone before proceeding. As a result, officers found it difficult to meaningfully interpret and respond to messages that they received in this manner. All of this combined to slow the progress of SET to the CCB.

While this was going on, MPD Dispatch employees smelled smoke in their offices, and the CCB's fire alarms went off. A dispatcher with a fire extinguisher was able to enter the City Engineering Offices and extinguish the fire. The office had several windowpanes broken as large concrete bricks and rocks had been thrown from the street side.[65]

The attention caused by the fire alarms and the arrival of SET squads caused the crowd to leave the CCB and return back to the Capitol. Capitol Police reported that the majority of the crowd was peaceful and not engaging in criminal activity, though a handful of protestors exhibited a similar approach to the CCB, breaking windows and lights and damaging security cameras. While MPD and Capitol Police had agreed to allow protesters to roam the Capitol grounds, they were determined to preserve the integrity of the Capitol itself, and in one instance OC spray was deployed by Capitol Police from inside the building to prevent a protestor from gaining entry.

65 The fire at the CCB resulted in approximately $105,000 in damage and clean-up costs. The individual who attempted to light the CCB on fire pleaded guilty and was sentenced to 7 years in federal prison for arson on June 2, 2021.

Because some protesters were attempting a forced entry into the Capitol, and given the arson attempt at the CCB, MPD and the Capitol Police decided that a substantial police presence in front of the Capitol Building was necessary. The CP mobilized MPD SET to go to the Capitol and declared the protest to be an unlawful assembly.

MPD SET and officers from the Wisconsin State Police in protective gear formed a line between protesters and the Capitol, resulting in a tense stand-off between officers and around 150 protestors. The crowd dispersed somewhat on its own at 1:30 a.m., though a smaller crowd remained and began to move towards the officers at approximately 2:00 a.m.

The CP watched anxiously as protesters approached the line of officers, unsure of what the crowd would do next. While the CP was concerned that the crowd would react with anger and violence as it had on May 30 and June 1, MPD leadership in the CP decided to try to communicate with the crowd on an individual level. An MPD SET Lieutenant, the commanding officer on the ground, broke formation to approach the crowd, removing his gas mask to talk to protesters about how they could de-escalate the situation. The officer conveyed that the police wanted only to protect the Capitol and did not want any other altercation with the protesters.

After speaking to the protesters, the officer informed the CP that if the police backed away, the protestors would disperse and go home. The scene de-escalated around 2:30 a.m., as the officers and crowd parted, with no further use of force being used.

Analysis

The resolution of a standoff between MPD and protesters during the early morning hours of June 24 stood in stark contrast to the violence that erupted in the same situation during the same hours on May 30 – 31. The Stakeholder Group struggled to understand why this night had a successful resolution. This positive outcome was particularly confusing given the instigation events that had occurred throughout the evening, the disabled security cameras, and the arson in the CCB, which the crowd initially seemed determined to replicate at the Capitol.

The Stakeholder Group noted that this night seemed to echo the pattern from other nights, in that the crowd was generally peaceful with some instigators within the crowd who were more deliberately creating chaos. The protests moved back and forth from the CCB to the Capitol, keeping MPD reacting instead of dictating situations, and instigators used false alarms and camera outages to distract MPD and stay one step ahead of MPD's responses.

The arson at the CCB was viewed by those in the CP as a significant flaw in MPD's management of the evening, due to the danger and risk of injury to all of the people inside the building. The Stakeholder Group reflected on the communication challenges between the CP and the SET officers called to the CCB, most of which were caused by a lack of standardization of equipment across departments and the challenges of communicating with officers in protective gear. These issues were exacerbated by the change of communication channel, which was announced by the CP but not executed properly by all officers, and by difficulties with the fallback communication method of WhatsApp and the challenge of using a cell phone while wearing hard gear. Addressing these practical challenges should improve responsiveness for SET in the future.

When multiple departments are working together, and especially when there are organized forces working to undermine them, officers need a technology that can both be standardized and encrypted.[66] This capability should be accessible to all officers – perhaps through cell phones – and be audible and voice controlled like a radio. Officers who train together should test it while wearing protective gear to ensure that it can work with earpieces and using the actual protective gear they would wear at a protest.

SET officers were also delayed in assembling and addressing the fire in the CCB because of the CP's inability to see or know where the fire was occurring, which was caused by the damage to a CCTV camera on the Carroll St. side of the CCB. Improving the security of CCTV cameras is an important safeguard that ensures the continued ability to monitor protest activity and appropriately direct MPD interventions.

66 Encryption is necessary in the moment to prevent instigators from monitoring law enforcement communications that are designed to preserve public (and protester) safety. This encryption can be recorded and available after the fact so that it is available for evaluation and review purposes.

The Stakeholders then discussed why the fixed line at the Capitol was effective in de-escalating the crowd when fixed lines earlier in the summer had been provocative and enhanced aggression from the crowd. Some Stakeholders felt that the big difference was appropriate staffing of the protests. At 12:50 a.m., there were around 150 protesters and about 30 SET officers. By 1:30 a.m., however, there were an additional 30 Wisconsin State Police troopers, and the crowd began to get smaller. This was a contrast to May 30, when fewer SET officers were lined up across more angry protesters.

Other Stakeholders suggested that this was in part evidence that the crowd was self-policing. In this view, many left the crowd when violence seemed likely, and others who stayed were there to prevent the instigators who had set fire to the CCB from doing any further damage at the Capitol. These factors convinced the bulk of the protesters to de-escalate, and made clear that the number of people truly there to incite violence was much smaller than the total number of protesters present. As a result, the presence of MPD coupled with the real-time engagement with the officer led to a peaceful de-escalation.

Neither of these hypotheses can be conclusively proven. What is clear is that an MPD Lieutenant took the initiative to remove the equipment that was interfering with communication and step forward and speak to protest organizers. The officer offered that MPD did not want a conflict, only to protect the Capitol, and that MPD would stand down if the protesters would as well. Stakeholders compared this calm, direct human interaction to the events of May 31, when protesters started by accosting officers, leading to a surprise deployment of CS gas followed by the arrival of SET squads in full protective gear and masks with no ability for dialogue. On the morning of June 24, MPD explained where it was drawing lines and why, and agreed to let protesters stay as long as they wished so long as they did not attempt to destroy or break into the Capitol. The protesters heard and agreed to respect these boundaries. While this was far from an end to the summer of protests, it did mark a turning point in MPD's approach to the crowd, and vice versa.

Overall, the events of this night led the Stakeholder Group to support the following approach to protests about police uses of force:

- When crowds are protesting, and particularly when there is reason to believe that instigators will attempt to incite violence, MPD SET should be nearby and ready to deploy at levels that can provide a substantial police presence in the face of vandalism or looting.
- MPD should hold back on deploying SET officers unless and until a specific danger to people exists, or to property if the destruction of that property would present a danger to people.
- At all times, MPD should preserve avenues for communication with people in the crowd, and be able to convey its desired outcomes and understand the desired outcomes from the protesters in real time all the time.

Contributing Factors 101 – 110

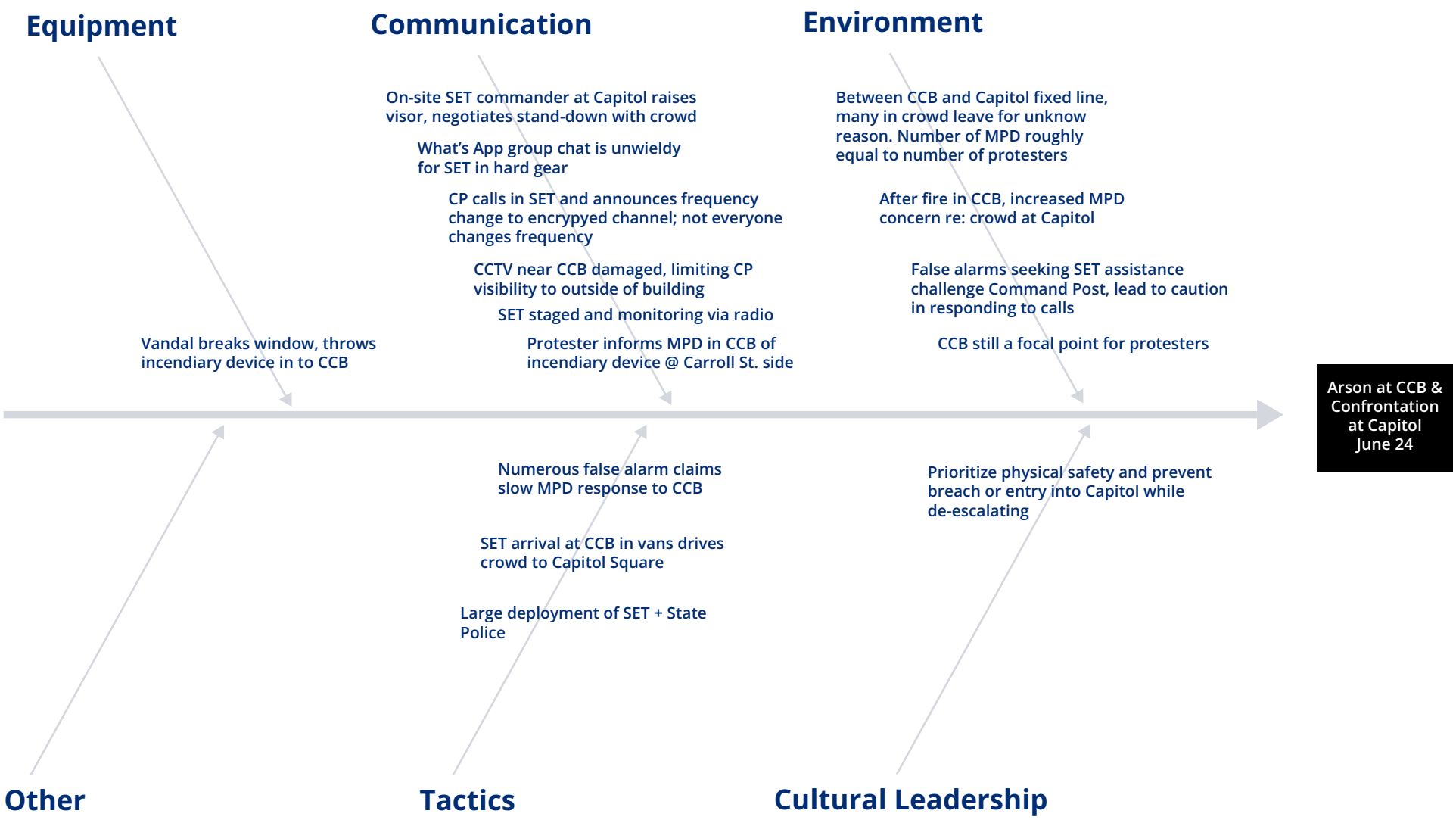


Figure 18. Fishbone Diagram of Significant Factors Leading to Arson at the CCB and A Confrontation Between MPD and Protestors at the Capitol, June 24, 2020.

Contributing Factor 101. A CCTV camera that provided the CP with views of the CCB was damaged by protesters, depriving the CP of external views of parts of the CCB and providing incomplete views of protest activity around the CCB.

Contributing Factor 102. SET officers in protective gear were staged nearby and were monitoring events by radio.

Contributing Factor 103. The CP became aware that someone with an incendiary device was attempting to start a fire within the CCB.

Contributing Factor 104. False alarms received throughout the evening caused the CP to wait for confirmed criminal conduct before sending SET officers to the CCB to assist in preventing and minimizing the impact of an arsonist.

Contributing Factor 105. An individual broke a window at the CCB and threw an incendiary device into the building, starting a fire. The CP could not see the incendiary device or dispatch SET to the precise location of the fire within the CCB.

Contributing Factor 106. When deploying SET, the CP moves communications among law enforcement to a dedicated, encrypted radio channel. Confusion about this change meant that many SET officers did not receive important communications in a timely fashion.

Contributing Factor 107. Attempts to communicate via WhatsApp group chat, were challenging for SET in protective gear.

Contributing Factor 108. SET arrival at the CCB drove protesters to Capitol Square.

Contributing Factor 109. CP concern for breach of Capitol/arson given CCB actions caused a substantial deployment of SET to Capitol Square.

Contributing Factor 110. A SET commander removed his gas mask and spoke directly to protesters, explaining the strategic objectives of MPD and Capitol Police (to preserve physical safety of protesters and officers and prevent the protesters from entering the Capitol), de-escalating the situation and agreeing with protesters to withdraw if the crowd also withdrew.

Recommendations 55 – 61

Based on the contributing factors identified above, the Stakeholder Group recommends that:

Recommendation 55. The City of Madison should install additional CCTV cameras in and around the CCB and other City facilities (and police stations) to increase coverage and create redundancy. Care should be given to protecting these cameras from destruction by protesters or others.

Recommendation 56. Government buildings that are likely to be targets of protesters during periods of civil unrest should have a protective film added to their windows on the first three stories to reduce the potential breach of the building via windows.

Recommendation 57. MPD should provide a standardized communication platform to all officers participating in a crowd event, whether or not they are MPD officers, and should brief all participants on how to access a shared, encrypted communication channel as necessary.

Recommendation 58. MPD should evaluate communication technologies to find a technology that is encrypted, works with officer cell phones across platforms, can be voice-operated and audible, and is usable in protective gear without interfering with officers' responses to people in need. If necessary, MPD should evaluate its protective gear to see if there is protective gear that offers both superior protection and superior ability to communicate in real time to others present without radios and in place of or using radios.

Recommendation 59. MPD should consider the use of technology that would permit remote verification of requests for MPD assistance when "false alarms" are a reasonable possibility. The technology would be used to determine whether reported protester or instigator activity is factually accurate and therefore to determine where to deploy SET resources efficiently.

Recommendation 60. MPD should ensure that it has sufficient designated Communications Officers present at protests who are authorized to communicate protester requests to the CP and communicate MPD public safety requirements to the protesters. Selection of these officers should include preferences for multilingual communication skills. These officers should receive specific training on how to communicate with protesters to facilitate protester objectives while underscoring public safety needs.

Recommendation 61. When crowds are protesting, and particularly when there is reason to believe that instigators will attempt to incite violence, MPD SET should be nearby and ready to deploy at levels that can provide a substantial police presence in the face of vandalism or looting.

August 24, 2020: The Shooting of Jacob Blake and Further Tensions and Protests

Protests continued on a daily basis in Madison through July and August, and MPD remained on high alert, continuing to maintain the CP every day. In response to the late June efforts to start fires inside the CCB and Capitol, MPD conducted additional scenario planning to address the risk of other attempts to start fires in public buildings.

Many crowd events and protests were productively facilitated by MPD. On August 15, for example, roughly 3,000 participants marched from the Holy Redeemer Church at 120 W. Johnson St., up State St. to the Carroll St side of the Capitol Building as part of the Unite Wisconsin: A Patriotic Rosary Rally. They gathered on the sidewalk and Capitol for about 30 minutes. (See Figure 19 below). MPD assisted with traffic for the march, and the crowd dispersed without issue.

Figure 19. Photo from Unite Wisconsin: A Patriotic Rosary Rally, August 15, 2021.

For other events, protesters modified their tactics as well, though the continuing activism in Madison moved away from the chaos incitement seen on the 23rd and 24th of June. Protesters adopted a new strategy of protesting outside of the homes of elected officials as a way to have their messages heard, including District Attorney Ishmael Ozanne, Mayor Rhodes-Conway, Sheriff Dave Mahoney, and School Board president Gloria Reyes. Other protests focused on blockages of key thoroughfares in downtown Madison, using bullhorns and chanting as a way of raising awareness of the need for social justice reform. These protests were designed to create inconvenience as a way of increasing awareness, and they succeeded in that regard, as many people expressed frustration with these street closures, etc.

As before, such protests forced MPD to perform a delicate balancing act between the First Amendment rights of protesters and the irritation and anger expressed by many in the community who were inconvenienced by the protests. MPD continued to support the protests as political speech protected by the First Amendment. As a practical matter, however, MPD had also determined that mass arrests were not likely to be a productive exercise of police authority and would instead inflame the situation (and, of course, the ongoing COVID-19 pandemic made mass arrests potentially life-threatening to MPD officers).

While the protests themselves were less violent, Madison (like many cities across the country) experienced an increase in gun violence. This increase did not appear to be related to the protests, but it did severely tax limited MPD resources. Madison experienced five gun homicides and seventeen shootings in the months of June and July 2020 – an enormous increase for a city that had five gun homicides in all of 2018 and four in 2019. This took a physical and emotional toll on MPD officers, as increased resources to combat the spike in gun violence piled on top of the daily protest responses, which themselves were in addition to the officers' "normal" daily operations.[67]

Then, on August 23, 2020, Jacob Blake was shot in the back by an officer from the Kenosha, WI Police Department.[68]

The proximity of Kenosha to Madison and the circumstances of the shooting created what one MPD officer described as a "restart and a resurgence of anger and emotion" among protesters. There was an immediate burst of anger and frustration on social media, including a post of the MPD police vehicle that was set on fire on May 30 and calls to violence against MPD. This post was reposted by a Madison Alder, an act that many viewed as official support of violence against the police.[69]

MPD braced for an onslaught of angry protesters, and prepared in part by reaching out to community resources that they had learned to communicate with since the protests had begun.[70] The Capitol Police received information that both Black Lives Matter protesters and other individuals who sought to "protect" the city and local businesses from violence and looting were planning to assemble in Madison, creating additional potential for violence. MPD responded by holding officers over on their shifts and reinstating the 12-hour shifts for all officers, as well as sending out mutual aid requests to nearby departments. The CP also prepared to deploy SET in ways that minimized its interactions with peaceful protesters while proactively and efficiently addressing instigators or vandals.

MPD's tracking of social media posts planning protests in Madison continued; while some appeared to be peaceful, or framed as vigils for Jacob Blake, others took on a more militant tone. One protest of particular concern to MPD based on our interviews was one that had the backdrop of a burning police car and included the words "F***

67 One instance of gun violence provides a window on the complexity of MPD's role during these months, and the desire of the community to support legitimate police activity that promotes public safety while decrying acts that are perceived to be illegitimate or inappropriate. In the midst of the protests, 11-year-old Anisa Scott – was shot and killed on August 11. MPD arrested suspects one week later. MPD was invited by Ms. Scott's family to participate in a community march from the Capital as part of her funeral. Several MPD officers participated, including Interim Chief Victor Wahl, and many community participants expressed support and appreciation for MPD's work on the case.

68 Azi Paybarah and Marie Fazio, *Kenosha Police Shooting of Black Man Is Investigated by Wisconsin Authorities*, The New York Times, https://www.nytimes.com/2020/08/23/us/kenosha-police-shooting.html (August 23, 2020).

69 https://madison.com/wsj/news/local/govt-and-politics/madison-council-member-catches-heat-for-reposting-flyer-that-called-on-protesters-to-f-/article_611c3f54-3184-5f15-aacf-71f2ca02c9d4.html.

70 The Boys and Girls Club of Madison had announced efforts to create a similar structure to this after the first weekend of protests, though the initiative had not been successful. See https://www.nbc15.com/content/news/Boys--Girls-Club-of-Dane-Co-hiring-peace-keepers--570976141.html.

Figure 20. Social Media Posts After Shooting of Jacob Blake, August 23, 2020.

Madison PD" (among other departments) as well as "No Bad Protesters, No Good Cops," and "No Peace Police, Do What You Want, F*** Sh** Up."[71]

Businesses on State St. prepared for the worst as well, boarding up their buildings. MPD placed officers in areas where crowds were expected, but instructed the officers to reduce their visibility once crowds formed in order to avoid agitating the crowd. The strategy was to reassure the community that MPD was there to keep the peace and discourage looting, but not to allow the mere presence of officers to provide fuel to the protests as it had earlier in the summer.

Marches began on the 24th at midday, less than 24 hours after Mr. Blake's shooting. Protesters were, in the words of one community participant, "sick and tired of being sick and tired." While many protesters felt that MPD was doing its best to minimize risks without provoking the crowd, the anger caused by yet another shooting of a black man by police – this time only 100 miles away – was impossible to ignore. Many Black protesters, watching white citizens with assault rifles, assembled ostensibly to protect downtown from protesters, wondered at how different the MPD reaction would have been if those rifles had been in the hands of Black protesters.

MPD's strategy for August 24, 2020 remained consistent with its strategy throughout the summer: maintain visibility, disrupt looting and make arrests if possible, focus on violent, destructive individuals, and prevent injuries and traffic disruptions. But its tactics continued to evolve. For the first time, MPD planned to use its mounted equestrian unit. The unit had been deployed in previous years to assist with crowd control, but had been unavailable due to an inability to train a new horse amid the continuing pandemic.

As on other dates throughout the summer, tensions escalated as the night went on, and protesters began starting fires in dumpsters in the downtown. MFD had conducted additional training exercises since late May, including working with local businesses to remove trash and other flammable debris, and largely allowed these fires to burn. The dumpsters helped to contain the fires and prevented them from being an imminent risk to individuals. MFD and MPD closely watched the fires from the CP, however, and dispatched downtown engine companies where needed.

71 MPD Command Post Daily Briefing Packet, August 24, 2000.

Critical Incident #12: Looting at Badger Liquors and Use of MPD Horse Unit (10 pm, August 24, 2020)

On the evening of August 24, a large crowd of 150 – 300 protestors moved up and down State Street and around the Capitol. MPD SET officers and a unit of four mounted officers patrolled State Street. The mounted unit was on the same radio channel as SET and CP.

At 10:00 PM on August 24, a crowd of protestors was moving towards the Capitol on State St. from the west towards this intersection. Protestors occupied the intersection and prevented cars from passing through, but there were no reports of violence. The crowd left the intersection by 10:10 PM, moving east on State Street.

A series of small fires were set near the top of State St., and at 11:30 PM, a smaller group of approximately 50 protestors broke away from the larger crowd and moved west on State St. This smaller group engaged in vandalism, attempting to break windows with items they picked up from the roadway. At 11:36 PM, a few men used a small, A-frame traffic barricade to attempt to break into the Warby Parker store on State St. At 11:38 PM, two different individuals levered and ripped a speed limit sign from the ground. Another man pulled off one of the plywood boards attached to the storefront of Badger Liquors at State and Gorham Sts., and the two men with the sign broke the glass. Another group of protestors ripped a different board away from the front door of the store and people began to loot the premises.

The CP called on the mounted unit to respond to the looting, and within two minutes of the breaking and entering of Badger Liquors, the horseback officers arrived at the intersection of State and Gorham Sts., where they established a stationary position.

The arrival of the unit caused many in the crowd to run away, but some protesters remained. These protestors challenged the mounted officers, one wrestling with a sign and another hitting a horse in the flank. At the same time, other protestors returned, and the crowd regained its strength. Two minutes later a SET squad arrived on foot and established a line in front of the horses, which could be spooked by the projectiles. These officers were equipped with protective gear, 40mm launchers and shields. In response, protestors in the front of the crowd linked arms while protestors in the rear continued to assail the officers with projectiles, including full bottles, cans of beer, concrete, and pieces of wood.

The SET officers wanted to clear the crowd from the storefront, and they instructed the crowd to leave the liquor store and disperse. The looting slowed but did not stop at this time. The mounted officers remained behind the SET team for the remainder of the interaction.

SET officers on multiple occasions sought permission from CP to deploy gas munitions at the looters, but the requests were denied by the CP. MPD and other officers in the CP had noted the organized tactics of the looters, and were wary of being lured into a large use of force that would then envelop a larger crowd that was walking in from the west. This group had been peaceful to this point, and would have walked into any CS gas that was used to disperse the looters. Because the CP's priority was to prevent escalation and attendant injury, and given that the damage to this point was limited to two unoccupied storefronts, the CP ordered the SET officers to withdraw.

As the officers disengaged with the crowd and began its egress east on State St., a few individuals in the crowd followed them, maintaining a barrage of projectiles. Officers fired two rounds from their 40 MM less-than-lethal launchers at an individual threatening the mounted unit; this provided enough space for the SET team to complete their egress.

While MPD minimized damage to the businesses on this block of State St., the crowd continued to be aggressive and set numerous fires in the area. These fires were contained by dumpsters and not threatening buildings, and so were allowed to burn without MFD interaction. Just after midnight the large crowd started to move back toward the Capitol. SET followed, checking the intersection for further damage and making sure no one was remaining inside Badger Liquors and departed just before 12:30 a.m.

Analysis

The Stakeholder Group discussed the looting of Badger Liquors in light of the modified tactics of the MPD and MFD. Both organizations were more prepared for these protests than they had been earlier in the summer, and while the night of August 23 included acts of property damage and violence, the changed tactics of the MPD and MFD, combined with the readiness of State St. businesses and assistance from the Streets Department, reduced the volume of this behavior and limited the damage and danger to individuals and businesses.

The Stakeholder Group focused on the SET mounted and foot patrol deployment at Badger Liquors, and the communications between the SET officers on the scene (who were focused on stopping the immediate looting) and the larger perspective available to the CP, who could see via CCTV that a larger crowd was nearing the intersection from the west. The response time of MPD officers – both mounted and on foot in protective gear – was much faster than early in the summer, and the two groups supported each other well, with the mounted unit providing an intimidating but measured appearance and then the officers on foot assisting in protecting the unit as it withdrew.

The Stakeholder Group also appreciated the CP's discretion in electing not to use CS gas, despite requests from MPD officers on the scene. Knowing that CS gas would likely interfere with that peaceful march, the CP sought to get the looters moving without provoking the larger protest group, and in the eyes of the Stakeholder Group largely succeeded in this effort.

The mounted SET unit, which arrived only two minutes after the breach of Badger Liquors, served a valuable purpose. They intimidated the crowd for a few minutes, but the horses were relatively untested and vulnerable to projectiles. In addition, they did not have protective gear, and there was a risk that panicked horses could create danger to protesters, the mounted officers, and the horses themselves. COVID had prevented the horses from training throughout the summer, so the CP was hesitant to press them further. By appearing and then withdrawing, however, the horses drew instigators away from the larger protest group and allowed that group to enter the intersection of Gorham and State Sts. relatively unmolested.

An additional topic of discussion was that this assessment by the CP was not reflected by officers who were present on the scene. From their perspective, there was a communication gap between the CP and the officers in terms of the CP explaining the rationale for its decisions. As a result, MPD officers felt that they were permitting looting to occur and failing in their obligation to protect State St. businesses, and that they had not ever received an explanation for that. Conducting post-event debriefings in which officers and leadership can have open and candid discussions can promote learning and mutual understanding for both the officers and leadership, and lead to improved performance and better outcomes in future similar events.

In summary, while there was undesired damage to property, the preparation and presence of MPD officers and MFD personnel struck an improved balance of intervention than on previous nights, preventing greater damage while avoiding large-scale deployments of CS gas that could have dramatically escalated the situation. As a result, the widespread looting seen in late May was largely avoided, and instead contained at the State and Gorham intersection as the crowd proceeded towards the Capitol.

Contributing Factors 111 – 117

Figure 21. Fishbone Diagram of Significant Factors Contributing to Looting at Badger Liquors, August 23, 2020.

Contributing Factor 111. Police in Kenosha, WI shot Jacob Blake on August 23, causing a resurgence of outrage against police brutality.

Contributing Factor 112. A small group began attacking Badger Liquors at State and Gorham Sts.

Contributing Factor 113. The Madison Streets Dept. had emptied trash from dumpsters during the day to reduce fire threat.

Contributing Factor 114. MPD's mounted SET officers arrived on the scene, disrupting the looting temporarily but becoming the target of projectiles and crowd anger. SET officers on foot quickly arrived in support.

Contributing Factor 115. The mounted unit lacked protective gear and was at risk from projectiles, and withdrew once other SET officers arrived to provide assistance.

Contributing Factor 116. The CP, aware of a larger crowd walking into the area, denied requests for uses of force and protester arrests to avoid a "back and forth" with the protesters.

Contributing Factor 117. MPD officers who lacked the larger geographic perspective of crowd location available to the CP felt that MPD was not arresting looters and was a failure of police authority and control, and indicated that de-briefings had not been held on the event.

Recommendations 62 – 66

Based on the above contributing factors, the Stakeholder Group recommends that:

Recommendation 62. The City of Madison should educate community members, including business owners on how to protect themselves and their properties during civil unrest as part of its community engagement efforts.

Recommendation 63. The City of Madison should coordinate safety sweeps of areas where protests are expected. The sweeps would seek to remove any moveable property, especially trash receptacles and construction materials which could be used by protesters to start fires.

Recommendation 64. MPD mounted officers deployed to protest situations should be equipped with appropriate protective gear.

Recommendation 65. The Stakeholders recognize the intrusiveness and undesirability of CS gas and other similar chemical munitions. At the same time, the Stakeholders understand the potential need for MPD to disperse a crowd in ways that avoid the use of more dangerous or potentially lethal weapons. Therefore, the Stakeholders recommend that MPD should deploy CS gas as a crowd dispersal tactic cautiously, using it only when people are at risk of imminent physical harm or to prevent substantial property damage.

Recommendation 66. Incident commanders and officers involved in crowd events should conduct after-event reviews promptly after crowd events, in which officers describe challenges to the event and incident commanders explain their strategic and tactical rationales, leading to opportunities for mutual learning and modification of policies, procedures and actions.

Critical Incident #13: Vandalism at Wisconsin Manufacturers & Commerce Building and Chalmers Jewelers (12:30 am, August 24, 2020)

At approximately 12:24 a.m., a large crowd of protesters made its way toward the Capitol along Wisconsin Ave. The crowd walked around the Capitol and continued out E. Washington Ave. Small groups occasionally broke off the larger crowd and attempted to break windows as the crowd moved east along E. Washington. Just before 12:30 a.m., the protesters gathered outside of the Wisconsin State Labor and U.S. Labor Department buildings (on E. Washington Ave., between S. Webster St. and N. Butler St.).

The crowd soon continued east on E. Washington Ave., stopping in front of the Wisconsin Manufacturers & Commerce Building (WMCB) at the corner of S. Franklin St. and E. Washington Ave. The crowd numbered in the hundreds, and was stretched across all lanes of E. Washington Ave.

At approximately 12:35 a.m., an individual stepped away from the crowd and walked into the entryway of the WMCB. Using a skateboard, the individual broke the building's glass entry door,[72] assisted by several other people who used bats, sticks, and other objects. These activities occurred outside the view of the CP, due to a lack of CCTV cameras covering the WMCB entryway.

A woman holding a large red gas canister then poured a liquid on the front entry, which two men ignited. While this fire damaged the front entry, it did not catch and quickly burned out.[73]

At approximately 12:38 a.m., a small group, including persons who were involved in breaking the front entry glass at WMCB, walked across E. Washington Ave. to Chalmers Jewelers, a few hundred feet away from the majority of the protesters. These people used a bat and metal rod to break the glass of the jewelers. The same female who poured the flammable liquid on Wisconsin Manufacturers & Commerce approached Chalmers with the red gas canister and, as before, poured liquid on the broken front windows.[74] She and the same male who lit the previous fire attempted to light another, but were unsuccessful.

Within two minutes, the CP had communicated the breaking glass and attempted arson at Chalmers Jewelers to a mobile SET team. CP also stated it appeared as though individuals were attempting to burn the building down. One minute later, MPD officers arrived at Chalmers Jewelers and the small group of individuals who broke the glass and attempted to light the building on fire ran back down E. Washington Ave. away from Blair St. The initial officers who arrived at Chalmers were soon joined by other teams and SET personnel.

The larger group of protesters, still mostly congregated in front of WMFB, approached the arriving officers with speed and aggression. The protesters were numerous enough to block all six lanes and the median of E. Washington Ave. Many protesters, especially in the front of the crowd, were on bicycles, and others carried homemade shields. Police reports indicate that the crowd immediately began throwing projectiles at the officers,[75] causing the CP to authorize the use of chemical agents.

MPD used a loudspeaker from a police SUV to instruct the group of protesters to disperse, and officers deployed OC spray in an attempt to disperse the crowd. When this was not effective, the officers deployed smoke and CS gas to disperse the crowd. The use of chemical munitions caused people in the back of the crowd began to disperse and move away from the officers back down E. Washington Ave, while roughly half of the crowd remained until a second volley of gas and smoke caused the remainder to return back down E. Washington Ave. MPD waited for the crowd to disperse and then followed at a distance, stopping at Blair St. to allow the protesters to return to the Capitol.

72 Federal Indictment of W. Johnson and A. Fierro, September 23, 2020.
73 Later in the evening, someone graffitied "you have stolen more than we could ever loot" on the front of the building. https://www.jsonline.com/story/news/local/wisconsin/2020/08/25/arrests-follow-vandalism-madison-including-state-capitol/3432772001/
74 Federal Indictment of W. Johnson and A. Fierro, September 23, 2020.
75 It can be difficult to see projectiles on video and the perspective of the CCTV cameras was limited, but the Stakeholder Group has no reason to suggest that these reports are not accurate.

Analysis

Again, the events of August 23 were regrettable on many levels, and the crowd's continued anger led to the use of CS gas and acts of attempted arson. The Stakeholder Group discussed the differences in MPD's responses to protesters and the comparative reduction in uses of force and damage compared to the events of late May. On Washington Ave., MPD tried to balance the need for protesters to express themselves with engagement limited to the rapid prevention of acts that could endanger non-protesters.

Unlike other protests, the crowd on this night was far more mobile, with many protesters on bicycles or rollerblades moving faster than previous crowds, and faster than MPD officers in many instances. The benefits of MPD's mobile SET teams were apparent here. First, the mobile units could quickly establish a safety perimeter for the protesters as they moved out E. Washington Ave. (an unexpected route for the protest). In addition, the use of mobile SET units deployed from the SET ensured that officers were able to respond within minutes to the small group of instigators that damaged Chalmers Jewelers. CS gas was deployed in part to protect the responding officers, given that the crowd was throwing projectiles at them, but also to ensure that the crowd could not get closer to Chalmers Jewelers and create new dangers for residents in the apartments above. MPD then followed the crowd, but only briefly and at a distance to communicate a lack of interest in further conflict. This likely prevented greater violence, and the rapid response to the breaking glass at Chalmers Jewelers likely deterred further escalation of property damage and risk to others.

Contributing Factors 118 – 124

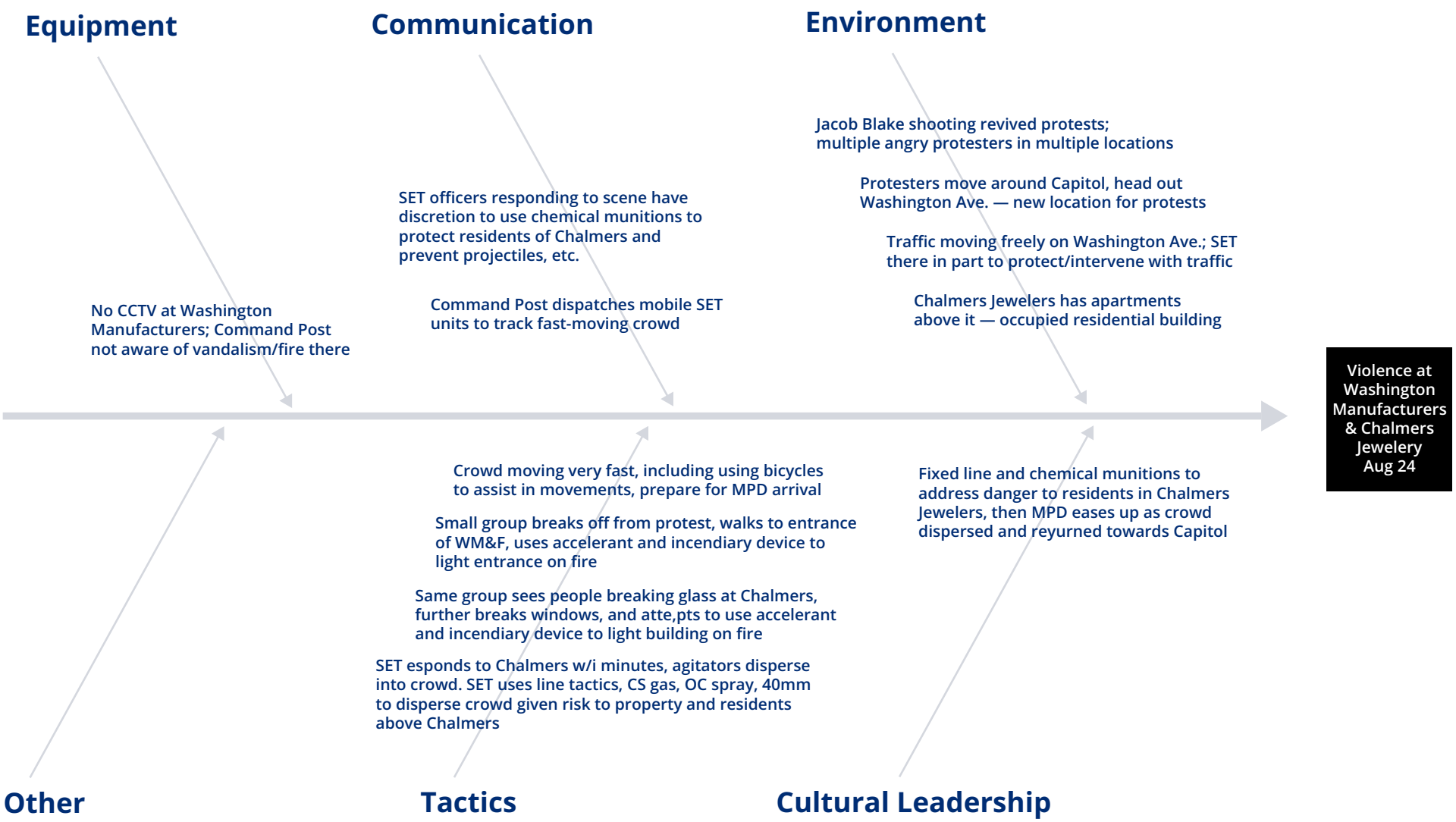


Figure 22. Fishbone Diagram of Contributing Factors Leading to Vandalism at Washington Manufacturers' and Commerce Building and Chalmers Jewelers, Early morning, August 24, 2020.

Contributing Factor 118. A large group of angry protesters marched across all lanes of E. Washington Ave.

Contributing Factor 119. The crowd was moving very fast, using bicycles and other vehicles. These spread out the crowd geographically and challenged MPD's ability to keep track of all of the protesters.

Contributing Factor 120. The crowd moved into a location on E. Washington St. where vehicles were moving freely, requiring MPD SET resources to divert attention to moving traffic away from the protesters.

Contributing Factor 121. The crowd slowed and grew across all lanes of Washington Ave. near the WMFB building, one block away from Chalmers Jewelers.

Contributing Factor 122. A small group left the protesters, walked over to the WMF building, broke the entryway glass and used an accelerant to set fire inside building.

Contributing Factor 123. The group outside the WMF building was not visible from CCTV cameras, and therefore could not be seen by the MPD Command Post.

Contributing Factor 124. The same individuals moved to Chalmers Jewelers while MPD was focused on the crowd, which was still a block away. They broke glass and tried to set fire to Chalmers Jewelers, which has apartments on its upper level.

Contributing Factor 125. MPD arrived quickly. Given the risk of danger to individuals and property, MPD declared the assembly unlawful and ordered the crowd to disperse using AV equipment in an MPD SUV, and authorized chemical munitions to disperse the crowd.

Contributing Factor 126. MPD used fixed-line tactics to move the crowd away from inhabited buildings, allowing the group to return to the Capitol.

Recommendations 67

Based on the contributing factors above, the Stakeholder Group recommends that:

Recommendation 67. MPD and the City of Madison should review the placement of CCTV cameras to ensure the ability of MPD to respond appropriately to acts of vandalism and arson throughout Madison.

Critical Incident #14: Use of Community Intermediaries to Communicate and De-Escalate Outside State Capitol (August 25, 2020)

Beginning in June, MPD had reached out to a carefully chosen group of community leaders and asked them to assist both the community and the department in improving the lines of communication during protests. A similar initiative had been proposed at that time by the Boys & Girls Club, but the initiative had not come to fruition. On August 25, however, as protests continued after the shooting of Jacob Blake and the unrest that followed on the previous day and night, MPD sought to use those connections to observe and understand the protests from within, as well as from the outside.

These individuals, who can be thought of as Community Dialogue Representatives (CDR), agreed to be in direct contact with the Command Post by phone and by text during the protests, in an attempt to communicate the acts, perspectives and goals of the protesters more accurately so that MPD's decisions about whether and how to intervene in the protests could be improved. While the individuals had no formal training or time to prepare, it was hoped that they could help the crowd police itself, enabling MPD's distance from the crowd without leading to a decrease in safety for protesters.

One of the CDRs agreed because the role of peacemaker within a highly charged emotional space was something that he was already accustomed to doing, and that he would have done with or without assistance from MPD: "for many of us, this is something we just do. When we see someone reacting to trauma we get involved to show respect and to help in a heated moment."

Both members of the community and MPD gave several examples of how this helped keep the protests calm on August 25. In one example, a CDR saw an interaction between a young man who was trying to leave the protests enter into an interaction with another man in which the first man's car was slightly damaged. The man grabbed a baseball bat and was about to get in a fight with the second man. MPD was watching the altercation develop via CCTV and if a fight had broken out, MPD would have entered the crowd to break up the fight. While this might have been useful to stop that altercation, MPD was concerned that its intervention would have been misunderstood by many in the crowd, leading to an escalation of anger and tension within the crowd. The CDR saw this developing and stepped in front of the young man with the bat. Given his credibility with the community and experience in speaking to people in moments such as this one, the CDR was able to defuse the situation and alert MPD that there was no need for the police to enter the march and engage with protesters. This allowed the march to continue uninterrupted.

Approximately 90 minutes after the incident with the baseball bat, the CDRs again made a positive impact. The marchers had walked up Wilson St. from Hamilton St. and progressed to the police entrance to the CCB, where they burned a flag (stolen from a nearby building) in the middle of the street and threw fireworks into the fire. A protester kicked in the glass entry door to the police department. At this, a CDR within the crowd intervened with the protester, and the damage stopped. From the CP, the MPD Incident Commander texted the CDRs and asked for their feedback on whether MPD should engage. One of them replied, "All good," meaning that the CDRs were confident in their ability to defuse the situation without MPD interaction. MPD confirmed this, and permitted the CDRs to continue their work. The CDRs stopped the attempted breach, and the breakout group folded back into the main protest, which continued without further violence at the CCB.

Analysis

The Stakeholder Group reviewed the events on August 25 to understand the role of the Community Dialogue Representatives, and to evaluate scenarios in which they had been successful so that recommendations could be made about continuing what appeared to be a positive approach to the protests.

Two of the CDRs spoke to the Stakeholder Group, and identified several reasons why this approach was effective on August 25th. First, the organizers of the protests realized that the CDRs were there to protect the protests, not to interfere with them or minimize them. The representatives introduced themselves and described their role to the organizers, which "took the anonymity out," according to one representative, and let the organizers

know that they were being watched in a way that supported their peaceful and legal objectives. This gave the CDRs moral authority and legitimacy.

Second, the CDRs pointed out that there were relatively few people in the crowd who were truly instigating violence or property damage – an assertion that matches the Stakeholder Group's review of video throughout the summer. Once the instigators had been identified, the CDRs had the weight of a majority of the crowd behind them in confronting the instigators.

Third, the CDRs selected by MPD had experience – albeit often untrained personal experience – in how to de-escalate disputes among community members and community activists. The ability to remain calm and resolute, and to explain the reasoning behind their intervention with instigators or among people in conflict, is a nuanced and challenging skill and requires care, experience and attention to detail.

Fourth, the CDRs had the trust of MPD at the highest levels, including in the Command Post, but also with officers who otherwise might have interjected themselves into the protests. One of the CDRs noticed a backpack that had been put down and potentially abandoned; he reported the abandoned bag to the CP, and officers were sent to investigate it in an unobtrusive way. Acts like this showed that the CDRs were serious about their role and were not just "rubber-stamping" crowd activities.

Both MPD and individuals who served as CDRs on this day pointed out the need for the representatives to have a specialized skill set and reputation in the community. They needed to be people whom MPD would trust, but also people whom the community would recognize were there not to support the MPD, but to keep the MPD from interfering. And they needed to be people who understood the pain, anger, and other complex emotions that were being felt by protesters – particularly Black protesters and other protesters of color – at this difficult time.

The Stakeholder Group discussed whether these representatives should be members of the community or in some way affiliated with MPD or another police department. The Capitol Police employ Dialogue Officers, officers who have received special training who will engage with protest organizers on the Capitol grounds and serve a similar facilitation and negotiation role. Departments in Sweden and the UK employ officers in similar roles.[76] Other approaches exist for MPD and the community to consider, including Philadelphia's Civil Response Unit, Phoenix's community volunteer model, and others.

The Stakeholders did not reach a firm conclusion on this issue. Several expressed concern that asking community members to serve as CDRs could put the community members at risk if instigators in future protests refused to de-escalate. On the other hand, other Stakeholders felt that the position of the CDRs as separate and apart from MPD would make them more acceptable to the community protesters. These Stakeholders expressed the view that even in this specific and unique role, anyone who was seen as representing MPD in an official capacity would be viewed as unacceptable to protesters.

One potential organization to participate in this discussion is the Madison Law Enforcement Leaders of Color. These individuals have a unique position in the community, and were working prior to COVID to establish connections and conduct trainings similar to what evolved here. (COVID interfered with their training, unfortunately, though several of the participants were in the crowd supporting the CDRs on August 25.)

Regardless of the structure, what is clear is that dialogue officers or CDRs will not succeed without the trust of protest organizers and protesters in the crowd. The credibility and legitimacy of the individuals tasked with communicating the crowd's needs to the MPD and vice versa requires training and coordination between MPD and the negotiators. The combination of these needs and the necessary skills to be responsive to such needs may mean that CDRs are in short supply. MPD should plan accordingly to create a deep enough bench of trained CDRs to react to a wide range of potential scenarios.

76 Recommendation 38 of the MPD Policy & Procedure Review Ad Hoc Committee Report states: MPD should implement the Special Community/Police Task Force Recommendation to explore Scotland's de-escalation methods and the United Kingdom's national decision-making model for police and adapt these concepts productively to its own policing challenges. MPD Policy & Procedure Review Ad Hoc Committee Report (October 18, 2019), p. 9.

Contributing Factors127 – 133

Figure 23. Fishbone diagram of significant factors contributing to the avoidance of violence via community dialogue representatives, August 25, 2020.

Contributing Factor 127. Protest organizers were challenged by individuals seeking to vandalize or instigate violence while the organizers stressed peaceful protest.

Contributing Factor 128. Both community organizers and MPD wanted recognized that the visible presence of MPD might be seen as an escalator by some protesters.

Contributing Factor 129. Since June, MPD had been working with a variety of community leaders to act as intermediaries, walking with crowd and available to communicate with CP via text and phone as circumstances dictate, with MPD officers maintaining a distance from the crowd but monitoring the protests to ensure public safety.

Contributing Factor 130. MPD shared with the intermediaries how and under what circumstances it would use force in defense of the CCB and Capitol, to ensure that protesters were aware.

Contributing Factor 131. Intermediaries interceded between a man with bat and his intended victim, preventing the altercation.

Contributing Factor 132. After a man broke a window at the CCB, community intermediaries asked MPD to stand back while they addressed the instigators. MPD followed the request, and the intermediaries were successful in de-escalating the incident.

Contributing Factor 133. Instigators at the protest were a small number of people, differentiable from community protesters and identifiable by community intermediaries.

Recommendations 68 – 69

Based on the Contributing Factors identified above, the Stakeholder Group recommends that:

Recommendation 68. To the degree that it can be done safely, it is preferred that crowd participants self-regulate and manage their own events, particularly when policing is the subject of the protests.

Recommendation 69. MPD should enhance its collaboration with community leaders to develop a group of individuals who will facilitate productive public safety interactions and communications at demonstrations where the police are the subjects of the protest. Potential structures might include:

a. Collaboration with Madison's Civilian Oversight Board to ensure a community-driven group to achieve this objective;

b. Ensuring that the facilitators are serving as apolitical protectors of the community, with a formal role that need not be a part of MPD;

c. Ensuring that the facilitators are chosen through a joint MPD and community-led process that prioritizes neutrality, maturity, balance, serenity, credibility, and time and relationships with community and law enforcement; and/or

d. Leveraging existing anti-violence organizations in Madison, including (but not limited to) the Community Safety Worker pilot program being introduced by Focus Interruption; and/or

e. Other approaches that are being utilized in other communities across the U.S. or internationally, such as Philadelphia's Civil Response Unit, the "protest marshal" approach being used in Phoenix, the Sweden and UK Dialogue Officer model, or other approaches.

A significant effort must be made to include grassroots leaders as well as those attached to large organizations. Additionally, young people should be included in these processes in some capacity.

Additional Community Voices: Website Comments

In an effort to gather additional community voices beyond those participating in the Stakeholder Group, the Quattrone Center established a website at www.madisonprotestreview.com. This website allowed individuals to provide any information they wished regarding the reviews and their perspectives. The website allowed for anonymous submissions, and allowed people identify themselves if they wished. It also allowed individuals to upload videos or other documents so that the Stakeholder Group could include those in its analysis. The Madison Police Department had no access to the submissions and has not reviewed or edited them in any way. The Quattrone Center and MPD publicized the website on social media and through outreach to more traditional media sources.[77]

Ultimately, 183 people provided some information through the web site. Many of those individuals did not provide comments, but those comments that were provided are set forth here. The opinions expressed were varied, and underscore the diversity of the community that MPD is sworn to protect and serve, and to help describe the environment in which MPD is acting as it seeks to improve its response to future protests and satisfy all parts of the community.

- Many people who provided comments described MPD's response as reactive instead of proactive, and believed this reactivity allowed the riots to spiral out of control. Many comments suggested that the MPD should have responded more quickly and aggressively and with a larger (and, according to one comment "more military") presence.
- Several comments suggest that MPD did not respond strongly enough to "quell violence or damage to property" due to political constraints on MPD's actions from the Mayor, the City, or the Governor. There were several comments expressing frustration with the mayor and City politics, feeling that the police were held back from protecting the City and property fully or enforcing the law against protesters.
- Many comments expressed support and appreciation to MPD for their efforts, though they felt MPD did not receive sufficient support from elected officials.
- Several comments were very negative towards protesters and the Black Lives Matter movement (e.g., "next time MPD should ensure the protestors walk away with injuries," "more serious policing stopping racist rioters and looters…denounce racist and domestic terrorists like BLM and KKK," and "police need to enforce the laws and not bow down to the terrorists that are distroying[sic] this city").
- Several comments expressed the view that during the protests (particularly in the daytime), MPD officers treated them with respect, and they felt safe around MPD. Others, however, expressed the view that MPD's response escalated the situation and that MPD targeted unarmed BLM protesters but not armed right-wing protesters also present.
- There was criticism of MPD identifying protest leaders through surveillance images and arresting them on "dubious" or "outsized" charges.
- Some comments supported defunding the police and reallocating money to other programs, and particularly condemned MPD's use of tear gas on protestors.
- There were two videos provided in survey responses. One showed a large group of MPD officers in protective gear, during the day, walking through a calm and unpopulated area of the downtown. The officers all were brandishing batons or what appeared to be OC deployment weapons. The other was at night, videoing a man in a white/tan short sleeve shirt with a bull horn approaching officers who were walking with a man in handcuffs. The man with the bullhorn was asking "what is the problem?" and "why is this man in jail?"
- It was suggested that a "Wise Witnesses" program – neutral, prepared protest observers – be made a city program.

77 See, e.g., https://www.channel3000.com/research-center-wants-your-input-on-how-madison-police-handled-summer-protests/.

- One comment noted that MPD requested assistance from outside agencies but did not allow those agencies to consistently participate in the Command Post or view streaming video monitoring. This comment suggested that in the future, MPD should make a plan to allow outside agency leaders to be a part of the command post so they can understand decision-making.

Appendix A. Participants

Tom Brown, Urban League of Greater Madison

Cherise Caradine, University of Wisconsin-Madison Police Department

Anthony Cooper, Nehemiah Center for Urban Leadership Development

Evelyn Cruz, Centro Hispano of Dane County (partial participant)

Steven Davis, Madison Fire Department

Keith Findley, Univeristy of Wisconsin Law School/Wisconsin Innocence Project

Matthew Karls, Dane County Sheriff's Department

Mark Michie, Wisconsin Army National Guard

Brent Plisch, University of Wisconsin-Madison Police Department

Kerry Porter, Dane County Sheriff's Office

Arthur Price, Madison Fire Department

Ashleigh Smiley, Boys and Girls Club of Dane County

Matthew Tye, Madison Police Department

Paige Valenta, Madison Police Department

Malanie Von Haden, Wisconsin State Capitol Police Department

Jason Zeeh, Wisconsin State Patrol

Appendix B. Comments Received at www.madisonprotestreview.com.

This appendix sets forth the complete text of community comments provided at www.madisonprotestreview.com. All comments are unedited except where noted.

Comment 1: "Need someone at MPD who can bridge internal/external, has trust esp with white officers AND credibility with community (takes time to nurture relationships); get to a point where MPD and protesters can agree on what's happening ahead of time... A big trust gap and no effective bridge, called community in to help which is good but not as effective. [It] seemed [that] quicker MPD action/more MPD presence needed to stop damage, difficult because protesting police but still necessary. Would be helpful if there was a way for Matt Kenney[78] to say "I was proven innocent and for the good of the community I am stepping down" - don't know that the community can come together/heal while he is still on the force; makes outside of community incidents "hotter" in the community.

"Wise witnesses" should be City program, perhaps tied to FIC.[79] They observe protesters, police and exploiters. Need to be recruited for the role (high trust, high eq), on call, trained in de-escalation. Suggestions: available between 10p-3a, good walking shoes, water, phone and good texting skills, extra phone battery.

Comment 2: "Madison did not do enough to quell the violence or damage to property. Madison pd was clearly restricted by politics from being able to do their jobs."

Comment 3: "The response was a disgrace because of the political leadership that instructed police to show maximum restraint. This resulted in unacceptable and uncontrolled looting, destruction and burning of private and public property and terrorized residents (especially elderly residents) of downtown some of whom didn't dare leave home for days. Such was the pressure on the officers to keep a low profile that reckless driving, extreme speeding in residential areas, and shootings got to be out of control. Then the incompetent mayor apologized for issuing a statement praising police. The officers themselves conducted themselves with dignity, respect, and self-control that went above and beyond what anyone could expect. They withstood provocations and physical attacks without responding with force. I am grateful for their conduct in the face of grave danger and wish there were 500 more of them to protect our community from the thugs and looters egged on by "Freedom Inc." and others who openly justified their violent conduct (not to be confused with peaceful daytime protesters). This city's political leadership is absolutely disgraceful. I am a lifelong liberal democrat and I am appalled that the republicans were on the side of justice and order on this issue. I sincerely hope we have more police, not less, better funded, not worse, and free from political interference as they try to keep us all safe."

Comment 4: "Madison police did a terrible job allowing a beautiful city center to be destroyed. The politics of hands off allowing criminals to loot and burn the city is so unacceptable."

Comment 5: "Next time MPD should ensure the protestors walk away with injuries."

Comment 6: "I think you all handled the issue as best you could. The people mentioned, for the most part, did NOT do what the police said to do. They were moving, wiggling etc. Which puts a policeman or anyone on alert. Follow directions and no one gets hurt. I'm glad you are available to help us!"

Comment 7: "More serious policing stopping racist rioters and looters. Be more proactive in getting police where they need to be and anticipate alternate routes they may take. Arrest and takes cars from those who impede legal travel on city roads. Denounce racist and domestic terrorists like BLM and KKK."

78 MPD Officer Matthew Kenny has been involved in two fatal shootings while on the police force. In one, the victim was Tony Robinson, a biracial, unarmed 19-year-old, in 2015 and Ronald Brandon, who was armed only with a pellet gun, in 2007. This event led to protests in Madison at that time.
79 FIC appears to be a reference to Focused Interruption, an anti-gun violence initiative in Madison. www.focusedinterruption.org.

Comment 8: "Officers were extremely restrained (based on the violence occurring around, and directed at, them) and professional in their response to the crowds. I've heard reports afterwards that document the injuries officers received (including broken bones) from things being thrown at them and shots being fired at their vehicles."

Comment 9: "After the death of George Floyd I agreed with the BLM movement. That video from Mpls was very difficult to watch. The way the protesters/rioters carried on in the name of George Floyd and/or BLM totally ruined it for me. I'm embarrassed for MPD on how they handled the situation. There was basically no enforcement what-so-ever. However, that's how the Mayor of Madison and the Governor of WI wanted it."

Comment 10: "On June 23, there was a long standoff between police and protestors after midnight (June 24 1 am)were riot police formed a wall, had drones in the air, support from out-of-town departments, and a loudspeaker telling us we were an unlawful assembly. A protest leader with a megaphone managed the situation well and brokered an agreement where both parties would leave the area.

MPD has also targeted, arrested, and charged several protest leaders they have identified through surveillance. Some of these are dubious they have the right person (Gregg) or with outsized charges (Yeshua Musa).[80] These arrests may have appeased law-and-order type citizens but further alienated the communities already feeling unjustly punished."

Comment 11: "The Madison Police response was appropriate. What wasn't was the mayor and council allowing the riots. It really took the focus off of what matters. Downtown Madison is suffering because of them."

Comment 12: "The protests spiraled out if control and turned into looting, vandalism, and arson. The protestors became aggressive and violent and destroyed downtown businesses and historical landmarks. The Madison Police Department and supporting agencies showed remarkable restraint as the attempted to manage a violent crowd with no support from their elected officials.

The idea of banning less lethal options and chemical irritants is ludicrous considering how much of the State Street area is still boarded up with plywood."

Comment 13: "More officer presence was needed. More control over the crowd was needed via use of less than lethal tactics. Lack of engagement, to control the rioters, allowed rioters to engage in destructive and violent behavior. Instead of being proactive, you were reactive and the riots became out of control before less than lethal force was used."

Comment 14: "I have never seen police like that in person. It felt like something you see on TV in other countries. The tear gas and full riot gear and military trucks all clashed with the reality of state st and the protestors. I work with Veterans who report to me that they would never be allowed to act that way with civilians in Iraq or Afganastan, so why do we treat our own citizens that way? The policeake everything worse. They escalate every situation. When police aren't around the protests are peaceful, "rioting" is a response to their presence as we morn those they killed. We need to defund the police and address the actual cause of crime-poverty.

All we need to do is compare the response to BLM protests to those of right wing ones. Right wingers come armed to the teeth with the goal of intimidation. BLM come with rage and tears, and are met with vehicals purchased from the department of defense. It is so clear the outcomes the police want in each situation."

Comment 15: "The police were tear gassing peaceful citizens left and right, showed up looking like an invading army and verbally taunted several people including myself. This night [June 25] was the most prominent but I was out at the protests at least a dozen times....they were doing nothing to patrol the right-wingers carrying assault rifles while imposing their will on folks with signs and songs. I have no doubt that their

80 Yeshua Musa is an alias for Mr. Devonere Johnson, whose arrest is detailed elsewhere in this report.

very presence instigated unrest, which they then used to manufacture more support for their violent methods of intimidation."

Comment 16: "I think the police officers did the best they could do in the situation. The mayor and city council tied their hands and reaction to the protestors. No strong support given to the police or a sense of safety for all citizens of Madison and surrounding areas. Why were they allowed to destroy our capital city? It became a war zone and vandalism and looting was rampant. Their actions cost the city, county , and state big bucks. How is it okay that the protesters in Madison were allowed to break the law. Why are laws not allowed to be enforced by the police force ? Get a grip Mayor and council. Who is paying for the squad car set on fire? The vandalism to State Street, the State Capital, Yes, they have a right to peaceful protests and George Floyd shouldn't of been treated the way he was and ultimately his death. The police officers in Minnesota should be held accountable for the crime. Minnesota had the murder of George Floyd do all protesters get a free pass especially if they are a minority?

The Mayor should be questioned on her lack of leadership and decision making. Her comments about the young gentleman who was carrying a bullhorn and baseball bat demanding free food and money from patrons should be released from jail he doesn't belong there. Did she think about the patrons? Did she know his background? He was charged in Federal Court. Hmm"

Comment 17: "The police need to enforce the laws and not bow down to the terrorists that are distroying this city. The city need the police to protect the tax paying, law abiding, citizens and remove the law breakers and terrorists."

Comment 18: "The Madison Police let people destroy the businesses in our city. They should have been more aggressive in their approach and stopped the illegal riots immediately. The hands off approach created an environment where small group of individuals caused chaos for 200,000 people. The police chief and mayor need to allow the police to don their jobs and stop playing politics. Bystanders were harassed and intimidated just trying to commute home from work."

Comment 19: "I didn't have direct contact with police because I was doing my part and stayed home. But I do feel this survey should be directed at our Government and Mayor's office. The police departments did what was asked of them to the ability they could! The protest was ridiculous and the protesters all should have been loaded up in Military trucks and arrested for blocking traffic, destruction and violence to anyone. The police officers should be awarded metals for just risking their lives dealing with these children."

Comment 20: "I was embarrassed for the residents of Madison and the community I have lived in for over 30 years. I watched as small groups of criminals destroyed the downtown City of Madison, attacked police, and attacked others. The Madison Police were not given the leadership or support to take appropriate action. Everyone down there should have been arrested. I stand with the Madison Police Department 1000% and am ashamed at what this city is becoming. We're allowing a small group of non law abiding citizens dictate the direction we're headed because if we don't we're "racist". I've had enough and will continue to show my support for MPD."

Comment 21: "should have never let it go as far as it did. more police more military less crap and property damage from violent prtestors"

Comment 22: "Stop the looting, vandalism, and arson. Enforce the curfew."

Comment 23: "I was not arrested so I can't comment directly about that. I am upset that there are discussions to reduce the police budget, if anything it should be drastically increased. I have no desire to go downtown anymore due to safety concerns, which is too bad. The City Council and Mayor need to step-up their support for the Madison Police!"

Comment 24: "Madison police should have been allowed to stop the rioting utilizing all of their combined force and to the full extent of their ability. The mayor and local officials are to blame for every single destroyed business. The city is a dumpster niw, the only people I know who go to Madison, go to buy weed and leave."

Comment 25: "I think the police handled the riot a wall as they could"

Comment 26: "they didn't do anything to stop the people around me who were throwing things and looting. They didn't do there job because the governor ordered them not to do anything and to come to the governors mansion and protect him."

Comment 27: "I did not have any personal interactions with the Madison Police Dept. during the unrest of 2020. Further, I do not know anyone connected with the MPD. However, I do travel to downtown Madison on a frequent basis, have seen the physical results of the protests, and have long respected the work done by the MPD during the 20+ years I have spent as a resident of Madison. I don't think the MPD did a good job of protecting property or the small business owners located in the downtown area during the 2020 protests but I think this was largely due to a lack of backing from the Mayor's office and other municipal politicians. It's no wonder I read that so many cops are quitting their jobs and applications for relacing them are being received at historically low numbers (nationwide). The MPD, which I believe only accepts college grads as new recruits, is highly professional. If they had been allowed to do their jobs properly then it is likely that the riots & looting would have occurred at a reduced level and, just perhaps, fewer of the downtown businesses would have closed in a year that has been extraordinarily challenging due to just the impact of the Covid-19 pandemic. I, for one, look forward to voting into office some local politicians possessing common sense and who will back Madison's deserving police force."

Comment 28: "Asking for name, even optionally, is really suspect. You're not going to get full answers because people DO NOT trust MPD, and by extension, you. If you really wanted to engage and allow followups, you could have set up an anonymous two-way communication system. Qualtrics ain't the way. Anyway. I live close to downtown. I was at mostly day protests but I was never at a protest at night where tear gas was used. But I live close enough to have smelled the tear gas and have the remnants aggravate my asthma/allergy/ breathing problems which have already been quite bad this year.

I saw enough videos from friends that I now feel less safe anytime an MPD officer is in the vicinity. I went to a few night protests in the aftermath of George Floyd once the police stopped over-policing them, this would have probably been May 30th or so. (You're running this survey so long after the events, you realize that some of us have been protesting so long that we can't remember what specific day...) and always felt safer that there were NOT police escalating the situation.

Tear gas is a war crime. No ifs ands or buts. Sorry folks, but the police's willingness to use "less lethal" munitions on peaceful protestors has radicalized me. I didn't believe in abolishing the police fully before 2020, I thought reform would be enough. But now I think: abolish the police, give the money to ANYTHING else.

If you're giving this to the police to read, I guess I should let them know I don't hate them as people, or even their choice of a career. I just hate their actions upholding white supremacy. The police who just stood there while George Floyd died scare me more than the guy with his knee on the neck. We all need to work together to decarcerate, decriminalize, and so on.

The MPD union filing a vote of no confidence against our Mayor was also a really stupid move. Go fuck yourselves with your saying you care about the community, when you refuse to live in it or really engage with it, or come up with ways to reduce your budget when everyone else is in hard times.

Our police department can do better. But they don't. Time to give the money to other people and let them have a try."

Comment 29: "Madison police should protect businesses better. Tax payers do not want to pay higher taxes to replace broken glass and help small businesses on state street that should not have been broken into in the first place. These anarchists were looking to destroy buildings and loot merchandise under the veil of racial justice and criminal reform. I think better use of body cams during protests would help show any police interaction is justified when the rioters are setting fires, destroying windows or aggressively getting in police officers faces. It is also terrifying that these protesters/ rioters are showing up at elected official's personal

homes. This is how we devolve into a third world country when our officials are not able to serve the public without fearing for their safety or appeasing to the demands of a vocal small portion of the population or people who just want to virtue signal. This is also how officials become kings whereby they protect their families and homes with officers and still allow this stuff to happen to the masses caught in the middle."

Comment 30: "I felt that my interaction with these two officers [on August 20, 2020] were positive. They stopped to chat with me and seemed concerned about my well-being."

Comment 31: "MPD used restraint only intervening to interrupt and deter property damage or harm to people. Tear gas should be an option for police to quell unlawful assembly when it occurs. MPD and their partners utilized soft uniforms until things were out of control and unsafe."

Comment 32: "Madison PD should have done more to stop the violence and riots. The rioters were out of control. Shoud have arrested all the "protesters" for breaking curfew. As a resident, I didn't feel safe to be in my apartment."

Comment 33: "Lets first draw a distinction between civic protests and riots. MPD's response to the civic protests was tremendous. I felt safe while marching, respected the job they were doing, and was impressed with their professionalism while supporting first ammendment rights, especially when the protests were about them. In many cases they were treated like garbage by the protestors. People spat at them, called then horrible names, and took many opportunities to try to dehumanize the officer. While I agree (as I imagine most MPD officers do) that change is needed in the CJ system, dehumanizing and individual is not the way to do it. In some cases I was appalled to be part of such a group marching because of how they were treating officers that were there to protect and defend the people marching.

Now lets briefly discuss the riot behavior. There were riots. MPD did not incite those riots. The officers from all agencies involved were unbelievably patient. They made announcements to leave after criminal actions had occurred and they became the focal point for criminal acts. I left the area because there was criminal behavior going on and I knew I did not want to be part of that. Its counter to the movement to improve social justice. In the end, its my believe MPD, UWPD, State Patrol, and the Sheriff's department were more than justified and did as much as they could to avoid using whatever force they had to in order to stop the behaviors that were going on. THe riots were criminal. WHile its sad some innocent by-standers had to experience the riot and ensuing pepper spray or tear gas or whatever it was, they had the opportunity to leave just as I did. I had plenty of warning and could see those out there that were starting the criminal behaivor and I made the CHOICE to leave. Anyone who claims otherwise is lying. They had a choice, they knew what staying around that criminal elements meant, and they chose the chance to steal a bottle of liquor or some chips from 711 over leaving for fear of being caught up in a crime. Shame on them and good for MPD showing the restraint they showed in a face of such a horrible event. While I don't know the specifics of their use of force continuum, I believe they were more than justified in using the force they did, held out on using force much longer than they needed to, and could have used far more force to help save and protect already hurting businesses downtown.

Comment 34: "Why were the Madison Police told to NOT do anything ? It's pretty much common knowledge that they were told to stand down and let it happen. I actually felt bad for the Police ! The Madison Mayor was actually part of one of the riots, do you think she told em that ? Or was it The Gov who wouldn't call in the Nat'l Guard when everyone know it was gonna be nuts Downtown. It's like the They wanted it all to happen ! Wtf !? How would you like it if that was your business Downtown ? Downtown used to be a cool place to go. Not anymore... Sad it was allowed to happen. Was it a Political stunt all over the Country to allow em all ? It was bullshit!"

Comment 35: "Defund MPD. Whenever the police show up things usually escalate, especially when they show up in riot gear. The video I attached is the aftermath of a small group on the Fourth of July getting swarmed by the police. Ten plus sqaud cars trapped us at the intersection and ran out of their vehicles and chased an individual, but I thought we were all going to get arrested. The man they arrested was homeless and under the influence and was arrested because he stole a flag off of a truck. If this is not excessive force I'm not sure what it. Of course he was black as well. Later I tried talking to some of the MANY police that were there and asked why he was arrested because I didn't know at the time and they said they don't know or that they were following orders. Or they say they are just trying to do their job, which is a terrible response when you show up like there is a catastrophe, but there is not. The mere disregard for others in what seemed to be a calculated arrest was ridiculous."

Comment 36: "Improvement is on the shoulders of the Mayor & City Council!! They should be ashamed of themselves!! To have allowed the destruction & rioting, having the police 'stand down' & not financially support State Street business in the wake of their poor judgement is a crime!!!"

Comment 37: "Very professional despite some very anti-police folks in the crowd, proud of our department and wish more were like it."

Comment 38: "they need to crack some heads!!! the small business owners are women, immigrants, POC. The bums and anarchists are bringing baseball bats into restaurants and extorting free meals and drinks and the police chief is kneeling with them while they close state highways and giving them [redacted obscenity]!!!!!!!!!!!!!!"

Comment 39: "The MPD, probably due to the Mayor, failed to protect property/businesses, i.e. livelihoods, including those of many minorities. Sadly, the harmed businesses had just begun to reopen following a shutdown due to COVID that caused financial set back. The MPD/City failure to protect them caused them another financial set back.

Comment 40: "MPD requested assistance from outside agencies across the state and some departments sent entire SET/SWAT teams to assist. Upon arrival in Madison the agencies were sent to a district station to wait for deployment. Commanders from the teams requested to go to the Command Post but were told there was not enough room for them. The first night a detective facilitated streaming video so that team commanders/leaders could observe the protest activity however on subsequent nights that was not available. MPD should make a plan that allows outside agency leaders to be a part of the command post so that they can see the live video streams of the protest and know how/why decisions are being made."

Appendix C. Description of Dialogue Officers

This Appendix provides a lightly edited description of the use of "Dialogue Officers" by the Swedish Police during the European Summit in 2001. Dialogue Officers have since been adopted by police in the United Kingdom and elsewhere. This description is taken from Her Majesty's Chief Inspector of Constabulary's 2009 report "Adapting to Protest: Nurturing the British Model Of Policing"[81] and is provided as an example of some of the ways in which Dialogue Officers have been deployed. Many of these ideas may not be optimal for Madison, and the Stakeholder Group includes this information only as a starting point for discussions within MPD and between MPD and the citizens of Madison on how to improve communications between MPD and the community during large-scale protests or demonstrations.

"In June 2001, Gothenburg, Sweden was the venue for a European Union summit. Around 25,000 people took part in protests at the summit. Violence surrounding the summit resulted in extensive damage. As a consequence of a series of incidents, a mass arrest of 459 people took place, three demonstrators were injured by police gunfire and 150 people, including 50 police officers, required hospital treatment. . . . The event became a critical incident for the Swedish Police. The Swedish Government established the Gothenburg Committee to investigate the circumstances surrounding the serious violence and the police response. In its final report, the Committee highlighted lack of ability and failures in interoperability, while emphasising the importance of dialogue. The report led to the development of a common national tactical concept for policing crowds. The concept was informed by research which identified the critical manner in which interactions between demonstrators and police governed escalation of disorder. The Swedish National Police Board developed and began to implement a new model to policing protest which included 'dialogue police'.

The primary role of dialogue police is to act as a communication link between demonstrators and police commanders with the goal of facilitating protesters' legitimate intentions, identifying potential risks to public order and avoiding confrontation.

The value of dialogue

Through dialogue, police can explore the intentions of the protesters and better understand their aspirations. Any conditions or restrictions placed on demonstrations can be explained, discussed and negotiated. As a former Swedish dialogue officer has commented: "Fundamentally the tactic recognises that when police are uncompromising with protesters, the risk of injury to persons or property increases. However when there is an open dialogue, the risk is reduced."

Where protest groups are unwilling to communicate with the police, the aim of the dialogue police is to begin a process of engagement with these groups which may lead to more meaningful communication and dialogue in the future.

The role of dialogue officers

The ultimate objective for dialogue officers is to facilitate freedom of expression and peaceful protest and to reduce confrontation between crowds and police. The role of dialogue police can be summarised into five core functions, defined in [the] table on the next page.

81 Adapting to Protest: Nurturing the British Model Of Policing. Her Majesty's Chief Inspector of Constabulary (2009) Pp. 74-77, accessible online at https://www.justiceinspectorates.gov.uk/hmicfrs/media/adapting-to-protest-nurturing-the-british-model-of-policing-20091125.pdf.

Function	Definition
Negotiation	To facilitate compromises and agreements between police commanders' interest in getting the best tactical conditions, and the protesters' interest to get best terms for their goal.
Mediation	To explain the police point of view to groups of demonstrators and the demonstrators' view to the police, in order to increase mutual understanding and avoid stereotyping.
Initiation	To come up with possible solutions to avoid or minimise the risk for conflicts and confrontations.
Communication	To function as link between demonstrators and commanders in their exchange of information.
Sensing	To read moods and preparedness for action in the group of demonstrators and how that is affected by police activities and to inform commanders of consequences of different courses of actions in a short and long term perspective.

Table: The core functions of dialogue police

The dialogue police officers work before, during and after events to establish links to protest groups, adopting a 'community policing' style to engage with protest participants. They seek to create lines of communication and negotiation between police commanders and influential protesters during protest events.6 Since they have points of contact with protest groups, they can assist commanders by providing advice on, and negotiating potential impacts of, different courses of police action. The Stockholm dialogue police have been used in different contexts, including:

- Marches by [controversial] groups
- Festivals where there was a risk of disturbances or conflict between groups
- Election related protests and open-air rallies of various kinds
- [Sports events] with underlying ethnic tensions
- Animal rights protests
- Urban disorder.

Many dialogue police have backgrounds as negotiators.

Initially there was a great deal of hostility to the dialogue police from protesters, and also from police colleagues. The role of dialogue officers became more widely accepted as their knowledge of specific protest groups grew and enabled the police to better manage its response. Police commanders began to recognise that dialogue had positive effects in terms of reducing disorder. Reductions in violence between protesters and police, also made regular officers began to see the benefit of the work of the dialogue police. Dialogue police officers are now an established and highly effective component of the Stockholm Police Department.

Levels of Dialogue

1. *Dialogue pre-event*

   Dialogue between police and protesters before an event informs expectations and reduces the chance of action or conduct by either party during an event being interpreted as provocative, which in turn reduces the likelihood of a violent response. The initial dialogue allows police to explain the need for restrictions on an event and to facilitate the legitimate objectives of the organisers. Dialogue officers are also a useful resource for police commanders when scenario planning. Their knowledge of protest groups provides a more comprehensive and informed approach. Where groups are unwilling to engage prior to the event, the focus moves to engagement and co-peration once the event has begun.

2. *Dialogue during the event*

   While other police are engaged in policing the event, dialogue officers are there to assist with communication between police and protesters. Without other operational taskings, they concentrate on establishing communication lines with protest representatives. Dialogue officers do not wear police uniform but are identifiable by yellow vests. As the dialogue officers are within or close to the protest crowd, they are better able to sense the mood of the crowd and to assess how police actions are perceived. As dialogue officers will often have had long term contact with protest groups, they will be better able to interpret the mood and conduct of the group than someone who is unfamiliar with the group. Similarly, they can interpret and explain the actions of the police to organisers in an attempt to prevent negative responses from the protest crowd.

3. *Dialogue post-event*

   Dialogue officers facilitate post-event reviews between police and protesters. These reviews offer the opportunity to discuss elements of policing operations which caused difficulty – or were felt to be provocative to protesters – and enables officers to discuss difficulties they experienced.

Evaluation

The work of dialogue officers is credited with minimising – and in many cases averting – confrontations related to protests. The engagement of the dialogue police with protesters offers the opportunity for both the police and protest groups to better understand the objectives and constraints that each faces. While confrontation between protesters and police has not been completely eliminated in Sweden, the level of confrontation and disorder is markedly less than at comparable events in other countries. The knowledge of the dialogue police of protest groups and their actions has enabled the scale of police operations to be adjusted to the most appropriate level for the event. Potential disorder has been avoided through mediation, direct communication between organisers and dialogue officers and the development of increased levels of trust as a result of these ongoing interactions. Research indicates that people who have early positive contact with the police are less likely to associate themselves with violent groups, or groups hostile to police. Although dialogue can not completely prevent violence in crowds, it can have a positive effect on relationships between police and the crowd. Therefore dialogue can also affect whether violence and disorder remains isolated or spreads. This depends on the crowd's perception of the legitimacy of police action."

Appendix D. May 28, 2020 Statement of Dane County Chiefs of Police Association in Response to the Murder of George Floyd

Like those of you who saw the video out of Minneapolis earlier this week, my reactions were disbelief and dismay. And while this involved another police department, in another city, in another state, I recognize the impact it has locally. Many in our community, and particularly members of the African American community, are rightfully feeling pain and anger as they contemplate what took place. So, it's important for those served by MPD to hear from me about this. Attached below is a letter from the Dane County Chiefs of Police Association, condemning the actions of the officers in Minneapolis and highlighting the efforts made by law enforcement here in Dane County to build trust. I join in and endorse this message. What we saw on that video is completely at odds with the training, policy, values and philosophy of the Madison Police Department.

Public trust in a police department can be a fragile thing, and nothing has the potential to damage it like a use of force encounter. MPD has put forth considerable efforts in recent years to improve outcomes in crisis situations. This has come in the form of improved policies, additional training, and new equipment. However, what's more important to outcomes in these incidents – in my view – are less tangible things: what kind of people we hire, what our values are as an organization, and what our culture is. My focus will continue to be on ensuring that we hire the best people who are called to serve the community; that we operate in a manner consistent with our core values and mission statement; and that our organizational culture be one centered on service, justice and fairness.

DANE COUNTY CHIEFS OF POLICE ASSOCIATION

Chief Kristen Roman, President
UW-Madison Police Department

Chief Chad Brecklin, Vice President
Fitchburg Police Department

Chief Aaron Chapin, Past President
Shorewood Hills Police Department

Lt. Sara Deuman, Treasurer
Monona Police Department

Assistant Chief Kari Sasso, Secretary
University of Wisconsin Police Department

May 28, 2020

Dane County Community Members,

Once again, we find ourselves devastated by an appalling and heartbreaking use of force incident that has resulted in those we have sworn to protect and serve fearing for their own safety at the hands of those whose duty it is to keep them safe. While we have yet to gain all available information about the incident that took place in Minneapolis on Monday, the videos we've seen are abundantly clear. What more do we need to see or know to conclude that the actions of the Minneapolis police officers involved in the death of George Floyd were heinous and unacceptable. Regardless of further information that may be discovered in this case, nothing can justify the actions or inactions of these officers. If someone calls for help, it is our duty to help. When struggling with someone we are attempting to arrest who tells us they cannot breathe, we are trained to reposition them and offer relief. And while there were moral and tactical shortcomings here, there exists the added weight in the knowledge that these occurred in the all-too-often context of police victimizing an unarmed person of color – sadly, an unsurprising tragedy.

The actions of the Minneapolis officers in this incident do not represent the values, policies, or training of our law enforcement community in Dane County or the vast majority of the 600,000 or so officers in this country. Simply put, their actions were reprehensible and inexcusable. Incidents like these undermine both public trust in police and can shake our own faith and belief that those who have taken our oath will uphold their promise – our promise. As leaders of law enforcement agencies throughout Dane County, the members of the Dane County Chiefs of Police Association share in your dismay and grief.

We have worked hard here in Dane County for many years to build trust with our communities of color. In the aftermath of Ferguson, local law enforcement leaders and leaders of color came together to form the United Way Law Enforcement and Leaders of Color Collaboration aimed at proactively addressing these trust gaps and working together to create strategies designed to improve the relationships and outcomes between law enforcement and communities of color.

We're proud of the work we've done and the improvements we've made here in Dane County. But as we take steps forward locally with our efforts, we see incidents like the one in Minneapolis set us back. We understand that a statement such as this is not an adequate remedy and we know that we have much more work to do.

We the members of the Dane County Chiefs of Police Association rededicate ourselves to this work and together with our community we mourn the death of George Floyd. Our thoughts are with his family and everyone else who has been impacted by this horrific incident.

Kristen Roman

Kristen Roman
President, Dane County Chiefs of Police Association Chief of Police, UW-Madison Police Department